

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PACIFICORP (U901E) for Authority to
Update its Rates Pursuant to its
Energy Cost Adjustment Clause Effective
January 1, 2014.

Application 13-08-001
(Filed August 1, 2013)

**DECISION AUTHORIZING PACIFICORP TO MODIFY
ENERGY COST ADJUSTMENT CLAUSE RATES****1. Summary**

This decision authorizes PacifiCorp to modify its Energy Cost Adjustment Clause (ECAC) rates so as to allow for recovery of its: 1) 2012 adjusted actual net power costs and fuel stock carrying charge; 2) 2013 adjusted actual and forecast net power costs and fuel stock carrying charge; and 3) its 2014 forecast net power costs and fuel stock carrying charge. The modification will result in no overall rate change to PacifiCorp's California retail customers. These new rates shall become effective upon the filing of an Advice Letter, subject to the Energy Division determining that the rates are in compliance with this Order. Finally, this decision finds that inclusion of California Air Resources Board implementation costs and mandatory verification charges is proper and consistent with PacifiCorp's approved 2013 ECAC.

2. Background

PacifiCorp is a multi-jurisdictional utility providing electric retail service to customers in California, Idaho, Oregon, Utah, Washington, and Wyoming.

PacifiCorp serves approximately 45,000 customers in Del Norte, Modoc, Shasta, and Siskiyou counties in Northern California.

PacifiCorp's general rate case application¹ filed in 2005, sought an overall revenue requirement increase and requested authority to implement an Energy Cost Adjustment Clause (ECAC) to allow for recovery of its net power costs. PacifiCorp's request was approved in Decision (D.) 06-12-011. PacifiCorp filed revised tariff sheets associated with the ECAC on December 21, 2006; these tariffs became effective January 1, 2007. On August 1, 2007, PacifiCorp sought permission to implement an ECAC to recover an increase in net power costs.² In D.07-12-015, the California Public Utilities Commission (Commission) adopted PacifiCorp's ECAC but postponed consideration of a proposed Balancing Rate to a future proceeding.

Subsequently, PacifiCorp filed Application (A.)08-08-003 and A.09-07-032, which requested authority to establish new Balancing and Offset Rates to be effective January 1 of the following year. The Commission granted PacifiCorp's requests and approved the rate increases in D.08-11-058 and D.09-12-027, respectively. PacifiCorp filed A.10-08-003 and A.11-08-011 requesting authority to modify the ECAC rates. The Commission granted PacifiCorp's requests and approved rate increases in D.10-11-021 and D.12-03-022, respectively.

D.12-03-022 authorized a rate increase of approximately \$1.64 million or 1.6 percent overall for PacifiCorp's California retail customers. The Commission also directed PacifiCorp to establish a memorandum account for recording California Air Resources Board (CARB) implementation fees and mandatory

¹ Application (A.) 05-11-022.

² A.07-08-008.

reporting and verification costs required to implement Assembly Bill (AB) 32 that had been incurred in 2011 and beyond.³ The Commission directed PacifiCorp to seek recovery of these costs, using the appropriate mechanisms for the allocation and recovery of AB 32 costs when such mechanisms were set by the Commission.

Subsequently, PacifiCorp filed A.12-08-003, requesting authority to modify the ECAC rates. On August 1, 2013, PacifiCorp filed A.13-08-001. Notice of this application appeared on the Commission's Daily Calendar on August 5, 2013. When PacifiCorp filed A.13-08-001, the Commission had not yet issued a decision on PacifiCorp's 2012 ECAC application. On September 5, 2013, the Commission granted PacifiCorp's requests and approved rate increases in D.13-09-011. The Office of Ratepayer Advocates⁴ (ORA) protested the application on September 4, 2013. No other protests were filed. On December 5, 2013, PacifiCorp filed its response to Administrative Law Judge inquiry to update the Commission on the effects of D.12-09-011 on this Application.

On December 9, 2013, a Prehearing Conference (PHC) was held to establish the scope and schedule of the proceeding. On December 30, 2013, ORA submitted its "Report on the Results of Examination for PacifiCorp ECAC Application 2014" for the period of January 1, 2007 through December 31, 2012. ORA proposed an adjustment to PacifiCorp's ECAC balancing account in the amount of \$134,546. Following the PHC parties began discussions regarding potential resolution of this case.⁵

³ Decision 12-03-022.

⁴ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill 96 (Budget Act of 2013: Public Resources) which was approved by the Governor on September 26, 2013.

⁵ A settlement conference was noticed on the two parties on the service list on January 22, 2014.

On January 28, 2014 PacifiCorp provided ORA with a proposed settlement offer reflecting parties' prior discussions. On March 20, 2014, PacifiCorp and ORA jointly moved for approval of a written stipulation that resolved all disputed issues. On April 11, 2014, PacifiCorp moved to admit into the record the previously served testimony and accompanying exhibits and moved for leave to file under seal confidential information contained in the exhibits accompanying the direct testimony of Brian S. Dickman. On ____, ORA moved to admit its Report on the Results of the Examination for PacifiCorp ECAC Application 2014 into the record.

3. Summary of 2014 Application

PacifiCorp requested approval of its 2014 ECAC rates to allow recovery of its 2012 adjusted actual net power costs, adjusted actual and forecast net power costs for 2013, forecasted net power costs for 2014, 2013 adjusted actual CARB implementation fees and mandatory reporting verification costs, and forecast 2014 CARB implementation fees and mandatory reporting verification costs. This modification would result in a rate increase of approximately \$0.4 million, or 0.4 percent overall, to PacifiCorp's California retail customers, with an effective date of January 1, 2013. This overall rate increase consists of two rate components - the Balancing Rate and the Offset Rate.

PacifiCorp requested a Balancing Rate⁶ effective January 1, 2013, of \$2.14 per megawatt-hour (MWh); a Balancing Rate of \$0.47 is currently in effect.⁷ The Balancing Rate requested by PacifiCorp includes \$291,320 in costs associated

⁶ The Balancing Rate is the rate that either returns to or recovers from customers the Total ECAC Balancing Account.

⁷ Exhibit PAC/100 at 4.

with the implementation of AB 32 that is currently being held in a memorandum account authorized by D.11-03-022.⁸ PacifiCorp also requests an Offset Rate⁹ of \$30.00 per MWh; an Offset Rate of \$31.20 per MWh was in effect when the application was filed.¹⁰ This results in a decrease to the Offset Rate of approximately \$1.0 million.¹¹ The change to the Offset Rate does not exceed the five percent threshold, but PacifiCorp proposes this change to minimize rate increases to California consumers. Overall, these two rate changes total approximately \$0.4 million, which results in a rate increase of 0.4 percent overall to California retail customers. ORA had no objection to the updated rates as proposed by PacifiCorp.¹²

PacifiCorp did not include any costs for procurement or the revenues from the sale of Greenhouse Gas (GHG) allowances to mitigate the cost of procuring allowances.¹³

PacifiCorp asserts that its requested increase is due to a number of factors, including lower loads across PacifiCorp's system and reductions in the wholesale market price for electricity and natural gas. PacifiCorp's requested increase would result in the following price changes by customer class:

⁸ Exhibits PAC/101 and PAC/203.

⁹ The second component of the ECAC, the Offset Rate, allows PacifiCorp to reset rates to reflect the forecast of net power costs for the upcoming year.

¹⁰ Exhibit PAC/100 at 7.

¹¹ A.12-08-003 at 3.

¹² November 13, 2012 Joint Prehearing Conference Statement at 2.

¹³ Joint Motion for Approval of Stipulation at 3. PacifiCorp instead filed A.13-08-007 to separately establish a forecast of GHG costs for 2013 and 2014, and GHG allowance revenue to be distributed.

Customer Class	Requested Base Price Percent Change
Residential	0.2%
Commercial/Industrial	0.3%
Irrigation	0.2%
Lighting	0.2%
Overall	0.2%

Rates for net power costs are unbundled from other rates and are collected through the ECAC Tariff Rate Rider, Schedule ECAC-94. Energy costs and revenues subject to the ECAC are accounted for in a balancing account. The balancing account is intended to be recovered annually through the ECAC filing. Thus, the ECAC provides PacifiCorp the opportunity to recover net power costs in a timely manner.

The Balancing Rate is calculated by accumulating the sum of the outstanding balance in the ECAC account as of December 2012, changes in the 2012 adjusted actual net power costs¹⁴ since the 2013 ECAC Filing, the difference between 2013 adjusted actual/forecast net power costs and the forecast net power costs projected in the 2013 ECAC filing, the Carrying Charge and Mandatory Reporting Rule and Cap and Trade administrative costs and dividing that amount by the California retail sales that were authorized in the Company's most recent general rate case, then grossing up that amount for the Franchise Fees & Uncollectible Accounts Expense Factor.¹⁵ If the Balancing Rate exceeds

¹⁴ Net power costs are generally defined as the sum of fuel expenses, wholesale purchase power expenses and wheeling expenses, less wholesale sales revenue.

¹⁵ Exhibit PAC/100 at 4.

the current rate by 5 percent, the rate is updated for the upcoming forecast period.

The Offset Rate allows PacifiCorp to reset rates to reflect the forecast of net power costs for the upcoming year. PacifiCorp calculated the current Offset Rate by summing the projected California-allocated 2014 net power costs, Carrying Charge, net metering surplus compensation, and Mandatory Reporting Rule and Cap and Trade Program costs; dividing by the California retail sales and then grossing up that amount by the Franchise Fees & Uncollectible Accounts Expense Factor.¹⁶ As with the Balancing Rate, where the new Offset Rate exceeds the current rate by 5 percent, the rate must be updated for the upcoming forecast period.

PacifiCorp did not request any costs for the procurement of GHG allowances or revenues from the sale of GHG allowances in the 2014 ECAC application.

4. Written Stipulation

Both PacifiCorp and ORA (Stipulating Parties) affirmatively state that the requirements of Rule 12.1(b) of the Commission's Rules of Practice and Procedure have been met and that the Stipulation expresses their mutual understandings and resolution of the ratemaking issues in this proceeding. The parties state that the Stipulation, discussed in detail below, resolves:

- All issues associated with the ECAC balancing account from 2007-2012;
- Provides for no change to the ECAC Balancing Rate and 2014 Offset Rate;

¹⁶ Exhibit PAC/100 at 8.

- Provides liquidated damage payments will continue to be recorded as reductions to the electric plant-in-service balances; and
- Includes CARB implementation and mandatory reporting verification costs in the ECAC.

4.1. Reduction to the ECAC Balancing Account

The Stipulating Parties agreed to a reduction to the ECAC balancing account of \$54,062, effective December 31, 2012. This stipulation reflects 50 percent of ORA's fourth adjustment in its Audit Report and results in a revised Balancing Rate of \$2.38 rather than the Balancing Rate of \$2.44 proposed by PacifiCorp.

4.2. No Change to ECAC Balancing Rate

The Stipulating Parties agreed that with the \$54,062 adjustment to the ECAC Balancing Account as discussed above, no change to the ECAC Balancing Rate is necessary at this time due to materiality.¹⁷ PacifiCorp initially requested an increase to the Balancing Rate of approximately \$245,000, but with the aforementioned adjustments, PacifiCorp's original request is effectively reduced to an increase of about \$191,000. This unrecovered amount will remain in the ECAC balancing account and be recovered in a future ECAC filing.

As a result of the Stipulation, the current Balancing Rate of \$2.14 will remain in effect.

4.3. No Change to 2014 Offset Rate

The 2014 ECAC Application is \$30.16 (\$0.16) higher than the current Offset Rate. Because the change in forecast net power costs sought in the 2014

¹⁷ PacifiCorp initially requested an increase to the Balancing Rate of approximately \$245,000.

Application is 0.7 percent, which is less than the five percent threshold for changing the Offset rate, the Stipulating Parties agree there will be no change to the Offset Rate associated with the 2014 Application.

4.4. Liquidated Damage Payments as Reductions to Electric Plant-in-Service Balances

PacifiCorp and ORA agree that liquidated damage payments received by PacifiCorp should be recorded as reductions/credits to electric plant-in-service balances. PacifiCorp already recorded these amounts in this manner.¹⁸ Therefore no adjustment to the ECAC Balancing Account is necessary. The Stipulation reflects the amounts recorded as credits to plant-in-service balance as follows:

	Total Company	California Allocated
Bridger 4LDs	\$582,500	\$9,527
Naughton 1LDs	\$285,000	\$4,661
Naughton 2LDs	\$748,000	\$12,234

4.5. CARB Implementation Fees and Mandatory Reporting Verification Costs

The Stipulating Parties agree that CARB implementation fees and mandatory reporting verification costs are appropriately included as part of the ECAC.

5. Discussion

Pursuant to Rule 12.1(d) of the Commission's Rules of Practice and procedure, the Commission will not approve a settlement (or Stipulation), unless it is "reasonable in light of the whole record, consistent with law, and in the public interest." In determining whether a settlement is fair, adequate, and

¹⁸ PacifiCorp provided a table on page 6 of the Stipulation setting forth the amounts recorded.

reasonable, the Commission reviews a number of factors. These factors include whether the settlement reflects the relative risks and costs of litigation; whether it fairly and reasonably resolves the disputed issues and conserves public and private resources; and whether the agreed-upon terms fall clearly within the range of possible outcomes had the parties fully litigated the dispute. The Commission also has considered factors such as whether the settlement negotiations were at arm's length and without collusion, whether the parties were adequately represented, and how far the proceedings had progressed when the parties settled.

The Stipulation satisfies the criteria of Rule 12.1(d). Each of the foregoing factors the Commission reviews to determine reasonableness militates in favor of the Stipulation at issue in this proceeding. The Stipulation is part of the record for this application and is supported by the testimony of Brian S. Dickman and Stacey J. Kusters, which is confidential; PacifiCorp has furnished the Commission full details under seal. The Stipulation provides sufficient data and explanations to support its provision that neither the ECAC Balancing Rate nor the 2014 Offset Rate will be altered as a result of the 2014 ECAC Application proceeding. The Stipulation also provides the total amounts recorded as credits to plant-in-service balances and an explanation of why no further adjustment to the ECAC balancing account is necessary. We have examined all the sealed documents: the Stipulation; the portions of the application, which discuss the parties' settlement efforts and PacifiCorp's rationale for Commission approval.

In our view, the Stipulation is reasonable and results in no overall rate increase for the period covered by the 2014 ECAC Application. The Stipulation's terms lie within the range of possible outcomes had this matter gone through evidentiary hearings to a decision. Considering the range of possible outcomes,

the reduction of both costs and expenditure of resources, and the attendant uncertainty, we agree that the Stipulation is a positive outcome.

There is no evidence of collusion. The parties' identities are separate and their interests, distinct. We note that the Stipulation was reached after the parties had exchanged information and engaged in comprehensive independent investigation. The negotiation process allowed the parties a further opportunity to review the relative strengths and weaknesses of their options. Every indication is that counsel on each side adequately analyzed the risks and benefits of their clients' respective positions, and advised their clients competently.

Thus, for the foregoing reasons, the Stipulation meets the criteria of Rule 12.1(d) and should be approved.

6. Conclusion

For all of the foregoing reasons, PacifiCorp's requested Balancing Rate of \$2.14 per MWh¹⁹ and requested Offset Rate of \$30.00 per MWh, effective January 1, 2013 are adopted. Liquidated damages payments received by PacifiCorp shall be recorded as reductions to electric plant-in-service balances. Because PacifiCorp has already recorded these amounts in this manner, there will be no change to the ECAC balancing account. As a result of the Stipulation approved by this decision, there will be no overall rate increase for the period covered by the 2014 ECAC Application.

The inclusion of CARB implementation costs and mandatory verification charges is proper and consistent with PacifiCorp's approved 2013 ECAC.

¹⁹ This reflects a reduction from the Balancing Rate of \$2.44 per MWh originally requested by PacifiCorp.

7. Procedural Issues**7.1. Categorization and Need for Hearings**

In Resolution ALJ 176-3319, dated August 15, 2013; the Commission preliminarily categorized this application as Ratesetting, and preliminarily determined that evidentiary hearings were necessary. On September 4, 2013, ORA protested the Application. Following the December 9, 2013, PHC, PacifiCorp and ORA engaged in settlement discussion and subsequently jointly motioned for Commission approval of a written stipulation resolving the issues raised by the protest. Division of Ratepayer Advocates and PacifiCorp agree that the Stipulation is appropriate and no changes or issues outstanding need to be resolved by hearings. Given these developments, a public hearing is not necessary, therefore the preliminary determination is changed to no hearings necessary.

7.2. Motion to Accept into the Record Previously Served Testimony and Accompanying Exhibits and Leave to File Under Seal

On July 22, 2013, PacifiCorp moved for the Commission to accept PacifiCorp's previously served testimony and accompanying exhibits into the record. PacifiCorp also moved to file the confidential material under seal, including a confidential version of its Appendix to its Application, pursuant to Rule 11.4 and General Order (GO) 66-C. These documents were identified by as PAC/200, PAC/201, PAC/202, and PAC/203.²⁰

On April 11, 2014, PacifiCorp moved to file under seal the confidential information contained in the direct testimony of Brian S. Dickman and

accompanying supporting exhibits, pursuant to Rule 11.4 and GO 66-C. These documents were identified by as PAC/100 through PAC/106.²¹

Rule 11.4 addresses a request to seal documents that have been filed. GO 66-C provides definitions and guidance regarding public and confidential records provided to and requested from the Commission. By D.06-06-066, we implemented Senate Bill 1488 which required that we examine our practices regarding confidential information, as it applies to the confidentiality of electric procurement data (that may be market sensitive) submitted to the Commission.

PacifiCorp states that Exhibits PAC/100 - PAC/106, PAC/200, PAC/201, PAC/202, and PAC/203, contain confidential information, including market sensitive information such as forecasts of load, sales, and purchase power requirements, that if disclosed would put PacifiCorp at a competitive disadvantage.

Rule 13.8(d) of the Commission's Rules of Practice and Procedure allows for testimony to be offered into evidence when hearings are not held. We therefore receive both the public and confidential versions of PacifiCorp's Application and Testimony into evidence.

With respect to the confidential material under seal, the Commission has granted similar requests for confidential treatment in the past and does so again herein. We agree the information involves market sensitive information. We therefore authorize the confidential treatment of PacifiCorp Exhibits

²⁰ PacifiCorp served the confidential versions on the Chief Administrative Law Judge, Energy Division Staff, and ORA.

²¹ PacifiCorp served the confidential versions on the Chief Administrative Law Judge, Energy Division Staff, and ORA.

PAC/100 - PAC/106, PAC/200, PAC/201, PAC/202, and PAC/203 as set forth in the ordering paragraphs of this decision.

Since the confidential versions of PacifiCorp's Application and testimony are filed, we grant PacifiCorp's motion to file these documents under seal pursuant to Rule 11.4.

8. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

9. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Katherine Kwan MacDonald is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. In Resolution ALJ 176-3319, dated August 15, 2013; the Commission preliminarily categorized this application as Ratesetting, and preliminarily determined that evidentiary hearings were necessary.
2. ORA protested the application on September 4, 2013.
3. On March 20, 2014, PacifiCorp and ORA filed a written stipulation that resolved the issues in dispute for Commission approval.
4. PacifiCorp's use of the ECAC to determine its 2013 revenue requirement increase was approved in D.06-12-011 with each of its requests for subsequent adjustments approved in D.08-11-058, D.09-12-027, D.10-11-021, and D.12-03-022.
5. The Commission had not issued a final decision on PacifiCorp's 2012 ECAC A.12-08-003 when A.13-08-001 was filed. On September 5, 2013, the

Commission granted PacifiCorp's request and approved rate increases in D.13-09-011.

6. PacifiCorp did not request any costs for the procurement of GHG allowances or revenues from the sale of GHG allowances in the 2014 ECAC application.

7. PacifiCorp and ORA stipulated to a reduction of \$54,602 to the ECAC Balancing Account, effective December 31, 2012. This results in a reduction to the requested Balancing Rate to \$2.38.

8. PacifiCorp's current 2013 Balancing Rate is \$2.14 per MWh.

9. PacifiCorp's stipulated to a 2014 Balancing Rate is \$2.14 per MWh.

10. PacifiCorp's current 2013 Offset Rate is \$30.00 per MWh.

11. PacifiCorp's stipulated to a 2014 Offset Rate is \$30.00 per MWh.

12. PacifiCorp's requested ECAC rate would result in no overall rate change.

13. After engaging in a series of discussions, PacifiCorp and ORA negotiated a settlement of all disputed and filed a written stipulation setting forth their settlement.

14. As a result of the Stipulation, the application is unopposed.

15. PacifiCorp requested that previously served testimony be received into the record.

16. PacifiCorp requested that selected testimony be given confidential treatment pursuant to GO 66-C and D.06-06-066.

17. We have granted similar requests for confidential treatment in the past.

Conclusions of Law

1. The preliminary determination made in Resolution ALJ 176-3319 of the need for evidentiary hearings should be changed to no evidentiary hearings necessary.

2. The Stipulation benefits ratepayers by avoiding the uncertainties of litigation, reduces attorney's fees and costs of litigation, and conserves resources.
3. The Settling Parties negotiated the Stipulation at arm's length and there is no evidence of collusion.
4. The Stipulation between ORA and PacifiCorp is reasonable in light of the whole record, consistent with law, and in the public interest.
5. PacifiCorp's requested 2013 Balancing Rate of \$2.14 per MWh for retail customers is reasonable and should be approved.
6. PacifiCorp's requested 2013 Offset Rate of \$30.00 per MWh for retail customers is reasonable and should be approved.
7. Liquidated damage payments received by PacifiCorp should be recorded as reductions to electric plant-in-service balances.
8. CARB implementation fees and mandatory reporting verification costs may be included as part of the ECAC.
9. We should grant PacifiCorp's motion to receive its previously served testimony into the record and should grant its motion to file the confidential versions of its testimony under seal pursuant to Rule 11.4.
10. This order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. PacifiCorp's Application 13-08-001, as modified by March 20, 2014 Written Stipulation of Pacificorp and the Office of Ratepayer Advocates, is approved.
2. PacifiCorp's requested 2014 Balancing Rate of \$2.14 per megawatt hour for retail customers is approved.

3. PacifiCorp's requested 2014 Offset Rate of \$30.00 per megawatt hour for retail customers is approved.

4. PacifiCorp is authorized to include California Air Resources Board implementation fees and mandatory reporting and verification costs when requesting modification of its Energy Cost Adjustment Clause Rates.

5. The preliminary determination made in Resolution ALJ 176-3319 of the need for evidentiary hearings (EH) should be changed to no EH necessary.

6. Within 10 days of today's date, PacifiCorp shall file a Tier 1 Advice Letter with tariffs to implement the new rates and tariff changes approved by this Order. These tariffs shall become effective January 1, 2014, subject to Energy Division determining that the tariffs are in compliance with this Order.

7. PacifiCorp's motion to receive its previously served testimony into the record is granted.

8. PacifiCorp's motion to file the confidential version of its testimony under seal, specifically PAC/100, PAC/101, PAC/102, PAC/103, PAC/104, PAC/105, PAC/106, PAC/200, PAC/201, PAC/202, and PAC/203, is granted pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure.

9. Hearings are not necessary.

Application 13-08-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California.