

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1959

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2017 Renewable Portfolio Standard
Compliance Report

STAFF'S COMMENTS

Introduction

Staff of the Public Utility Commission of Oregon (Staff) presents its Comments in response to PacifiCorp's, dba Pacific Power's (PAC) 2017 Renewable Portfolio Standard Compliance Report (Compliance Report). These comments address the Company's responsiveness to the reporting requirements found in Oregon Revised Statute (ORS) 469A.170 and Oregon Administrative Rule (OAR) 869-083-0350, and identify issues for consideration under other Renewable Portfolio Standard related rulemakings.

RPS Compliance Plan

OAR 860-083-0350(1)(a) requires electric companies subject to Oregon's Renewable Portfolio Standard (RPS) to provide an annual report demonstrating its compliance (or failure to comply) with the RPS in the previous calendar year (compliance year). OAR 860-083-0350(2)(a-s) outline the Compliance Report requirements. In Order No.11-440, the Commission adopted a standardized Compliance Report form, which includes two narrative questions and a response to each element of OAR 860-083-0350(2)(a-s), OAR 860-083-0350(6), and OAR 860-083-0350(7).

The Compliance Report must provide a complete accounting of renewable energy certificates (RECs) used for compliance in the compliance year. The accounting must be separated into bundled or unbundled RECs and banked or newly acquired RECs. The report must include a clear description of the following:

- Generating units that produced the RECs;
- The total cost of compliance associated with using the RECs for compliance;
- The Company's position in relation to the four percent cost cap set forth in ORS 469A.100(1)¹; and

¹ ORS 469A.100(1) provides that "electric utilities are not required to comply with a renewable portfolio

- A detailed explanation of any material deviations from the electric company's applicable acknowledged implementation plan filed under OAR 860-083-0400.

Staff's review of PAC's 2017 Compliance Plan indicates that the Company has complied with the requirements outlined in OAR 860-083-0350, and has not exceeded the four percent cost of compliance limit. PAC reports that it has not materially deviated from their most recent RPS Implementation Plan (RPIP), however, Staff is unclear whether this response is adequate. When considering the most recent RPIP that forecasts RECs used in 2017, the cost of compliance and RECs used differ materially.² Material deviation is discussed further in these comments.

Background - Renewable Portfolio Standard

As part of the Oregon Renewable Energy Act of 2007 (Oregon Senate Bill 838), the State of Oregon established incremental targets for utilities and electric service suppliers to procure qualifying renewable energy. In 2016, with the passage of Oregon Senate Bill 1547, the Legislature increased the RPS targets and made changes to the mechanics of compliance. This included modification to how RECs can be banked for use in future compliance years. Under SB 1547, electric companies must ensure that an increasing percentage of the electric energy sold to retail customers within Oregon is derived from eligible renewable energy resources. The specific annual RPS targets for electric companies that supply three percent or more of the state's total retail load (Large Utilities) are shown below:

Revised SB 1547 Large Utility RPS Goals By Year³						
2011-14	2015-19	2020-24	2025-29	2030-34	2035-39	2040 and beyond
5%	15%	20%	27%	35%	45%	50%

Background – RPS Compliance Instruments

RPS compliance must be demonstrated through the retirement of RECs that are maintained through the Western Renewable Energy Generation Information System (WREGIS). RECs may be either bundled with energy or exchanged separately (unbundled). One REC is issued per megawatt-hour of generation produced⁴.

RECs procured before March 31 of a given year may be used for a previous year's compliance, and RECs may be banked and carried forward for future compliance. However, only 20 percent of a utility's RPS compliance obligation may be satisfied using unbundled RECs in any given compliance year.

standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year."

² PacifiCorp identified its 2019 - 2023 RPIP as the applicable RPIP under OAR 860-083-0350(2)(I). Staff will discuss considerations for the applicable RPIP later in its comments.

³ ORS 469A.052.

⁴ See OAR 330-160-0015(15).

In lieu of procuring renewable resources, utilities are allowed to pay an alternative compliance payment (ACP) and the funds are placed in a holding account to be spent on energy conservation programs or for procuring additional eligible resources.¹

The following table describes key RPS compliance instruments applicable to large electric utilities.

RPS Compliance Instrument	RPS Compliance Mechanics	Oregon Statute and Rules
Cost Limitation	Electric companies are not required to comply with the RPS in a given year if the incremental cost of compliance exceeds 4 percent of a utility's annual revenue requirement.	ORS 469A.100 (1),(6) OAR 860-083-0300(2)(a) OAR 860-083-0400(5)(a)
REC Banking	<p>Electric companies can bank RECs for compliance in future years.</p> <ul style="list-style-type: none"> • RECs that were issued and banked before March 8, 2016 can be used indefinitely. • RECs from facilities online before March 8, 2016 that are issued and banked after March 8, 2016, expire after 5 years of issuance.⁵ • RECs from facilities that come online between March 8, 2016 and December 31, 2022, that are issued and banked in the first 5 years of facility operation, can be used indefinitely.⁶ • RECs from facilities that come online between March 8, 2016 and December 31, 2022, that are issued and banked after the first 5 years of facility operation, expire after 5 years. • RECs from facilities online after December 31, 2022, expire after 5 years of issuance and banking. 	ORS 469A.140

⁵ This rule also applies to RECs from PPAs with facilities that come online between March 8, 2016 and December 31, 2022, but the PPA contract term is *less than 20 years*.

⁶ This rule also applied to RECs from PPAs with facilities that come online between March 8, 2016 and December 31, 2022 and the PPA contract term is *20 years or more*.

Unbundled RECs	For large electric utilities, unbundled RECs, including banked unbundled RECs, may not be used to meet more than 20% of its RPS obligation in any year. ⁷	ORS 469A.145 (1)
Alternative Compliance Payments	Electric utilities may use alternative compliance payments to meet RPS requirements in any year.	ORS 469A.180 (3) OAR 860-083-0500

2017 RPS Compliance

PAC's 2017 RPS obligation and compliance activity are summarized in the table below.

2017 RPS Compliance Summary		
Oregon retail sales	13,200,282 MWh ⁸	
2017 RPS Obligation	15%	
2017 RPS MWh	1,980,042 MWh	
RECs used for 2017 RPS	Number of RECs	Percentage of RPS MWh
Bundled – newly acquired	1,797,384 ⁹	91%
Bundled – from bank	20,287	1%
Bundled subtotal	1,817,671	92%
Unbundled – newly acquired	55,928	3%
Unbundled – from bank	106,443	5%
Unbundled subtotal	162,371	8%
Total	1,980,042	100%

PAC's 2017 RPS Compliance Report demonstrates compliance with its 1,980,042 MWh RPS obligation through the use of 1,817,671 bundled RECs and 162,371 unbundled RECs. PacifiCorp primarily used RECs issued in 2017 (93.6 percent). The remaining RECs used from the bank were issued in 2016 (6.35 percent) and 2015 (0.05 percent). PAC's unbundled REC quantity falls under the 20 percent limit allowed by ORS 469A.145(1). The use of hydroelectric RECs falls within the 50 average megawatt limit on utility-owned low-impact hydroelectric electricity and the 40 average megawatt limit of third-party owned low-impact hydroelectric electricity established in ORS 469A.025(5).

- Staff reviewed PacifiCorp's calculation of the total cost of compliance. The total cost of compliance is \$3,796,000, which represents 0.3 percent of its revenue

⁷ Consumer owned utilities and ESSs have different limits on the use of unbundled RECs described in 469A.147 and 469A.145(4), respectively.

⁸ See PacifiCorp's 2017 Annual Report Supplement to FERC Form 1 and FERC Form 1, at page 3.2, Docket No. RE 68, May 24, 2018.

⁹ Includes 3,966 two for one solar RECs eligible under OAR 860-084-0070(2).

requirement. This value is below the cost cap of four percent of revenue requirement established by statute. See below for additional discussion of the cost of compliance.

PacifiCorp's response to additional reporting requirements described in OAR 860-083-0350(2)(a-s) can be found in Attachment A of these comments.

Material Deviation from Applicable Implementation Plan

Electric utilities must file an RPIP every two years that forecasts the resources expected to be used to meet the RPS targets and an estimate of the cost of compliance over the upcoming five-year period.¹⁰ The annually filed Compliance Plan must identify any material differences from the "applicable" acknowledged RPIP.¹¹ PacifiCorp has stated in its 2017 Compliance Report that there are no material differences between the 2019 - 2023 RPIP and its 2017 Compliance Report filing.¹² Staff's review of the 2017 Compliance Report suggests that the Company is conforming to the overall compliance strategy conveyed in the 2019 - 2023 RPIP, which was recently acknowledged. However, Staff has identified two issues with the Company's response.¹³

1. Applicable RPIP

OAR 860-083-0350(2)(l) requires, "[f]or each electric company, a detailed explanation of any material deviations from the applicable implementation plan filed under OAR 860-083-0400, as acknowledged by the Commission."

PAC's 2017 – 2021 RPIP, acknowledged January 13, 2017, provides PAC's most recent plan to comply with RPS in 2017.¹⁴ PAC's 2019 – 2023 RPIP, acknowledged on May 23, 2018, provides updated incremental cost metrics and data for facilities that were not available to be included in the 2017 – 2021 RPIP.¹⁵

Staff questions whether the 2019 – 2023 RPIP is the applicable RPIP because it does not include a forecast of the number, type, or cost of RECs used for 2017 compliance against it can compare the 2017 Compliance Report. The Company's strategy in both RPIPs is to use RECs with the shortest life first. This aligns with the strategy deployed in the 2017 Compliance Report. PAC's identification of the applicable RPIP does not impact the Company's position

¹⁰ See ORS 469A.075.

¹¹ See OAR 860-083-0350(2)(l).

¹² PacifiCorp's Corrected 2017 RPS Compliance Report, at page 11, Docket No. UM 1959, July 12, 2018.

¹³ Page 3 of the 2019 - 2023 RPIP states that the Company's RPS compliance strategy relies on the use of RECs with the shortest life first, before RECs that can be banked with longer or unlimited lives. For example, RECs issued in 2017 from facilities in operation prior to 2016 have a five year life. These RECs would be used prior to RECs that were placed in the bank prior to 2016, which have an unlimited life. Staff agrees that PAC conformed to this strategy by using 5 year life RECs to meet its compliance obligation.

¹⁴ See Commission in Order No. 17-010.

¹⁵ See Commission in Order No. 18-186.

well under the cost cap, either. Therefore, Staff suggests that this issue would be best addressed comprehensively in the AR 616 Renewable Portfolio Standard Planning Process and Reports.

2. Assessment of material deviation from the applicable RPIP

The lack of clarity surrounding the applicable RPIP highlights additional issues with PAC's response to OAR 860-083-0350(2)(I). When compared to the 2017 - 2021 RPIP, Staff's review reveals that the Company's Compliance Report does differ in multiple, significant ways.

First, the cost of compliance forecasted in the 2017 – 2021 RPIP base case is \$15.5 million, whereas the cost of compliance in the 2017 Compliance Report is \$3.5 million. While this difference is to the benefit of ratepayers, \$12 million is unquestionably a material deviation to be noted in the Compliance Report.

In addition, the 2017 – 2021 RPIP did not include the use of unbundled RECs in the base case; however, the Company met 8 percent of its 2017 obligation with unbundled RECs. Further, the Company purchased 162,221 unbundled RECs in 2017, used 55,928 of the RECs for 2017 compliance, and banked 106,293 for use in future years. Neither these decisions nor their cost implications were contemplated in the 2017 – 2021 RPIP or the 2019 – 2023 RPIP.

Because these differences do not impact the Company's overall compliance strategy of using 5-year life RECs or its position well under the cost cap, Staff suggests that the AR 616 process is a more appropriate place to contemplate whether additional clarity is required to identify and address "material differences" from the applicable RPIP.

Use of Unbundled RECs

As stated previously, PAC did not forecast the use of unbundled RECs in its 2017 – 2021 RPIP base case, but the Company purchased 162,221 unbundled RECs in 2017, used 55,928 of the RECs for 2017 compliance, and banked 106,293 for use in future years.¹⁶ The Company's total use of unbundled RECs was 8 percent, which is well below the 20 percent allowed under the program rules.

Staff requests that PAC clarify in its reply comments its decision to bank, rather than use or sell, the unbundled RECs purchased in 2017 for compliance. The need to retain these RECs for use in future years is of particular interest as it relates to the Company's efforts to bring new and repowered renewable resources online beginning in 2020.¹⁷

Cost of Compliance

Staff's finds that 1,352,585 RECs (69 percent) used for 2017 compliance are associated with a zero or negative cost of compliance, and only 622,257 RECs (31

¹⁶ PacifiCorp's Corrected 2017 RPS Compliance Report, Attachments A and D.

¹⁷ PacifiCorp's 2017 IRP Update, at page 6, Docket No. LC 67, May 1, 2018.

percent) are associated with a positive cost of compliance.¹⁸ Under the current banking guidelines, the Company is able to keep any higher cost RECs generated prior to 2016 in its bank indefinitely, and rely more on its lower-cost, more newly acquired RECs for compliance moving forward. Staff recognizes PAC's conformity with the rules governing banking and the calculation of the cost of compliance. Staff also recognizes the Company's attempt to use its RECs strategically to stay well below the cost of compliance cap.

Staff seeks to highlight this issue, but suggests that considerations for banking and its interaction with the cost of compliance will be more holistically addressed in AR 617 Renewable Energy Certificate Issues and/or AR 610 Incremental Cost of Compliance, respectively.

Conclusion

Staff concludes that PAC has met the RPS compliance targets mandated by ORS 469A.052(1)(a) and has met the RPS compliance reporting requirements mandated by OAR 860-083-0350. However, Staff will review all comments that will be filed by interested persons and any responses that PAC may file. Staff will submit a report with its final recommendations for the Commission's consideration at a future public meeting.

This concludes Staff's Initial Comments.

Dated at Salem, Oregon, this 16th day of July, 2018.



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¹⁸ PacifiCorp's Corrected 2017 RPS Compliance Report, Attachment A.

Rule/Statute		2017 Compliance Report Data
OAR 860-083-0350(2)(a) ORS 469A.052	Total megawatt-hours sold	13,200,282 megawatt-hours
OAR 860-083-0350(2)(b)	RECs (bundled or unbundled) <u>acquired</u> in 2017 and used to meet 2017 RPS	1,797,384 bundled RECs ¹
		55,928 unbundled RECs
OAR 860-083-0350(2)(c)	RECs (bundled or unbundled) <u>acquired</u> January 1 - March 31, 2018 and <u>used</u> to meet 2017 RPS	0 bundled RECs
		0 unbundled RECs
OAR 860-083-0350(2)(d)	Number and cost of unbundled RECs (banked or unbanked) used to meet 2017 RPS	106,443 banked
		55,928 unbanked
		Provided in PAC's Confidential Attachment A.
OAR 860-083-0350(2)(e)	Number of <u>banked</u> bundled RECs used to meet 2017 RPS	20,287 RECs ²
OAR 860-083-0350(2)(f)	Number of RECs (bundled or unbundled) issued in 2017 and <u>banked</u> for future Oregon RPS compliance	17,511 bundled RECs
		106,293 unbundled RECs
OAR 860-083-0350(2)(g)	Number of RECs included in Oregon rates <u>sold</u> during 2017, facility names, year(s) RECs were issued	0 RECs
OAR 860-083-0350(2)(h)	List of REC-qualified generating facilities	Provided in Tables 3, 4, and 5
OAR 860-083-0350(2)(i)	Amount of alternative compliance payments	N/A
OAR 860-083-0350(2)(j)	Demonstration that alternative compliance payments were a reasonable compliance method	N/A
OAR 860-083-0350(2)(k)	Documentation of RECs	Provided in PAC's Confidential Attachment C.
OAR 860-083-0350(2)(l)	Detailed explanation of any material deviations from the applicable implementation plan as acknowledged by the Commission.	PacifiCorp indicates that no material deviations from the 2019 – 2023 RPIP as acknowledged by the Commission.
OAR 860-083-0350(2)(m)	Number and cost of bundled RECs used for compliance	1,817,671 RECs
		Provided in PAC's Confidential Attachment A.
OAR 860-083-0350(2)(n)	Projected annual revenue requirement and its total cost of compliance	\$1,255,752,000 annual revenue requirement
		\$3,796,000 total cost of compliance

¹ Includes 3,966 two for one solar RECs eligible under OAR 860-084-0070(2).

² This value represents bundled RECs used for 2017 compliance that were issued prior to 2017. In its Compliance Report, PacifiCorp includes bundled RECs issued in 2017 in this answer and reports 1,817,671 RECs.

OAR 860-083-0350(2)(o)	For each electricity service supplier, its total cost of compliance, its average cost of compliance, and its cost limit as specified in OAR 860-083-0300(2), including all calculations.	N/A
OAR 860-083-0350(2)(p)	Accounting of the use of the RECs and alternative cost payments consistent if the cost limit is reached in 2017	N/A
OAR 860-083-0350(2)(q)	For each electricity service supplier, an accounting of the use of the renewable energy certificates and alternative cost payments consistent with OAR 860-083-0300(3) if the cost limit in 860-083-0300(2) is reached for the compliance year.	N/A
OAR 860-083-0350(2)(r)	The number and total cost of <u>bundled RECs issued</u>	Provided in PAC's Attachment C.
OAR 860-083-0350(2)(s)	The number and total cost of <u>bundled RECs issued</u> that are associated with new qualifying electricity since the last compliance report	Provided in Confidential Attachment D.