

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 27, 2018**

REGULAR X CONSENT _____ EFFECTIVE DATE March 28, 2018

DATE: March 20, 2018

TO: Public Utility Commission

FROM: JP Batmale 

THROUGH: Jason Eisdorfer

SUBJECT: PACIFIC POWER: (Docket Nos. UM 1729 and LC 67) Clarification on the timeline for the filing of post-IRP acknowledgement, avoided cost data for qualifying facilities, per OAR 860-029-0080.

STAFF RECOMMENDATION:

The Commission clarify for Staff and Pacific Power (PAC or the Company) that the date of the Integrated Resource Plan (IRP) acknowledgement decision begins the 30 day timeline to file avoided cost data for qualifying facilities, per OAR 860-029-0080.

DISCUSSION:

Issue

Whether the Commission should clarify which Integrated Resource Plan (IRP) acknowledgement event – the decision or the Commission Order – triggers the 30-day timeline to file avoided cost data and standard prices for qualifying facilities, per OAR 860-029-0080 and 0040(4)(a).

Applicable Law

OAR 860-029-0080 (3) states that each public utility shall file with the Commission draft avoided-cost information with its least-cost plan pursuant to Order No. 89-507 and file final avoided-cost information “within 30 days of Commission acknowledgement” of the least-cost plan to be effective 30 days after filing. Similarly, OAR 860-029-0040(4)(a) provides a utility shall file standard rates for purchases from qualifying facilities “within 30 days of Commission acknowledgment” of the utility’s least-cost plan.

Analysis

In this Staff memo, Staff asks that the Commission clarify whether its decision to acknowledge an IRP at a public meeting is the “Commission’s acknowledgment” of an IRP that beginning the 30-day period for filing avoided cost data and prices, or whether “Commission acknowledgment” occurs only when the Commission’s order memorializing the acknowledgement decision is issued.

Staff believes the date of the decision to acknowledge at the public meeting should be the date of “Commission acknowledgment” for purposes of beginning the 30-day period for avoided cost filings.

Any order issued subsequent to the Commission’s decision to memorialize the Commission’s decision to acknowledge does just that – memorializes the Commission’s previous decision. The actual acknowledgment decision is made at the public meeting.

Notably, the Commission has allowed utilities to use both the date of the Commission decision at the public meeting and the date of the Final Order as the date that triggers the 30-day period for filing post-IRP avoided cost updates.

For PacifiCorp’s 2015 IRP addressed in Docket No. LC 62, the Commission made its acknowledgement decision in December 2015 and issued the Final Order memorializing its decision on February 28, 2016.¹ PacifiCorp made its post-IRP filing within 30 days of the Commission’s February 28, 2016 Final Order memorializing its acknowledgment decision in LC 62.²

In contrast, PGE made its post-IRP filing within 30 days of the Commission decision at a public meeting acknowledging its 2016 IRP and prior to the time the Commission issued its Final Order memorializing its acknowledgment decision.³

It does not appear that the Commission substantively considered the question of which date, the date of the IRP acknowledgement decision or date of the order memorializing the decision, is the appropriate beginning for the 30-day period to file post-IRP avoided cost updates. Neither of the two cases mentioned above leads to any particular

¹ In the Matter of PacifiCorp’s, dba Pacific Power, 2015 Integrated Resource Plan (LC 62), Order No. 16-071.

² See In the Matter of PacifiCorp Application to Update Schedule 37 Qualifying Facility Information (Docket No. UM 1729).

³ See *In the Matter of PGE Application to Update Schedule 201 Qualifying Facility Information* (Docket No. UM 1728).

conclusion of the issue or otherwise appears to be the controlling decision. Accordingly, the question before the Commission is not necessarily guided by previous practice.

Staff believes the appropriate date is the date of acknowledgment at the public meeting for a few reasons. First, as a matter of law, the Commission's acknowledgment "decision" occurs at the Commission's public meeting. Any subsequent Commission order memorializes the Commission's decision, but does not make it. Second, the Commission could have adopted rules specifying that the 30-day period begins the date of a written order, but did not do so. Instead, the Commission selected the date of the acknowledgment decision.

Third, Staff believes that the 30-day period should commence on the date of the Commission decision at the public meeting as a matter of policy. A theme that has run through many of the recent dockets concerning PURPA policy has been importance of ensuring that avoided cost prices appropriately match the utility's actual avoided costs. Allowing updates to avoided cost prices within 30 days of the Commission's acknowledgment decision, as opposed to the date of the Commission's subsequent written order memorializing the decision, can facilitate that matching.

Finally, utilities are planning to acquire new renewable resources contemporaneously, or almost contemporaneously, with the Commission's review of their IRPs. Staff understands that PacifiCorp is in the process of conducting an RFP for new resources. Potentially acquiring those resources will have a future impact on avoided costs for qualifying facilities. However, that decision will not come until early May, almost six months after the Company's IRP was acknowledged. Staff believes qualifying facilities deserve to fully understand what the Company's current avoided costs are and that the rules require they be released soon.

Staff acknowledges that there may be a circumstance in which it may be necessary to wait for the Commission's written order before filing avoided cost prices. This would occur when the Commission partially acknowledges an IRP and it is impossible to discern from the Commission's decision how to determine the date of resource deficiency. Staff thinks this circumstance is unlikely to occur. But, if it does, the utility can seek a waiver of the 30-day period or the utility or stakeholders can ask that the Commission wait to review the utility's proposed avoided cost prices until after the Commission issues its written order re: the utility's IRP.

Conclusion

Staff believes that the Commission's decision regarding acknowledgement of an IRP at a public meeting is the trigger for the 30-day period for filing updated avoided cost information and prices. Staff asks that the Commission issue an order clarifying that the

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date of the decision at the public meeting is the date of "Commission acknowledgment" for purposes of filing post-IRP avoided cost price updates.

PROPOSED COMMISSION MOTION:

The Commission clarifies that the date of the IRP acknowledgement decision triggers the 30-day timeline to file avoided cost data for qualifying facilities, per OAR 860-029-0080 and OAR 860-029-0040(4)(a).

UM 1729 and LC 67 Avoided Cost Filing Clarification