

ORDER NO. 17 176

ENTERED: MAY 18 2017

**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.

ORDER

DISPOSITION: PARTY COMMENT SOUGHT

**I. SUMMARY**

In this order, we discuss the history of this proceeding and seek comment from the parties as to whether this investigation into PacifiCorp, dba Pacific Power's avoided cost prices should be closed or, if continued, modified in scope.

**II. BACKGROUND**

The events leading to this investigation began in February 2016, when we acknowledged, with one exception, PacifiCorp's 2015 Integrated Resource Plan (IRP).<sup>1</sup> As provided in OAR 860-029-0080, this action triggered a requirement of PacifiCorp to file, within 30 days, its updated avoided cost prices based on data and assumptions used in its acknowledged IRP.<sup>2</sup>

Although PacifiCorp timely filed its updated avoided cost prices on March 1, 2016, the Oregon Legislature shortly thereafter complicated the review of PacifiCorp's filing by passing Senate Bill (SB) 1547. Among other things, SB 1547 made significant changes to PacifiCorp's renewable resource obligations and renewable energy credit (REC) banking rules that were contemplated and reviewed in PacifiCorp's 2015 IRP. Due to these legislative changes, our Staff and other stakeholders challenged PacifiCorp's updated avoided cost price filing and raised issues related to the impacts of SB 1547 on the company's resource deficiency demarcation.

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<sup>1</sup> See *In re PacifiCorp, 2015 Integrated Resource Plan*, Docket No. LC 62, Order No. 16-071 (Feb 29, 2016).

<sup>2</sup> OAR 860-029-0080 requires the utilities to file updated avoided cost prices with IRP inputs within 30 days of Commission acknowledgment.

We addressed PacifiCorp's post-IRP avoided cost update at our March 22, 2016 Public Meeting. Due to the concerns raised by our Staff and stakeholders, we declined to approve PacifiCorp's updated prices. We recognized that the passage of SB 1547 constituted a "significant change" to the assumptions underlying the PacifiCorp's avoided cost prices, and that further investigation was warranted. Although we did not identify a specific set of issues to address, we directed "PacifiCorp, Staff, and interested parties to work together and propose an expedited and non-contested case process to update PacifiCorp's avoided costs in light of the passage of SB 1547."<sup>3</sup> The divergent views of the parties as to the proper scope of their negotiations soon became evident and, in the absence of specific guidance from the Commission, the parties were unable to come to any agreement.

Following the parties' failure to reach an agreement, PacifiCorp filed a supplemental update to its standard avoided cost prices in June 2016. The update contained revised resource cost and performance data, including inputs from the company's 2015 IRP Update. The update also indicated that PacifiCorp has sufficient banked RECs to meet the new renewable resource standards imposed by SB 1547 through 2025.

We addressed PacifiCorp's June 2016 update at our August 16, 2016 Regular Public Meeting. Our Staff recommended we approve PacifiCorp's standard non-renewable avoided cost prices, but reject the standard renewable avoided cost prices. Other stakeholders criticized the update and questioned the validity of the inputs used to develop the avoided cost prices.

We ultimately took two steps to address PacifiCorp's filing. First, we approved avoided cost prices based on renewable and non-renewable deficiency periods beginning in 2028, and cost and performance data from PacifiCorp's acknowledged 2015 IRP, and updated gas and electricity prices.<sup>4</sup> Second, we opened this docket to allow the parties to further address the issues raised on a prospective basis. Although a myriad list of issues had been put on the table by various parties, we again did not specify which of these should be the focus of the parties' efforts. Rather, we simply directed that "an expedited contested case proceeding shall be opened to allow a more thorough vetting of the issues raised in this proceeding and possible revision to Schedule 37 avoided cost prices on a prospective basis."<sup>5</sup>

In addition to PacifiCorp and the Commission Staff, the parties include the Community Renewable Energy Association (CREA); Renewable Energy Coalition (the Coalition); Renewable Northwest; and Oregon Solar Energy Industries Association.

Following the adoption of an expedited schedule and PacifiCorp's filing of opening testimony, two discovery disputes quickly arose causing the schedule to be suspended. The first sought highly confidential bid response data from the Request for Proposals and

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<sup>3</sup> *In re PacifiCorp, Schedule 37 Avoided Cost Purchases from Eligible QFs*, Docket No. UM 1729(1), Order No. 16-117 (Mar 23, 2016).

<sup>4</sup> *In re Schedule 37 Avoided Cost Purchases from Eligible QFs*, Docket No. UM 1729(1), Order No 16-307 (Aug 18, 2016).

<sup>5</sup> *Id.*

greater detail on the proxy resource inputs; the second sought proprietary computer software programs used to develop the IRP's pricing models. These disputes led to both CREA and the Coalition filing motions to compel; the administrative law judge (ALJ) denied CREA's motion in part and denied the Coalition's motion.<sup>6</sup>

Following the ALJ's rulings, CREA and the Coalition filed a joint motion seeking certification of the rulings on the motions to compel to the Commission. One week later, the same parties filed a joint motion for clarification of the scope of the proceeding.

We affirmed, in March 2017, the ALJ's decisions to deny the motions to compel except with respect to some of the proxy resource inputs.<sup>7</sup> We also stated that the scope of this proceeding would be addressed in a subsequent order.<sup>8</sup>

### III. DISCUSSION

We acknowledge that we initiated this docket without defining its scope. We concluded that SB 1547 was a "significant change" warranting a departure from the deficiency date in the 2015 IRP, and potentially from other IRP-based inputs and assumptions. Without an indication as to which inputs and assumptions would be reconsidered and without the IRP as a primary reference point, a broad universe of data sources and reference points became potentially relevant. This led to broad discovery, a significant discovery dispute, and uncertainty about the Commission's intended scope for this docket.

Our resolution of the discovery dispute highlighted the substantive and administrative challenges inherent in examining certain IRP inputs and assumptions outside the IRP process. This docket has raised legitimate questions about what information we will use when a "significant change" has occurred outside the IRP cycle. We also must consider how to balance a timely cycle of avoided cost updates with robust, independent examination of the inputs and assumptions that determine avoided cost prices.

At this point, however, regardless of how we clarify the scope of this docket, we question whether it can be completed in a short enough time frame for any prospective adjustment to PacifiCorp's avoided cost prices to be in place for a meaningful period of time. We believe that this investigation may well be overtaken by the next cycle in our normal process for updating avoided cost prices. PacifiCorp recently filed its 2017 IRP, with updated data, assumptions, and inputs (docket LC 67). As CREA and the Coalition note, this new IRP is the starting point for a new cycle of avoided cost updates. The foundational issue that both we and the intervening parties hoped to have addressed in this docket—namely, SB 1547's effect on PacifiCorp's deficiency date—will be examined in the 2017 IRP and associated avoided cost filing, but with more current data.

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<sup>6</sup> ALJ Rulings Nov 2, 2016 and Nov 18, 2016, respectively.

<sup>7</sup> Order No. 17-121 (Mar 23, 2017).

<sup>8</sup> *Id.* at 3 ("Consequently, we will provide in a subsequent order, a more definitive list of those issues encompassed by UM 1729(1), which will have a direct impact on the calculation of PacifiCorp's updated avoided cost prices.").

We acknowledge that the 2017 IRP will not result in new avoided costs prices until early next year, after the Commission issues its order in docket LC 67. However, we suspect that our consideration of disputes here relating to 2015 IRP inputs and assumptions may extend to the end of this year. If that proves correct, then there will be little to no practical significance to any prospective change we might make to PacifiCorp's avoided cost prices in this docket.

Accordingly, we seek party comment on how best to proceed. With time, the data and assumptions from PacifiCorp's 2015 IRP have aged and become less relevant to the calculation of PacifiCorp's current avoided costs. We are inclined to close this docket in order to allow the parties to focus on data inputs and assumptions used in PacifiCorp's 2017 IRP. However, we will consider parties' comments on whether it is possible and valuable for this docket to inform a new set of avoided cost prices that would be effective for a meaningful period of time between our decision in this docket and our consideration of new avoided cost prices are put in place following PacifiCorp's 2017 IRP process. We believe that for a continued investigation to be meaningful, any new avoided costs resulting from this docket would need to be in effect for at least one quarter prior to the regular update. Thus, we ask that any proposal to continue this docket (1) demonstrate the need and ability to address a specific, well-defined set of issues now rather than during the review of PacifiCorp's 2017 IRP and associated avoided cost filing and (2) include a proposed procedural schedule that would result in the final resolution of this docket before the end of September 2017.

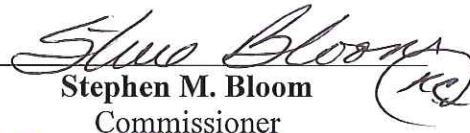
#### IV. ORDER

IT IS ORDERED that parties may file comments as to whether this investigation into PacifiCorp, dba Pacific Power's avoided cost prices should be closed or, if continued, modified in scope. Comments must be filed no later than 10 business days after the entry of this order. Reply comments may be filed no later than five business days after the due date for the submission of comments.

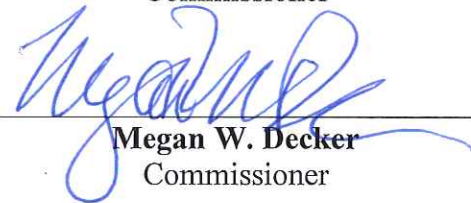
Made, entered, and effective MAY 18 2017.



**Lisa D. Hardie**  
Chair

**Stephen M. Bloom**  
Commissioner



**Megan W. Decker**  
Commissioner