

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of

PacifiCorp, dba Pacific Power,

2023 Integrated Resource Plan and Clean
Energy Plan.

COMMENTS OF NEWSUN
ENERGY ON THE STAFF REPORT

I. INTRODUCTION

Pursuant to the Administrative Law Judge Ruling dated February 5, 2024, NewSun Energy LLC (“NewSun”) respectfully submits these Comments on the Staff Report filed on February 7, 2024 recommending that the Oregon Public Utility Commission (“Commission”) partially acknowledge PacifiCorp’s 2023 Integrated resource Plan (“IRP”) and not acknowledge PacifiCorp’s Clean Energy Plan (“CEP”). It is concerning that 100% of the investor-owned utilities subject to HB 2021 and regulated by this Commission have failed to develop a viable Clean Energy Plan now three years after the passage of that bill. The utilities supported that bill but apparently either did not understand whether they could comply or assumed they would not be required to comply. However, as Staff’s efforts illustrate, a viable portfolio is not impossible. NewSun supports and appreciates Staff’s endeavors to dig in, scrutinize and analyze these plans including by ensuring that PacifiCorp models compliance with all three state emissions requirements, recommending viable and defensible inputs and modeling exercises, and in recommending non-acknowledgement of the CEP. In addition, NewSun reiterates its comments made earlier in this docket and incorporates by reference written and oral

comments made in Portland General Electric's IRP/CEP docket (LC 80), including that the Commission should not accept non-viable inputs and utilities should not exclude or unreasonably limit options like energy efficiency, distributed generation, and other on-system resources.¹

As previously noted in NewSun's Round 1 Comments, NewSun agrees that suspension of the request for proposal ("RFP") moots PacifiCorp's plan and impedes PacifiCorp's ability to comply with HB 2021's requirements. First, the plans are not technically and economically feasible because PacifiCorp cannot procure and build the resources laid out in the plan on the timelines specified and such resources are likely to now come at a higher price. Second, suspending the RFP is the antithesis of continual progress. The Commission's final order should reflect that PacifiCorp has not made continual progress. Third, Staff's Report highlights the need for the Commission to ensure other viable pathways to utility procurement outside of the RFP framework, such as through employing the Public Utility Regulatory Policies Act ("PURPA"). Finally and as a procedural matter, NewSun requests and recommends that the Commission establish a robust process (including adequate time for data requests and reviewing PacifiCorp's assumptions) upon the IRP update filing and CEP re-filing, rather than the typical abbreviated process that typically follows the filing of an IRP update, in order to ensure stakeholders are afforded an appropriate opportunity to review and comment on what essentially will be a completely new IRP and CEP.

¹ In addition, there should be no adverse changes to net metering programs where utilities do not even have a viable plan to meet their clean energy targets.

II. COMMENTS

A. PacifiCorp’s IRP and CEP are not Technically and Economically Feasible

The Commission shall acknowledge a CEP if it finds the plan to be in in the public interest and in doing so must consider whether the plan is technically and economically feasible.² Here, PacifiCorp admits that it “will not be able to procure the clean energy additions included in the Preferred Portfolio through 2028 given the suspension of the 2022 All-Source RFP.”³ Therefore, the plan is not technically feasible.

The plan is also not economically feasible. If the plan is not technically feasible, then it also is not economically feasible, i.e. there is apparently no price by which the plan can technically be achieved. However, delaying the RFP also creates an economic risk that bids will increase by the next RFP especially given that the next RFP will likely seek resources that need to come online in a more expedited fashion. The delay may also result in a less competitive RFP and amplify the utility-ownership bias by diminishing the presence of lower price alternatives.

B. PacifiCorp has Not Demonstrated Continual Progress

A clean energy plan must demonstrate continual progress,⁴ and “[t]he commission shall ensure that an electric company demonstrates continual progress . . . and is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”⁵ NewSun agrees with Staff that

² ORS 469A.420(2)(b).

³ Staff Report at 4 (citing PacifiCorp response to OPUC Staff Information Request No. 243).

⁴ ORS 469A.415(4)(e).

⁵ ORS 469A.415(6).

compliance with HB 2021's targets and continual progress requirements cannot be determined without a revised analysis and procurement plan.⁶ As such, the Commission decision should reflect that PacifiCorp has not made continual progress, and should direct PacifiCorp to take the actions necessary to ensure that it demonstrates as much in its revised filing and that PacifiCorp is taking the actions as soon as practicable to facilitate rapid reduction of emissions.

Further, the fact that a court verdict was entered against PacifiCorp, where PacifiCorp was found to be grossly negligent, should not be used as evidence in another proceeding as a reason for PacifiCorp to be excused from compliance with other laws. The judgement against PacifiCorp in the wildfire lawsuit should not have any bearing on its procurement activities. PacifiCorp's procurement staff was still engaged in bi-lateral negotiations to procure battery storage technology,⁷ and there is no reason why they should have suspended RFP procurement activities. Therefore, the wildfire verdict does not logically lead to the conclusion that PacifiCorp should be excused from its compliance obligation to make continual progress.

C. PURPA is an Important Tool for Renewable Procurement

Staff's Report highlights the importance of PURPA as a tool the Commission may employ to ensure that PacifiCorp is taking actions as soon as practicable to facilitate the rapid reduction of emissions. The record in this and in PGE's IRP/CEP docket illustrate that we cannot rely on the regulated utilities to tell us when and how they are going to

⁶ Staff Report at Attachment A at 12.

⁷ Staff Report at Attachment A at 9-10.

comply with the law, make continual progress, and take actions as soon as practicable. The Commission should take this opportunity to correct course and ensure that at least some progress is made towards these compliance obligations. PURPA is an important tool for achieving these ends. PURPA resources can be contracted on a rolling basis without relying on the utility to issue and follow-through with an RFP, but this is only possible if PURPA policies are designed to facilitate and encourage qualifying facility development.

Table 2 in Staff's round 2 comments illustrates the negative megawatt deficiency of PacifiCorp's current reality relative to what would have been needed under the preferred portfolio.⁸ The numbers are staggering. Therefore, the Commission should ensure that its PURPA policies do not impede the procurement of additional PURPA resources. To these ends, NewSun also recommended in Round 1 comments that PacifiCorp be direct to provide the appropriate draft avoided cost information required under OAR 860-029-0080(3) and reiterates that request here.

III. CONCLUSION

NewSun appreciates Staff's incredible work on this docket and recommends the Commission adopt the further recommendations outlined in these comments.

Dated this 14th day of February 2024.

⁸ Staff Report at Attachment A at 10.

Respectfully submitted,

NEWSUN ENERGY LLC

A handwritten signature in black ink that reads "Marie P. Barlow". The signature is written in a cursive style with a horizontal line underneath it.

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