

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1729(1)**

In the Matter of	)	
	)	
PACIFICORP, dba PACIFIC POWER,	)	COMMENTS OF THE
	)	COMMUNITY RENEWABLE
Schedule 37 Avoided Cost Purchases from	)	ENERGY ASSOCIATION AND
Eligible Qualifying Facilities	)	THE RENEWABLE ENERGY
	)	COALITION
	)	

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**I. INTRODUCTION**

The Community Renewable Energy Association (“CREA”) along with the Renewable Energy Coalition (“Coalition”) (“Joint QF Parties”) file these comments regarding PacifiCorp’s (or the “Company”) application to update its Schedule 37 qualifying facility (“QF”) information. The Joint QF Parties request that the Public Utility Commission of Oregon (“Commission”) reject PacifiCorp’s renewable and standard avoided cost rates to account for more accurate resource-sufficiency and deficiency periods, as well as the limited updates allowed under a normal May 1 annual update. Specifically, the Joint QF Parties recommend that: 1) the renewable resource sufficiency-deficiency demarcation should be moved to 2018 to account for the effects of SB 1547; and 2) the standard resource sufficiency-deficiency demarcation should remain at 2024 rather than moved out to 2028 as proposed by PacifiCorp.

PacifiCorp’s renewable avoided cost rates have been lower than the Company’s actual avoided costs since the passage of SB 1547. While PacifiCorp has moved quickly to acquire utility-owned renewable resources through a biased renewable request for

proposals (“RFP”), the Company has taken creative steps to keep its avoided cost rates artificially low through a delay in the proper resolution of this proceeding.

Therefore, PacifiCorp’s alleged renewable resource costs are supported by no acknowledged integrated resource plan (“IRP”) and no vetted data or evidence. The Commission should therefore rely on the costs in the acknowledged IRP and reject PacifiCorp’s unverified changes to the major renewable resource cost components – the wind proxy’s capacity factor and capital cost assumptions.

Similarly, the Joint QF Parties have not proposed significant changes to the standard (i.e., non-renewable) rates, but are only proposing that the Commission not change the 2024 year of deficiency. PacifiCorp’s proposed 2028 standard rate deficiency date is based on unreasonable assumptions regarding reliance upon market purchases and fails to account for the recently announced retirement of two major coal plants. No party has been provided an opportunity to challenge or vet PacifiCorp’s arbitrary deficiency period cut-off date of 2028, and it should be rejected in this non-contested case proceeding.

## **II. COMMENTS**

### **A. Legal Standard**

PacifiCorp has the burden of proof to demonstrate that the factual inputs and assumptions for its avoided cost rates are just and reasonable for both QFs and ratepayers. Staff and interested parties have the right to challenge these inputs and assumptions, including those relied upon in the Company’s last acknowledged integrated resource plan (“IRP”).

Federal and state law mandate that the Commission ensure that PacifiCorp's avoided cost rates reflect a reasonable approximation of PacifiCorp's full avoided costs.<sup>1</sup> Oregon law defines avoided costs as "the incremental cost to an electric utility of electric energy or energy and capacity that the utility would generate itself or purchase from another source but for the purchase from a qualifying facility."<sup>2</sup> The legal standard for approving avoided cost rates is whether the rates "shall over the term of a contract be just and reasonable to the electric consumers of the electric utility, the qualifying facility and in the public interest."<sup>3</sup>

PacifiCorp, and not the Commission or interested parties, has the burden of proof to demonstrate its proposed avoided cost rates are just and reasonable. Specifically, PacifiCorp is charged with the statutory responsibility to "prepare, publish and file" its avoided cost prices, which "shall be reviewed and approved by the commission."<sup>4</sup> The Commission's administrative rules specifically state that the utility "has the burden of supporting and justifying" the underlying avoided cost data.<sup>5</sup> Placing the burden of proof on the party that developed the information is consistent with administrative legal principles, which almost universally place the burden of proof on the movant or proponent.<sup>6</sup>

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<sup>1</sup> Am. Paper Inst. Inc. v. Am. Electric Power Serv. Corp., 461 U.S. 402, 417-18

<sup>2</sup> ORS § 758.505(1).

<sup>3</sup> ORS § 758.515(2)(b); see also 16 USC § 824a-3. PacifiCorp has previously agreed that avoided cost rates must be just and reasonable. Re Investigation Into QF Contracting and Pricing, Docket No. UM 1610,PAC/1000, Griswold/15 (May 22, 2005).

<sup>4</sup> ORS § 758.525(1).

<sup>5</sup> OAR § 860-029-0080(1)&(6).

<sup>6</sup> E.g., ORS § 757.210; 5 USC 556(d); 16 USC § 824d(e).

The Commission’s rules require it to set avoided cost rates in a manner similar to retail rates charged to end-use consumers. The Commission’s rules specifically state that “[s]tandard rates for purchases shall be implemented . . . [i]n the same manner as rates are published for electricity sales . . . .”<sup>7</sup> The rules further provide that these rates “shall be subject to suspension and modification by the Commission.”<sup>8</sup> The Commission has reaffirmed this policy stating “[a]voided cost filings are subject to suspension and the same investigatory process that any tariff filing may undergo.”<sup>9</sup> Therefore, the Commission’s general policy is to conduct a contested case in which parties have the opportunity to submit evidence responding to the reasonableness of the Company’s unilaterally calculated avoided cost rates.<sup>10</sup>

The starting place for the review of avoided cost rates is the last acknowledged IRP. PacifiCorp’s avoided cost rates should include “inputs and assumptions taken from IRPs that are subject to stakeholder review,” including gas price forecasts, capital costs, wind capacity factors, and the resource sufficiency/deficiency demarcation.<sup>11</sup> The

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<sup>7</sup> OAR § 860-029-0040(4).

<sup>8</sup> OAR § 860-029-0080(6).

<sup>9</sup> Re Investigation Relating to Electric Utility Purchases from QFs, Docket No. UM 1129, Order No. 05-584 at 36 (May 13, 2005).

<sup>10</sup> The Commission has departed from its rules by placing consideration of PacifiCorp’s avoided cost rates at public meetings and non-contested case proceedings. Re PacifiCorp, dba Pacific Power, Schedule 37 Avoided Cost Purchases from Eligible QFs, Docket No. UM 1729(1), Order No. 16-117 at 1 (Mar. 23, 2016). This significantly limits the ability of QFs and Staff to investigate and challenge PacifiCorp’s assumptions and inputs, and should cause the Commission to be extremely skeptical PacifiCorp’s factual claims.

<sup>11</sup> Re Investigation Into QF Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 12 (Feb. 24, 2014) (all inputs and assumptions should initially be drawn from the IRP); Re Investigation Relating to Electric Utility Purchases from QFs, Docket No. UM 1129, Order No. 05-584 at 36-37 (May 13, 2005) (gas price forecasts); Re Investigation Relating to Electric Utility Purchases from QFs,

Commission has traditionally relied upon the IRP as a reasonable basis for inputs and assumptions for the calculation of avoided cost. The QF parties realize that despite public participation in the planning process, it is nevertheless the Company's plan.

The Commission's reliance on the IRP and the requirement that a utility's initial avoided cost filing be consistent with its last acknowledged IRP does not preclude Staff and QFs from challenging any inputs or assumptions included in the IRP. Since the IRP is not a contested proceeding, there is no opportunity to address and raise resolutions of any concerns about a utility's filing if the IRP was used *carte blanche*. Essentially, automatic flow of inputs and assumptions from the IRP to avoided cost rates would allow the utilities to unilaterally set the rates.

The Commission has repeatedly explained that parties can challenge any assumptions or inputs in a utility's avoided cost rate filing. When establishing the current avoided cost rate process, the Commission explained: "[w]e encourage . . . interested parties to seek suspension of an avoided cost filing when necessary to address concerns about natural gas forecasts, or any other aspect of a utility's filing."<sup>12</sup> The Commission has subsequently explained:

Indeed, we encouraged parties to seek suspension of an avoided cost filing when necessary to address concerns about natural gas forecasts, or any other aspect of a utility's filing. We also observed that Staff, or any other party, could introduce, during a future investigation of a utility's avoided

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Docket No. UM 1129, Order No. 06-538 at 44 (Sept. 20, 2006) (gas price forecasts); Re Investigation into determination of resource sufficiency, pursuant to Order No. 06-538, UM 1396, Order No. 10-488 at 8 (Dec. 22, 2010) (resource sufficiency/deficiency).

<sup>12</sup> Re Investigation Relating to Electric Utility Purchases from QFs, Docket No. UM 1129, Order No. 05-584 at 36-37 (May 13, 2005); Re Investigation Relating to Electric Utility Purchases from QFs, Docket No. UM 1129, Order No. 06-538 at 44 (Sept. 20, 2006).

costs filing, an independent natural gas forecast for comparison purposes.<sup>13</sup>

In summary, the Commission's established process for reviewing a post-IRP acknowledgment avoided cost rate update is for the utility to include changes from the IRP, and allow QFs, Staff, and interested parties an opportunity to review and challenge them in a contested proceeding before the Commission.

**B. The Commission Should Update the Renewable Sufficiency Period and the Production Tax Credit, But Should Otherwise Reject PacifiCorp's Proposed Changes to the Renewable Rates.**

PacifiCorp has included unreasonable and unapproved assumptions for the costs of the next avoidable renewable resource in its proposed renewable rates. The Commission should approve the renewable rates that reasonably update the beginning of the renewable deficiency period date to 2018 to reflect the effects of SB 1547 and reduce the renewable deficiency period rates to account for Congress's renewal of the production tax credit ("PTC") that would normally have been made in PacifiCorp's May 1 annual update. But the Commission should otherwise leave intact the cost assumptions in the most recently acknowledged IRP.

Specifically, the Commission should adopt the following rates identified in PacifiCorp's renewable rate table on pages 4-5 of its Supplemental Application as the "2018 Deficiency Start, 2015 IPR Proxy":

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<sup>13</sup> Re Investigation Relating to Electric Utility Purchases from QFs, Docket No. UM 1129, Order No. 06-538 at 44 (Sept. 20, 2006).

	Baseload	Wind	Solar	Tracking Solar
2018 Deficiency Start, 2015 IRP Proxy	\$78.61/MWh	\$64.59/MWh	\$73.44	\$74.37

\* 15 Year (2017-2031) Nominal levelized Price - \$/MWh

As we explain below, PacifiCorp’s proposed renewable rates fail on two independent bases: 1) PacifiCorp’s proposal is non-responsive to the Commission’s directive in Order No. 16-117 and relies on cost assumptions that are not derived from a Commission-acknowledged IRP or IRP Update; and 2) PacifiCorp’s extremely low rates are unsupported by any acknowledge IRP order or any evidence.

**1. PacifiCorp Side-Stepped the Commission-Approved Process and Unilaterally Developed Extremely Low Renewable Avoided Cost Rates**

The Commission directed PacifiCorp to re-file its avoided cost rates in light of SB 1547, but it did not ask for PacifiCorp to fabricate a new and unsubstantiated wind proxy resource that deviates from that in the acknowledged IRP. The thrust of the Commission’s decision at the March 22, 2016 public meeting was to reject the underlying assumption of PacifiCorp’s initial filing that it was renewable resource sufficient for the entire planning horizon of 20-plus years. The Commission directed:

This order memorializes our decision, made and effective at the public meeting on March 22, 2016, to: (1) not approve the filing made by PacifiCorp, dba Pacific Power, to update its Schedule 37, Avoided Cost Purchases from Qualifying Facilities 10,000 kW or less; and (2) direct PacifiCorp, Staff, and interested parties to work together and propose an expedited and non-contested case process to update PacifiCorp's avoided costs in light of the passage of SB 1547.<sup>14</sup>

<sup>14</sup> Re PacifiCorp, dba Pacific Power, Schedule 37 Avoided Cost Purchases from Eligible QFs, Docket No. UM 1729(1), Order No. 16-117 at 1 (Mar. 23, 2016).

The obvious impact of the passage of SB 1547 is to drastically shorten the renewable sufficiency period, and the Commission's primary intent was to correct that obvious error in PacifiCorp's initial filing.

This is confirmed by a cursory review of statements made at the public hearing where the Commission rejected PacifiCorp's initial filing in this docket. PacifiCorp argued that it was renewable resource sufficient for the next 20-plus years, even though it had recently testified to the legislature that SB 1547 would require it to acquire several hundred megawatts of renewable resources in the near term. The Commissioners responded with exasperated disbelief at PacifiCorp's position in the following exchange:

Chair Ackerman: Do you think there is still a valid sufficiency/deficiency demarcation to be had for renewable resources in light of [SB] 1547?

Bryce Dalley: I don't think that that has been fully evaluated in the context of an IRP. The legislation is fresh. We go through an extensive...

Commissioner Savage: Do you agree that it's new information?

Bryce Dalley: Absolutely. It is new information. And it will be certainly evaluated as part of our upcoming IRP. We are planning to file an IRP Update here at the end of the month.

Commissioner Bloom: Okay, you're going to file by the end of the month?

Bryce Dalley: Correct. And that's an IRP Update so it doesn't have the same rigor or stakeholder involvement your typical IRP \* \* \* And these things will be fleshed out as part of those processes, no question \* \* \* But to answer your question directly Chair Ackerman, I don't believe the demarcation of sufficiency/deficiency has changed from what was recently acknowledged by the Commission.

Commissioner Savage: Oh, I disagree.

Commissioner Bloom: Bryce --

Chair Ackerman: You know, you've got to be kidding.

Commissioner Bloom: Bryce, Bryce --

Chair Ackerman: I am trying to figure out whether you guys are just disingenuous or cynical and disingenuous and I am coming to the conclusion its both cynical and disingenuous.

Commissioner Bloom: Bryce, would you --

Chair Ackerman: You filed this on what March 1, is when you filed these avoided cost filings. And when did the legislature approve [SB] 1547? Do you remember the date?

Bryce Dalley: I believe it was signed by the Governor on March 8.

Chair Ackerman: Okay. So as you were testifying to the legislature, your company, about what your needs were going to be for renewable resources to fill the new RPS requirement, somebody in PacifiCorp was making the decision to make this filing?

Bryce Dalley: \* \* \* \* We were required to submit a filing using the latest acknowledged, which was a day before, IRP and provide our avoided cost update consistent with that acknowledgement.

\* \* \* \*

Bryce Dalley: \* \* \* \* We are a culture of compliance. We comply with the rules and my understanding, Chair Ackerman, is if we did not make this filing we would not be within compliance with your rules.<sup>15</sup>

The Commissioners and other parties went on, at great length and detail, to demonstrate that the enactment of SB 1547 rendered invalid the renewable sufficiency period assumptions in the IRP, namely that PacifiCorp would acquire no new renewable

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<sup>15</sup> Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729(1), Public Meeting at 33:00 to 40:30 (Mar. 22, 2016).

resources over the next 20-plus years. There was no suggestion that SB 1547 had any impact on the actual costs of the renewable proxy resource in the acknowledged IRP.

The final motion and resulting order thus required PacifiCorp to revise the filing to take into account SB 1547, i.e. to update the sufficiency period in order to allow small QFs an opportunity to compete to meet the new need for renewable resources caused by SB 1547. Notably, the actual motion made by Chair Ackerman and adopted by the Commission, directed the parties to work together to file a more appropriate avoided cost update *and IRP* in light of SB 1547.<sup>16</sup> There was never any suggestion that PacifiCorp should unilaterally recalculate the renewable proxy resource costs, without seeking acknowledgement of an IRP Update.

Now, several months later, in response to the Commission's directives and obvious intent to have the sufficiency period shortened, PacifiCorp has proposed to recalculate its proposed wind proxy costs without any oversight. Because PacifiCorp has proposed an unreasonably high capacity factor for an Oregon wind farm of 35 percent with much lower capital costs than those in the acknowledged IRP and *no* transmission costs whatsoever (all discussed further below), the resulting rates are actually *lower* than the currently effective renewable avoided costs over the term of a QF contract.<sup>17</sup> Thus, PacifiCorp still achieves the same result as its initial proposal – rates that are far too low to allow small QFs the opportunity to contribute to PacifiCorp's new need for renewable resources.

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<sup>16</sup> Id. at 1:08:45 to 1:10.

<sup>17</sup> See Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729(1), Supplemental Update at 4 (June 21, 2016).

It is important for the Commission to reaffirm the significance of an acknowledged IRP by rejecting PacifiCorp's ad hoc proposal to slash its own proposed renewable proxy costs contained in its own acknowledged IRP. The Commission's approved process for setting avoided costs allows *QF intervenors* to challenge the inputs in an acknowledged IRP, but there is no basis to allow PacifiCorp to challenge its own IRP assumptions. In effect, PacifiCorp is attempting to withdraw and re-write its own cost assumptions in its acknowledged IRP, as though it were a QF intervenor challenging those assumptions for use in avoided cost rates. But the proper way for PacifiCorp to challenge its own cost assumptions for a renewable resource in an acknowledged IRP is for PacifiCorp to file and seek acknowledgement of an IRP Update – not to collaterally attack the cost assumptions PacifiCorp developed in its own acknowledged IRP.

In the time since Order No. 16-117, which was issued over three months ago, PacifiCorp could have sought acknowledgement of its IRP Update and subjected its proposed resource costs to scrutiny by all parties. However, PacifiCorp chose not to do so.<sup>18</sup> The Joint QF Parties and the Commission's Staff had no input into the unacknowledged 2015 IRP Update. Instead of following the Commission's approved processes, PacifiCorp dragged out the Commission-directed settlement process with intervenors before walking away from negotiations and filing its "Supplemental Application," which relies upon the unacknowledged 2015 IRP Update. In the meanwhile, PacifiCorp has proceeded through an unsupervised "RFP" where it will

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<sup>18</sup> See Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Update at cover letter (Mar. 31, 2016) ("The 2015 IRP Update is being submitted for informational purposes only and the Company does not request acknowledgment of its 2015 IRP Update.").

undoubtedly select a rate-based renewable resource – shutting small QF generators out of the market for renewable power created by SB 1547. None of PacifiCorp’s processes have been vetted by the Commission, other than the acknowledged IRP. The Commission should therefore reject PacifiCorp’s proposal to re-write the renewable proxy cost assumptions from PacifiCorp’s acknowledged IRP on procedural grounds alone.

## **2. PacifiCorp’s Proposed Renewable Rates Fail On the Merits**

Aside from the procedural flaws, the Commission should reject PacifiCorp’s proposed cost assumptions for the independent reason that they are unreasonable and unsupported by any evidence. PacifiCorp proposes an Oregon wind farm with a 35 percent capacity factor, with extremely low capital costs that would exist, if at all, only for a very large project with huge economies of scale, and *no* transmission costs to get the power to PacifiCorp’s system *or* to move that power to PacifiCorp’s large load centers.<sup>19</sup> Each of these assumptions is unreasonable on its own, but taken as a whole these assumptions are not based on any known or realistic Oregon wind farm. The Joint QF Parties address the major components of PacifiCorp’s proposed renewable rates below.<sup>20</sup>

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<sup>19</sup> See Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729(1), Supplemental Update at 4-5 (June 21, 2016).

<sup>20</sup> Notably, other assumptions underlying PacifiCorp’s rates are also obviously wrong in PacifiCorp’s favor, but in interest of saving everyone time of going through PacifiCorp’s work papers line by line, we limit the discussion to the items with the most significant cost impact.

**a. The Capacity Factor for Oregon Wind in PacifiCorp’s Service Territory Should be Lower than 35 Percent.**

PacifiCorp’s acknowledged IRP states that the capacity factor of the Oregon wind resource is 29 percent.<sup>21</sup> There is a significant decrease in cost per unit of energy produced or the avoided cost rates for even a single percentage point increase in capacity factor of a wind farm. In response to a data request, PacifiCorp provided calculations of the impact on the rates of capacity factor assumptions of incremental changes in capacity factor from 29 percent to 35 percent, which the Joint QF Parties have provided below to demonstrate the magnitude. Therefore, as the table below demonstrates, PacifiCorp’s proposal to utilize a 35 percent capacity factor, instead of a 29 percent capacity factor, makes a very significant difference in the avoided cost prices offered to QFs.<sup>22</sup>

<b>IRP and Capacity Factor Assumptions</b>	<b>Avoided Cost Rates for Wind QF</b> *15-year (2017-2031) Nominal Levelized Price - \$/MWh)
2015 IRP OR Wind 29% CF	\$64.59
2015 IRP OR Wind 31% CF	\$59.25
2015 IRP OR Wind 33% CF	\$54.56
2015 IRP OR Wind 35% CF	\$50.41
2015 IRP Update OR Wind 29% CF	\$50.48
2015 IRP Update OR Wind 31% CF	\$46.01
2015 IRP Update OR Wind 33% CF	\$42.07
2015 IRP Update OR Wind 35% CF	\$38.59

<sup>21</sup> The assumption that the Oregon wind resources was estimated to have a 29 percent capacity factor appears in at least four separate locations in the acknowledged 2015 IRP. See Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP at 93, 98, 106, 115 (Mar. 31, 2015). In contrast, the unacknowledged 2015 IRP Update provides costs at capacity factors of 29 percent and 35 percent, asserting that reflects “the range of performance anticipated from wind facilities in the region.” Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Update at 44-45 (Mar. 31, 2016).

<sup>22</sup> Attachment B (excerpt of PacifiCorp Response to Coalition data request 1.4).

Even though a capacity factor as high as 35 percent may be theoretically possible at the very best locations in Oregon, the best sites that are capable of being constructed have already been constructed, and there is no evidence that the remaining best sites in Oregon can be built in the foreseeable future. For example, the Steens Mountain area clearly has very high quality wind and would support a high capacity factor wind resource, but it has repeatedly been delayed in obtaining necessary permits because its footprint sits atop a scenic ridge and areas inhabited by sage grouse.<sup>23</sup>

PacifiCorp asserts that bids into its ongoing RFP support its proposal to use a 35 percent capacity factor. However, PacifiCorp refused to provide any evidence of these preliminary bids into its RFP in response to data requests. And even if PacifiCorp's assertion was correct, the bids are only preliminary bids, not final terms in a successful bidder's contract. Preliminary bids notoriously over-estimate capacity factors. For that reason, the Commission's RFP guidelines require "a qualified and independent third-party technical expert to review the expected wind capacity factor associated with each project" that is ultimately placed on the short list of bids prior to the final selection of the winning bid.<sup>24</sup> PacifiCorp makes no assertion that such independent review has occurred of the preliminary bids in its ongoing RFP.

Additionally, there is no basis provided by PacifiCorp to conclude that a wind farm with a 35 percent capacity factor exists within PacifiCorp's Oregon service territory. The wind farm proxy put forth in PacifiCorp's Supplemental Application must be located

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<sup>23</sup> See, e.g., *Or. Nat. Desert Assoc. v. Jewell*, \_\_\_ F.3d \_\_\_, 2016 WL 3033674 (9<sup>th</sup> Cir. May 26, 2016) (reversing approval of wind project and environmental impact statement for failure to consider impacts to sage grouse at Steens Mountain).

<sup>24</sup> See *Re Investigation Regarding Competitive Bidding*, Docket No. UM 1182, Order No. 13-204 at 7 (June 10, 2013).

in PacifiCorp's service territory, because PacifiCorp includes *no* transmission costs to get the output to its system. The point-to-point transmission costs for Bonneville Power Administration ("BPA") would be at least \$10 per MWh for a wind project that must reserve transmission capacity at its plant's full nameplate capacity but cannot spread those costs over as many MWhs of energy as a baseload facility with a higher capacity factor.<sup>25</sup> The Northwest Power and Conservation Counsel's Seventh Power Plan therefore assumes that the BPA point-to-point wheeling charge is a component of the cost for the best wind resources in Oregon, which it states will have a capacity factor of only 32 percent.<sup>26</sup>

Furthermore, even if a wind farm with 35 percent capacity factor could interconnect to PacifiCorp's system, it would have to do so at a location without any load pocket expenses to wheel the power to a portion of PacifiCorp's system with large enough loads to absorb the generation. As the Commission may recall, PacifiCorp regularly complains of this expense associated with "load pocket transmission" with respect to small QFs that interconnect to remote parts of its system where high quality

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<sup>25</sup> PacifiCorp charged a biomass QF \$4.10 per MWh for BPA point-to-point transmission and ancillary services to move that QF's generation out of a load pocket to PacifiCorp loads. See Re Investigation Into QF Contracting and Pricing, Docket No. UM 1610, CREA/502, Skeahan/4 (May 22, 2105); Re PacifiCorp, dba Pacific Power, Information Filing of QF Contracts, Docket No. RE 142, TMF Biofuels PPA, Addendum A at A-4. For a wind plant, with a lower capacity factor than a biomass facility, those fixed BPA costs must be spread over less energy, and it is reasonable to assume the cost would be *at least* \$10 per MWh. The transmission cost for the wind proxy could be significantly higher, especially if transmission upgrades were necessary.

<sup>26</sup> Northwest Power and Conservation, Seventh Power Plan, Appendix H at H-27, Table H-13, *available at* [http://www.nwcouncil.org/media/7149910/7thplanfinal\\_appdixh\\_gresources.pdf](http://www.nwcouncil.org/media/7149910/7thplanfinal_appdixh_gresources.pdf).

renewable resources exist.<sup>27</sup> Therefore, even if the very large wind proxy could directly interconnect to PacifiCorp's system, there is absolutely no evidence it could be delivered to load without third-party transmission costs.

Thus, since PacifiCorp has assumed no transmission costs, it is only reasonable to assume a 29 percent capacity factor for Oregon wind directly interconnecting to a part of PacifiCorp's system with enough load to absorb the full output of the wind proxy that was included in PacifiCorp's acknowledged IRP.

**b. The Capital Costs of Oregon Wind Proxy Should be Derived from the *Acknowledged* IRP.**

The capital costs for the Oregon wind proxy in the acknowledged IRP are reasonably set at \$2,308 per kW-year.<sup>28</sup> This is consistent with the Northwest Power and Conservation Council's Seventh Power Plan's assumption of \$2,240 per kW-Year.<sup>29</sup>

PacifiCorp proposes, however, in its Supplemental Application to utilize the far lower capital costs it provided after its initial avoided cost filing in its unacknowledged IRP Update. PacifiCorp asserts that the amount in the unacknowledged IRP Update is \$1,803 per kW-year. In support, PacifiCorp alleges that “[p]reliminary review of the lowest cost bids for wind projects located in the Pacific Northwest submitted into the 2016 resource RFP have a capacity-weighted average capital cost of \$1,810/kW . . . .”<sup>30</sup>

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<sup>27</sup> See, e.g., Re Investigation Into QF Contracting and Pricing, Docket No. 1610, Order No. 16-174 at 28-30 (May 13, 2016).

<sup>28</sup> See Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP at 98 (Mar. 31, 2015).

<sup>29</sup> Northwest Power and Conservation, Seventh Power Plan, App. H at page H-27, Table H-13, *available at* [http://www.nwcouncil.org/media/7149910/7thplanfinal\\_appdixh\\_gresources.pdf](http://www.nwcouncil.org/media/7149910/7thplanfinal_appdixh_gresources.pdf).

<sup>30</sup> Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729(1), Supplemental Update at 4 (June 21, 2016).

However, these are un-vetted, preliminary bids in an unsupervised RFP. PacifiCorp has refused to even provide any evidence in discovery supporting its assertions.<sup>31</sup>

Even accepting the truth of PacifiCorp's allegations, there are multiple reasons that such preliminary bids in an RFP could change. Multiple events and factors could increase the initial bid price by the time the actual costs of acquiring and constructing a wind farm are passed onto customers in retail rates. For that reason, PacifiCorp typically includes a contingency cost adder in its evaluation of capital costs in its own RFP bids.<sup>32</sup> PacifiCorp does not assert that preliminary bids in its ongoing RFP include reasonable amounts for contingency cost adders, and it has provided no supporting evidence that these preliminary bids would be committed with no possibility for increases before inclusion in retail rates in the same manner as pricing in a QF power purchase agreement ("PPA"). The Commission has never set avoided costs based upon allegations of "preliminary bids" into an ongoing and unsupervised RFP, and there is no basis to start doing so now.

Therefore, absent findings or evidence supporting a contrary conclusion (which PacifiCorp has refused to provide), the Commission should require PacifiCorp to utilize the assumptions from its acknowledged IRP.

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<sup>31</sup> Attachment A at (PacifiCorp's response to CREA data requests)(The Joint QF Parties have also attached CREA's first and second set of data requests for the purpose of showing the information that PacifiCorp refused to provide).

<sup>32</sup> See Re Investigation Into Competitive Bidding, Docket No. UM 1182, Order No. 13-204 at 5 (June 10, 2013) (noting the utilities assert that they use contingency cost adders to bids for capital costs); Re Investigation Into Competitive Bidding, Docket No. UM 1182, PacifiCorp's Prehearing Br. at 24 (Feb. 1, 2013) (asserting that "overall cost of a benchmark resource proposal also includes a cost contingency to account for potential EPC change orders, change in law provisions, required scope modifications and other unforeseen project costs").

**c. PacifiCorp's Assumption of No Transmission Costs Is Unreasonable.**

As noted above, it is not reasonable to assume that a wind farm that has a 35 percent capacity factor could interconnect to PacifiCorp's Oregon system outside of a load pocket. Therefore, if the Commission allows PacifiCorp to set rates based upon a wind farm with anything close to a 35 percent capacity factor, it should require a transmission adder of at least \$10 per MWh (as discussed above) to account for BPA transmission needed to move the superior wind resource to PacifiCorp's retail loads.

**d. The Joint QF Parties Agree that the PTC Should Be Updated.**

The Joint QF Parties agree that it is reasonable to assume that the full value of the PTC will apply to the wind proxy coming online in 2018. The current renewable rates assume there is no PTC for the wind proxy that comes online in 2024, and inclusion of the PTC significantly reduces the avoided costs by reducing the costs of the wind proxy. Although the acknowledged IRP assumes the PTC is not available, this component of the renewable avoided costs would have normally been updated during the annual May 1 update, which is not the case for the capital costs and the wind capacity factor assumptions in the acknowledged IRP.<sup>33</sup>

An argument could be made that for a 2018 plant only partial application of the PTC should apply because the PTC phase-out steps down 20 percent per year for wind plants that start construction after this year to 60 percent in 2018, and for that reason both PacifiCorp and PGE are claiming to need to move quickly with renewable RFPs in light

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<sup>33</sup> Re Portland General Electric Company Application to Update Schedule 201 QF Information, Docket No. UM 1728, Order No. 15-206 (June 23, 2015).

of the changes in the PTC.<sup>34</sup> The Joint QF Parties, however, believe that it is reasonable to assume that most projects constructed in 2018 will be able to use 100 percent of the PTC because the Internal Revenue Service has provided developers four years to complete a new wind farm or other renewable energy project that qualify for tax credits without having to prove that the construction work was continuous.<sup>35</sup> Our reasonable concession on this point should allow the Commission to focus on the more unreasonable aspects of PacifiCorp's overall proposal for the renewable rates.

**C. The Commission Should Not Allow PacifiCorp to Update Its Renewable Rates Until After the Commission Acknowledges the Impact of SB 1547.**

PacifiCorp has materially harmed small QFs by delaying implementation of reasonable renewable avoided costs that take SB 1547 into account. Several months have now passed since the Commission rejected PacifiCorp's initial rate filing at the public meeting on March 22, 2016. It should be apparent that PacifiCorp's goal is to delay implementation of increased renewable avoided costs to deprive small QFs of the ability to obtain executed contracts with higher prices until after its ongoing RFP is concluded. After the RFP, PacifiCorp will likely return to the Commission to lower the renewable avoided costs, due to the acquisition of non-QF resources that render the utility renewable resource sufficient. For example, PacifiCorp may request to move out the renewable

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<sup>34</sup> Thus, PacifiCorp is taking inconsistent positions arguing in this proceeding that a 2018 wind project will have the full PTC, but arguing in its RFP that a 2018 wind project will not receive a full PTC.

<sup>35</sup> IRS Notice 2016-31 at 5, *available at* <https://www.irs.gov/pub/irs-drop/n-16-31.pdf> (“if a taxpayer places a facility in service by . . . a calendar year that is no more than four calendar years after the calendar year during which construction of the facility began . . . the facility will be considered to satisfy the [safe harbor provisions]”).

sufficiency-deficiency demarcation despite the fact that Company may file a new renewable RFP at any time.

However, because the QFs have already been harmed by PacifiCorp's conduct, the Commission should not allow PacifiCorp to again update its renewable avoided costs until completion of the normal IRP schedule. This would mean keeping whatever avoided cost rates result from the Commission's final order until an annual update or acknowledgement of an IRP or IRP update. This is consistent with what the Commission initially envisioned at the March 22, 2016 public hearing. QFs value stable pricing and rates and the Joint QF Parties support returning to a normal avoided cost update schedule that will allow QFs to plan their operations based on current rates, at least until the limited annual update in the spring of 2017.<sup>36</sup>

**D. The Year of Deficiency for Standard Avoided Cost Rates Should Remain at 2024 Instead of Move to 2028.**

PacifiCorp's resource sufficiency-deficiency demarcation for new thermal resources was inaccurate in its 2015 IRP, and is hopelessly out of date considering circumstances announced after the Company's 2015 IRP was acknowledged. The Joint QF Parties recommend that the Commission keep the next date of deficiency for standard rates at 2024 and reject PacifiCorp's proposal to move it to 2028.<sup>37</sup> The 2028 date is

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<sup>36</sup> PacifiCorp will also need to file a limited avoided cost rate change to incorporate the Commission's decision in UM 1610 to correct the capacity contribution adder for QFs selecting standard renewable avoided cost price. Re Investigation Into QF Contracting and Pricing, Docket No. UM 1610, Order No. 16-174 at 2, 8-12 (May 13, 2016).

<sup>37</sup> Standard rates are based on the costs of market purchases and a new thermal resource. All QFs in Oregon selling power under standard rates are in fact powered by renewable energy, but they either retain their renewable energy

arbitrary and unreasonable because the Company: 1) has not conducted adequate analysis to determine if the wholesale market has sufficient depth to meet PacifiCorp’s summer peak until PacifiCorp’s proposed resource sufficiency-deficiency demarcation (2028, which is about 12 years); 2) recently announced major coal plant retirements (the 337 MW Naughton 3 in 2018, and the 387 MW Cholla 4 in 2025); 3) possible need to accelerate coal plant retirements because of the Clean Power Plan and SB 1547 requirement to remove coal costs from Oregon rates; and 4) possible need to replace coal plants with flexible gas plants to integrate the increased need for renewable resources under SB 1547.

**1. The Commission Has Never Addressed PacifiCorp’s Proposed 2028 Year of Deficiency.**

When the Commission first stated that it would look to the IRP for the resource sufficiency-deficiency demarcation, the Commission explained that it would look to “the start date of the ‘first major resource acquisition’ in the **action plan** of the most recent acknowledged IRP . . . .”<sup>38</sup> This review is relatively straight forward when the year of deficiency is within the utility’s action plan. PacifiCorp’s IRP action plan covers resource plans in the next two to four years.<sup>39</sup> When the Commission decided to use the action plan as the starting point for determining the year of deficiency, PacifiCorp’s action plans typically included a major resource acquisition within the 20-year IRP

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certificates or do not qualify as renewable under Oregon’s Renewable Portfolio Standard.

<sup>38</sup> Re Investigation into determination of resource sufficiency, pursuant to Order No. 06-538, UM 1396, Order No. 10-488 at 8 (Dec. 22, 2010); Re Investigation into determination of resource sufficiency, pursuant to Order No. 06-538, UM 1396, Order No. 11-505 at 6 (Dec. 13, 2011).

<sup>39</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Vol. 1 at 10 (Mar. 31, 2015).

planning period. For example, in 2007-2008 the deficiency year was 2012, in 2009-11 the deficiency year was 2014, and in 2012-2013 the deficiency year was 2016.

The Commission can no longer rely on the timing of the first major resource acquisition in the IRP, because it is well beyond the action plan. PacifiCorp's 2015 IRP included a new renewable resource more than 20 years out and a thermal resource in 2028.<sup>40</sup> These years may be reasonable for planning purposes because there is no practical distinction between 2026, 2027 or 2028. These dates are so far out that they are per se inaccurate, and will be reset in a future IRP closer in time to the Company's actual resource need.

The specific date for a new resource acquisition, especially a year that is more than a decade from now, has a huge impact on avoided cost rates. The avoided cost prices before a thermal resource acquisition are based on very low market purchases with little to no capacity payments, and those afterwards are based on the higher costs of a new gas generation plant that includes capacity payments.<sup>41</sup> If a 2028 date is used to set standard rates, then a QF entering into a contract and selling power in 2016 will be paid low market based prices from 2016 to 2027, and higher prices with capacity payments for only a few years (2028-2030).

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<sup>40</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Vol. 1 at 2, 189 (Mar. 31, 2015).

<sup>41</sup> Based on current Oregon (but not Idaho) policy, this is true for QFs that have been selling power to the utilities for decades and PacifiCorp relies upon to continue selling energy and capacity. These QFs are currently being paid for their capacity, but when they renew their contracts, they are no longer paid for capacity during the years in which rates are based on market purchases. In contrast, the utilities recover the full costs, including capacity costs, of utility owned resources for their entire useful life.

Given that the resource sufficiency-deficiency date is key to the survival of QFs, the Coalition raised this issue in the Company's last IRP. The Coalition commented that the year of deficiency was inaccurate and unrealistic and challenged the Company's plans to rely upon front office transactions for capacity needs over the next dozen years.<sup>42</sup> The Coalition again raised the issue of the "year of deficiency" at the December 17, 2015 public meeting regarding the IRP, but the Commission would not even accept oral comments on this issue.<sup>43</sup>

The Commission's acknowledgment order ignored these comments, only addressed issues regarding PacifiCorp's action plan, and did not address the year of deficiency.<sup>44</sup> Simple reliance upon a deficiency period unilaterally selected by the Company and not reviewed by the Commission would deprive QFs of their basic due process rights to challenge the deficiency period dates contained in PacifiCorp's proposed avoided costs.

## **2. Avoided Cost Rates Should Not Be Set Arbitrarily Low Because PacifiCorp Is Allegedly Relying Upon Market Purchases**

PacifiCorp claims that it plans to meet its resource deficit (which is more than 1,000 MWs) for the next dozen years with market purchases, or front office transactions. It is unclear whether PacifiCorp is merely hedging its bets and deferring any real resource acquisition strategy because it is awaiting resolution of future carbon regulation, or if the Company actually believes that it can rely upon the depth of the short-term market to

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<sup>42</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, Coalition Comments at 4-5 (Aug. 27, 2015).

<sup>43</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, Public Meeting at 1:23 to 1:26 (Dec. 17, 2015).

<sup>44</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, Order No. 16-071 (Feb. 29, 2016).

meet its future energy and capacity needs. Either way, PacifiCorp has not demonstrated the reasonableness of such a strategy, and avoided cost rates should not be based on an inaccurate assumption that the Company will not build any new thermal capacity for a dozen years.

PacifiCorp is planning on acquiring significant energy and capacity to meet its short-term and long-term energy needs.<sup>45</sup> Thus, the question is not whether PacifiCorp is deficient and needs resources, but how the Company is planning to meet this need. PacifiCorp's IRP Update doubles down on a strategy of "relying" upon uncertain front office transactions by dramatically increasing market purchases between 202 MW and 670 MW each year from 2018 to 2025.<sup>46</sup> This results in an average annual market purchase increase to 1,067 MW, up from 847 MW.<sup>47</sup>

PacifiCorp has not demonstrated that the wholesale market is likely to have sufficient depth to meet PacifiCorp's summer peak for the foreseeable future. The PacifiCorp 2015 IRP asserts that the Northwest Power Pool and the Rocky Mountain Reserve Group are capacity rich through 2024 and 2021, respectively.<sup>48</sup> Given that it is only six years out, the Rocky Mountain Reserve Group is unlikely to help meet the Company's summer peak after 2021.

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<sup>45</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Update at 4 (Mar. 31, 2016).

<sup>46</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Update at 5 (Mar. 31, 2016).

<sup>47</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Update at 5 (Mar. 31, 2016).

<sup>48</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Vol. 1 at 21 (Mar. 31, 2015).

There is not regional consensus that there will be sufficient market liquidity to meet future energy and capacity needs. Puget Sound Energy (“PSE”) for its part has concerns with the availability of wholesale market purchases to meet its resource needs. PSE is conducting a more thorough analysis of market liquidity than is PacifiCorp, which includes assumptions regarding shutting down Northwest thermal plants, assumptions regarding the amount of regional thermal plant additions needed to ensure an acceptable loss of load probability, and increased California imports. The difference in the two utilities’ analysis may be driven in part by PSE’s management’s desire for new resources, while PacifiCorp’s management has been focused on building transmission to include in rate base.

The Utah Public Service Commission has expressed significant concerns regarding PacifiCorp’s reliance upon front office transactions. In Utah, industrial customers, Utah’s version of the Commission Staff (the Division of Public Utilities), and residential ratepayer advocates have all questioned whether there is sufficient wholesale market depth for PacifiCorp’s strategy to meet its energy and capacity needs with market purchases.<sup>49</sup> In issuing its order regarding the 2015 IRP, the Utah Commission concluded that:

We generally agree with the parties’ concerns regarding market depth. We direct PacifiCorp to continue to evaluate the depth of the western wholesale market, and to use sensitivity cases and acquisition path analysis, including development of a contingency plan, to monitor the feasibility of long-term reliance on [front office transactions] to meet near-term load growth.<sup>50</sup>

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<sup>49</sup> Re Rocky Mountain Power’s 2015 IRP, Docket No. 15-035-04, Report and Order at 20-21 (Jan. 8, 2016).

<sup>50</sup> Id. at 21.

It is not just and reasonable to assume that PacifiCorp will actually meet its energy and capacity needs with such high levels of market purchases for such a long period of time. Instead of accurately setting a date for its next major thermal resource acquisition, PacifiCorp is instead simply retaining its future flexibility by not realistically estimating its next resource acquisition to future IRPs. However, this strategy does not accurately reflect the resources that PacifiCorp will actually avoid but for the purchase of power from QFs, and would result in arbitrarily low avoided cost rates for QFs.

**3. PacifiCorp’s Announced Coal Retirements Demonstrate that PacifiCorp Is Unlikely to Wait 12 Years Before Acquiring a New Thermal Resource**

PacifiCorp’s recent decision to shut down two coal facilities representing 724 MW of power, in addition to its existing plans to potentially shut down other coal plants, supports maintaining a 2024 thermal year of deficiency instead of 2028. Despite the fact that parties raised this issue with PacifiCorp, the Company does not provide any substantive evidence regarding the impact of these major resource decisions that were announced immediately after the acknowledgement of its 2015 IRP.<sup>51</sup> In the absence of evidence from PacifiCorp, it is reasonable to maintain the status quo of a 2024 deficiency date.

The basic facts demonstrating PacifiCorp’s deficiency are not in dispute. PacifiCorp recently announced that it will shut down both Naughton Unit 3 (337 MW) at the end of 2017 and Cholla Unit 4 (387 MW) at the end of 2024.<sup>52</sup> These coal plant

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<sup>51</sup> Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729(1), Supplemental Update at 5 (June 21, 2016).

<sup>52</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Update at 5, 26 (Mar. 31, 2016).

closures are sooner than expected, and were not planned or otherwise accounted for when the Commission acknowledged PacifiCorp's 2015 IRP.<sup>53</sup> These are in addition to other capacity losses in the Northwest markets with PGE's closure of Boardman, at least two Colstrip units likely being shut down in the near future, the reduction in capacity due to the closure and possible gas conversion at Centralia, and the agreement to actually close the Klamath dams.

The Joint QF Parties have no doubt that, if a utility suddenly acquired over 700 MWs of capacity, then it would immediately file an out-of-cycle avoided cost rate update to move the sufficiency period out and lower avoided cost rates. The Commission allows out-of-cycle updates to reflect significant changes in circumstances, such as the acquisition of a major block of resources or the completion of a competitive bid.<sup>54</sup> While the standard for meeting this "significant change" is "very high,"<sup>55</sup> the Commission recently allowed Idaho Power to update its sufficiency-deficiency period mid-cycle based on the acquisition of 400 MW of demand response.<sup>56</sup> The Joint QF Parties do not support these out-of-cycle updates, and would not be proposing an out of cycle update based solely upon the retirement of over 700 MWs of coal plants.

PacifiCorp's filing, however, is not an out-of-cycle update. Instead, this case is a regularly scheduled avoided cost update, which means it is appropriate to review whether

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<sup>53</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, PacifiCorp IRP Update at 5, 26 (Mar. 31, 2016).

<sup>54</sup> OAR § 860-029-0080(8).

<sup>55</sup> Re Investigation Into QF Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 25-26 (Feb. 24, 2014).

<sup>56</sup> Re Idaho Power Company Application to Lower Standard Contract Eligibility Cap and to Reduce the Standard Contract Term, for Approval of Solar Integration Change, and for Change in Resource Sufficiency Determination, Docket No. UM 1725, Order No. 16-129 at 8 (Mar. 29, 2016).

PacifiCorp's underlying assumptions in the acknowledged IRP were or continue to be reasonable. In fact, PacifiCorp admitted that the passage of SB 1547 warrants departing from the 2015 IRP's sufficiency period for renewable resources, when setting avoided cost rates in this proceeding.<sup>57</sup> As the Company has failed to demonstrate that the 2028 date in its last IRP is reasonable in light of more than 700 MWs of coal retirements and other capacity losses, the 2024 year of deficiency should not be changed.

**4. Regulatory Uncertainty and Changes Related to Renewable Portfolio Standards and Carbon Regulation Support No Changes in the Sufficiency Date for Standard (Non-renewable) Rates.**

The passage of SB 1547 is likely to accelerate the need for new gas resources. While it is unclear what actions PacifiCorp will take in response to the requirement to remove the costs of coal from Oregon rates, one possible action is to reduce reliance upon these resources and quickly shift to natural gas. PacifiCorp may simply shift the costs and benefits of coal under its cost allocation methodology to non-Oregon states. It is equally likely, however, that at least some of the Company's eastern states will not want to bear all the risks associated with coal generation and will allow more expeditious retirements. Similarly, PacifiCorp may now be more concerned with the regulatory risk associated with coal, and its 2017 IRP may suddenly show that coal plant closures are the least cost and risk option.<sup>58</sup>

The need to acquire more renewable resources will likely accelerate the company's plans to replace coal with more flexible gas generation. In the end, these new

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<sup>57</sup> Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729(1), Supplemental Update at 3 (June 21, 2016).

<sup>58</sup> It is interesting that immediately after the passage of SB 1547 PacifiCorp announced the closure of two existing coal plants.

events call into question a 2028 date for the construction or acquisition of the Company's next major gas resource.

The year of deficiency could also change dramatically, given the uncertainty surrounding haze regulations and EPA Rule 111(d) Clean Power Plan limiting CO<sub>2</sub> emissions. PacifiCorp itself recognizes that the date can markedly shift depending on sensitivity to outside regulation and market changes. For example, PacifiCorp's 2015 IRP included a sensitivity case for complying with the Clean Power Plan and high carbon regulation, which included a 2024 thermal resource acquisition.<sup>59</sup> An even more restricted Clean Power Plan compliance would result in a 2020 year of deficiency.<sup>60</sup>

### III. CONCLUSION

For the reasons stated above, the Commission should approve new renewable avoided cost rates consistent with all the inputs and assumptions from the Company's 2015 acknowledged IRP and the annual update, except for setting the year of deficiency at 2018, and approve new standard rates consistent with all the inputs and assumptions from the Company's 2015 acknowledge IRP and the annual update, except for setting the year of deficiency at 2024.

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<sup>59</sup> Re PacifiCorp 2015 IRP, Docket No. LC 62, Attachment K at 152 (Mar. 31, 2015).

<sup>60</sup> Id.

Dated this 1st day of July 2016.

Respectfully submitted,

Greg M. Adams  
Gregory M. Adams (OSB No. 101779)  
RICHARDSON ADAMS, PLLC

Of Attorneys for the Community Renewable  
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Of Attorneys for the Renewable Energy Coalition

# **Attachment A**

**From:** [Till, Dustin](#)  
**To:** [Greg Adams](#)  
**Subject:** UM 1729(1) Data Requests  
**Date:** Wednesday, June 29, 2016 5:16:41 PM

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Greg:

We've been exchanging voicemails since yesterday, so I'm following up with an email. PacifiCorp objects to both sets of CREA's data requests propounded in UM 1729(1). As an initial matter, the Commission ordered PacifiCorp, Staff, and the parties to resolve PacifiCorp's avoided cost update in an expedited, non-contested case. See Order No. 16-117. Data requests and other discovery is only permitted in contested cases. See OAR 860-002-0500 (discovery available in contested cases) and -0540(1) (allowing data requests to be filed by a "party," which OAR 860-001-0010(7) defines as a "person entitled as a matter of right to a hearing before the Commission.") Because this is a non-contested case, discovery is not permitted; because a hearing is not required, CREA does not have party status necessary to propound data requests.

Second, assuming for the sake of argument that data requests would be permitted, both sets of CREA's data requests seek undiscoverable highly confidential information concerning bids PacifiCorp received in response to its RFP. Furthermore, PacifiCorp did not rely on the RFP bids to develop its avoided cost prices, and only demonstratively referenced bid information in very general terms.

Please let me know if you have any questions.

Regards,  
-Dustin

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June 22, 2016

***Via Electronic Mail***

Dustin Till  
Legal Counsel  
Pacific Power  
825 NE Multnomah St., Suite 1800  
Portland OR 97232  
dustin.till@pacificorp.com  
datarequest@pacificorp.com

**Re: UM 1729 – Community Renewable Energy Association’s First Set of Data Requests to PacifiCorp –*Expedited Response Requested***

Please see the data requests set forth below with regard to the above-referenced docket. Please provide responses electronically only, and in the original electronic format, if possible. Please use the definitions set forth below. These are ongoing requests, and include requests for information that becomes available during these proceedings.

Due to the expedited nature of review of PacifiCorp Supplemental Application, ***expedited response to this request with responses provided within seven (7) days is requested.***

Please provide responses to the following persons:

Gregory M. Adams  
Richardson Adams PLLC  
515 N. 27<sup>th</sup> Street  
Boise, Idaho 83702  
Telephone: (208) 938-2236  
Fax: (208) 938-7904  
greg@richardsonadams.com

## DEFINITIONS

For the purposes of these requests, the following words have the following meanings:

1. “Documents” refers to all writings and records of every type in your possession, control, or custody, whether or not claimed to be privileged or otherwise excludable from discovery, including but not limited to: testimony and exhibits, memoranda, papers, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses, studies (including economic and market studies), summaries, comparisons, tabulations, bills, invoices, statements of services rendered, charts, books, pamphlets, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, ledgers, transcripts, microfilm, microfiche, computer data (including E-mail), computer files, computer tapes, computer inputs, computer outputs and printouts, vouchers, accounting statements, budgets, work papers, engineering diagrams (including “one-line” diagrams), mechanical and electrical recordings, telephone and telegraphic communications, speeches, and all other records, written, electrical, mechanical, or otherwise, and drafts of any of the above.

“Documents” includes copies of documents, where the originals are not in your possession, custody or control.

“Documents” includes every copy of a document which contains handwritten or other notations or which otherwise does not duplicate the original or any other copy.

“Documents” also includes any attachments or appendices to any document.

2. “Identification” and “identify” mean:  
When used with respect to a document, stating the nature of the document (e.g., letter, memorandum, minutes); the date, if any, appearing thereon; the date, if known, on which the document was prepared; the title of the document; the general subject matter of the document; the number of pages comprising the document; the identity of each person who wrote, dictated, or otherwise participated in the preparation of the document; the identity of each person who signed or initiated the document; the identity of each person to whom the document was addressed; the identity of each person who received the document or reviewed it; the location of the document; and the identity of each person having possession, custody, or control of the document.

When used with respect to a person, stating his or her full name; his or her most recently known home and business addresses and telephone numbers; his or her present title and position; and his or her present and prior connections or associations with any participant or party to this proceeding.

3. “PacifiCorp” refers to PacifiCorp, any affiliated company, or any officer, director or

employee, or any affiliated company.

4. “Person” refers to, without limiting the generality of its meaning, every natural person, corporation, partnership, association (whether formally organized or ad hoc), joint venture, unit operation, cooperative, municipality, commission, governmental body or agency, or any other group or organization.
5. “Studies” or “study” includes, without limitation, reports, reviews, analyses and audits.
6. The terms “and” and “or” shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of this discovery any information or documents which might otherwise be considered to be beyond their scope.
7. The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular, whenever appropriate in order to bring within the scope of this discovery request any information or documents which might otherwise be considered to be beyond their scope.
8. “Work papers” means documents that show the source, calculations, and details supporting the material referenced in the data request.

### INSTRUCTIONS

1. These requests call for all information, including information contained in documents, which relate to the subject matter of the Data Request and which is known or available to you.
2. Where a Data Request has a number of separate subdivisions or related parts or portions, a complete response is required to each such subdivision, part or portion. Any objection to a Data Request should clearly indicate the subdivision, part, or portion of the Data Request to which it is directed.
3. Each response should be furnished on a separate page. In addition to hard copy, electronic versions of the document, including studies and analyses, must also be furnished if available.
4. If you cannot answer a Data Request in full, after exercising due diligence to secure the information necessary to do so, state the answer to the extent possible, state why you cannot answer the Data Request in full, and state what information or knowledge you have concerning the unanswered portions.

5. If, in answering any of these Data Requests, you feel that any Data Request or definition or instruction applicable thereto is ambiguous, set forth the language you feel is ambiguous and the interpretation you are using in responding to the Data Request.
6. If a document requested is unavailable, identify the document, describe in detail the reasons the document is unavailable, state where the document can be obtained, and specify the number of pages it contains.
7. If you assert that any document has been destroyed, state when and why it was destroyed and identify the person who directed the destruction. If the document was destroyed pursuant to your document destruction program, identify and produce a copy of the guideline, policy, or company manual describing such document destruction program.
8. If you refuse to respond to any Data Request by reason of a claim of privilege, confidentiality, or for any other reason, state in writing the type of privilege claimed and the facts and circumstances you rely upon to support the claim of privilege or the reason for refusing to respond. With respect to requests for documents to which you refuse to respond, identify each such document, and specify the number of pages it contains. Please provide: (a) a brief description of the document; (b) date of document; (c) name of each author or preparer; (d) name of each person who received the document; and (e) the reason for withholding it and a statement of facts constituting the justification and basis for withholding it.
9. Identify the person from whom the information and documents supplied in response to each Data Request were obtained, the person who prepared each response, the person who reviewed each response, and the person who will bear ultimate responsibility for the truth of each response.
10. If no document is responsive to a Data Request that calls for a document, then so state.
11. These requests for documents and responses are continuing in character so as to require you to file supplemental answers as soon as possible if you obtain further or different information. Any supplemental answer should refer to the date and use the number of the original request or subpart thereof.
12. Whenever these Data Requests specifically request an answer rather than the identification of documents, the answer is required and the production of documents in lieu thereof will not substitute for an answer.
13. To the extent that the Company believes it is burdensome to produce specific information requested, please contact counsel for CREA to discuss the problem prior to filing an answer objecting on that basis to determine if the request can be modified to pose less difficulty in responding.

14. To the extent the Company objects to any of the requests please contact counsel for CREA to determine if the request can be modified to produce a less objectionable request.

### DATA REQUESTS

- 1.1 Reference PacifiCorp's June 21, 2016 Supplemental Application at page 4, asserting: "Preliminary review of the lowest cost bids for wind projects located in the Pacific Northwest submitted into the 2016 resource RFP have a capacity-weighted average capital cost of \$1,810/kW and a capacity weighted average capacity factor of 34.9%."

Please provide all of the referenced bids, and all work papers used by PacifiCorp to develop the weighted average costs and capacity factors (with bids identified by number instead of bidder names if necessary for confidentiality concerns.)

- 1.2 Reference PacifiCorp's June 21, 2016 Supplemental Application at page 4, asserting: "Preliminary review of the lowest cost bids for wind projects located in the Pacific Northwest submitted into the 2016 resource RFP have a capacity-weighted average capital cost of \$1,810/kW and a capacity weighted average capacity factor of 34.9%."

Please provide the following information regarding the referenced bids (with bids identified by number instead of bidder names if necessary for confidentiality concerns.)

- a. The number of bids included in PacifiCorp's sample of "lowest cost bids."
- b. The number of bids for a physical wind resource in the RFP total.
- c. For each bid in the sample of "lowest cost bids" provide:
  - i. Nameplate capacity;
  - ii. Capacity Factor;
  - iii. Interconnecting Utility;
  - iv. Wheeling utility(ies) between point of interconnection and PacifiCorp's system;
  - v. Whether the full output of the plant can be designated as a network resource by PacifiCorp Transmission without any network upgrades;
  - vi. Whether PacifiCorp would use third-party transmission to move the output from the point of delivery on PacifiCorp's system to PacifiCorp loads, and if yes, the amount and type of such third-party transmission; and
  - vii. Whether the bid is a utility-ownership or a PPA structure.

- 1.3 Reference PacifiCorp's June 21, 2016 Supplemental Application at page 4, asserting: "Preliminary review of the lowest cost bids for wind projects located in the Pacific Northwest submitted into the 2016 resource RFP have a capacity-weighted average capital cost of \$1,810/kW and a capacity weighted average capacity factor of 34.9%."

Have the capacity factors of each of the bids included in PacifiCorp's sample of the "lowest cost bids" been approved by "a qualified and independent third-party technical expert to review the expected wind capacity factor associated with each project," as required for any short-list bid in an RFP under Order No. 13-204? If yes, please provide the reports generated by the independent expert for each project (with bids identified by number instead of bidder names if necessary for confidentiality concerns.)

Thank you for your prompt attention to this request.

Sincerely,

*/s/ Gregory M. Adams*

Gregory M. Adams  
Attorney for the Community Renewable Energy Association

cc: OPUC UM 1729 service list (e-mail only)



**RICHARDSON ADAMS, PLLC**  
ATTORNEYS AT LAW

Gregory M. Adams

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June 23, 2016

***Via Electronic Mail***

Dustin Till  
Legal Counsel  
Pacific Power  
825 NE Multnomah St., Suite 1800  
Portland OR 97232  
dustin.till@pacificorp.com  
datarequest@pacificorp.com

**Re: UM 1729 – Community Renewable Energy Association’s Second Set of Data Requests to PacifiCorp –*Expedited Response Requested***

Please see the data requests set forth below with regard to the above-referenced docket. Please provide responses electronically only, and in the original electronic format, if possible. Please use the definitions set forth below. These are ongoing requests, and include requests for information that becomes available during these proceedings.

Due to the expedited nature of review of PacifiCorp Supplemental Application, ***expedited response to this request with responses provided within seven (7) days is requested.***

Please provide responses to the following persons:

Gregory M. Adams  
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515 N. 27<sup>th</sup> Street  
Boise, Idaho 83702  
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## DEFINITIONS

For the purposes of these requests, the following words have the following meanings:

1. “Documents” refers to all writings and records of every type in your possession, control, or custody, whether or not claimed to be privileged or otherwise excludable from discovery, including but not limited to: testimony and exhibits, memoranda, papers, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses, studies (including economic and market studies), summaries, comparisons, tabulations, bills, invoices, statements of services rendered, charts, books, pamphlets, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, ledgers, transcripts, microfilm, microfiche, computer data (including E-mail), computer files, computer tapes, computer inputs, computer outputs and printouts, vouchers, accounting statements, budgets, work papers, engineering diagrams (including “one-line” diagrams), mechanical and electrical recordings, telephone and telegraphic communications, speeches, and all other records, written, electrical, mechanical, or otherwise, and drafts of any of the above.

“Documents” includes copies of documents, where the originals are not in your possession, custody or control.

“Documents” includes every copy of a document which contains handwritten or other notations or which otherwise does not duplicate the original or any other copy.

“Documents” also includes any attachments or appendices to any document.

2. “Identification” and “identify” mean:  
When used with respect to a document, stating the nature of the document (e.g., letter, memorandum, minutes); the date, if any, appearing thereon; the date, if known, on which the document was prepared; the title of the document; the general subject matter of the document; the number of pages comprising the document; the identity of each person who wrote, dictated, or otherwise participated in the preparation of the document; the identity of each person who signed or initiated the document; the identity of each person to whom the document was addressed; the identity of each person who received the document or reviewed it; the location of the document; and the identity of each person having possession, custody, or control of the document.

When used with respect to a person, stating his or her full name; his or her most recently known home and business addresses and telephone numbers; his or her present title and position; and his or her present and prior connections or associations with any participant or party to this proceeding.

3. “PacifiCorp” refers to PacifiCorp, any affiliated company, or any officer, director or

employee, or any affiliated company.

4. “Person” refers to, without limiting the generality of its meaning, every natural person, corporation, partnership, association (whether formally organized or ad hoc), joint venture, unit operation, cooperative, municipality, commission, governmental body or agency, or any other group or organization.
5. “Studies” or “study” includes, without limitation, reports, reviews, analyses and audits.
6. The terms “and” and “or” shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of this discovery any information or documents which might otherwise be considered to be beyond their scope.
7. The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular, whenever appropriate in order to bring within the scope of this discovery request any information or documents which might otherwise be considered to be beyond their scope.
8. “Work papers” means documents that show the source, calculations, and details supporting the material referenced in the data request.

### INSTRUCTIONS

1. These requests call for all information, including information contained in documents, which relate to the subject matter of the Data Request and which is known or available to you.
2. Where a Data Request has a number of separate subdivisions or related parts or portions, a complete response is required to each such subdivision, part or portion. Any objection to a Data Request should clearly indicate the subdivision, part, or portion of the Data Request to which it is directed.
3. Each response should be furnished on a separate page. In addition to hard copy, electronic versions of the document, including studies and analyses, must also be furnished if available.
4. If you cannot answer a Data Request in full, after exercising due diligence to secure the information necessary to do so, state the answer to the extent possible, state why you cannot answer the Data Request in full, and state what information or knowledge you have concerning the unanswered portions.

5. If, in answering any of these Data Requests, you feel that any Data Request or definition or instruction applicable thereto is ambiguous, set forth the language you feel is ambiguous and the interpretation you are using in responding to the Data Request.
6. If a document requested is unavailable, identify the document, describe in detail the reasons the document is unavailable, state where the document can be obtained, and specify the number of pages it contains.
7. If you assert that any document has been destroyed, state when and why it was destroyed and identify the person who directed the destruction. If the document was destroyed pursuant to your document destruction program, identify and produce a copy of the guideline, policy, or company manual describing such document destruction program.
8. If you refuse to respond to any Data Request by reason of a claim of privilege, confidentiality, or for any other reason, state in writing the type of privilege claimed and the facts and circumstances you rely upon to support the claim of privilege or the reason for refusing to respond. With respect to requests for documents to which you refuse to respond, identify each such document, and specify the number of pages it contains. Please provide: (a) a brief description of the document; (b) date of document; (c) name of each author or preparer; (d) name of each person who received the document; and (e) the reason for withholding it and a statement of facts constituting the justification and basis for withholding it.
9. Identify the person from whom the information and documents supplied in response to each Data Request were obtained, the person who prepared each response, the person who reviewed each response, and the person who will bear ultimate responsibility for the truth of each response.
10. If no document is responsive to a Data Request that calls for a document, then so state.
11. These requests for documents and responses are continuing in character so as to require you to file supplemental answers as soon as possible if you obtain further or different information. Any supplemental answer should refer to the date and use the number of the original request or subpart thereof.
12. Whenever these Data Requests specifically request an answer rather than the identification of documents, the answer is required and the production of documents in lieu thereof will not substitute for an answer.
13. To the extent that the Company believes it is burdensome to produce specific information requested, please contact counsel for CREA to discuss the problem prior to filing an answer objecting on that basis to determine if the request can be modified to pose less difficulty in responding.

14. To the extent the Company objects to any of the requests please contact counsel for CREA to determine if the request can be modified to produce a less objectionable request.

#### DATA REQUESTS

- 2.1 Please provide copies of PacifiCorp's responses to the data requests of all other parties. This is an ongoing request.
- 2.2 Please provide the assumed cost of BPA long-term firm point-to-point transmission and ancillary services utilized for the life of the resource supporting bids that require BPA transmission for purposes of evaluation of bids submitted into PacifiCorp's ongoing RFP for renewable resources. Please provide work papers calculating the cost assumption and an explanation for all inputs into the cost, including source of current rate, escalation rates for future BPA transmission rate cases.
- 2.3 Provide all work papers and the source of all inputs supporting the rate calculations provided in response to REC Data Request 1.4 regarding the rates set forth in the table on page 4-5 of the Supplemental Application.

Thank you for your prompt attention to this request.

Sincerely,

*/s/ Gregory M. Adams*

Gregory M. Adams  
Attorney for the Community Renewable Energy Association

cc: OPUC UM 1729 service list (e-mail only)

# **Attachment B**



Pacific Power |  
Rocky Mountain Power  
825 NE Multnomah, Suite 2000  
Portland, Oregon 97232

June 29, 2016

Irion Sanger  
Sanger Law PC  
1117 SE 53rd Ave.  
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Renewable Energy Coalition  
12050 SW Tremont St,  
Portland, OR 97225  
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RE: OR Docket No. UM 1729  
REC 1<sup>st</sup> Set Data Request (1-5)

Please find enclosed PacifiCorp's Responses to REC 1<sup>st</sup> Set Data Requests 1.1-1.5. Also provided are Attachments REC 1.2, 1.3 –(1-5), 1.4 –(1-7) and 1.5.

If you have any questions, please call me at 503-813-6583.

Sincerely,

Natasha Siores  
Director, Regulatory Affairs & Revenue Requirement

cc: Service List

### **REC Data Request 1.4**

Please refer to the tables on pages 3-4. Please provide the same information, with wind capacity factors from 29% to 35% for the 2013 acknowledged 2015 IRP and 2015 IRP Update with a 2018 deficiency start date.

### **Response to REC Data Request 1.4**

PacifiCorp objects to this data request because data requests and other discovery are not permitted in non-contested cases. In Order No. 16-117, the Commission ordered PacifiCorp, Staff, and stakeholders to begin an expedited, non-contested case process to resolve PacifiCorp's avoided cost update. Under the Commission's rules, discovery is only permitted in contested cases. *See* OAR 860-001-0500. Furthermore, only persons with "party" status may propound data requests. OAR 860-001-0540(1). A "party" is defined as a person "entitled as a matter of right to a hearing before the Commission." Because this docket is a non-contested case, REC is not entitled to a hearing, does not have "party" status, and has no right to propound data requests.

Subject to and without waiving the foregoing objections, PacifiCorp will treat this data request as an informal data request, and will provide this response to other participants in this docket.

Please refer to Attachment REC 1.4 -1, which provides a summary of the requested information. The Company's initial filing included two of the requested scenarios. Attachment REC 1.4 -2 through Attachment REC 1.4 -4 provide the calculations based on the 2015 Integrated Resource Plan (IRP) Update for capacity factors of 29 percent, 31 percent, and 33 percent. Attachment REC 1.4 -5 through Attachment REC 1.4 -7 provide the calculations based on the 2015 IRP for capacity factors of 31 percent, 33 percent, and 35 percent.

15 Year (2017-2031) Nominal Levelized Price - \$/MWh

	Standard Fixed Avoided Cost Prices				Comparison to Proposed Standard				Renewable Deficiency Start	OFPC	CCCT Proxy
	Base Load QF	Wind QF	Fixed Solar QF	Tracking Solar QF	Base Load QF	Wind QF	Fixed Solar QF	Tracking Solar QF			
Proposed Renewable Prices 35% CF	\$52.61	\$38.59	\$45.91	\$46.84					2018	Mar 2016	2015 IRP Update OR Wind 35% CF
Renewable Prices 33% CF	\$56.10	\$42.07	\$49.60	\$50.53	\$3.48	\$3.48	\$3.69	\$3.69	2018	Mar 2016	2015 IRP Update OR Wind 33% CF
Renewable Prices 31% CF	\$60.03	\$46.01	\$53.76	\$54.69	\$7.42	\$7.42	\$7.85	\$7.85	2018	Mar 2016	2015 IRP Update OR Wind 31% CF
Renewable Prices 29% CF	\$64.50	\$50.48	\$58.50	\$59.43	\$11.89	\$11.89	\$12.59	\$12.59	2018	Mar 2016	2015 IRP Update OR Wind 29% CF
2018 Deficiency Start, 2015 IRP Proxy 35% CF	\$64.43	\$50.41	\$58.43	\$59.36	\$11.82	\$11.82	\$12.52	\$12.52	2018	Mar 2016	2015 IRP OR Wind 35% CF
2018 Deficiency Start, 2015 IRP Proxy 33% CF	\$68.58	\$54.56	\$62.83	\$63.75	\$15.97	\$15.97	\$16.91	\$16.91	2018	Mar 2016	2015 IRP OR Wind 33% CF
2018 Deficiency Start, 2015 IRP Proxy 31% CF	\$73.27	\$59.25	\$67.79	\$68.72	\$20.66	\$20.66	\$21.88	\$21.88	2018	Mar 2016	2015 IRP OR Wind 31% CF
2018 Deficiency Start, 2015 IRP Proxy 29% CF	\$78.61	\$64.59	\$73.44	\$74.37	\$26.00	\$26.00	\$27.52	\$27.52	2018	Mar 2016	2015 IRP OR Wind 29% CF
March 1, 2016 Proposal	\$34.99	\$31.35	\$36.99	\$36.99	(\$17.62)	(\$7.24)	(\$8.93)	(\$9.85)	N/A	Dec 2015	No Renewable Proxy
Current Commission Approved	\$63.70	\$53.09	\$60.68	\$60.68	\$11.09	\$14.50	\$14.76	\$13.84	2024	Mar 2015	2013 IRP WY Wind 40% CF