

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 245

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2013 Transition Adjustment Mechanism.

ORDER

DISPOSITION: REQUEST FOR RECONSIDERATION DENIED

I. INTRODUCTION

Noble Americas Energy Solutions LLC (Noble Solutions) seeks reconsideration of our order addressing the request of PacifiCorp, dba Pacific Power (Pacific Power), to adjust rates under its 2013 Transition Adjustment Mechanism (TAM).¹ Noble Solutions contends we made two factual errors in rejecting its proposed TAM adjustment relating to the use of market caps to calculate the transition adjustment for direct access customers. We deny the request for reconsideration.

II. BACKGROUND

In its 2013 TAM filing, Pacific Power proposed changes to its use of market caps in GRID to calculate net power costs. The Industrial Customers of Northwest Utilities (ICNU) and Staff objected to the proposed changes, and argued that Pacific Power should use no market caps in its modeling of net power costs. We concluded that Pacific Power should retain some form of market caps, and adopted Staff's alternative recommendation that essentially split the difference between the company's approach and Staff's recommended no cap approach.² We stated:

As Pacific Power observes, market caps have always been part of GRID and neither Staff nor ICNU persuasively argue that GRID, as it currently exists, no longer needs market caps. Based upon the evidence presented in this proceeding, we conclude that some form of market caps continue to be needed in GRID as it is now constructed. For this reason, we reject the recommendations of Staff and ICNU to eliminate market caps.

¹ *In the Matter of PacifiCorp, dba Pacific Power, 2013 Transition Adjustment Mechanism*, Order No. 12-409 (Oct 29, 2012).

² *Id.* at 6, quoting Staff/100, Schue/18.

Staff and ICNU effectively argue, however, that Pacific Power's revised market cap methodology offered in this proceeding overstates expected NPC. We conclude, therefore, that although the market caps should be retained in GRID for the 2013 TAM, the methodology should be revised. We adopt the alternative approach suggested by Staff and direct Pacific Power to revise GRID to base market caps on the highest of the four most recently available relevant averages for each trading hub, each month, and differentiated by on- and off-peak hours.³

As a separate issue, Noble Solutions challenged Pacific Power's proposal to eliminate the practice of adjusting the market caps for purposes of calculating the transition adjustment for direct access customers. Noble Solutions explained that, because Pacific Power assumes that 25 MW of its load will enroll in direct access when calculating the transition adjustment, the need for market caps is decreased because the hypothetical transfer of 25 MW of load to direct access increases market liquidity. Noble Solutions added that Pacific Power agreed to relax the market caps when making this calculation in each of the last four TAM proceedings, but eliminated any adjustment in its 2013 TAM filing.

We rejected Noble Solutions' argument, concluding:

Although market cap limitations have been relaxed in prior years for purposes of calculating transition adjustments, such action was taken pursuant to approved stipulations without precedential value. We must decide whether and how to apply market caps to the calculation of transition adjustments based upon the evidence presented in this proceeding. Noble Solutions' argument that market caps in GRID unreasonably limit assumptions about how much of the generation freed up by 25 MW of direct access load will be sold is effectively the same in nature as the more general arguments made by ICNU and Staff about the limitations of market caps. We are not persuaded that there is any reason to depart from our decision to retain but revise the market caps in GRID. We direct Pacific Power to apply the alternative market caps recommended by Staff to the calculation of transition adjustments for direct access customers.⁴

III. DISCUSSION

A. Legal Standard

ORS 756.561(1) authorizes a party to request reconsideration of any order within 60 days of service. We may grant reconsideration "if sufficient reason therefore is made to appear." OAR 860-001-0720(3)(c) further provides that we may grant reconsideration if the applicant establishes "[a]n error of law or fact in the order which is essential to the decision[.]"

³ Order No. 12-409 at 7.

⁴ *Id.* at 16.

B. Position of the Parties

1. *Noble Solutions*

Noble Solution contends that we made two factual errors in rejecting its proposed TAM adjustment. First, Noble Solutions argues that we erred in concluding that its arguments were “effectively the same in nature as the more general arguments made by ICNU and Staff about the limitation of market caps.”⁵ Second, Noble Solutions argues that we erred in concluding that “continuing to adjust the market caps for purposes of calculating the transition adjustment would require the Commission to ‘depart from our decision to retain but revise the market caps in GRID.’”⁶

Noble Solutions emphasizes that its specific recommendations about relaxing market caps when calculating the transition adjustment were entirely unrelated to ICNU’s and Staff’s more general arguments about the use of market caps to calculate net power costs. It explains that the calculation of the transition adjustment rates occurs in a separate and subsequent step after the resetting of net power costs—that is, once net power costs are reset, they become the baseline for the separate transition adjustment calculation. Noble Solutions clarifies that its proposed adjustment accepts, at its point of departure, whatever general market cap assumption is made for the determination of net power costs. Regardless of how extensively market caps are used when calculating net power costs, Noble Solutions argues that Pacific Power should relax market caps when making the separate calculation of the transition adjustment.

As a remedy, Noble Solutions requests that, at a minimum, we revise Order No. 12-409 to prevent any precedential value being attributed to its reasoning. Also, Noble Solutions requests we require Pacific Power to provide a corrected transition adjustment effective January 1, 2013, or as soon as practicable thereafter. Additionally, Noble Solutions respectfully requests that we allow for a special shopping window in early 2013 with the transition adjustment calculated with the market caps relaxed.

2. *Pacific Power*

Pacific Power opposes the request for reconsideration, and contends that Noble Solutions is merely reiterating its prior arguments that the Commission rejected. Pacific Power states that the Commission correctly observed that the parties’ arguments against market caps—whether for determining the net power costs or the transition adjustment—were “effectively the same in nature.”

Pacific Power also argues that Noble Solutions’ argument is based on the incorrect premise that the hypothetical transfer of 25 MW of Pacific Power load to direct access increases Pacific Power’s ability to transact in the market by 25 MW. Pacific Power notes that the liquidity constraints are constant no matter how it applies GRID. Finally, Pacific Power contends that Nobles Solutions’ proposal is unreasonable. Pacific Power

⁵ Noble Solutions’ Application for Reconsideration, p. 5, citing Order No. 12-409 at 16.

⁶ *Id.*

repeats its assertion that GRID overstates wholesale sales volumes and that, therefore, an increase in market size (relaxation of market caps), is unsupported.

C. Resolution

Noble Solutions' claim of factual error is based on a misinterpretation of our order. As the recitation of the parties' arguments and resolution on both issues in the order make clear, we properly recognized the distinction between the use of market caps to calculate net power costs and their use to calculate the transition adjustment. Contrary to Noble Solutions' assertion, we did not "improperly conflate" the proposed adjustments made by ICNU and Staff with those separately made by Noble Solutions.

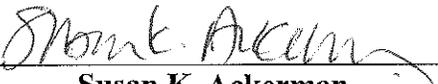
Further, we correctly recognized the overlap in the parties' arguments. Market caps are designed to approximate liquidity restraints that exist in the markets in which Pacific Power transacts. Based on the evidence presented in this proceeding, we concluded that these constraints warranted the continued use of market caps to calculate net power costs, and adopted Staff's revised methodology. Because the liquidity constraints are present in the markets in which Pacific Power transacts, we concluded that Staff's revised methodology should be used in GRID whether estimating net power costs or estimating the value of energy that is freed-up with participation in direct access. Relaxing the market caps when calculating the transition adjustment, would result in an overestimation of the value of the freed-up energy.

IV. ORDER

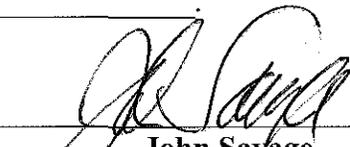
IT IS ORDERED that the request for reconsideration, filed by Noble Americas Energy Solutions LLC, is denied.

JAN 15 2013

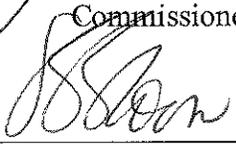
Made, entered, and effective _____



Susan K. Ackerman
Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner



A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.