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August 15, 2016

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-1166

Attn: Filing Center

RE: UM 1782—PacifiCorp's Reply Comments

PacifiCorp d/b/a Pacific Power encloses for filing its Reply Comments in the above-referenced docket.

If you have questions about this filing, please contact Natasha Siores at (503) 813-6642.

Sincerely,

R. Bryce Dalley
Vice President, Regulation

Enclosure

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of PacifiCorp's Reply Comments on the parties listed below via electronic mail and/or US mail in compliance with OAR 860-001-0180.

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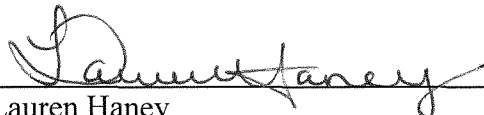
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Dated this 15th day of August, 2016.



Lauren Haney
Coordinator, Regulatory Operations

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1782

In the Matter of
PACIFICORP, dba PACIFIC POWER
2015 Renewable Portfolio Standard
Compliance Report

REPLY COMMENTS

1 On June 1, 2016, PacifiCorp, d/b/a Pacific Power (PacifiCorp or Company),
2 submitted its Oregon Renewable Portfolio Standard (RPS) Compliance Report for 2015
3 (Compliance Report) to the Public Utility Commission of Oregon (Commission) under ORS
4 469A.170 and OAR 860-083-0350. Commission rules allow the Company to file a response
5 to Staff or intervenor comments on the Compliance Report within 30 days.¹ Consistent with
6 OAR 860-083-0350(4), the Company respectfully submits these Reply Comments in
7 response to the July 15, 2016 comments filed by the Industrial Customers of Northwest
8 Utilities (ICNU) and the July 12, 2016 comments filed by Commission Staff (Staff).

9 **I. INTRODUCTION**

10 In its comments, Staff concludes that PacifiCorp has met the RPS compliance targets as
11 mandated by ORS 469A.052(1)(a) and has met the RPS compliance reporting requirements
12 as mandated OAR 860-083-0350 upon submission of the 2015 bundled Renewable Energy
13 Certificate (REC) incremental cost data.² Staff will review all comments that will be filed by
14 interested persons and any responses that PacifiCorp may file. The Company supports Staff's
15 conclusion and recommends that the Commission find that the Company has complied with
16 applicable RPS requirements.

¹ OAR 860-083-0350(4)

² Responses to Staff's discovery request were submitted on July 11, 2016. Further discovery has not been received.

1 In its comments, ICNU raises fundamental concerns related to how the incremental costs
2 of RPS compliance are calculated as well as concerns related to the Company's RPS
3 compliance strategy. The Company agrees that given the recent passage of Senate Bill (SB)
4 1547 which increases the RPS requirement to 50 percent, it is appropriate for the
5 Commission to revisit and potentially revise its RPS implementation rules. However, any
6 rule changes should be prospective only—ICNU's recommendation that the Company be
7 required to recalculate the incremental cost of RPS compliance for this Compliance Report
8 based on its own interpretation of statute rather than existing regulatory requirements is
9 unreasonable and inappropriate.

10 In addition, ICNU's arguments regarding the prudence of the Company's compliance
11 strategy are misplaced. In light of the uncertainty around the implementation of Clean Air
12 Act § 111(d) carbon emission guidelines for power plants, the Company's actions were
13 prudent given the information available at the time the Company's 2015 compliance strategy
14 was identified. The Commission should therefore not include any finding that the Company's
15 compliance strategy was imprudent as part of its determination as to whether the Company
16 complied with the RPS.

17 II. REPLY COMMENTS

18 A. The Commission should not require the Company to recalculate the incremental 19 cost of compliance; any changes to the regulatory requirements for calculating 20 the incremental cost of compliance should be prospective only

21
22 In its comments, ICNU argues that the Company incorrectly calculated its total cost of
23 compliance with the RPS because the calculation is based on the cost of RECs retired in 2015
24 rather than the cost of qualifying electricity delivered in 2015.³ ICNU makes the same

³ Comments of ICNU at 2.

1 argument regarding Portland General Electric’s (PGE) compliance report. ICNU admits that
2 the calculation methods applied by both PGE and PacifiCorp are consistent with the
3 Commission’s rules but argues that those rules appear contradictory and ambiguous and
4 cannot be interpreted consistent with the statute those rules are intended to implement.⁴
5 ICNU recommends that the Commission revise its rules to ensure that they clearly define
6 how to calculate the incremental cost of RPS compliance.⁵

7 The Company agrees that there is an opportunity to improve the rules with respect to how
8 the incremental cost of RPS compliance is calculated and reflected in compliance reports.
9 Clarity regarding this calculation will become ever more critical as RPS requirements
10 increase. Given the recent passage of SB 1547, the Company recommends that the
11 Commission open a rulemaking to revisit and potentially revise elements of its rules
12 implementing the RPS. This rulemaking would be the appropriate forum for stakeholders to
13 raise questions as to whether the existing rules properly interpret statutory language.

14 ICNU recommends that the Company should be required to recalculate its total cost of
15 RPS compliance based on ICNU’s new interpretation of statutory requirements.⁶ This
16 recommendation is unreasonable since the Company must comply with regulatory
17 requirements as they currently exist and cannot unilaterally decide that existing rules do not
18 appropriately interpret statutory directives. In 2009, following extensive stakeholder input,
19 the Commission adopted rules interpreting the statutory mandate to calculate the incremental
20 cost associated with RPS compliance.⁷ ICNU did not raise the issue regarding its alternative
21 interpretation of the statutory language at that time though it had ample opportunity to do so.

⁴ *Id.*, Attachment B at 3.

⁵ *Id.*

⁶ *Id.* at 5.

⁷ *See* Docket No. AR 518

1 If the Commission desires to change the rules regarding how the Company should calculate
2 incremental cost to be more consistent with statutory requirements, it should do so only on a
3 prospective basis. The Company should not be required to go back and recalculate
4 incremental cost based on something other than the currently adopted rules. As noted, the
5 Company is supportive of a rulemaking to address potential inconsistencies between the
6 statute and rules; however, the rules should only apply on a prospective basis.

7 **B. The Commission should not make a prudence finding with respect to the**
8 **Company's compliance strategy**
9

10 ICNU also argues, that as a compliance strategy, the Company should have purchased
11 unbundled RECs up to the maximum amount authorized law i.e., it should have purchased
12 unbundled RECs up to the 20 percent statutory limitation.⁸ ICNU argues that procuring
13 additional unbundled RECs would have been the least-cost approach to RPS compliance.

14 The Company's compliance strategy was developed as part of its 2015 Integrated
15 Resource Plan (IRP). As explained in the 2015 IRP Action Plan, the Company deferred
16 issuance of requests for proposals (RFPs) seeking unbundled RECs until states begin to
17 develop implementation plans under the U.S. Environmental Protection Agency's (EPA)
18 draft § 111(d) rule, which the Company expected would provide clarity on whether an
19 unbundled REC strategy is the least-cost compliance alternative.⁹ At the time PacifiCorp's
20 2015 IRP was finalized (March 2015), the final Clean Power Plan had not yet been issued.
21 The draft rule established a carbon emission rate target that would be required to be met on a
22 state-by-state basis. Under this framework, it was unclear what type of compliance action
23 could be required in order to meet the state emission rate targets. However, one of the

⁸ *Id.* at 4.

⁹ PacifiCorp 2015 IRP at 10.

1 compliance pathways identified in the proposed rule was the development of renewable
2 energy, which could potentially be used to average down the overall emissions intensity of
3 resources in a given state. It was therefore possible that the Company would have been
4 required to procure system renewable resources for 111(d) compliance. If that happened, it
5 was also possible that those 111(d)-driven renewable resources could apply toward state RPS
6 compliance, thereby eliminating or at least deferring the need to procure unbundled RECs.
7 Given all of the uncertainties around the rule itself, how the states might implement the rule,
8 what kind of interaction the final rule might have with state RPS requirements, and how the
9 Company might have been required to comply, the 2015 IRP Action Plan deferred any RPS-
10 driven incremental procurement until there was more certainty. The Company considered this
11 the lowest-risk option, particularly considering Oregon's available bank and no immediate
12 compliance risk.

13 ICNU does not explain why the rationale adopted in the 2015 IRP is unreasonable or
14 imprudent. Moreover, while the Commission clearly has the authority to review the manner
15 in which the Company has complied with the RPS,¹⁰ the review of a Compliance Report
16 under OAR 860-083-0350 is an inappropriate forum for making prudence determinations
17 regarding the Company's compliance strategy. Neither the statute nor rules governing
18 compliance reports require the Company to describe or support the chosen compliance
19 strategy, which is generally developed as part of the IRP process. The compliance report
20 review process also does not include contested case proceedings which would generally
21 accompany prudence findings made in general rate cases or similar proceedings. Because the
22 Commission's review of whether PacifiCorp complied with the RPS is not the correct forum

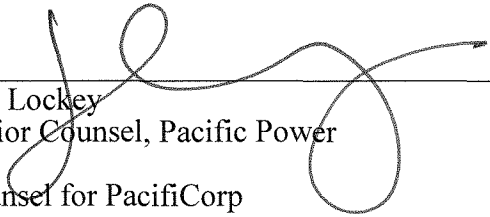
¹⁰ ORS 469A.170(2)

1 for prudence determinations, and because ICNU does not fully explain why the Company's
2 compliance strategy is imprudent, the Commission should not even consider making a
3 prudence finding part of its decision as to PacifiCorp's compliance with the RPS. If the
4 Commission will make prudence determinations when reviewing compliance reports, the
5 Company recommends that this be made clear as part of a rulemaking and apply on a
6 prospective basis only.

7 **VI. CONCLUSION**

8 Based on the foregoing, the Company respectfully requests that the Commission find
9 PacifiCorp in compliance with the 2015 RPS.

DATED: August 15, 2016


Etta Lockey
Senior Counsel, Pacific Power
Counsel for PacifiCorp