

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1355

In the Matter of the

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation into Forecasting Forced Outage
Rates for Electric Generating Units.

NOTICE OF INTENT TO MODIFY
STIPULATIONS AND ESTABLISH
RATE CALCULATION

The Public Utility Commission of Oregon (Commission), pursuant to OAR 860-012-0035(j), provides notice to the parties of its intention to adopt the Stipulations settling all of the issues in the case relative to Portland General Electric Company (PGE) and Idaho Power Company (Idaho Power), subject to certain specific modifications, and to modify and insert additional language into the Partial Stipulation relative to PacifiCorp, dba Pacific Power (PacifiCorp) settling certain open issues. The modifications in this Notice set forth the methodology for addressing extraordinary forced outages in the calculation of rates for coal-fired thermal generating facilities.

This Notice also sets a date ten days subsequent to the issuance of this Notice by which the parties must notify the Commission of their intention to reject the intended changes and assert their rights to a hearing pursuant to OAR 860-014-0085(6).

INTRODUCTION

As the parties are aware, three stipulations have been filed to resolve outstanding issues in this investigation. PGE, the Citizens' Utility Board (CUB), the Industrial Customers of Northwest Utilities (ICNU), and the Commission Staff (Staff) filed a Stipulation Regarding All Issues for PGE (PGE Stipulation); Idaho Power, CUB, ICNU, and Staff filed an Idaho Power Stipulation, resolving all issues for Idaho Power; and PacifiCorp, CUB, ICNU, and Staff filed a Partial Stipulation (PacifiCorp Partial Stipulation) resolving some, but not all issues in the case.

The PGE Stipulation and Idaho Power Stipulation each contain provisions for the treatment of forced outages of exceptionally long duration when calculating rates. The relevant portion of the PGE Stipulation, paragraph 2.d., reads as follows:

FOR “Collar”: The Stipulating Parties agree that the Forced Outage Rate collar method using the 10th and 90th percentile figures of comparable NERC coal units¹ results in an acceptable proxy for a unit’s FOR, should that unit’s annual FOR fall outside the 10th or 90th percentile. The percentiles will be based on the distribution of the merged NERC data for the most recently available four-year period. This methodology does not imply “imprudence,” and it is not intended to be used in the future to determine imprudence. * * *. The Stipulating Parties agree that, should the NERC sample change significantly, the efficacy of the collar will be revisited.

The relevant portion of the Idaho Power Stipulation, paragraph 5.c., reads as follows:

Exclusion of Extreme Events for Coal Units. The Parties agree that, should a unit’s annual FOR fall outside the 10th or 90th percentile of comparable NERC coal units, Staff’s FOR benchmark method² will be applied to that unit’s FOR. The 10th or 90th percentiles will be based on the distribution of the merged NERC data for the most recently available four-year period. The Parties agree that this methodology does not demonstrate either ‘prudence’ or ‘imprudence’ of any utility action or expenditure. Parties further agree that, should the NERC sample change significantly, the Parties will revisit the efficacy of the benchmark.

The PacifiCorp Partial Stipulation did not address the question of forced outages of extraordinary duration. Rather, in its Opening Brief, PacifiCorp stated in pertinent part:

Two issues in the case remain unresolved as applied to PacifiCorp: (1) the appropriate method for excluding extreme events/outliers from the forced outage rate forecast for coal units to increase forecast accuracy; * * * PacifiCorp proposes to address extreme events in its outage rate forecasting using the approach the Commission applied to PacifiCorp in UE 191; excluding outage events in excess of 28 days from the calculation of forced outage and replacing the excluded outage hours with like hours from the time period which immediately preceded the outage.³

¹ This agreed-upon methodology, admitted into the record, is set forth in Staff/200, Brown/8-15.

² *Id.*

³ PacifiCorp Opening Brief at 1-2.

DISCUSSION

1. Revisions to the Stipulations

The Commission generally favors the settlement of disputes among the parties by stipulation and will approve such agreed-upon provisions, provided that the parties fairly represent the broad interests of the public and that the terms and conditions of the settlement are in the public interest. Having reviewed the record in this case and the evidence supporting the stipulations, the Commission finds the stipulations to be reasonable and in the public interest with one exception. With respect to the methodology for the regulatory treatment of extraordinary forced outages, the Commission has concluded that the methods described in Staff/200, Brown/8-15, may be made yet more accurately predictive, and that an alteration should be made to the terms of the PGE Stipulation and Idaho Power Stipulation.

Specifically, the Commission has decided that the stipulated provisions identified above should be replaced with the following:

Paragraph 2.d. of the PGE Stipulation and paragraph 5.c. of the Idaho Power Stipulation should be amended by deleting the present provision in its entirety and replacing it with the following:

FOR “Collar”: The Parties agree that for each year in which a coal fired unit’s annual FOR falls outside the 10th or 90th percentile of comparable NERC coal units, the methodology for calculating the forced outage rate shall be as set forth in Staff/200, Brown 8-15, except that, instead of adjusting the FOR to the 10th or 90th percentile values for the calendar year, the mean annual FOR from the unit’s entire historical data shall be substituted. This methodology does not imply “imprudence,” and it is not intended to be used to determine imprudence. If the Commission, however, finds that any plant outage is due to utility imprudence, the FOR for that calendar year would be replaced in the four-year rolling average by the historical mean annual FOR for the unit. Furthermore, for any determination of imprudence related to an outage made after a final order is issued in this docket, the FOR for the calendar year of the outage will not be included in the calculation of the historical mean annual FOR.

With respect to the PacifiCorp Partial Stipulation, paragraph 6, page 2, lines 22-23 should be amended to read as follows: “The Parties agree to litigate the following issue in

UM 1355: heat rate curve-minimum deration.” Appendix A to the PacifiCorp Partial Stipulation should be amended by adding the identified paragraph above.

2. Impact of Intended Revisions Upon the Stipulations

By notifying the Parties of its intention to replace the identified provisions of the Stipulations, the Commission has rejected those Stipulations in part. Each of the Stipulations contains provisions dealing with this or a similar contingency. The PGE Stipulation provides in pertinent part as follows:

7. If the Commission rejects all or any material part of this Stipulation, or adds any material condition to any final order which is not contemplated by this Stipulation, each Stipulating Party reserves the right to withdraw from this Stipulation upon written notice to the Commission and the other Stipulating Parties within (5) business days of service of the final order that rejects this Stipulation or adds such material condition.

The Idaho Power Stipulation provides in pertinent part as follows:

10. The Parties have negotiated this Stipulation as an integrated document. If the Commission rejects all or any material portion of this Stipulation or imposes material additional conditions in approving this Stipulation, any Party disadvantaged by such action shall have the rights provided in OAR 860-014-0085 and shall be entitled to seek reconsideration or appeal of the Commission’s Order.

The PacifiCorp Partial Stipulation provides in pertinent part as follows:

10. The Parties have negotiated this Partial Stipulation as an integrated document. If the Commission rejects all or any material portion of this Partial Stipulation or imposes additional material conditions in approving this Partial Stipulation, any Party disadvantaged by such action shall have the rights provided in OAR 860-014-0085 and shall be entitled to seek reconsideration or appeal of the Commission’s Order.

All of the Stipulations refer to the issuance of a “Commission Order” or “Final Order” as the triggering event for the invocation of the provisions cited above. However, the Commission intends that this Notice serve as the means to trigger such provisions and remove any ambiguity from the question as to whether any Party is entitled to exercise its rights under those provisions at this time.

RULING

The Parties to the PGE Stipulation are hereby immediately entitled to exercise their rights under paragraph 7 of the PGE Stipulation.

The Parties to the Idaho Power Stipulation are hereby immediately entitled to exercise their rights under paragraph 10 of the Idaho Power Stipulation.

The Parties to the PacifiCorp Partial Stipulation are hereby immediately entitled to exercise their rights under paragraph 10 of the PacifiCorp Partial Stipulation.

The Parties shall notify the Commission no later than ten (10) days from the date of this Notice as to whether they intend to exercise their rights under OAR 860-014-0085 and seek additional proceedings. Failure to advise the Commission of such intention shall be deemed a waiver of those rights.

Dated at Salem, Oregon, this 7th day of October, 2009.



Allan J. Arlow
Administrative Law Judge