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November 13, 2020

VIA ELECTRONIC FILING

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

Attn: Filing Center

RE: UM 1953 – PacifiCorp’s Closing Brief

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Etta Lockey", with a long, sweeping flourish extending to the right.

Etta Lockey
Vice President, Regulation

Enclosures

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

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Investigation into Proposed Green Tariff

PACIFICORP'S CLOSING BRIEF

November 13, 2020

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I. INTRODUCTION

PacifiCorp d/b/a Pacific Power (PacifiCorp or the Company) continues to recommend 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, in accordance with Oregon energy policy and Governor Brown's Executive Order 20-04.¹

No party has provided more than conjecture that PGE's proposed modifications to the Commission's VRET conditions would constitute a threat to competition in Oregon, yet it is clear that increasing renewable options is an important goal that can be facilitated by VRET programs. This is evidenced by the significant interest in PGE's GEAR program, which sold out in under two minutes.²

Overly prescriptive criteria effectively limits creatively serving utility customers and binds future Commissions from reviewing VRET programs based on future conditions. The Commission should encourage programs responsive to customer demands, not limit opportunities based on vague assertions of potential harm. This Commission, as well as future Commissions, has the statutory authority to review new VRET program proposals, on a case by case basis, and audit those programs after implementation to ensure cost-of-service customers are held harmless and competition is protected.

¹ Or. Exec. Order No. 20-04 (Mar. 10, 2020).

² PGE/700, Wenzel-Halley/7 (*see* footnote 19).

II. ARGUMENT

A. VRET Condition 6 Contradicts Condition 5 and Creates A Disincentive to the Development of VRETs, and, Therefore, Should Be Removed

The Commission should retain VRET Condition 5 and eliminate VRET Condition 6. If a VRET program is sufficiently differentiated from direct access, there is no reason to require changes to direct access to mirror the VRET program. Arguments for retaining VRET Condition 6 are based on the preconception that a VRET program will compete with direct access. This is not necessarily the case. As described by Oregon Citizen's Utility Board (CUB), direct access consumers are those that are willing to leave the utility's cost-of-service and the arguments presented are superficial in nature and fail to undertake any real analysis of the programs.³

Furthermore, retention of VRET Condition 9 mitigates against any risk to the competitive market in Oregon. The Commission has the authority to review new VRET programs and reject those programs if there are valid concerns of interference with the competitive retail market. To retain a VRET condition that creates an inherent disadvantage to the utility only limits development of programs designed to meet customer desires for additional renewable generation.

Staff's proposed condition would inappropriately require the utility to both differentiate and align a VRET program from, and to, direct access. Staff proposes that VRET Condition 6 be revised to state:

VRET terms and conditions must fairly account for differences from Direct Access programs. The Utility may propose terms and conditions that differ from current Direct Access provisions, but must provide evidentiary support for those differences and must consider changes to their direct access programs to match such VRET terms and conditions, as appropriate.⁴

³ CUB Opening Brief at 11-12.

⁴ Staff Opening Brief at 12.

This language places the entire burden on the utility to both develop a program distinct from direct access (VRET Condition 5) and prove that any distinction is justified. Then, the utility must consider changes to its direct access program. There is no clarity regarding what level of support would be required for the filing. More importantly, this condition would effectively nullify prior Commission findings, and the extensive analysis of any risk of unwarranted cost shifting, to justify a VRET.⁵

Alternatively, Staff suggests that VRET Condition 6 be revised to essentially require that a VRET program must match the terms of direct access. This alternative, on its face, contradicts VRET Condition 5. It also limits potential expansion to address other customer demands.

B. The Commission Should Revise the VRET Condition 7 and Allow Future Commissions to Review Proposed VRET Resource Ownership Proposals in the Context of Then Current Conditions

PacifiCorp continues to support PGE’s proposed revisions to VRET Condition 7. VRET Condition 7 currently allows for utility ownership of a resource, but prohibits inclusion in the utility’s rate base. PGE’s proposed revision would simplify the condition and allow for the Commission to review proposals in context, rather than preclude creative solutions to serving Oregon customer loads with renewable energy. Concerns over cross-subsidization creating a barrier to the retail market are already addressed by VRET Condition 8.

Staff remains concerned that the utility’s size, access to cheaper capital, and regulated utility status results in an unfair competitive advantage.⁶ Staff proposes a modification to PGE’s proposal to allow the Commission to consider whether the offering creates a barrier to the retail competitive market.⁷ PacifiCorp understands the basis for Staff’s proposed modification, but the

⁵ SB 1149, Sec. 8; ORS 757.607(1) (“provision of direct access to some retail electricity customers *must* not cause the unwarranted shifting of costs to other retail electricity consumers of the electric company.” *emphasis added*).

⁶ *Id.* at 14.

⁷ *Id.*

standard for review is unclear—meaning this condition could lead to unnecessarily prolonged litigation.

Staff’s proposed modification would require the Commission to make a determination regarding wholesale power and renewable resource markets, along with the capitalization of entities within and outside the Commission’s jurisdiction. Further, it is unclear what retail market participant should be used for comparison, large entrants such as Calpine, NextEra, or other possible smaller power marketers. Staff’s modification could effectively end development of a VRET simply because there is no way to effectively show the relative positions of market participants that don’t have the same level of transparency before the Commission.

III. CONCLUSION

The Commission should reject the arguments that modifications to the nine VRET Conditions are not appropriate and adopt PGE’s proposed modifications to provide additional consumer options for service by 100 percent renewable energy.

Dated this 13th day of November, 2020.



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