

June 2, 2017

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3398

Attn: Filing Center

Re: UM 1794—PacifiCorp’s Comments

PacifiCorp d/b/a Pacific Power (PacifiCorp) submits these comments as requested by the Public Utility Commission of Oregon (Commission) in Order No. 17-176. In that order, the Commission stated it is inclined to close the docket and requested that any proposal to continue this docket “(1) demonstrate the need and ability to address a specific, well-defined set of issues now rather than during the review of PacifiCorp’s 2017 IRP and associated avoided cost filing and (2) include a proposed procedural schedule that would result in the final resolution of this docket before the end of September 2017.”¹

PacifiCorp agrees with the Commission’s inclination to close the docket—PacifiCorp does not believe that there is benefit in continuing this investigation. Instead, the most efficient use of resources is to return to the well-established process for avoided cost updates. This will allow PacifiCorp and parties to focus their attention on the 2017 Integrated Resource Plan (IRP) proceeding and then on PacifiCorp’s post-IRP acknowledgment avoided cost update.

I. BACKGROUND

To ensure customer indifference through up-to-date avoided cost pricing, utilities are required to file two avoided cost updates: (1) a limited May 1 update established in Order No. 14-058; and (2) a post-IRP acknowledgment update under OAR 860-029-0080(3).

This proceeding was opened when the Commission approved PacifiCorp’s post-IRP acknowledgment update in August 2016, over nine months ago. Since that time, the Commission approved two updates to PacifiCorp’s standard avoided cost schedule—first in October 2016 when the Commission approved PacifiCorp’s UM 1610 Phase II compliance filing, and recently when the Commission approved PacifiCorp’s limited May 1 update with new prices effective June 1, 2017.

At the conclusion of docket UM 1729 at the August 18, 2016 public meeting, the Commission opened an expedited contested case proceeding to allow parties to propose prospective changes to PacifiCorp’s standard avoided cost rates and vet the issues raised in the predecessor proceeding. PacifiCorp has expended significant resources defending against

¹ Order No. 17-176 at 3.

extremely broad discovery requests, including attempts by the Renewable Energy Coalition (REC) and the Community Renewable Energy Association (CREA) to have PacifiCorp essentially rerun the IRP in this expedited avoided cost investigation. Parties have expended significant resources on these discovery disputes due to REC's and CREA's broad attempts to expand the scope of this proceeding and yet have not achieved any meaningful results. This does not mean that the Commission should keep this docket open and require parties to devote even more resources to a docket that has already been overtaken by the May 1 avoided cost update and will soon be rendered moot by the post-IRP acknowledgement update. The following provides a brief review of the events in this docket including CREA's and REC's request to suspend the procedural schedule.

The procedural schedule in this docket was established September 8, 2016. The procedural schedule was set such that this proceeding would conclude before PacifiCorp filed its annual May 1 avoided cost update. PacifiCorp filed its opening testimony on October 14, 2016. Also in October, CREA and REC filed separate motions to compel discovery,² which were both denied by the administrative law judge (ALJ). The ALJ partly denied CREA's motion to compel on November 2, 2016, and denied REC's motion to compel on November 18, 2016. Also on November 18, 2016, the ALJ granted REC and CREA's motion for a three-week extension to file response testimony.

After unsuccessfully compelling discovery, REC and CREA sought certification of both of the ALJ's rulings denying their motions to compel. The first certification request was filed on November 17, 2016, and the second was filed on November 30, 2016. REC and CREA also filed a joint motion seeking clarification of the scope of the proceeding and suspension of the procedural schedule on November 23, 2016. PacifiCorp opposed suspension of the procedural schedule noting that REC and CREA should not need to suspend the schedule merely because they sought to challenge the ALJ's discovery rulings. PacifiCorp also pointed out that it had already agreed to a three-week extension for response testimony and had repeatedly agreed to expedite its responses to the discovery disputes to maintain the schedule. PacifiCorp argued that suspending the procedural schedule would undermine the expedited nature of the proceeding.

The ALJ suspended the procedural schedule on December 7, 2016, and the Commission issued Order No. 17-121 granting certification and affirming the ALJ's rulings on March 23, 2017. In its order, the Commission stated that it would issue a subsequent order on the proper scope of the proceeding. Such a decision would still need to be issued if this docket remains open, which would add yet another step to the procedural schedule in a short timeframe.

As the procedural history demonstrates, PacifiCorp has worked diligently to maintain the expedited nature of this proceeding. In fact, this docket would have already concluded had REC and CREA not sought suspension of the procedural schedule. It has now been over nine months since the Commission opened this docket, and it has been over seven months since PacifiCorp filed opening testimony. It is true that parties have spent significant time and resources in this

² CREA filed a motion to compel on October 19, 2016, and REC filed a motion to compel on October 31, 2016.

proceeding—resources spent responding to REC’s and CREA’s discovery disputes and legal pleadings. This included two motions to compel, two requests for certification, and a motion to clarify the scope of the proceeding. Importantly, knowing that they were compromising the expedited nature of this docket, REC and CREA still sought suspension of the schedule. They presumably knew and understood the risk of an indefinite suspension, which PacifiCorp opposed. The consequence of that decision by REC and CREA is that this docket has been overtaken by subsequent avoided cost filing updates already approved by the Commission and would have limited applicability given the timing for the post-2017 IRP acknowledgment update.

PacifiCorp agrees with the Commission that the best approach is to focus efforts on the 2017 IRP proceeding and the post-IRP acknowledgment avoided cost update. Closing this docket will allow PacifiCorp and parties to return to the well-established process to update avoided cost prices, which will also provide certainty in the timing of avoided cost updates that REC and CREA have repeatedly sought.

II. ARGUMENT

PacifiCorp supports closure of this docket, which was opened approximately nine months ago to consider prospective change to PacifiCorp’s standard avoided cost prices and more thoroughly vet issues raised in its predecessor proceeding UM 1729. Closure of this docket will save parties from expending significant resources on a docket that has already been overtaken by the May 1 update and will again be overtaken by the post-IRP acknowledgment update, and instead return to the Commission’s well-established processes.

PacifiCorp agrees with the Commission’s reasoning that for this to be a meaningful investigation, any new avoided cost prices would need to be in effect for at least one quarter before the next regular update. PacifiCorp believes that it is simply not possible to conclude an investigation, even an expedited one, in just three months, which further supports closure of this proceeding.

A. The 2017 IRP and post-IRP acknowledgment avoided cost update are the proper forums to address prospective changes to PacifiCorp’s standard avoided cost prices

PacifiCorp agrees with the Commission’s inclination to close this docket and allow PacifiCorp and parties to focus their efforts on the 2017 IRP proceeding and then on PacifiCorp’s post-IRP acknowledgment avoided cost update. The Commission noted that these discovery disputes have “highlighted the substantive and administrative challenges inherent in examining certain IRP inputs and assumptions outside the IRP process.”³ This is why the proper forum to address these inputs and assumptions is in the 2017 IRP proceeding and why the Commission should return to the established process and timing for the IRP proceeding followed by an update to standard avoided cost prices.

³ Order No. 17-176 at 3.

The Commission has previously explained that the IRP is the proper forum for resolving important inputs into a utility's avoided cost prices, concluding that "there is value in the sequential nature of reviewing avoided costs after acknowledgment of a utility's IRP."⁴ Under that process, the IRP inputs and assumptions are vetted in the IRP process and the updated avoided costs are developed using the fully vetted inputs and assumptions from the most recently acknowledged IRP.⁵ The Commission has stated that the IRP is the proper forum for resolving resource sufficiency issues because the process is conducted with "extensive public review" regarding the utility's load and resource needs.⁶

PacifiCorp filed its 2017 IRP on April 4, 2017, and the ALJ established a procedural schedule with multiple rounds of comments, public meetings, and workshops. This process is currently underway and allows parties to vet inputs and assumptions that will later be used to update standard avoided cost prices. The Commission will consider PacifiCorp's 2017 IRP at the November 7, 2017 public meeting, and PacifiCorp expects the Commission to issue its order shortly thereafter. PacifiCorp will file its post-IRP acknowledgment avoided cost update within 60 days of receiving an acknowledgment order under 860-029-0080(3). At that time, parties may review PacifiCorp's filing to ensure that it complies with the Commission's established methodologies.

Keeping this docket open would mean litigating an avoided cost update that was originally based on the 2015 IRP in parallel with the 2017 IRP proceeding. Litigating an avoided cost proceeding based on the 2015 IRP concurrently with the 2017 IRP proceeding would undoubtedly cause significant challenges when defining the proper scope of this proceeding and will not be an efficient use of resources. This process would be contrary to the Commission's well-established process for avoided cost update,⁷ including the sequential nature of reviewing avoided cost updates after the IRP process.

B. This contested case proceeding cannot reasonably conclude by September 2017

PacifiCorp agrees with the Commission's reasoning that for this investigation to be meaningful, any new standard avoided cost prices should be in effect for at least one quarter. Otherwise, PacifiCorp's post-IRP update would render this proceeding moot.

The Commission asked that any proposal to continue this docket include a proposed procedural schedule that would result in a final resolution before the end of September 2017. It would not be possible to conclude this proceeding in such an expedited timeframe. Before REC

⁴ *In the Matter of Public Utility Commission of Oregon Staff Investigation Into Qualifying Facility Contracting and Pricing*, Docket No. UM 1610, Order No. 16-174 at 14-15 (May 13, 2016).

⁵ *Investigation into Determination of Resource Sufficiency, Pursuant to Order No. 06-538*, Docket No. UM 1396, Order No. 10-488 at 8 (Dec. 22, 2010).

⁶ *Id.*

⁷ *See* Order No. 16-174 at 14-15.

and CREA sought suspension of the procedural schedule, this expedited contested case proceeding was originally set by the ALJ in September 2016, commenced with PacifiCorp's opening testimony filed in October 2016, and included a target order date of April 14, 2017. It was anticipated that this proceeding would conclude before PacifiCorp filed its annual May 1 update.

Based on the previous procedural schedule, PacifiCorp anticipates that it would take at least six months to conclude this proceeding. Before any testimony could be filed, the Commission would need to issue an order addressing the proper scope. Three months is simply insufficient for a scoping decision followed by testimony, briefs, the opportunity for a hearing, and a Commission determination.

C. This stale proceeding is not the proper place to address what information should be considered when a “significant change” occurs

The Commission noted that this proceeding “raised legitimate questions about what information [the Commission] will use when a ‘significant change’ has occurred outside the IRP cycle.”⁸ This docket, however, with its unique procedural posture combined with the significant delay in resolving the issue of scope, is not the proper forum to address the type of information that should be considered when a significant change has occurred outside the IRP cycle.

It has been approximately 14 months since the Commission first discussed whether the impacts of Senate Bill 1547 constituted a “significant change” warranting departure from PacifiCorp's acknowledged 2015 IRP. The determination of what constitutes a “significant change” will be a fact-specific inquiry, and therefore the type of information considered will similarly be unique to the particular situation. There is no need to make such a determination in this case—this is a stale proceeding that has already been overtaken by PacifiCorp's May 1 update and will soon be rendered moot by PacifiCorp's post-IRP acknowledgment update.

III. CONCLUSION

This proceeding would not result in new avoided costs for any meaningful period of time and would undoubtedly be rendered moot by PacifiCorp's next post-IRP acknowledgment avoided cost update. Continuing this proceeding would therefore be a highly inefficient use of resources for the Commission, staff, and parties. For these reasons, PacifiCorp urges the Commission to close this proceeding and return to the well-established process to update avoided cost prices.

⁸ Order No. 17-176 at 3.

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Respectfully submitted this 2nd day of June, 2017.

A handwritten signature in black ink, appearing to read "Erin Apperson", written over a horizontal line.

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CERTIFICATE OF SERVICE

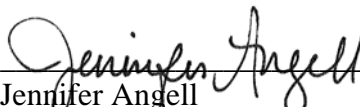
I certify that I served a true and correct copy of PacifiCorp's **Comments** on the parties listed below via electronic mail and/or or overnight delivery in compliance with OAR 860-001-0180.

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Dated this 2nd day of June, 2017.



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