

**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

In the Matter of)	
PacifiCorp, dba Pacific Power,)	Docket No. UE-352
2019 Renewable Adjustment)	
Clause)	

Opening Testimony of Kevin C. Higgins

on behalf of

Calpine Energy Solutions, LLC

April 2, 2019

1 **OPENING TESTIMONY OF KEVIN C. HIGGINS**

2

3 **Introduction**

4 **Q. Please state your name and business address.**

5 A. My name is Kevin C. Higgins. My business address is 215 South State
6 Street, Suite 200, Salt Lake City, Utah, 84111.

7 **Q. By whom are you employed and in what capacity?**

8 A. I am a Principal in the firm of Energy Strategies, LLC. Energy Strategies
9 is a private consulting firm specializing in economic and policy analysis
10 applicable to energy production, transportation, and consumption.

11 **Q. On whose behalf are you testifying in this phase of the proceeding?**

12 A. My testimony is being sponsored by Calpine Energy Solutions, LLC
13 ("Calpine Solutions"). Calpine Solutions is a retail energy supplier that serves
14 commercial and industrial end-use customers in 18 states, the District of
15 Columbia, and Baja California, Mexico. Calpine Solutions serves more than
16 15,000 retail customer sites nationwide, with an aggregate load in excess of 4,500
17 MW. Calpine Solutions' retail customers are located in the service territories of
18 more than 55 utilities. In Oregon, Calpine Solutions is an Electricity Service
19 Supplier ("ESS") serving customers in the service territories of PacifiCorp and
20 Portland General Electric ("PGE").

21 **Q. Please describe your professional experience and qualifications.**

22 A. My academic background is in economics, and I have completed all
23 coursework and field examinations toward a Ph.D. in Economics at the University

1 of Utah. In addition, I have served on the adjunct faculties of both the University
2 of Utah and Westminster College, where I taught undergraduate and graduate
3 courses in economics. I joined Energy Strategies in 1995, where I assist private
4 and public sector clients in the areas of energy-related economic and policy
5 analysis, including evaluation of electric and gas utility rate matters.

6 Prior to joining Energy Strategies, I held policy positions in state and local
7 government. From 1983 to 1990, I was economist, then assistant director, for the
8 Utah Energy Office, where I helped develop and implement state energy policy.
9 From 1991 to 1994, I was chief of staff to the chairman of the Salt Lake County
10 Commission, where I was responsible for development and implementation of a
11 broad spectrum of public policy at the local government level.

12 **Q. Have you ever testified before this Commission?**

13 A. Yes. I have testified in twenty-nine prior proceedings in Oregon,
14 including ten previous PacifiCorp Transition Adjustment Mechanism (“TAM”)
15 proceedings, UE 339 (2019 TAM), UE 323 (2018 TAM), UE 307 (2017 TAM),
16 UE 296 (2016 TAM), UE 264 (2014 TAM), UE 245 (2013 TAM), UE 227 (2012
17 TAM), UE 216 (2011 TAM), UE 207 (2010 TAM), and UE 199 (2009 TAM). I
18 have also participated in six PacifiCorp general rate cases, UE 263 (2013), UE
19 246 (2012), UE 210 (2009), UE 179 (2006), UE 170 (2005), and UE 147 (2003),
20 as well as the PacifiCorp Five-Year Opt-Out case, UE 267 (2013).

21 In addition, I have testified in six previous PGE general rate cases, UE 335
22 (2018), UE 283 (2014), UE 262 (2013), UE 215 (2010), UE 197 (2008), and UE
23 180 (2006). In addition, I testified in the PGE green tariff case (UM 1953), PGE

1 Opt-Out case, UE 236 (2012) and the PGE restructuring proceeding, UE 115
2 (2001).

3 I also testified in the Investigation into PacifiCorp's Non-Standard
4 Avoided Cost Pricing, UM 1802 (2017), the 2017 Inter-Jurisdictional Allocation
5 proceeding, UM 1050 (2016) and Phase II of the Investigation into Qualifying
6 Facility Contracting and Pricing, UM 1610 (2015).

7 **Q. Have you testified before utility regulatory commissions in other states?**

8 A. Yes. I have testified in approximately 220 proceedings on the subjects of
9 utility rates and regulatory policy before state utility regulators in Alaska,
10 Arizona, Arkansas, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky,
11 Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, New York,
12 North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Utah,
13 Virginia, Washington, West Virginia, and Wyoming. I have also prepared
14 affidavits that have been filed with the Federal Energy Regulatory Commission.
15

16 **Overview and Conclusions**

17 **Q. What is the purpose of your testimony in this proceeding?**

18 A. My testimony addresses PacifiCorp's proposal to expand the applicability
19 of the Company's Renewable Adjustment Clause ("RAC") to include direct
20 access customers. Customers taking direct access service obtain their energy
21 requirements from a competitive supplier while continuing to purchase
22 distribution service from the utility. I am not offering an opinion on any other
23 aspect of the Company's RAC proposal.

1 **Q. What are the primary recommendations in your testimony?**

2 A. The RAC charges should not apply to those customers who began taking
3 direct access service in the five-year opt-out program prior to January 1, 2019,
4 because the production tax credit (“PTC”) benefits that will result from the
5 projects that PacifiCorp proposes to include in the RAC in this proceeding were
6 not included in the transition adjustment established for those customers.

7 In addition, absent demonstrable evidence that PacifiCorp included the
8 projected *increases* in PTC benefits from repowered or new wind projects that are
9 expected to occur after 2019 in the Schedule 296 transition adjustment for the
10 2019 TAM, five-year opt-out customers that may become subject to the RAC as a
11 result of this proceeding (e.g., customers taking opt-out service effective January
12 1, 2019) should not be subject to any *increases* in the RAC after the initial RAC is
13 adopted.

14 Finally, for those direct access customers participating in the Company’s
15 five-year opt-out program that may become subject to the RAC charges as a result
16 of this proceeding, the RAC charges should no longer apply once the customer
17 has reached the end of its five-year transition period, as opt-out customers should
18 not be subject to incremental costs associated with new PacifiCorp generation
19 assets after the customer’s transition period is completed.

20

21 **Renewable Adjustment Clause and Direct Access Service**

22 **Q. What is the RAC?**

1 A. The RAC is a mechanism that allows PacifiCorp to recover costs
2 associated with the construction or acquisition of facilities that produce electricity
3 from renewable energy resources. The RAC allows the Company to recover
4 prudent increases in these costs prior to these costs being rolled into base rates
5 pursuant to a general rate case. The RAC was authorized by the Commission in
6 response to the renewable portfolio mandate established by the 2007 Oregon
7 Renewable Energy Act, S.B. 838 (“the Act”). The Act requires all utilities to meet
8 specified percentages of their Oregon load with electricity generated by eligible
9 renewable resources.¹

10 In its currently approved form, the RAC is a cents-per-kWh charge levied
11 on the energy usage of all customers who receive their entire electric service
12 requirements from PacifiCorp.² Currently, the RAC charge is set at zero.

13 **Q. What does PacifiCorp propose with respect to RAC cost recovery in this case**
14 **as it pertains to direct access customers?**

15 A. The Company proposes to expand the applicability of the RAC charges to
16 include direct access customers.³

17 **Q. What is direct access service?**

18 A. Under a retail direct access program, the direct access customer continues
19 to use the utility’s distribution system but does not use the utility as its power
20 supplier, but instead obtains energy from another supplier. Oregon’s direct access
21 law requires that all nonresidential retail customers be allowed direct access to

¹ Oregon Public Utility Commission Order No. 07-572, entered Dec 19, 2007.

² Pacific Power, Oregon Schedule 202.

³ Direct Testimony of Etta P. Lockey, p. 5.

1 competitive markets by purchasing generation services from Commission-
2 certified ESSs.⁴

3 **Q. What is PacifiCorp's justification for requiring direct access customers to**
4 **pay the RAC charge?**

5 A. PacifiCorp witness Etta P. Lockey states that direct access customers
6 should pay for renewable generation resources through the RAC because these
7 customers receive a benefit from the inclusion of the PTCs in the calculation of
8 the transition adjustment that they pay.⁵

9 **Q. What is the transition adjustment?**

10 A. Oregon's direct access law requires the Commission to implement rates
11 that charge or credit the direct access customer an amount related to the utility's
12 stranded generation assets that prevents "unwarranted shifting of costs."⁶ This
13 charge or credit is implemented through the transition adjustment.

14 In PacifiCorp's service territory, the transition adjustment is applied either
15 through Schedule 294, Schedule 295, or Schedule 296. Schedule 294 is applied to
16 customers who choose a one-year direct access option, Schedule 295 is applied to
17 customers who choose a three-year direct access option, and Schedule 296 is
18 applied to customers who select the five-year opt-out that was authorized in UE-
19 267.

20 **Q. How is PacifiCorp's transition adjustment mechanism for Schedules 294 and**
21 **295 calculated?**

⁴ See ORS 757.600(6), (16), -601(1), -649(1)(a).

⁵ Direct Testimony of Etta P. Lockey, p. 5

⁶ ORS 757.607(1), (2).

1 A. PacifiCorp's transition adjustment charges (or credits) direct access
2 customers the difference between PacifiCorp's net power cost (as reflected in
3 Schedule 201) and the estimated market value of the electricity that is freed up
4 when a customer chooses direct access service.⁷ This is calculated by subtracting
5 the former from the latter, after adjusting the latter for line losses to reflect its
6 value at the point of retail delivery. If the result is a positive number, the
7 difference is applied as a credit to the direct access customer. If the result is a
8 negative number, the difference is applied as a charge to the direct access
9 customer.

10 **Q. If Schedule 294 or 295 is a credit, does that mean that PacifiCorp's**
11 **generation costs are less expensive than the market and that direct access**
12 **customers are being paid to leave cost-of-service rates?**

13 A. No. PacifiCorp direct access customers participating in the one-year and
14 three-year programs must continue to pay for the Company's fixed generation
15 costs through Schedule 200 at the same rate charged to cost-of-service customers.
16 A Schedule 294 credit simply means that the Company's *net power costs* are less
17 than market prices. Only if the Schedule 294 credit were greater than the
18 Schedule 200 charge could it be accurate to state that direct access customers
19 were being "paid" to leave cost-of-service rates. That is far from the case today.
20 For example, PacifiCorp's 2019 Schedule 295 rate for Schedule 48-P is a credit of

⁷ Direct access customers in PacifiCorp's service territory already pay for the Company's fixed generation costs through Schedule 200. Thus, the transition adjustment is calculated by subtracting *net power costs* from the value of freed-up energy rather than subtracting *total generation costs* from the value of freed-up energy. Calculating the transition adjustment in this manner is logically equivalent to subtracting total generation costs from the value of freed-up energy while *not* charging direct access customers for Schedule 200.

1 \$11.54/MWh during Heavy Load Hours and a credit of \$11.34/MWh during Light
2 Load Hours, while the Schedule 200 charge for this rate schedule in 2019 is
3 \$24.43/MWh on-peak and \$23.93/MWh off-peak, *plus* a demand charge of
4 \$1.87/kW-month.⁸ Thus, the Schedule 200 charge is far greater than the
5 transition adjustment credit, meaning that the direct access customer makes a net
6 payment to PacifiCorp for generation resources (that the customer does not use).

7 **Q. How is PacifiCorp's transition adjustment mechanism for Schedule 296**
8 **calculated?**

9 A. Schedule 296 is applicable to customers in the five-year opt out program
10 and consists of two major parts: (1) a five-year transition adjustment component
11 that structurally is nearly identical to the calculation of the Schedule 294 and 295
12 transition adjustments, and (2) a Consumer Opt-Out component, which brings
13 forward into Years 1 through 5 the projected Schedule 200 costs for Years 6
14 through 10 after the opt-out election, net of projected net power costs savings
15 attributed to the departed opt-out load.

16 In addition to the Schedule 296 charge, the customer must also pay
17 PacifiCorp the base Schedule 200 charge during Years 1 through 5 after the opt-
18 out election, which may be updated in each rate case during that period.

19 From the effective date of the opt-out election forward, the customer also
20 pays charges for the generation and delivery that the customer will use to serve its
21 load, which includes payments to an ESS for the generation and to PacifiCorp for
22 delivery service under an applicable delivery service tariff.

⁸ Sources: PacifiCorp tariff.

1 **Q. What is your reaction to the Company's proposal to recover RAC costs from**
2 **direct access customers?**

3 A. The Company's proposal requires clarification and modification.
4 Specifically, RAC charges should not be recovered from direct access customers
5 in PacifiCorp's five-year opt-out program once a customer has reached the end of
6 the five-year transition period. Further, the RAC charges should not apply to
7 customers that began taking direct access service in the five-year opt-out program
8 prior to January 1, 2019.

9 **Q. What is distinctive about the five-year opt-out program?**

10 A. Currently, PacifiCorp offers one-year, three-year, and five-year direct
11 access programs. PacifiCorp's five-year opt-out program was initiated for
12 service commencing on January 1, 2016. Direct access customers that are not in
13 the five-year program must return to cost-of-service at the conclusion of a one-
14 year or three-year term, depending on the program selected, or else elect a new
15 one-year or three-year term, which would require them to continue to pay
16 Schedule 200 generation charges and be subject to the transition adjustment.
17 Under this regime, the customer never stops paying for PacifiCorp's generation
18 resources.

19 In contrast, a customer in the five-year opt out program is subject to
20 Schedule 200 charges and transition adjustments, inclusive of the consumer opt-
21 out charge, for five years, after which these generation-related charges are
22 terminated. After the conclusion of the five-year transition period, the customer
23 no longer pays PacifiCorp for generation-related service.

1 **Q. Please explain the reasons for your proposed modifications to the Company’s**
2 **proposal as it pertains to direct access customers.**

3 A. I acknowledge that direct access customers receive some credit for PTCs
4 in the calculation of the transition adjustment, but for five-year opt out customer
5 the benefit is distinct from the benefits that cost-of-service customers receive.
6 PTC benefits find their way into the transition adjustment for direct access
7 customers through the Company’s forecast of net power costs. Notably, for a
8 customer entering the five-year opt-out program, the net power cost projection is
9 “locked in” at the outset of the transition period. Thus, while the PTC benefits
10 that are projected at the time the transition adjustment is calculated are included in
11 the Schedule 296 transition adjustment for a given vintage of the five-year opt-out
12 program, once the net-power-cost component of the transition adjustment is set
13 for a given vintage, it is not updated later to take account of new PTCs that might
14 be brought into rates when a new PTC-eligible project comes into service. This
15 means that a five year opt-out customer does not receive the benefit of new PTCs
16 that accrue to the Company (and its customers) once the five-year transition
17 period has started for that customer – unless the PTC-eligible projects were
18 specifically accounted for over the entire five-year period when the transition
19 adjustment was calculated. This latter condition is not likely to be true in many
20 cases. For example, the PTC benefits from the Energy Vision 2020 projects were
21 not included in the transition adjustment prior to the 2019 TAM and therefore are
22 not included as a benefit to any customer taking service under the five-year opt-
23 out program prior to January 1, 2019. For this reason, I recommend *against*

1 applying any RAC charges to direct access customers that started their five-year
2 transition period prior to January 1, 2019.

3 At the same time, for customers entering the transition period *on and after*
4 January 1, 2019, care must be taken to ensure that the calculation of the transition
5 adjustment includes all projected PTC benefits (including new PTC benefits) that
6 are expected to accrue during the five-year transition period; otherwise it would
7 not be appropriate to subject these customers to any increases in the RAC charge
8 during the five-year transition period. At the current time, I see no evidence that
9 PacifiCorp included any projected *increases* in PTC benefits from repowered or
10 new wind projects after 2019 that were incorporated into the Schedule 296
11 transition adjustment for the 2019 TAM. Absent such demonstrable evidence,
12 five-year opt-out customers that may become subject to the RAC as a result of
13 this proceeding (e.g., customers taking opt-out service effective January 1, 2019)
14 should not be subject to any *increases* in the RAC after the initial RAC is
15 adopted.

16 Further, for those direct access customers participating in the Company's
17 five-year opt-out program that may become subject to the RAC charges as a result
18 of this proceeding, the RAC charges should cease once a customer's five-year
19 transition period has ended. Since the RAC is designed to recover "newly-
20 incurred" renewable-energy costs prior to their inclusion in base rates, it would be
21 improper to assign such incremental generation costs to opt-out customers at the
22 conclusion of the five-year transition period.

1 **Q. Are direct access customer loads subject to the Oregon Renewable Portfolio**
2 **Standard (“RPS”) requirements?**

3 A. Yes. It is the responsibility of the ESSs serving direct access customers to
4 meet the RPS requirements. But in recognition of the fact that direct access
5 customers pay for the cost of PacifiCorp’s RPS-related power in their transition
6 charges, the Commission has approved a protocol in which Renewable Energy
7 Certificates (‘RECs’) are transferred from PacifiCorp to ESSs to account for the
8 migration of direct access load. The transfer occurs for a period of ten years to
9 correspond to the time period used for calculating the consumer opt-out charge.

10 **Q. If the REC transfers occur for ten years, why should the RAC charges**
11 **terminate after five years?**

12 A. The consumer opt-out charge is calculated over ten years, but is recovered
13 over five years. The calculation of the consumer opt-out charge includes the
14 projected cost of fixed generation costs and net power cost (including RPS-power
15 and offsets) for years 6 through 10 after the customer has opted out. However,
16 the consumer opt-out charge is not intended to include the cost of *newly-installed*
17 generation from years 6 through 10. Since by design, the RAC charge applies
18 only to *new* RPS-related costs that are incurred between rate cases, the RAC
19 charge should not be levied on an opt-out customer after year 5. Just as
20 incremental Schedule 200 costs for newly acquired generation resources should
21 cease after year 5,⁹ so should the RAC charge cease.

⁹ For a five-year opt-out customer, Schedule 200 does cease after five-years, but projected Schedule 200 costs, excluding the cost of new generation plant, is included in the consumer opt-out charge for years 6 through 10.

1 **Q.** **Please summarize your recommendations with respect to PacifiCorp's**
2 **proposal to update the applicability of the RAC to include direct access**
3 **customers.**

4 A. I offer the following three recommendations:

5 (1) The RAC charges should not apply to those customers who began
6 taking direct access service in the five-year opt-out program prior to January 1,
7 2019.

8 (2) Absent demonstrable evidence that PacifiCorp included the projected
9 *increases* in PTC benefits from repowered or new wind projects that are expected
10 to occur after 2019 in the Schedule 296 transition adjustment for the 2019 TAM,
11 five-year opt-out customers that may become subject to the RAC as a result of
12 this proceeding (e.g., customers taking opt-out service effective January 1, 2019)
13 should not be subject to any *increases* in the RAC after the initial RAC is
14 adopted.

15 (3) For those direct access customers participating in the Company's five-
16 year opt-out program that may become subject to the RAC charges as a result of
17 this proceeding, the RAC charges should no longer apply once the customer has
18 reached the end of its five-year transition period.

19 **Q.** **Does this conclude your testimony?**

20 A. Yes, it does.