

BEFORE THE PUBLIC UTILITY COMMISSION**OF OREGON**

UM 1729

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Updates Standard Avoided Cost Purchases
from Eligible Qualifying Facilities.

ORDER

DISPOSITION: MOTION FOR EMERGENCY INTERIM RELIEF DENIED

I. SUMMARY

In this order, we deny the motion for emergency interim relief filed by PacifiCorp, dba Pacific Power, because no specific or imminent customer harm has been alleged associated with the final adopted avoided cost values. In denying the motion, we do not preclude PacifiCorp from seeking future relief to prevent substantiated harm. Below we review the standards applicable to grants of relief from Commission orders, and outline the information we expect to be presented in any future request for relief. We also explain our intent to address the issues described by PacifiCorp associated with low-cost renewable resources and higher-cost, formula driven non-renewable avoided cost pricing in a future investigation.

II. BACKGROUND AND PROCEDURAL HISTORY**A. Updated Avoided Costs and Motion for Emergency Relief**

On April 26, 2018, PacifiCorp filed updated avoided cost prices and a concurrent motion for emergency interim relief in this docket. In its motion, PacifiCorp highlighted that “updated renewable prices—which are calculated based on the wind resources identified in PacifiCorp’s 2017 IRP for acquisition by the end of 2020—are significantly lower than the non-renewable prices—which are based on a natural-gas-fired combined-cycle combustion turbine plant (CCCT) to be acquired in 2030.”¹

PacifiCorp’s emergency request for relief would require that all eligible qualifying facilities (QFs) seeking standard power purchase agreements (PPAs) from PacifiCorp receive

¹ PacifiCorp Motion for Emergency Interim Relief at 2 (Apr 26, 2018).

renewable avoided cost prices, “because these prices most accurately reflect the cost PacifiCorp will avoid by purchasing these QFs’ output and prevents harm to customers by maintaining customer indifference as required under PURPA.”² Currently, renewable QFs may choose between renewable and non-renewable pricing.

B. July 17 Public Meeting and Order

At the July 17, 2018 Public Meeting, we reviewed various options for PacifiCorp’s avoided cost values, and considered two major issues: (1) PacifiCorp’s capacity sufficiency/deficiency date; and (2) the potential inclusion of transmission costs which are tied to PacifiCorp’s Energy Vision 2020 projects as part of avoided cost prices.

Following questioning of PacifiCorp, Staff, and the Northwest Intermountain Independent Power Producers, we ultimately decided:

1. PacifiCorp’s renewable deficiency date would be set at 2021, the year by which PacifiCorp will add new wind capacity. The effective date for the prices was set for July 24, 2018.
2. We would adopt PacifiCorp’s proposal reflected in its filing, which did not include transmission costs in avoided cost values.

We ordered PacifiCorp to file revised avoided costs reflecting the Commission’s direction. At the end of the deliberation, we briefly discussed, but did not decide the emergency relief decision. Although the effect of our decision to adopt a renewable deficiency date of 2021 mitigated some concerns raised in PacifiCorp’s motion, one of PacifiCorp’s avoided cost streams still has non-renewable avoided cost prices higher than renewable avoided cost prices for wind resources.

We have decided the emergency relief issue should be decided as a contested case proceeding. Accordingly, the emergency relief issue is now before us for decision.

C. Revised Pricing

To comply with our decisions made at the July 17, 2018 Public Meeting, PacifiCorp filed revised pricing as follows:

² *Id.*

7-20-2018	Non-Renewable	Renewable
	Revised	Revised
Baseload	\$37.32	\$41.05
Wind	\$34.60	\$28.98
Fixed Solar	\$41.59	\$50.26
Tracking Solar	\$41.83	\$52.33

As the table above demonstrates, non-renewable revised wind pricing is significantly lower than renewable revised wind pricing. As a result, a QF wind project could choose the higher-value, non-renewable pricing option, over the lower renewable pricing, while not surrendering the Renewable Energy Certificates (RECs) from the facility to PacifiCorp during resource deficiency. PacifiCorp argues this non-renewable price does not accurately reflect avoided costs. Solar and baseload renewable values remain higher than non-renewable values.

D. Parties' Positions

According to PacifiCorp, the assumption underlying the choice between renewable and non-renewable price streams approved by the Commission, was the idea that renewable resources would be more expensive than conventional resources. PacifiCorp argues that it is no longer necessary for renewable QFs to have the option to select between the price streams, because of price parity and the fact that avoided cost prices now more accurately incorporate renewable capacity contribution. From PacifiCorp's perspective, keeping the choice in place would create an improper windfall for renewable developers. PacifiCorp notes we have wide authority to review previous decisions and uses its powers to protect customers. PacifiCorp also asserts that allowing the choice to remain in place would be contrary to FERC regulatory requirements from the Federal Energy Regulatory Commission (FERC) requiring customer indifference.

Staff largely agrees with PacifiCorp's discussion of the reasoning behind the choice approved by the Commission, and suggests pricing changes necessitate a methodological change. Staff states it does not typically support changing Commission PURPA implementation policies during an avoided cost review, but agrees with PacifiCorp that relief is warranted because of potential harm.

Renewable Northwest (RNW) opposes PacifiCorp's motion, on the grounds that granting the requested relief would not allow for a process giving "affected parties, stakeholders, and the Commission the opportunity to properly consider the significant implications of PacifiCorp's request * * *."³ RNW argues it is not appropriate for the Commission to make

³ Renewable NW Comments at 1 (May 11, 2018).

methodological changes to PURPA implementation absent an investigation or other policy-focused proceeding. RNW provided examples of granted emergency motions in the past, and argues they did not address weighty policy questions. RNW recommends PacifiCorp ask the Commission to open a new docket to address avoided cost methodology, but not propose a methodological change in a motion.

The Community Renewable Energy Association (CREA) and the Renewable Energy Coalition (Coalition) oppose the motion. They note we previously rejected PacifiCorp's position when we adopted the option for renewable or non-renewable rates for QFs. CREA and the Coalition agree with RNW that an emergency motion is not the proper method for resolving a major policy change. They assert that FERC's standards allow for a jurisdiction to have numerous options for calculating avoided cost rates, and they argue that a change of policy in this area would require a rulemaking. CREA and the Coalition state we have previously ruled that methodological changes to our implementation of PURPA outside of generic investigations have not been permitted in the past. Ultimately, CREA and the Coalition argue the Commission relies on the Administrative Procedure Act to consider immediate relief from existing orders, and this requires a showing of irreparable harm and a claim of error.

PacifiCorp responds that we have extensive authority to act to protect customers from harm, and says that parties mischaracterize its request, in that it does not seek a major methodological change, and its request is limited to interim relief. Like RNW, CREA, and the Coalition, PacifiCorp supports the opening of a docket to address avoided-cost methodology, but requests we act now, granting the requested relief to prevent customer harm. PacifiCorp notes we granted emergency relief from PURPA requirements reflected in orders in the past, and points to our order in docket UM 1734, granting relief to lower the eligibility threshold for standard QFs' PPAs as an analogous example.

III. DISCUSSION

The Commission has broad authority to prevent customer harm. Our general powers include making use of "the jurisdiction and powers of the office to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service and fair and reasonable rates."⁴ This authority includes the power to suspend orders and waive rules for good cause.

We find that a grant of interim relief from an established methodology is not the same as a permanent methodological change. As PacifiCorp emphasized in its filings, the relief for solar standard contract eligibility we authorized in UM 1734 was interim while the larger

⁴ ORS 756.040 (1).

methodological changes were contemplated through regular process. Although we share CREA's and the Coalition's belief that methodological changes should occur through investigation and decision, that does not foreclose interim requests for relief from a specific methodology.

Our prior decisions to grant interim relief, however, have been predicated on expected harm. For example, we have granted relief to utilities from solar standard contract eligibility requirements largely due to significant volumes of requests from QF developers. In these past cases, the utilities identified and described potential harm to customers absent relief. For example, in its request for relief in docket UM 1734, PacifiCorp pointed to concrete examples of QF project development, describing the scale of harm potentially affecting customers.⁵ Portland General Electric Company was granted the same interim relief after describing in detail the potential for customer harm and calculating costs based on received QF projects at various contracting stages.⁶ Idaho Power Company's application for standard contract PPA relief included the following detailed description of potential, imminent customer harm:

More importantly for this filing, the Company has an additional 1,326 MW of solar capacity actively seeking PURPA contracts, 245 MW of which are in Oregon. On April 8, 2015, one project developer made formal requests, under the Company's Oregon Schedule 85 for standard QF contracts for 5 new QF solar projects totaling 40 MW. When this new and expected solar generation is added to the Company's wind (and other) QF generation on-line and under contract, Idaho Power's total PURPA obligation will be over 2,400 MW, and its overall financial obligation under PURPA will be close to \$6.5 billion over the life of the PURPA contracts.⁷

Alleged harm need not be as stark as that described by Idaho Power in its 2015 interim relief filing, but it should be concrete and imminent as opposed to generalized and lacking specificity.

⁵ *In the Matter of PACIFICORP, dba PACIFIC POWER's Application to Reduce the Qualifying Facility Contract Term and Lower the Qualifying Facility Standard Contract Eligibility Cap*, Docket No. UM 1734, PacifiCorp Motion for Interim Relief at 3 (Jul 9, 2015).

⁶ *In the Matter of PORTLAND GENERAL ELECTRIC COMPANY's Application to Lower the Standard Price and Standard Contract Eligibility Cap for Solar Qualifying Facilities*, Docket No. UM 1854, Application at 2. (June 30, 2017)

⁷ *In the Matter of IDAHO POWER COMPANY, Application to Lower Standard Contract Eligibility Cap and to Reduce the Standard Contract Term, for Approval of Solar Integration Charge, and for Change in Resource Sufficiency Determination*, Docket No. UM 1725, Idaho Power Initial Application at 2 (Apr 24, 2015).

PacifiCorp has failed to provide that showing here in support of its request. On the record before us, is not clear interim relief is necessary to prevent harm to customers. The exercise of our broad powers to protect customers must be used judiciously to safeguard the procedural integrity of previous orders, settled rules, and other standards, and should be exercised only when the threat of customer harm is real and imminent.

Here, PacifiCorp has presented generalized suggestions that customer harm is possible, calculating the additional revenue a 3 megawatt (MW) solar QF would receive under the originally proposed avoided cost values from the PacifiCorp; however, we did not adopt those initially proposed prices.

As noted, our decisions at the July 17, 2018 Public Meeting mitigated the issue raised by PacifiCorp. Only the adopted wind price is lower under renewable pricing, as opposed to non-renewable pricing. Currently, standard contract QF development in Oregon is dominated by solar, not wind resources. We consider this situation unlikely to change. Approved avoided costs for wind resources are roughly 20% lower than previously adopted rates.

We recognize the dynamic nature of the energy industry, and do not preclude PacifiCorp from seeking future relief it believes necessary to protect customers. If PacifiCorp begins to see signs of new wind development acting to take advantage of the current cost spread, it may return with a request for interim relief that provides a clear and specific showings of potential customer harm.

Previously, we have expressed our intention to engage in a more comprehensive PURPA proceeding, which examines implementations goals and objectives for PURPA in Oregon, and revisits major policy issues. This proceeding will be separate from the ongoing AR 593 rulemaking, which is intended to be an accelerated rulemaking reflective of our current implementation standards. The comprehensive proceeding should address issues implicated by PacifiCorp's motion for emergency interim relief.

PacifiCorp's motion correctly observes that many elements of our avoided cost methodology are based on the supposition that renewable energy is generally more expensive than non-renewable alternatives. We find that PacifiCorp has presented significant policy questions regarding our determination in Order No. 11-505 to offer renewable QFs access to their choice of pricing options, which should be addressed in the new comprehensive proceeding. Our denial of PacifiCorp's motion should in no way indicate our support for retention of the current policy; we do not analyze the merits of that policy at this time.

IV. ORDER

IT IS ORDERED that:

1. PacifiCorp's, dba Pacific Power's, motion for emergency interim relief is denied.

Made, entered, and effective ✓ AUG 09 2018.


Megan W. Decker
Chair


Stephen M. Bloom
Commissioner




Letha Tawney
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.