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March 15, 2017

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, OR 97301-3398

Attn: Filing Center

**RE: UM 1610—PacifiCorp's Motion Close Docket**

PacifiCorp d/b/a Pacific Power encloses for filing its Motion to Close Docket the above-referenced proceeding.

If you have questions about this filing, please contact Natasha Siores at (503) 813-6583.

Sincerely,

R. Bryce Dalley  
Vice President, Regulation

Enclosure

**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

PACIFICORP'S MOTION TO  
CLOSE DOCKET

**I. INTRODUCTION AND MOTION**

In accordance with Administrative Law Judge (ALJ) Traci A. G. Kirkpatrick's March 1, 2017 Prehearing Conference Memorandum and Ruling and OAR 860-001-0420, PacifiCorp d/b/a Pacific Power (PacifiCorp) hereby requests that the Public Utility Commission of Oregon (Commission) issue an order closing this docket.

Although initially intended to address generic Qualifying Facility (QF) contracting and pricing issues, this docket has now become a utility-specific inquiry on a cost allocation proposal that has only affected four percent, or 12 MW, of PacifiCorp's QF power purchase agreements (PPAs) since PacifiCorp first raised the issue to the Commission in 2011. Given that the anticipated need for the proposal has not materialized, PacifiCorp must protect its customers from the disproportionately significant amount of resources required to participate in this proceeding.

PacifiCorp proposes to prospectively discontinue allocating the third-party transmission costs at issue in this proceeding to QFs, should those costs be incurred, and accordingly respectfully requests the docket be closed. If the need for this cost-allocation mechanism changes in the future, PacifiCorp will notify the Commission of the changed

circumstances and request guidance at that time. Thus, closing the docket neither prejudices any other party nor unduly restricts the Commission from examining PacifiCorp's treatment of QFs through other, more appropriately tailored procedural vehicles.

In the alternative, if the Commission deems it appropriate to keep the docket open, PacifiCorp respectfully requests that the Commission allow all parties to submit legal briefing on the appropriate scope of this proceeding before establishing a new procedural schedule.

## II. BACKGROUND

The genesis of the third-party transmission cost-allocation issue is found in PacifiCorp's June 27, 2011 Advice filing in Docket UE 235, in which the Company proposed revisions to Schedule 37 to address excess generation conditions that can result from a QF seeking to interconnect in areas of PacifiCorp's system called load pockets.<sup>1</sup> Simply siting in a load pocket does not automatically cause a problem, however. Rather, the load pocket must have insufficient load to absorb the additional QF power (*i.e.*, an excess generation condition). Under those circumstances, it may be possible to transmit the excess power out of the load pocket on third-party transmission.

PacifiCorp's transmission function makes the determination regarding whether the addition of a QF resource to a load pocket creates an excess generation situation when transmission studies PacifiCorp's merchant function's (energy supply management or ESM) transmission service request to move the QF power to load. PacifiCorp ESM submits this transmission service request in the form of a request to designate the QF PPA as a network resource (DNR) under the Network Integration Transmission Service Agreement (NITSA)

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<sup>1</sup> Load pockets are areas of PacifiCorp's noncontiguous transmission system that are typically located in more isolated areas that are partially, or even entirely, reliant on third-party transmission.

between PacifiCorp transmission and PacifiCorp ESM, in accordance with PacifiCorp transmission's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff (OATT). Where the addition of a new DNR would cause an excess generation condition in the load pocket, PacifiCorp transmission may still be able to grant PacifiCorp ESM's DNR request contingent on third-party transmission system arrangements sufficient to move excess power from the load pocket to other areas of PacifiCorp transmission's system to serve load.

PacifiCorp initially believed that QF siting decisions would continue to exacerbate excess generation conditions in load pockets and would likely lead to an increased need by ESM to transmit QF power out of load pockets on third-party transmission to secure DNR status for QF PPAs. As a result, to keep its customers indifferent to PacifiCorp's purchase of QF power, PacifiCorp proposed in docket UE 235 certain Schedule 37 revisions to provide a QF with the opportunity to agree to pay for additional transmission service over a third party's transmission system if PacifiCorp transmission deemed such third-party service necessary to designate the QF as a network resource.<sup>2</sup> The Company noted in its filing that this proposed revision to Schedule 37 would "address the load pocket issue without the need for any elaborate new process or a resource intensive rulemaking proceeding."<sup>3</sup> Various parties, but no other utilities, intervened in docket UE 235. After three public meetings and numerous briefs submitted by the parties, the docket was closed without an order.

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<sup>2</sup> *In the Matter of PacifiCorp, dba Pacific Power, Revises Schedule 37, Avoided Cost Purchases, from Qualifying Facilities (QF) of 10,000 kW or Less*, Docket No. UE 235, Initial Utility Filing at 1 (June 27, 2011).

<sup>3</sup> *Id.*, PacifiCorp's Memorandum of Law in Support of Advice No. 11-011 at 9 (June 27, 2011) (hereinafter, *PacifiCorp UE 235 Memorandum of Law*).

In parallel with UE 235, the Commission ordered that a generic docket be opened to investigate a variety of different issues related to utility purchases from QFs,<sup>4</sup> and PacifiCorp's third-party transmission cost-allocation issue from Docket UE 235 was included among those issues. The Commission opened this generic docket, UM 1610, on June 29, 2012. After nearly five years and two phases, this is the only remaining unresolved issue in the proceeding.

### **III. ARGUMENT**

PacifiCorp respectfully requests that the Commission close this docket. Section III.A describes why it is no longer cost-effective for PacifiCorp to participate in this proceeding now that the anticipated need for the cost-allocation mechanism has not materialized. Section III.B discusses PacifiCorp's intention to discontinue allocating to QFs the third-party transmission costs at issue in this docket, should they arise, which renders the issue moot and the docket appropriate for closure because the proceeding has, in actuality, been a PacifiCorp-specific inquiry, not a generic investigation. Finally, if the Commission deems it appropriate to keep the docket open, Section III.C explains PacifiCorp's request that all parties be allowed the opportunity to submit legal briefing on the appropriate scope of the proceeding.

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<sup>4</sup> *In the Matters of Idaho Power Co. Application to Revise Avoided Cost Methodology and Request to Revise Standard Contract Avoided Cost Prices Paid to Qualifying Facilities under Schedule 85*, Docket Nos. UM 1590 & 1593, Order No. 12-146 at 1 (April 25, 2012).

**A. It Is No Longer Cost-Effective for PacifiCorp to Participate in This Proceeding.**

PacifiCorp must protect its customers from the disproportionately significant amount of resources required to participate in this proceeding because the anticipated need for the proposed mechanism has not materialized. It is common, and indeed entirely appropriate, for the Commission to revisit an investigatory proceeding's rationale if a party raises cost-effectiveness concerns. For example, in Order No. 08-261, the Commission reexamined its initial request for Portland General Electric Company (PGE) to investigate using stochastic power cost modeling for its annual updates.<sup>5</sup> Although the Commission anticipated that the benefits from stochastic modeling would be significant, PGE ultimately spent significant amounts of customer funds investigating the model only to conclude that implementation costs would be considerable and that it would not materially improve PGE's power forecast accuracy. Recognizing that the costs of stochastic modeling for PGE outweighed the benefits, the Commission closed the docket. Here, the anticipated need for the third-party transmission cost-allocation proposal from docket UE 235 has similarly not materialized, requiring PacifiCorp to protect its customers from the disproportionately significant amount of resources required to participate in this proceeding.

***1. The Anticipated Need for PacifiCorp's Third-Party Transmission Cost-Allocation Proposal from Docket UE 235 Has Not Materialized***

PacifiCorp initially believed that QF siting decisions would continue to create excess generation conditions in load pockets and, in turn, increase the need to transmit QF power out of load pockets on third-party transmission. That has not been the case.

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<sup>5</sup> *In the Matter of Portland General Electric Company Report on the Feasibility of Using Stochastic Modeling in the Annual Update*, Docket No. UM 1340, Order No. 08-261 (May 19, 2008).

In its June 27, 2011 Advice filing in docket UE 235, PacifiCorp explained that it had purchased third-party transmission to move excess generation out of the load pocket where the 9.9 MW Threemile Canyon Wind project was sited,<sup>6</sup> and that it expected to purchase additional third-party transmission for five more planned QF projects comprising 44.8 MW (four Butter Creek Power, LLC projects<sup>7</sup> and one TMF Biofuels, LLC project).<sup>8</sup> PacifiCorp anticipated that these QF projects would not be the last to deliver their net output into PacifiCorp load pockets, and each new generator interconnecting to a load pocket would increase the likelihood and magnitude of excess generation in need of third-party transmission arrangements.<sup>9</sup>

It turns out, however, that PacifiCorp has only purchased 12 MW of third-party transmission for new QF projects in the approximately five years since PacifiCorp's UE 235 filing.<sup>10</sup> This represents only four percent of the total 294 MW of QF PPAs executed during that same timeframe. The following table and subsequent explanation demonstrate how PacifiCorp calculated this number:

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<sup>6</sup> *PacifiCorp UE 235 Memorandum of Law* at 3-6.

<sup>7</sup> The Butter Creek projects included four 10-MW QF wind projects (Mule Hollow, Lower Ridge, High Plateau, and Pine City) with a common point of delivery.

<sup>8</sup> *PacifiCorp UE 235 Memorandum of Law* at 6; Docket No. UE 235, Initial Utility Filing, Affidavit of Bruce Griswold in Support of PacifiCorp's Advice No. 11-011 at ¶¶ 5, 18-21 (June 27, 2011) (hereinafter, *PacifiCorp UE 235 Griswold Affidavit*).

<sup>9</sup> *PacifiCorp UE 235 Memorandum of Law* at 6.

<sup>10</sup> PacifiCorp has not included in this calculation any projects that PacifiCorp described in its 2011 docket UE 235 filing, i.e., Threemile Canyon Wind, Butter Creek, and TMF BioFuels. PacifiCorp also notes that, while the Butter Creek PPAs were terminated 18 months after their execution and before PacifiCorp ESM finalized any third-party transmission service arrangements for those projects, the same four projects subsequently submitted requests to PacifiCorp under a new name, Orchard Windfarm, in late 2015. PacifiCorp executed four new PPAs with Orchard Windfarm 1, 2, 3 and 4 in 2016 and filed them in docket RE 1442. The Orchard Windfarm PPAs include an Addendum B stating that PacifiCorp has the right to allocate third-party transmission costs to the QF to the extent PacifiCorp Transmission determines third-party arrangements are necessary when it studies PacifiCorp ESM's transmission service request. While PacifiCorp ESM has not yet finalized any third-party transmission arrangements for the Orchard Windfarm PPAs, PacifiCorp does not consider any such future transmission arrangements to be incremental to the total MW of third-party transmission acquired since PacifiCorp's 2011 filing because those arrangements will be for four of the projects noted in the 2011 filing, but simply under a different name.

<b>Project Name</b>	<b>Total Project (MW)</b>	<b>Addendum B Included in PPA?</b>	<b>Third-Party Transmission Ultimately Acquired</b>	<b>Total Third-Party Transmission Acquired Since PacifiCorp's 2011 UE 235 Filing</b>
Adams Solar Center	10 MW	Yes	10 MW	10 MW
Elbe Solar Center	10 MW	Yes	2 MW	2 MW
EBD Hydro	2.99 MW	Yes	0 MW	0 MW
Monroe Hydro	0.3 MW	Yes	0 MW	0 MW
<b>Total</b>				<b>12 MW</b>

As shown in the table above, only four QF projects have raised excess generation condition concerns since PacifiCorp's 2011 filing: (1) Adams Solar Center, LLC; (2) Elbe Solar Center, LLC; (3) EBD Hydro, LLC; and (4) Monroe Hydro, LLC.<sup>11</sup> As a result, the QF PPAs for these projects include an addendum addressing excess generation conditions and third-party transmission arrangements. The addendum turned out to be unnecessary for two of the four projects, EBD Hydro and Monroe Hydro, because PacifiCorp transmission's study ultimately concluded that the addition of those resources did not create an excess generation situation in the load pocket, so PacifiCorp ESM did not make any third-party transmission arrangements. For Elbe Solar Center, PacifiCorp transmission's study identified only a small portion of the project would be excess generation, so PacifiCorp ESM arranged for 2 MW (instead of 10 MW) of third-party transmission. Finally, PacifiCorp transmission determined that the full Adams Solar Center project would be excess generation, so PacifiCorp ESM arranged 10 MW of third-party transmission.

This highlights an important, and often confused, point: a QF simply siting in a load pocket does not automatically mean third-party transmission arrangements will be necessary. As PacifiCorp has explained since its very first 2011 filing, PacifiCorp transmission makes the determination of what, if any, third-party transmission is required when it studies a

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<sup>11</sup> PacifiCorp filed its PPAs with these projects in Docket No. RE 142.

customer's transmission service request. PacifiCorp transmission has not made this determination nearly as often as PacifiCorp originally anticipated in 2011, meaning the anticipated need for a generic ruling on this issue has not materialized.

**2. *PacifiCorp Has Dedicated a Disproportionately Significant Amount of Resources to this Proceeding***

PacifiCorp must protect its customers from the disproportionately significant amount of resources required to participate in this proceeding, particularly now that the anticipated need for the mechanism has not materialized.

PacifiCorp is decidedly not addressing discovery scope or any other substantive issues in this motion. It notes, however, that the sheer volume of discovery activity in this proceeding has been rather alarming and requires significant resources. For instance, since the Commission's issuance of Order No. 16-174 in May 2016, the Renewable Energy Coalition (REC) and the Community Renewable Energy Association (CREA) have propounded 77 discovery requests, including subparts. Responding to these discovery requests has required employees to divert significant time away from other duties, and has also required PacifiCorp to hire transmission experts with hourly rates ranging from \$300 per hour to \$600 per hour. In addition, PacifiCorp has attempted to provide informal explanations to REC and CREA on disputed or confusing areas on two separate occasions. REC and CREA are still unsatisfied, and have stated they intend to depose PacifiCorp employees, starting with a non-witness to this proceeding.

In accordance with OAR 860-001-0500(1), discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates. Now that the anticipated need for the cost-allocation mechanism has not materialized, PacifiCorp must protect its customers from the escalating costs of

discovery in this proceeding. PacifiCorp intends to do so by prospectively discontinuing to allocate the cost of third-party transmission at issue in this docket, as discussed in the next section.

**B. PacifiCorp Intends to Discontinue Allocating the Third-Party Transmission Costs at Issue in This Docket, Rendering the Issue Moot and the Docket Appropriate for Closure.**

In Order No. 12-146, the Commission stated its intent to open UM 1610 as “a generic docket” on QF-related issues.<sup>12</sup> At the outset of the proceeding, Chief ALJ Michael Grant noted the broad scope of this docket,<sup>13</sup> which was then reiterated by ALJs Kirkpatrick and Shani Pines.<sup>14</sup> Despite this intended broad scope, no other utility has offered meaningful or extensive input on this issue throughout any phase of docket UM 1610. Thus, PacifiCorp discontinuing the allocation of the third-party transmission costs at issue in this proceeding renders the issue moot and the docket appropriate for closure because the issue of third-party transmission cost allocation in this proceeding has, in actuality, been a PacifiCorp-specific inquiry, not a generic issue.

The Commission has recognized the problem of using a generic docket to address utility-specific questions, even in this proceeding. For instance, Phase IIA of UM 1610 was opened to address the treatment of solar integration costs in utility avoided cost prices. After much discussion, however, all but one of the parties agreed that they would not be able to meaningfully examine solar integration costs in the generic, non-utility-specific manner

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<sup>12</sup> Order No. 12-146 at 1; *see also* Docket No. UM 1610, Order No. 15-292 at 2 (Sept. 23, 2015) (noting that it had directed “that examination of solar integration charges be done in UM 1610, the generic investigation in which we have been addressing revisions to the rates, terms, and conditions for qualifying facility (QF) standard contracts in Oregon.”).

<sup>13</sup> Docket No. UM 1610, ALJ Ruling on Issues List at 1 (Oct. 25, 2012) (“The Commission’s purpose of this docket is to address, in a generic fashion, issues related to PURPA implementation and QF contracting.”).

<sup>14</sup> Docket No. UM 1610, ALJ Ruling at 2 (April 30, 2013) (“The Commission opened this docket to address, in a generic fashion, legal and policy issues related to PURPA implementation and QF contracting.”).

initially contemplated by the Commission. Furthermore, the only utility with a completed solar integration study at the time, Idaho Power Company, used a methodology that would not necessarily work for PacifiCorp or PGE. The Commission ultimately granted a motion to close the docket, recognizing that it no longer made sense to proceed with essentially an Idaho-Power-specific inquiry in a generic docket, and noting that UM 1610 was a “generic investigation . . . addressing revisions to the rates, terms, and conditions for qualifying facility (QF) standard contracts in Oregon.”<sup>15</sup>

Similarly, rather than maintaining its original scope as a generic docket addressing a broad range of issues, the examination of third-party cost allocation issues has proven to be a PacifiCorp-specific inquiry. In Phase I, parties filed multiple rounds of testimony and briefing from approximately February 2013 to June 2013, and PacifiCorp was the only utility to meaningfully and extensively address the third-party transmission component of Issue 4B.<sup>16</sup> Further, in contrast to the intensity of the current discovery approach by REC and CREA, at various points REC and CREA chose to not even address Issue 4B in their testimony and briefing.

In Phase II, ALJs Pines and Kirkpatrick issued a ruling establishing a new issues list that included the third-party transmission issue as Issue 9.<sup>17</sup> Parties filed multiple rounds of testimony and briefing from approximately May 2015 to October 2015, and PacifiCorp was again the only utility to meaningfully and extensively address Issue 9. Idaho Power explained that Issue 9 “stems largely from operational aspects relevant to PacifiCorp’s

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<sup>15</sup> Docket No. UM 1610, Order No. 15-292 at 2 (Sept. 3, 2015).

<sup>16</sup> Issue 4B was “Should the costs or benefits associated with third party transmission be included in the calculation of avoided cost prices or otherwise accounted for in the standard contract?”

<sup>17</sup> Docket No. UM 1610, Ruling Granting Motion to Impose Phase II Procedural Schedule and Issuing Phase II Issues List (March 26, 2015). Issue 9 was: “How should third-party transmission costs to move QF output in a load pocket to load be calculated and accounted for in the standard contract?”

system,”<sup>18</sup> and that Idaho Power did not have any existing or proposed QF projects that would require the use of third-party transmission to move the QF generation from a load pocket to load.<sup>19</sup> CREA also recognized the utility-specific nature of the issue, explaining that “[t]his issue is related only to PacifiCorp due to PacifiCorp’s claim that it will occasionally incur costs to deliver QF output from the QF’s point of delivery to PacifiCorp’s load if the QF’s point of delivery is located in a ‘load pocket’ where generation occasionally exceeds load.”<sup>20</sup> REC likewise explained in its response testimony that Issue 9 primarily affects PacifiCorp.<sup>21</sup>

Finally, in the current proceeding—established solely to close out the third party transmission issue—PacifiCorp is the only utility that has filed testimony, the only utility that has received data requests, and the only utility subject to potential deposition notices from REC and CREA.

This proceeding is undoubtedly focused on how *one* utility addresses *one* particular QF-related issue. Thus, if that one utility, PacifiCorp, discontinues allocating the costs at issue, the issue is rendered moot, and the docket is appropriate for closure. If the need for this cost-allocation mechanism changes in the future, PacifiCorp will notify the Commission of the changed circumstances and request guidance at that time. Thus, closing the docket neither prejudices any other party, nor unduly restricts the Commission from examining PacifiCorp’s treatment of QFs through other, more appropriately tailored procedural vehicles.

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<sup>18</sup> Idaho Power/1100, Allphin/10.

<sup>19</sup> *Id.*

<sup>20</sup> CREA/500, Skeahan/18.

<sup>21</sup> Coalition/500, Lowe/17.

**C. If the Commission Deems It Appropriate to Keep the Docket Open, Parties Should Submit Legal Briefing on Appropriate Proceeding Scope**

PacifiCorp believes this docket should be closed for the reasons discussed above. If, however, the Commission deems it appropriate to keep the docket open, PacifiCorp respectfully requests that all parties be given the opportunity to submit legal briefing on the scope of the proceeding. As evidenced by the discussion during the March 1, 2017 Prehearing Conference with ALJ Kirkpatrick, PacifiCorp, PGE, and Idaho Power all have serious concerns about the attempts by REC and CREA to expand the scope of discovery beyond anything any party to UE 235 or UM 1610 could have anticipated,<sup>22</sup> and for the apparent purpose of proposing complex, QF-specific, administratively burdensome solutions that appear at first glance to be inconsistent with FERC OATT procedures and requirements and PURPA.

**IV. CONCLUSION**

This docket was originally opened to address generic QF contracting and pricing issues, but has become a PacifiCorp-specific inquiry on a cost-allocation proposal that has impacted only four percent of PacifiCorp's QF PPAs since this issue was raised in 2011. It is no longer cost-effective for PacifiCorp to participate in this proceeding now that the anticipated need for the cost-allocation mechanism has not materialized. If the need for this cost-allocation mechanism changes in the future, PacifiCorp will notify the Commission of the changed circumstances and request guidance at that time.

For the foregoing reasons, PacifiCorp respectfully requests that the ALJ issue an order closing this docket.

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<sup>22</sup> OAR 860-001-0500(2) states that discovery that is unreasonable cumulative, duplicative, burdensome, or overly broad is not allowed.

Dated this 15<sup>th</sup> day of March, 2017.

Respectfully submitted,

Handwritten signature of Erin Apperson in cursive, with the initials 'nes' written at the end of the signature.

Erin Apperson  
Legal Counsel  
PacifiCorp d/b/a Pacific Power