

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 22, 2018

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: May 3, 2018

TO: Public Utility Commission

FROM: ^{JB for SW}
Seth Wiggins

THROUGH: ^J Jason Eisdorfer and ^{JP} JP Batmale

SUBJECT: PACIFIC POWER: (Docket No. UM 1914) Requests Acknowledgement of the 2019-2023 Renewable Portfolio Standard Implementation Plan.

STAFF RECOMMENDATION:

Acknowledge PacifiCorp's (PAC or Company) 2019-2023 Renewable Portfolio Standard Implementation Plan (RPIP).

DISCUSSION:

Issue

Whether PAC's 2019 - 2023 RPIP satisfies all applicable Renewable Portfolio Standard (RPS) statutes, administrative rules, and conditions set forth in Order No. 17-010, such that the Commission should acknowledge it.

Applicable Law

Oregon's RPS laws are codified at ORS 469A.005 through 469A.210 and establish incremental targets for energy companies to procure qualifying renewable energy. OAR Chapter 860, Division 83, establishes guidelines for RPS compliance, including limits on the cost of compliance, requirements for planning and reporting, and standards for the use of Renewable Energy Certificates (RECs) as the primary compliance instrument.

OAR 860-083-0400 requires electric companies subject to ORS 469A.052 to file an RPS implementation plan every even-numbered year, unless otherwise directed by the

Commission, that conveys its compliance strategy over the subsequent 5 years (compliance period). The RPIP focuses on two compliance planning elements:

1. The Company's plan to meet annual targets within the compliance period with bundled RECs, unbundled, RECs, and/or Alternative Compliance Payments; and
2. A forecast of the Company's incremental cost of compliance during the compliance period, relative to the 4 percent incremental cost threshold established in ORS 469A.100.¹

Among the reporting details required by ORS 469A.075(2) and OAR 860-083-0400(2)(a-f), the RPIP must contain annual load forecasts, the renewable energy credits (RECs - which may include both bundled and unbundled RECs) required in order to comply with annual RPS targets, the estimated cost of meeting annual RPS targets, an account of qualifying electricity generators, and a detailed explanation of any material deviations from the electric company's most recent IRP's action plan or material changes from the conditions assumed in the most recent IRP.

In calculating costs of RPS compliance, the utility must determine the incremental costs, which is composed of bundled and unbundled REC costs as well as ACPs. Electric companies are not required to comply with the RPS during a compliance year to the extent that this cost exceeds the 4 percent threshold. If the incremental costs in any year exceed the limit of 4 percent, the utility is required to provide sufficient information that demonstrates how the RPIP appropriately balances risks and expected costs. See IRP guidelines 1.b and 1.c set forth in Commission Order No. 07-047.² This requirement is also triggered if, among other reasons, the utility plans to use unbundled RECs or to sell any RECs included in the rates of retail customers.

ORS 469A.075(2) and OAR 860-083-0400(2)(a-f) further require that the RPIP provide the Commission with the information necessary to determine whether, and how, the electric company will be in compliance with the RPS over the ensuing five years.

RPS compliance must be demonstrated through the retirement of RECs that are maintained through the WREGIS.³ RECs may be either bundled with energy or

¹ ORS 469A.100(1) states that utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance exceeds the 4 percent incremental cost threshold.

² ORS 469A.100(1) states that utilities are not required to comply with the renewable portfolio standard during a compliance year if the incremental cost of compliance, the cost of unbundled renewable energy certificates, and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year.

³ OAR 330-160-0020.

exchanged separately (unbundled).⁴ One REC is issued per megawatt-hour of generation produced.⁵

RECs procured before March 31 of a given year may be used for the previous year's RPS compliance.⁶ RECs issued on or before March 8, 2016, have unlimited life. RECs generated or procured from resources with a commercial operation date (COD) between March 8, 2016, and December 31, 2022, have unlimited life; these RECs are commonly referred to as "golden RECs" (Golden RECs).⁷ RECs from generating resources with a COD on or before March 8, 2016, and *issued* after March 8, 2016, have only a five-year life. RECs generated after December 31, 2022, also have a five-year life.⁸

With limited exception, only 20 percent of an electric utility's RPS compliance obligation may be satisfied using unbundled RECs in any given compliance year.⁹ However, ORS 469A.145(3) provides that this limitation "does not apply to renewable energy certificates issued for electricity generated in Oregon by a qualifying facility under ORS 758.505 to 758.555."

ORS 469A.075(3) and OAR 860-083-0400(8) require the Commission to acknowledge the RPIP within six months of filing. The Commission's acknowledgment may be subject to conditions as specified by the Commission.

In Order No. 17-010, the Commission acknowledged PAC's 2017 RPIP subject to two conditions:

- (1) PacifiCorp must comply with the following steps when it commences a resource procurement action, for the purpose of complying with the Renewable Portfolio Standards (RPS) law, that materially deviates from its most recently filed Integrated Resource Plan or RPIP:
 - Calculate new incremental costs with the new resource or resources included over a time period acceptable to PacifiCorp and Staff; and
 - Respond to requests by the Commission regarding its new analysis arising out of the calculation set forth above; and

⁴ OAR 330-160-0025.

⁵ OAR 330-160-0015(15).

⁶ OAR 860-083-0300(3)(b)(B); also note that SB 1547 established new requirements regarding REC generation and banking privileges for future compliance years.

⁷ March 8, 2016, is the effective date of SB 1547.

⁸ A REC generated from a resource with which the utility has a PPA has a varying lifetime depending on the length of that PPA. See Section 6 of SB 1547 for further details.

⁹ ORS 469A.145(1).

- (2) Participate in a stakeholder workshop to identify opportunities for revisions to the RPIP process and requirements.

Analysis

Background

PAC submitted its 2019-2023 RPIP on December 28, 2017. In its RPIP, PAC plans to use banked bundled RECs to meet compliance needs over next five years. In its Acknowledged 2017 IRP Action Plan, PAC plans to procure 1100 MW of wind resources from Wyoming with a commercial operation date earlier than 2021.¹⁰ PAC included this resource in its RPIP, but does not plan to use it during the 2019-2023 compliance period.

Staff submitted initial comments on March 5, 2018, indicating that PAC had complied with the basic requirements outlined in OAR 860-083-0400 and the conditions set forth in Order 17-010, and that it is unlikely that PAC will exceed the 4 percent incremental cost threshold during the compliance period. While Staff did appreciate that PAC included a sensitivity that evaluated a new tax regime,¹¹ Staff noted that more effort will be needed to fully evaluate the impact of this change.¹²

Staff highlighted a number of ongoing RPS compliance issues in this 2019-2023 RPIP. PAC has stated that similar to earlier RPIPs, it does not plan to use unbundled RECs for RPS compliance going forward. The data suggest otherwise: PAC has used unbundled RECs as a significant part of its RPS compliance strategy over the last five years.¹³ Staff also noted three concerning issues related to timing in the RPIP. First, it is unclear whether a five-year RPIP is able to capture longer-term compliance strategies. Second, the timing between yearly RPIPs and 2-3 years between IRP acknowledgements limits the amount of useful information in the yearly RPIP filings. And third, the calculation of incremental cost occurs at the time of the retirement rather than the time of generation, which could influence the determination of the 4 percent threshold. However, despite their relevance to this RPIP, Staff believes these issues are best addressed through the upcoming RPS rulemaking dockets.¹⁴

¹⁰ See *In re PacifiCorp*, OPUC Docket No. LC 67, Order No. 18-138 (Apr. 27, 2018).

¹¹ PAC sensitivity modified its discount rate, which changes the relative cost-effectiveness of renewables, which generally have higher fixed- and lower variable- costs relative to fossil fuel generation.

¹² The bill was signed into law December 22, six days before PAC's filing.

¹³ PAC retired 100 percent of the possible allotment (20 percent of all retirements) between 2012-2014, and ~55 percent in 2015-2016.

¹⁴ See RPS rulemaking dockets, AR 610 *In re Rulemaking Regarding the Incremental Cost of Renewable Portfolio Standard Compliance*, AR 616 *In re Rulemaking Regarding Renewable Portfolio Standard*

On March 5, 2018, the Industrial Customers of Northwest Utilities (ICNU)¹⁵ stated that there are outstanding issues with the methodology to calculate the incremental cost of compliance; however, ICNU expects to pursue these issues in the RPS rulemaking. Oregon Citizen's Utility Board (CUB) also indicated that it does not intend to file comments, based on its review of the issues and the procedural posture of the docket.

PAC filed reply comments on April 5, 2018, which agreed with Staff's assessment that the Company's RPIP met the basic requirements outlined in OAR 860-083-0400. PAC commented on Staff's ongoing compliance issues, agreeing that these are best addressed in the RPS rulemaking dockets.

Conclusion

Staff believes that PAC has met applicable legal requirements, including conditions imposed in Order 17-010, and therefore recommends that the Commission acknowledge the Company's 2019 - 2023 RPIP.

PROPOSED COMMISSION MOTION:

Acknowledge PAC's 2019 - 2023 Renewable Portfolio Standard Implementation Plan.

PAC 2019 -2023 RPS Implementation Plan

Planning Process and Reports, and AR 617 In re Rulemaking to Address Renewable Energy Certificate (REC) Issues in Renewable Portfolio Standard (RPS).

¹⁵ Now known as AWEC: the Alliance of Western Energy Consumers.