

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1050

In the Matter of)
)
PACIFICORP, dba PACIFIC POWER,) THE NORTHWEST AND
Petition for Approval of the 2017 PacifiCorp) INTERMOUNTAIN POWER
Inter-Jurisdictional Allocation Protocol.) PRODUCERS COALITION CROSS
) ANSWERING BRIEF
)
)
_____)

I. INTRODUCTION

The Northwest and Intermountain Power Producers Coalition (“NIPPC”) submits this cross answering brief responding to the opening briefs of PacifiCorp (or the “Company”) and the Oregon Public Utility Commission (the “Commission” or “OPUC”) Staff. Neither Staff nor PacifiCorp have provided any substantive justification for why the Commission should not clarify that the 2017 PacifiCorp Inter-Jurisdictional Allocation Proposal (“2017 Protocol”): 1) is not an obstacle or bar to Oregon making revisions to its direct access programs; and 2) will treat programs with characteristics similar to direct access, including a Voluntary Renewable Energy Tariff (“VERT”), the same as PacifiCorp’s direct access programs. NIPPC is not responding to the other parties’ briefs because they either address issues that NIPPC is not taking a position on, or they are supportive of ensuring that the 2017 Protocol cannot be used by PacifiCorp as yet another tool to prevent Oregon customers from choosing alternative power suppliers.¹

¹ Noble Americas Energy Solutions LLC (“Noble Solutions”) has the same position as NIPPC, and the Industrial Customers of Northwest Utilities (“ICNU”) agrees that the Commission should ensure that that the 2017 Protocol should allow for modifications to PacifiCorp’s direct access programs.

II. ARGUMENT

1. **The Commission’s Order Should Make It Impossible for PacifiCorp to Argue that the 2017 Protocol Limits the Commission’s Authority to Revise Direct Access Programs**

PacifiCorp appears to be reserving the opportunity to argue (as it has in the past) that its cost allocation methodology can be used a shield to block changes that could actually allow a viable Oregon direct access program in PacifiCorp’s service territory. PacifiCorp argues that it is “unnecessary” to provide any explanation or clarification regarding what types of changes are allowed by Section X of the 2017 Protocol, because there is no reason to address “hypothetical changes to the direct access programs in Oregon or other states”² Staff believes that this issue has been resolved, because “No party disagrees that the Commission retains full discretion over allocation of loads lost to direct access programs in Oregon and of allocation of loads lost to direct access programs in other states.”³

PacifiCorp’s opening brief, however, adds further confusion and is illustrative of why the Commission should provide an explanation of its understanding as to whether the 2017 Protocol imposes any limitations on the Commission’s ability to revise direct access programs. PacifiCorp states that: “In the event of changed circumstances regarding direct access, the 2017 Protocol contemplates that Parties will reconvene to discuss any necessary modifications.”⁴ PacifiCorp appears to be taking the position that the Commission cannot make changes without the parties first discussing and agreeing to any modifications. The parties should always be permitted to discuss any cost allocation

² PacifiCorp Opening Brief at 17.

³ Staff Opening Brief at 7.

⁴ PacifiCorp Opening Brief at 17.

issues, including how the 2017 Protocol impacts direct access. However, under no circumstances should the parties be required to obtain PacifiCorp's agreement before the 2017 Protocol is revised to be consistent with Oregon direct access laws or regulations, including any Commission orders. In the end, there is no reason for the Commission to **not** explicitly state that it retains full discretion over the allocation load that are lost because of direct access programs, if there is really no disagreement on this point.

2. The VRET Should Be Treated the Same As Direct Access Programs Under the 2017 Protocol

PacifiCorp and Staff argue that the Commission should be silent on how it will address a VRET under the 2017 Protocol. For example, Staff asserts "the Commission retains full discretion over the allocation treatment of loads lost to direct access in Oregon making it unnecessary to speak to what the Commission may or may not do in the future."⁵ The Commission, however, has already established its policy regarding VRETs, stating that their transition charges and other terms and conditions "**must** mirror those for direct access."⁶ The only reason not to re-affirm this decision would be to provide an opening for PacifiCorp to re-litigate the Commission's prior VRET decision and attempt to use its cost allocation methodology to erect another barrier to direct access and market competition.

III. CONCLUSION

For the reasons stated above in this cross answering brief, and the opening briefs of NIPPC, Noble Solutions and ICNU, the Commission should provide clarification of how it interprets two key aspects of the 2017 Protocol. The Commission should clarify

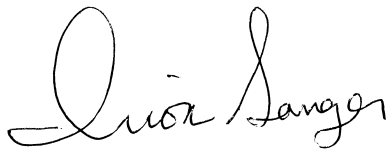
⁵ Staff Opening Brief at 8.

⁶ Re OPUC Voluntary Renewable Energy Tariffs for Non-Residential Customers, Docket No. UM 1690, Order No. 15-405 at 2 (Dec. 15, 2015) (emphasis added).

that: 1) the 2017 Protocol does not impose any limitations on the ability of the Commission to revise its regulations (including Commission orders) regarding direct access; and 2) the VRET and other programs similar to direct access will have the same treatment as direct access under the 2017 Protocol.

Dated this 8th day of June 2016.

Respectfully submitted,

A handwritten signature in black ink that reads "Irion Sanger". The signature is written in a cursive style with a large, looped initial "I".

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