

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

PacifiCorp)	
)	Docket No. ER13-1206-000
)	

PROTEST OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION

Pursuant to Rules 211 and 214 of the Federal Energy Regulatory Commission (“FERC” or “Commission”) Rules of Practice and Procedure,¹ the Solar Energy Industries Association respectfully submits this protest regarding PacifiCorp’s proposed revisions to its Open Access Transmission Tariff (“OATT”) Schedules 3 and 3A.² PacifiCorp proposes to substantially increase its rates for Schedule 3: Regulation and Frequency Response Service, and also asks for differentiated cost recovery to serve variable energy resource (VER) and non-VER generators exporting power from PacifiCorp’s Balancing Authority Area (“BAA”) under Schedule 3A.

The proposed Schedule 3A charge for VER generators would be nearly three times the current Schedule 3A rate and more than 8,000 times the Schedule 3A charge that would be imposed on non-VER generators. For the reasons discussed below, SEIA believes that PacifiCorp has not met its burden to show that its proposed rates are just and reasonable and not unduly discriminatory, and therefore requests that the Commission reject PacifiCorp’s proposed charge.³ In the alternative, we request that the Commission suspend the rate schedules for the maximum five-month period, making them effective on November 1, 2013, set the matter for hearing, and hold in abeyance said hearing in favor of establishing settlement judge procedures.

¹ 18 C.F.R. §§ 385.211, 214 (2010).

² SEIA has reviewed the protest submitted jointly by AWEA and RNP and generally supports the arguments made therein.

³ *San Diego Gas & Elec. Co. v. Sellers of Energy and Ancillary Services*, 114 FERC ¶ 61,310 at P 19 (2010) (“Summary disposition is appropriate where there are no genuine issues of material fact concerning whether a filing constitutes a clear violation of Commission directives.”).

I. BACKGROUND

PacifiCorp's tariff filing proposes two principal changes to Schedules 3 and 3A of its OATT that will allow it to recover the cost of the regulation reserves that PacifiCorp requires within the scheduling hour to offset scheduling deviations. Under the interim rates currently in effect, the charge under Schedules 3 and 3A is \$2.90/kW/year. These interim rates, as well as the rates proposed in Docket No. ER11-3643-000, use the same billing determinants for all transmission customers, and do not distinguish among variable energy resources ("VERs"), non-VERs, or load.

In its filing, PacifiCorp proposes modifying Schedules 3 and 3A to update the per-unit capacity charge from \$2.90/kW/year to: \$4.16/kW/year for Schedule 3; \$8.25/kW/year for Schedule 3A applied to VERs; and \$0.001/kW/year for Schedule 3A applied to non-VERs. In addition, PacifiCorp proposes modifying the billing determinants so that the billing determinant for Schedule 3 is the 2011 coincident peak ("CP") demand for transmission customers taking Schedule 3 service, and the billing determinant for Schedule 3A for VERs and non-VERs is the 2011 generator nameplate capacity.

II. PROTEST

A. FERC Should Reject PacifiCorp's Proposed VER Charge as it is Not Consistent with Order No. 764

In Order No. 764,⁴ the Commission found that it is not just and reasonable for a transmission service provider to charge variable energy resources for a larger volume of regulation than is charged to other transmission customers until transmission providers have implemented grid operating reforms that eliminate the *de facto* discrimination faced by variable

⁴ *Integration of Variable Energy Resources*, Order No. 764, 77 FR 41482 (July 13, 2012) FERC Stats. & Regs. ¶ 31,331 (2012). (Order No. 764)

energy resources under obsolete grid operating procedures.⁵ We recognize that the Commission has given transmission providers until November 12, 2013 to update their *pro forma* tariffs to incorporate the changes required in Order No. 764. However, if PacifiCorp's proposed charge is approved by the Commission now, without PacifiCorp being required to update its grid operating procedures, it would result in rates that are discriminatory and not just and reasonable for variable energy resources.

For the reasons put forth below, SEIA requests that the Commission reject PacifiCorp's proposed rate. In the alternative, we request that the Commission suspend the proposed rates for the full five-month period permitted by law⁶ and set the matter for hearing, but hold formal hearing procedures in abeyance and instead establish settlement judge procedures.

1. PacifiCorp Fails to Employ 15-minute Scheduling

The Commission should not allow PacifiCorp's proposed rates until, at a minimum, customers are offered the ability to change schedules on a 15-minute or faster basis, or the equivalent, and the transmission service provider is using wind and solar energy forecasts to minimize the amount of regulation capacity procured based on actual system conditions.

In Order No. 764, the Commission found that, until such time as intra-hourly scheduling procedures and the use of VER energy forecasting are in place, customers may be subject to undue discrimination and their rates may be excessive.⁷ There is no reason why the

⁵ Order No. 764 at P. 96: "...the Commission also finds that implementation of intra-hour schedules is necessary in order to ensure that charges for ancillary services through which reserve-related costs are recovered are just and reasonable and not unduly discriminatory."

⁶ In *West Texas*, the Commission explained that, where its preliminary investigation indicates proposed rates may be unjust and unreasonable and may be "substantially excessive," the Commission will generally impose a five-month suspension. 18 FERC ¶ 61,189, at 61,374-5 (1982) (*West Texas*). The Commission went on to specify what constitutes "excessive revenues," warranting the full five month suspension afforded by the FPA: "Where more than ten percent of the proposed increase is found to be excessive, we shall suspend the rates for the full five month period for the reasons that we have previously stated." 18 FERC ¶ 61,189 at 61,374-5.

⁷ *Id.* "The Commission also finds that implementation of intra-hour schedules is necessary in order to ensure that charges for ancillary services through which reserve-related costs are recovered are just and reasonable and not unduly discriminatory."

Commission's logic in Order No. 764 with respect to more granular scheduling and forecasting should not apply in this context as well.

The Commission also explicitly noted in its Notice of Proposed Rulemaking on Integration of Variable Energy Resources⁸ that certain initiatives by some transmission service providers to implement intra-hourly scheduling are not sufficient to be deemed by the Commission as just and reasonable.⁹ The Commission further pointed to efforts by Pacific Northwest entities to implement 30-minute scheduling as an initiative that falls short of the Commission's standards.¹⁰

Thus, the hourly scheduling PacifiCorp currently uses, as well as the 30-minute scheduling that PacifiCorp is implementing, are not just and reasonable. PacifiCorp has failed to explain how its proposed Schedule 3A rates are just and reasonable in light of the Commission's previous determination.

2. PacifiCorp Fails to Use Forecasting Data to Reduce Operating and Reserve Costs

In Order No. 764, the Commission also clearly explained that a transmission service provider "should explain how... the forecast ... is used to support the management of operating costs and/or reserves or otherwise ensure that capacity costs incurred to provide Schedule 9 service are prudently incurred," before a regulation charge based on a higher volume of reserves could be assigned to variable energy resources.¹¹

⁸ Docket No. RM10-11-000. (VER NOPR)

⁹ Specifically, the Notice of Proposed Rulemaking stated: "The Commission acknowledges that a number of public utility transmission providers already have begun implementing intra-hour scheduling practices, primarily through reforms to their business practices. While these individual reforms are important steps toward the efficient integration of VERs, the Commission believes that it is important to establish 15-minute scheduling periods as the default scheduling process among transmission providers." *Id.* at P. 34-35 (footnotes omitted).

¹⁰ *Id.* at n. 95.

¹¹ Order No. 764 at P. 325

While PacifiCorp argues that it subscribes to a VER forecasting service “that is used day-ahead of delivery,” it offers no explanation of how this forecast is used to achieve reductions in same-day inter- or intra-hourly reserve needs and does not even address potential use of a forecast provided closer to real-time and/or on a more granular basis. In fact, PacifiCorp’s explanation that it “holds regulating margin reserve due to anticipated variation in VERs output based on dispatcher experience” reveals that PacifiCorp is not even using the day-ahead forecast in a rigorous manner to “support the management of operating costs and/or reserves or otherwise ensure that capacity costs incurred to provide Schedule 9 service are prudently incurred,” as required by Order No. 764, much less considering the use of more accurate forecasting to reduce those costs.

The Commission was very clear in Order No. 764: the use of forecasting tools to reduce operating and reserve costs are necessary before a transmission provider may charge differentiated rates to VER generators. PacifiCorp is proposing rates and charges that are, quite plainly, not just and reasonable. The Commission should not allow PacifiCorp to implement differential charges for variable energy resources as proposed here until the Commission can conclude that proper forecasting tools are being used and no discrimination will occur from charging differentiated rates to VER generators. Only then will PacifiCorp’s proposed rates be just and reasonable.

B. PacifiCorp’s Proposed Rate should be Reduced to Account for 15-minute Scheduling and an Energy Imbalance Market

Order No. 764 states that a transmission service provider “should consider the extent to which transmission customers are using intra-hour scheduling in evaluating whether to require different transmission customers to purchase or otherwise account for different quantities of generator regulating reserves.” As detailed above, PacifiCorp does not offer intra-hourly

scheduling at intervals of 15-minutes or faster, but Order No. 764 requires it to do so. Therefore, PacifiCorp should be required to recalculate its proposed Schedule 3A rate to reflect what that rate will be when 15-minute transmission scheduling takes effect. PacifiCorp could offer a lower rate to customers who choose to use 15-minute or faster scheduling than those who do not.¹²

Allowing PacifiCorp's proposed rate go into effect would penalize transmission customers for the failure of the transmission service provider to offer transmission service at rates that are just and reasonable and not discriminatory.

Additionally, when PacifiCorp implements 15-minute scheduling, the proposed Schedule 3A charge will not reflect actual system costs. Therefore, PacifiCorp's proposed Schedule 3A charge is not just and reasonable, and is in violation of the Commission's cost-causation principles.

Finally, the proposed rate should be reduced to account for the benefits of the proposed CAISO-PacifiCorp Energy Imbalance Market (EIM), once it is implemented in fall 2014. The EIM is a real-time market featuring 5-minute economic dispatch of Imbalance Energy, which should reduce PacifiCorp's need to use Regulation reserves to cover short-term intra-hour variations. Initial studies indicate the EIM will provide operational savings for both PacificCorp and the CAISO and enable greater penetration of VERs. The EIM will provide several benefits, including both inter- and intra-regional dispatch savings, reduced flexibility reserves, and reduced renewable energy curtailment.¹³ These benefits, and their attendant savings, need to be accounted for in PacifiCorp's proposed Schedule 3A rate.

¹² This approach was adopted as part of the settlement reached in the *Puget Sound Energy* case.

¹³ PacifiCorp-ISO Energy Imbalance Market Benefits, Energy and Environmental Economics, Inc., March 13, 2013, page 6. Available at <http://www.caiso.com/Documents/PacifiCorp-ISOEnergyImbalanceMarketBenefits.pdf>.

C. PacifiCorp has not provided sufficient evidence to justify that its proposed revisions to tariff Schedule 3A are just and reasonable, particularly with respect to solar generators

PacifiCorp's filing contains no worksheets of data and analysis to provide evidence for its claims about the relative regulation burdens of Load, VERs, and non-VERs. This lack of evidence on its own is sufficient grounds for the Commission to reject PacifiCorp's proposal. While PacifiCorp asserts that its methodology follows those used in *Westar*¹⁴ and *Puget Sound Energy*¹⁵, it is impossible to verify that assertion, as no detailed worksheets were provided.

Moreover, PacifiCorp describes its generation fleet as "a diverse mix of coal, hydroelectric, wind, natural gas-fired combined cycle and combustion turbines, and geothermal resources."¹⁶ Nowhere in its filing does PacifiCorp explain how solar generators contribute to regulation reserve needs on its system, yet the proposed VER rate appears to apply to any current or future solar generator taking transmission service from PacifiCorp.

It appears, from the limited information PacifiCorp provided, that the VER generators PacifiCorp "studied" to establish its rate are all wind generators. There is a significant body of evidence showing that solar generation can be more accurately predicted than wind generation, and, therefore, would contribute significantly less to PacifiCorp's need to procure regulation reserves.¹⁷ In addition, solar generators that feature thermal energy storage may be dispatched similarly to traditional thermal generation, therefore contributing no more regulation reserve needs for PacifiCorp than a non-VER power plant. Under basic cost-causation principles, each

¹⁴ *Westar Energy, Inc.*, 130 FERC ¶ 61,215 (2010) ("*Westar*").

¹⁵ *Puget Sound Energy, Inc.*, 142 FERC ¶ 61,018 (2013) ("*Puget Sound Energy*").

¹⁶ PacifiCorp transmittal letter at page 4.

¹⁷ See, e.g., results from the CAISO's study of wind and solar forecast errors, performed as part of its process to develop a flexible ramp product. Presentation at http://www.aiso.com/Documents/Presentation-FlexibleRampingProductWorkshopSep18_2012.pdf. Slides 28-31 present the wind forecast errors and slides 33-36 present solar forecasting errors. During daytime hours (7 AM to 7 PM), solar forecasts mostly show single-digit average errors, while wind forecasts generally show average errors in the teens.

VER must be studied separately to ensure that (a) different variable energy resources are accurately allocated applicable costs and (b) the resulting rate is not unjust, unreasonable, or unduly discriminatory. The Commission should require PacifiCorp to charge solar generators the non-VERs rate until it submits an updated rate schedule that reflects solar generators' actual effects on regulation reserve needs.

Given the deficiencies in PacifiCorp's filing and the failure of proposed Schedule 3A to follow cost-causation principles, the Commission should reject PacifiCorp's proposed charge.¹⁸ In the alternative, we request that the Commission suspend the rate schedules for the maximum five-month period, making them effective on November 1, 2013, and set this matter for hearing.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, SEIA respectfully requests that the Commission: (1) find that PacifiCorp has not adequately supported its filing, nor shown the proposed rates to be just and reasonable and, therefore, summarily reject the filing; or, in the alternative, (2) suspend the proposed rates for the full five-month period permitted by law¹⁹ and set the matter for hearing, but hold formal hearing procedures in abeyance and establish settlement judge procedures.

¹⁸ *San Diego Gas & Elec. Co. v. Sellers of Energy and Ancillary Services*, 114 FERC ¶ 61,310 at P 19 (2010) ("Summary disposition is appropriate where there are no genuine issues of material fact concerning whether a filing constitutes a clear violation of Commission directives.").

¹⁹ In *West Texas*, the Commission explained that, where its preliminary investigation indicates proposed rates may be unjust and unreasonable and may be "substantially excessive," the Commission will generally impose a five-month suspension. 18 FERC ¶ 61,189, at 61,374-5 (1982) (*West Texas*). The Commission went on to specify what constitutes "excessive revenues," warranting the full five month suspension afforded by the FPA: "Where more than ten percent of the proposed increase is found to be excessive, we shall suspend the rates for the full five month period for the reasons that we have previously stated." 18 FERC ¶ 61,189 at 61,374-5.

Respectfully submitted,

A handwritten signature in black ink that reads "Katherine A. Gensler". The signature is written in a cursive style with a large initial 'K' and a distinct 'A'.

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April 29, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April 2013, I have served a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

_____/s/ Katherine Gensler_____