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VIA ELECTRONIC FILING

Public Utility Commission of Oregon
550 Capitol Street NE, Suite 215
Salem, OR 97310-2551

Attn: Filing Center

Re: UM 1953—PacifiCorp's Opening Brief

PacifiCorp d/b/a Pacific Power hereby submits for filing in the above referenced docket its Opening Brief.

If you have questions about this filing, please contact Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,

Etta Lockety
Vice President, Regulation

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1953**

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Investigation into Proposed Green Tariff

PACIFICORP'S OPENING BRIEF

November 3, 2020

TABLE OF CONTENTS

I. INTRODUCTION 1

II. ARGUMENT..... 1

 A. VRET PROGRAMS AND DIRECT ACCESS ARE NOT IN DIRECT COMPETITION, AND THE COMMISSION SHOULD NOT FORECLOSE DEVELOPMENT OF CONSUMER-DEMANDED PRODUCTS..... 1

 B. THE COMMISSION SHOULD REVISE THE NINE VRET CRITERIA TO ALLOW FOR DEVELOPMENT OF RESOURCE CHOICE ALTERNATIVES FOR CONSUMERS NOT INTERESTED IN DIRECT ACCESS..... 3

 C. THE COMMISSION SHOULD BE MINDFUL OF THE POTENTIAL DEVELOPMENT OF CONSUMER-DRIVEN ALTERNATIVES AND NOT RESTRICT FUTURE COMMISSIONS FROM REVIEWING CREATIVE OPTIONS..... 6

III. CONCLUSION..... 7

I. INTRODUCTION

PacifiCorp d/b/a Pacific Power (PacifiCorp or the Company) recommends that the Public Utility Commission of Oregon (Commission) approve the modifications to the criteria for a Voluntary Renewable Energy Tariff (VRET) as proposed by Portland General Electric Company (PGE), to provide consumers additional optionality to support renewable energy development and increase consumer options. The Commission should not foreclose creative solutions by establishment overly prescriptive criteria, but rather should allow for the development of creative, consumer-focused solutions. The only critical condition is that adequate protection of cost-of-service customers be ensured. The Commission has the authority to review new VRET proposals and audit those programs after implementation to ensure cost-of-service customers are held harmless. The Commission should, in all circumstances, retain the discretion to evaluate a proposal based on the specifics of the program, and not bind future Commissions.

II. ARGUMENT

A. VRET PROGRAMS AND DIRECT ACCESS ARE NOT IN DIRECT COMPETITION, AND THE COMMISSION SHOULD NOT FORECLOSE DEVELOPMENT OF CONSUMER-DEMANDED PRODUCTS

As a preliminary matter, arguments that a VRET offering from a utility is in direct competition with direct access are mistaken, and acceptance of that position risks establishing a state energy policy that limits consumer options and the transition to a cleaner energy future. These are completely different consumer options. VRET offerings are typically designed as a premium retail service product and are explicitly related to renewable energy.¹ Direct access is not limited to specific resource type and replaces utility retail service altogether. Consumers sophisticated enough to pursue direct access have the option of avoiding full retail service. Not

¹ PAC/100, Lockett/2.

all consumers, however, are seeking to participate in direct access, but still seek 100 percent renewable energy. Accordingly, arguments that there is ‘direct competition’ are based on a misconception that VRET customers would otherwise choose direct access.

The Northwest and Intermountain Power Producers Coalition (NIPPC) response to this truism is that direct access is in competition with utility cost-of-service.² This is of course correct, but only for those consumers that have the wherewithal to participate in direct access. Other consumers may not be willing to move to direct access, but still want a green option. Further, when has reducing competition promoted a competitive market? For those consumers that are considering direct access, a VRET benchmark may enhance development of new resources and consumer products. Competition drives innovation, so it is curious that NIPPC and others appear to seek to inhibit consumer options by resisting changes to the VRET Criteria despite the Commission’s finding that the energy market has changed.³

The evidence for this is clear in this proceeding. PGE’s Green Energy Affinity Rider (GEAR) program provides cost-of-service customers with the ability to choose renewable energy, on top of standard service. The design holds other cost-of-service customers harmless and adds additional renewable generation to the system. The popularity of that proposal is beyond doubt, with consumers filling the subscription limit in under two minutes⁴ and the supportive public comments received by the Commission.

NIPPC’s argument would, likely, restrict consumers from choosing renewable options by increasing the barriers to making such a choice. Of course, if the VRET is designed as a stand-alone product (i.e. not a cost-of-service plus tariff), then risk to the competitive market must be a

² NIPPC/300, Gray/13.

³ *In the matter of Portland General Electric Company, Investigation into Proposed Green Tariff*, Order No. 19-075 (March 5, 2019).

⁴ PGE/700, Wenzel-Halley/7 (see footnote 19).

consideration in the Commission’s review. However, using PGE’s GEAR program as an example, direct access would have a competitive advantage based simply on economics (based on the cost-of-service plus nature of the program), and the only true risk to the competitive market is hypothetical at best. The result of overly prescriptive VRET criteria would only then restrict consumer choice by limiting options, which is not supportive of a truly competitive market.

Creating unnecessary barriers to utility VRET programs will only limit access to 100 percent renewable energy programs for those consumers that do not have the resource to participate in, or do not qualify for, direct access. Forcing consumers to elect direct access to meet their renewable energy goals may put those consumers at risk, when they don’t want to participate in direct access. This is not promoting a competitive energy market. The competitive market should, fundamentally, be able to survive without restricting other options to support consumers’ goals.

B. THE COMMISSION SHOULD REVISE THE NINE VRET CRITERIA TO ALLOW FOR DEVELOPMENT OF RESOURCE CHOICE ALTERNATIVES FOR CONSUMERS NOT INTERESTED IN DIRECT ACCESS

PGE’s proposed modifications to the nine conditions are reasonable and support innovation and the development of additional options for consumers. VRET programs can be innovative alternatives that are fundamentally different to direct access. Yet the current nine conditions force consumers into the same two-option scenario of tariffed cost-of-service or direct access.⁵ Revising the VRET criteria to allow for more consumer-driven options, does not interfere with the competitive market, and furthers the goals articulated in the Governor’s Executive Order 20-04.

⁵ PAC/200, Lockey/2.

PacifiCorp supports the modifications to the nine VRET criteria proposed by PGE. PGE proposes that the VRET criteria be:

1. Renewable Portfolio Standard (RPS) definitions that must apply to VRETs are for resource type, location, and bundled renewable energy certificates (RECs).
2. VRET options only include bundled REC products. Any RECs associated with serving participants must be retired by or on behalf of the participants.
3. The year that a VRET-eligible resource becomes operational should be no earlier than one year prior to program enrollment. Program enrollment means the date when a customer signs a binding agreement to participate in the program.
4. The VRET program size is limited to 500 MW for PGE and 175 average megawatts for PAC.
5. VRET design should be sufficiently differentiated from existing direct access programs.
6. Deleted.
7. The regulated utility may own a VRET resource, and when it does, it must continue to ensure there is no cost shifting to non-participants.
8. All direct and indirect costs and risks are borne by the participating VRET customers, shareholders of the utility, or third-party developers and suppliers with provisions allowing independent review and verification by Commission Staff of all utility costs.
9. All VRETs must be made publicly available and subject to review by the Commission to ensure they are fair, just, and reasonable.⁶

PacifiCorp supports removing Condition 6 and modifying Condition 7 to spur development of VRETs to respond to consumer demand.

Eliminating Condition 6 does not eliminate Commission review and evaluation of programs or prohibit a fact-specific analysis of whether components of a VRET offering should be incorporated into direct access. The Commission retains the ability to review any utility VRET proposal to ensure that the rates and service are just and reasonable, and fair to direct

⁶ PGE/800, Wenzel-Faist/30-31.

access participants. Direct access participants and advocates can continue to participate in the Commission review of a VRET and raise issues regarding the specific terms of the proposed VRET. The problem is the ratcheting mechanism of Conditions 5 and 6, creating a disincentive to innovation. Condition 5 requires that a VRET program design be sufficiently differentiated from existing direct access programs. Current Condition 6 then requires that the utility mirror the VRET program's terms and conditions for direct access. This combination creates a significant disincentive to development of a VRET because any novel approach is then given to the market, and the utility cannot build on the VRET without being limited by Condition 5. A blanket mirroring of terms and conditions to direct access thus creates a two-fold problem. First, it incorporates an inherent disincentive to develop consumer-driven solutions for fear of unanticipated changes to direct access. Second, it restricts evolution of the VRET program because any subsequent modification may not be sufficiently differentiated from the direct access with the mirrored conditions.

Similarly, there is no reasonable need to limit or prohibit utility ownership of resources as part of a VRET program in Condition 7. As PGE's witnesses point out, there are protections in place that already address the vague concerns raised by parties like NIPPC in this proceeding.⁷ The hypothetical risk of utility ownership has not been substantiated by any party.

At the least, the Commission should clarify in Condition 7 that the sharing of return is limited to ratepayer-funded assets that are not otherwise addressed through rates charged to the VRET customer. For example, PGE's GEAR program provides cost-of-service customers with an incremental option for renewable energy. Participating customers are still paying their share of PGE's assets included in rate base. There is no basis for requiring that some of the return on a

⁷ See PGE/800, Wenzel-Faist/25.

utility-owned asset used in a VRET program be shared with the other utility customers. The other utility customers are not disadvantaged, and only the utility is taking the risk.

PacifiCorp acknowledges Oregon’s retail market policy, but the positions raised by parties opposed to updating the VRET criteria to address the changed market conditions and Oregon energy policy in this proceeding only protect certain market participants at the expense of consumers. Supporting a competitive market does not mean that other options are narrowed. Indeed, a competitive market thrives when more options are allowed to drive innovation and reduce cost to consumers. NIPPC’s arguments are essentially a request to restrict consumer options to ‘promote’ a competitive market. This is exactly the opposite of what should be done to implement the Governor’s Executive Order 20-04.

C. THE COMMISSION SHOULD BE MINDFUL OF THE POTENTIAL DEVELOPMENT OF CONSUMER-DRIVEN ALTERNATIVES AND NOT RESTRICT FUTURE COMMISSIONS FROM REVIEWING CREATIVE OPTIONS

PGE’s proposed simplification of the VRET criteria is an important step in promoting options for consumers. The nine conditions were developed in a proceeding nearly five years ago, in anticipation of what may be proposed by utilities wanting to establish a VRET. By contrast, in this proceeding, the nine conditions are being reviewed in the context of an actual proposal. As Ms. Etta Lockey observes,

“[t]hat has brought clarity to the inapplicability to some of the nine conditions when programs are structured like PGE’s GEAR program. That being said, there is also the risk that evaluation of the applicability of the nine conditions in this proceeding will be influenced too much by the components of PGE’s particular program. This is exactly why the Commission should retain the flexibility to review VRET programs on a case-by-case basis, and any conditions should not be so restrictive to limit the development of customer options.”⁸

The Commission retains the authority, and responsibility, to review any proposed VRET. While

⁸ PAC/200, Lockey/6.

certain criteria to guide the utility are useful, consumer protections are inherently in place through established regulatory mechanisms. Approving PGE's proposed modifications to the VRET criteria allows the flexibility necessary to allow for innovation and consumers to drive the incremental addition of renewable generation. Limitation of a utility's development, and a future Commission's consideration, of innovative options to meet consumer demand does not promote current Oregon energy policy.

III. CONCLUSION

The Commission should reject the arguments that modifications to the nine VRET criteria are not appropriate and adopt PGE's proposed modifications to provide additional consumer options for service by 100 percent renewable energy. Now is not the time to restrict or limit development of any opportunity to bring more renewable energy onto the system.

Dated this 3rd day of November, 2020.



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