

141 FERC ¶ 61,010  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

October 2, 2012

In Reply Refer To:  
PacifiCorp  
Docket No. ER12-2434-000

Step toe & Johnson LLP  
Attention: Jennifer L. Key, Esq.  
Counsel for PacifiCorp  
1330 Connecticut Avenue, NW  
Washington, DC 20036

Dear Ms. Key:

1. On August 9, 2012, you filed, on behalf of PacifiCorp, two agreements to comply with Order Nos. 614<sup>1</sup> and 714.<sup>2</sup> Specifically, PacifiCorp filed a Restated Surplus Firm Capacity Sale Agreement (Surplus Capacity Agreement), dated September 27, 1994, with Bonneville Power Administration (BPA) and a Long-Term Power Sale and Exchange Agreement (Power Exchange Agreement), dated December 6, 1995, with the City of Redding, California (Redding). PacifiCorp also filed a Termination Agreement, dated November 10, 2000, with Redding which includes, among other things, the termination date for the Power Exchange Agreement. Your submittals are accepted for filing, effective October 8, 2012, subject to a compliance filing, as discussed below.

2. According to PacifiCorp, the Surplus Capacity Agreement was filed with the Commission on October 7, 1994 in Docket No. ER95-16-000. Similarly, PacifiCorp states that the four Redding agreements that are referenced in the Termination Agreement were also previously filed with the Commission.<sup>3</sup>

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<sup>1</sup> *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulations Preambles 1996-2000 ¶ 31,096 (2000).

<sup>2</sup> *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

<sup>3</sup> Specifically, PacifiCorp represents as follows: the October 19, 1993 Long-Term Power Sales Agreement was filed with the Commission on March 23,

(continued...)

3. PacifiCorp states that on May 15, 2007, it entered into a letter agreement with BPA that affected the terms and conditions of several agreements including the Surplus Capacity Agreement. Specifically, PacifiCorp states that the letter agreement primarily changed the time period for PacifiCorp's return of energy to BPA from 168 hours to 192 hours. PacifiCorp states that BPA filed the letter agreement with the Commission on May 31, 2007 in Docket No. EF06-2011-000. PacifiCorp further states that on July 3, 2007, it filed comments in support of BPA's filing, but that PacifiCorp did not include an Order No. 614-compliant version of the Surplus Capacity Agreement with its comments, which PacifiCorp states would have been the best approach to bringing the rate schedule up to date. Therefore, PacifiCorp states that in accordance with Order Nos. 614 and 714, PacifiCorp is filing the Surplus Capacity Agreement, as amended by the letter agreement, in eTariff.

4. PacifiCorp states that on November 10, 2000, it entered into the Termination Agreement to terminate two of the Redding agreements, effective November 30, 2000, but failed to file the Termination Agreement with the Commission.<sup>4</sup> PacifiCorp requests that the transmittal letter in this docket be considered as a Notice of Cancellation of the entirety of one of its rate schedules.<sup>5</sup> In addition, PacifiCorp states it is submitting in eTariff an Order Nos. 614 and 714-compliant version of the Power Exchange Agreement, which will effectuate the Termination Agreement.

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1994 in Docket No. ER94-1079 and designated as Rate Schedule No. 364; the April 25, 1995 Redding Power Exchange Agreement was filed on May 1, 1995 in Docket No. ER95-981 and designated as Supplement No. 7 to Rate Schedule No. 364; the December 6, 1995 Power Exchange Agreement was filed on December 26, 1994 in Docket No. ER96-685, which was also inadvertently designated as Rate Schedule No. 364; and the December 6, 1995 Long-Term Power Purchase Agreement was filed on January 20, 1998 in Docket No. ER98-1461, which was designated as Supplement No. 8 to Rate Schedule No. 425. However, PacifiCorp states that it has no record of a Rate Schedule No. 425 and could not locate such a schedule in the Commission's records.

<sup>4</sup> According to PacifiCorp, the Termination Agreement specifically terminated the Long-Term Power Sales Agreement and the Long-Term Power Purchase Agreement. PacifiCorp also states that the Termination Agreement noted that the Redding Power Exchange Agreement would terminate by its own terms on November 30, 2000.

<sup>5</sup> Specifically PacifiCorp wants the transmittal letter to be considered a Notice of Cancellation of Rate Schedule No. 425, the rate schedule associated with the Long-Term Power Purchase Agreement.

5. PacifiCorp acknowledges that these agreements were not filed in a timely manner. However, PacifiCorp states that no time value refunds are due. According to PacifiCorp, it earned no revenues under the Surplus Capacity Agreement and was compensated for energy in the form of energy. PacifiCorp also states that the Termination Agreement merely cancelled two agreements with Redding and no revenues were collected. Therefore, PacifiCorp concludes that no time value refunds are due in either case.
6. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 50,094 (2012) with interventions and comments due on or before August 30, 2012. On August 30, 2012, Redding filed a motion to intervene and comments.
7. Section 5.1 (Effective Date and Termination Date) of the Power Exchange Agreement, states that “the Agreement shall terminate at 2400 hours, November 30, 2015.” However, the Termination Agreement states that the Power Exchange Agreement “will remain in effect until its designated termination date of December 31, 2015.”
8. In its motion to intervene and comments, Redding points out that there is a one-month discrepancy between the two documents with respect to the termination date for the Power Exchange Agreement and requests the Commission to leave the record open pending a filing clarifying the correct termination date.<sup>6</sup>
9. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), Redding’s timely, unopposed motion to intervene serves to make it a party to this proceeding.
10. We accept for filing the Surplus Capacity Agreement between PacifiCorp and BPA effective October 8, 2012. In addition, the Commission agrees with Redding that there is a discrepancy regarding the termination date for the Power Exchange Agreement as stated in the Power Exchange Agreement and the Termination Agreement. The Commission hereby orders PacifiCorp to make a compliance filing clarifying the correct termination date for the Power Exchange Agreement within 30 days of the date of this order. Therefore, the Commission accepts for filing the Power Exchange Agreement and the Termination Agreement effective October 8, 2012, subject to PacifiCorp’s submitting the required compliance filing. In addition, if the tariff record filed with the Commission does not reflect the correct termination date, the Commission orders PacifiCorp to refile, within 30 days of the date of this order, the tariff record with the proper termination date.

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<sup>6</sup> Redding Intervention at 6. Redding states that as of the date of its motion, counsel for Redding had contacted counsel for PacifiCorp but had not been able to confirm the correct termination date.

11. Finally, in the *Prior Notice Orders*, the Commission stated that “we will require the utility to refund to its customers the time value of revenues collected, calculated pursuant to section 35.19a of our regulations (18 C.F.R. § 35.19a), for the entire period that the rate was collected without Commission authorization.”<sup>7</sup> Based on PacifiCorp’s representations that no revenues were collected pursuant to these late-filed agreements, no refunds are required.<sup>8</sup>

By direction of the Commission

Kimberly D. Bose,  
Secretary.

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<sup>7</sup> *Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *order on clarification*, 65 FERC ¶ 61,081 (1993).

<sup>8</sup> PacifiCorp failed to file the agreements in a timely manner. PacifiCorp is once again reminded that it must submit required filings on a timely basis or face possible sanctions by the Commission.