

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

Docket No. UE 399

In the matter of

PACIFICORP, dba PACIFIC POWER,

Request for General Rate Revision

REBUTTAL TESTIMONY OF BRADLEY CEBULKO

August 11, 2022

I. INTRODUCTION

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- Q. Please state for the record your name, position, and business address.**
- A.** My name is Bradley Cebulko. I am a Manager at Strategen Consulting located at 2150 Allston Way Suite 400, Berkeley, California 94704.
- Q. On whose behalf are you appearing in this proceeding?**
- A.** I am testifying on behalf of Vitesse, LLC (“Vitesse”).
- Q. Are you the same Bradley Cebulko that previously filed testimony in this proceeding on behalf of Vitesse?**
- A.** Yes, I am.
- Q. What is the purpose of your testimony?**
- A.** I am testifying on behalf of Vitesse regarding the proposed Accelerated Commitment Tariff (“ACT” or “Schedule 273”) for PacifiCorp dba Pacific Power (“PacifiCorp” or the “Company”). I continue to recommend that the Commission approve the ACT with some modifications, which I summarize and describe in detail. My Rebuttal Testimony addresses the Opening Testimony by the Citizens’ Utility Board of Oregon (“CUB”), the Northwest & Intermountain Power Producers Coalition (“NIPPC”), and the Oregon Public Utility Commission (the “Commission” or “OPUC”) Staff (“Staff”), as well as the Reply Testimony from PacifiCorp.
- Q. Are you sponsoring any exhibits as part of your Rebuttal Testimony?**
- A.** No.

II. RESPONSE TO OPENING AND REPLY TESTIMONY

- Q. Please summarize the issues you will address in your Rebuttal Testimony.**
- A.** In my Rebuttal Testimony, I address PacifiCorp and other intervenors’ testimony on: 1) the ACT procurement cap, 2) a customer-supply option (“CSO”), 3) Vitesse’s proposal

1 for a variable energy option, 4) the need for a waiver for compliance with the
2 Competitive Bidding Rules (“CBRs”), and 5) the use of unbundled renewable energy
3 credits (“unbundled RECs”) to meet unexpected, yearly under-generation. After
4 summarizing each of the other parties’ testimony in the relevant section, I then discuss if
5 and how their arguments changed my Opening Testimony recommendations. Finally, at
6 the end of my testimony, I identify each of the issues other parties identified but to which
7 I did not take a position.

8 **Q. Please summarize your rebuttal recommendations.**

9 **A.** I recommend that the Commission approve the ACT subject to the following
10 modifications:

11 (1) Procurement Cap: The ACT should be modified to allow a separate, 175 aMW
12 cap for new, incremental load from existing or new customers, which Vitesse
13 recognizes will require that the Commission modify its Fourth Condition for
14 Voluntary Renewable Energy Tariffs (“VRETs”) for PacifiCorp.¹

15 (a) Alternatively, if the Commission does not create a separate 175aMW cap for
16 new, incremental load from existing or new customers, I recommend that the
17 Commission allow prospective new load customers to petition for an
18 exception to the cap on a case-by-case basis. The Commission should set
19 explicit criteria for approval using the same standards as new load DA as
20 identified in Order No. 18-341.

¹ *In re Voluntary Renewable Energy Tariff for Non-Residential Customers*, Docket No. UM 1690, Order No. 15-405 at 1 (Dec. 15, 2015).

1 (b) As a second alternative, the Commission could create a separate, additional
2 cap solely for a customer-supply option (“CSO”), which I separately
3 recommend be established. If the Commission adopts this alternative, I still
4 recommend the Commission maintain a process for approving an exception
5 to the program cap on a case-by-case basis.

6 (2) CSO: The ACT should allow a CSO in which program participants can identify
7 their own power purchase agreement (“PPA”) for PacifiCorp’s review and
8 approval by the Commission.

9 (3) Variable Energy Option: The ACT should have an option for participants to take
10 a percentage of a resource’s capacity, including the entirety of the resource, in
11 addition to the Company’s proposed fixed volume option.

12 (4) CBRs: I recommend that the Commission find that PacifiCorp can rely on its
13 2022 All Source Request for Proposal (“2022AS RFP”) for selecting the
14 resource(s) for the ACT, or, if necessary, issue a waiver of the CBR requirements
15 in this instance, in the Final Order.

16 (5) Use of unbundled RECs: Add language to Schedule 273 clarifying that the
17 Company will make reasonable efforts to procure sufficient renewable resources
18 for subscribing customers, including new resources, in the event of consistent
19 underperformance.

1 is a less optimal solution for businesses like Vitesse that seek reasonable certainty that
2 they will be able to power new operations with additional, clean energy resources that
3 meet company commitments.⁴

4 **Q. What was NIPPC’s position in Opening Testimony on this issue?**

5 **A.** NIPPC testified that it supports the current cap but would not oppose a separate cap for
6 new load if it is supplied through the CSO.⁵ In addition, NIPPC does not oppose an
7 expedited mechanism to increase the cap as long as this expedited process also applies to
8 the DA program.⁶

9 **Q. What was CUB’s position in Opening Testimony on this issue?**

10 **A.** CUB “is opposed to increasing the procurement cap this early in the operation of the
11 program,” but did not elaborate on its opposition.⁷

12 **Q. How did PacifiCorp respond to your request to create a new cap for new,
13 incremental load?**

14 **A.** PacifiCorp Witness Matthew McVee testifies that the Company “believes that the 175
15 aMW cap is appropriate at this time for participation in the program, but strongly
16 encourages addressing emerging issues such as new loads on a case-by-case basis.”⁸ The
17 Company advocates for a mutually agreed upon solution between the Company,
18 participant, and developer to ensure that additional risk is not placed on the utility.⁹ The

4 Vitesse/100, Cebulko/14-23.

5 NIPPC/100, Gray/8.

6 NIPPC/100, Gray/3.

7 CUB/200, Gehrke/34.

8 PAC/1700, McVee/4.

9 PAC/1700, McVee/5.

1 Company does not identify what factors the Commission should consider when
2 evaluating a cap increase on a case-by-case basis.

3 PacifiCorp also opposes NIPPC’s proposal that an expedited mechanism to
4 increase the cap should also apply to the DA program. PacifiCorp argues that “there are
5 significant differences between the ACT program, where participants continue to pay
6 their full cost-of-service rate plus the cost of participation, and direct access where the
7 Commission is required to ensure that direct access does not cause unwarranted shifting
8 of costs.”¹⁰

9 **Q. Did any of the other parties’ arguments change your opinion on the need for a**
10 **separate cap for new, incremental load?**

11 **A.** No, they did not. The Commission should be adopting regulatory policies and tools that
12 make it easy for new load to be served with 100 percent clean resources, particularly
13 when that new load agrees to take on all the incremental resource costs. Since the
14 Commission initially set the VRET caps, the state passed HB 2021, which requires all
15 electricity to be 100 percent greenhouse gas emissions free by 2040. As I explain further
16 below, it is to the utility’s and non-participants’ benefit that any new load that comes onto
17 the system voluntarily chooses to pay the incremental cost of making that new load 100
18 percent clean today.

19 A larger program would also allow more customers to participate in the ACT. The
20 program is designed for large and small customers with demand greater than 30 kW. I do
21 not know how PacifiCorp will determine which customers can access the program if

¹⁰ PAC/1700, McVee/5-6.

1 demand exceeds 175 aMW at its offering or even if initial demand will exceed 175 aMW.
2 But the demand from a handful of large, motivated customers, like Vitesse, could quickly
3 capture the available space in the program, particularly if they are planning on adding
4 new load in the future. As long as appropriate protections are in place, the Commission
5 should encourage rather than discourage customers from being served with 100 percent
6 renewable energy. If there was an avenue for new, incremental load under a separate cap
7 then this creates room for other customers to participate later.

8 **Q. Oregon is already committed to transitioning to 100 percent emissions-free power**
9 **by 2040. Why isn't that sufficient for meeting Vitesse's commitment to power 100**
10 **percent of its operations with renewable energy?**

11 **A.** As I explained in my initial testimony, Vitesse's parent company (Meta) has a corporate
12 commitment to support its operations with 100 percent renewable energy in every
13 jurisdiction it operates and has maintained this commitment since 2020. Although
14 Oregon recently passed HB 2021, which requires all electricity in Oregon to be 100
15 percent clean by 2040, few of the states where Meta operates have a similar requirement.
16 Vitesse and other large load customers with renewable energy commitments will find it
17 challenging to invest in Oregon if there is no clear pathway to support 100 percent of its
18 demand with 100 percent renewable resources today. Moreover, as I will discuss later in
19 my testimony, absent a program like the ACT, PacifiCorp's Integrated Resource Plan
20 ("IRP") analysis shows that new load is likely to drive higher emissions and resource
21 costs.

22 **Q. Why do Vitesse and other large load customers need a clear pathway?**

23 **A.** When making business decisions about where to build new facilities, Vitesse needs to
24 consider a wide range of factors. Some of these factors are universal to any large capital-

1 intensive project while others are unique to Vitesse’s operations and priorities. As large
2 capital-intensive projects, commitment to siting facilities requires a comprehensive
3 alignment of stakeholders and dynamic inputs across land, water/wastewater, network,
4 environmental/permitting, energy, tax, construction, and operations labor. Operationally,
5 Vitesse also has flexibility where to site facilities, and needs to be nimble and act quickly
6 to remain competitive in a fast-evolving sector. Given Vitesse’s commitment to offset
7 new load with incremental carbon-free generation, a clear pathway removes a critical
8 hurdle from an already complex siting decision. A lack of a clear pathway can also
9 preclude development – for such large investments. Customers like Vitesse cannot select
10 a location and then hope a case-specific proceeding with a protracted evaluation and
11 without clear criteria works out favorably. In a competitive environment for siting
12 opportunities, this hurdle can also favor those companies with less stringent standards or
13 willingness to pay the incremental cost to directly offset the impact of their energy
14 footprint.

15 **Q. Why do you think that creating a separate cap for new load is beneficial to non-**
16 **participants and does not expose non-participants to significant risk of cost shifts?**

17 For three reasons. First, the structure of the program itself is designed to minimize the
18 risk of harmful impacts to customers. The tariff prohibits participants from paying less
19 than other cost-of-service customers. Participants will receive energy and capacity
20 credits, but the tariff will never reduce their costs below what they otherwise would have
21 been absent the program.¹¹ The Company’s initial proposal also assigns 100 percent of

¹¹ Exhibit Vitesse/102, Cebulko, 23 (PacifiCorp Response to OPUC Data Request 317).

1 the costs, but only 90 percent of the benefits, to participants.¹² The Company argues that
2 this is a form of mitigating their risk and to ensure compliance with Condition 8.¹³

3 Although I propose a variable energy option that would assign 100 percent of the costs
4 and benefits to the participant, that option also does not shift costs onto non-participants.

5 Second, the resource procurement process is designed to minimize risk to non-
6 participants. ACT resources will be procured through an RFP that complies with the
7 Commission's CBRs, and PacifiCorp will select the ACT resources only after it has
8 selected the best resources for its non-participant demand.

9 Finally, it is to the utility's and non-participants' benefit if the customer bringing
10 new load onto the system voluntarily takes on the incremental resource costs of receiving
11 power that is 100 percent renewable. HB 2021 requires PacifiCorp to reduce its
12 greenhouse gas emissions by 80 percent below baseline emissions levels by 2030, 90
13 percent below the baseline by 2035, and for all energy delivered to be greenhouse gas
14 emissions free by 2040. The Company's current resource stack is fossil-fuel heavy, which
15 means that the Company will have to rapidly wind down its coal and natural gas-fired
16 resources in the near-term, and then build new resources. According to the Company's
17 2021 Integrated Resource Plan ("IRP"), additional load to the system will increase the
18 resource requirements and system costs. In addition, at least in the near-term while the
19 Company still has a portfolio that relies on fossil-resources and market purchases, new

¹² Vitesse/100, Cebulko/30.

¹⁴ Exhibit Vitesse/102, Cebulko/16 (PacifiCorp Response to Vitesse Data Request No. 28);
Exhibit Vitesse/102, Cebulko/21 (PacifiCorp Response to OPUC Data Request No. 315).

1 load will also likely increase emissions.¹⁴ The 2021 IRP Update appears to have verified
2 the Company's modeling prediction. During the 6-month period between when the
3 Company filed the 2021 IRP¹⁵ and the 2021 Update,¹⁶ PacifiCorp reported higher than
4 expected fossil-generation dispatch and emissions driven by higher-than-expected load.¹⁷
5 Thus, in the ordinary course of business without participation in the ACT, bringing new
6 load onto the grid will almost certainly increase emissions and cause system costs that
7 will be socialized to all customers. If a customer bringing new load onto the system is
8 willing to take on the incremental resource costs and not increase carbon emissions, then
9 it is to non-participants benefit.

10 **Q. How else does the proposed program mitigate the risk of cost shifts to non-**
11 **participants?**

12 **A.** The Commission's review process serves as a check on program development and an
13 opportunity for intervenors to identify and mitigate risk to non-participants. After the
14 Company has identified and selected the ACT resource(s), the Company will file with the
15 Commission the energy and capacity credit values, as well as the administrative fee it
16 will charge participants. If there is a cost-shift from participants to non-participants', it
17 will most likely occur in the design of the energy and capacity credits, and to a lesser
18 extent the administrative fee. It is in the Company's interest to appropriately design the

14 *2021 IRP – Supplemental Sensitivity Modeling Results*, PacifiCorp IRP, at 2,
https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/PacifiCorp_2021_IRP_Sensitivity_Cases.pdf.

15 September 1, 2021.

16 March 31, 2022.

17 *In re PacifiCorp 2021 IRP*, Docket No. LC 77, PacifiCorp's 2021 Integrated Resource Plan at 13 (Mar. 31,2022).

1 rate structure as it does not have anything to gain by allocating participant costs to non-
2 participants. Nevertheless, Vitesse and other intervenors will have an opportunity to
3 review that filing to ensure that it is appropriately designed, and the costs appropriately
4 allocated.

5 The Commission will also need to approve each of the resources used to meet
6 participant demand, including the associated interconnection costs. Both a Company
7 identified resource and a PPA identified by the participant through a CSO will need to be
8 reviewed by intervenors and approved by the Commission.

9 Finally, there is a risk of cost-shifts if the utility makes resource investments
10 without reasonable protections that the incremental cost will be borne by the participant
11 for the intended term of the subscription. Vitesse agrees that, when the Company designs
12 VRET programs, it should include reasonable contract provisions to mitigate any risks to
13 non-participants.

14 Vitesse agrees that it is important to ensure that non-participants are not harmed by
15 this program. The Commission should have continued oversight over program expansion.
16 A cap for new load would provide that oversight but also provide planning certainty for
17 large customers that want to add new load in Oregon.

18 **Q. PacifiCorp indicated support for a case-by-case approval for new load, which you**
19 **proposed as an alternative in your Opening Testimony. Do you still agree this is a**
20 **viable pathway?**

21 **A.** Yes, although as previously stated, this is less appealing to Vitesse because the outcome
22 is less certain than a separate cap for new entries. A protracted evaluation without clear
23 criteria for approval is untenable. If the Commission adopts a case-by-case approach,
24 there must be a clear pathway and an expedited process. I recommend that the

1 Commission set a timeline and explicit criteria that need to be met for approval.
2 Consistent with my Opening Testimony, the Commission should use its criteria for new
3 DA load as it set in Order No. 18-341. Vitesse is open to consideration of other criteria
4 for approval of an expansion. I encourage those parties that do not support an expansion
5 of the cap to propose additional criteria that that the Commission should approve that
6 would address their concerns, including providing additional protections for non-
7 participants or ongoing program reporting.

8 When considering program expansion, it is my understanding that the
9 Commission is most comfortable if the participant can demonstrate it will not harm non-
10 participants by identifying the specific resources and their locations. The challenge with
11 the program, as proposed by PacifiCorp, is that there is not an option, like a CSO, for a
12 customer to bring their own specific resource for approval. Should the Commission add a
13 CSO, the participant would be able to make this demonstration. Otherwise, PacifiCorp
14 will select the optimal resource through its RFP, considering interconnection costs, and
15 then allocate incremental interconnection costs to program participants.

16 **Q. NIPPC Witness Spencer Gray testified that NIPPC could support a separate cap for**
17 **new load if it is a CSO option. Do you agree that this is a workable solution?**

18 **A.** Vitesse's preference is for a separate cap for new load. I also proposed a case-by-case
19 approval process for a CSO as an alternative. Having said that, a separate, additional cap
20 that is only available as a CSO could work as a second alternative. I understand that there
21 is precedent for this type of arrangement. PGE's program initially required a split
22 between a CSO and utility-supplied option. A separate cap only available as a CSO
23 would create more room for more customers to participate in the program, give customers

1 more options, and would provide the business certainty that Vitesse and other customers
2 with corporate renewable energy commitments need for making decisions.

3 If the Commission adopts a separate cap that is only available as a CSO, I
4 recommend that the Commission also create a case-by-case approval process for program
5 expansion. Although a customer may have unique opportunities and can identify a CSO
6 that best fits its needs, the converse is true as well. PacifiCorp may also have a better
7 opportunity than an individual customer.

8 IV. CUSTOMER SUPPLY OPTION

9 **Q. Please briefly summarize your Opening Testimony on a CSO.**

10 **A.** In my Opening Testimony, I testified that I support creating an option to allow
11 participants to bring their own PPAs, like what is permitted via PGE's program.
12 Customers are differently situated, some like Vitesse and its parent Meta have large,
13 sophisticated energy programs, and that customer should not be prevented from being
14 able to identify a PPA that meets their needs and the requirements of the ACT.¹⁸

15 **Q. Do any other parties support a CSO?**

16 **A.** Yes. Staff testified that they "believe[] that something similar to PGE's customer-
17 supplied option (CSO) in the GEAR should be considered for PacifiCorp's VRET
18 program" as "the CSO option provides additional value to potentially interested
19 customers."¹⁹ NIPPC also supports requiring PacifiCorp to include a CSO and does not
20 oppose a separate, independent cap for CSOs.²⁰

18 Vitesse/100, Cebulko/26-27.
19 Staff/500, Bolton/9.
20 NIPPC/100, Gray/8.

1 **Q. Do any intervenors oppose a CSO option?**

2 **A.** I am unaware of any party, other than the Company, that opposes a CSO.

3 **Q. What is PacifiCorp's position on a CSO option?**

4 **A.** PacifiCorp opposes a "blanket" CSO but is open to potentially allowing for "case-by-case
5 analysis of a CSO."²¹ The Company is concerned that "allowing the customer to choose
6 the location of interconnection could lead to significant costs for network upgrades"²²
7 which may create "a higher risk of cost shifting among the Company, participants, and
8 non-participating customers."²³

9 **Q. Do you agree with PacifiCorp's concern?**

10 **A.** As I stated in my Opening Testimony, PacifiCorp's concern that a CSO can shift risk to
11 non-participants is overstated. The Commission can create a review process that
12 addresses this concern. The utility can object to the PPA terms when there is a CSO
13 resource before the Commission. Should the participant identify a resource, but it is
14 poorly located, PacifiCorp can object to the Commission that it is harmful to non-
15 participants. PacifiCorp's objection can be challenged before the Commission, but the
16 participant cannot force the Company to take the CSO without first gaining explicit
17 Commission approval. Moreover, it is not in the customer's interests to try to locate a
18 CSO resource that would lead to significant network upgrade costs. The Company and
19 intervenors would rightfully object before the Commission, who would then do one of

21 PacifiCorp/1700, McVee/6.

22 PAC/1700, McVee/6.

23 PAC/1700, McVee/7.

1 two things: reject the participant’s request outright or assign the extraordinary costs to the
2 participant. Either way non-participants will be held harmless.

3 **Q. How else could the Commission mitigate risk associated with a CSO?**

4 **A.** The Commission could further clarify PacifiCorp’s role in a CSO by adding a more
5 explicit provision in the Final Order approving the ACT, or alternatively in the
6 Company’s tariff. In the Order approving PGE’s GEAR program, the Commission
7 clarified that “PGE will maintain final contract approval, but may only object to
8 qualifying PPAs to avoid shifting costs and risks onto non-participating customers or
9 PGE shareholders.”²⁴ Further, to reduce any administrative burdens, the Commission
10 could restrict the CSO to a case-by-case analysis, a certain sized project, a customer of a
11 certain size, or a requirement that a single customer take 100 percent of the output.

12 Finally, PacifiCorp could help reduce the risk to non-participants by working with
13 customers and developers to identify optimal siting locations for new resources.

14 **V. VITESSE’S PROPOSAL FOR A VARIABLE ENERGY OPTION**

15 **Q. Can you summarize for the Commission your proposal regarding the delivery of**
16 **energy to participating customers?**

17 **A.** Yes. In addition to PacifiCorp’s proposal to charge customers a fixed price for a fixed
18 quantity of bundled renewable energy, I proposed an option to assign participants a
19 certain percentage of the output of a facility and allow them to take variable annual
20 delivery volumes.²⁵ This is consistent with the design of PGE’s VRET which allows

²⁴ *In re PGE Investigation into Proposed Green Tariff*, Docket No. UM 1953, Order No. 20-036 at 3 (Jan. 31, 2020).

²⁵ Vitesse/100, Cebulko/29.

1 customers to choose a percentage of, or the entire, project.²⁶ A significant benefit of
2 allowing customers to take this type of contract is that it better assigns the costs and
3 benefits of a resource.

4 **Q. How did the Company respond to this proposal?**

5 **A.** PacifiCorp opposes this option because, according to the Company, “it could create some
6 additional issues related to securities regulation if the amount is not fixed at the time the
7 customer commits to participation.”²⁷ However, the Company also states that “[i]f a
8 single entity is taking the entire output of a facility, the proposal may be workable, and
9 PacifiCorp is willing to discuss specific options with customers if that will assist with the
10 customer’s goal and further state energy policy.”²⁸

11 **Q. Do you agree that there are potential securities issues?**

12 **A.** I am not an attorney, but my understanding is that there are ways to satisfy the
13 Company’s securities concerns. This problem is not unique to my proposal – community
14 solar programs also must satisfy securities concerns. According to an NREL report,
15 community solar programs have satisfied the Securities and Exchange Commission’s
16 “Howey Test” by demonstrating that their primary motivation for participating in this
17 type of program is for personal consumption and not the expectation of profit.²⁹ Indeed,

²⁷ See *Schedule 55 Large Nonresidential Green Energy Affinity Rider (GEAR)*, Portland General Electric Company (Oct. 14, 2021), https://assets.ctfassets.net/416ywc1lagmd/Cisc2UrDoVmUBwV1fqVqb/e107aedaceaf5b5a21d69d07dcbf1453/Sched_055.pdf.

²⁷ PAC/1700, McVee/19.

²⁸ PAC/1700, McVee/20.

²⁹ David Feldman, Anna M, Brockway, Elaine Ulrich, and Robert Margolis, *Shared Solar: Current Landscape, Market Potential, and the Impact of Federal Securities Regulation*, NREL at 15-18 (Apr. 2015), <https://www.nrel.gov/docs/fy15osti/63892.pdf>.

1 ACT participants cannot profit through their participation in the program. Participants
2 will most likely pay a premium to participate in the program, but at a minimum they
3 cannot pay less than cost-of-service. Participants are also prohibited from selling the
4 RECs associated with the program. There is no way for the participant to profit from the
5 program. In addition to the numerous community solar programs around the country,
6 PGE's program allows a customer to take a percentage of the output of a facility.
7 Allowing this option for participants will not harm non-participants, rather, as with
8 PacifiCorp's original proposal, non-participants benefit if customers voluntarily choose to
9 pay the costs of compliance with HB 2021.

10 VI. COMPETITIVE BIDDING RULES

11 **Q. What was your position regarding CBRs?**

12 **A.** In my Opening Testimony, I argued that it is in the public interest for ACT resources to
13 be subject to CBRs. However, there are two exceptions. First, petitions for a waiver
14 should be permitted for CSO resources. Second, a utility should be able to leverage a
15 recently issued 2022AS RFP in lieu of re-evaluating the same projects through a second
16 RFP. A second RFP after the 2022AS RFP would be duplicative, costly, and
17 administratively burdensome without providing substantial benefit.³⁰

18 **Q. How did PacifiCorp respond to your position?**

19 **A.** PacifiCorp agreed that "the Company should be allowed to use the results of the 2022AS
20 RFP to help identify resources for the ACT program."³¹

³⁰ Vitesse/100, Cebulko/25-26.
³¹ PAC/1700, McVee/14.

1 **Q. What is NIPPC’s position regarding CBRs?**

2 **A.** NIPPC “does not oppose waiver of the CBR requirements in appropriate circumstances,
3 such as where PacifiCorp can demonstrate it is leveraging off of a very recently
4 completed RFP, but such waiver must be specifically sought and granted.”³²

5 **Q. How do you interpret NIPPC’s position?**

6 **A.** I interpret NIPPC’s argument to be one of principle that any ACT offering must go
7 through a competitive bidding process or obtain a waiver. However, NIPPC does not
8 appear to be arguing that the 2022AS RFP would not qualify for a waiver. Instead,
9 NIPPC believes that a waiver should be required because PacifiCorp’s 2022AS RFP did
10 not specifically state that it would be used for the VRET. That seems to be the basis for
11 NIPPC’s position that PacifiCorp must formally seek a waiver for the 2022AS RFP to be
12 used

13 **Q. How did PacifiCorp respond to NIPPC’s position?**

14 **A.** PacifiCorp “agrees that ACT program resources whose size and contract term make
15 them subject to the competitive bidding rules would require compliance with those rules,
16 including the option to seek a waiver or assert an exception.”³³

17 **Q. What is your impression of the position of the parties?**

18 **A.** The positions of the parties appear to be substantively the same. All parties agree that the
19 ACT should be subject to the CBRs, which I understand allow a utility to seek a waiver.
20 Vitesse and PacifiCorp believe that a petition for waiver is unnecessary in this instance
21 because the development of the ACT is occurring simultaneously to the development of

³² NIPPC/100, Gray/3.

³³ PAC/1700, McVee/14.

1 the 2022AS RFP. NIPPC has not substantively objected to the 2022AF RFP being used,
2 but believes that a formal waiver should be requested. No party appears to be arguing
3 that the 2022AS RFP will be stale or not relevant for selecting resources for the ACT.

4 **Q. Do you continue to believe that recent 2022AS RFPs satisfy CBR requirements?**

5 **A.** Yes. The Commission should determine that the 2022AS RFP can be used for identifying
6 resources for the ACT either through a waiver or a determination that the 2022AS RFP
7 satisfies the requirement that an RFP be used. I am not an expert on Oregon CBRs, but I
8 recognize and understand NIPPC's point and would support a waiver of the CBRs in the
9 Commission's Order, if the Commission deems it necessary.

10 **VII. USE OF UNBUNDLED RECS AND VALUE OF ENERGY AND**
11 **CAPACITY CREDITS**

12 **Q. Were there any issues that you did not raise in your Opening Testimony but want to**
13 **address now?**

14 **A.** Yes, two. First, NIPPC Witness Gray testified on the Company's proposal to use
15 unbundled RECs to rectify annual generation shortfalls. Second, Staff Witness Madison
16 Bolton is concerned that the energy and capacity credits could exceed the PPA prices and
17 thereby reduce a participant's energy and capacity cost relative to full cost-of-service
18 customers.

19 **Q. What was NIPPC's position regarding the use of unbundled RECs?**

20 **A.** According to NIPPC, PacifiCorp's tariff language on the use of unbundled RECs is
21 inconsistent with VRET Condition 2. While Condition 2 states that VRET programs must
22 only include bundled REC products, the Company's proposed tariff allows for the
23 purchase of unbundled RECs for yearly balancing should the renewable resource fail to
24 generate sufficient energy to fulfill annual contract requirements. NIPPC argues that the

1 tariff provides too much leeway for the Company to purposefully undersize the project
2 and rely on unbundled RECs.³⁴

3 **Q. How did PacifiCorp respond to NIPPC's position?**

4 **A.** The Company disagreed with NIPPC's interpretation, stating that the provision allowing
5 for unbundled RECs "is a necessary component of a VRET, and consistent with what the
6 Commission approved for PGE."³⁵

7 **Q. How do you respond?**

8 **A.** I understand NIPPC's concern. PacifiCorp Witness McVee is correct that both
9 PacifiCorp's and PGE's tariffs allow for the use of unbundled RECs to meet under-
10 generation from a renewable resource. However, as I understand it, NIPPC's concern is
11 that the tariff does not address a circumstance in which a resource is regularly under-
12 performing, and the Company and participant are leaning on unbundled RECs and thus
13 undermining the intent of the program. I do not think the Company, or a participant
14 would deliberately under-resource a participant's demand, but the outcome is a
15 theoretical possibility.

16 Unbundled RECs may be necessary from time-to-time if the resource does not
17 meet anticipated generation levels. However, Vitesse is seeking a program that will use
18 bundled renewable energy to match its load as closely as possible. Vitesse would
19 question a utility sizing an ACT resource below Vitesse's and other participants'
20 expected load. Further, if there is consistent yearly underperformance, it is Vitesse's

³⁴ NIPPC/100, Gray/7.
³⁵ PAC/1700, McVee/21.

1 expectation that PacifiCorp would procure additional resources to secure sufficient
2 bundled renewable energy for the contract as opposed to relying on unbundled RECs.

3 **Q. Should the tariff be revised to ensure sufficient procurement of bundled RECs?**

4 **A.** Yes. It may be helpful to add language to the proposed Schedule 273 clarifying that the
5 Company will make reasonable efforts to procure sufficient renewable resources for
6 subscribing customers, including new resources in the event of consistent
7 underperformance.

8 **Q. What was Staff Witness Bolton's concern regarding the value of the energy and
9 capacity credits?**

10 **A.** Staff Witness Bolton testifies that, to ensure that the VRET participant's cost do decrease
11 as a result of their participation in the program, Schedule 273 should explicitly include a
12 price floor in the energy and capacity credit calculation, or in the alternative, a floating
13 mechanism instead of a fixed credit.³⁶

14 **Q. How do you respond to this concern?**

15 **A.** It is my understand that the value of the energy and capacity credits cannot reduce the
16 participant's costs.³⁷ I think Staff Witness Bolton's suggested tariff clarification is an
17 appropriate protection for non-participants.

18 VIII. OTHER ISSUES

19 **Q. Were there any other issues identified by the Company or other intervenors that
20 you are not addressing in this testimony?**

21 **A.** Yes. there were several.

³⁶ Staff/500, Bolton/9.

³⁷ Exhibit Vitesse/102, Cebulko, 23 (PacifiCorp Response to OPUC Data Request 317).

1 (1) CUB Witness William Gehrke argues that the Company’s proposal does not
2 comply with Condition 7 and recommends that, unless Company complies with
3 the Commission’s order and shares its return on investment on company owned
4 green tariff resources with other customers, the Company should not be allowed
5 to procure utility owned resources for green tariff procurements. CUB Witness
6 Gehrke also proposes a mechanism to credit the administrative fee back to non-
7 participating customers.

8 (2) NIPPC Witness Gray, like CUB Witness Gehrke, is concerned with utility
9 ownership of a VRET resource. NIPPC Witness Gray also believes that Direct
10 Access (“DA”) customers should also be able to participate in the ACT program.

11 (3) Staff Witness Bolton, like CUB and NIPPC, is also concerned with utility
12 ownership of a VRET resource and asked for specific accounting methodologies
13 and safeguards to protect competitive markets. Staff Witness Bolton also testified
14 that Staff does not support the subscriber mismatch fee as it applies to utility-
15 owned resources.

16 **Q. Why are you not responding to CUB’s, NIPPC’s and Staff’s concerns regarding**
17 **utility ownership?**

18 **A.** I agree that utility ownership questions are important and relevant in general; however,
19 PacifiCorp has committed that “[p]rior to investing in any owned resources for the ACT
20 program, PacifiCorp will bring a proposal of specific safeguards before the commission
21 for consideration.” Therefore, I understand that the Commission will not be resolving any
22 utility ownership issues at this time, and I generally do not need to address utility
23 ownership issues.

1 **IX. CONCLUSION**

2 **Q. Does this conclude your testimony?**

3 **A. Yes.**