

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

LC 67

In the Matter of
PACIFICORP, dba PACIFIC POWER,
2017 Integrated Resource Plan

SIERRA CLUB'S MOTION TO
COMPEL

In accordance with O.A.R. 860-001-0420 and the Oregon Public Utility Commission's ("Commission") Integrated Resource Plan ("IRP") guidelines adopted in Order No. 07-002, Sierra Club submits this motion to compel PacifiCorp to respond to discovery requests issued by Sierra Club on July 27, 2018 in the above-captioned docket LC 67. The deadline to respond to those discovery requests was August 10, 2018.

PacifiCorp's conduct and failure to respond to reasonable data requests in a timely manner continues a practice of bad faith efforts on the part of PacifiCorp to delay and obstruct meaningful public participation and inquiry in the IRP process. The Commission must not condone this practice. The data requests issued by Sierra Club tie directly to the June 28, 2018 coal analysis presented by PacifiCorp and filed in this docket on June 29, 2018. Sierra Club issued the data requests so that it could meaningfully participate in the upcoming Commission workshop scheduled for August 28, 2018 to discuss the coal analysis results. PacifiCorp's refusal to respond to data requests on the coal analysis means that Sierra Club will not be able to make an informed critique of the assumptions, modeling or conclusions contained in the coal analysis when PacifiCorp presents that material to the Commission.

Sierra Club therefore requests that the Commission immediately issue an order compelling PacifiCorp to respond to the July 27, 2018 data requests and to timely respond to future reasonable data requests in the IRP proceeding.

Sierra Club has for years participated extensively in PacifiCorp's IRP process. Sierra Club expends considerable resources litigating and hiring experts in utility modeling and economics to review and critique the assumptions, methods, and conclusions in PacifiCorp's IRPs. The 2017 IRP was no different. Sierra Club submitted extensive, highly technical comments addressing numerous flaws in PacifiCorp's analysis of its coal units. In response to those and other comments, the Commission issued Order No. 18-138, which ordered PacifiCorp to perform the system optimizer runs for each coal unit and a base case and provide the results to the parties in LC 67 by June 30, 2018.

PacifiCorp has a long history of trying to delay or avoid responding to Sierra Club's data requests in IRP proceedings. Prior to PacifiCorp submitting the coal analysis - and due to a concern that PacifiCorp would engage in the precise behavior it is currently engaged in - Sierra Club filed a letter in this docket on June 21, 2018. That letter stated, among other things, the following:

To the extent Sierra Club needs to file data requests or request a workshop with the Commission on the substance of the coal analysis, we would undertake those steps pursuant to LC 67, not LC 70. This is of the utmost

importance because the Commission will not have regulatory oversight in LC 70 until the company files its 2019 IRP, likely in March 2019.¹

On June 25, 2018, PacifiCorp responded that the coal analysis would be provided to parties in *either* LC 67 or LC 70. PacifiCorp further asserted that parties “will have the ability to request information from PacifiCorp.”² Allowing parties to request information is required by the Commission’s IRP guidelines, as adopted in Order No. 07-002 from Docket UM-1056:

Guideline 2(a): The public, which includes other utilities, should be allowed significant involvement in the preparation of the IRP. Involvement includes opportunities to contribute information and ideas, as well as to receive information. **Parties must have an opportunity to make relevant inquiries of the utility formulating the plan.** Disputes about whether information requests are relevant or unreasonably burdensome, or whether a utility is being properly responsive, may be submitted to the Commission for resolution. (emphasis added)³

Sierra Club quickly reviewed the coal analysis, and on July 27, 2018 Sierra Club sent its fourth set of data requests to PacifiCorp in docket LC 67, which consisted of nine questions (Attachment A). Those questions explicitly referenced the “**2018 Coal Analysis, Submitted June 29, 2018 in LC 67 as PacifiCorp’s Compliance Filing per Order No. 18-138.**” Under the Commission’s standard discovery practice in OAR 860-001-0540, responses to the July 27, 2018 data requests were due 14 days later on August 10, 2018.

¹ June 21, 2018 Letter from Sierra Club, RE: LC 67 - PacifiCorp's June 28th 2018 Stakeholder Meeting on its 2018 Coal Plant Economic Analysis.

² June 25, 2018 Letter from PacifiCorp, RE: LC 67 and LC 70 – PacifiCorp’s 2017 Integrated Resource Plan and 2019 Integrated Resource Plan.

³ UM-1056, Order No. 07-002 (Jan. 8, 2007)

For the first 13 days of the 14-day response time, PacifiCorp made no attempt to contact Sierra Club to request an extension or to object to any of the data requests. At 4:22 pm on August 10, 2018, the day the responses were due, PacifiCorp attempted to contact an attorney with the Sierra Club, Travis Ritchie, who is not working on this case to discuss the July 27 data requests. Why PacifiCorp contacted Mr. Ritchie is not clear.⁴ Mr. Ritchie was not listed on the data requests, is not on the service list in this proceeding, has not signed the protective order in this proceeding, and has not signed any of the documents submitted by Sierra Club in this case. To Sierra Club's knowledge, PacifiCorp made no attempt to contact attorney Gloria Smith, legal Assistant Ana Boyd, or technical expert Jeremy Fisher, all of whom are listed as contacts on the July 27 data requests and have been actively engaged in this proceeding. Needless to say, Sierra Club did not consent to a delay of the 14-day deadline established by OAR 860-001-0540 because PacifiCorp did not actually speak to anyone at Sierra Club.

The following Monday, August 13, 2018, attorney Gloria Smith called PacifiCorp's attorney Jessica Ralston to meet and confer regarding the outstanding data requests. Ms. Ralston provided no reasonable basis for the delay and would not commit PacifiCorp to responding to the data requests by any specific timeline. Following that conversation, Ms. Smith again reached out

⁴ Sierra Club notes that Mr. Ritchie's normal work hours are 9:00 am to 2:30pm. This limited schedule is clearly stated in his email signature, which he has sent on multiple occasions to PacifiCorp's counsel over the past year. Sierra Club therefore questions whether PacifiCorp knowingly attempted to reach by phone an attorney its counsel knew was not an attorney of record in this docket and would not be in the office in order to further delay resolution of this issue.

ATTACHMENT A

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
LC 67**

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2017 Integrated Resource Plan

FOURTH SET OF DATA REQUESTS OF
SIERRA CLUB TO PACIFICORP

Sierra Club hereby serves its fourth set of data requests regarding the above docket. In accordance with OAR 860-001-0540, Sierra Club requests that PacifiCorp provide responses as expeditiously as possible, but not later than the deadline of fourteen days, which is **August 10, 2018.**

INSTRUCTIONS

1. Please provide copies of responses to the following contacts:

Ana Boyd
Sierra Club Environmental Law Program
2101 Webster, Suite 1300
Oakland, CA 94612
ana.boyd@sierraclub.org

Gloria Smith
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612
gloria.smith@sierraclub.org

Jeremy Fisher
Sierra Club Environmental Law Program
2101 Webster, Suite 1300
Oakland, CA 94612
jeremy.fisher@sierraclub.org

2. Whenever possible, Sierra Club prefers to receive electronic copies of data responses either by email or on CD.
3. Responses to any and all of Sierra Club's data requests should be supplied to Sierra Club as soon as they become available to PacifiCorp.
4. The requests herein shall be deemed to be continuing in nature and PacifiCorp is requested to supplement its responses as necessary and as additional information becomes available.

5. In responding to each data request, please consult every document source which is in your possession, custody, or control, including all documents in the possession of experts or consultants.
6. For each response, identify the person who prepared the answer to the data request as well as his or her position with PacifiCorp or any PacifiCorp affiliate or parent.
7. Please reproduce the data request being responded to before the response.
8. If the responses include computer modeling input and output files, please provide those data files in electronic machine readable or txt format.
9. If the responses include spreadsheet files, please provide those spreadsheet files in useable electronic Excel readable format.
10. In responses providing computer files, list the file names with cross-reference to the data request, and if necessary to the understanding of the data, provide a record layout of the computer files. Computer files provided with a response must be in or compatible with the current version, or the immediately prior version, of Microsoft Office.
11. For each dollar amount provided in response to a discovery request please state if the amount is in nominal or constant dollars and what years dollars.

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Docket No. LC 67
Sierra Club's Fourth Set of Data Requests to PacifiCorp
July 27, 2018**

DATA REQUESTS

2017 IRP Update

- SC 4-1. Please refer to the 2017 IRP Update, pages 66-67 with respect to the Intra-Hour Dispatch Credit ("Dispatch Credit").
- a. Provide a full set of workpapers deriving the \$6.47 kw/yr value here, or any other dispatch credits used in the 2017 IRP Update. Indicate sources of data used to derive that value.
 - b. Confirm that the units on this value are dollars per kilowatt per year, or \$/kW-yr. If not, explain the units used in this value.
 - c. Is the \$6.47/kW-yr value, or a fixed per-unit value, applied to the noted coal units in each and every year through the end of the analysis period? If not, what value is applied in future years?
 - d. Why is the Dispatch Credit not applied to PacifiCorp's gas-fired units?
 - e. Are PacifiCorp's gas-fired units offered into EIM? If not, why not?
 - f. Does PacifiCorp have any plans of offer its gas-fired units into the EIM at any time? If not, why not?
 - g. Provide a detailed description of the process used by PacifiCorp to create its Hourly Base Schedule.
 - h. Provide a detailed description of the process used by PacifiCorp to develop unit Bids.
 - i. To the extent not already provided in (a), provide PacifiCorp's 2017 unit bids.
 - j. Does PacifiCorp allow the units listed on page 67 (Dave Johnston 3-4, Hunter 3, Huntington 1-2, Jim Bridger 1-2, and Naughton 1-3) to turn off economically ("decommit") during extended periods of forecast low market prices? If not, why not?

2018 Coal Analysis, Submitted June 29, 2018 in LC 67 as PacifiCorp's Compliance Filing per Order No. 18-138

- SC 4-2. Please refer to the 2017 IRP Update, pages 66-67 with respect to the Intra-Hour Dispatch Credit.
- a. Confirm that an Intra-Hour Dispatch Credit was applied to the 2018 Coal Analysis.
 - b. Provide the dispatch credit, in dollars per kWh, applied to each individual coal unit.
 - c. Confirm that if a coal unit were retired, the dispatch credit was not increased at the remaining coal units.

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- d. Confirm that PacifiCorp did not apply the dispatch credit to any other fuel type aside from coal-fired units.
- SC 4-3. Refer to Coal Study and 2017 IRP workpapers, System Optimizer ("SO") inputs. Specifically, refer to Coal Study workpaper "CONF\Assumption + Inputs\REF Case\OPUC Coal Stdy Ref Case.xlsx" and 2017 IRP workpaper "SO Workpapers\Master Assumptions, CONF\Vol III RH5a\2017 IRP Alt. Case RH-5a 20161212 NAU3 RET 2018.xlsx." Refer to tab "7 - Runrate Plant CapEx" in both workpapers.
- a. Confirm that both of these workpapers represent inputs to the System Optimizer model.
 - b. Confirm that the coal study workpaper represents the inputs to the reference case in which no incremental coal units are retired.
 - c. Confirm that the 2017 IRP workpaper represents the inputs to the Regional Haze scenario selected for the preferred portfolio. If not, state if the answer to the questions below would be different based on using the correct workpaper.
 - d. For each and every coal unit where the net present value of runrate capital expenditures from 2022-2038 fell by 20% or more from the 2017 IRP to the Coal Study, state the specific reason(s), and the basis for the magnitude of change.
 - e. For each unit responsive to (d) and owned by PacifiCorp, if any, provide an annual summary of expected capital projects in excess of \$500,000, and a description of why projections changed from the 2017 IRP to the Coal Study.
 - f. For each unit responsive to (d) and owned by PacifiCorp, if any, provide papers or communications from the plant operator indicating that projections had changed, and the basis of those projections.
- SC 4-4. Refer to Coal Study and 2017 IRP workpapers, System Optimizer ("SO") inputs. Specifically, refer to Coal Study workpaper "CONF\Assumption + Inputs\REF Case\OPUC Coal Stdy Ref Case.xlsx" and 2017 IRP workpaper "SO Workpapers\Master Assumptions, CONF\Vol III RH5a\2017 IRP Alt. Case RH-5a 20161212 NAU3 RET 2018.xlsx." Refer to tab "9 - Coal Fuel Cost No Refuel" in both workpapers.
- a. State if PacifiCorp has received any "COALCAST" reports or forecasts from Energy Ventures between September 2016 and the present day.
 - b. Provide each copy of COALCAST from September 2016 to the present day received by PacifiCorp.
- SC 4-5. With respect to PacifiCorp's Official Forward Price Curve ("OFPC")
- a. Provide the OFPC used for the 2017 IRP Update reference or mid case.
 - b. State if the 2017 IRP Update mid-case included a carbon price.
 - c. Provide the carbon price used in the 2017 IRP Update
 - d. Provide the OFPC used for the Coal Study.

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- e. State if the Coal Study included a carbon price.
 - f. Provide the carbon price used in the Coal Study.
- SC 4-6. Refer to the Coal Analysis presentation provided on June 29, 2018. Refer to slide 4, first bullet which states “high-level estimates of transmission reinforcement costs are applied as an adder to the results from step C.”
- a. Identify where in the workpapers such adders can be found.
 - b. Provide a derivation for the adders.
- SC 4-7. Refer to the Coal Analysis presentation provided on June 29, 2018. Refer to slide 9, second bullet, first sub-bullet starting “Before accounting for operational impacts...” with reference to the assumed retirement of Jim Bridger 1 and Jim Bridger 2. Provide the workpapers associated with this scenario.
- SC 4-8. Since January 2016, has PacifiCorp issued a new request for expressions of interest for any coal-fired power plant or share of a power plant in its possession or ownership? If so, provide all such requests for expressions of interest.
- SC 4-9. Since January 2016, has PacifiCorp received any expressions of interest, offer to purchase, or queries for any coal-fired power plant or share of a power plant in its possession or ownership? If so, list each such expression of interest, offer to purchase or query and the plant(s) or unit(s) which were subject to the expression of interest.

ATTACHMENT B

From: **Gloria Smith** <gloria.smith@sierraclub.org>
Date: Mon, Aug 13, 2018 at 12:04 PM
Subject: Outstanding Data Requests Set 4
To: jessica.ralston@pacificorp.com
Cc: Jeremy Fisher <jeremy.fisher@sierraclub.org>

Jessica,

Per our telephone conversation just now, Sierra Club is not providing an extension for your already outstanding responses to data requests Set 4. We expected your response on August 10th. The DRs are directly tied to the June 28, 2018 coal analysis meeting and coal analysis PowerPoint so the company does not need "to tie" your responses to anything else.

The commission still retains oversight in LC 67. Still, if you elect to docket the responses in LC 70 as well, we have no objection to that. We do object to you not providing the responses in a timely manner with no meaningful justification for the delay. Sierra Club will attend the commission workshop on August 28th and needs the responses immediately to prepare for the workshop. Thank you.

Gloria D. Smith
Managing Attorney
Sierra Club Environmental Law Program
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