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***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, OR 97301-3398


Attn: Filing Center

**RE: UM 1729 PacifiCorp's Reply**

PacifiCorp d/b/a Pacific Power submits the enclosed Reply in Support of the Motion for Emergency Relief in the above-referenced docket.

Please direct any informal inquiries on this filing to Natasha Siores at (503) 813-6583.

Sincerely,



Etta Lockey  
Vice President, Regulation

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1729

In the Matter of

PACIFICORP, d/b/a PACIFIC POWER,

Application to Update Schedule 37  
Qualifying Facility Information.

PACIFICORP’S REPLY IN SUPPORT OF  
THE MOTION FOR EMERGENCY  
INTERIM RELIEF

In accordance with OAR 860-001-420(5), PacifiCorp d/b/a Pacific Power submits to the Public Utility Commission of Oregon (Commission) this reply in support of its Motion for Emergency Interim Relief (Motion). This reply addresses the arguments made by the following parties who submitted responses to PacifiCorp’s Motion: Renewable Northwest, the Renewable Energy Coalition and the Community Renewable Energy Association (Joint QF Parties), and the Staff of the Public Utility Commission (Staff).

**I. INTRODUCTION**

The Commission should reject arguments put forth by the Joint QF Parties and Renewable Northwest and grant PacifiCorp’s Motion. Additionally, Staff’s partial support for PacifiCorp’s Motion does not provide the most appropriate estimate of the costs that PacifiCorp actually avoids. Specifically, PacifiCorp’s approach in this docket is procedurally appropriate, the costs of the Aeolus-to-Bridger/Anticline transmission line for an on-system proxy resource should not be included in the avoided-cost pricing update, and PacifiCorp’s relief should be granted to protect customers.

**II. STANDARD OF REVIEW**

The Commission’s authority to grant PacifiCorp’s request for interim relief arises from its fundamental regulatory duty to “represent the customers of any public utility or

telecommunications utility and the public generally in all controversies . . . [and] make use of the jurisdiction and powers of the office to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates.”<sup>1</sup> Thus, the Commission may grant the requested interim relief if it determines that such action is necessary to carry out its statutory duty to protect utility customers from harm.

### III. DISCUSSION

The arguments raised by the Joint QF Parties and Renewable Northwest should be rejected and the Commission should grant the relief requested by PacifiCorp. PacifiCorp’s Motion was procedurally appropriate, the Joint QF’s argument on transmission costs is not consistent with prior Oregon orders on point, and PacifiCorp’s motion is necessary to protect customers. As both the Commission and the Federal Energy Regulatory Commission (FERC) have pointed out, ensuring that customers are indifferent to the source of power that serves them is essential part of the regulatory scheme around Qualifying Facilities (QFs).<sup>2</sup> As a result, PacifiCorp respectfully requests that the Commission immediately approve the concurrently filed updated avoided-cost prices, while also requiring all QFs to take the avoided-cost prices calculated using the 2021 wind proxy resource.

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<sup>1</sup> ORS §756.040(1) (Commission “shall make use of the jurisdiction and powers of the office to protect such customers, and the public generally, from unjust and unreasonable exactions.”).

<sup>2</sup> *In the Matter of the Public Utility Commission of Oregon Staff’s Investigation Relating to Electric Utility Purchases from Qualifying Facilities*, Docket No. UM 1129, Order No. 05-584 at 45 (Mar. 13, 2005) (“In balancing the goals of facilitating QF contracts while sufficiently protecting ratepayers, we recognize that the primary aim is to ensure that ratepayers remain indifferent to the source of power that serves them.”); FERC has emphasized that that the amount paid to QFs must leave utility customers “indifferent” as to whether the utility purchases from the QF or uses its more traditional sources of power. *S. Cal. Edison Co., et al.*, 71 FERC ¶ 61,269, 62,080 (1995), overruled on other grounds, *Cal. Public Utilities Comm’n*, 133 FERC ¶ 61,059 (2010).

**A. PacifiCorp’s Motion for Emergency Interim Relief is Procedurally Appropriate**

Renewable Northwest and the Joint QF Parties both raise concerns that PacifiCorp is attempting to change the Commission’s implementation of the Public Utility Regulatory Policies Act (PURPA) by making a major change in the methodology for QF pricing. These parties mischaracterize the scope of PacifiCorp’s request. PacifiCorp is not requesting that the Commission make major methodological changes in this docket. In fact, as PacifiCorp stated in its Motion, “[t]his filing seeks to provide some interim relief to protect PacifiCorp’s customers, and recommends the Commission open a generic docket to re-examine the methodology for avoided costs in light of this new reality.”<sup>3</sup> The Motion only seeks to resolve the immediate harm to customers that could result from allowing QFs to choose the non-renewable option. In fact, PacifiCorp supports Renewable Northwest’s recommendation that the “Commission open a new docket addressing avoided-cost methodology.”<sup>4</sup>

The Joint QF Parties also mischaracterize PacifiCorp’s Motion as a “request for reconsideration of Order No. 11-505”<sup>5</sup> and then attempt to apply the legal standards for reconsideration. PacifiCorp’s Motion is not a request for reconsideration of any Commission order. Rather, PacifiCorp requests a temporary solution to solve the immediate issue that has been raised by the pricing that was filed in accordance with the Commission’s existing methodology. This scenario raises concerns regarding the broader methodology that has been adopted by the Commission for avoided-cost prices. However, a new generic docket is the appropriate venue for grappling with those larger policy issues. PacifiCorp agrees with Staff’s rationale in this matter, “that emergency relief is warranted in this instance because

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<sup>3</sup> PacifiCorp’s Motion of Emergency Interim Relief at 2.

<sup>4</sup> Renewable Northwest’s Response to PacifiCorp’s Motion for Emergency Interim Relief at 3.

<sup>5</sup> Comments of the Community Renewable Energy Association and the Renewable Energy Coalition at 18.

any benefit of allowing renewable QFs the opportunity to choose between standard renewable and non-renewable avoided-cost prices is easily outweighed by the potential harm.”<sup>6</sup>

This situation is not without precedent. The Commission granted PacifiCorp’s motion for interim relief to lower the eligibility threshold for standard QF power purchase agreements (PPAs) for solar projects, citing a very similar rationale to the one that PacifiCorp now seeks. Specifically, the Commission stated that “[i]nterim relief is appropriate to protect ratepayers from the possibility of being charged more than PacifiCorp’s avoided-power costs during the pendency of our review.”<sup>7</sup> PacifiCorp is asking for interim relief here and recommends the Commission open a generic docket to reexamine these issues.

**B. The Joint QF Parties’ assertion on the Aeolus-to-Bridger/Anticline transmission line ignores the Commission’s past precedent on the issue**

The Joint QF Parties recommend that the Commission require PacifiCorp to include the costs of the Wyoming transmission line in the renewable avoided costs of the Wyoming wind farm.<sup>8</sup> This is based on the assumption that the transmission resource is avoidable by the purchase of QF energy. That is simply not the case with the Aeolus-to-Bridger/Anticline transmission line.

The Commission addressed this issue in Order No. 16-174 and determined that:<sup>9</sup>

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<sup>6</sup> Staff Response to PacifiCorp’s Motion for Emergency Interim Relief at 5.

<sup>7</sup> *In the Matter of PacifiCorp d/b/a Pacific Power Application to Reduce the Qualifying Facility Contract Term and Lower the Qualifying Facility Standard Contract Eligibility Cap*, Docket No. UM 1734, Order No. 15-241 at 3 (Aug. 15, 2015).

<sup>8</sup> Comments of the Community Renewable Energy Association and the Renewable Energy Coalition at 6–7.

<sup>9</sup> The Joint QF Parties claim that the Commission deferred this issue to another time in Order No. 14-229, however, the Commission did address this issue subsequently in Phase II of Docket No. UM 1610 Order No. 16-174 as cited above by PacifiCorp.

If the proxy resource used to calculate a utility's avoided costs is an on-system resource, there is a rebuttable presumption that there are no avoided transmission costs and thus the costs of third-party transmission are not included in the calculation of avoided cost prices.<sup>10</sup>

Additionally, the Commission stated that to rebut the presumption, it must be demonstrated “that a renewable proxy resource has incremental transmission costs that *can actually be avoided* by the purchase of QF energy.”<sup>11</sup> This showing has not and cannot be made in this case.

It is important to recognize the context in which the Commission developed the on-system resource rebuttal presumption. As noted in the Commission's order, PacifiCorp expressed significant concerns that parties' claims that a QF *may* be able to avoid on-system transmission costs “fail to take into account that the federal transmission planning process, not QF development, drives the company's decisions,” and “that [e]ven if specific transmission costs might be incurred to accommodate an on-system proxy resource...these costs would not be avoided by QF resources.”<sup>12</sup> The Commission also explicitly recognized PacifiCorp's advisement that the determination of whether there are avoidable transmission costs associated with a renewable proxy resource “will involve resolving complex legal questions, reconciling state and federal policy issues, and working through implementation intricacies.”<sup>13</sup>

PacifiCorp's concerns about an underappreciation for the role of the federal transmission planning process have been realized in this docket. More specifically, while the

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<sup>10</sup> *In the Matter of the Public Utility Commission of Oregon Investigation into Qualifying Facility Contracting and Pricing*, Docket No. UM 1610, Order No. 16-174 at 8 (May 13, 2016).

<sup>11</sup> *Id.* (Emphasis Added).

<sup>12</sup> Order No. 16-174 at 7.

<sup>13</sup> *Id.* at 8.

Aeolus-to-Bridger/Anticline transmission line enables the interconnection of the Energy Vision 2020 new wind projects, it is PacifiCorp’s federal transmission planning process that has identified the construction of that line for many years. PacifiCorp has long identified that this transmission line provides immediate benefits like increased reliability, congestion relief, and reduction of capacity and energy losses because the generation capacity behind this transmission line already exceeds the transmission capacity.<sup>14</sup>

Indeed, PacifiCorp has identified Energy Gateway West (which includes the Aeolus-to-Bridger/Anticline transmission line) as part of PacifiCorp’s long-term transmission plan and has been pursuing permitting for its construction since 2007<sup>15</sup>—long before Energy Vision 2020 proposed to accelerate construction of Segment D.2 of the plan from 2024 to 2020. As PacifiCorp recently pointed out in Utah:

[T]he Aeolus-to-Bridger/Anticline line is necessary to relieve *existing* congestion on the system and...the North American Electric Reliability Corporation’s and Western Electricity Coordinating Council’s standards and criteria influenced the need for the Aeolus-to-Bridger/Anticline line. The Company made it clear that the Aeolus-to-Bridger/Anticline line has been an integral component of the long-term transmission plan for the region long before the Wind Projects were contemplated.<sup>16</sup>

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<sup>14</sup> As PacifiCorp outlined in the IRP: “Other customer benefits of the new transmission segment include increased reliability of the transmission system, congestion relief, reduction of capacity and energy losses on the transmission system, and greater flexibility managing existing generation resources. Reliability will be augmented with the addition of the new transmission segment, which will provide support to the underlying 230 kV system during outages. Most of these outages result in a deration of TOT 4A transfer capacity and some outage scenarios require significant generation curtailment. The new 500 kV transmission segment will significantly reduce, if not eliminate, many of the impacts caused by the 230 kV outages. Increased energy imbalance market (EIM) and transmission wheeling opportunities under the OATT will also result from the additional system capacity. Capacity and energy losses on the transmission system are reduced with the new transmission segment, which has the potential to provide significant monetary savings over time.” Docket No. LC 67, 2017 Integrated Resource Plan at 63 (Apr. 4, 2017).

<sup>15</sup> As the Company stated in Utah: “The Aeolus-to-Bridger/Anticline transmission line has been part of the Company’s long-term transmission plan since 2007 and provides substantial immediate benefits with or without the Wind Projects (Ekola Flats, TB Flats I and II, and Cedar Springs).” *Application of Rocky Mountain Power for Approval of a Significant Energy Resource Decision and Request to Construct Wind Resource and Transmission Facilities*, Public Service Commission of Utah, Docket No. 17-035-40, Redacted Surrebuttal Testimony of Rick A. Vail at 1 (May 15, 2018).

<sup>16</sup> *Id.* at 4.

Importantly, this means that the Aeolus-to-Bridger/Anticline transmission line will be built with or without the new Energy Vision 2020 wind projects, and it will most certainly be built with or without additional QFs siting in Oregon. In other words, no amount of QFs located in Oregon could avoid—in whole or in part—the cost of this new transmission line, and the presumption that there are no avoided transmission costs associated with PacifiCorp’s on-system proxy resource has not been rebutted. Therefore, the Joint QF Parties’ recommendation to include the cost of the Aeolus-to-Bridger/Anticline transmission line is inconsistent with the Commission’s precedent and does not reflect the additional benefits provided by this new transmission.

**C. PacifiCorp’s Motion should be granted to protect customers**

The Joint QF Parties raise a myriad of concerns in their response when they claim that PacifiCorp’s Motion has no merit. They claim that PacifiCorp is attempting to re-litigate old orders, that depriving QFs of the non-renewable option is inconsistent with FERC orders which allow for renewable rates to comply with renewable portfolio standards (RPS), and that PacifiCorp should not deprive non-renewable QFs of the non-renewable rate.<sup>17</sup> These arguments are all based on a faulty underlying assumption. As PacifiCorp stated its Motion, PacifiCorp is not acquiring these resources to meet RPS obligations, but rather because they are the least-cost, least-risk resources.<sup>18</sup> This is why it is appropriate for all QFs to select renewable prices. Those prices are the more appropriate reflection of PacifiCorp’s avoided costs based on the acknowledged IRP. As PacifiCorp has previously pointed out:

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<sup>17</sup> Comments of the Community Renewable Energy Association and the Renewable Energy Coalition at 12–14.

<sup>18</sup> PacifiCorp’s Motion of Emergency Interim Relief at 8.



First, allowing a QF to select the non-renewable prices would provide the QF with a windfall at customers' expense. PacifiCorp's non-renewable avoided cost prices no longer reflect the costs PacifiCorp theoretically avoids because of a QF transaction. FERC mandates that the avoided cost price take into account all of the resources that are available to a utility, unless a state policy requires a utility to procure energy and capacity from a smaller subset of resources, in which case there can be a *higher* avoided cost price reflecting the avoidance of costs associated with the state-mandated resource.<sup>19</sup>

The Joint QF Parties' arguments fail because they are attempting to impose an old paradigm of avoided-cost pricing on a situation where renewable resources are acquired because they are the least-cost, least-risk resources.

PacifiCorp firmly agrees with Staff that “[a]llowing a renewable QF to select the higher non-renewable rate for its energy and sell its RECs in a separate transaction, creates a windfall for the QF at the expense of ratepayers.”<sup>20</sup> However, PacifiCorp disagrees with Staff that PacifiCorp's motion should only be granted with respect to renewable QFs. As described above, and in PacifiCorp's Motion, the renewable prices are the more appropriate reflection of PacifiCorp's avoided costs. FERC has emphasized that that the amount paid to QFs must leave utility customers “indifferent” as to whether the utility purchases from the QF or uses its more traditional sources of power.<sup>21</sup> The new “traditional” source of power is PacifiCorp's new wind resources, and to ensure that customers are protected from higher prices, the avoided costs should reflect this reality.

#### IV. CONCLUSION

PacifiCorp's Motion is procedurally appropriate, the transmission costs of the non-deferrable Aeolus-to-Bridger/Anticline transmission line are properly not included in the

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<sup>19</sup> *Id.* at 3.

<sup>20</sup> Staff Response to PacifiCorp's Motion for Emergency Interim Relief at 5.

<sup>21</sup> *S. Cal. Edison Co., et al.*, 71 FERC ¶ 61,269, 62,080 (1995), overruled on other grounds, *Cal. Public Utilities Comm'n*, 133 FERC ¶ 61,059 (2010).

avoided-cost pricing, and most importantly, the recommendations of the Motion are necessary to protect customers. Renewable Northwest and the Joint QF Parties fail to recognize the very real harm that would befall customers if PacifiCorp's prices were to go into effect without approving PacifiCorp's motion. Therefore, PacifiCorp requests that the Commission approve its Motion for Emergency Interim Relief.

Respectfully submitted this 18<sup>th</sup> day of May, 2018.

By:



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