

145 FERC ¶ 61,220  
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 TO SHOW CAUSE WHY PROCEEDING  
SHOULD NOT BE TERMINATED

(Issued December 19, 2013)

1. In this order, the Commission invites any interested party who objects to the Commission accepting PacifiCorp's 2002 compliance filing and terminating this proceeding to file a statement within thirty days of issuance of this order, presenting reasons why this proceeding should not be terminated. If no such objection is filed within thirty days of issuance of this order, the Commission will deem the compliance filing to be accepted and will terminate this proceeding as moot.

**I. Background**

2. On December 31, 2001, in Docket No. ER02-653-000, PacifiCorp filed numerous OATT revisions designed to accommodate implementation of retail access in Oregon, set to begin on March 1, 2002. Among other things, PacifiCorp proposed a permanent Pro Rata Allocation of transmission capacity to retail access customers based on their historical use of PacifiCorp's transmission system. In an order issued in February 2002, the Commission, among other things, rejected the Pro Rata Allocation Proposal because it lacked sufficient specificity.<sup>1</sup>

3. On July 2, 2002, PacifiCorp submitted a compliance filing proposing revisions to its Open Access Transmission Tariff (OATT) to comply with the Commission's directives as explained in the February 2002 Order and June 2002 Rehearing Order. Notice of PacifiCorp's compliance filing was published in the *Federal Register*, 67 Fed. Reg. 47,360 (2002), with interventions and protests due on or before July 23, 2002. A timely protest was filed by Industrial Customers of Northwest Utilities (Industrials). On August 7, 2002, PacifiCorp filed an answer (August 2002 answer) to the Industrials'

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<sup>1</sup> *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).

protest. On August 23, 2002, Industrials filed a motion to strike. The compliance filing and the subsequent pleadings remain pending before the Commission.<sup>2</sup>

## II. Discussion

4. In the 2002 compliance filing, PacifiCorp, among the other required directives, removed the Pro Rata Allocation Proposal from its OATT. In clarifying its withdrawal of the Proposal, PacifiCorp explained in its August 2002 answer that it could pursue a transmission capacity plan for Oregon's retail access customers outside of the OATT. The Industrials argued in their protest to the compliance filing that Oregon's retail access program had failed in part because PacifiCorp's OATT was inadequate to service retail access customers.<sup>3</sup>

5. The Industrials requested that the Commission direct PacifiCorp to resubmit a retail transmission rights proposal that would create a workable model for retail access in Oregon. 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 essentially the same issues raised in this proceeding by the Industrials were being discussed, and where PacifiCorp, along with Oregon PUC staff and others planned to continue their discussions regarding retail access in an attempt to reach consensus. Accordingly, PacifiCorp's August 2002 Answer requested that the Commission delay taking further action, stating, "PacifiCorp simply urges this Commission to await any action until it receives a new filing from the Company if and when the Oregon Public Utility Commission and relevant state stakeholders, including the Company and [the Industrials], determine that such a filing is necessary."

6. PacifiCorp's 2002 compliance filing complies with the directives in the February 2002 Order, however, it remains an open, pending matter and the Commission has received no additional filings in the proceeding. With the passage of time the filing may have been overtaken by subsequent events and thus made moot.

7. The Commission invites any interested party who objects to the termination of this proceeding to file a statement within thirty days of the issuance of this order, presenting

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<sup>2</sup> PacifiCorp's August 2002 Answer requested the Commission delay taking further action, explaining that developments in Oregon regarding retail access programs were under discussion and negotiation. Accordingly, the Commission did not issue an order addressing PacifiCorp's compliance filing. However, despite the passage of time, the parties have not presented to the Commission any report that these issues have been resolved.

<sup>3</sup> See generally Industrials' protest. See Industrials' protest at pp. 2-3.

reasons why this proceeding should not be terminated. Absent such a statement, the Commission will deem PacifiCorp's 2002 compliance filing to be accepted and will terminate this proceeding.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.