

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 11, 2015

REGULAR _____ CONSENT X EFFECTIVE DATE August 14, 2015

DATE: July 30, 2015

TO: Public Utility Commission

FROM: Max St. Brown ^{MSB}

THROUGH:  Jason Eisdorfer and  Marc Hellman

SUBJECT: PACIFIC POWER: (Docket No. ADV 73/Advice No. 15-010) Updates Schedule 98, Change Regarding Cannabis Growers and the Residential Exchange Credit.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve PacifiCorp's (Company's) proposed eligibility revisions to its Schedule 98, Adjustment Associated with the Pacific Northwest Electric Power Planning and Conservation Act.

DISCUSSION:

Background

On July 13, 2015, PacifiCorp filed Advice No. 15-010, relating to revising the eligibility language associated with the Residential Exchange Credit (Resx). This filing was made pursuant to ORS 757.205, ORS 757.210 and OAR 860-022-0025. The Resx provides PacifiCorp residential and small-farm customers benefits from the low-cost federal system resources. For residential customers, the Resx applies to the first 1000 kWh of monthly electricity use.

PacifiCorp's proposed language states, "Consistent with the requirements of the Bonneville Power Administration, a federal agency, customers using electricity to aid in growing one or more Cannabis plants are not eligible for the rate credit specified in this tariff. If, in the course of doing business, a utility discovers that one of its existing customers is not eligible for the rate credit specified in this tariff, the customer will no longer receive the credit." Therefore if PacifiCorp becomes aware that a residential

customer is growing Cannabis plants, the customer will not receive the Resx and PacifiCorp will not include that customer's load in its eligible load reported to Bonneville Power Administration (BPA).

Analysis

This filing by PacifiCorp follows PGE's Advice No. 15-16 filing on June 29, 2015, which was also related to Resx. In accordance with a decision of the Commission in the Public Meeting of July 21, 2015, PGE's Advice No. 15-16 will become effective with service rendered on and after July 22, 2015. Following PGE's filing, staff contacted PacifiCorp regarding this issue. The genesis of the PGE filing, and of this PacifiCorp filing, responds to BPA's directive to the region's investor-owned utilities that receive residential exchange benefits from BPA. It is BPA's policy to comply with federal law, and as they interpret it, BPA is not able to provide residential exchange benefits to retail customers that are using electricity to grow Cannabis. I have attached a copy of the Department of Energy memorandum providing direction to the federal power marketing agencies. PacifiCorp is making this filing to help communicate to its customers BPA's policy and the consequences of growing Cannabis with respect to eligibility of the Resx.

PacifiCorp's electronic filing describes that the Company will communicate its Schedule 98 language clarification to customers by directing customers to a Company website through a bill message and by including information in the next available customer newsletter. It should be noted that PacifiCorp is not going to ask its customers whether they are growing Cannabis.

PROPOSED COMMISSION MOTION:

PacifiCorp's proposed revisions to its Schedule 98, Adjustment Associated with the Pacific Northwest Electric Power Planning and Conservation Act, be approved, effective August 14, 2015.



Department of Energy
Washington, DC 20585

November 12, 2014

GUIDANCE TO THE POWER MARKETING ADMINISTRATIONS
REGARDING ACTIVITIES PROHIBITED BY THE CONTROLLED SUBSTANCES ACT

The federal power marketing administrations (PMAs) market power from federal dams and other resources across 33 states. With few exceptions, the PMAs market federal power at the wholesale level. The PMAs' customers for federal power are generally state and municipal utilities, electric cooperatives, and tribes (collectively referred to here as "wholesale power customers"). The federal statutes that govern the PMAs address the relationship between the PMAs and their wholesale power customers. State law governs the relationship between the PMAs' wholesale power customers and their retail consumers.

The PMAs also collectively own and operate over 30,000 miles of transmission lines. The PMAs provide non-discriminatory transmission service to their wholesale power customers and a wide range of other entities. The provision of transmission service by the PMAs is governed by their organic statutes, by their transmission tariffs, and by the Federal Power Act as implemented by the Federal Energy Regulatory Commission. With few exceptions, the PMAs do not provide transmission or distribution service directly to retail consumers.

Presently, several states served by the PMAs allow the sale of marijuana for medicinal purposes and three allow the sale of marijuana for recreational purposes. The cultivation and distribution of marijuana remain prohibited by federal law, and federally owned, controlled or administered resources may not be purposely provided to facilitate the commission of a federal offense. In consideration of both the PMAs' legal obligation to provide service to their customers and the prohibition on purposeful use of federal resources for the commission of federal offenses, the Department of Energy provides the following guidance to the PMAs:

- A. Wholesale sales of electric power or transmission service by the PMAs undertaken in accordance with the applicable federal statutes do not purposely facilitate the commission of a federal offense.
- B. The PMAs have neither the responsibility nor the authority to actively enforce the Controlled Substances Act of 1970. Should PMA employees discover in the course of their official duties that a retail consumer served by a PMA's wholesale power or transmission customer is engaged in activity that violates federal law, the PMA employees shall (1) continue to perform all duties as instructed by their supervisors, and (2) report that activity, through their line management, to the PMA administrator, who will ensure the activity is reported to the Department of Justice. The PMAs need not report facilities the existence of which has otherwise been made public by the Federal or state government in the state in which they are located.
- C. In some circumstances, the PMAs provide financial assistance or otherwise enter direct contractual relationships with retail consumers. In such circumstances, the PMAs should not provide any federal resources to a retail consumer that would be used in a manner that violates federal law.