

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 11, 2018

REGULAR _____ CONSENT X EFFECTIVE DATE September 11, 2018

DATE: September 4, 2018

TO: Public Utility Commission

FROM: Caroline Moore *CM*

THROUGH: *F* Jason Eisdorfer and *JPB* JP Batmale

SUBJECT: PACIFIC POWER: (Docket No. UM 1959) 2017 Renewable Portfolio Standard Compliance Report.

STAFF RECOMMENDATION:

Staff recommends the Commission take the following actions, based on the PacifiCorp 2017 Renewable Portfolio Standard (RPS) Compliance Report:

1. Find that PacifiCorp (PAC or Company) complied with the RPS for the 2017 compliance period; and
2. Direct PacifiCorp to retire the renewable energy credits (REC) identified in its 2017 RPS Compliance Report, and to provide a Western Renewable Energy Generation Information System (WREGIS) retirement report to the Commission, subject to appropriate non-disclosure agreements, within 30 calendar days of its Order.

DISCUSSION:

Issue

Whether the Commission should find that PacifiCorp complied with the requirements of the RPS over the 2017 period and direct the Company to retire the RECs identified in the 2017 RPS Compliance Report.

Applicable Law

The RPS is codified at ORS 469A.005 through 469A.210. ORS 469A.170(1) and OAR 860-083-0350(1)(a) require that each electric company subject to Oregon's RPS provide an annual report demonstrating its compliance (or failure to comply) with the RPS standard.

Among the reporting details required by ORS 469A.170(2)(a-h) and OAR 860-083-0350(2)(a-s), the Compliance Report must contain a complete accounting of RECs used for compliance in the compliance year, separating the RECs into bundled or unbundled, showing clearly which generating unit produced the RECs, the total cost of compliance, and a detailed explanation of any material deviations from the electric company's applicable acknowledged RPS implementation plan filed under OAR 860-083-0400.

ORS 469A.170(2) and OAR 860-083-0350(2) subsections (b-g) provide the Commission with the information necessary to determine whether an electric company may be considered in compliance with the RPS. These subsections require the electric company to provide a complete Compliance Report that shows the electric company has acquired and retired an appropriate number of valid RECs, bundled or unbundled, banked or unbanked, for the compliance year.

ORS 469A.100(1) provides that “[e]lectric utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year.”

Analysis

Background

The Company's 2017 RPS Compliance Report (hereinafter referred to as “Compliance Report” or “Report”) demonstrates PAC's compliance with the RPS for the period of January 1, 2017 through December 31, 2017. The Company filed its Compliance Report on June 1, 2018. Based on Staff feedback regarding omitted pages and a typographical error on the cost of compliance reported under OAR 860-083-0350(2)(n), PacifiCorp filed corrections to its report on June 27, 2018 and July 12, 2018.¹ Staff was able to file its initial comments on July 16, 2018.

In its initial comments, Staff concluded that PAC had met the RPS compliance target mandated by ORS 469A.052(1)(b) and the RPS compliance reporting requirements mandated by OAR 860-083-0350. PAC filed reply comments on August 15, 2018 in agreement with Staff's findings. No other parties filed comments on this matter.

¹ Staff references throughout this memo to the Compliance Report are to the Report with all filed corrections.

PacifiCorp's 2017 Compliance Report

PAC's 2017 RPS obligation and compliance activity are summarized in the table below.

2017 RPS Compliance Summary		
Oregon retail sales	13,200,282 MWh ²	
2017 RPS Obligation	15%	
2017 RPS MWh	1,980,042 MWh	
RECs used for 2017 RPS	Number of RECs	Percentage of RPS MWh
Bundled – newly acquired	1,797,384 ³	91%
Bundled – from bank	20,287	1%
Bundled subtotal	1,817,671	92%
Unbundled – newly acquired	55,928	3%
Unbundled – from bank	106,443	5%
Unbundled subtotal	162,371	8%
Total	1,980,042	100%

In its Compliance Report, PAC states that its 2017 RPS obligation is 1,980,042 Megawatt hours (MWh), which it has met through the use of 1,817,671 bundled RECs and 162,371 unbundled RECs. The Company's total cost to use these RECs for compliance is \$3,796,000. This represents 0.3 percent of PAC's revenue requirement, which is within the limit set forth in ORS 469A.100(1).⁴

Staff's Initial Comments

In its initial comments, Staff found that the Company complied with all applicable requirements, but raised a few issues to be addressed in the pending RPS rulemakings⁵.

² See PacifiCorp's 2017 Annual Report Supplement to FERC Form 1 and FERC Form 1, at page 3.2, Docket No. RE 68, May 24, 2018.

³ Includes 3,966 two for one solar RECs eligible under OAR 860-084-0070(2).

⁴ ORS 469A.100(1) provides that "electric utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year."

⁵ See *In the Matter of Rulemaking Regarding the Incremental Cost of Renewable Portfolio Standard Compliance*, Docket AR 610; *In the Matter of Rulemaking Regarding Renewable Portfolio Standard Planning Process and Reports*, Docket AR 616; and *In the Matter of Rulemaking to Address Renewable Energy Certificate (REC) Issues in Renewable Portfolio Standard (RPS)*, Docket AR 617.

1. **Material deviation from the applicable RPIP:** Staff questioned PAC's identification of the applicable RPS Implementation Plan (RPIP) and the Company's assertion that it has not deviated materially from this plan. Because these issues do not impact the Company's overall compliance strategy of using 5-year life RECs or its position well under the cost cap, Staff suggested that the AR 616 rulemaking process is a more appropriate place to contemplate whether additional clarity is required to identify "material differences" and the applicable RPIP.
2. **Use of unbundled RECs:** Staff noted that PAC did not forecast the use of unbundled RECs in its 2017 – 2021 RPIP base case, but the Company purchased 162,221 unbundled RECs in 2017, used 55,928 of the RECs for 2017 compliance, and banked 106,293 for use in future years.⁶ Staff requested that PAC clarify in its reply comments its decision to bank, rather than use or sell, the unbundled RECs purchased in 2017 for compliance.
3. **Cost of compliance:** Staff highlighted that the majority of RECs used for compliance in 2017 are associated with a zero or negative cost of compliance.⁷ Further, Staff considered the relationship between the low cost of RECs used for compliance in 2017 and the removal of the requirement to apply a first-in-first-out strategy to the RECs bank. Staff recognized the Company's efforts to keep year-to-year costs of compliance low and found that the interaction between banking and the cost of compliance could be more holistically addressed in AR 617 Renewable Energy Certificate Issues and/or AR 610 Incremental Cost of Compliance, respectively.

PacifiCorp's Reply Comments

PAC agreed with Staff and states that the Commission should find the Company in compliance with the applicable RPS requirements. Further, the Company addressed two issues raised in Staff's initial comments.

1. **Material deviation from the applicable RPIP:** In its reply comments, PAC references OAR 860-083-0100(9)(f) to explain the Company's choice to identify the 2019 - 2023 RPIP as its applicable RPIP. OAR 860-083-0100(9)(f) states that, "In its compliance reports, an electricity service supplier must include updated estimates of the incremental cost of long-term qualifying electricity at least every two years consistent with subsections (9)(a) through (e) of this rule for qualifying electricity it plans to use to serve the service areas of an electric company subject to ORS 469A.052." The Company states that it identified the

⁶ PacifiCorp's Corrected 2017 RPS Compliance Report, Attachments A and D.

⁷ See OAR 860-083-0100.

2019 – 2023 RPIP, which does not contain 2017 compliance information, as the applicable RPIP because it contains the most recently acknowledged proxy plant fuel price data.

Staff notes that the section of the rules referenced by PAC is specific to electricity service suppliers (ESSs). OAR 860-083-0100(7) is the corresponding rule specific to electric companies. This section directs electric companies to base forecasts of proxy plant fuel prices in compliance reports on the most recent forecast filed in an avoided cost proceeding under ORS 758.525(1) or filed or updated in an integrated resource planning proceeding per Commission orders. In any event, Staff concludes that updated proxy plant fuel prices is not the appropriate basis to identify the applicable RPIP. Instead, Staff suggests that the AR 616 rulemaking may clarify or confirm that the applicable RPIP is the most recently acknowledged RPIP that includes the compliance year.

Further, Staff finds that the AR 616 process remains a more appropriate avenue to contemplate whether additional clarity is required to identify and address “material differences” from the applicable RPIP.

- 2. Use of unbundled RECs:** In its reply comments, PAC characterizes its decision to bank unbundled RECs purchased in 2017 as a “low-risk and cost-effective approach to meet the state’s increasing RPS compliance targets.”⁸ Because these unbundled RECs are eligible to be banked indefinitely, the Company chose to prioritize the use of RECs with a shorter life to meet its 2017 compliance obligation. The Company also notes that it does not anticipate selling these RECs, and that a change in this strategy would be reflected in the Company’s future IRP or RPIP. This sale would additionally require regulatory approval.

Staff appreciates the Company’s response and notes that this approach is consistent with the overall compliance strategy conveyed in its most recently acknowledged RPIP. At the same time, Staff continues to question the need to purchase unbundled RECs without specific plans to use the RECs for compliance. Additional consideration is required to reconcile why the Company is not willing to plan for the use of unbundled RECs in the RPIP base case, but finds enough certainty to bank unbundled RECs for use in future years. Staff suggests that considerations for banking unbundled RECs would be best addressed under AR 617 Renewable Energy Certificate Issues, and such efforts may be impacted by any rule changes resulting from AR 610.

⁸ See In the Matter of PacifiCorp’s 2017 Renewable Portfolio Standard Compliance Report, UM 1959, PacifiCorp’s Reply Comments, p. 2 (August 15, 2018).

Conclusion

Staff concludes that PacifiCorp has met the RPS compliance target mandated by ORS 469A.052(1)(b) and the RPS compliance reporting requirements mandated by OAR 860-083-0350. While the 2017 RPS Compliance Report raises several issues, Staff finds that these issues would be best addressed in the holistic context of the upcoming RPS rulemakings.

PROPOSED COMMISSION MOTION:

- (1) Find PacifiCorp to be compliant with Oregon's Renewable Portfolio Standard during the 2017 compliance period; and
- (2) Direct PacifiCorp to retire the RECs identified in its 2017 Compliance Report, and to provide a Western Renewable Energy Generation Information System retirement report to the Commission, subject to appropriate non-disclosure agreements, within 30 calendar days of this Order.