

139 FERC ¶ 61,249  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
and Cheryl A. LaFleur.

PacifiCorp

Docket No. ER12-1812-000

ORDER GRANTING REQUEST FOR LIMITED WAIVER

(Issued June 21, 2012)

1. On May 17, 2012, PacifiCorp filed a request for a limited, one-time waiver of Attachment H-2 (Formula Rate Implementation Protocols), Part II (Annual Review Procedures) of its open access transmission tariff (OATT). Specifically, waiver has been requested to permit PacifiCorp to hold a Customer Meeting no later than sixty (60) days after publication of the annual update to its formula rates. For the reasons set forth below, the Commission grants PacifiCorp's request.

**I. Background**

2. On May 26, 2011, PacifiCorp filed revisions to its OATT to replace stated rates for Network Integration Transmission Service, Point-to-Point (PTP) Transmission Service, and Schedule 1 (Scheduling, System Control, and Dispatch Service) with formula rates, as found under Attachment H to its OATT. On August 8, 2011, the Commission accepted PacifiCorp's Filing, suspended it for five months, to become effective January 1, 2012, subject to refund, and established hearing and settlement procedures.<sup>1</sup>

3. PacifiCorp states that Attachment H-2 of its OATT includes protocols that, in general, specify how and when its formula rates will be updated, describe the review process, and detail how disputes regarding the updated formula rates will be resolved.<sup>2</sup> "Annual Review Procedures" are discussed in Part II of Attachment H-2, and stipulate PacifiCorp's obligation to host a Customer Meeting each year in order to allow customers an opportunity to seek information and clarifications from PacifiCorp about the annual

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<sup>1</sup> *PacifiCorp*, 136 FERC ¶ 61,092 (2011).

<sup>2</sup> *PacifiCorp* Filing at 2.

update to its formula rates, among other things. The first scheduled annual update will occur in June 2012.

## **II. PacifiCorp's Filing**

4. In accordance with its Annual Review Procedures, PacifiCorp is required to hold an annual Customer Meeting no sooner than ten (10) days, and no later than thirty (30) days, after the Publication Date of PacifiCorp's annual update to its formula rates.<sup>3</sup> PacifiCorp's tariff requires the annual update to be published on June 1 of each year and, accordingly, the Customer Meeting takes place between June 10 and June 30 of each year.<sup>4</sup> Because June 10, 2012 and June 30, 2012, occur on a weekend, PacifiCorp states the 2012 Customer Meeting would normally take place between June 11, 2012 and July 2, 2012.

5. According to PacifiCorp, several of its largest transmission customers have requested to defer the Customer Meeting until later in July 2012. PacifiCorp contends their request is driven by the considerable efforts and resources devoted to reaching settlement in PacifiCorp's ongoing formula rates case, and because this year marks the first year the Annual Review Procedures are being applied. To accommodate its customers, PacifiCorp requests a limited, one-time waiver of its Formula Rate Implementation Protocols with respect to the timing of the Customer Meeting, as found under its Annual Review Procedures, so that the Customer Meeting may be held no later than sixty (60) days, rather than thirty (30) days, after the Publication Date of its formula rates.

6. Upon receiving the request to defer the Customer Meeting, PacifiCorp states it made the proposed deferral transparent to all parties to the Docket No. ER11-3643-000 proceeding, and that no party objected. PacifiCorp also maintains that the waiver will give customers additional time to analyze the first annual update to its formula rates and prepare for the first Customer Meeting. PacifiCorp expects that future extensions will not be necessary as customers gain experience with the Annual Review Procedures.

7. PacifiCorp claims that granting the requested waiver is consistent with prior Commission precedent, where the Commission held that a one-time waiver of a tariff requirement is appropriate when "good cause for a waiver of limited scope exists, there

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<sup>3</sup> Request for Waiver at 3 (citing the Protocols § II.1).

<sup>4</sup> Prior to hosting a Customer Meeting, PacifiCorp is required to provide interested customers with at least thirty (30) days notice of its intent to organize a Customer Meeting, to be held face-to-face or via conference call.

will be no undesirable consequences to third parties by granting the waiver, and the resultant benefit to customers are evident.”<sup>5</sup> PacifiCorp notes that, although certain deadlines under the Annual Review Procedures are tied to the Customer Meeting, these deadlines would also be extended if the Commission grants the extension for the Customer Meeting.

### **III. Notice of Filing and Responsive Pleadings**

8. Notice of Portland General’s Filing was published in the *Federal Register*, 77 Fed. Reg. 31,346 (2012), with interventions and protests due on or before June 7, 2012. None were filed.

### **IV. Commission Determination**

9. The Commission has previously granted one-time waivers of tariffs involving an emergency situation or an unintentional error.<sup>6</sup> In addition, the Commission has found good cause to grant waiver where the waiver is of limited scope, where there are no undesirable consequences, and where there are resultant benefits to customers.<sup>7</sup> We find that PacifiCorp’s waiver request meets these criteria.

10. Specifically, the requested waiver is limited to Attachment H-2, Part II of PacifiCorp’s OATT to allow PacifiCorp an additional thirty (30) days to convene its 2012 Customer Meeting. Based on PacifiCorp’s assertions, granting the requested waiver will not have undesirable consequences, such as harming third parties because the waiver will

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<sup>5</sup> PacifiCorp Filing at 4 (citing to *Hydrogen Energy California, LLC*, 135 FERC ¶ 61,068 at P 26 (2011)).

<sup>6</sup> See, e.g., *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (granting limited and temporary change to tariff to correct an error); *Great Lakes Gas Transmission LP.*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving force majeure event for good cause shown); and *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

<sup>7</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,020, at P 8 (2010); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132, at P 14 (2010), *order on reh’g*, 137 FERC ¶ 61,062 (2011); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031, at P 19, *reh’g denied*, 124 FERC ¶ 61,293 (2008); *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, at P 24, *order on clarification*, 120 FERC ¶ 61,180 (2007).

have no impact on rates.<sup>8</sup> Moreover, PacifiCorp's transmission customers will benefit from having additional time to review the annual update to PacifiCorp's formula rates.

11. For these reasons, the Commission finds good cause to grant a one-time waiver, as discussed herein. Thus, consistent with this limited waiver and PacifiCorp's Annual Review Procedures under Attachment H-2, Part II, PacifiCorp shall convene a Customer Meeting no later than sixty (60) days following publication of its annual update, or by July 30, 2012.

The Commission orders:

(A) PacifiCorp's limited waiver request is hereby granted, as discussed in the body of this order.

(B) PacifiCorp must hold its Customer Meeting no later than July 30, 2012, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>8</sup> See, e.g., *PJM Interconnection, L.L.C.*, 128 FERC ¶ 61,162, at P 8 (2009); *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (addressing temporary tariff waivers).