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June 28, 2021

VIA EMAIL

Irion A. Sanger
Sanger Law PC
1041 SE 58th Place
Portland, Oregon 97215

**Re: AR 631 – Rulemaking to Address Procedures, Terms, and Conditions
Associated with Qualifying Facilities (QF) Standard Contracts**

Dear Mr. Sanger:

I am writing on behalf of Idaho Power Company, PacifiCorp dba Pacific Power (PacifiCorp), and Portland General Electric Company (together, the Joint Utilities) to respond to your letter of June 21, 2021. In that letter, you address your clients', Northwest Intermountain Power Producers Coalition (NIPPC) and Renewable Energy Coalition's (REC), position on PacifiCorp's standard form of QF power purchase agreement which went into effect on March 12, 2021 (PPA).¹ Specifically, you point out that while NIPPC and REC did not oppose that PPA, they also did not support it. For that reason, you claim that it was incorrect for the Joint Utilities to label the PPA the "PAC/NIPPC/REC PPA" in their informal comments. You also reiterated that NIPPC and REC oppose the use of the PPA in Oregon.

The Joint Utilities respectfully disagree that our June 9, 2021 written comments were incorrect or that there is anything improper or misleading about the Joint Utilities' labelling of the PPA. It is true that NIPPC and REC stated, at the time the PPA was being revised and negotiated, that they did not oppose the PPA—as opposed to actively supporting it before the WUTC. However, the facts leading up to the PPA's adoption establishes that the PPA was the result of robust negotiations among PacifiCorp, NIPPC and REC, and that the final PPA filed with and adopted by the WUTC reflects significant compromise on all sides, and it is truly the product of all parties' input. The relevant context can be summarized with a timeline of events as follows:

¹ The item appeared on the no-action agenda of the Washington Utilities and Transportation Commission (WUTC) on March 11, 2021 (to be effective March 12th) and was unopposed.

- **8/9/2019**—PacifiCorp filed its standard QF form of contract as required under WAC 480-106-030(4).
- **9/10/2019**—In a Staff memo, Staff advised the WUTC that “Staff is relying on the expertise of interested third-party stakeholders to vet the power purchase agreements that are now required to be filed per WAC 480-106-030(4).” Noting that it was expecting stakeholder comments, Staff advised the WUTC in the memo that it would defer its recommendation for a decision by the WUTC to a later public meeting.
- **9/10/2019**—NIPPC and REC filed comments on the form of contract.
- **9/11/2019**—One Energy Renewables and Renewable Northwest filed comments on form of contract.
- **9/27/2019**—PacifiCorp filed its response to Staff and stakeholder comments/questions.
- **3/12/2020**—The WUTC ordered PacifiCorp “to file standard power purchase agreements as an attachment to its revised tariff by May 29, 2020.”
- **5/28/2020**—PacifiCorp refiled its standard QF PPA (which is “substantially similar” to the version filed August 10, 2019) with a cover letter that proposed a schedule, as agreed among PacifiCorp, NIPPC and REC, for discussing the form of the agreement and resolving disagreements.
- **6/3/2020**—PacifiCorp refiled its standard QF PPA (same as May 28, 2020 version) with a revised cover letter in light of Staff’s request (made by phone to PacifiCorp) that PacifiCorp, REC and NIPPC continue informal discussions regarding the form of Standard PPA (rather than the more formal process proposed by PacifiCorp) with the goal of reaching consensus (i.e., without Staff’s involvement). In light of Staff’s request, PacifiCorp’s submission requested an effective date of September 1, 2020 for the standard QF PPA to allow time for REC, NIPPC and PacifiCorp to reach consensus and refile a negotiated PPA.
- **Pre-3/1/2021**—PacifiCorp filed numerous extensions to accommodate on-going settlement discussions with REC and NIPPC.
- **3/1/2021**—PacifiCorp filed the final negotiated PPA with cover letter that states: “After numerous rounds of negotiations, PacifiCorp has reached an agreement with Renewable Energy Coalition (REC) and Northwest and

Intermountain Power Producers Coalition (NIPPC) (i) regarding modifications to the Standard PPA for new QFs and (ii) on the form of a new Standard PPA for existing facilities/renewals. *The two forms of Standard PPA, enclosed as Attachment A and Attachment B to Schedule QF, reflect trade-offs made to resolve all issues.* REC and NIPPC have advised PacifiCorp, and have authorized PacifiCorp to represent, that they do not oppose the addition of the Standard PPAs to PacifiCorp's Schedule QF." (Emphasis added.) **Note: Neither NIPPC nor REC indicated that they believed that PacifiCorp's characterization of the PPA in the filed cover letter was in any way inaccurate or misleading.**

To understand the extent of the compromises made by PacifiCorp to gain NIPPC and CREA's agreement, one need not be privy to any confidential settlement discussions. Rather, one simply can compare PacifiCorp's original filed version from August 9, 2019 with the final version filed by PacifiCorp on March 1, 2021. A redlined version of that comparison, provided as Attachment A to this letter, shows numerous changes made to the original filing, which provide significant benefits to QFs.

The Joint Utilities agree with NIPPC and REC that it is important to be precise when representing another party's position. It is particularly true in this instance where the negotiations and mutual compromises reflected in the PPA support the Joint Utilities' position that the PPA should serve as the starting point for developing an Oregon standard form power purchase agreement for QFs. Nevertheless, NIPPC's and REC's current position about use of PPA in Oregon does not render false or inaccurate statements that highlight (i) the role NIPPC and REC played in reaching the final terms of the PPA or (ii) those trade associations' position just three months ago not to object to its use in Washington.

For these reasons, the Joint Utilities believe that our June 9, 2021 written comments are accurate and do not warrant or require any changes. While we believe it is accurate to refer to the PPA in shorthand as the "NIPPC/REC/PacifiCorp PPA," in order to avoid additional controversy, going forward the Joint Utilities will simply refer to the PPA as the "Washington Standard QF PPA." In addition, the Joint Utilities request that NIPPC and REC also refer to the PPA as the Washington Standard QF PPA and refrain from representing or referring to it as a one-sided PacifiCorp-drafted document, the terms over which they had virtually no influence. That characterization is in fact clearly misleading—as demonstrated by the timeline of events and Attachment A.

Please contact me if you have any questions.

Sincerely,


Lisa Rackner