

BEFORE THE  
PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of PACIFICORP	)	UE 313
	)	
Schedule 203, Renewable Resource Deferral	)	COMMENTS OF CALPINE
Supply Service Adjustment	)	ENERGY SOLUTIONS, LLC
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**INTRODUCTION**

Calpine Energy Solutions, LLC (“Calpine Solutions”) respectfully submits comments in response to the directive of the Oregon Public Utility Commission (“OPUC” or “Commission”) at its public meeting on December 6, 2016. At that public meeting, the Commission requested further analysis by Staff on the prudence of PacifiCorp’s decision to acquire renewable energy certificates (“REC”) in its 2016 request for proposals (“RFP”), and the Commission requested further comments on the question of whether participants in PacifiCorp’s one-year and three-year direct access programs should pay for these newly acquired RECs while they receive direct access service. *See* Order No. 16-470.

Calpine Solutions stands by the position asserted in the December 1, 2016 comment letter of its predecessor, Noble Americas Energy Solutions LLC (“Noble Solutions”).<sup>1</sup> Specifically, the Commission should approve PacifiCorp’s filing only if it is modified to exempt all direct access customers from payment of the Schedule 203 charges while those customers take direct access service, not just the participants in the five-year opt-out program as proposed by PacifiCorp.

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<sup>1</sup> On December 23, 2016, Administrative Law Judge Michael Grant granted a motion to substitute Calpine Solutions in place of Noble Solutions in this proceeding in light of the sale of Noble Solutions to Calpine Corporation and a resulting name change from Noble Solutions to Calpine Solutions.

## **BACKGROUND**

### **1. The Existing REC Subsidy**

As described in earlier filings and public testimony at the public meeting, PacifiCorp's direct access customers are currently subsidizing cost-of-service customers' compliance with Oregon's renewable portfolio standard ("RPS"). The subsidy arises because Oregon's RPS requires the electricity service supplier ("ESS") – *not* PacifiCorp – to retire RECs for the direct access load served by the ESS. *See* ORS 469A.052(1), 469A.065. When the customer moves to direct access, therefore, RECs generated by PacifiCorp's existing RPS resources are "freed up" for PacifiCorp's use because PacifiCorp's RPS obligation is tied to the load served by PacifiCorp. If the direct access customer continues to pay PacifiCorp for RPS generation and RECs, that customer will pay twice for the costs of RPS compliance and will subsidize the cost-of-service customers by providing RECs for their use free of charge. No party can dispute those basic facts.

### **2. The Commission's Rejection of a REC Credit**

The REC subsidy is an issue that has been raised in recent transition adjustment mechanism ("TAM") proceedings, where Noble Solutions argued that the Commission could easily correct the unreasonable subsidy by adopting a REC credit in the transition adjustment calculation. The REC credit would be added to the value of the freed up generation that partially offsets the stranded generation charges to the direct access customer under the Commission's ongoing valuation methodology for transition charges. *See* Order No. 16-482 at 20-21 (2017 TAM order describing the transition adjustment calculations and the REC credit proposal). Calpine Solutions maintains that development of a reasonable REC credit is warranted and

indeed necessary for the Commission to “eliminate barriers to the development of a competitive retail market structure.” ORS 757.646(1).

However, the Commission has declined to require PacifiCorp to implement a REC credit. In the time since the December 6, 2016 public meeting in this proceeding, the Commission issued a final order in the 2017 TAM that again rejected a REC credit proposal but directed the parties to “further discuss REC valuation” in workshops. *See* Order No. 16-482 at 22. Even though it is undisputed that a loss of load from direct access immediately frees up RECs paid for by direct access customers, the 2017 TAM order stated, “[W]e see little or no benefit from a reduction in RPS obligation due to the loss of load from direct access.” *Id.* The order reasoned that “a ‘freed-up’ REC today simply adds to the surplus of RECs that PacifiCorp already has or will have to comply with the RPS.” *Id.* Further, according to the TAM order, “any reasonable estimate of benefits from that [future] time period [during which the RECs would be needed] would be *de minimis* when discounted to today’s dollars.” *Id.*

### **3. The Direct Access Issue Raised in this Proceeding**

According to PacifiCorp’s filing, the RECs at issue in this proceeding are up to six million RECs that PacifiCorp recently contracted to acquire from renewable energy facilities for PacifiCorp’s RPS compliance. *PacifiCorp’s Application* at 2 (filed Sept. 9, 2016). The Oregon-allocated costs would be in excess of \$500,000 per year for each of the next 10 years. *Id.* at 2-4. PacifiCorp agrees that these incremental REC costs should not be assessed to customers who enter the five-year opt-out program (Schedule 296) and permanently commit not to use PacifiCorp’s generation resources, including its RECs. *Id.* at 3. However, PacifiCorp proposed to charge participants in the one-year and three-year programs for these RECs even while those

customers are freeing up other RECs for PacifiCorp's use and are also paying their ESS for RECs. Noble Solutions and the Northwest and Intermountain Power Producers Coalition ("NIPPC") argued that customers enrolled in PacifiCorp's one-year and three-year direct access programs (Schedules 294 and 295) should not pay for these newly acquired RECs while they receive direct access service. The issue remains in dispute.

## **ARGUMENT**

### **1. The Commission Should Prevent a Further REC Subsidy**

As previously argued, the REC subsidy will exist until a REC credit is included in the transition adjustment calculation to reduce transition charges, but at a minimum the Commission should prevent exacerbating the problem by approving *additional* REC charges to the one-year and three-year program participants. PacifiCorp's assertions to the contrary do not overcome the undisputed fact that all direct access customers currently pay twice for RPS compliance – once through payments for PacifiCorp's stranded renewable generation and a second time to their ESS. Relieving direct access customers of *additional* charges for PacifiCorp's future RPS compliance would not correct the problem; it would merely prevent further magnification of the existing REC subsidy funded by direct access customers.<sup>2</sup> Nevertheless, the Commission should take steps to minimize the problem here by relieving the customers in the one-year and three-year programs from the proposed charges for RECs in Schedule 203.

PacifiCorp argues in its application (at page 3) that the one-year and three-year customers should pay for these newly acquired RECs because PacifiCorp "must continue to plan for future RPS compliance obligations for all customers except those on the permanent opt-out program."

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<sup>2</sup> As noted above, even PacifiCorp agrees that participants in the five-year program should not pay for these newly acquired RECs.

There are two major flaws with this reasoning. First, these direct access customers do not cause the same RPS costs as a customer who remains on cost-of-service rates throughout the entire time period contemplated. The direct access customer does not use any of PacifiCorp's RECs while on direct access service. Instead, the direct access customer frees up a bankable REC for each megawatt-hour of renewable energy allocated to the customer from PacifiCorp's existing least-cost portfolio. Second, these direct access customers will again pay for their allocation of PacifiCorp's RPS portfolio and incremental unbundled RECs in future years (if any) should they once again take service under cost-of-service tariffs. The fact that PacifiCorp must plan to serve these customers does not justify any magnification of the existing REC subsidy.

Moreover, if the Commission's findings in the 2017 TAM order are correct, the RECs procured in the 2016 RFP have no present value to the direct access customers. As noted above, the 2017 TAM order determined that the RECs provided by direct access customers for free to cost-of-service customers have no value today, presumably because the RECs will not be used for several years. If so, the flip side of that reasoning must also hold true – that is, the RECs PacifiCorp bought in its 2016 RFP for a speculative future use by the direct access customers “simply adds to the surplus of RECs that PacifiCorp already has or will have to comply with the RPS[,]” and “any reasonable estimate of benefits from that [future] time period [during which the RECs would be needed] would be *de minimis* when discounted to today's dollars.” Order No. 16-482 at 22. In other words, PacifiCorp cannot have it both ways, and if the freed-up RECs are completely valueless to cost-of-service customers today, then the RECs PacifiCorp just bought are likewise valueless to direct access customers today.

## **2. The 2017 TAM Order Demonstrates an Inconsistent Policy**

The recently issued 2017 TAM order demonstrates inconsistent treatment of direct access customers and highlights the need to ensure the REC subsidy is not exacerbated by further charges for PacifiCorp's RECs.

As noted above, the 2017 TAM order concluded there is no value today if PacifiCorp receives RECs free of charge. *See* Order No. 16-482 at 22. Yet in this proceeding PacifiCorp makes the opposite argument and requests rate recovery for RECs it recently *bought* in an RFP. In other words, an inconsistent policy exists where RECs bought by PacifiCorp in the 2016 RFP are valuable today, but the RECs freed up for no charge to PacifiCorp when customers elected direct access in the 2016 election window are completely valueless today. Further underscoring the inconsistency, for purposes of a REC credit, the Commission directed the TAM parties to “further discuss REC valuation” in workshops “with a focus on the potential benefits that may derive at the time PacifiCorp must take substantive action to comply with its RPS targets.” *See* Order No. 16-482 at 22. Of course, PacifiCorp's filing in this proceeding demonstrates that PacifiCorp is in fact taking “substantive action to comply with its RPS targets” right now by paying for RECs from third parties, and “REC valuation” would appear to be a simple matter of asking PacifiCorp what it paid for those RECs. *See id.*

If the Commission approves PacifiCorp's acquisition of RECs in the 2016 RFP as prudent, then there will be an obvious disconnect between the Commission's RPS and direct access policies. It is difficult to understand how PacifiCorp's payment for RECs today could be prudent if the RECs PacifiCorp receives for free from direct access customers are valueless. While the REC credit is not directly in issue here, the double standard created by PacifiCorp's

advocacy in the TAM undercuts the prudence of its recent REC acquisition and warrants further consideration of additional charges to direct access customers for PacifiCorp's RECs in this proceeding.

### CONCLUSION

In sum, charging customers enrolled in the one-year and three-year programs for PacifiCorp's REC-specific tariff exacerbates the subsidy that already exists in the absence of a REC credit in the transition adjustment calculation. The Commission should therefore approve PacifiCorp's filing only if it is modified to exempt all direct access customers from payment of the Schedule 203 charges while those customers take direct access service, not just the participants in the five-year opt-out program as proposed by PacifiCorp.

RESPECTFULLY SUBMITTED this 30th day of December, 2016.

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*/s/ Gregory M. Adams*

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