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DEPARTMENT OF COMMERCE
Office of Consumer Services

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Date: October 15, 2012

Subject: Docket No. 12-035-68 re: Division Prudence Review of PacifiCorp
REC Sales and Audit Report

Background

On September 14, 2012 the Division of Public Utilities (Division), filed a confidential and a public version of its Prudence Review of PacifiCorp REC¹ Sales and Audit Report (Report). This filing was made in compliance with the Public Service Commission's (Commission) May 30, 2012 Report and Order which directed the Division to perform an audit and "examine all aspects of the Company operations pertaining to its REC revenue during the relevant period...". The relevant period being reviewed is the twelve months ended December 31, 2011.

The Report identifies that a Division auditor performed an audit and "found no material discrepancies in the Company's records of REC transactions".² The resulting Audit Report was included as an attachment to the Report. The Report goes on to detail some of the documents that the Division reviewed in order to reach its conclusions and recommendations.

Since much of the material reviewed, as well as portions of the Division's Report are confidential we will avoid reference to those specific elements in this discussion.

¹ Renewable Energy Credits.

² Report at page 2.

Division Report

In its analysis the Division specifically points to the Company's responses to UIEC data request 1.7.³ The response identifies the approximate number of potential RECs generated by the Company in 2011, the number reserved to satisfy state renewable portfolio standards (RPS), the number sold and an approximate number of RECs left unsold. Because of the number of RECs left unsold, according to the Division, the impression is that the Company is "less than aggressive in marketing its available RECs". To address impressionist concerns, the Division considered three specific areas in its evaluation: 1) what the Company did to try to sell its RECs; 2) if the amount sold was reasonable; and 3) whether the price received was reasonable.

In an effort to sell its RECs the Division reports that the Company: 1) bid into ten third-party RFPs; 2) issued two RFPs to sell its available RECs; and 3) made frequent contact with (primarily) two brokers regarding potential buyers of its RECs. Additionally, the Company has an employee whose principal job is to track the REC market and find potential buyers for the Company's RECs.

The Division describes the research and analysis it did in an effort to ascertain whether the RECs sold represent a reasonable amount of those available as well as the prices the Company obtained for RECs it sold. Due to the limitation of available market data the Division has been unable to definitely conclude that the Company should or should not have been able to sell more RECs in 2011.

Despite the inconclusiveness of data the Division's overall research and analysis led it to recommend "that the Commission approve the interim rates set under this docket as final".

Office Analysis

The Office of Consumer Services (Office) agrees that evaluating steps the Company took to sell its RECs and if the amount sold and the prices received were reasonable form the groundwork for determining, not just the accuracy of the Company's accounting, but the reasonableness of the Company's approach to selling its RECs.

The Office has reviewed much of the same and/or similar information on which the Division based its analysis. This included responses to data requests of various parties, on-site review of highly sensitive documents as they pertain to the REC inventory and REC sales; research and on-site interviews with PacifiCorp personnel in recent general rate cases; a discussion with the Company related to the Division's Report; the Audit Report included with the Division's Report; and to the extent possible research regarding the potential for REC sales both inside and outside of the PacifiCorp system.

As mentioned above the Company's response to UIEC 1.7 included the number of unsold RECs and created the impression that the Company could perhaps do more to market its RECs. To clarify this perception the Division states that the Company explained the numbers provided in data response UIEC 1.7 are "misleading as to the amount of RECs

³ Numbers in the response are confidential and can be found in the Division's confidential report.

actually sellable.” The Company points out a number of RECs are from hydro facilities and additional RECs are from QFs⁴ which do not qualify under certain states renewable portfolio standards (RPS). The Office recognizes that state rules that preclude utilities from utilizing RECs from certain resources to fulfill their requirements, as well as some states requirements with regards to the bundling of RECs with the energy that generates those RECs is a limiting factor to the Company’s ability to sell some of its RECs.

Conclusion

The REC trading market is extremely limited, tight and secretive with very little information publicly available to determine with absolute certainty what purchasers are willing to pay for RECs and how many RECs they are willing to purchase.

The Office’s research and analysis found nothing to contradict the Company’s numbers and assertions regarding the level of efforts undertaken to sell its available RECs, or the Division’s audit. Further, the Office concurs that inadequate public information is available on which to fully evaluate whether the Company is maximizing its efforts to sell its available RECs and if the maximum potential value is being received for the RECs. Therefore, the Office concludes that there is no basis to make a case against the Company’s approach under existing conditions.

As a result of the settlement agreement in this docket (and Docket Number 11-035-200) the Company will be permitted in the future to keep ten percent of the revenue from incremental REC sales. This sharing of revenue will potentially incent the Company to more aggressively pursue an expansion of REC sales. While the public availability of market data will still be limited, the incentive may alleviate some of the concern regarding the adequacy of the Company’s efforts to sell its RECs.

Recommendation

The Office concurs with the Division’s recommendation that the Commission approve the interim rates set under this docket as final.

⁴ The number of RECs in each category is confidential but can be found in the Division’s Confidential Report at pages 3 and 4.