

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

**PacifiCorp** )  
 ) **Docket No. ER20-924-001**  
 )

**COMMENTS OF NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS  
COALITION ON PACIFICORP’S MARCH 13 RESPONSE TO DEFICIENCY LETTER**

Intervenor Northwest and Intermountain Power Producers Coalition (“NIPPC”) respectfully submits these comments on PacifiCorp’s March 13 Response to Deficiency Letter pursuant to Rules 211, 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission” or “FERC”).<sup>1</sup>

**I. RESPONSE TO DEFICIENCY LETTER**

**A. PURPA**

**1. The Public Utility Regulatory Policies Act of 1978 (PURPA) requires non-discriminatory access for Qualifying Facilities (QF). Please explain how the revised interconnection procedures comply with the requirements of PURPA.**

**a. Explain how PacifiCorp’s proposed interconnection procedures would interact with state interconnection procedures for QFs in each state in which PacifiCorp operates.**

NIPPC concurs with PacifiCorp that effective queue reform would be best achieved by PacifiCorp applying the same cluster study process to both state and FERC jurisdictional interconnection requests. However, if PacifiCorp’s new interconnection procedures are not clarified, and potentially revised, then states may need to use a different process to ensure PURPA compliance. PacifiCorp is silent on the deeper question posed in the Deficiency Letter and raised in NIPPC’s earlier comments. NIPPC requested:

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<sup>1</sup> 18 C.F.R. §§ 385.211, 212, 214 (2020).

clarification regarding how the commercial readiness criteria will apply to [Qualifying Facilities] under PURPA, [or] PacifiCorp’s commitment to a timeline of state filings for PacifiCorp to reconcile its PURPA procurement requirements with its Interconnection Queue reform proposal.<sup>2</sup>

PacifiCorp did not provide the analysis requested in the Deficiency Letter (a state-by-state explanation of how state interconnection procedures for QFs, in combination with PacifiCorp’s proposed FERC-jurisdictional procedures, would comply with the requirements of PURPA). Instead, PacifiCorp simply states that it intends to transition federal and state jurisdictional interconnection customers to a cluster study process on the same timeline and subject to similar requirements.<sup>3</sup> PacifiCorp also fails to address the concern raised in NIPPC’s comments — that PacifiCorp’s state contract requirements for PURPA are inconsistent with PacifiCorp’s proposed requirements for customers (including PURPA customers) seeking to enter an interconnection study cycle. While PacifiCorp does represent that PURPA customers would not be required to demonstrate commercial readiness for the Transition Cluster, there is no detail on how PacifiCorp will reconcile its state PURPA contract requirements with its proposed Prospective Cluster study process.

One of NIPPC’s primary areas of concern and uncertainty, both with PacifiCorp’s original filing and even after its response to the Deficiency Letter, is how PURPA projects will be able to qualify for a Prospective Cluster study cycle. The overall direction of PacifiCorp’s proposed reforms is to require developers to demonstrate “commercial readiness,” but in many PURPA project cases, the key to a commercial readiness decision will be the terms of a PURPA contract. PacifiCorp states in its response to the Deficiency Letter that it is “not planning to

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<sup>2</sup> NIPPC Motion to Intervene and Comments at 11.

<sup>3</sup> PacifiCorp Response to Deficiency Letter at 2.

apply the commercial readiness criteria to state-jurisdictional QF interconnection requests during the Transition Process.”<sup>4</sup>

This statement implies that PacifiCorp will apply commercial readiness criteria to QF projects in the FERC-jurisdictional queue, as well as to future QFs. In some states, applying these criteria to QFs may create an insoluble conundrum for QFs by requiring transmission interconnection as a condition of obtaining a PURPA contract but at the same time requiring a commercial contract as a precondition to complete the necessary studies and obtain an interconnection. It is difficult to see how such a result would comply with PURPA. Unless PacifiCorp commits to revising its state requirements for PURPA contracts, it would appear that PURPA developers’ only option to enter a Prospective Cluster study would be with a deposit. If those developers then later drop out of the cluster because of issues related to the PURPA agreement, PacifiCorp may accuse them of “abusing” the deposit option.

To cure the deficiency in its current proposal, PacifiCorp should be required to provide additional details regarding how QFs can qualify for a Prospective Cluster, and where necessary, PacifiCorp should make discrete and narrow revisions to ensure PURPA compliance. NIPPC believes that compliance with PURPA requires that QFs either be able to obtain a power purchase agreement without having to complete an interconnection agreement or, conversely, qualify for a cluster study without being subject to the same eligibility criteria applied to non-QF projects. NIPPC’s previous comments stated that “NIPPC will review the filings of other commenters and intervenors [on PURPA matters] and may make more specific recommendations later in this proceeding.”<sup>5</sup> Given that PacifiCorp has not yet explained how its

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<sup>4</sup> *Id.* at 3.

<sup>5</sup> NIPPC Motion to Intervene and Comments at 11.

queue reform will actually work for PURPA projects, NIPPC reserves its final recommendations on this matter. As of right now, however, NIPPC has reviewed the filing of the Community Renewable Energy Association and the Renewable Energy Coalition and urges the Commission to require PacifiCorp to explain its solutions to the PURPA problems identified in those comments.

**B. Interconnection Process Timing**

**2a. To the extent the timing of the 2020 RFP causes resources currently in the queue to be unable to show commercial readiness by the October 15, 2020 transition deadline, would PacifiCorp extend that deadline?<sup>6</sup>**

NIPPC was among the commenters who encouraged flexibility in the timing of the start of the transition cluster.<sup>7</sup> While NIPPC supports any additional flexibility in the timing of the transition cluster to coordinate with the PacifiCorp 2020 procurement, NIPPC fears that an extension of the start date of the transition cluster from October 15, 2020 to October 31, 2020 is still not sufficiently flexible. NIPPC acknowledges PacifiCorp's concerns that the start of the transition cluster should not jeopardize PacifiCorp's ability to conduct the first Prospective Cluster study and that PacifiCorp needs to conduct the transition cluster to clear its interconnection queue to facilitate interconnections that may not be seeking to bid into PacifiCorp's 2020 RFP. NIPPC notes, however, that PacifiCorp's interconnection queue has been paralyzed for some time. Delaying the Transition Cluster by a few more weeks would likely have little incremental impact on other interconnection customers. In addition, the state regulatory commissions have not yet established the final schedule for PacifiCorp's 2020 RFP,

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<sup>6</sup> NIPPC is not responding to all of the Deficiency Letter questions, but NIPPC is keeping FERC's numbering and titles for ease of reference. Thus, this Section starts with 2a, which is the number FERC provided for this question.

<sup>7</sup> *Id.* at 5-6.

and it is unclear if a few weeks delay in the approval of PacifiCorp's queue reform will have any impact on its RFP.

Furthermore, given the potential for the current COVID-19 crisis to result in state Commissions and their staff needing more time to design and approve PacifiCorp's 2020 RFP, NIPPC suggests it is appropriate to build more flexibility into the timing of the Transition Cluster. NIPPC also recognizes that a delay in the start of the Transition Cluster might justify a delay in the start of the first Prospective Cluster scheduled for April. In developing its comments on PacifiCorp's queue reform, NIPPC has been willing to compromise on some of its concerns with PacifiCorp's queue reform proposal in anticipation of the potential for the Transition Cluster process to facilitate a more competitive RFP in 2020. Accordingly, NIPPC recommends that the Commission condition its acceptance of PacifiCorp's reforms on aligning the timing of the Transition Cluster study with PacifiCorp's 2020 RFP.

NIPPC also notes that PacifiCorp's response to the request that it describe how it will coordinate its cluster study process with future RFPs is simply to suggest that load serving entities (including PacifiCorp) will know the cluster study timelines and could adjust the timing of their procurement accordingly.<sup>8</sup> PacifiCorp should provide a clearer commitment to coordinating timing between generation procurement and its reformed interconnection processes, while fully complying with the FERC Standards of Conduct, even if a PacifiCorp employee outside of the firm's transmission function must convey that commitment. NIPPC and other organizations will certainly point state regulators to the timing of PacifiCorp's cluster studies when commenting on the timing of procurement activities.

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<sup>8</sup> PacifiCorp Response to Deficiency Letter at 5.

### **C. Reasonable Evidence and Comparable Evidence**

The Commission asked PacifiCorp to describe “reasonable evidence” and “comparable evidence” in the context of meeting the commercial readiness criteria for the cluster study.<sup>9</sup> In a footnote, PacifiCorp indicates that it is seeking only “the same level of discretion—and no more—that the Commission has already approved for another utility.”<sup>10</sup> PacifiCorp’s narrative answer to the Commission, however, raises significant new concerns. PacifiCorp clearly intends to exercise its discretion to require interconnection customers to provide PacifiCorp with sensitive commercial information regarding their term sheets or contracts with their counterparties. While PacifiCorp does not seem to request price information from interconnection customers, other information, including the term length and other provisions of an agreement, can be just as commercially sensitive. The many transmission network seams and neighboring balancing authorities surrounding PacifiCorp’s system, as well as the potential circumstance that PacifiCorp’s merchant function is competing with the interconnection customer, make this information especially sensitive. While PacifiCorp likely already has information related to the product and quantity from the interconnection request, PacifiCorp should more clearly articulate its minimum requirements and accept an attestation from the customer that the contract or term sheet meets or exceeds those requirements (e.g., an attestation might specify that a contract is for a quantity in excess of XX% of the project, for a term in excess of Y years).

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<sup>9</sup> Deficiency Letter from FERC to PacifiCorp at 2 (March 6, 2020).

<sup>10</sup> PacifiCorp Response to Deficiency Letter at 5 n. 13.

#### **D. Load Serving Specific Provisions**

NIPPC supports PacifiCorp's proposal to conform its proposed tariff language to the language previously accepted by FERC in Public Service Company of New Mexico's ("PNM's") queue reform filing, on the condition that the language becomes technology-neutral, as described below. NIPPC continues to believe that PacifiCorp's original language is discriminatory on its face and rejects PacifiCorp's suggestion that the language is not "unduly" discriminatory. NIPPC and other commenters should not be required to predict all the ways discriminatory language in a tariff could be implemented by the transmission provider in an "unduly" discriminatory way.

Furthermore, PacifiCorp's argument for retaining the discriminatory language is as follows:

[A] purchase order option would only be of value to third party developers if they can satisfy *none* of the other commercial readiness criteria *and* lack the financial resources to make the financial payment in lieu of commercial readiness. In such a case, PacifiCorp believes such a project would likely not be viable and is concerned this provision could be abused.<sup>11</sup>

But this argument can easily be flipped around. NIPPC could just as easily argue that a purchase order option would be of value only to "load serving entities" if they can satisfy none of the other commercial readiness criteria and lack the financial resources to make the financial payment in lieu of commercial readiness. Assuming there is a fair and competitive procurement process, NIPPC believes that a load serving entity or a third-party developer relying on a purchase order of equipment is likely no more or less viable than one relying on one of the other commercial readiness criteria.

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<sup>11</sup> *Id.* at 8.

Further, the result of PacifiCorp's proposal would be to eliminate projects from the interconnection queue even where the developer is confident enough in the project that it can demonstrate it has ordered equipment for the project. That the developer is willing to order such equipment, often at the cost of millions or even tens of millions of dollars, is a clear indication of the commercial viability of the project. PacifiCorp's approach loses sight of the basic purpose of its transition process, which is to eliminate non-viable projects that are unnecessarily clogging the queue, not to eliminate viable projects simply because they have not attained specific milestones by the date arbitrarily chosen by PacifiCorp. In the interests of ensuring effective competition, NIPPC urges the Commission to bear in mind that the purpose of PacifiCorp's queue reform proposal is to break the logjam that has clogged the queue. It is not to eliminate PacifiCorp's competitors in the generation market.

NIPPC also notes that the proposed language from PNM's filing is not technology-neutral. In one instance, the proposed alternative limits the purchase order exception to "turbines" under a blanket purchase agreement.<sup>12</sup> NIPPC recommends replacing the word "turbines" with the phrase "electrical generating equipment" to cover interconnection customers pursuing projects with technologies that do not rely on turbines to generate electricity.

**E. Energy Resource Interconnection Service / Network Resource Interconnection Service**

NIPPC members value the flexibility under the Open Access Transmission Tariff that allows a project to be studied as both an Energy Resource and a Network Resource. NIPPC values this flexibility above requiring PacifiCorp to conduct cluster studies *more* than once per year. Accordingly, NIPPC encourages the Commission to accept the compromise proposal

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<sup>12</sup> *Id.*



offered by PacifiCorp, which would allow customers who have requested Network Resource Interconnection Service to submit a request to also be studied as Energy Resources.

**F. Business Practice 73**

**6. Please explain how PacifiCorp currently implements Business Practice 73 and how that business practice would be implemented under the revised interconnection procedures.**

NIPPC notes its consistent view concerning Business Practice 73, summarized in NIPPC's initial filing in this docket.<sup>13</sup> NIPPC's view is that PacifiCorp's cluster studies are likely to improve significantly if PacifiCorp were to revise the assumptions it uses in its power flow modeling to more accurately recognize power demands, power flows, and the impacts of near-term new load and generation on PacifiCorp's and neighboring systems. NIPPC reiterates its position that FERC should require PacifiCorp to revisit this issue and undertake a stakeholder process to review interconnection study models and assumptions with the goal of refining and rationalizing those models and assumptions. NIPPC notes that, while the analytical basis of PacifiCorp's cluster studies will have a material impact on the slate of generation projects able to participate in the 2020 RFP, addressing this issue need not delay PacifiCorp's transition to a cluster study approach. NIPPC also notes that PacifiCorp's response to FERC on this matter simply omitted the topic of study models and their assumptions:

As a general matter, the prospect of non-viable conditions is a direct consequence of the amount of generation in the current serial queue that vastly overwhelms the amount of load in the study area. The purpose of the commercial readiness criteria in PacifiCorp's proposal is to reduce that mismatch; the likelihood of non-viable study results should reduce significantly as the generators in the queue are required to be commercially viable (*i.e.*, have arrangements to serve some customer).<sup>14</sup>

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<sup>13</sup> NIPPC Motion to Intervene and Comments at 5.

<sup>14</sup> PacifiCorp Response to Deficiency Letter at 9.

## **G. Magnitude of Deposit**

PacifiCorp suggests that NIPPC did not challenge PacifiCorp's premise that the \$2,000/MW deposit amount was outdated or that PacifiCorp's larger system (larger than PNM's) justifies a higher amount.<sup>15</sup> But the question of how high the deposit amount should be is unrelated to the number of years since PNM's filing or the size and complexity of PacifiCorp's system. Rather, the intent of the deposit serves as a mechanism for customers to demonstrate readiness to participate in a cluster study. The deposit exists only as a hurdle to screen out interconnection customers who are not actually ready to proceed with their project. As a barrier to entry, the deposit should not be artificially higher than it needs to be to function as intended. In the absence of evidence that a higher deposit amount is necessary to maintain an efficient queue process, NIPPC maintains that the \$2,000/MW deposit amount is sufficiently high.

## **H. Other Issues**

Under PacifiCorp's proposal, the Interconnection Customer's receipt of the Transition Cluster Study Report will be its first indication of the magnitude of Network Upgrade costs facing its project. PacifiCorp then proposes to allow the Interconnection Customer only 30 days following receipt of this information to execute the Interconnection Facilities Study Agreement.<sup>16</sup> NIPPC urges the Commission to require PacifiCorp to provide interconnection customers with 60 days to return an executed Facilities Study Agreement. This additional time

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<sup>15</sup> *Id.* at 13.

<sup>16</sup> PacifiCorp Proposed Tariff Attachment W, § 5.2 ("Simultaneously with the issuance of the Transition Cluster Study Report, or Transition Cluster Re-Study Report if any, Transmission Provider shall provide to Interconnection Customer an Interconnection Facilities Study Agreement . . . Interconnection Customer shall execute the Interconnection Facilities Study Agreement and deliver the executed Interconnection Facilities Study Agreement to Transmission Provider within thirty (30) Calendar Days after its receipt[.]").

would allow a customer facing unanticipatedly large Network Upgrade costs to review the Cluster Study Report, resolve any disputes with PacifiCorp, and determine whether its project remains viable.

PacifiCorp's reliance on the timeline in the PNM and Public Service Company of Colorado ("PSCo") tariffs is misplaced because both utilities provide for a three-stage study process.<sup>17</sup> PacifiCorp, by contrast, proposes a two-stage study process.<sup>18</sup> So while both PNM and PSCo allow only 30 days between the final system impact study report, their customers will have had an additional study iteration to understand their potential Network Upgrade costs.

Earlier comments in response to PacifiCorp's original filing in this docket raised additional issues that the Commission did not note in its deficiency letter. NIPPC urges the Commission to consider NIPPC's suggestion that interconnection customers could establish commercial readiness by demonstrating that they have obtained all necessary permits. NIPPC also supports the suggestion of Renewable Northwest to extend the date for customers to qualify for the Transition Cluster. PacifiCorp proposes to limit eligibility for the Transition Cluster to customers in the queue before January 31, 2020. NIPPC supports expanding the Transition Cluster to include projects in the interconnection queue as of either 15 or 30 days after the Commission issues a final order in this docket. Extending the eligibility date will allow more robust participation in both the Transition Cluster and the PacifiCorp procurement RFP targeted for the fall of 2020.<sup>19</sup>

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<sup>17</sup> See PSCo Tariff Attachment N, Large Generation Interconnection Procedures, § 7 (providing for three-phased system impact study process); PNM Tariff Attachment N, Large Generation Interconnection Procedures, §§ 6,7 (providing for Preliminary System Impact Study followed by Definitive System Impact Study).

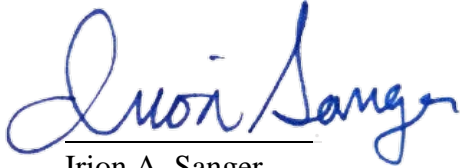
<sup>18</sup> PacifiCorp Proposed Tariff § 42.

<sup>19</sup> Renewable Northwest Comments at 3-4.

## II. CONCLUSION

NIPPC appreciates the opportunity for further comment and urges FERC to promptly address PacifiCorp's generator interconnection queue proposal and require PacifiCorp to make the limited and specific revisions identified in this Protest and its earlier Comments.

Respectfully submitted this 10th day of April, 2020.



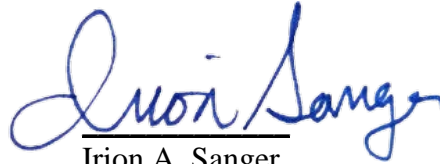
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Portland, OR this 10th day of April, 2020.



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