

Docket No. UM 1802
Exhibit PAC/200
Witness: Etta Lockey

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

PACIFICORP

July 2017 Opening Testimony of Etta Lockey

July 2017

JULY 2017 OPENING TESTIMONY OF ETTA LOCKEY

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1 **Q. Please state your name, business address, and present position with PacifiCorp**
2 **d/b/a Pacific Power (PacifiCorp).**

3 A. My name is Etta Lockey. My business address is 825 NE Multnomah Street, Suite
4 2000, Portland, Oregon 97232. My current position is Vice President, Regulation.

5 **QUALIFICATIONS**

6 **Q. Briefly describe your education and professional experience.**

7 A. I graduated from the University of Oregon with a bachelor's degree in political
8 science. I received my juris doctorate from the Northwestern School of Law of Lewis
9 and Clark College in Portland, Oregon. Before joining PacifiCorp, I worked for the
10 law firm of McDowell, Rackner, & Gibson where I represented utility clients,
11 including PacifiCorp, in a variety of rate-related regulatory matters in Oregon,
12 Washington, and Alaska. I joined PacifiCorp in 2013 and since that time have
13 provided legal representation to the company in a wide range of regulatory and
14 legislative issues in California, Oregon, and Washington, including general rate cases,
15 administrative investigations, and rulemakings. I became Vice President of
16 Regulation in 2017. In my current role, I oversee regulatory affairs for California,
17 Oregon, and Washington.

18 **PURPOSE AND SUMMARY**

19 **Q. What is the purpose of your testimony?**

20 A. My testimony sets forth the background, policy basis, and related procedural
21 recommendations supporting the updated non-standard renewable avoided cost price
22 stream proposal in the reply testimony of Mr. Daniel MacNeil. Specifically, I discuss
23 PacifiCorp's updated evaluation of how cost-effective renewable resources, rather

1 than renewable resources specifically needed to comply with Oregon's renewable
2 portfolio standard (RPS), identified in an integrated resource plan (IRP) should be
3 considered when developing renewable non-standard avoided cost pricing. My
4 testimony also recommends a procedural process for addressing certain elements of
5 PacifiCorp's updated proposal.

6 **Q. What is PacifiCorp proposing?**

7 A. In light of six years of experience implementing Oregon's RPS and recent trends
8 impacting the timing and costs associated with the acquisition of renewable resources,
9 PacifiCorp is proposing that the Public Utility Commission of Oregon (Commission)
10 clarify certain policies adopted in Order No. 11-505 regarding avoided cost pricing
11 for renewable resources. Specifically, as explained in my testimony and in greater
12 detail in the testimony of Mr. MacNeil, PacifiCorp recommends that the non-standard
13 renewable avoided cost stream should be calculated based on avoided Oregon RPS
14 compliance costs instead of renewable resource acquisitions that are not driven by
15 Oregon RPS compliance needs. Under PacifiCorp's proposal, the RPS price stream
16 would reflect the benefit of an RPS-eligible renewable resource to the company
17 inasmuch as it avoids projected RPS-compliance costs. This is consistent with
18 Federal Energy Regulatory Commission (FERC) guidance and Commission
19 precedent.

20 **Q. Is PacifiCorp's current proposal different from the proposal made by the**
21 **company in its opening testimony?**

22 A. Yes. As explained in greater detail in the testimony of Mr. MacNeil, PacifiCorp has
23 refined its initial proposal with respect to the basis for establishing the non-standard

1 renewable avoided cost price stream. The company's updated proposal reflects that
2 PacifiCorp's renewable resource acquisitions have been and are planned to be driven
3 by least-cost, least-risk resource planning as opposed to RPS compliance need. The
4 updated proposal better reflects established FERC and Commission policy that the
5 renewable price stream should fundamentally be tied to avoided Oregon RPS
6 compliance costs. Mr. MacNeil describes PacifiCorp's proposal, which is based on
7 the value of avoided RPS compliance costs.

8 **Q. Why is it critical that these issues be raised in this proceeding?**

9 A. Standard renewable avoided cost prices are currently higher than actual RPS
10 compliance costs. Under Section 210(b) of the Public Utilities Regulatory Policy Act
11 (PURPA), purchases from qualifying facilities (QFs) must be at rates that are both
12 just and reasonable to electric consumers and in the public interest and not in excess
13 of the incremental costs to the electric utility of alternative electric energy. Standard
14 renewable avoided cost prices that are higher than RPS compliance costs violate all of
15 these PURPA policies by requiring customers to pay more than the incremental cost
16 of a QF's RPS-compliance value.

17 As has been discussed in this docket, with respect to renewable avoided costs,
18 FERC concluded that states could impose a multi-tiered avoided cost structure
19 without violating PURPA principles if the multi-tiered avoided cost structure is
20 rooted in the state's ability to take into account obligations imposed by the state, such
21 as a state RPS program.¹ In Order No. 11-505, the Commission similarly concluded
22 that renewable QFs willing to sell their output and transfer their renewable energy

¹ 133 FERC ¶ 61,059 at 13 (Oct. 21, 2010).

1 certificates (RECs) to the utility allow the utility to avoid building (or buying)
2 renewable generation to meet the utility's RPS requirements, justifying the need for a
3 separate cost stream in instances when a utility's RPS compliance obligation is
4 deferred as the result of purchases from QFs.²

5 Current standard renewable avoided costs greatly exceed RPS compliance
6 costs because they are based on utility resource acquisitions and not driven by RPS
7 compliance requirements. To avoid continued undue cost-shifting to customers
8 associated with QF purchase prices that exceed avoided costs, raising these critical
9 issues now is fully warranted.

10 **Q. Why has PacifiCorp not raised these issues earlier in this proceeding or in prior**
11 **proceedings?**

12 A. Recent developments, including the near-term renewable acquisitions planned in
13 PacifiCorp's 2017 IRP, has highlighted the fundamental flaws with existing policies
14 and caused the company to reconsider its position.

15 **Q. Procedurally, how do you propose that the Commission address the application**
16 **of the issues you raise here to a broader context including standard avoided costs**
17 **and other utilities' avoided cost calculations?**

18 A. Given the broader implication of these policy concerns raised and their potential
19 application to standard renewable avoided cost pricing and other utilities' avoided
20 costs, PacifiCorp recommends that the Commission address these issues in a separate
21 policy docket of more general applicability. Following the closure of docket UM
22 1794, the Commission directed parties to engage in workshops to address certain

² *In the Matter of Public Utility Commission of Oregon Investigation into determination of resource sufficiency*, Docket No. UM 1396, Order No. 11-505 (Order No. 11-505) at 9 (Dec. 13, 2011).

1 policy issues related to avoided costs. These issues include the avoided cost
2 implications where a utility is pursuing near-term capacity investments that are not
3 driven by reliability, RPS, or load-service needs.³ The Company proposes that it
4 would be more appropriate to address generally applicable policy implications in that
5 future proceeding rather than the instant one, which is more narrowly focused on
6 PacifiCorp's non-standard avoided cost pricing.

7 PRINCIPLES OF RENEWABLE AVOIDED COSTS

8 **Q. Please summarize the relevant policies adopted by the Commission in Order No.**
9 **11-505 addressing issues related to avoided costs for renewable resources.**

10 A. In relevant part, the Commission concluded in Order No. 11-505 that:

- 11 • During periods of renewable sufficiency, the rate will be based
12 on market prices. During periods of renewable resource
13 deficiency, the rate will be based on the renewable avoided
14 cost of the next utility scale renewable resource acquisition in
15 that utility's IRP. The renewable resource QF will keep all
16 associated Renewable Energy Certificates (RECs) during
17 periods of renewable resource sufficiency, but will transfer
18 those RECs to the purchasing utility during periods of
19 renewable resource deficiency;
20
- 21 • The IRP Action Plan should be used to identify when a
22 renewable resource acquisition could be avoided. Out-of-state
23 renewable portfolio standards should not be used to determine
24 when a renewable resource can be avoided;
25
- 26 • A renewable QF should have the option of choosing among the
27 renewable avoided cost stream and the standard avoided cost
28 stream.⁴
29

30 Significantly, the Commission also concluded that because ORS Chapter 469A

³ *In the Matter of PacifiCorp d/b/a Pacific Power Investigation into Schedule 37 – Avoided Cost Purchases from Qualifying Facilities of 10,000 kW or Less*, Docket No. UM 1794, Order No. 17-239 at 3 (July 7, 2017).

⁴ Order No. 11-505 at 1-2.

1 requires the electric utilities to meet a RPS through the acquisition of RECs
2 associated with qualifying renewable generation resources, a properly designed
3 renewable energy avoided cost rate for renewable resources would comply with
4 PURPA.⁵

5 **Q. What was the Commission's rationale for basing the renewable avoided cost on**
6 **the next utility scale renewable acquisition in the utility's IRP?**

7 A. The Commission's reasoning relied on market conditions associated with renewables,
8 specifically, that renewable resources will always be procured to meet RPS
9 compliance requirements (as opposed to being selected as the most cost-effective
10 least-cost, least-risk resource needed to meet system load) and that reference to the
11 utility's IRP would best ensure that the renewable resource avoided cost rate
12 accurately reflects the RPS compliance costs the utility will avoid with the QF
13 purchase. The assumption at the time was that an energy or capacity deficiency
14 functions in the same manner as an RPS deficiency when in fact planning and
15 acquiring resources for energy and capacity is very different from planning and
16 acquiring resources for RPS compliance. The very concepts of sufficiency and
17 deficiency do not apply in the context of determining the value of an avoided or
18 deferred RPS compliance obligation.

19 **Q. Why does the Commission tie renewable avoided costs to avoided RPS**
20 **compliance costs?**

21 A. First, because this would be consistent with FERC precedent associated with states
22 establishing multi-tiered avoided cost rates. In an order dated January 20, 2011,

⁵ *Id.* at 4.

1 FERC held that “the state may take into account obligations imposed by the state that,
2 for example, utilities purchase energy from particular resources of energy for a long
3 duration.”⁶ This framework would not apply absent procurement obligations imposed
4 by the state. It is not possible to capture the actual costs the utility is avoiding
5 without considering the costs associated with compliance with the relevant state
6 resource procurement mandate.

7 Second, in Order No. 11-505, the Commission explicitly tied the entitlement
8 to renewable pricing to a QF’s ability to allow a utility to defer RPS compliance
9 costs.⁷ If the QF does not transfer the RECs, the utility will not avoid costs to
10 purchase energy that complies with the RPS.⁸ In other words, if the utility does not
11 receive the REC, then the utility is not avoiding RPS compliance costs. Therefore,
12 the calculation of the costs avoided should be firmly rooted in the avoided RPS
13 compliance costs. The only difference between renewable and non-renewable
14 avoided costs is the incremental avoided cost associated with the transfer of a REC to
15 the utility.

16 **Q. Is PacifiCorp’s proposal consistent with other parties’ positions in this docket?**

17 A. Most parties appear to agree that PacifiCorp’s obligation to offer non-standard
18 renewable avoided cost prices to renewable QFs is based on PacifiCorp’s obligation
19 to acquire renewable resources under Oregon’s RPS.⁹ Staff witness Ms. Andrus notes
20 that “thermal resources planned for in the IRP are intended to serve load, but
21 renewable resources planned for in the IRP are intended to meet the utility’s

⁶ 134 FERC ¶ 61,044 at 18 (Jan. 20, 2011).

⁷ Order No. 11-505 at 7.

⁸ *Id.*

⁹ See Staff/100, Andrus/1; REC/100, Lowe/4-5; ODOE/100, Broad/4.

1 obligation under the RPS. A MWh of renewable solar provides the same RPS value
2 as a MWh of renewable wind. A renewable QF defers the next renewable resource in
3 the IRP preferred portfolio, with no capacity equivalence constraint.”¹⁰ ODOE
4 witness Ms. Broad notes that “all bundled RECs are interchangeable under ORS
5 469A.”¹¹ These statements reveal parties’ belief that a single avoided RPS
6 compliance cost should be applicable to all types of eligible renewable resources
7 since different types of renewable resources contribute to RPS compliance equally.

8 **Q. Does PacifiCorp agree that a single avoided RPS compliance cost should be**
9 **applied to all RPS-eligible resources?**

10 A. Yes. While RECs can be differentiated based on their vintage, which impacts the
11 “bankability” of the REC, the operational characteristics (e.g., fuel type or capacity)
12 of the underlying generation has no bearing on the avoided RPS compliance cost.

13 **Q. Please describe PacifiCorp’s renewable resource acquisition strategies and how**
14 **they relate to RPS compliance needs.**

15 A. PacifiCorp’s acquisition of renewable resources has and continues to be based on
16 cost-effectiveness and risk mitigation rather than being based on acquisitions intended
17 to specifically meet any individual state’s RPS requirements. In PacifiCorp’s 2017
18 IRP, the company is proposing to acquire at least 1,100 megawatts of renewable
19 resources by 2021 to take advantage of the economic benefits associated with federal
20 production tax credits. Because these resources are not driven by an RPS compliance
21 need, their acquisition does not represent a deficiency from an RPS compliance
22 perspective, even though acquisition of the resource will further defer PacifiCorp’s

¹⁰ See Staff/100, Andrus/10.

¹¹ ODOE/100, Broad/4.

1 RPS compliance shortfall. These renewable resources represent components of the
2 company's least-cost, least-risk preferred portfolio regardless of the status as
3 resources eligible for Oregon's RPS. Accordingly, these resources represent an
4 effective negative RPS compliance cost.

5 **Q. Under this framework, should the IRP Action Plan continue to be used as the**
6 **sole basis for establishing the renewable deficiency period?**

7 A. No. As noted by Mr. MacNeil, the renewable price stream is more accurately
8 described as the RPS price stream and should reflect PacifiCorp's avoided cost
9 including avoided costs associated with compliance with the Oregon RPS. FERC and
10 Commission precedent is clear that the distinction between the two price streams is
11 related to compliance with state law, such as the RPS, rather than the generic
12 condition of being a renewable resource, which is already one of the key factors for
13 establishing QF eligibility under PURPA.

14 **Q. What are you recommending as next steps?**

15 A. As noted above, the issues described in my testimony are significant enough to
16 warrant a separate investigation by the Commission. Given that the Commission has
17 already raised related issues following the closure of docket UM 1794, I recommend
18 that the broader policy questions raised in my testimony be addressed in that
19 proceeding rather than the instant one.

20 **CONCLUSION**

21 **Q. Does this conclude your opening testimony?**

22 A. Yes.