

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

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| IN THE MATTER THE PUBLIC UTILITY) | Docket No. UM 1610 |
| COMMISSION OF OREGON) | |
| Investigation Into Qualifying Facility) | OBJECTION TO PACIFICORP’S |
| Contracting and Pricing) | SECOND AND THIRD AMENDED |
|) | COMPLIANCE FILINGS OF THE |
|) | COMMUNITY RENEWABLE ENERGY |
|) | ASSOCIATION AND THE |
|) | RENEWABLE ENERGY COALITION |

INTRODUCTION AND SUMMARY

The Community Renewable Energy Association (“CREA”) and the Renewable Energy Coalition (“REC”) (collectively the “Joint QF Parties”) respectfully submit this Objection to PacifiCorp’s second and third amended compliance filings made in response to the Public Utility Commission of Oregon’s (“OPUC” or “Commission”) Order No. 19-172.

At this point, PacifiCorp has made a total of four compliance filings since the issuance of Order No. 19-172. The Joint QF Parties have previously filed an objection to PacifiCorp’s initial Compliance Filing on July 29, 2019 (referred to herein at the “*July 29th Objection*”) as well as an objection to PacifiCorp’s first Amended Compliance Filing on August 16, 2019 (referred to herein as the “*August 16th Objection*”), where we highlighted points of continued disagreement and noted points of agreement. PacifiCorp subsequently filed its Second Amended Compliance Filing on December 11, 2019, and it then filed its Third Amended Compliance Filing on February 11, 2020. This instant filing by the Joint QF Parties is intended to summarize the Joint QF Parties’ position on PacifiCorp’s collective and final compliance proposal to facilitate the Commission’s consideration of the issues for resolution.

As we noted in our prior objections, while PacifiCorp has agreed to voluntarily revise some of the elements of the initial compliance filing, PacifiCorp's compliance filing continues to contain several flaws that will arbitrarily and unnecessarily deter small renewable energy facilities from being developed in Oregon. To ensure the record is clear, this filing will list the issues that remain in dispute and largely refer the Commission to the prior filings of the Joint QF Parties on those issues without fully restating such position.

By far, the most significant remaining problem with PacifiCorp's compliance filing is its proposed language that appears to forever foreclose the ability for QFs to have a potential load pocket problem resolved through use of PacifiCorp's Network Integration Transmission Service Agreement ("NITSA") with Bonneville Power Administration ("BPA"). In addition to using network transmission on PacifiCorp's own transmission system, PacifiCorp serves substantial Oregon loads through network transmission on BPA's system under its BPA NITSA. The use of BPA NITSA for certain load pocket QFs could solve the load pocket problem at no incremental cost. In effect, PacifiCorp's proposal in the compliance filing would bar QFs from using the BPA NITSA and thereby block QFs from serving substantial amounts of Oregon loads even where it is entirely feasible to do so. The Joint QF Parties urge the Commission to require PacifiCorp to revise its compliance filing on this point.

Additionally, the Joint QF Parties also stand by their position on several issues that PacifiCorp has declined to correct thus far, which are outlined below.

OBJECTION

1. PacifiCorp's Final Compliance Proposal Ignores the Possibility that PacifiCorp Should Use BPA Network Transmission for Certain QFs

The Joint QF Parties stand by their argument that the Commission should require that PacifiCorp's compliance filing be modified to clarify that PacifiCorp may only assign third-party point-to-point transmission costs to a QF after PacifiCorp's merchant arm, referred to as Energy Supply Management ("PacifiCorp ESM"), has received notification that the QF cannot be designated as a network resource under either of PacifiCorp ESM's network service agreements, including its BPA NITSA. *Joint QF Parties' July 29th Objection* at 12-14. PacifiCorp refuses to do so, but it has not yet provided any substantive reason in this proceeding for why it cannot do so. Nor has the Commission made any findings that would support a ruling against the Joint QF Parties on this point.

Instead, PacifiCorp's proposal would limit all load pocket QFs to the use of costly incremental point-to-point transmission on BPA or another utility's system. As we have repeatedly demonstrated, PacifiCorp already uses the BPA NITSA for some QFs located in load pockets at no incremental costs, and has admitted that it also uses the BPA NITSA for PacifiCorp-owned generation located in load pockets. This is plainly outlined in our July 29th Objection and PacifiCorp's own discovery responses attached thereto. *See Joint QF Parties' July 29th Objection* at 12-14 & Attachment 1 at pp. 1-8.

It is worth stressing how simple the Joint QF Parties' proposal is. After determining that PacifiCorp Transmission will not designate the QF as a network resource, PacifiCorp ESM must simply request that BPA Transmission designate the QF as a network resource under the BPA

NITSA. *See id.* (proposing revised language for the process). If BPA Transmission is able to do so, then the load pocket problem is solved for that QF without any incremental costs – just as has occurred in the past for certain QFs and PacifiCorp-owned generation. If BPA Transmission determines that is not possible, however, PacifiCorp ESM may then proceed to take the steps to use costly point-to-point transmission over BPA’s system or the system of the other affected utilities. We have attached to these comments a flow chart of the process and steps that PacifiCorp ESM would take under the Joint QF Parties’ proposal, which was previously supplied to Staff in discovery in this proceeding. The Commission has never found any basis in fact or law to deny the use of the BPA NITSA for QFs, and PacifiCorp has never presented any evidence that would support such a finding.

PacifiCorp will likely argue that BPA network transmission is beyond the scope of this compliance filing. However, the problem here is that PacifiCorp’s final compliance filing proposal, if approved, would provide a justification for PacifiCorp ESM to refuse to ever even investigate the possibility of resolving a load pocket problem through the use of the BPA NITSA. In other words, PacifiCorp would prevail on the issue without it ever even being substantively addressed. The reason for that is the proposed Rate Schedule mandates a process where PacifiCorp ESM is in compliance if it only attempts to designate the QF as a network resource with PacifiCorp Transmission and looks next to secure only point-to-point transmission from a third-party transmission provider (most likely, BPA). Thus, PacifiCorp’s proposal would prejudice any future QF from the possibility of PacifiCorp being required to use BPA NITSA to solve the problem, even though PacifiCorp admits it has in fact used the BPA NITSA for other load pocket QFs and for PacifiCorp-owned generation located in load pockets. At a minimum,

the Commission should preserve the right of individual QFs to challenge PacifiCorp's failure to consider the BPA NITSA as the solution.

In sum, the Joint QF Parties request that the Commission require PacifiCorp to revise its compliance filing to ensure that BPA NITSA may continue to be used to resolve the load pocket issue without incremental cost where it is possible to resolve the problem with the BPA NITSA.

2. PacifiCorp's Formula Still Unlawfully Charges the QF for Losses on PacifiCorp's Side of the Point of Interconnection

The Joint QF Parties stand by their position with respect to the unlawful assessment of line losses to the QF beyond the point of delivery to PacifiCorp. *Joint QF Parties' July 29th Objection* at 9-11. PacifiCorp has refused to correct this error in its filing, and the Commission should direct that it be corrected.

3 PacifiCorp's Amended Compliance Filing Does Not Provide QFs Sufficient Information and Studies to Support PacifiCorp's Determinations

The Joint QF Parties stand by their position that the Commission should require PacifiCorp to provide to individual QFs all information and communications with transmission personnel to support any finding by PacifiCorp that the QF is located in a load pocket and subject to load pocket charges. *Joint QF Parties' July 29th Objection* at 15-16. PacifiCorp appears to agree that its initial proposal was unfair and has now proposed to expand somewhat the materials it will supply the load pocket QF. *PacifiCorp's Application for Approval of Amended Compliance Filing* at 11. However, PacifiCorp continues to refuse to agree to supply QFs with the written communications between PacifiCorp ESM and transmission personnel from PacifiCorp Transmission, BPA Transmission or other affected transmission providers. These communications are, in effect, made by PacifiCorp ESM on the QF's behalf because the QF is

ultimately the party that will be paying for any incremental transmission costs. The communications are essential to determining if PacifiCorp ESM timely and correctly lodged the requests to designate the QF as a network resource, and without such communications the QF cannot verify the QF's rights were adequately protected in the process or request correction of any errors made by PacifiCorp ESM. Therefore, the Joint QF Parties maintain their position as proposed in the initial objection.

4. The Commission Should Require PacifiCorp to Complete a Preliminary Analysis of the QF's Load Pocket Status Prior to PPA Execution

The Joint QF Parties stand by their position that PacifiCorp should provide all QFs with a preliminary determination during contract negotiations of whether they may be subjected to load pocket charges after transmission studies are completed during the months after PPA execution. *Joint QF Parties' July 29th Objection* at 18-19. PacifiCorp has not proposed to amend the compliance filing to accommodate this request. Therefore, the Joint QF Parties stand by the position expressed in their prior objections.

5. The Commission Should Remove the Ability for PacifiCorp to Determine It Will Not Purchase a QF's Output

PacifiCorp's amended compliance filing still contains an unlawful right for PacifiCorp to refuse to purchase the QF's output if PacifiCorp determines there is no third-party transmission solution to the alleged load pocket problem and even to refuse to allow for extensions to the scheduled commercial operation date to accommodate delays in transmission availability. This is a substantial overreach by PacifiCorp. The Joint QF Parties still stand by their position in the initial objection. *See Joint QF Parties' July 29th Objection* at 19-21.

6. The Commission Should Require PacifiCorp to File Quarterly Status Reports Regarding Load Pocket QFs and Implementation of the Load Pocket Policy

The Joint QF Parties also stand by their position that the Commission should require status reports regarding the impact of this new policy on QFs. *See Joint QF Parties' July 29th Objection* at 21-22. PacifiCorp has refused to agree to this proposal, and therefore the Joint QF Parties request that the Commission require PacifiCorp to do so.

RESOLVED ISSUES

For the convenience of the Commission and Staff, the Joint QF Parties list the issues that appear to have been satisfactorily resolved in this section. While PacifiCorp has not completely adopted the Joint QF Parties' position on all of these issues, the final compliance proposal eliminates our main concerns, and we have therefore removed these issues from our ongoing objection to focus on the most important outstanding points for the Commission's resolution. Additionally, there are number of additional relatively minor issues introduced by some of PacifiCorp's proposed modifications to the Second and Third Amended Compliance Filings, but the Joint QF Parties are not raising those issues in the interest of minimizing the points in dispute.

1. Pre-Established standard capacity and ancillary service charges in rate schedule. The Joint QFs Parties argued that the Commission should require PacifiCorp to publish the standard capacity charge (\$/kW-month) and ancillary service charges for the main transmission providers in its rate schedule for approval each time PacifiCorp's avoided costs are approved. *See Joint QF Parties' July 29th Objection*, at 5.

Status in PacifiCorp's Final Compliance Proposal: PacifiCorp agreed to include five-year forecasted transmission rates for BPA and PGE in the rate schedule, and it states BPA and PGE make up 99% of the situations where third-party transmission will be necessary. This issue is therefore resolved.

2. Five-Year Fixed-Price Period Commencement Date. The Joint QF Parties asserted that the Commission should require PacifiCorp to begin the five years of forecasted pricing at the same time as commencement of the five-year period of fixed-price payments under the transmission agreement, as opposed to the five-year period commencing at execution of the PPA. *Joint QF Parties' July 29th Objection* at 6-8.

Status in PacifiCorp's Final Compliance Proposal: Although not noted or explained in the text of PacifiCorp's amended applications, PacifiCorp corrected this problem in the proposed Attachment for inclusion in the PPA. The five-year period runs from the "start date under the transmission service agreement," as opposed to the prior documents which stated that the five-year period began on the effective date of the PPA. This issue is therefore resolved.

3. Escalation Factor in Fixed Transmission Rates. The Joint QF Parties argued that the escalation factor used by PacifiCorp should be transparent and consistent with escalation factors used for other regulatory purposes, such as that used for escalation of other avoided cost components or consistent with escalation of third-party transmission used in the utility's integrated resource plans ("IRP"). *See Joint QF Parties' July 29th Objection* at 11-12.

Status in PacifiCorp's Final Compliance Proposal: The compliance filing's final proposed Rate Schedule (at pp. 18 and 19 note 2) states that it escalates the transmission rates at the same rate as PacifiCorp's IRP. This issue is resolved.

4. Duplicative Integration Charges. The QF Parties objected to the proposal in PacifiCorp's amended compliance filing in the rate escalation formula that states PacifiCorp will assess the load pocket QF the "variable energy resource balancing service" charges of the third-party transmission provider because it would result in duplicate integration charges to the QF. *See Joint QF Parties' August 16th Objection* at 6-7.

Status in PacifiCorp's Final Compliance Proposal: The duplicative integration charge appears to have been deleted in the Second Amended Compliance Filing. This issue is resolved.

5. Charging QFs for Transmission Not Purchased. The Joint QF Parties argued that PacifiCorp's formula in its initial compliance filing could have resulted in charging the QF for transmission capacity in the amount of the QF's full nameplate capacity even where a lesser amount of transmission is needed to resolve the load pocket problem. *Joint QF Parties' July 29th Objection* at 9.

Status in PacifiCorp's Final Compliance Proposal: PacifiCorp resolved this issue in its Amended Compliance Filing. This issue is therefore resolved.

6. Lack of Deadlines for PacifiCorp. The Joint QF Parties argued that the initial compliance filing lacked necessary deadlines for PacifiCorp to take necessary actions to process and resolve the load pocket issues with QFs. *Joint QF Parties' July 29th Objection* at 16-17.

Status in PacifiCorp's Final Compliance Proposal: PacifiCorp resolved this issue in its Amended Compliance Filing. This issue is therefore resolved.

7. Right to Switch Election of Options After Five Years. The Joint QF Parties argued that PacifiCorp's initial compliance filing was flawed because it did not provide a right for the QF to switch from the fixed-price option to the pass-through cost option at the end each five year rate period. *Joint QF Parties' July 29th Objection* at 18.

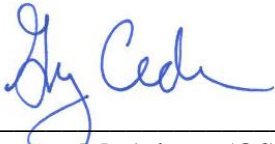
Status in PacifiCorp's Final Compliance Proposal: PacifiCorp resolved this issue in its Amended Compliance Filing. This issue is therefore resolved.

CONCLUSION

The Joint QF Parties respectfully request that the Commission condition approval of PacifiCorp's standard contract and contracting schedule on correction of the issues identified in this Objection.

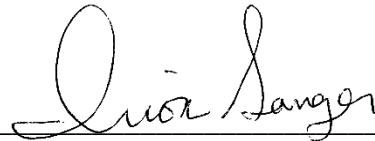
Dated: February 18, 2020.

Respectfully submitted,



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PacifiCorp Third Party Transmission Acquisition Process Per REC and CREA Proposal

