ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 12, 2014

REGULAR __X__ **CONSENT** ____ **EFFECTIVE DATE** **November 12, 2014**

DATE: November 5, 2014

TO: Public Utility Commission

FROM: John Crider

THROUGH: Jason Eisdorfer and Aster Adams

SUBJECT: PORTLAND GENERAL ELECTRIC and PACIFICORP dba PACIFIC POWER: (Docket No. UM 1662) Request for a Generic Power Cost Adjustment Mechanism Investigation.

STAFF RECOMMENDATION:

Staff recommends that the Commission open an investigation into the treatment of variable costs that are a direct result of compliance with SB 838/ ORS Ch. 469A.

DISCUSSION:

PGE's and PacifiCorp's Initial Request

In June 2013, Portland General Electric Company (PGE) and PacifiCorp (hereinafter "the Companies") jointly submitted a letter to the Commission asking the Commission to open a generic docket to investigate the "policies and design" of the power cost adjustment mechanism (PCAM) applied to both utilities.[1] In support of their request, the Companies noted that "the environment for electric utilities in Oregon" is different from the one that informed and shaped the thinking of the Commission when it adopted PGE's PCAM in 2007, pointing to Oregon's Renewable Portfolio Standard (RPS) and Emissions Performance Standard (EPS), both adopted after the implementation of PGE's PCAM.[2] Both statutes, according to the Companies, "increase[d] the normal business risk...in serving their customers."

The Companies pointed out that in 2006 the Commission conducted a similar investigation into the purchased gas adjustment mechanism (PGA). At the time, the PGA was seven years old and the relevant market had changed since its design and

[1] UM 1662, June 19, 2013, Letter to Oregon Commissioners from Maria Pope and Stefan Bird.
[2] The RPS was adopted in May of 2007 (S.B. 838), while the EPS was adopted in August of 2009 (H.B. 101).

implementation. As a result of that investigation, the Commission updated the mechanics of the PGA to be more compatible with the evolved gas market.[3] The Companies claim that the conditions surrounding the PCAM parallel those of the PGA in 2006; therefore, the Companies believe a similar investigation into the PCAM is appropriate.

Revised Request

On March 21, 2014, the Companies submitted a letter changing their request from one for a general investigation into the policies and design of their PCAMs to a request for an investigation into how the utilities should recover "all prudent costs incurred to comply with the Renewable Portfolio Standard as authorized by ORS 469A.120."[4]

The Companies assert the "[e]xisting ratemaking mechanisms are inadequate to account for the benefits and costs associated with [the RPS,]" specifically contending that the current PCAM fails to account for all the variable costs directly attributable to RPS compliance that they claim they are legally entitled to recover.[5]

Regulatory Background

ORS 469A.120 addresses utilities' recovery of RPS compliance costs. ORS 469A.120 (1) provides,

> [A]ll prudently incurred costs associated with compliance with a renewable portfolio standard are recoverable in the rates of an electric company, including interconnection costs, costs associated with using physical or financial assets to integrate, firm or shape renewable energy sources on a firm annual basis to meet retail electricity needs and other costs associated with transmission and delivery of qualifying electricity to retail electricity consumers.

ORS 469A.120(2) directs the Commission to establish an automatic adjustment clause for a subset of the costs listed in ORS 469A.120, specifically, those "prudently incurred by an electric company to construct or otherwise acquire facilities that generate electricity from renewable energy sources and for associated electricity transmission."

No statutory provision specifically addresses how utilities should recover other types of RPS-related costs.

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[3] Order No. 08-504.
[4] Docket No. UM 1662, March 21, 2014, Letter to Commissioners from Maria Pope and Stefan Bird.
[5] Docket No. UM 1662, March 21, 2014, Letter to Commissioners from Maria Pope and Stefan Bird.

PGE's PCAM dates back to 2007. In 2007, the Commission adopted a PCAM for PGE "to capture power cost variations that exceed those considered part of normal business risk."[6] Under the PCAM, PGE is required to refund or allowed to recover annual variable power costs that either exceed or are less than PGE's forecasted variable power costs, subject to an asymmetric deadband, sharing, and an earnings review. [7]

In 2012, the Commission adopted the same PCAM for PacifiCorp that it had adopted for PGE.

In PGE's most recent general rate case, the Company proposed to "carve-out" costs associated with renewable resources from the existing PCAM and pass those costs to customers, unmodified by the deadband, sharing allocation, or earnings test. PGE claimed this treatment is appropriate in order to "recover all prudently incurred costs associated with compliance with the Oregon RPS." PGE proposed to use the existing renewable adjustment clause (RAC) to recover this cost.

Staff, The Industrial Customers of the Northwest (ICNU) and The Citizens Utility Board (CUB) objected to PGE's proposed revision to the PCAM. In Staff's opinion the proposed carve-out mechanism did not correctly isolate and quantify the variable costs that were due solely to the RPS. Second, Staff did not think that the RAC was the appropriate mechanism to pass through variable power costs to customers.[8]

CUB strongly opposed PGE's proposal to alter the PCAM mechanism asserting that the change would shift risk to ratepayers. CUB noted that, similar to natural gas-fired plants, RPS-compliant plants are part of PGE's rate base which earns the Company a rate of return.[9] CUB echoed the opinion of Staff by saying PGE's carve-out calculation focuses on the value of renewables and not the cost, which inappropriately transfers market risk to customers.

ICNU opposed PGE's PCAM proposal for reasons similar to Staff and CUB: it did not align with the implicit intent of SB 838; "conflicts with the Commission's resolution in Docket No. UE 246 regarding recovery of RPS resource-related costs in a PCAM; violates the design criteria for a power cost adjustment mechanism established in Docket Nos. UE 165 / UM 1187; and is structurally flawed."[10] Further, because the proposed carve-out would be exempt from the deadband, sharing allocation and

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[6] Order No. 07-015 at 26. The Commission modified the deadband in 2010.
[7] Order No. 07-015. The Commission modified the deadband in 2010 (Order No. 10-478).
[8] UE 283 Staff/1100, Bracken/11.
[9] UE 283 CUB/100, Jenks-McGovern/16.
[10] UE 283 ICNU/100, Mullins/7.

earnings test, ICNU claimed the proposed mechanism would violate the five principles of a well-designed PCAM outlined by the Commission in Order No. 12-493 adopting PacifiCorp's PCAM.

Ultimately, several parties stipulated that PGE should withdraw its proposal to modify the PCAM and RAC from Docket No. UE 283. The stipulation is pending before the Commission.[11]

Discussion

PGE and PacifiCorp believe the current recovery mechanisms, the PCAM and Renewable Adjustment Mechanism (RAC), do not provide them a means for recovering all variable costs incurred to comply with the RPS, which they assert they are legally entitled to. The Companies point out that under the existing PCAM, which is the mechanism for general recovery of variable power costs, they have both experienced an under-recovery in rates in recent years. The Companies maintain that some portion of these unrecovered costs is due to RPS compliance and should therefore be recovered in rates. The Companies note that the PCAM does not differentiate between the RPS-related variable costs and non-RPS variable costs, so the RPS-related variable costs are subject to the various risk-sharing features of the PCAM, and ultimately may not be recovered by the utility.

The Companies believe that the losses they continue to incur due to compliance with the RPS are unsustainable; the law permits them to recover these lost costs; and the mechanisms responsible for their recovery do not reflect the current environment and thus should be updated.

Staff Position

Staff recommends that the Commission open an investigation into whether RPS-related variable power costs should continue to be recovered through the Companies' PCAMs. The investigation should not examine whether the PCAM is flawed, but whether the RPS-related variable power costs should not be subject to recovery under the PCAM. In other words, the investigation would not re-examine the deadband, sharing, earnings review, and 6 percent annual cap on amortization, or the Commission policies underlying these features. [12]

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[11] UE 283 Second Partial Stipulation, 1(p).
[12] See Order Nos. 07-015, 10-143 (PGE PCAM), and 12-493 (PacifiCorp PCAM).

The Companies' request for an investigation presents a policy question regarding recovery of RPS-related costs that the Commission has not yet considered. The Commission has previously declined to allow a utility (PacifiCorp) to recover **all** net variable power costs in order to accommodate the utility's interest in recovering RPS-related net variable power costs.[13] However, the Commission has not yet specifically considered whether it is appropriate, or practical, to isolate the RPS-related costs from other net variable power costs for ratemaking treatment.

Stakeholder testimony in previous dockets reflect that stakeholders are opposed to the Companies' proposal to remove RPS-related variable power costs from the Companies' PCAM and have offered several policy reasons why the Commission should reject the proposal. Staff believes the policy issue is sufficiently important, and the dollars at stake sufficiently material, to warrant the Commission's examination.

Recommendation

Staff recommends that the Commission open an investigation into the treatment of variable costs that are a direct result of compliance with SB 838/ ORS Ch. 469A. Staff recommends that the issues to be investigated be limited to the following:

1. Isolation of RPS Variable Costs
   To date a reliable mechanism has not been agreed upon to isolate the variable costs that are directly attributable to RPS compliance. The regulatory principle of cost causation compels us to first clearly identify these costs.

2. Identification and Quantification of RPS Benefits
   As with cost, benefits attributable to RPS compliance needs to be identified, isolated and quantified before proper regulatory treatment can be applied. In the end, it is the net costs directly attributable to RPS compliance that are subject to potential recovery.

3. Discussion of Recovery
   From testimony in prior rate cases, Staff concludes that there is not a consensus among concerned parties that variable costs directly attributable to RPS

[13] See Order No. 12-493 at 9 ("While we acknowledge that ORS 469A.120(1) provides for recovery of prudently incurred SB 838 compliance costs, we find it unreasonable to adopt a straight dollar-for-dollar PCAM for the totality of Pacific Power's NPC to address appropriate recovery for costs that may amount to far less than 2 percent of that total – particularly when those costs may be difficult to quantify precisely.')

compliance should be recovered outside of the PCAM, nor is there agreement that this cost be should be given any special recovery treatment.

4. Cost Recovery Design
   In the event that the Commission decides separate recovery of RPS compliance variable cost is warranted, a recovery mechanism must be created that does not materially alter the current operation of the PCAM and RAC.

PROPOSED COMMISSION MOTION:

An investigation be opened into the treatment of variable costs that are a direct result of compliance with SB 838/ ORS Ch. 469A and that the issues to be investigated be limited to those recommended by Staff.

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