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## Via Electronic Mail and FedEx

September 11, 2015

Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
1300 S. Evergreen Park Drive, S.W.  
Olympia, Washington 98504-7250.

Re: Washington Utilities and Transportation Commission v. PacifiCorp, dba Pacific Power &  
Light Co.  
Docket No. UE-144160

Dear Mr. King:

Please find one copy of the Initial Brief of the Renewable Energy Coalition in the above captioned docket. Electronic copies of the Initial Brief will be filed with the records center and served upon the parties in Word and pdf format.

Sincerely,



Chao Hu

cc: Service List (US mail and e-mail)

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )  
 )  
Complainant, )  
 )  
v. )  
 )  
PACIFICORP D/B/A PACIFIC POWER & )  
LIGHT COMPANY, )  
 )  
Respondent. )  
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**DOCKET NO. UE-144160**

**INITIAL BRIEF OF THE RENEWABLE ENERGY COALITION**

**September 11, 2015**

## I. INTRODUCTION

1. The Renewable Energy Coalition (“REC”) submits this initial brief recommending that the Washington Utilities and Transportation Commission (the “Commission”) reject PacifiCorp’s, d/b/a Pacific Power (“PacifiCorp”)<sup>1</sup> proposal to remove the capacity payment in its Washington Schedule 37 avoided cost rates. PacifiCorp’s proposal would violate the Public Utility Regulatory Policies Act (“PURPA”) because it would fail to pay qualifying facilities (“QFs”) for the actual and planned capacity they provide to the company.
2. For practical purposes, PacifiCorp’s overall approach, combined with only five years of fixed prices, would likely result in QFs not being paid for capacity for their entire operational lives. In addition to being illegal, this would exacerbate the problem of PacifiCorp’s current Washington avoided cost rates and/or contract terms already being worse than in any of the company’s five other states. These difficulties are demonstrated by the almost complete lack of historic and current Washington QF development.
3. The Commission should retain Schedule 37’s current rate design that includes a monthly kilowatt (“kW”) capacity payment and a megawatt hour (“MWh”) energy charge. Instead of eliminating capacity payments, Schedule 37’s rates should be increased because they already under compensate QFs. Adoption of REC’s and/or Staff’s recommendations in this proceeding will not remedy all the problems facing QFs in PacifiCorp’s Washington service territory, but will be a step toward more accurately paying them during their short contract terms.

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<sup>1</sup> This brief refers to Pacific Power & Light Co. as PacifiCorp for the sake of convenience because the brief refers to both Washington operations (which are under the name Pacific Power & Light Co.) and the company’s other operations (which are under the name PacifiCorp, or sometimes Rocky Mountain Power).

## II. RENEWABLE ENERGY COALITION

4. REC represents the interests of non-intermittent QFs in Oregon, Idaho, Washington, Utah, and Wyoming in regulatory and contractual matters. REC participates in utility rate proceedings and investigations regarding PURPA contract terms and conditions, avoided cost rates, integrated resource plans (“IRPs”), interconnections, and matters important to QFs and non-utility owned electric generators. REC also monitors and lobbies legislatures on energy policy matters, and provides consulting services to individual members on contractual, operational, interconnection, and other matters.
5. REC has over thirty members who own and operate nearly fifty QFs that have power purchase agreements with Northwest utilities, including PacifiCorp. REC’s members include the Yakima-Tieton Irrigation District (“Yakima Tieton”) that sells its power to PacifiCorp from two about 1.5 MW hydroelectric projects (the Orchard and Cowiche projects). Since they started operating in 1986, the Orchard and Cowiche facilities have been a consistent reliable source of power for PacifiCorp, even in drought years due to their senior water rights. The projects provide significant benefits to their local communities and the agricultural economy because the power sales for these facilities are reinvested into the community.

## III. BACKGROUND

6. PacifiCorp has been remarkably successful in thwarting QF development in its Washington service territory. PacifiCorp’s overall company wide operations have a small but important amount of QFs, including 141 existing QFs representing 1,732 MW of installed capacity.<sup>2</sup> After over thirty-five years since PURPA was passed, PacifiCorp

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<sup>2</sup> Lowe Declaration at ¶ 6.

is currently purchasing power from only three projects in Washington with “about 4 MWs, which represents less than 0.3% of all PacifiCorp’s MWs of QF contracts.”<sup>3</sup> These three QFs are Yakima Tieton’s Orchard and Cowiche two hydro projects (operational in 1986), and Deruyter Dairy’s 1.2 MW methane facility (operational in 2006).<sup>4</sup> PacifiCorp’s rates, contract terms, and negotiation practices make it so difficult that cost effective independently owned renewable projects are simply not built or sell their power to entities outside of the company’s Washington service territory.<sup>5</sup>

7. PacifiCorp’s Washington service territory continues to fail to allow small scale and community renewable resource development. PacifiCorp has no new Washington QF contracts, or even interconnection or contract requests.<sup>6</sup> In contrast, PacifiCorp has a significant amount of new contracts in its other states.<sup>7</sup> It is unlikely that most of these new wind and solar QF contracts in other states will be developed; however, they are illustrative of the complete lack of new projects in Washington.<sup>8</sup>

8. PacifiCorp’s Washington service territory is not so radically different from Oregon and California to warrant the almost complete lack of QFs. Oregon and California have over twenty-five small QFs sized at less than 2 MW.<sup>9</sup> These include hydro-electric, biomass, cogeneration, wind, and methane facilities that are owned by

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<sup>3</sup> Id. at ¶ 7.

<sup>4</sup> Id. at ¶ 7; Exhibit 1, List of QFs REDACTED.

<sup>5</sup> Lowe Declaration at ¶¶ 7, 11-12.

<sup>6</sup> Id. at ¶ 10.

<sup>7</sup> Id. at ¶ 8.

<sup>8</sup> The rate changes proposed this proceeding may have a modest, but will not have a major impact on QF development in PacifiCorp’s Washington service territory. This is because the proposed rate changes are about a 10% increase or decrease, and the small size thresholds for published rates, lack of standard contracts, and short five-year contract terms will remain significant obstacles for new QFs.

<sup>9</sup> Exhibit 1, List of QFs REDACTED (Idaho has an additional dozen small QFs under 2 MWs).

cities, irrigation and water districts, counties, schools, and private companies.<sup>10</sup> As REC witness John Lowe explained in his declaration: “Washington has a number of significant untapped renewable energy resources that could be developed to benefit utility customers and the local economy with proper implementation of PURPA.”<sup>11</sup>

9.           Apparently not satisfied with the current state of QF development in Washington, PacifiCorp filed a revised Schedule 37 on December 29, 2014. PacifiCorp’s Washington rates are already lower than the rates for either Avista or Puget Sound Energy.<sup>12</sup> PacifiCorp proposed to further lower its rates with: 1) new energy prices; 2) the removal of capacity payments; and 3) new wind and solar integration charges.<sup>13</sup> Depending on the project’s capacity factor, the elimination of the capacity payment would result in an almost 10% reduction in overall payments to a QF.<sup>14</sup> After filing the case, PacifiCorp: 1) dropped its requested solar and integration charges, given that it has no Washington wind or solar QFs or contract requests; and 2) proposed an alternative rate design that would pay QFs different energy rates depending on the time of day electricity is generated.<sup>15</sup>

### III. ARGUMENT

#### 1. Federal and Oregon Law Require that QFs Be Fully Compensated for the Capacity Value They Provide to the Utilities

10.           PURPA was passed because utilities did not (and often still do not) want to purchase their power. The law was (and still is) required because “traditional electricity utilities were reluctant to purchase power from, and to sell power to, the nontraditional

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<sup>10</sup>

Id.

<sup>11</sup>

Lowe Declaration at ¶ 11.

<sup>12</sup>

Id. at ¶ 15.

<sup>13</sup>

Dickman Declaration at ¶¶ 3-4.

<sup>14</sup>

Twitchell Declaration at ¶ 38; Dickman Rebuttal Declaration at ¶ 13.

<sup>15</sup>

See Dickman Declaration at ¶¶ 5, 16.

facilities.”<sup>16</sup> The goal of PURPA was to address discrimination by electric utilities in the availability and price of power that they sell to and buy from QFs.<sup>17</sup>

11. PURPA requires electric utilities to purchase power from QFs at their avoided costs, which must also be just and reasonable for both QFs and ratepayers.<sup>18</sup> The Federal Energy Regulatory Commission’s (“FERC”) policy also requires utilities to purchase electricity from QFs based on the utilities’ full avoided costs.<sup>19</sup> Avoided costs should be based on a utility’s incremental costs that, but for the purchase from the QFs, the utility would generate or purchase from another source.<sup>20</sup>

12. Avoided cost rates must compensate QFs for both the energy and capacity that the utility would have generated or purchased for itself.<sup>21</sup> FERC recently explained that, when a utility has a demand for capacity, then the avoided cost rates must include the capacity costs.<sup>22</sup> In other words, “when the demand for capacity is zero, the cost for capacity may also be zero[;]” but when the demand for capacity is not zero, the cost for capacity may not be zero.<sup>23</sup> A limitation on capacity payments that does not have a “clear relationship” to the utility’s actual demand for capacity will fail to implement

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<sup>16</sup> Federal Energy Regulatory Comm’n v. Mississippi, 456 U.S. 742, 750 (1982); Environmental Action, Inc. v. Fed. Energy Regulatory Comm’n, 939 F.2d 1057, 1062 (D.C. Cir 1991).

<sup>17</sup> Industrial Cogenerators v. Fed. Energy Regulatory Comm’n, 47 F.3d 1231, 1232 (D.C. Cir 1995).

<sup>18</sup> 16 U.S.C. § 824a-3(b)(1).

<sup>19</sup> Amer. Paper Institute, Inc. v. American Elec. Power Serv. Ass’n, 461 U.S. 402, 406, 412-17 (1983).

<sup>20</sup> 16 U.S.C. § 824a-3(d).

<sup>21</sup> 18 C.F.R. §§ 292.101(b)(6), 292.304; Amer. Paper Institute, Inc., 461 U.S. at 406.

<sup>22</sup> Hydrodynamics Inc., 146 FERC ¶ 61,193 at P. 35 (March 20, 2014).

<sup>23</sup> Id.

FERC’s “regulations requiring an electric utility to purchase any capacity which is made available from a QF.”<sup>24</sup>

13. Avoided cost rates should include the actual and planned costs that will be incurred by the utility. For example, this includes environmental upgrades and the risks associated with potential environmental costs. FERC explained that environmental costs can be included in avoided cost rates if they are based on the utility’s actual procurement needs.<sup>25</sup> “[I]f the environmental costs ‘are real costs that would be incurred by utilities,’ then they ‘may be accounted for in a determination of avoided cost rates.’”<sup>26</sup>

**2. PacifiCorp’s Proposal Will Likely Result in QFs Never Being Paid for Capacity**

14. PacifiCorp’s apparent goal is to ensure that Washington QFs are no longer compensated for the capacity value they provide to the company during the project’s entire life cycle. PacifiCorp’s rationale for eliminating capacity payments is that the company claims that it will not build a new thermal resource until 2027, which is beyond the five-year published price contract term.<sup>27</sup> The combination of removing capacity payments during the company’s alleged resource “sufficiency” period with five-year contracts means that QFs will be paid market prices, regardless of the amount of capacity resources provide to the company or cause the company to avoid. Given PacifiCorp’s

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<sup>24</sup>

Id.

<sup>25</sup>

California Public Util. Comm’n, 133 FERC ¶ 61,059, P. 26 (Oct. 21, 2010), reh’g denied 134 FERC ¶ 61,044 (Jan. 20, 2011).

<sup>26</sup>

Id. at P. 31 (quoting and distinguishing Southern California Edison, 71 FERC ¶ 61,269 (June 2, 1995), where FERC determined avoided costs may not include “environmental adders or subtractors that are not based on real costs that would be incurred by utilities”).

<sup>27</sup>

Dickman Declaration at ¶¶ 7-8; Dickman Rebuttal Declaration at ¶ 7.



current and historic “sufficiency” periods, PacifiCorp’s approach will likely prevent QFs from ever being paid capacity.

15. PacifiCorp needs both energy and capacity that can be avoided by QF purchases. PacifiCorp states that it will meet its resource needs over its twenty-year planning horizon with short-term market purchases, demand side management, coal plant conversions, conservation and energy efficiency, significant investments in its existing coal fleet to retain these resources, and almost 3,000 MWs of new natural gas facilities.<sup>28</sup>

16. QFs that sell power to PacifiCorp will help the company avoid its need for all of these energy and capacity resources, including coal plant investments and new gas generation facilities.<sup>29</sup> The economic life of QFs, especially baseload hydro resources, typically lasts for decades. For example, the Yakima Tieton projects were built in 1986, and are still selling reliable power to PacifiCorp. Assuming fair and accurate avoided cost rates, there is no reason that these projects will not continue to operate for another two decades or more. In fact, PacifiCorp assumes that all small QFs like Yakima Tieton’s will renew their contracts and sell power to the company over its twenty-year planning horizon.<sup>30</sup>

17. Similarly, if any new QFs can actually be constructed in PacifiCorp’s Washington service territory, then they will likely operate for decades as well. When given the opportunity, PacifiCorp’s new and existing QFs very rarely sign contracts with terms of

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<sup>28</sup> Lowe Declaration at ¶ 21.

<sup>29</sup> Id.

<sup>30</sup> See Dickman Rebuttal Declaration at ¶ 10.

five years or less.<sup>31</sup> Therefore, QFs will cause PacifiCorp to avoid a wide variety of different resources over the company's twenty-year planning horizon.

18. Under PacifiCorp's approach, QFs will no longer receive capacity payments as long as they enter into a contract when the next planned thermal resource acquisition is longer than the contract term. With Washington's five-year contract terms, QF will not be paid for capacity as long as they enter into a contract with a resource "sufficiency" period that is more than six years out.<sup>32</sup>

19. For example, assume that PacifiCorp is planning its next thermal resource acquisition in six years (2021). Under PacifiCorp's proposal, a QF that enters into a new five-year contract in 2015 will not be paid for capacity during the entire contract term. In 2021, PacifiCorp will have a new IRP, which will likely not plan on acquiring a new thermal resource for another six years, and the company's 2021 avoided cost rates would not have any capacity payments. If the QF renews its contract and enters into a new five-year contract in 2021, then the QF will again not be paid for capacity. The QF could continue entering into renewing contracts for the rest of its useful life and PacifiCorp could actually build a new thermal resource every six years, but the QF could never be paid for capacity.<sup>33</sup>

20. If PacifiCorp's proposal in this case had been in effect in the past, then projects would have received little to no capacity payments. This is because PacifiCorp has typically had a four to five year resource "sufficiency" period in which it was not

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<sup>31</sup> Exhibit 1, List of QFs REDACTED (Only 10 out of 141 of PacifiCorp's QFs signed five year or shorter term contracts, with three of those located in Washington. This means that about 95% of the QFs that have the option to sign contracts longer than five years sign longer contracts.).

<sup>32</sup> Lowe Declaration at ¶ 26.

<sup>33</sup> Id. at ¶¶ 25-26.

planning to acquire a new thermal resource.<sup>34</sup> The four to five year time period of resource “sufficiency” remained constant over time, but the actual date for the company’s planned thermal resource acquisition always moved further out in time.<sup>35</sup> For example, in 2005 the next planned thermal resource acquisition was five years out (2010), in 2007 the planned next thermal resource acquisition was five years out (2012), and in 2009 the next planned thermal resource acquisition was five years out (2014).<sup>36</sup>

21. This illustrates that the Commission should not be distracted by PacifiCorp’s reliance on its current long resource “sufficiency” periods to eliminate capacity payments. In the past there would have been “sufficiency” periods with little to no capacity payments, and in the future there will likely be “sufficiency” periods with no capacity payments. PacifiCorp’s proposal is designed to eliminate capacity payments, except in the extremely rare period in which the company plans on building or buying a new gas plant in the next few years.<sup>37</sup>

**3. QFs Should Be Compensated for the Avoided Cost of Significant Capacity Resources that PacifiCorp Expects to Acquire Over Its Planning Period**

22. The Commission should increase PacifiCorp’s capacity payment to QFs to accurately reflect the resources that the company would acquire but for the purchase of power from QFs. PacifiCorp is planning to acquire significant capital resources before 2027. For example, the company’s actual resource plans include major investments in

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<sup>34</sup> See *id.* at ¶ 23.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Even in this circumstance, QFs would not be fairly treated. With a four-year “sufficiency” period, the QF would be paid only one year of capacity in the last year of its contract. When the QF entered into its new contract, it would suddenly stop being paid capacity in most or all years of its new contract. Over a period of ten years, the QF could only be paid one or two years of capacity.

retained capacity, and PacifiCorp may also need to acquire additional capacity resources because it has failed to recognize the inherent risks associated with its reliance upon the wholesale power market and significant coal resources in a new era of the Clean Power Plan. The company is also planning on thousands of megawatts of gas plants in the next twenty years.

23. The Commission should increase the monthly kW capacity payment by either: 1) including the costs of actual and planned environmental upgrades; 2) using the incremental Renewable Portfolio Standard (“RPS”) cost methodology; or 3) including the full (rather than seasonal) costs of a capacity resource. Any of these approaches would be more accurate than either PacifiCorp’s current proposal or historic methodology.

**A. Commission Staff’s Incremental RPS Methodology Is a Reasonable Way to Calculate Capacity Payments**

24. REC’s primary recommendation is that the Commission adopt Staff’s proposal to calculate the capacity value provided by QFs using the method for estimating the incremental value of resources for the RPS.<sup>38</sup> The goals of the RPS incremental cost calculation and avoided costs rates are the same: “to determine the avoided cost that the utility would have faced but for the regulatory requirement to purchase a different resource”.<sup>39</sup> This is a reasonable approach at this time because it would ensure consistent regulatory policies, more accurately calculate avoided cost rates, and be administratively efficient.<sup>40</sup>

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<sup>38</sup> Twitchell Declaration at ¶¶ 31-39.

<sup>39</sup> Id. at ¶ 32.

<sup>40</sup> REC assumes that Staff will fully support its proposal in its own brief, and this brief will not duplicate all the arguments why Staff’s proposal should be adopted.

**B. Capacity Payments Should Be Maintained and Increased Because Market Prices Do Not Accurately Reflect PacifiCorp’s Avoided Costs During Its “Sufficiency” Period**

25. PacifiCorp will acquire more than just market purchases over the next decade plus. First, PacifiCorp’s estimated date of acquiring its next thermal resource is likely to be very inaccurate. It is simply not reasonable to put any credence on 2027 as the specific date for the company to build or purchase a new gas plant. Second, even if the company does not build or buy a new gas plant until around 2027, PacifiCorp will make significant investments in capacity resources that support an increased capacity payment. If the Commission does not adopt Staff’s recommendation, then PacifiCorp’s avoided cost rates during the “sufficiency” period should reflect the costs of the company’s planned investments to retain its existing capacity resources.

**i. PacifiCorp Is Likely to Acquire a Thermal Resource During its Unprecedentedly Long “Sufficiency” Periods**

26. PacifiCorp’s planned resource acquisitions have historically been inaccurate, especially during the longer-term. For example, in 2007 PacifiCorp’s resource “sufficiency” period showed the next thermal resource acquisition in 2012.<sup>41</sup> However, PacifiCorp acquired the 520 MW Chehalis plant in 2008.<sup>42</sup> If resource planning is not accurate over a four-year period, then it is not reasonable to assume that it will be accurate in almost fifteen years.

27. Worst still, PacifiCorp’s proposed time for new major new capital resource acquisitions are likely to be even more inaccurate given the significant regulatory uncertainty. Some of the major potential events that would cause PacifiCorp to acquire

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<sup>41</sup> Lowe Declaration at ¶ 23.

<sup>42</sup> Id. at ¶ 22.

significant capacity resources sooner than 2027 include: 1) the implementation of EPA's Section 111(d) rules; 2) the adoption of a federal, or changes in Washington's or Oregon's, RPS; 3) a state or federal carbon tax; 4) closure of part of the company's or region's coal or gas generation facilities; 5) the inability to capture the high levels of demand side management; 6) PacifiCorp joining the CAISO; and 7) the lack of availability or unexpectedly high price of power in the wholesale market.<sup>43</sup> The EPA's 111(d) rules are by themselves likely to cause a change in the company's resource planning, and will require the company to make additional renewable purchases and/or retire existing thermal resources, which will likely result in an earlier thermal resource acquisition.<sup>44</sup>

28. In addition, PacifiCorp's plan to rely upon market purchases is risky and fails to capture all the costs that the company will avoid. The Northwest Power and Conservation Council has specifically cautioned against relying heavily upon the market and that a wholesale market estimate is not an accurate indicator of avoided costs.<sup>45</sup> PacifiCorp also fails to plan on both the summer peak (which occurs in the eastern control area) and the winter peak (which occurs in the western control area). Meeting both the summer and winter peaks depends on adequate transmission capability as well as sufficient wholesale market depth in both areas. PacifiCorp's failure to account for potential market illiquidity and the dual peaking nature of its system warrants fully compensating QFs for the capacity value they provide.

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<sup>43</sup>

Id.

<sup>44</sup>

Id. at Attachment A at Joint QF Parties/100, Higgins/10-13.

<sup>45</sup>

Twitchell Declaration at ¶¶ 26-30; Lowe Declaration at ¶ 29.

**ii. QFs Should Be Compensated for PacifiCorp’s Major Investments in its Existing Capacity Resources During the “Sufficiency” Period**

29. Before 2027, PacifiCorp will make major investments in retaining its existing coal fleet and converting coal resources into gas plants, both of which are an accurate estimate of its actual, planned capacity projects.<sup>46</sup> It is beyond serious dispute that many of PacifiCorp’s prudent investments in environmental upgrades have been and will likely continue to be included in rate base to enable the Company to earn a return on and of these investments. These near-term capital upgrades are far more likely to occur than the date for its next major thermal resource, and are therefore a valid basis upon which to calculate avoided cost rates.

30. At this time, the Commission could base the kW month capacity payment on the planned costs of these investments in retained capacity in avoided cost rates.<sup>47</sup> The value of PacifiCorp’s capacity retentions could be calculated by using the company’s IRP to identify the specific environmental upgrades and their estimated costs.<sup>48</sup> This could include all of the company’s planned capacity additions, or only those in its claimed resource “sufficiency” period.<sup>49</sup> Given that Washington QFs are assumed to operate for the entire twenty year planning horizon, it would be more reasonable to include all the planned capacity investments over the entire planning period.

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<sup>46</sup> Lowe Declaration at ¶¶ 21, 31.

<sup>47</sup> Id. at ¶ 33.

<sup>48</sup> Id. at Attachment A at Joint QF Parties/100, Higgins/15-17.

<sup>49</sup> See id. at Attachment A at Joint QF Parties/100, Higgins/15 (proposal to include only the capacity additions in the sufficiency period).

31. PacifiCorp simultaneously argues that some environmental upgrades cannot be deferred while others may not happen because the IRP assumptions may be inaccurate.<sup>50</sup> Similar to all inputs and assumptions in the IRP, some of the planned coal plant investments may not occur, but they are less likely to be inaccurate than a resource “sufficiency” period that is more than a decade out. PacifiCorp’s arguments are essentially a “Catch 22” in which only “real” projects should be used for avoided cost pricing, but once a project is “real” it can no longer be avoided. This leaves no chance for QFs to be fairly compensated for the capacity value they provide.
32. PacifiCorp claims that its environmental upgrades should not be included in avoided cost because it is uncertain what future regulations will occur.<sup>51</sup> This explanation is flawed for the following reasons. First, the capacity investments identified in Mr. Lowe’s testimony are real costs that are currently planned regardless of what EPA does. Second, the significant regulatory uncertainty, including EPA’s newly promulgated Section 111(d) rules, is likely to impose additional capacity costs on PacifiCorp. This makes the proposal very conservative because the proposal does not include those additional costs. PacifiCorp has not suggested that the new regulations would result in lower capacity retention costs than the existing environmental regulations.
33. PacifiCorp also asserts that these environmental upgrades cannot be avoided “by simply adding a 2 MW Washington QF.”<sup>52</sup> PacifiCorp’s mischaracterizes how avoided cost rates are set. The question is not whether a single Washington QF can defer any particular resource, but what investments QFs in the aggregate will allow the utility to

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<sup>50</sup> Dickman Rebuttal Declaration at ¶¶ 23-27.

<sup>51</sup> Id. at ¶¶ 27, 29.

<sup>52</sup> Id. at ¶ 25.



avoid. FERC's rules require, to the extent practical, that the Commission consider the aggregate capacity value of small QFs.<sup>53</sup> As FERC explained, even though small amounts of capacity provided from QFs taken individually might not enable a purchasing utility to defer or avoid scheduled capacity additions, the aggregate capability of such purchases may permit the deferral or avoidance of a capacity addition.<sup>54</sup>

**C. The Commission Could Increase the Capacity Payment Based on the Full Costs of an Avoided Capacity Resource**

34. The Commission could also increase PacifiCorp's capacity payment based on the full fixed costs of simple cycle combustion turbine ("SCCT").<sup>55</sup> PacifiCorp's current capacity payment includes the costs of SCCT for three months out of the year. If PacifiCorp were to acquire a SCCT peaking resource, however, it will incur its fixed costs for all twelve months out of the year. Therefore, it would be reasonable to include the full costs in the capacity payment since PacifiCorp is unlikely to acquire a SCCT for only those months for which it has peak capacity need, and its dual peaking nature would probably require use of that peaking resource during many months of the year.

**4. QFs Should Be Compensated for the Capacity Value Provided by Existing QFs that Renew Their Contracts**

35. Existing QFs provide the utilities and ratepayers with capacity benefits that they should be compensated for. As explained above, small QFs renew their contracts. The fact that PacifiCorp plans on them renewing their contracts provides benefits to the

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<sup>53</sup> 18 C.F.R. § 292.304(e)(2)(vi).

<sup>54</sup> Small Power Prod. and Cogeneration Facilities; Regulations Implementing Sec. 210 of the Pub. Util. Reg. Pol. Act of 1978, Order No. 69, 45 Fed. Reg. 12,214, 12,227 (Feb. 25, 1980).

<sup>55</sup> Lowe Declaration at ¶ 30.

company and its ratepayers. This supports increasing or at least continuing the current capacity payment for all QFs.

36. It would be particularly inappropriate to not pay a full capacity payment to those QFs that PacifiCorp plans on entering into follow-on contract extensions. Without existing QFs renewing their contracts, PacifiCorp would need to acquire new, more expensive capacity resources sooner. As existing QFs provide capacity value by helping to defer the utilities' need to buy or build new capacity resources, their avoided cost rates should include both capacity and energy components.

37. When conducting resource planning, PacifiCorp counts on existing QFs providing energy and capacity, which has the practical result of deferring resource acquisitions. PacifiCorp is currently planning on the availability of 255 MWs of QFs to meet its system peak, and assumes that 122 MWs of QFs renew their contracts.<sup>56</sup> The existence of these QFs will continue to cause PacifiCorp to avoid capacity costs.<sup>57</sup> PacifiCorp previously agreed that existing QFs help defer the company's next capacity resource because the "capacity contribution of all signed QF contracts executed subsequent to the development of the IRP preferred portfolio reduce the deferrable capacity of the next avoidable resource . . . ."<sup>58</sup>

38. Ensuring that renewing QFs receive capacity payments would also treat QFs more comparably with utility-owned resources. Washington QFs are not provided the opportunity to obtain fixed price contracts for their full resource life. In contrast, PacifiCorp is able to recover its capacity costs for the full useful life of its generating

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<sup>56</sup> Id. at ¶ 27; Dickman Rebuttal Declaration at ¶ 10.

<sup>57</sup> Lowe Declaration at ¶ 27.

<sup>58</sup> Re Investigation into QF Contracting and Pricing, Oregon PUC Docket No. UM 1610, PacifiCorp Opening Testimony (PAC/100) at Dickman/15 (Feb. 4, 2013).

resources. Not providing existing QFs with full avoided cost pricing (including capacity payments) for their useful lives would be inequitable as compared to the treatment afforded utility-owned resources.

39. The Idaho Public Utilities Commission (“IPUC”) recognizes the value that renewing QFs provide, and ensures that they are paid capacity, regardless of the utility’s resource “sufficiency” position. The IPUC explained:

we find merit in the argument made by the Canal Companies that contract extensions and/or renewals present an exception to the capacity deficit rule that we adopt today. It is logical that, if a QF project is being paid for capacity at the end of the contract term and the parties are seeking renewal/extension of the contract, the renewal/extension would include immediate payment of capacity. An existing QF’s capacity would have already been included in the utility’s load resource balance and could not be considered surplus power. Therefore, we find it reasonable to allow QFs entering into contract extensions or renewals to be paid capacity for the full term of the extension or renewal.<sup>59</sup>

The IPUC recognizes that it is inappropriate to pay existing QFs market based rates because it treats their electricity as “surplus power.” Just like its own capacity resources, PacifiCorp includes these QFs in its resource plan and they should continue to be paid capacity.

40. The IPUC reaffirmed that policy this year.<sup>60</sup> The IPUC recently lowered the contract term from twenty years to two years for wind and solar QFs, but maintained twenty-year contract terms for baseload QFs, including hydro-electric facilities. The IPUC recognized, however, that it would be inappropriate to have a short contract term

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<sup>59</sup> Re the Commission’s Review of PURPA QF Contract Provisions, IPUC Case No. GNR-E-11-03, Order No. 32697 at 21-22 (emphasis added) (Dec. 18, 2012) clarified in Order No. 32871 (Aug. 9, 2013).

<sup>60</sup> Re Idaho Power Company’s Petition to Modify Terms and Conditions of PURPA Purchase Agreements, IPUC Case Nos. IPC-E-15-01, AVU-E-15-01, PAC-E-15-03, Order No. 33357 at 25-26 (Aug. 20, 2015).

that does not allow QFs an opportunity to be paid for capacity. The IPUC understands that the combination of market based rate sufficiency period pricing and short contract terms would result in QFs never being paid for capacity. To avoid this result, the IPUC concluded that existing QFs that renew their contracts would continue to be paid capacity during the sufficiency period, and that new QFs that signed contracts would be paid capacity in most of the years of their renewal contracts. Specifically, the IPUC explained that:

We recognize that a new two-year contract would be unlikely to reach a capacity deficiency date. Therefore, we find it reasonable for utilities to establish capacity deficiency at the time the initial IRP-based contract is signed. As long as the QF renews its contract and continuously sells power to the utility, the QF is entitled to capacity based on the capacity deficiency date established at the time of its initial contract. For example, if the QF comes on-line in 2017 and the utility is capacity deficient in 2020, the QF would be eligible for capacity payments in the second year of its second contract and thereafter if in continuous operation. This adjustment recognizes that in ensuing contract periods, the QF is considered part of the utility's resource stack and will be contributing to reducing the utility's need for capacity. This mitigates the concern that short-term contracts will not contribute to the avoidance of utility capacity/generation.<sup>61</sup>

41. In this proceeding, REC is not recommending that the Washington Commission adopt the IPUC's approach to avoided cost prices, and instead supports paying both new and existing QFs capacity payments during all years of their contract terms. The IPUC orders, however, illustrate that the combination of removing capacity payments during a "sufficiency" period and short contract terms (like exist in Washington) will under compensate QFs, and result in QFs essentially providing capacity for free.

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<sup>61</sup> Id. (emphasis added).

## 5. PacifiCorp's Alternative Rate Design Should Be Rejected

42. PacifiCorp has proposed an alternative rate design that changes the energy payment based on the time of day the power is delivered.<sup>62</sup> The rates would be changed to differentiate the energy payment into on- and off-peak periods, with higher prices during on-peak periods.<sup>63</sup> The record does not establish whether PacifiCorp is actively supporting this approach, or only “willing to revise its proposed Schedule 37 prices” to make this change.<sup>64</sup> Staff opposes PacifiCorp's alternative rate design.<sup>65</sup> While REC does not agree with all the grounds upon which Staff bases its opposition, REC believes that it is not appropriate to adopt a proposal that is opposed by one party and it is unclear if any party supports. Therefore, the Commission should not change the energy payment based on the time of day the power is delivered since Staff opposes this approach, and it is unclear if any party supports it.

## V. CONCLUSION

43. The Commission should continue its basic approach of paying QFs a monthly capacity payment and an hourly energy payment. The current capacity payment should be increased because it does not fully compensate QFs for the capacity value they provide to PacifiCorp. Under no reasonable circumstances should PacifiCorp's proposal to eliminate capacity payments be adopted because it will have the practical result of never compensating QFs for any capacity as long as the claimed “sufficiency” period is longer than five years.

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<sup>62</sup> Dickman Declaration at ¶ 16.

<sup>63</sup> Id.

<sup>64</sup> Id.

<sup>65</sup> Twitchell Declaration at ¶ 40.

Dated this 11th day of September, 2015.

Respectfully submitted,

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Of Attorneys for the Renewable Energy Coalition

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused to be served the following RENEWABLE ENERGY COALITION INITIAL BRIEF in WUTC Docket No. UE-144160 by regular or electronic mail to the parties on the attached service list.

DATED September 11, 2015



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