

ORDER NO.

15 195

ENTERED

JUN 16 2015

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 267

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Transition Adjustment, Five-Year Cost of
Service Opt-Out.

ORDER

**DISPOSITION: MOTION TO CLARIFY OR RECONSIDER ORDER
NO. 15-060 DENIED**

Several parties seek clarification or, in the alternative, reconsideration of our decision adopting a five-year cost-of-service opt-out program (Five-Year Program) for PacifiCorp, dba Pacific Power. For the reasons that follow, we deny both requests.

I. PROCEDURAL HISTORY

On April 20, 2015, numerous parties filed a motion requesting clarification or, in the alternative, reconsideration of Order No. 15-060. Those parties, which we will refer to as the joint parties are Noble Americas Energy Solutions LLC; Wal-Mart Stores, Inc.; Shell Energy North America (US), LP; Constellation NewEnergy, Inc.; Fred Meyer Stores, Inc./Kroger, Co.; the Northwest and Intermountain Power Producers Coalition; and Safeway Inc.¹

On April 24, 2015, the COMPETE Coalition filed a response in support of the motion. On May 5, 2015, PacifiCorp filed a response in opposition to the motion. On May 12, 2015, several of the joint parties filed a request for leave to file a reply along with a reply.²

II. MOTION FOR CLARIFICATION, OR RECONSIDERATION

A. Positions of the Parties

The joint parties ask that we clarify our approval of the consumer opt-out charge as part of PacifiCorp's Five-Year Program. They contend that the consumer opt-out charge is

¹The following parties to the stipulation filed in this docket did not join the motion for clarification or reconsideration: Staff of the Public Utility Commission; the Industrial Customers of Northwest Utilities, and Vitesse, LLC.

²No objections were filed. The reply is accepted into the record.

not sufficiently clear, and that we must take action to ensure that PacifiCorp cannot assess unjust and unreasonable rates.

The joint parties explain that Order No. 15-060 adopts the consumer opt-out charge as it was presented in modified form by PacifiCorp in reply testimony. The joint parties contend, however, that the calculation of the consumer opt-out charge is unclear, because PacifiCorp presented it in exhibits that were illustrative in nature. The joint parties ask that we clarify that approval of the consumer opt-out charge is without prejudice to further the development of the underlying rate calculation. Their stated purpose is to prevent PacifiCorp from later arguing that parties are precluded from disputing the unaddressed assumptions underlying PacifiCorp's exhibit.

If we decline to grant clarification, the joint parties request that we grant reconsideration or rehearing on two issues integral to calculation of the consumer opt-out charge: 1) the treatment of load growth; and 2) the treatment of depreciation in the assumptions underlying the consumer opt-out charge. The joint parties assert that the order cannot lawfully reject the stipulation's reliance on load growth based on its determination that "GRID considers forecasted system load growth in calculating both the transition adjustments and the consumer opt-out charge."³

PacifiCorp retorts that Order No. 15-060 is sufficiently clear. PacifiCorp states that we adopted the consumer opt-out charge as it was presented in its testimony, with a detailed description of the calculation methodology—as well as illustrative examples. The fact that exhibits showing the calculation of the consumer opt-out charge were illustrative does not render the methodology unclear and subject to additional litigation, PacifiCorp asserts. The company further indicates that it is common for parties to demonstrate calculations or methodologies using hypothetical numbers in either illustrative exhibits or work papers, and the fact that PacifiCorp followed this practice in this docket renders the methodology for the consumer opt-out charge more clear and definite, not less. PacifiCorp views the joint parties request as an attempt to relitigate issues already decided. PacifiCorp notes that none of the joint parties challenged the calculation of the consumer opt-out charge, despite their opportunity to do so in testimony or during cross-examination.

B. Discussion

We agree with PacifiCorp that Order No. 15-060 needs no clarification. We adequately addressed and resolved all of the issues necessary to develop PacifiCorp's Five-Year Program, including its rate components and methodologies. We addressed the issues that were presented by the joint parties to the full extent necessary to render the decisions we set forth in Order No. 15-060. We directed PacifiCorp to file revised tariffs consistent with the order, and did not anticipate the need for any other additional filings or dockets. PacifiCorp filed revised tariffs on March 6, 2015. No party objected to the tariffs and they are in effect. We therefore consider the purpose of this docket—to approve tariffs for PacifiCorp's Five-Year program—to be accomplished. As PacifiCorp notes, if in the

³ Order No. 15-060 at 7.

future the joint parties believe they have new evidence or arguments demonstrating that the consumer opt-out charge is unjust or unreasonable, they may seek our review at that time. But we cannot clarify the legal effect that our resolution in this docket of a particular issue may have on issues in potential future dockets.

In making this determination, we also deny the joint parties' request for rehearing or reconsideration of Order No. 15-060. No new evidence or change in the law was presented, and we are not persuaded that there is an essential error of fact or law in Order No. 15-060. *See OAR 756.561(1)*. The joint parties fail to otherwise show good cause to grant reconsideration.

III. ORDER

IT IS ORDERED that: Noble Americas Energy Solutions LLC; Wal-Mart Stores, Inc.; Shell Energy North America (US), LP; Constellation NewEnergy, Inc.; Fred Meyer Stores, Inc./Kroger, Co.; the Northwest and Intermountain Power Producers Coalition; and Safeway Inc.'s Motion for Clarification, or in the alternative, Reconsideration of Order No. 15-060 is denied.

Made, entered, and effective JUN 16 2015.



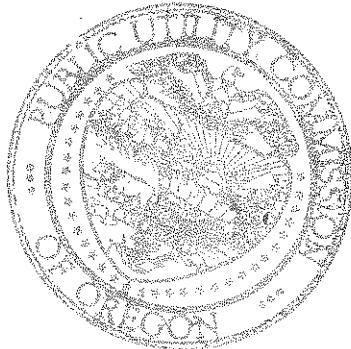
Susan K. Ackerman
Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner



A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.