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VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3988

Attn: Filing Center

RE: AR 603 – PacifiCorp's Final Comments on Draft Rules

PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) appreciates the opportunity to provide final comments in response to stakeholders' written and oral comments addressing docket AR 603 Draft Community Solar Rules (the Draft Rules) issued by Staff of the Public Utility Commission of Oregon (Commission) on May 1, 2017. The Draft Rules reflect Staff's careful consideration of stakeholder input and diligence in researching other community solar programs across the country. PacifiCorp provided initial written comments on May 12, 2017, and continues to support the issues outlined therein, but will not repeat all of those issues in these final comments.

PacifiCorp recognizes the effort of Commission Staff (Staff) in creating the Draft Rules, appreciates Staff's responsiveness to most of the issues previously raised by PacifiCorp, and supports most aspects of the Draft Rules. Further, PacifiCorp commends the thoughtful comments provided by Staff and all stakeholders. PacifiCorp's final comments identify a limited set of issues that, if resolved, will maximize the success of the community solar program, minimize cost-shifting, and remove unnecessary complexity from the program's implementation. In addition, PacifiCorp's comments reiterate several key issues identified in previous comments that have not been addressed.

I. PacifiCorp has unresolved concerns regarding collection of participation fees, initial program capacity, and risk mitigation of securities law violations.

While PacifiCorp appreciates the additional clarity provided by Staff through oral and written comments, the Company remains concerned about the following unresolved issues.

Collection of participation fees
PacifiCorp continues to recommend amending the Draft Rules to require project managers to collect the ownership or subscription fees directly from the participating customer. Requiring an electric company to collect participation fees for all community solar projects connecting to its system has the potential to disrupt the important relationship between a project manager and its customers as well as create unnecessary complexity in situations such as customer non-payment, collections, billing adjustment, or a customer leaving the electric company's system.

If the Commission adopts this requirement, PacifiCorp agrees with Portland General Electric that additional protections and guidance for electric companies is required. First, PacifiCorp suggests amending Section 860-088-0100 to explicitly hold electric companies harmless and indemnified for any and all liabilities, actions or claims for injury, loss or damage to persons or property arising from or related to community solar projects operated by third-party project managers. Further, PacifiCorp recommends Section 860-088-0100 include specific guidance for electric companies to respond to complex circumstances, such as customer non-payment or collections. For example, Pacific Power's Schedule 10 Voluntary On-Bill Repayment Program provides a general example of the type of additional protections and guidance that may be incorporated in the community solar program rules.[1]

Initial program capacity
PacifiCorp remains concerned about expansion of the program capacity tier from 1 percent to 2.5 percent of electric companies' 2016 peak load. PacifiCorp appreciates Staff's assertion that an expanded program could reduce the burden of ongoing administrative costs by spreading costs over a larger group of participants. However, PacifiCorp suggests that the risks associated with this expansion to non-participants outweigh the potential benefits. PacifiCorp is concerned that the expanded capacity increases the long term risk of elevated energy charges for non-participants if there is an initial rate that diverges from the resource value of solar and is overly generous. A lower initial cap will allow the Commission time to refine the rate to meet program goals without exposing ratepayers to unnecessary risk. The Commission need only look to the Volumetric Incentive Rate program to see a situation where initially valued compensation rates and long term contracts can place an unnecessary burden on ratepayers.

Mitigating the risk of securities law violations
PacifiCorp appreciates stakeholder discussion of federal securities law violation risks and protections and recommends that stakeholders work collaboratively with the Commission to seek a no-action letter from the Securities and Exchange Commission on the program as a whole. Further, PacifiCorp reiterates the importance of rigorously reviewing marketing materials and requirements to include approved disclaimer language to clarify that participation should not be premised on an expectation of profit.

PacifiCorp appreciates Staff's efforts to solicit and incorporate PacifiCorp's input to date and respectfully requests that the Commission address these additional unresolved concerns in community solar rules to maximize program success.

II. Community Solar is a Unique Program.

Staff's comments suggest that community solar program rules should be contemplated through a virtual net metering framework. PacifiCorp acknowledges certain parallels, but believes that

[1] Please see Schedule Provisions on page 2 of Schedule 10 at https://www.pacificpower.net/content/dam/pacific_power/doc/About_Us/Rates_Regulation/Oregon/Approved_Tariffs/Rate_Schedules/Voluntary_On_Bill_Repayment_Program.pdf

community solar is a discrete public policy, unique from existing renewable energy policies in the following ways:

- Community solar program participants are not directly serving onsite load through the community solar project to which they subscribe. However, participants' bill credits can only offset actual annual usage.
- Community solar projects will interconnect directly to and utilize the services of electric companies' transmission and distribution systems anywhere in an electric company's service area, but will be valued at the resource value of solar which considers locational benefits such as avoided line losses.
- As indicated in Section 860-088-0095, a dollar credit will be calculated by multiplying the participant's eligible generation by the bill credit rate at the time the project was pre-certified.
- Project managers will enter into a twenty-year power purchase agreement subject to the requirements of the Public Utility Regulatory Policy Act (PURPA) and ORS 758.505, et seq., but only for a portion of the project's output.

PacifiCorp appreciates Staff's desire to leverage the existing legal framework in developing rules for the new and complex program, but cautions the broad application of these principles to a community solar program that is fundamentally different than a net metering program.

III. It is premature to determine an interim rate at this point in the implementation process.

PacifiCorp agrees with Staff that it is premature to establish an interim bill credit rate at this stage of the program implementation process. As mentioned in numerous comments, the adoption of rules is only an early stage in the development of the community solar program in Oregon. As the community solar program progresses through the administrator selection and program manual development stages, the ongoing resource value of solar docket will continue to progress and provide more visibility into an accurate bill credit rate. As the rules are currently constructed, any "interim" rate will apply throughout the billing term of all participants in a project. Rushing into an interim rate that incorrectly values community solar project generation may lock in a long term, unnecessary cost shifting to non-participating customers. This is of particular concern given the uncertainty that continues to surround the duration of the bill credit term and project life.

PacifiCorp strongly disagrees with suggestions that the full retail rate is an appropriate interim bill credit rate if the Commission does establish an interim rate at this stage. A fundamental element of the legislation is that the bill credit should be done in a manner that reflects the resource value of solar to the electric system. PacifiCorp believes that using a full retail rate could dramatically overstate the value provided by a community solar project to the system.

If the Commission determines an interim rate is appropriate at this stage, a conservative valuation should be adopted to minimize long term impacts on non-participating customers. This is especially critical with the potential expansion of program capacity addressed earlier. The

expanded capacity could amplify the negative impact on non-participating customers for decades.

In addition, the retail rate varies significantly between customer classes and schedules, which would assign different value for the energy produced from a community solar facility based on which customer receives the credit, rather than the value of that resource to the system. Community solar projects do not directly offset onsite load and, thus, the Company proposes a consistent bill credit rate for all participants.

PacifiCorp suggests that the Commission establish a rate for the program when there is more clarity on the remaining steps of program development. This will allow the resource value of solar docket to mature and provide some guidance to the Commission if the development of an interim rate is necessary. If the Commission develops a timeline for administrative milestones, PacifiCorp suggests that the timeline include a milestone that triggers the process to determine an interim bill credit rate in the event that one is not available in time to pre-certify projects.

IV. Electric company participation is allowed by law and is in the best interest of customers and the program.

The joint comments filed by the Oregon Solar Energy Industries Association (OSEIA) and the Coalition for Community Solar Access (CCSA), as well as comments presented by Renewable Northwest (RNW), recommend prohibition of electric companies from community solar project ownership unless through an affiliate. This assertion is counter to the legislation,[2] which specifically allows electric companies to participate as Project Managers. By definition, participation through an affiliate is not participation by the electric company. Customers are best served when they have the option to choose from a variety of providers with varying project designs and value propositions. Consumers should have the option to participate in a project offered by their electric company as research indicates a segment of consumers prefer community solar options that are sponsored by their utility.[3]

Further, the joint OSEIA/CCSA and RNW comments request, "full assurance that Electric Companies are not able to advantageously utilize their position in the state's energy system in competing against non-regulated third-parties." PacifiCorp agrees that the rules should not provide any advantages as a project manager and stresses the importance that all project managers receive the same treatment under the community solar rules. It is PacifiCorp's understanding that all rules that apply to project managers will apply to electric companies acting as project managers. In the case of Section 860-088-0040(3)(e) referenced by OSIEA/CCSA's comments, electric companies require a separate rule because electric companies will not enter into a Power Purchase Agreement (PPA) with themselves, meaning Section 860-088-0120(4)

[2] SB 1547 Section 22 (1)(d) states that a Project Manager may be an electric company or an independent third party.
[3] For example, national consumer research performed by the Smart Electric Power Association in 2015 indicates that, "of those interested in community solar, two-thirds wanted the program to be sponsored either by their utility (34%) or a solar firm working in partnership with their utility (33%)." Smart Electric Power Association, *What the Community Solar Customer Wants*, p.19 (Nov. 2015).

specifying the PPA for up to 10 percent of unsubscribed energy does not apply to the electric companies. Other than this instance, there is no need for separate language that specifies that the rules that apply to project managers also apply to electric companies acting as project managers.

V. Current interconnection procedures can accommodate the community solar program.

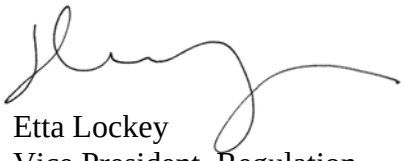
Numerous parties identified potential challenges that might arise around the timely processing of interconnection requests for this program due to increased application volumes. PacifiCorp acknowledges the potential issues that would arise from a significant increase in interconnection requests. However, PacifiCorp does not think it is appropriate to create a separate set of interconnection rules or establish a priority-based system of review based on a project's potential participation in community solar. The current small generator interconnection rules (OAR 860-082-000 et. seq.), along with the pre-application process adopted by the Federal Energy Regulatory Commission and the visibility provided into the generation interconnection queue by the Open Access Same-time Information System (OASIS), will allow all parties to know the status of their individual interconnection request without creating new interconnection procedures for this program. Creating new interconnection procedures also has the potential to come into conflict with the Federal Energy Regulatory Commission procedures with which PacifiCorp is required to comply.

VI. Consumer protection is critical to program success.

As stakeholders navigate the design and implementation of this new program, strong consumer protections are necessary to preserve the program's customer focus. Accordingly, PacifiCorp supports provisions that not only require project managers to commit to uphold marketing and contractual requirements, but provide documentation, such as contracts and marketing materials, for program administrator review as indicated in Section 860-088-0180.

PacifiCorp thanks the Commission for the opportunity to provide these final comments and recognizes Staff's leadership in facilitating the rulemaking process. PacifiCorp looks forward to continued participation in this proceeding.

Respectfully submitted,



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