

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue
Implementation and Administration of California
Renewables Portfolio Standard Program.

Rulemaking 11-05-005
(Filed May 5, 2011)

**COMMENTS OF PACIFICORP (U 901 E) ON ADMINISTRATIVE LAW JUDGE'S
RULING REQUESTING COMMENTS ON PROCUREMENT EXPENDITURE
LIMITATIONS FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM**

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February 16, 2012

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Pursuant to the January 24, 2012 Administrative Law Judge's Ruling Requesting Comments on Procurement Expenditure Limitations for the Renewables Portfolio Standard Program (ALJ Ruling), PacifiCorp (U-901-E), d.b.a. Pacific Power (PacifiCorp or Company) hereby submits the following comments addressing issues in the ALJ Ruling.

I. Introduction and Background

PacifiCorp is a multi-jurisdictional electric utility (MJU) with approximately 1.7 million customers in California, Idaho, Oregon, Utah, Washington and Wyoming. Approximately 45,000 of those customers are located in Shasta, Modoc, Siskiyou and Del Norte counties in Northern California, representing less than two percent of the total retail load served across PacifiCorp's six-state system. PacifiCorp's California service territory is not connected to the California Independent System Operator (CAISO), but rather PacifiCorp is the balancing authority for its California service territory, which is operated on an integrated basis with other states in the western portion of its multi-state territory.

These unique characteristics of PacifiCorp, the only electric MJU in California, have been recognized by the Legislature when enacting California law and by the California Public Utilities Commission (Commission) when interpreting and implementing California law. More

specifically, and relevant to these comments, Senate Bill No. 2 of the California Legislature's 2011 First Extraordinary Session (SB 2 (1X)) describes the unique renewables portfolio standard (RPS) requirements that apply to PacifiCorp as an MJU. These requirements differ from the requirements of other load serving entities (LSEs) and any new RPS requirements adopted by the Commission should reflect these differences.

II. Response to ALJ Ruling

Rather than individually respond to each question set forth in the ALJ Ruling, PacifiCorp is submitting this general response aimed at harmonizing the section 399.15 cost containment provisions with the section 399.17 statutory treatment of MJUs. Historically, the Commission has deferred to PacifiCorp's use of its comprehensive Integrated Resource Plan (IRP) in lieu of requiring PacifiCorp to comply with RPS planning requirements. PacifiCorp is also not subject to the same contract approval process as other investor owned utilities.¹ Additionally, unlike California's three largest IOUs, PacifiCorp is not currently subject to the least-cost best-fit determination methodology as it uses its IRP process to determine procurement. Rather than approve all contracts, the Commission relies on PacifiCorp's IRP and defers to PacifiCorp's multi-state resource planning efforts. In light of these differences, and pursuant to the explicit statutory authority in Section 399.17 of the Public Utilities Code, the Commission should ensure that any procurement expenditure limitation mechanism adopted and applied to PacifiCorp is tailored to reflect PacifiCorp's unique circumstances and planning requirements.

As is more fully described below, PacifiCorp proposes that the simplest and most effective way to accomplish this is to permit the utilization for California RPS program purposes of the existing cost containment mechanisms already in place from the other states in which

¹ See D.08-05-029. See also Pub. Util. Code § 399.17(d).

PacifiCorp currently has RPS procurement obligations. More specifically, PacifiCorp proposes that a qualifying MJU be eligible to propose to the Commission the establishment of a California RPS expenditure limitation based on RPS cost limits calculated pursuant to other states' RPS requirements. PacifiCorp believes that this approach remains consistent with the SB 2 (1X) statutory language on procurement expenditure limitations and will allow the Commission to simply and effectively establish an expenditure limitation by leveraging PacifiCorp's existing RPS procurement practices.

PacifiCorp's proposed approach is advantageous for both the Commission and PacifiCorp's customers. It would reduce the administrative costs to PacifiCorp (which otherwise would be spread over the small number of PacifiCorp's customers in California) and the Commission associated with the development and application of a new and separate methodology specific to PacifiCorp and its California renewable procurement. Further, it would avoid the complication and uncertainty associated with potential issues that may arise if PacifiCorp reaches or exceeds an expenditure limitation in one state but not another. If the Commission adopts PacifiCorp's proposal, PacifiCorp would further propose to work with Energy Division staff to develop any timing and reporting requirements associated with its proposal.

More specifically, under PacifiCorp's proposal, if a majority of an electrical corporation's retail end-use customers for electric service are located outside of California, such as PacifiCorp's are, and the electrical corporation is subject to RPS cost containment mechanisms subject to review by the utility regulatory commission of at least one other state in which the electrical corporation provides regulated retail electric service, then the Commission should consider leveraging the other states' cost limit mechanism in lieu of mandating a new,

separate mechanism specific to California. PacifiCorp is “subject to a review” by the utility regulatory commission of another state with respect to a RPS cost containment mechanism because both Oregon and Washington law and regulations establish an RPS “cost cap” as an alternative compliance mechanism.²

The Oregon and Washington cost caps offer an alternative compliance mechanism if the incremental cost of complying with RPS requirements meets or exceeds an established threshold. In both states, the total incremental cost is measured against a benchmark, which is a percentage of the utility’s total annual revenue requirement. In Oregon, electric utilities are considered compliant with the RPS during a compliance year if the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments exceeds four percent of the utility’s annual revenue requirement for the compliance year.³ In Washington, as an alternative to meeting the annual renewable resource target, an electric utility may invest at least four percent of its total annual retail revenue requirement on the incremental cost of eligible renewable resources, renewable energy credits, or a combination of both.⁴

PacifiCorp understands that the cost containment mechanism to be applied in California will operate in a similar manner. Because the expenditure limitation mechanisms will operate similarly, deferring to other states’ mechanisms for the explicit and narrow purpose of establishing PacifiCorp’s expenditure limitation is reasonable and will obviate the need to develop a separate, and potentially complex, expenditure limitation methodology that would be applicable only for PacifiCorp’s RPS procurement for its approximately 45,000 California

² See,

³ Or. Rev. Stat. § 469A.100(1) (2007); See also Or. Admin. R. 860-083-0100 to 0300 (2009)

⁴ Wash. Rev. Code § 19.285.050 (2007), See also Wash. Admin. Code § 480-109-030(1) (2007).

customers. In addition, referring to Oregon or Washington cost cap mechanisms as a proxy for California's procurement expenditure limitation is reasonable in light of the fact that Oregon and Washington customers constitute approximately one-third of PacifiCorp's retail load, compared to California customers, who constitute less than two percent of PacifiCorp's retail load.

Further, PacifiCorp's proposal is consistent with section 399.15(c) and will effectively and simply achieve the policy objectives associated with the procurement expenditure limitation. Section 399.15(c) requires the Commission to "establish a limitation for each electrical corporation" related to RPS procurement. This language is broad enough to allow the Commission to separately establish the limitation differently for each electrical corporation. The language is also broad enough to capture both a total procurement cost methodology or an incremental cost methodology, such as those adopted in Oregon and Washington. As previously mentioned, establishing Oregon or Washington cost mechanisms as a proxy for California's cost containment mechanism could very simply establish a cost containment mechanism and will obviate the need to develop an entirely new and complicated expenditure limitation applied to PacifiCorp's California RPS compliance. If the Commission does not adopt this approach, PacifiCorp's unique status as an MJU and a vertically-integrated utility would likely necessitate a unique cost containment mechanism, i.e., a different methodology than that applied to the other IOUs. The cost of developing a unique, PacifiCorp-specific California expenditure limitation will likely outweigh the benefit of doing so given that PacifiCorp must already develop such a limitation in other state jurisdictions.


As mentioned above, if the Commission adopts PacifiCorp's proposal, PacifiCorp also proposes working with Energy Division staff to further define and refine its proposal as well as develop any timing and reporting requirements associated with its proposal.

III. Conclusion

For the reasons described above, the Commission should allow MJUs who are subject to RPS expenditure limitations in other states to use another state's RPS cost limitation for purposes of compliance with California's RPS expenditure limitation. In addition, if the Commission does not adopt this proposal, the Commission should defer to PacifiCorp's IRP planning process and consider that unique planning process and the other MJU-specific characteristics and statutory requirements that differentiate PacifiCorp from other California utilities when developing any procurement expenditure limitation for PacifiCorp.

Dated: February 16, 2012

Respectfully submitted,



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VERIFICATION

I am the attorney for PacifiCorp, dba Pacific Power (PacifiCorp); PacifiCorp is absent from the County of Sacramento, California, where I have my office, and I make this verification for that reason. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 16, 2012 at Sacramento, California.



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