

August 21, 2023

VIA ELECTRONIC FILING

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

RE: UM 2283—PacifiCorp’s Comments on Staff’s Report

PacifiCorp d/b/a Pacific Power (PacifiCorp or the Company) provides these comments in response to the August 17, 2023 Staff Report on PacifiCorp’s Application for a Waiver from the Competitive Bidding Rules (Application) in Public Utility Commission of Oregon (Commission) docket UM 2283. PacifiCorp agrees with Staff’s recommendation and proposed motion, as written, supporting the granting of the Application without conditions. The two solar purchase power agreements (PPAs) executed between PacifiCorp and D.E. Shaw Energy, Inc (DESRI) for the Hornshadow I and Hornshadow II solar generating projects, are unique, time-sensitive opportunities to add renewable generation with future optionality. PacifiCorp appreciates Staff’s careful consideration, and agrees that there is good cause for the Commission to grant the requested waiver in this proceeding.

PacifiCorp, however, wants to comment in response to Staff’s alternative recommendation that any waiver be conditioned on including a future right to amend the customer agreement. First, there appears to be a procedural issue with the alternative recommendation. As identified in the Staff Report, the Commission approved a process for review of any PPAs executed to support PacifiCorp’s Schedule 272 in docket UM 2163. In accordance with that process, PacifiCorp filed the Hornshadow PPAs as a supplemental filing in that proceeding. No parties have filed comments in response to that informational filing. Further, as a point of clarification, the Staff Report mistakenly states that granting this waiver will subject customers to prudence and compliance risk.¹ In accordance with Commission Order No. 21-146, all Schedule 272-associated PPAs will be subject to prudence review as part of an appropriate rate recovery proceeding. This request for a waiver of the Commission’s competitive bidding rules is not a rate recovery proceeding. Also, it is not customers, but PacifiCorp that retains the compliance risk, if that risk were to develop sometime in the future.

Second, the alternative recommendation appears to constitute a new requirement under Schedule 272, without adequate consideration of the implications. The inclusion of such a condition would markedly exceed the scope and record established in this proceeding. While Staff accurately points to the provision regarding the retention of RECs to meet Washington compliance requirements, those requirements are distinguishable in that, unlike Oregon, compliance with

¹ Staff Report at 6.

Washington’s Clean Energy Transition Act is specifically measured by RECs. Thus, that provision was based on a known compliance obligation, not merely a potential REC policy change.² It is worth noting that this condition contradicts the initial interpretation of HB 2021 by the Commission, where it explicitly provided “[w]e offer an initial view that we do not have authority or responsibility to globally restrict the use of RECs not retired for HB 2021”.³

Most importantly, however, the additional requirement would require renegotiation of the 272 Customer Agreement to include a provision allowing the proposed amendment. Renegotiation of the Schedule 272 Customer Agreement may not be possible, could result in the Hornshadow projects not being constructed due to their time sensitive nature, and harm Vitesse by delayed acquisition of RECs and/or introducing unnecessary risk on the quantity of RECs accessible (the primary motivation for the customer’s engagement). If renegotiation were successful, then it would likely result in repricing. Repricing would then require a new Company cost-benefit analysis to address any price adjustment due to the additional uncertainty to the customer. The cost-benefit analysis contained in the Company’s Application, which are also referenced in the Staff Report, were notably shaped by the anticipated revenue stemming from the 272 Customer Agreement. Staff’s proposal overlooks the potential repercussions of excluding Oregon’s REC revenue allocation from the analysis. This could make what is currently an extremely cost-effective resource uneconomic, to the detriment of all PacifiCorp’s customers, through either threatening the resources due to additional delay or the uncertainty of parties being able to reach agreement in such renegotiation.

PacifiCorp respectfully requests that the Commission adopt Staff’s recommendation and approve the Company’s Application, without incorporating the condition mentioned in the Staff Report analysis.

Sincerely,



Matthew McVee
Vice President Regulatory Policy and Operations

² Staff Report at 7.

³ *In the Matter of Public Utility Commission or Oregon, Investigation into House Bill 2021 Implementation Issues*, Docket No. UM 2273, Order No. 23-194 at 4 (June 5, 2023); *see also id.* at 3 (“By explicitly directing us to consider the emissions attributes of the underlying generating resource when determining compliance, the statute is implicitly directing us not to insert into our compliance determination an inquiry into the status of the REC that the underlying generating resource produced. With a statement so specific to the issue in the operative language of the statute, we do not see that we have discretion to interpret HB 2021 to allow us to insert a requirement that RECs be retired to demonstrate compliance”).