

146 FERC ¶ 61,225
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

PacifiCorp

Docket No. ER02-653-002

ORDER ACCEPTING COMPLIANCE FILING, GRANTING
CLARIFICATION AND TERMINATING PROCEEDING

(Issued March 25, 2014)

1. In an order issued on December 19, 2013, the Commission invited any interested party who objects to Commission acceptance of PacifiCorp's 2002 compliance filing and termination of this proceeding to file a statement within thirty days presenting reasons why this proceeding should not be terminated.¹ The Show Cause Order explained that, if no such objection was filed, the Commission would deem the compliance filing to be accepted and would terminate this proceeding as moot. In response, Noble Americas Energy Solutions LLC (Noble Solutions), requested that the Commission clarify that acceptance of PacifiCorp's 2002 compliance filing would not alter PacifiCorp's currently-effective open access transmission tariff (OATT). Noble Solutions otherwise did not object to acceptance of the 2002 compliance filing or to termination of the proceeding.

2. In this order, the Commission accepts PacifiCorp's 2002 compliance filing as in compliance with the Commission's directives, terminates the proceeding, and also grants the requested clarification.

I. Background

3. On December 31, 2001, in Docket No. ER02-653-000, PacifiCorp filed numerous revisions to its OATT, including a transmission capacity plan for retail direct access customers, designed to accommodate implementation of retail access in Oregon, set to begin on March 1, 2002. In an order issued in February 2002, the Commission, among other things, accepted in part and rejected in part the OATT revisions intended to

¹ *PacifiCorp*, 145 FERC ¶ 61,220 (2013) (Show Cause Order).

accommodate retail access in Oregon.² Specifically, the Commission rejected PacifiCorp's proposal for a *pro rata* initial allocation of available transmission capacity, for participants in the retail access program, as unsupported. On July 2, 2002, PacifiCorp filed OATT revisions proposing to comply with Commission directives in the February 2002 Order and June 2002 Rehearing Order.

4. In its July 2002 compliance filing, PacifiCorp removed the *pro rata* allocation proposal from its OATT and explained in its August 7, 2002 answer that it was pursuing a transmission capacity plan for Oregon's retail access customers outside of the OATT.³ In a protest to the July 2002 compliance filing, Industrial Customers of Northwest Utilities (Industrials) argued that Oregon's retail access program had failed in part because PacifiCorp's OATT was inadequate to service retail access customers.⁴ Industrials requested that the Commission direct PacifiCorp to resubmit a retail transmission rights proposal for Oregon retail access.

5. PacifiCorp responded that the rules related to retail access in Oregon were the subject of an ongoing rulemaking proceeding before the Oregon Public Utilities Commission (Oregon PUC), in which the issues raised by Industrials were being discussed, and where PacifiCorp, along with Oregon PUC staff and other interested stakeholders, planned to continue their discussions regarding retail access in an attempt to reach consensus. Accordingly, PacifiCorp requested that the Commission delay taking further action until PacifiCorp refiles, if and when the Oregon PUC and relevant state stakeholders found such a filing necessary.⁵

II. Discussion

6. The July 2002 compliance filing remains an open, pending matter. The Commission found in the December 2013 order that with the passage of time the filing may have been overtaken by subsequent events and thus made moot. Therefore, the Commission invited any interested party who objected to acceptance of the filing and termination of the proceeding to file a statement within thirty days, presenting reasons why the proceeding should not be terminated. Absent such a statement, the Commission

² *PacifiCorp*, 98 FERC ¶ 61,224, at 61,882 (2002), (February 2002 Order), *order on reh'g*, 99 FERC ¶ 61,259 (2002) (June 2002 Rehearing Order).

³ *See PacifiCorp's July 2002 Compliance Filing; see also PacifiCorp's August 2002 Answer at 3.*

⁴ *See Industrials' Protest at 2-3.*

⁵ *See PacifiCorp's September 9 Answer at 3.*

would deem PacifiCorp's July 2002 compliance filing to be accepted and would terminate this proceeding.

7. On January 21, 2014, Noble Solutions, a retail electricity energy service provider, intervened, expressing its concern that the Commission's acceptance of PacifiCorp's July 2002 compliance filing might result in chronologically inaccurate changes to the currently effective OATT. Noble Solutions is concerned that the revisions to the OATT that were made in the 2002 compliance filing have since been subsumed and superseded by subsequently filed, Commission-accepted revisions to the OATT. Noble Solutions requests clarification that the chronological sequencing of the 2002 filing will not result in changes to the currently-effective OATT. Noble Solutions requests that the Commission either terminate the proceeding without accepting the 2002 compliance filing, in order to preserve the currently-effective OATT or, alternatively, clarify that acceptance would result in no changes to the currently-effective OATT.

8. The Commission finds that granting the requested clarification would be consistent with the Commission's concern in the Show Cause Order that, with the passage of time, the July 2002 compliance filing may have been overtaken by subsequent events and is now moot. Therefore, while we accept the July 2002 compliance filing, we clarify that our acceptance of the July 2002 compliance filing does not undo any subsequent Commission approval of PacifiCorp's currently-effective OATT. Accordingly, we accept PacifiCorp's July 2002 compliance filing and terminate this proceeding, and we also clarify that this acceptance does not alter PacifiCorp's currently-effective OATT.

The Commission orders:

The Commission hereby accepts PacifiCorp's July 2002 compliance filing, as discussed in the body of this order, and terminates this proceeding.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.