ISSUED: November 18, 2016

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1794

In the Matter of PACIFICORP, dba PACIFIC POWER Investigation into Schedule 37 - Avoided Cost Purchases from Qualifying Facilities of 10,000 kW or Less.	RULING

DISPOSITION: MOTION TO COMPEL DENIED

I. BACKGROUND

This proceeding was opened to address a requirement in Order No. 16-307 that PacifiCorp, dba Pacific Power, file an amended Schedule 37 based on, among other things, a renewable resource deficiency period beginning in 2018 and cost and performance data from the acknowledged 2015 Integrated Resource Plan (IRP).

A discovery dispute arose between the Renewable Energy Coalition (the Coalition) and PacifiCorp. On October 31, 2016, the Coalition filed a motion to compel discovery. The Coalition asks the Commission to require PacifiCorp to either provide it with a copy of the IRP models or perform specific IRP model runs. PacifiCorp filed a response to the motion to compel on November 7, 2016. The Coalition filed a reply to PacifiCorp's response on November 10, 2016.

II. LEGAL STANDARD

The legal standard for discovery is whether the information sought is relevant to the claim of the party seeking discovery. OAR 860-001-0540 (1) provides that such discovery must be pursuant to the Oregon Rules of Civil Procedure, which, in this case is Rule 36B (1), and that the information sought in discovery must be reasonably calculated to lead to the discovery of admissible evidence.

III. MOTION TO COMPEL

A. Data Requests Seeking Information to be Derived from Computer Runs Yielding Revisions to PacifiCorp's 2015 IRP (DR 1.2 and DR 1.3)

The Coalition states that it needs new IRP computer model runs to vet the company's 2015 IRP data based on what the Coalition believes are more reasonable and accurate inputs and assumptions. While acknowledging that the Commission's discovery rules

generally prohibit unduly burdensome discovery, the Coalition claims there is an exception where one party has the capability to prepare a study and the other does not. The Coalition says that PacifiCorp uses the system optimizer (SO) and Planning and Risk (PaR) model data runs to calculate the next resource deficiency dates, and that it seeks information to determine whether the assumptions the company used to set rates are incorrect and outdated and whether new rates should be established. The Coalition believes the modeling is relevant to test PacifiCorp's claims in docket UM 1729 regarding estimated resource sufficiency/deficiency period dates and whether those dates should be changed by inputting newer information. PacifiCorp's argument that parties had the opportunity to influence the IRP runs during the IRP process and shouldn't seek to do it after the IRP process is completed is rejected by the Coalition. They argue that later model runs will be more accurate and reflect changed circumstances. The Coalition states that being involved in the 2017 modeling process will do nothing to aid it in this proceeding.

PacifiCorp responds that its modeling was already vetted in the 2015 IRP proceeding, and that the Coalition, which participated in that process, may not now claim that it was not done properly. [1] PacifiCorp also asserts that it would need to perform about a hundred model runs to recreate its 2015 IRP which is inappropriate in an expedited proceeding, and would take at least a month and interfere with the preparation of the 2017 IRP. The company notes that it does not have a unique capability to prepare the study—the Coalition may contract with the vendor to run the model as other intervenors have chosen to do.

Furthermore, PacifiCorp argues that the Coalition is cherry-picking which data it wants to be updated and taken into account and then seeks to require PacifiCorp to rebut that specific data piece. PacifiCorp argues that there is an inherent mismatching of outdated and updated assumptions which, by their very nature, reduce the relevancy to the process. Although the Coalition claims that it wants only narrow and limited runs, in PacifiCorp's view, such runs would suffer the infirmities of combining current and stale data and assumptions. PacifiCorp claims that the 2017 update process, now underway, is the best way to address the updates requested by the Coalition.

Resolution

The motion to compel is denied. The Commission adopted the Staff's recommendation which provided for a more thorough vetting of the company's avoided costs via this proceeding, but limited the post-2015 IRP acknowledgement avoided cost filing to the updated renewable resource deficiency period and the three factors required by the annual May 1 Update. That vetting should be done in a manner that provides for a consistent set of data and methodology. I find that the data requests of the Coalition are unduly burdensome given the nature of this proceeding and, because the data would consist of conflating information from two different time periods, fail to meet the tests of relevancy required by Rule 36(B) (1) of the ORCP.

[1] Response at 7, n 13 citing UM 1610 Order No. 16-174 at 2 (May 13, 2016).

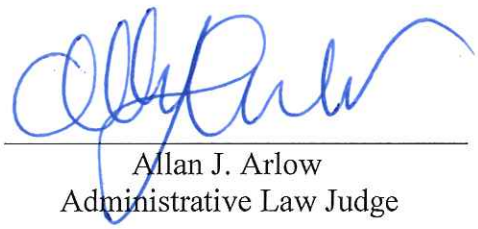
B. Data Requests Seeking Complete working Copies of PacifiCorp's IRP System Optimizer and PaR models (DR 1.4)

The Coalition seeks these computer models so that it may have the opportunity to run various scenarios itself. PacifiCorp counters that to hand over its model would violate the company's contractual obligations and that the Coalition is free to contact the vendor if it wishes. The Coalition claims that it is inequitable to ask small QFs to pay for access to PacifiCorp's models when the Commission requires that large QFs have access to the GRID model, which is used to calculate the company's non-standard avoided cost prices.

Resolution

The motion to compel is denied. A contractual impediment exists to the sharing of the proprietary computer models by the company with the Coalition. The comparison to the Commission requirements with respect to the GRID model is inapposite; the Coalition should seek changes in Commission policy with respect to making avoided cost calculation models generally available to QFs, rather than seeking to compel that action in a limited proceeding and in violation of existing contractual agreements.

Dated this 18th day of November, 2016 at Salem, Oregon.



Allan J. Arlow
Administrative Law Judge