

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER REDFORD  
COMMISSIONER SMITH  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** CATHLEEN M. MCHUGH, UTILITIES ANALYST  
DON HOWELL, DEPUTY ATTORNEY GENERAL

**DATE:** SEPTEMBER 27, 2013

**SUBJECT:** ADVICE NO. 13-01  
ROCKY MOUNTAIN POWER'S REVISIONS TO THE BPA  
RESIDENTIAL EXCHANGE PROGRAM (REP) CREDIT, SCHEDULE 34 .

On August 20, 2013, Rocky Mountain Power, a division of PacifiCorp, filed a tariff advice with the Commission to revise its Electric Service Schedule No. 34, Pacific Northwest Electric Power Planning and Conservation Act Residential and Farm Kilowatt-hour Credit (the "REP credit"). Rocky Mountain proposes that the rate credit be increased from the existing 0.1839¢ per kilowatt-hour (kWh) to 0.3095¢ per kWh to be effective October 1, 2013.

### BACKGROUND

The REP rate credit is designed to pass through to qualifying customers the REP benefits that PacifiCorp receives from the Bonneville Power Administration (BPA). The REP was designed to allow the residential and small-farm customers of investor-owned utilities (IOUs) in the Pacific Northwest to share in the benefits of the Federal Columbia River Power System. PacifiCorp passes these benefits through to its qualifying customers via a rate credit on monthly electric bills. The rate credit applies to residential and small farm-customers served under Schedules 1, 6A, 7A, 10, 23A, 35A, 36, 19 with 6A, 19 with 23A, and 19 with 35A.

Historically, the total amount of REP benefits an IOU received was a function of the IOU's Average System Cost (ASC), BPA's Priority Firm (PF) Exchange rate, and the IOU's qualifying

load.<sup>1</sup> Accordingly, PacifiCorp's REP benefits were calculated as PacifiCorp's qualifying load multiplied by the difference between PacifiCorp's ASC and the applicable PF Exchange rate. This would then be jurisdictionally allocated between PacifiCorp's Idaho, Washington, and Oregon customers.

A. The Ninth Circuit Cases.

In May 2007, the Ninth Circuit overturned BPA's decision to approve the 2000 and 2001 RPSA Settlement Agreements between BPA and the six regional IOUs.<sup>2</sup> The Court found that BPA provided REP benefits to the six regional utilities in the RPSA Settlement Agreement without regard to the Section 7(b)(2) protections afforded the consumer-owned utilities (COUs). Accordingly, BPA calculated an amount (the "Lookback" amount) that each IOU should pay back to BPA. In the WP-07 Supplemental and the WP-10 rate cases, BPA began deducting the Lookback amounts from current and future REP benefits paid to the IOUs.

In late 2008, five IOUs and three State Commissions<sup>3</sup> filed consolidated appeals in the Ninth Circuit against BPA. Among other issues, the IOU/PUC group argued that the Lookback mechanism was arbitrary, constituted retroactive ratemaking, not in conformance with the Northwest Power Act, and contrary to a "saving clause" in the 2000/2001 RPSA Settlement Agreements. Several COUs also filed appeals asserting that BPA had miscalculated the Lookback amounts as too small and that the COUs were owed greater amounts. In addition, the Association of Public Agency Customers (APAC – the industrial customers group of Weyerhaeuser, Longview Fiber, Georgia Pacific, Simplot, etc.) argued that its members were entitled to larger and direct refunds from the IOUs despite being served by the COUs.

B. The Global Settlement.

In July 2011, BPA adopted a new Settlement Agreement that included the six IOUs, the three state commissions, BPA staff, and nearly all of the COUs. The Settlement Agreement fixed over a 17-year period the total amount of REP benefits to be paid to all IOUs.<sup>4</sup> These fixed REP benefits are allocated to the different utilities based on each utility's *relative* qualifying load as well as its *relative* ASC. Holding qualifying load constant, utilities with relatively high ASCs will receive more REP benefits than utilities with relatively low ASCs.

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<sup>1</sup> BPA calculates both the ASC and the PF Exchange rate.

<sup>2</sup> Avista, Idaho Power, NorthWestern, PacifiCorp, PGE, and Puget Sound.

<sup>3</sup> Idaho, Oregon, and Washington.

<sup>4</sup> An IOU still has to have an ASC higher than the PF exchange rate in order to receive REP benefits.

Furthermore, under the new Settlement, the Lookback Adjustment was discontinued. However, Section 6 of the Settlement Agreement contains a mechanism for reallocating REP benefits among the six IOUs. This “reallocation” became necessary so that the benefits of settling were about equal among the IOUs (except Idaho Power). For example, Idaho Power had paid none of its Lookback amounts but Puget Sound had paid approximately 55% of its Lookback amounts. The IOUs, the State Commissions, and other signing parties agreed to benchmark the settlement benefits to Puget Sound’s 55% repayment level for its Lookback. This redistribution of REP benefits will roughly make all the IOUs proportionally the same (except for the payment to NorthWestern). See Table 6.2.2 of the Settlement. The Commission approved the Settlement in April 2011.

### **THE TARIFF ADVICE**

The proposed increase in the residential exchange credit reflects both the FY14-FY15 benefits and the under-refunded balance relating to the existing rate credit. PacifiCorp’s share of the FY14-FY15 REP benefits is \$69.482 million or \$34.741 million per fiscal year. PacifiCorp’s Tariff Advice 13-01 proposes to allocate Idaho customers \$ 6.376 million or \$ 3.188 million per fiscal year. The under-refunded balance for Idaho customers from the existing rate credit is \$0.168 million. This results in a total of \$ 6.544 million to be disbursed to Idaho customers over the next two fiscal years (October 1, 2013 through September 30, 2015). The projected usage during that time period is 2,114,100 MWh which leads to a projected rate credit of 0.3095¢ per kWh.

### **STAFF ANALYSIS**

During Staff’s review of the proposed Tariff Advice, it entered into discussions with PacifiCorp concerning jurisdictional treatment of the “reallocation adjustments” found in Section 6 of the 2012 REP Settlement Agreement. In its proposal, PacifiCorp treats reallocation payments made by PacifiCorp differently than reallocation payments made to PacifiCorp. Table 1 summarizes PacifiCorp’s proposed jurisdictional treatment of the reallocation adjustments.

Table 1: PacifiCorp’s proposed jurisdictional treatment of reallocation adjustments

<b>Section 6 reallocation adjustments</b>	<b>Annual adjustment FY14- FY15</b>	<b>Basis for jurisdictional treatment</b>	<b>Idaho share</b>	<b>Idaho annual adjustment</b>
Paid by PacifiCorp	(\$ 8,442,636)	Split based on each state’s share of Lookback adjustments	28.5%	(\$2,406,151)
Paid to PacifiCorp	\$ 496,213	Split based on each state’s share of qualifying load	12.95%	\$ 64,279

Staff believes that all Section 6 reallocation adjustments should receive consistent and equal jurisdictional treatment. If Idaho customers are responsible for 28.5 percent of reallocation adjustments paid by PacifiCorp, then Idaho customers should receive 28.5 percent of reallocation adjustments paid to PacifiCorp. Conversely, if Idaho customers only receive 12.95 percent of reallocation adjustments paid to PacifiCorp, then Idaho customers should only be responsible for 12.95 percent of reallocation adjustments paid by PacifiCorp. PacifiCorp generally maintains that Section 6 allocations should receive disparate jurisdictional treatment. Staff and PacifiCorp could not agree on this issue.

Section 6 reallocations will likely exist in every year throughout the life of the Final Settlement (the Final Settlement extends through FY2028). Thus, the jurisdictional treatment of these reallocations will likely affect the level of REP credits received by Idaho customers through FY2028. With the exception of the reallocation issue, Staff believes that the proposed credit of 0.3095¢ per kWh has been correctly computed. The proposed rate credit is almost 70 percent higher than the existing rate credit of 0.1839¢ per kWh. The dramatic increase in the rate credit reflects both an increase in the REP benefits received from BPA and an increase in Idaho’s balancing account. The REP benefits allocated to Idaho increased almost 9% from the last filing. More importantly, Idaho’s balancing account went from a negative balance of \$1.676 million to a positive balance of \$0.168 million.

Staff also found outdated language in the tariff submitted by PacifiCorp and recommended changes. PacifiCorp is reviewing these changes and Staff expects them to submit an updated tariff sheet on Monday.

## STAFF RECOMMENDATIONS

Staff recommends that the proposed credit of \$0.3095¢ per kWh, because it is so much higher than the existing credit, be approved on an interim basis with an October 1, 2013 effective date. Staff further recommends that a docket be opened to investigate how to properly allocate these Section 6 reallocation adjustments between the different jurisdictions. The Commission should specifically reserve the disputed portion of the reallocation issue for future resolution in a new docket and direct the parties to see if they can reach settlement on the disputed differential. Once the reallocation issue is resolved, the REP credit can be adjusted for any resulting difference.

Staff recommends that the language changes to the tariff be approved.

## COMMISSION DECISION

Does the Commission wish to:

1. Approve the language changes and that portion of PacifiCorp's proposed change in its BPA residential and small farm energy rate adjustment credit from the existing 0.1839¢ per kWh to 0.3095¢ per kWh on an interim basis effective October 1, 2013?
2. Approve the opening of a new docket to investigate jurisdictional treatment of Section 6 reallocation adjustments?
3. Specifically reserve resolution of the disputed allocation differential for the new case and direct the parties to see if they can reach settlement?
4. If settlement is not possible, the Staff will advise the Commission at which time the Commission can issue a Notice of Modified Procedure to process the dispute?

  
Cathleen M. McHugh