ITEM NO. 3

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 6, 2016

REGULAR _X_ **CONSENT** ____ **EFFECTIVE DATE** **Upon Commission Approval**

DATE: November 29, 2016

TO: Public Utility Commission

FROM: John Crider JC

THROUGH: Jason Eisdorfer

SUBJECT: PACIFIC POWER:
(Docket No. ADV 386/Advice No. 16-012) Changes to Renewable Energy Rider Optional Bulk Purchase Option.

STAFF RECOMMENDATION:

Staff recommends that the Commission suspend this advice filing and open a docket for investigation of potential issues.

DISCUSSION:

Issue

Whether the Commission should allow PacifiCorp Advice No. 16-012 filing (tariff or Advice Filing) to go into effect or suspend it for further investigation.

Applicable Rule or Law

The Commission reviews proposed tariffs filed under ORS 757.205 to determine whether they are fair, just and reasonable. *See also* ORS 756.040.

OAR 860-022-0025(2) requires utilities proposing to change a tariff to: (a) plainly indicate the increase, decrease, or other proposed change; (b) set forth the number of customers affected by the proposed change and the resulting change in annual revenue; and (c) provide a detailed statement setting forth the reasons or grounds relied upon in support of the proposed change.

Filings that propose any change in rates, tolls, charges, rules, or regulations must be filed with the Commission at least 30 days before the effective date of the change. *See* ORS 757.220 and OAR 860-022-0020. Tariff filings to be effective on less than 30 days following notice of the change may be authorized with a waiver of less than statutory notice pursuant to ORS 757.220 and OAR 860-022-0020.

Upon receipt of a proposed tariff by a utility, the Commission may approve it or suspend it for further investigation to determine whether the rate or schedule is fair, just and reasonable. ORS 757.210(1)(a).

Analysis

In its Advice Filing the Company proposes changes to its Schedule 272 Renewable Energy Rider Optional Bulk Purchase Option. A copy of the Advice Filing is included with this memo as Attachment A. This tariff is part of the Company's Blue Sky voluntary renewable energy offering to non-residential customers. Under this option customers can voluntarily pay for renewable energy credits (RECs). Pairing the RECs with system power delivered from the Company allows the customer to claim environmental attributes associated with renewable power.

Some of the important changes to the Schedule include, but are not limited to, the following:

1) Negotiated purchase arrangements are allowed for commitments of more than one year, shortened from the existing two year commitment required;

2) Changes in charges as well as term duration will be permitted for negotiated agreements;

3) Customers will be allowed to specify the renewable resource from which the RECs are purchased; and

4) Renewable energy generated in response to a federal or state requirement would now be allowed under this tariff.

In short, the changes would allow a customer to specify the renewable resource it wishes to receive RECs from, allows for RECs to be procured from projects previously deemed ineligible (namely, generation produced in response to regulatory requirements), and allows for greater freedom in negotiating individual contracts with customers.

The similarity of this offering to the concepts reviewed under the Commission's docket UM 1690 (known as the "voluntary renewable energy tariff" (VRET) docket) has raised concerns among some stakeholders, as well as Staff, about whether this is a fair, just and reasonable tariff. House Bill (HB) 4126 directed the Commission to conduct a study examining the impact of offering a "voluntary renewable energy tariff", or VRET to customers. The Commission subsequently considered the implications of a utility offering a VRET to non-residential customers in Docket UM 1690.

The legislature tasked the Commission with analyzing possible VRET offerings using five factors:

1) Whether allowing a VRET promotes the further development of significant renewable energy resources;

2) The effect of a VRET on the development of a competitive retail market;

3) Indirect and direct impacts on other customers, especially cost-shifting;

4) Whether a VRET should be supplied through competitive procurement; and

5) Any other reasonable consideration to offering VRETs to non-commercial customers.

During the UM 1690 proceedings, the Commission proposed for consideration of the parties nine specific design guidelines which would provide the necessary protections to minimize impact on competitive retail markets.[1] In its Order 15-405, the Commission requested both Portland General Electric and PacifiCorp to file draft VRETs in order to determine if the companies' offerings were reasonable and in the public interest. However, both companies declined explaining that they were unable to offer a VRET that would both meet the Commission's proposed design guidelines and be of interest to customers. In the end, UM 1690 was closed by the Commission with no further action.[2]

With the proposed changes to Schedule 272, the offering resembles a VRET as considered in UM 1690. Under the revised Schedule, a customer can negotiate delivery of PacifiCorp system power, "greened up" by pairing this power with RECs from a

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[1] Order No. 15-405, PUC Docket No. UM 1690
[2] Order No. 16-251

specified source. However, it is not clear that this offering conforms to the nine design guidelines proposed by the Commission as characteristic of a VRET operating in the public interest. Additionally, irrespective of whether the offering is considered a VRET or not, Staff questions the appropriateness of allowing the Company to treat a contract acquired as a system resource to subsequently be offered as a bundled product for a particular customer. Such an arrangement may introduce cost-shifting to non-participating customers and Staff believes this deserves investigation.

On November 29, 2016, the Northwest and Intermountain Power Producers Coalition (NIPPC) filed comments on the proposed changes to Schedule 272. In its comments, NIPPC states it believes the changes are "unnecessary and inappropriate and should be rejected…."[3] NIPPC further claims that the changes to Schedule 272 appear to "…allow Pacific Power to enter into individually negotiated arrangements to sell renewable energy to interested customers, with no protection against cost-shifting to other customers, no requirement that terms mirror direct access, no requirement that the offering be restricted to bundled REC products, or any of the other protections the Commission required in Docket UM 1690."[4]

Staff believes that an investigation of the Advice Filing is warranted to answer the question of whether this newly revised Schedule 272 should be considered as a VRET, and if so, whether the offering meets the Commission's UM 1690 proposed guidelines for reducing the impact of cost shifting and otherwise being in the public interest. It is also possible that Commission may conclude that the offering, although not strictly a VRET, is unjust and unreasonable due to undue cost shifting or other factors.

Conclusion

PacifiCorp's proposed changes in Schedule 272 have raised concerns among Staff and stakeholders that the modifications may be material enough to fundamentally transform the offering and might be considered a VRET or may otherwise lead to rates that are not just and reasonable. Staff believes that an investigation is warranted to answer these concerns before allowing the revised tariff to be offered to customers. The issues of concern are narrow enough that Staff believes a short investigation should suffice.

Staff notes that while the investigation is underway, the current Schedule 272 remains available for customers.

[3] Northwest and Intermountain Power Producers Coalition Comments on Pacific Power's Advice No. 16-012/Docket ADV 386, Changes to Renewable Energy Rider Optional Bulk Purchase Option, filed with OPUC on November 29, 2016.
[4] Ibid.

PROPOSED COMMISSION MOTION:

Suspend PacifiCorp Advice Filing 16-012 and open a docket for investigation into issues raised by Staff and stakeholders.

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