BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1610

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Investigation Into Qualifying Facility Contracting and Pricing.	)	RENEWABLE ENERGY COALITION, COMMUNITY RENEWABLE ENERGY ASSOCIATION, AND ONEENERGY MOTION FOR OFFICIAL NOTICE PHASE II

I. INTRODUCTION

Pursuant to OAR §§ 860-001-0420(1) and 860-001-0460(1), the Renewable Energy Coalition ("REC"), Community Renewable Energy Association ("CREA"), Obsidian Renewables LLC[1] ("Obsidian") and OneEnergy ("Joint QF Parties") submit this motion to the Oregon Public Utility Commission (the "Commission") to take official notice of the final order of the Washington Utilities and Transportation Commission (the "Washington Commission" or "WUTC") in Docket No. UE-144160 ("WUTC Order"). A copy of the WUTC Order is attached to this motion as Attachment A. The Commission should take notice of the WUTC order because it is relevant to the issues

[1] Obsidian supports this motion without waiving or modifying the arguments set forth in its Petition for a Rulemaking in AR 593. Obsidian believes that policy issues such as the methodology for paying capacity costs during a utility's resource sufficiency period must be resolved through rulemaking. Further, as the WUTC notes in its Order, PacifiCorp intends to acquire almost 700 additional megawatts of energy between now and 2026 in the form of Front Office Transactions—this at a time when it is supposedly "resource sufficient." Obsidian asserts that the very question of whether PacifiCorp is, in fact, resource sufficient while it is acquiring hundreds of megawatts of additional energy should also be addressed in AR 593.

being litigated in this proceeding, was issued after the final legal briefs in this proceeding, and is an administrative ruling by another governmental agency. OAR § 860-001-0460(1)(b).

II. MOTION

In Phase II of this proceeding, the Commission is considering the issue of whether market prices sufficiently compensate qualifying facilities ("QFs") for capacity during the utilities' resource sufficiency periods. The Joint QF Parties addressed this issue in testimony and briefing arguing that, at least for PacifiCorp, market prices fail to reflect the capacity investments that utility is making and do not account for the benefits provided by existing QFs.

In Washington, PacifiCorp's Schedule 37 for standard rates include market based prices, and a capacity payment based on a portion of the capital costs of simple cycle combustion turbine ("SCCT"). The energy payments are based on forecasted market prices, similar to how Oregon Schedule 37 rates are set during the Oregon sufficiency period. PacifiCorp proposed to eliminate the separate capacity payment in Washington because it was resource sufficient.

The Washington Commission issued an order rejecting PacifiCorp proposal on November 12, 2015, and maintained the existing capacity payment. The Washington Commission did not accept PacifiCorp's "argument in this case that projected forward prices for market purchases modeled by Pacific Power's Generation and Regulation Initiative Decision (GRID) model include capacity costs that 'reasonably account for the utility's avoided costs' as FERC rules require." WUTC Order at ¶ 20. The Washington Commission found "that Pacific Power's projected market prices do not reasonably account for the Company's full avoided costs" and "do not adequately account for the cost of capacity that a QF can provide." Id. at ¶¶ 22, 24. Thus, the Washington Commission determined "that Pacific Power's as-filed rates in this proceeding do not meet the fair, just, reasonable, and sufficient standard." Id. at ¶ 24. The Washington Commission determined "that 'some form of capacity adder is appropriate during [what Pacific Power] calls the sufficiency period,'" maintained the separate capacity payments based on the costs of SCCT, and directed the parties to further investigate the issue in 2016 to more precisely calculate the capacity payment. Id. at ¶¶ 29-31.

The WUTC Order is directly relevant to the issue of capacity payments during the resource sufficiency period because the Washington Commission concluded that PacifiCorp's estimated market prices fail to adequately compensate QFs for capacity during the sufficiency period. This Commission is considering the same issue, and should also reject PacifiCorp's use of its market price estimates to solely calculate the value of capacity provided by QFs during the sufficiency period.

III. CONCLUSION

For the reasons stated above, the Commission should take official notice of the WUTC Order.

Dated this 2nd day of December 2015.

Respectfully submitted,

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ATTACHMENT A

[Service date November 12, 2015]

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKET UE-144160
Complainant,	)	ORDER 04
v.	)	
PACIFIC POWER & LIGHT COMPANY,	)	FINAL ORDER REJECTING TARIFF SHEETS; RESOLVING CONTESTED ISSUES; AUTHORIZING AND REQUIRING COMPLIANCE FILING
Respondent.	)	
. . . .	)	

Synopsis*: The Commission rejects revised tariff sheets Pacific Power & Light Company (Pacific Power or Company) filed on December 29, 2014, updating the Company's avoided cost tariff, Schedule 37. On a stipulated record, the Commission determines that Pacific Power failed to carry its burden to show its proposal to eliminate the separate capacity component of its avoided cost rates produces results that are fair, just, reasonable and sufficient. Under the specific circumstances of this case, the Commission requires Pacific Power to file revised Schedule 37 rates including a separate rate for capacity using the method previously approved. The Commission provides guidance, based on the record of this case, with respect to future revisions of Pacific Power's Schedule 37.*

SUMMARY

1 **PROCEEDING:** On December 29, 2014, Pacific Power & Light Company (Pacific Power or Company) filed a tariff revision with the Washington Utilities and Transportation Commission (Commission) updating its avoided cost tariff, Schedule 37. The Commission suspended operation of the tariff by Order 01, entered in this docket on February 12, 2015.

2 The Commission conducted a prehearing conference and entered Order 02 Prehearing Conference Order; Notice of Hearing on April 23, 2015. Among other things, the Commission granted unopposed petitions to intervene by the Renewable Energy Coalition (REC) and Boise White Paper LLC (Boise), and established a procedural schedule, including an evidentiary hearing date of August 14, 2015. Order 02 established

additional dates for the submission of documentary evidence, sworn policy declarations from all parties, and briefing.

3 On August 4, 2015, Commission Staff (Staff) filed a joint motion on behalf of the parties proposing to cancel the evidentiary hearing and proceed on the basis of a paper record. The Commission granted the parties' motion. The Commission retained the remainder of the procedural schedule set in Order 02, including dates for initial and reply briefs, which the parties filed on September 11, 2015, and October 7, 2015, respectively.

4 The Commission, following deliberation, resolves the contested issues in this proceeding by this Order.

5 **PARTY REPRESENTATIVES:** Dustin Till, Senior Counsel, Pacific Power, Portland, Oregon, represents the Company. Irion Sanger, Sanger Law, P.C., Portland, Oregon, represents Renewable Energy Coalition. Tyler C. Pepple, Davison Van Cleve, Portland, Oregon, represents Boise White Paper LLC. Christopher M. Casey, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Staff).[1]

MEMORANDUM

I. Background

6 The Public Utility Regulatory Policies Act of 1978 (PURPA) was enacted as part of a legislative package designed to combat an energy crisis then facing the nation.[2] Section

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[1] In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

[2] Justice Blackmun, speaking for the Court in *FERC v. Mississippi*, 456 U.S. 742 (1982), an unsuccessful challenge to PURPA, observed:

> In part because of their reliance on oil and gas, electricity utilities were plagued with increasing costs and decreasing efficiency in the use of their generating capacities; each of these factors had an adverse effect on rates to consumers and on the economy as a whole. Congress accordingly determined that conservation by electricity utilities of oil and natural gas was essential to the success of any effort to lessen the country's dependence on foreign oil, to avoid a repetition of the shortage of natural gas that had been experienced in 1977, and to control consumer costs.

456 U.S. 745-46.

210 of PURPA's Title II[3] sought to encourage the development of cogeneration and small power facilities, and directed the Federal Energy Regulatory Commission (FERC), in consultation with state regulatory authorities, to promulgate rules to carry out this goal. Section 210 requires the state authorities, after notice and hearing, to implement the rules, and authorizes the FERC to exempt cogeneration and small power facilities, now identified as Qualifying Facilities (QFs), from certain state and federal regulations.[4]

7 PURPA requires electric utilities to purchase electricity offered by QFs at rates that are just and reasonable, that do not discriminate against QFs, and that equal the utility's full avoided cost, that is, the cost that the utility avoids by not having to generate itself, or purchase, electricity from another source.[5] FERC regulations require utilities to maintain a schedule of their avoided costs for energy and capacity on file with their state regulatory authority, and to provide regular updates to that schedule.[6] The Commission has adopted rules that require utilities to update their avoided cost schedule at least once per year,[7] and to file a standard tariff for purchases from small QFs.[8]

8 Pacific Power typically addresses these requirements with a single tariff, Schedule 37, that the Company updates every year to serve both as its avoided cost schedule and as its standard offer tariff for small QFs.[9] The tariff creates a standard offer contract, with a five-year term, that is available to QFs of two megawatts (MW) or less. The rates in the Company's standard offer tariff, Schedule 37, also serve as the template for negotiations with larger QFs.[10]

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[3] 16 U.S.C. § 824a-3.

[4] *See* 456 U.S. 745, 750-51.

[5] Twitchell Declaration ¶ 7 (citing16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.302(b); 18 C.F.R. § 292.101(6)).

[6] Twitchell Declaration ¶ 8 (citing 18 C.F.R. § 292.302(b)).

[7] *See* WAC 480-107-055(1).

[8] *See* WAC 480-107-095(2).

[9] However, WAC 480-107-055(3) provides that: "Utilities may revise a schedule of estimated avoided cost at any time. Such revisions must be filed with the commission along with documentation supporting the revision." We take official notice of the fact that Pacific Power updated its avoided cost schedule in the context of its 2011 Request for Proposals (RFP) filing on October 14, 2011, in Docket UE-111804, publishing as Appendix 1 to its RFP a schedule of avoided cost prices including capacity payments in the range of $2.31 -$2.49 per month and energy payments in the range of $28.82 - $45.47 per MWH for the years 2012 -2016.

[10] Twitchell Declaration ¶ 9.

9 On December 29, 2014, the Company filed revised tariff sheets for Schedule 37 including avoided costs reflecting "updated resource requirements and other inputs to the avoided cost calculation, such as wholesale prices for natural gas and electricity."[11] The Company's filing originally proposed two changes to Schedule 37:

- A charge to reflect costs associated with integrating intermittent QF generation.

- Avoided costs that eliminate payments for capacity based on a portion of the capital costs of simple cycle combustion turbine (SCCT). [12]

Based on discussions with Staff and REC, the Company withdrew its proposed variable generation integration charges, reserving the option to include variable generation integration charges in its avoided costs prices at a later date, in a different docket.[13] Pacific Power, however, continued to support eliminating SCCT-based capacity costs from Schedule 37 prices.[14]

10 Staff and REC oppose the Company's proposal to eliminate the capacity payment to QFs. Staff offers an alternative basis for determining a capacity payment based on the capital costs of a combined cycle combustion turbine (CCCT), which is the next least cost resource acquisition suggested by Pacific Power's most recently acknowledged IRP filed in Washington. REC supports Staff's proposal as its preferred alternative, but also suggests optional approaches to value capacity in Pacific Power's avoided cost rates.[15]

11 Boise actively opposes Staff's proposal and "recommends that the Commission reject Staff's assignment of a capacity benefit to QFs based on the impact QFs have on the size and timing of the Company's next thermal resource acquisition."[16] In addition, Boise's witness, Mr. Mullins, states his support for the Company's proposal to eliminate the

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[11] Pacific Power Initial Brief ¶ 1.

[12] *Id*. ¶ 2 (citing Dickman Declaration ¶ 4).

[13] *Id*. ¶ 3.

[14] Pacific Power Initial Brief ¶ 3.

[15] REC Reply Brief ¶¶ 2, 20.

[16] Boise Initial Brief ¶ 7.

current capacity payment to QFs.[17] He recommends that the Commission exclude a capacity payment from the Company's avoided cost schedules.[18]

II. Discussion and Decisions

12 Section 210 of PURPA[19] required FERC to prescribe rules as it determined necessary to encourage cogeneration and small power production, including rules requiring electric utilities to purchase electric power from, and sell electric power to, cogeneration and small power production facilities. Under PURPA, however, implementation of FERC's rules is reserved to state regulatory authorities and nonregulated electric utilities. FERC, following extensive process, published the required rules in the Federal Register on February 25, 1980, and they were codified at 18 CFR Part 292.[20] The Commission first published its PURPA rules in 1981, in WAC Chapter 480-105,[21] which was repealed and replaced by the rules in WAC Chapter 480-107 in 1989.[22] WAC Chapter 480-107, as amended, remains effective today.

13 Chapter 480-107 WAC – Electric Companies—Purchases of Electricity from Qualifying Facilities and Independent Power Producers and Purchases of Electrical Savings from Conservation Suppliers, among other things, requires investor-owned utilities in Washington to "file annually a schedule of estimated avoided cost for the energy and capacity associated with the resource block the utility solicited in its most recent RFP filed pursuant to WAC 480-[1]07-025 Contents of the solicitation." WAC 480-107-055(2) requires avoided cost schedules to be based on:

> (a) The most recent project proposals received pursuant to an RFP issued under these rules;
> (b) Estimates included in the utility's current integrated resource plan filed pursuant to WAC 480-100-238;
> (c) The results of the utility's most recent bidding process, and;

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[17] Mullins Declaration ¶ 4

[18] *Id*. ¶ 3.

[19] 16 U.S.C. § 824a-3.

[20] *Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Policy Act of* 1978, Order No. 69, 45 Fed. Reg. 12,214 (Feb. 25, 1980) (FERC Order No. 69).

[21] WSR 81-04-009 (Order R-160, Cause No. U-80-105) (January 28, 1981).

[22] WSR 89-15-043 (Order R-304, Docket No. U-89-2814-R) (filed July 18, 1989, effective August 18, 1989).

(d) Current projected market prices for power.

The Company must provide "documentation supporting its schedule of estimated avoided cost."[23]

14 The annually updated schedule of avoided cost for energy and capacity required under WAC 480-107-055(1) "provides only general information to potential bidders about the costs of new power supplies; it does not provide a guaranteed contract price for electricity." However, WAC 480-107-055(4) expressly refers to WAC 480-107-095, which describes utilities' obligations to:

> [P]urchase electric energy, electric capacity, or both from a qualifying facility on terms that do not exceed the utility's avoided costs for such electric energy, electric capacity, or both [and] file a standard tariff for purchases from qualifying facilities rated at one megawatt or less.

15 Pacific Power typically addresses both its obligations to update annually its avoided cost schedule and to provide for a standard offer contract by filing a revised Tariff Schedule 37.[24] The tariff provides for a standard offer contract with a five-year term that is available to QFs of two MW or less. Pacific Power also generally relies on Schedule 37, as noted, to meet the Company's "general information to potential bidders" obligation in WAC 480-107-055(4), thus providing a starting point for negotiations with larger QFs.

16 The Company's revised Tariff Schedule 37 filing in this docket is similar to its filings in 2011, 2012, and 2013, but includes several subtle and important changes from these earlier filings.[25] The narrative in the pending filing, unlike the prior three, begins by stating the requirements set forth in WAC 480-107-055(2), as quoted above. Next, in language virtually identical to earlier filings, Pacific Power states that "[t]he starting point for the avoided cost calculation in this filing is the load and resource balance from the Company's 2013 Integrated Resource Plan (IRP) Update, filed on March 31, 2014." It then states that "Table 1 presents the Company's load and resource balance from the

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[23] WAC 480-107-055(2).

[24] *See supra* ¶ 8 n. 9.

[25] We take official notice of Pacific Power's initial filings in these three years (Dockets UE-112226, UE-121993, and UE-132339 respectively) because they provide background and context that is important to our decision here. The 2011 and 2012 filings relied on data from the Company's 2011 IRP and other contemporaneous data. The 2013 filing relied on data from the Company's 2013 IRP and other contemporaneous data. None of these prior filings were adjudicated; the revised Schedule 37 rates in each docket were allowed to become effective, as filed, by operation of law.

2013 update." It is here that we find the first important difference in this filing, relative to what Pacific Power has provided in each of the past several years.

17 In contrast to filings in previous years, the "Table 1" exhibit Pacific Power includes in its 2015 avoided cost filing does not actually show the Company's load and resource balance. In prior years, Table 1 showed the Company's energy balances, including details underlying total requirements, resources, and reserves. These data were presented on the bases of average MW, summer (*i.e.,* July) peak, and winter (*i.e.,* January) peak. For example, the Company's 2013 filing in Docket UE-132339 states that:

> Table 1 shows an energy balance with a *surplus* of 207 aMW in 2014 declining to a *surplus* of 27 aMW in 2023. The winter peak has a *capacity deficit* of 179 MW in 2014 increasing to 576 MW in 2023. The summer peak has a *capacity deficit* of 30 MW in 2014 increasing to 474 MW in 2023.[26]

The Company's filings in 2011 and 2012 include similar information presented in the same formats, transparently identifying capacity surpluses and deficits.

18 In contrast, Table 1 in this docket is an excerpt from Table 5.5 of Pacific Power's 2013 IRP Update that shows details of the Company's preferred portfolio of resource additions and existing plant retirements/conversions. Insofar as pertinent here, Table 1 in this docket shows only that Pacific Power intends to rely extensively on short-term market purchases to meet the demands on its system and that the Company's "next major thermal resource acquisition is planned to occur in 2027." The planned acquisition is shown as a 423 MW CCCT in Pacific Power's east control area.

19 Based on the energy balances presented in earlier years, Pacific Power has described its avoided cost calculation, "separated into two distinct periods," as follows:

> (1) the Short Run — a period of resource sufficiency in which the avoided costs are based on the marginal production cost of existing resources *plus the cost of purchasing winter capacity in the years when the winter season is capacity deficient*; and (2) the Long Run — a resource deficit period in which new resources are required to provide both

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[26] Pacific Power Advice No. 13-11 Schedules of Estimated Avoided Cost and Update to Schedule 37, Docket UE-132339 (filed December 26, 2013) (emphasis added). The quote is from the Company's Attachment D to the filing, the narrative description of its avoided cost calculation. *See also id*. Table 1 Loads and Resources 2014 through 2023.

> capacity and energy to meet the Company's resource requirements. Avoided costs during the deficit period are based on the cost of a combined cycle combustion turbine. The load and resource energy balances in the Company's west control area in Table 1 indicates resource sufficiency for all ten years, therefore, only Short Run avoided costs are included in the current filing.[27]

In this case, Pacific Power includes this paragraph, but removes the phrase highlighted by italics above. Without having shown the Company's load and resource balance in its filing in this docket, however, we have no way to evaluate whether Pacific Power's circumstances have changed so that there are no longer capacity deficits in the west control area such as were evident in the earlier dockets.[28] We are not willing to assume this is the case. Thus, there is no evidentiary basis upon which we might determine that it is appropriate to eliminate from Pacific Power's avoided cost rate the capacity payments it has included in Schedule 37 during recent periods.[29]

20 We also are not prepared to accept the Company's argument in this case that projected forward prices for market purchases modeled by Pacific Power's Generation and Regulation Initiative Decision (GRID) model include capacity costs that "reasonably account for the utility's avoided costs" as FERC's rules require.[30] In earlier filings, Pacific Power describes the costs it calculates using GRID as "avoided *energy* costs." The Company did not treat these costs as if they reasonably accounted for Pacific Power's full avoided costs. Indeed, in these earlier filings, winter *capacity* costs, a separate rate component, were "based on a three-month capacity purchase using the cost of a simple cycle combustion turbine (SCCT)." In its initial filing in this docket the

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[27] *Id*. (emphasis added).

[28] We note that the Table 3.11 in the Company's 2013 IRP Update sets forth the projected resources and load obligations for the west control area over a 10-year period. After accounting for a 13 percent margin for planning reserves, this demonstrates capacity deficits in every year of this period. However, the west control area is a winter peaking area, and these annualized numbers are not broken out by season.

[29] The CCCT the Company plans to acquire in 2027 is relevant only to the determination of long-run costs during a "period in which new resources are required to provide both capacity and energy to meet the Company's resource requirements." It has no bearing on the question whether, in the "short run" the Company should continue to include the costs of a SCCT, or use some other approach, to account for the value of capacity a QF would provide during peak periods, or at other times.

[30] FERC Order No. 69, 45 Fed. Reg. 12,226.

Company made clear that its short-run "avoided costs do not include any capacity payments."[31]

21 We find merit in Staff's argument that the Company's projected market prices fail to "reasonably account" for the capacity costs that it avoids by purchasing QF power because they do not account for market risk.[32] PacifiCorp has significantly less capacity from its own resources than it needs to meet system demand.[33] The Company's resource acquisition strategy presented in its 2013 IRP Update, however, does not call for acquisition of a new thermal resource, a CCCT, until 2027. According to the 2013 IRP Update, the Company plans to fill the gap between committed capacity and system demand relying on the short-term market purchases referred to earlier – what it terms front office transactions, or FOTs.[34] Staff briefs the details of Pacific Power's planned use of FOTs in some detail, as follows:

> The Company defines FOTs as "proxy resources, assumed to be firm, that represent procurement activity made on an on-going basis *to help the Company cover short positions*."[35] Importantly, "*FOT prices are determined at the time of the [transaction]*, usually via an exchange or third party broker, and are based on the then-current forward market price of power."[36] According to its 2013 IRP Update, the Company will require over 1,400 MW in FOTs in 2026, the last year before it builds a new major thermal resource, to meet system demand.[37]
>
> In the ten-year period from 2015 to 2024, the Company's IRP calls for an average annual procurement of 843 MW of capacity from FOTs.[38] For comparison, PacifiCorp's average annual procurement of capacity from FOTs (843 MW) is virtually double the design capacity of the next thermal resource that the Company currently plans to put into service in

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[31] *See supra* n. 25.

[32] Staff Initial Brief ¶ 22.

[33] *Id*. (citing Twitchell Declaration ¶ 16; *see also* Dickman Declaration ¶ 11).

[34] *Id*. (citing Twitchell Declaration ¶ 16).

[35] *Id*. (citing *In the Matter of PacifiCorp 2015 Integrated Resource Plan,* Docket UE-140546, PacifiCorp 2015 IRP, Volume I at 128).

[36] *Id*.

[37] *Id*. (citing Dickman Declaration ¶ 11).

[38] *Id*. ¶ 23 (citing Twitchell Declaration ¶ 16).

> 2028 (423 MW).[39] In other words, PacifiCorp is, on average, approximately two utility-scale power plants short of meeting its capacity needs every single year for the next ten years.[40]

Significantly, FOTs are not market purchases of bulk electric power that the Company has under contract. They are short-term purchases the Company will make from time to time to meet future system demand.[41] As Mr. Twitchell states in his declaration, it follows that "[a]ny QF that enters Pacific Power's system prior to a future market purchase will reduce the amount of capacity that the Company needs to acquire, and must be compensated appropriately for these avoided capacity costs."[42]

22 Pacific Power witness Mr. Dickman agrees with Mr. Twitchell that the Company's IRP "identifies FOTs as necessary to address capacity shortfalls"[43] and that "a QF that enters PacifiCorp's system will reduce the need for FOT purchases (which, in turn, address a capacity shortfall) during its five year term."[44] In contrast to the Company's representation in its initial filing in this docket that its proposed avoided costs do not include any capacity payments, however, Mr. Dickman states in his rebuttal declaration that avoided FOTs "represent the costs of *energy and capacity* that the Company will actually incur without the addition of a QF."[45] We do not agree, however, because Pacific Power's projected market prices most likely will not be the costs that the Company actually incurs.[46] Moreover, whether Mr. Dickman is correct that "the price of the seller's capacity is embedded in the price of the market transaction"[47] depends entirely on the terms of purchase agreements that are yet to be determined and that may vary from market transaction to market transaction. Thus, we find that Pacific Power's projected market prices do not reasonably account for the Company's full avoided costs.

23 Our determination is underscored by discussion in FERC's order adopting PURPA rules. FERC finds that a utility should rely on actual purchase agreements or at least the level of

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[39] *Id*.

[40] *Id*.

[41] Twitchell Declaration ¶ 17.

[42] *Id*. ¶ 19.

[43] Dickman Rebuttal Declaration ¶ 6.

[44] *Id*. ¶ 9.

[45] *Id*. ¶ 7.

[46] *See* Staff Initial Brief ¶¶ 25-26.

[47] Dickman Rebuttal Declaration ¶ 8.

certainty afforded by bona fide offers, if the utility's cost estimates for future market acquisitions are to be considered a sufficient basis for establishing full avoided costs. In its order, FERC states:

> If a [QF] contracts to deliver power . . . it may enable the purchasing utility to avoid entering into a bulk power purchase agreement with another utility. The rate for such a purchase should be based on the price at which such power *is purchased, or can expect to be purchased, based upon bona fide offers* from another utility.[48]

Pacific Power does not know the purchase price of FOTs because it has not yet entered into the necessary power purchase agreements to meet its load or obtained bona fide offers that establish the price at which it can expect to purchase such power.[49] Rather, the Company predicted the cost of its future purchases using its GRID model.[50] Although we accept the GRID model results for purposes of determining the energy cost component of Pacific Power's avoided cost rate, the results do not adequately account for the cost of capacity that a QF can provide. We accordingly determine that Pacific Power's as-filed rates in this proceeding do not meet the fair, just, reasonable, and sufficient standard. We must, therefore, determine how to measure capacity costs for purposes of determining rates that do satisfy this statutory requirement.

24 Staff's preferred approach would be to quantify the market risk that Pacific Power faces and could avoid by entering a contract with a QF, and account for this risk in the Company's avoided cost rates in the form of a "market risk premium."[51] Indeed, Staff argues "that quantifying market risk is an important issue that affects the avoided cost calculations of all three of Washington's investor-owned electric utilities, and is one that all three utilities should address.[52] Mr. Twitchell undertook an in-depth review of the Northwest Power and Conservation Council's approach to quantifying market risk, but found Staff "[lacks] the tools to identify a definitive quantification of market risk in terms of dollars per MWh."[53] Mr. Twitchell states in addition that:

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[48] FERC Order No. 69 at 12226 (emphasis added).

[49] Staff Initial Brief ¶ 27 (citing Twitchell Declaration ¶ 17).

[50] *See* Twitchell Declaration ¶ 22.

[51] Staff Initial Brief ¶ 37.

[52] *Id*. (citing Twitchell Declaration ¶ 30).

[53] Twitchell Declaration ¶ 29.

> The difficulty of this task is exacerbated by the fact that the risk will be different for every utility because the cost of the market risk that a company faces is dependent on the timing and size of that company's projected market reliance.
>
> Quantifying the market risk that a utility faces, and could avoid through QF contracts, requires access to regional power planning software that Staff does not possess. It is also a larger issue that could affect the avoided cost calculations of all three of Washington's investor-owned utilities, and a process into which all three utilities should have input. Therefore, on the matter of quantifying a utility's market risk for the purposes of avoided cost calculations, I recommend that the Commission order Pacific Power to propose a means of calculating a market risk premium in its next avoided cost filing. The Commission's order would also serve as guidance to the state's other investor-owned utilities, who should proactively work to address market risk in their avoided cost filings, if they do not do so already.[54]

25 Lacking a means to quantify a market risk premium in this case, Staff recommends that the Commission require Pacific Power to calculate the Company's avoided capacity cost using the same methodology the Commission recently adopted for calculating incremental cost in the context of renewable portfolio standard (RPS) reporting.[55] Staff argues this methodology serves a common purpose here and in the RPS context: "to determine the avoided costs that the Company would incur but for the regulatory requirement to purchase power from a different source (a QF in this case, or a renewable resource in the case of the RPS)."[56]

26 Noting that the rule is not prescriptive in terms of how avoided energy costs should be calculated, Staff recommends that the Commission continue to establish Pacific Power's avoided cost of *energy* using the Company's calculation based on the GRID model.[57] The Company calculates its avoided energy cost by running two iterations of its GRID model: one with its system as it is, and another with a generic QF resource that generates 50

[54] Twitchell Declaration ¶¶ 29-30.

[55] Staff Initial Brief ¶ 31; *see* WAC 480-109-210.

[56] *Id*. ¶ 32 (citing Twitchell Declaration ¶ 31).

[57] *Id*. ¶ 35.

average MW – the difference in cost between the two portfolios is the Company's avoided cost for energy.[58]

27 Consistent with the methodology described in WAC 480-109-210(2)(a)(i)(E), Staff recommends that the Commission establish PacifiCorp's avoided cost of *capacity* based on the lowest-cost capacity resource identified in its IRP most recently acknowledged by the Commission, a CCCT. Staff proposes to include payments for capacity in the Company's full avoided cost rate whenever it has an avoidable capacity acquisition – whether a new thermal resource or market purchases of bulk power – within PURPA's ten-year planning horizon.[59]

28 Staff describes the incremental cost methodology in the RPS rule as "a vetted, consensus approach to calculating the Company's avoided cost of capacity that was developed in consultation with numerous stakeholders, including representatives from PacifiCorp, and was ultimately supported by all parties involved."[60] Pacific Power, however, argues that the incremental cost method is "overly simplistic"[61] and "inappropriate for determining the price paid to QFs."[62] Pacific Power argues that QFs should not receive a capacity payment based on the cost of a thermal resource when the Company does not plan to build another thermal resource for more than ten years.[63] Staff responds that:

> PacifiCorp's criticism is inapt because under Staff's proposal, the capacity payment represents avoided market risk, not deferred thermal plant investment. In particular, the capacity payment is necessary to capture the market risk inherent in the Company's heavy reliance on FOTs to meet system demand – a cost avoided when QF power displaces the need to purchase market power. Staff's proposal uses *the lowest-cost capacity resource identified in the Company's IRP* to "reasonably account" for the capacity costs that the Company avoids by purchasing QF power.[64]

29 We commend Staff for bringing forward such a thoughtful approach to determining avoided costs under PURPA for Pacific Power and other investor-owned utilities the

[58] *Id*. at ¶¶ 22-23; *See also* Dickman Declaration ¶¶ 12, 7.

[59] Twitchell Declaration ¶ 36.

[60] *Id*. at ¶ 33.

[61] Pacific Power Initial Brief ¶ 31.

[62] Id. ¶ 35.

[63] *Id*.

[64] Staff Initial Brief ¶ 33 (emphasis in original).

Commission regulates. The concept of determining a market risk premium is a familiar concept. It requires an assessment of overall market risk as well as firm-specific risk factors. We agree with Staff that this is a difficult factor to quantify and understand the resource constraints that made Staff unable to determine a direct measure of market risk. It is not clear on the present record, however, that reliance on the RPS methodology yields an appropriate surrogate measure of market risk. Because of this, and because the implications of doing so would resonate industry wide, we do not adopt Staff's recommendation in this case. Policy initiatives of such breadth are better undertaken in proceedings that are not as narrow as this one. We intend, therefore, to initiate a workshop or other suitable form of proceeding during 2016 so that Staff's ideas, and those that may be brought forward by other stakeholders, can be fully developed and considered.

30 Pacific Power's next Schedule 37 revision will be filed in the relative near term, most likely before the end of 2015. We encourage the Company to engage, at least with Staff, in discussing how the different perspectives on avoided cost theory and methodology that are evident in this case can be reconciled with an eye to bringing forward proposed avoided costs that will not lead to protracted litigation, as here.

31 For purposes of this case, having determined above that "some form of capacity adder is appropriate during [what Pacific Power calls] the sufficiency period,"[65] we accept Pacific Power's suggestion that "the adder should reflect the current Commission-approved construct."[66] Thus, we require that Pacific Power file a revised Schedule 37 that includes a separate payment for capacity based on one-fourth of the cost of a SCCT so that QFs are compensated minimally at a level that reflects the value of their capacity contribution during the winter peak in the Company's west control area.[67] We caution, however, that if Pacific Power elects to use this surrogate measure for capacity costs in a future Schedule 37 filing, we expect to see a more rigorous analysis of the Company's load and resource balance in the west control area including data and analysis on seasonal peaking variations. QFs that provide capacity do so on a 12-month basis. We question, if put forward again by the Company, whether payments based on the value of their capacity only during three months of the year adequately represent the utility's full avoided costs.

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[65] *See* Pacific Power Initial Brief ¶ 29.

[66] *Id*.

[67] We note that the Company has used such costs to determine a capacity component for its avoided cost rates during recent years even though the Company had no plans to acquire or build a SCCT.

FINDINGS AND CONCLUSIONS

32 (1) The Washington Utilities and Transportation Commission, an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electrical and gas companies, has jurisdiction over the subject matter of, and parties to, these proceedings.

33 (2) Pacific Power is a "public service company" and an "electrical company," as these terms are defined in RCW 80.04.010 and as these terms otherwise are used in Title 80 RCW. Pacific Power is engaged in Washington in the business of supplying utility services and commodities to the public for compensation.

34 (3) Pacific Power failed to show that the rates it proposed by tariff revisions filed on December 29, 2014, which were suspended by prior Commission order, are fair, just, reasonable, and sufficient. These as-filed rates accordingly should be, and are, rejected.

35 (4) The Commission must determine the fair, just, reasonable, and sufficient rates to be observed and in force under Pacific Power's tariffs that govern its rates, terms, and conditions of service for providing electricity to customers in Washington.

36 (5) Pacific Power should be required to file revised tariff sheets for its tariff Schedule 37 that establish Pacific Power's avoided cost of *energy* using the Company's calculation based on the Generation and Regulatory Initiative Decision Tools (GRID) model as described in its filing.

37 (6) Pacific Power should be required to file revised tariff sheets for its tariff Schedule 37 that establish Pacific Power's avoided cost of *capacity* following the methodology approved by the Commission in Docket UE-132339.

38 (7) The rates, terms, and conditions of service that will result from this Order are fair, just, reasonable, and sufficient.

39 (8) The rates, terms, and conditions of service that will result from this Order are neither unduly preferential nor discriminatory.

40 (9) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.

41 (10) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS THAT:

42 (1) The proposed tariff revisions Pacific Power & Light Company filed on December 29, 2014, which were suspended by prior Commission order, are rejected.

43 (2) Pacific Power & Light Company is authorized and required to file tariff sheets that are necessary and sufficient to effectuate the terms of this Final Order, including determinations of separate avoided cost rates for energy and capacity consistent with the terms and requirements of this Order.

44 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Final Order.

45 (4) The Commission retains jurisdiction to effectuate the terms of this Final Order.

Dated at Olympia, Washington, and effective November 12, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.