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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of PacifiCorp d/b/a Rocky Mountain Power's Request for a Declaratory Ruling Regarding Allocation of Interconnection Costs Under the Public Utility Regulatory Policies Act	Docket No. 17-035-25

INITIAL COMMENTS OF GLEN CANYON SOLAR A, LLC AND GLEN CANYON SOLAR B, LLC ON ROCKY MOUNTAIN POWER'S REQUEST FOR DECLARATORY RULING

Glen Canyon Solar A, LLC and Glen Canyon Solar B, LLC (collectively, "**Glen Canyon Solar**"), pursuant to the Notice of Filing and Comment Period issued by the Commission in this docket, submit these Initial Comments on the Request for Declaratory Ruling ("**Request**") filed by Rocky Mountain Power ("**RMP**") in this docket.

I. INTRODUCTION

Glen Canyon Solar is developing two solar qualifying facilities ("**QF**") projects in Kane County, Utah, and has executed power purchase agreements ("**PPAs**") with RMP for the output of those facilities that are before the Commission for approval in Dockets 17-035-26 and 17-035-28. The "Large Generator Interconnection System Impact Study Report" dated July 26, 2016 for

Interconnection Customer Q0710 ("**SIS Report**") referenced in and attached to RMP's Request in this docket was performed by PacifiCorp's transmission function ("**PacTrans**") at the request of Glen Canyon Solar's parent company, Sustainable Power Group ("**sPower**"), with respect to a larger, non-QF solar project being developed by sPower at that time. In response to transmission constraints identified by PacTrans, sPower scaled back its plans for a larger solar project, at least for now, and in its place Glen Canyon Solar developed the two smaller QF projects ("**GC Projects**") identified in Glen Canyon Solar's PPAs ("**GC PPAs**"), which are sized precisely to match RMP's available transmission rights in that area.

Notwithstanding the fact that the initial development plans were scaled back to match RMP's available transmission rights, and notwithstanding applicable and dispositive procedures and requirements of RMP's Schedule 38 and FERC regulations and precedent, RMP filed the Request in this docket purportedly seeking declaratory relief that would presumably apply to the GC Projects, as well as to other QF projects. The relief RMP seeks, however, is not based on facts and circumstances relevant to the GC projects. Indeed, the Request fails to sufficiently identify any facts or circumstances upon which it *is* based. Instead, the Request makes a series of factual and legal assertions that are unsupported, misleading and/or inaccurate, and requests relief that is inconsistent with federal and state law. In addition, the Request improperly seeks relief that will substantially affect the rights of many current or future QF developers without their written consent. The Request should thus be dismissed.

As discussed in more detail in Section III, below, RMP's Request in this docket is facially defective, unnecessary and unhelpful in resolving any specific disputes, and inconsistent with RMP's legal obligations and Commission-approved avoided cost pricing calculations.

Indeed, even the caption of the Request is misleading, in that it purports to address responsibility for the cost of *interconnection facilities*, while in reality it asks the Commission to wade into a complicated area of FERC jurisdiction dealing with responsibility for the cost of *network transmission upgrades* ("**Network Upgrades**").

Interconnection service and *transmission* service are separate and distinct and should not be conflated or confused. Generator-specific costs required to *interconnect* a generator to the power grid are clearly borne by the generator, while *Network Upgrade* costs required to move power from the point of interconnection to load on the transmission system are typically required by FERC to be shared across all transmission customers. If the Commission wishes to investigate the rights and obligations of RMP and QF developers on a prospective basis for projects in "transmission constrained areas," and for issues within its jurisdiction, procedurally appropriate adjudicative and/or rulemaking proceedings will be required. In any event, Glen Canyon Solar intends to initiate an adjudicative proceeding to provide a proper procedural framework for resolution of factual and legal issues of relevance to the GC Projects.

II. FACTUAL BACKGROUND[1]

Facts Relating to RMP's Request

1. RMP's Request seeks a declaratory ruling intended to substantially affect the rights of all developers with QF projects in a "transmission-constrained area,"[2] presumably

[1] The Commission's Notice in this docket contemplates two rounds of comments, but not testimony, an evidentiary record, motions or briefs. Glen Canyon Solar offers these background facts, in the nature of a proffer, to demonstrate that RMP's Request should be dismissed or denied. Glen Canyon Solar is prepared, in the appropriate context and proceeding, to support its proffer through factual and expert testimony and briefs.

[2] Request at 8.

including Glen Canyon Solar, but RMP has not shown that such developers have consented to have their rights adjudicated in this declaratory ruling docket.

2. RMP's Request fails to demonstrate that any facts or circumstances referenced in the Request are applicable to any specific Utah QF project, or that they are generally applicable to all potentially affected QF projects.

3. The only specific project referenced in the Request is a large, non-QF project that was later withdrawn, downsized, and re-filed as smaller QF projects.[3]

4. The minimal facts or circumstances alleged in the Request are not representative of any specific Utah QF project and are not applicable to the scaled-down GC Projects.

5. The Request confuses and conflates the concepts of facilities required for an *interconnection* itself, and transmission facility *Network Upgrades*, as well as requirements for payment of such costs.

6. Existing Commission Rules relied upon in the Request are not applicable to a QF larger than 20 megawatts ("**MW**").[4]

7. RMP's Commission-approved Schedule 38 provides that requests for interconnection and transmission for a QF larger than 20 MW will be processed according to the FERC-approved PacifiCorp Open Access Transmission Tariff, FERC Electric Tariff Volume No. 11, Updated February 13, 2017 ("**OATT**").[5]

[3] *Id*. at 7-13. As explained below, the large, non-QF sPower project referenced in the Request was downsized to two smaller QF projects to match exactly RMP's available firm transmission rights.
[4] *See* Utah Admin. Code R746-312.
[5] RMP Schedule 38, § II.B, at Sheet 38.10.

Background Facts Relating to Glen Canyon Solar's QF Projects

8. In early 2015, sPower, began development efforts for a 380 MW solar facility in the Four Corners area, including initiation of discussions with RMP regarding the purchase of energy from the project and with PacTrans regarding interconnection of the project into PacTrans' Sigurd-to-Glen Canyon 230 kV line ("**Sigurd-GC Line**").

9. After sPower was informed by PacTrans that the Sigurd-GC Line had a total line capacity of less than 380 MW, sPower downsized its project to 240 MW and asked PacTrans to prepare a System Impact Study ("**SIS**") for a non-QF project, with an option to later convert to QF projects.

10. The SIS Report indicated that firm transmission service for a 240 MW non-QF project would require significant Network Upgrades at a cost of nearly $400 million, in addition to the cost of facilities required for the interconnection itself ("**Interconnection Costs**") of approximately $15 million.[6]

11. In response to the SIS Report, sPower withdrew its 240 MW request and its subsidiary, Glen Canyon Solar, submitted new interconnection and QF pricing requests. Initially, Glen Canyon Solar submitted a new interconnection request for a combined total

[6] The terms "Interconnection Facilities" and "Network Upgrades" are distinct and are defined in Section 36 of the OATT. "Interconnection Facilities" include "all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider's Transmission System. *Interconnection Facilities are sole use facilities and shall not include . . . Network Upgrades*." (OATT § 36 "Interconnection Facilities" (emphasis added)). "Network Upgrades" are "the additions, modifications, and upgrades to the Transmission Provider's Transmission System required *at or beyond the point at which the Interconnection Facilities connect to the Transmission Provider's Transmission System* to accommodate the interconnection of the Large Generating Facility to the Transmission Provider's Transmission System. (OATT § 36 "Network Upgrades" (emphasis added)).

capacity of 136 MW, which was later revised down to 95 MW based on information from RMP that it owns 95 MW of firm network transmission rights on the Sigurd-GC Line ("**Existing RMP Transmission Rights**") that can be used for the GC Projects. The size of the GC Projects was thus matched exactly to the Existing RMP Transmission Rights.

12. PacTrans has been asked to prepare a new SIS for the 95 MW GC Projects. This new SIS should not include the cost of the Network Upgrades included in the SIS Report for the larger non-QF projects, because RMP—as the purchaser of QF energy—must request network transmission service and RMP holds 95 MW of network transmission rights that match precisely the capacity of the GC Projects.

13. PacTrans has been asked to reflect in the SIS for the GC Projects the need for Interconnection Costs only, given that RMP must request network transmission service pursuant to Schedule 38 and given the Existing RMP Transmission Rights. PacTrans has indicated that it will do so only with written confirmation from RMP that it intends to utilize the Existing RMP Transmission Rights for the GC Projects.

14. RMP has been asked on numerous occasions to send written confirmation as requested by PacTrans, but RMP refuses to do so, claiming that it has no obligation to send such confirmation or otherwise to use the Existing RMP Transmission Rights for the GC Projects.

15. The GC PPAs were executed on or before May 1, 2017. Under Schedule 38, RMP is required to submit a transmission service request ("**TSR**") for the GC Projects within seven days of the date the PPAs are executed or otherwise as early as practicable based on applicable OATT procedures. To Glen Canyon Solar's knowledge, RMP has not submitted a proper TSR Request; Glen Canyon Solar understands that RMP's TSR for the GC Projects is

currently listed as withdrawn. In addition, to Glen Canyon Solar's knowledge, RMP continues to refuse to notify PacTrans that it will utilize the Existing RMP Transmission Rights for the GC Projects.

16. The TSR is the planning mechanism through which RMP can and should utilize its 95 MW of Existing RMP Transmission Rights to transmit the GC Energy to be purchased pursuant to the GC PPAs, which would avoid any transmission system Network Upgrades and any associated ratepayer impacts for costs of unnecessary Network Upgrades.

Existing RMP Transmission Rights

17. There is 300 MW of Total Transfer Capacity ("**TTC**") on the Sigurd-GC Line south to north,[7] but no remaining Available Transfer Capacity ("**ATC**").[8] RMP holds 95 MW of long-term firm network integration transmission service rights on this path. That is, of the 300 MW of TTC, RMP owns 95 MW of firm transmission rights on this path.[9]

18. The 95 MW of Existing RMP Transmission Rights on this Path are sufficient to allow RMP to transmit, from the point of interconnection of the GC Projects to RMP's load, all of the GC Energy.

[7] TTC represents the megawatts of electric energy that can be moved or transferred reliably from one area to another through transmission lines (or paths) between those areas. See OATT Attachment C, Pg. 261.

[8] ATC is a measure of a transmission path's remaining transfer capability for incremental commercial activity above and beyond already committed uses. *See* OATT Attachment C, Pg. 260.

[9] Of the remaining 205 MW of TTC on the Path, 190 MW are allocated to the Western Area Power Administration's Colorado River Storage Project, with the remaining 15 MW reserved for a reliability margin.

19. Section 32.3 of the OATT allows transmission customers to use various options for the redispatch of resources ("**Redispatch**") to accommodate a new network resource. It provides, in relevant part:

> Upon receipt of an executed System Impact Study Agreement, the Transmission Provider will use due diligence to complete the required System Impact Study within a sixty (60) day period. The System Impact Study shall identify (1) any system constraints, identified with specificity by transmission element or flowgate, (2) ***redispatch options (when requested by an Eligible Customer)*** including, to the extent possible, an estimate of the cost of redispatch.…[10]

20. On December 24, 2014, PacifiCorp filed for FERC acceptance ("**FERC NOA Filing**")[11] a proposed amendment ("**NOA Amendment**") to the Network Operating Agreement (as amended, the "**NOA**") between PacTrans and RMP. The FERC NOA Filing sought confirmation that, under the NOA Amendment, PacTrans could, consistent with the Redispatch options contemplated by Section 32.3 of the OATT, "grant additional Designated Network Resource ("**DNR**") applications on behalf of [RMP] **in order to enable firm delivery from QFs even in the absence of [ATC]**," so long as RMP agreed to operate within identified system limits.[12] The FERC NOA Filing cited a need for additional flexibility for managing resources to allow DNR status for QF projects in constrained areas in order to avoid "the construction of uneconomic Network Upgrades."[13]

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[10] OATT, § 32.3, Pg. 111 (emphasis added).
[11] Relevant portions of the FERC NOA Filing, including an attachment showing in redline the proposed changes to the NOA, are attached hereto as Exhibit 1.
[12] FERC NOA Filing at 1 (emphasis added).
[13] *Id*. at 3 (citing difficulties that arise given (1) PacifiCorp's "obligation under PURPA to purchase, and make firm transmission arrangements for, QF power," (2) FERC precedent that could be read to preclude PacifiCorp from granting DNR status to a QF "where there is zero ATC," and (3) "FERC policies that obligate a transmission provider to build transmission to accommodate firm transmission service requests, including new DNR requests, in constrained areas.").

21. The circumstances addressed in the FERC NOA Filing and NOA Amendment regarding QF energy when there is no ATC to transmit QF energy from a point of interconnection to load are precisely the circumstances faced by RMP with respect to the GC Projects.

22. The use of Existing RFP Transmission Rights, including Redispatch, will fully eliminate the need for any Network Upgrades for delivering GC Energy to load.

23. PacifiCorp's stated purpose in signing the NOA Amendment was to allow RMP to "meet its PURPA must-take obligations by providing firm transmission service to deliver QFs, while at the same time avoiding the need to undertake potentially uneconomic transmission expansions."[14]

24. The FERC NOA Filing represents that the referenced operational Redispatch is appropriately characterized as a "form" of the "planning redispatch" contemplated by Section 32.3 of the OATT.[15] It explained that this variant of planning redispatch "involves an individual network customer ([RMP]) agreeing to operate within certain limits because there is insufficient capacity to accommodate all of the DNRs without limitation."[16]

25. The FERC NOA Filing explained that, while the traditional form of planning redispatch creates additional ATC through altered flows, the operational variant of Redispatch requires RMP to operate its network resources within certain operational limits in constrained areas, and is "more akin to replacement or alternate resources."[17] The filing noted that this form

[14] *Id*. at 2.
[15] *Id.* at 8 ("PacifiCorp believes it is appropriate to characterize the proposed operational practice as a form of planning redispatch.").
[16] *Id*.
[17] *Id*.

of Redispatch is nevertheless properly characterized as a form of "planning redispatch," because "both approaches favor the efficient redispatch of resources over time-consuming and expensive network upgrades."[18] PacifiCorp also noted that this form of Redispatch remained "within the current OATT construct and study processes."[19]

26. FERC accepted the Amended NOA and, in its May 21, 2015 order (the "**FERC NOA Order**"),[20] noted that the NOA would "allow [PacifiCorp] to accommodate QF requests in constrained areas without building uneconomic upgrades,"[21] while also limiting the impact on other network customers "by requiring [RMP] to operate its portfolio of designated network resources within its network rights and within transmission system limits."[22]

27. The FERC NOA Order also confirmed that "[FERC] precedent requires electric utilities, such as PacifiCorp, to deliver a QF's power on a firm basis and prohibits the curtailment of QF resources" except under very narrow circumstances not applicable here.[23] It further confirmed that, absent the availability of Redispatch, PacTrans and its transmission customers would be required to pay for Network Upgrades needed to accommodate QF energy.[24]

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[18] *Id*.
[19] *Id.* at 8 n.25.
[20] PacifiCorp Proposed Network Operating Agreement Amendment, Docket No. ER-15-741-000, ER15-741-001, 151 FERC ¶ 61,170, Order Accepting Proposed Network Operating Agreement Amendment (May 21, 2015). The FERC NOA Order is attached hereto as Exhibit 2.
[21] FERC NOA Order at 3.
[22] *Id*. at 9.
[23] *Id*. at 8.
[24] *Id*. at 9 (noting that PacifiCorp's use of Resource Redispatch "would, at the same time, also allow its customers to avoid paying for network upgrades when the network upgrades are not justified by economic or reliability needs."). *See also* FERC NOA Filing at 4 ("However, where the transmission system is constrained, and constraints cannot be relieved by planning redispatch, the OATT and FERC's transmission pricing policies obligate a transmission provider to build network upgrades to accommodate firm transmission service requests **and roll the cost of those network upgrades into rate base.**" (emphasis added)).

RMP's Avoided Cost Pricing Model

28. The Commission has approved the use by RMP of an in-house generation dispatch model called the Generation and Regulation Initiative Decision Tool ("**GRID"**) in calculating avoided costs for larger QF projects. QF pricing relies on two GRID studies performed by RMP, a "base case" and a "QF project case," which builds on the base case assumptions with the addition of modeling inputs relevant to the specific QF resource. By comparing the net present value revenue requirement of the two model runs, RMP determines the system value of the incremental QF energy, accounting for RMP's transmission rights and limitations and the QF's operating characteristics, location, hourly generation pattern, and resource needs, as identified in RMP's most recent IRP, and as periodically updated, among other factors. This calculated value, or avoided cost, is the price offered to a QF.

29. RMP modeled the two QF GC Projects based on an aggregate project capacity of 95 MW, matching exactly the 95 MW of Existing RMP Transmission Rights reflected in GRID. The GRID modeling confirmed that RMP holds and can employ sufficient firm transmission rights to transmit, from the point of interconnection to load, the energy RMP will purchase from the GC Projects.

30. To accurately reflect RMP's ability to utilize the 95 MW it will purchase from Glen Canyon Solar, GRID economically redispatched other RMP generation resources and adjusted sales and purchases as feasible. Higher cost resources across RMP's system were displaced by the GC Energy, to the extent feasible given transmission constraints and other inputs, and the savings associated with avoided generation and purchases were reflected in the avoided cost pricing included in the GC PPAs.

31. RMP's use of GRID to determine avoided cost prices conforms with key requirements of PURPA. It considers the QF resource as "must take" generation, consistent with the utility's obligation to purchase QF energy on a firm basis. It also satisfies the PURPA obligation of customer indifference, as QF pricing is set at precisely the level of costs that the model indicates can be avoided by RMP. Furthermore, the GRID model is consistent with the PURPA requirement that the public utility, and not the QF, is responsible for delivering and using QF energy beyond the point of interconnection, by assuming the use of 95 MW of Existing RMP Transmission Rights—effectively treating the QF project as a DNR whose dispatch is prioritized in front of non-QF DNRs.

32. RMP's avoided cost pricing runs for the GC Projects are also consistent with the NOA, which allows firm receipt and use of QF resources even without ATC at a delivery point, so long as RMP operates its resources within all applicable network constraints. Since there is no remaining ATC on the relevant path, the GC Projects illustrate precisely why the NOA Amendment was prudent and necessary, and why its use in this context is also prudent and necessary. Its use alleviates the need for RMP, and by extension its ratepayers, to fund expensive Network Upgrades, while also satisfying RMP's PURPA obligations.

III. ARGUMENT

A. RMP'S REQUEST FOR DECLARATORY RULING IS FACIALLY DEFECTIVE AND SHOULD BE DISMISSED.

The Commission should dismiss RMP's Request for the issuance of a declaratory ruling because, contrary to Utah law, the Request (1) seeks to substantially affect the rights of parties without their written consent; (2) fails to state specific relevant facts and circumstances as to which the applicability of statutes, regulations or orders within the Commission's primary

jurisdiction can be determined; and (3) seeks relief based on regulations that are inapplicable to the stated hypothetical situation, while ignoring tariffs that are applicable.

Utah Code § 63G-4-503(1), which creates the statutory mechanism for requesting declaratory rulings by state agencies, provides that "[a]ny person may file a request for agency action, requesting that the agency issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the agency to specified circumstances." The Utah Supreme Court has ruled that the requirements of this statute "limit[] a party's ability to seek and receive a declaratory order," and that failure to comply with all such requirements is "fatal" to a petitioner's request.[25] RMP's request is fatally flawed in that it fails to comply with the statutory requirements.

RMP's Request fails to comply with three separate requirements. First, RMP's Request seeks to "substantially prejudice" the rights of parties that have not consented to have their rights determined in this declaratory proceeding.[26] Second, RMP's Request fails to identify specific, applicable facts and circumstances as to which a declaratory ruling can properly be issued.[27] Third, RMP's Request improperly relies on a Commission rule that, by its express terms, does

[25] *Friends of Great Salt Lake v. Utah Dept. of Nat. Resources*, 2017 UT 15, ¶ 53, 393 P.3d 291 (Utah 2017).

[26] *See* Utah Code § 63G-4-503(3)(b) ("An agency may issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party, ***only*** if that person consents in writing to the determination of the matter by a declaratory proceeding." (emphasis added)).

[27] *See* Utah Code § 63G-4-503(1) ("Any person may file a request for agency action, requesting that the agency issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the agency to ***specified circumstances***." (emphasis added)); Utah Admin. Code R746-101-3.A.3. (requiring petitioner to "***describe adequately the facts*** and circumstances in which applicability is to be reviewed." (emphasis added)). *See also* Utah Admin. Code R746-101-1.B.3. (defining "Applicability" as "a determination of the relationship of a statute, rule or order ***to a given set of facts***." (emphasis added)).

not apply to a QF larger than 20 MW, while ignoring a Commission-approved tariff that is directly applicable.[28] As discussed below, each of these flaws is fatal to RMP's Request and, as such, the Request must be dismissed.

1. RMP's Request Seeks To "Substantially Prejudice" The Rights Of Parties That Have Not Consented To Have Their Rights Determined In This Declaratory Ruling Proceeding.

In violation of Utah Code § 63G-4-503(3)(b), RMP's Request seeks a broad declaratory ruling intended to substantially affect the rights of numerous QF developers, none of which has consented to having its rights adjudicated in this docket. "An agency may issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party, *only* if that person consents in writing to the determination of the matter by a declaratory proceeding."[29] The Utah Supreme Court strictly enforces the statutory requirement for consent; it recently ruled, in *Friends of the Great Salt Lake v. Utah Department of Natural Resources*, that an agency properly denied a request for declaratory ruling when an order granting the request would have substantially prejudiced the rights of a leaseholder who did not consent to have its rights determined by declaratory order.[30] Because the leaseholder's "rights would be substantially prejudiced if [petitioner] prevailed," and because the leaseholder "did not consent

[28] *See* Schedule 38, § II.B., at Sheet 38.10 ("For interconnections equal to or less than twenty (20) megawatts, the Company will process the interconnection application in accordance with Utah Admin. Code R746-312." "For interconnections greater than twenty (20) megawatts, the Company will process the interconnection application through PacifiCorp Transmission Services generally following the procedures … described in the Company's Open Access Transmission Tariff.").
[29] Utah Code § 63G-4-503(3)(b) (emphasis added).
[30] *Friends of the Great Salt Lake*, 2017 UT 15, ¶ 54.

in writing to a declaratory proceeding on the matter, [petitioner] cannot request it."[31] The Court held that this limitation was "fatal" to the petitioner's request for a declaratory order.[32]

Like the petitioner in *Friends of the Great Salt Lake*, RMP has requested a declaratory order that, if granted, would substantially prejudice the rights of multiple QF generators and developers in Utah, including Glen Canyon Solar, none of which has been shown to have given its written consent to have its rights determined in that manner.[33] To the extent RMP's Request would substantially affect the rights of any QF developers, the absence of such developers' consent is fatal.

2. RMP's Request Fails To Identify Specific Facts And Circumstances On Which A Declaratory Ruling Can Properly Be Based.

RMP's Request also fails to comply with the statutory requirement that a request for declaratory ruling must specifically describe the facts and circumstances upon which the declaratory ruling is to be based. Utah Code § 63G-4-503(1) requires that any request for a declaratory order must be based on "specified circumstances." In turn, Commission rules require a petitioner to "describe adequately the facts and circumstances in which applicability is to be reviewed,"[34] and contemplate that the Commission will determine "the relationship of a statute, rule or order to a given set of facts."[35]

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[31] *Id*.
[32] *Id*., ¶ 53.
[33] Glen Canyon Solar, in particular, has not consented to any determination affecting its substantive rights or obligations in this declaratory relief docket. Rather, Glen Canyon Solar is filing a separate Request for Agency Action requesting adjudication of certain rights and obligations of Glen Canyon Solar and RMP in relation to the Glen Canyon Solar PPAs and projects.
[34] Utah Admin. Code R746-101-3.A.3
[35] *Id*., R746-101-1.B.3 (defining "Applicability").

RMP's Request does not provide "specified circumstances" upon which a declaratory ruling can properly be based. Rather, RMP vaguely asserts that a declaratory ruling is appropriate because "QFs continue to site generation facilities in transmission-constrained areas."[36] The section of RMP's Request titled "Relevant Facts and Circumstances"[37] discusses the SIS Report on one specific solar development—the initial, larger, non-QF sPower project, which is not before the Commission for consideration.[38] This initial sPower project was withdrawn and re-filed as smaller QF GC Projects. Moreover, the Request offers an inaccurate, misleading and incomplete description of the facts and circumstances that relate to QF projects generally.[39]

RMP makes the vague and unsupported claim that circumstances relating to the large, non-QF sPower project are somehow "representative facts" for a broader issue that the Commission should address.[40] However, the section of RMP's Request titled "Relevant Facts

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[36] Request at 2.
[37] *See id*. at 7-13.
[38] The Request fails to acknowledge that sPower downsized it large non-QF solar project to two smaller QF projects with a total capacity of 95 MW in order to match precisely the Existing RMP Transmission Rights. Because of this change, the SIS Report attached to the Request is not directly relevant to any specific circumstances, including those applicable to the GC Projects.
[39] RMP's request mischaracterizes facts, issues and procedures relevant to any given QF development, including specifically the GC Projects. For example, Glen Canyon Solar is not pursuing a "less robust" or "inadequate" interconnection as repeatedly suggested in RMP's Request. Rather, Glen Canyon Solar will pay for an interconnection fully capable of facilitating delivery of all energy produced by its QF projects to RMP at the point of interconnection. The nature of the interconnection is not relevant or in dispute; nor is there any dispute over a QF's obligation to pay Interconnection Costs. The dispute lies in the potential need for Network Upgrades beyond the point of interconnection.
[40] Request at 8 ("To give context for Rocky Mountain Power's request and using representative facts the company is currently facing, Attachment A is a 2016 interconnection study of a generator proposing to site in a constrained area of the company's transmission system in Kane County, Utah."). In citing these alleged "representative facts," RMP intentionally omits crucial facts that eliminate any need to consider the Request in the context of the GC Projects. For

and Circumstances" does not identify "specified circumstances" or facts as to which the Commission can properly determine the applicability of specified statutes, rules or orders within its jurisdiction, but rather offers legal arguments in support of RMP's broad requested declaratory ruling. The Commission has previously denied requests for declaratory ruling that offer arguments in place of facts,[41] and should do so again here.

In the conclusion of its Request, RMP "requests a declaratory ruling clarifying that … rules and orders require a QF to pay for all costs associated with a firm, NR interconnection because it is the level of interconnection necessary to allow Rocky Mountain Power to fulfill its PURPA obligation to receive the QF's net output on a firm basis."[42] This unsupported and disputed claim demonstrates that RMP is inappropriately seeking a declaration based, not on "specified facts" as required by statute, but rather on "a hodgepodge of allegations"[43] intended to affect numerous QF developers. Such a request is prohibited both by Utah Code § 63G-4-503(1), which created the mechanism, and by R746-101, which sets forth its requirements.

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example, Network Upgrades discussed in the Request and SIS Report are not necessary for the GC Projects, given that they were sized to match precisely the Existing RMP Transmission Rights. The GC Projects will not trigger the need for any Network Upgrades unless RMP imprudently refuses to utilize its available rights which, under clear FERC precedent discussed in Section III.B, would in turn force RMP to bear the bulk of the costs of those unnecessary Network Upgrades.

[41] *In the Matter of the Utah Public Service Commission Exercising Jurisdiction Over Schedule 38 and, as Adopted, PacifiCorp's OATT Part IV*, Docket No. 15-2582-01, Oct. 22, 2015 Notice of Denial of Request for Declaratory Rulings and Order Denying Motion to Dismiss and Motion to Strike as Moot at 4 (denying request for declaratory ruling on grounds that it failed to adequately describe the facts and circumstances on which applicability of the statute, rule or order is to be reviewed and, instead, "presents a hodgepodge of allegations.").

[42] Request at 25. RMP's discussion of "NR" vs. "ER" interconnections in this context is both confusing and unhelpful. Moreover, RMP's notion that Interconnection Costs include Network Upgrade costs is inaccurate.

[43] *See supra* n.41.

To achieve its desired result, RMP is essentially asking the Commission to issue an order or adopt a rule to apply to all QF applicants under varying factual circumstances, a request that cannot properly be accommodated in a declaratory ruling context. Moreover, even if such a broad ruling of general applicability were appropriate in a declaratory relief context, significant additional investigation into and analysis of relevant facts and law would be necessary.[44] Otherwise, the result would be an unsupported, hypothetical advisory opinion with unclear implications in any given context. A request for declaratory ruling is not an appropriate mechanism for seeking a broad adjudication applicable to a wide range of circumstances. Rather, it is appropriate only to determine the applicability of specific statutes, regulations or orders to a specific, clearly identified set of facts.

3. RMP's Request Relies Upon Commission Rules That Are Not "Applicable" To QF Projects Larger Than 20 MW And Ignores A Commission-Approved Tariff That Is "Applicable."

RMP mischaracterizes its Request as seeking *clarification* that the Commission's interconnection cost-allocation policies apply to transmission Network Upgrades.[45] This characterization is misleading because the relief sought by RMP would actually require the Commission to *modify* existing rules and *amend* Schedule 38. Such changes, even if appropriate and lawful, cannot be done in a declaratory ruling proceeding, and even if adopted in an

[44] In all events, two rounds of comments as contemplated by the Commission's notice in this docket, without the benefit of discovery, testimony, cross-examination, hearings and an evidentiary record, cannot possibly provide the necessary legal basis to support a ruling intended to determine specific rights and obligations of any person or entity.

[45] *See* Request at 18-19 ("[I]t [is] critically important for the Commission to clarify that its QF interconnection cost-allocation policies apply to facilities and upgrades necessary to accommodate a higher quality of interconnection service to prevent future disputes between utilities and QFs.").

appropriate proceeding could not be applied retroactively to existing projects.[46] RMP is confusing the separate and distinct nature of Interconnection Costs and the costs of Network Upgrades. Moreover, the modifications and amendments requested by RMP are inappropriate and unnecessary with respect to the GC Projects.

RMP's Request improperly asks the Commission to extend Commission Rules that expressly apply only to distribution system upgrades associated with QFs of 20 MW or less—issues that fall squarely within the Commission's jurisdiction—to transmission Network Upgrades associated with larger QF projects—a complicated area of FERC jurisdiction. The Commission's Rules are expressly not "applicable" to the transmission-level interconnections and upgrades targeted by RMP's Request. Ironically, however, the Request ignores applicable provisions of RMP's own Commission-approved Schedule 38 that specify that FERC rules will govern larger QF projects.

In response to a request for declaratory ruling, the Commission must determine "the applicability or non-applicability of the statute, rule or order in question."[47] Commission rules define "applicability" as "a determination of the relationship of a statute, rule or order to a given set of facts."[48] At the heart of its Request, RMP asks the Commission to declare that a Commission Rule that expressly applies only to distribution-level upgrades for QF projects of 20

[46] *See Williams v. Pub. Serv. Commn. of Utah*, 720 P.2d 773, 776–77 (Utah 1986) (ruling that Commission order that reversed prior interpretation of Commission's jurisdiction was inappropriate and that formal rulemaking procedures would be required); *Salt Lake Citizens Cong. v. Mt. States Tel. & Tel. Co.*, 846 P.2d 1245, 1253 (Utah 1992) (noting that rules of law developed through formal rulemaking and through adjudicative process and "apply to the future conduct of all persons subject to the jurisdiction of an administrative agency . . . .").
[47] Utah Admin. Code R746-101-4.a.2.
[48] *Id*., R746-101-1.B.3.

MW or less[49] is *also* "applicable" to transmission-level upgrades for larger QF projects.[50] By its express terms, the smaller QF interconnection rule relied upon by RMP is inapplicable to any QF project larger than 20 MW, including the GC Projects. By its express terms, RMP's Schedule 38 *is* applicable to larger QF interconnections, and it specifies that larger interconnection and transmission requests will be processed following FERC rules.

RMP further makes the irrelevant assertion that R746-312-10 requires a QF to pay both for "interconnection facilities" and for distribution system "upgrades" identified in a facilities study.[51] As noted above, however, that same Commission Rule is "applicable" only to a QF with "a capacity of greater than two megawatts but no larger than 20 megawatts."[52] In addition, R746-312 is expressly limited to interconnections to an "electric distribution system,"[53] and does not purport to address interconnections to a *transmission* system. The plain language of both Schedule 38 and R746-312 clearly demonstrate that R746-312 is not applicable to generating facilities larger than 20 MW or to transmission system interconnections. The declaratory ruling sought in RMP's Request based on that rule is, thus, unavailable.

RMP attempts to circumvent the inapplicability of R746-312 by claiming that the Commission—in adopting R746-312-10(2)(g)(v)—recognized a "general policy" to require *all*

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[49] *See* Schedule 38, § II.B., at Sheet 38.10 ("For interconnections equal to or less than twenty (20) megawatts, the Company will process the interconnection application in accordance with Utah Admin. Code R746-312.").
[50] *Id*. ("For interconnections greater than twenty (20) megawatts, the Company will process the interconnection application through PacifiCorp Transmission Services generally following the procedures … described in the Company's Open Access Transmission Tariff.").
[51] *See* R746-312-10(2)(g)(v). *See also* Request at 15 & n.35.
[52] Utah Admin. Code R746-312-10(1)(a).
[53] "Electric distribution system" is defined as "that portion of an electric system that delivers electricity from transformation points on the transmission system to the point or points of connection at a customer's premises." Utah Admin. Code R746-312-2(6).

QF interconnections to pay for both "interconnection facilities" and "upgrades."[54] This argument is flawed for both procedural and substantive reasons. As a procedural matter, a request for declaratory ruling is limited to seeking the "applicability of a statute, rule, or order" to specified circumstances, and does not permit the Commission to modify or amend existing rules or tariffs, or to declare the applicability of a "general policy."[55] No existing statute, rule, or order requires a Utah QF larger than 20 MW to pay for both "interconnection facilities" and transmission system "upgrades." If RMP wants the Commission to wade into the complicated area of allocation of transmission system upgrade costs and credits, it must seek to do so through proper rulemaking or other procedural mechanism, for prospective application.

As a substantive matter, the Commission has never purported to adopt a "general policy" regarding allocation of transmission Network Upgrade costs. Rather, it has created a clear distinction as to applicable rules between QFs of 20 MW or less, which are governed by state rules, and larger QFs, which are governed by federal rules.[56]

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[54] Request at 15 (asserting that Commission has adopted a "general policy" of requiring a QF to pay for both "interconnection facilities" and "upgrades," as required in R746-312-10(2)(g)(v)).
[55] Utah Code § 63G-4-503(1). *See also* R746-101-1.B.2. ("'Declaratory Ruling' shall mean an administrative interpretation or explanation of rights, status, interests or other legal relationships under a statute, rule, or order.").
[56] Utah Admin Code R746-312-10; *see also.* FERC Order 2003, 104 FERC ¶ 61,103 at P. 697 (in which FERC explicitly establishes separate cost assignment policies for *distribution* system upgrades and *transmission* system (network) upgrades. FERC requires that distribution system upgrade costs be directly assigned to the interconnecting transmission customer but is explicit that transmission (i.e. network) upgrades be funded by all users of the transmission system. FERC reasoned that "[t]his is because an upgrade to the Distribution System generally does not benefit all transmission customers. Distribution facilities typically deliver electricity to particular localities, and do not serve a bulk delivery service for the entire system as is the case for transmission facilities."). Utah Admin Code R746-312-10 maintains this distinction between distribution system upgrades and transmission Network Upgrades and RMP's request that the Commission remove this distinction must be rejected.

B. EXISTING RMP TRANSMISSION RIGHTS AND FERC-APPROVED REDISPATCH PROTOCOLS ALLOW RMP TO SATISFY ITS LEGAL OBLIGATIONS AND AVOID UNNECESSARY NETWORK UPGRADES.

The characterization in RMP's Request of facts and issues associated with QF interconnections in transmission constrained areas is incomplete and misleading. Under some circumstances, including specifically those applicable to the GC Projects, transmission Network Upgrades are not necessary. To comply with its PURPA and other obligations, RMP must avoid unnecessary Network Upgrades by using its available rights.

With respect to the GC Projects specifically, the statement of facts and circumstances in the Request obfuscates the issues in dispute. In fact, no Network Upgrades are necessary to accommodate the GC Projects. RMP need only processes interconnection and transmission requests pursuant to the FERC-approved OATT for QFs greater than 20 MW, as directed by RMP's Commission-approved Schedule 38.

In instances where transmission constraints prevent PacTrans from granting a DNR application to provide firm transmission, RMP may redispatch other network resources, consistent with the FERC-approved NOA.[57] These network operating protocols are available to RMP precisely to allow RMP to meet two critical PURPA obligations, to purchase and deliver QF output on a firm basis and to keep customers indifferent from QF purchases by avoiding unnecessary transmission Network Upgrades.[58] The Commission need not resolve disputes over the proper allocation of the costs of Network Upgrades to the extent they can be avoided through the use of available rights.

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[57] *See* FERC NOA Order at 8-9 (granting PacifiCorp's NOA Amendment, which allows PacifiCorp to use Redispatch options to avoid Network Upgrades for QFs that interconnect in transmission-constrained areas).

[58] *Id*.

As explained in more detail below, (1) RMP is obligated to provide firm transmission service to deliver the QF output to load; (2) existing procedures provide operational protocols that may avoid the need for transmission Network Upgrades and thus allow RMP to fulfill its PURPA and other obligations to QFs and RMP customers; and (3) no existing laws or regulations allow assignment of the costs of Network Upgrades to a Utah QF.[59]

1. PURPA Obligates RMP to Provide Firm Transmission Service to Deliver QF Output to Load.

Clear PURPA and FERC precedent require public utilities to purchase and deliver QF output on a firm basis (i.e., the utility may not curtail QF output except under very limited circumstances).[60] Indeed, "[FERC] has specifically held that: (1) the QF's obligation to the purchasing utility is limited to delivering energy to the point of interconnection …; and (2) the QF is not required to obtain transmission service, either for itself or on behalf of the purchasing utility in order to deliver its energy from the point of interconnection with the purchasing utility to the purchasing utility's load."[61]

As the purchasing utility, RMP is obligated to secure transmission service necessary to deliver a QF's output to load or otherwise manage that output in accordance with PURPA and FERC precedent.[62] As specified in Schedule 38, the OATT provides the procedures that RMP

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[59] OATT Section 32; Section 35.2 Network Operating Agreement ("The terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Part III of the Tariff shall be specified in the Network Operating Agreement.")

[60] *See e.g. Pioneer Wind Park I, LLC*, 145 FERC ¶ 61,215, at P. 38 (2013) ("*Pioneer Wind Park*"); *Entergy Servs. Inc.*, 137 FERC ¶ 61,199 at PP 52-58 (2011).

[61] *Pioneer Wind Park*, at P. 38 (2013).

[62] *Pioneer Wind Park I, LLC*, at P. 38 n.73 (noting that "PacifiCorp will be the transmission customer, taking delivery of the QF's output at the point of interconnection . . . and with the resulting responsibility to transmit [the QF's] output from the point of interconnection . . . across

must follow to designate a QF over 20 MW as a network resource.[63] RMP, as a network customer, has existing transmission rights on the PacTrans system and RMP can and must utilize those rights and request that PacTrans designate a QF resource as a new network resource in order to deliver the QFs' output to load.[64]

A request by RMP for DNR designation of a QF resource triggers a system impact study by PacTrans to identify:

> (a) Any system constraints, identified with specificity by transmission element or flowgate;
>
> (b) Redispatch options (when requested by an Eligible Customer) including, to the extent possible, an estimate of the cost of redispatch;
>
> (c) Available options for installation of automatic devices to curtail service (when requested by an Eligible Customer); and
>
> (d) Additional Direct Assignment Facilities or Network Upgrades required to provide the requested service.[65]

For a network customer, like RMP, a study of Redispatch options "shall (1) identify all resources located within the Transmission Provider's Control Area that can significantly contribute toward relieving the system constraint and (2) provide a measurement of each

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PacifiCorp's transmission system to PacifiCorp's loads."). *See also* FERC NOA Filing at 4 (admitting that "PURPA obligates a utility to purchase, and make firm transmission arrangements for, a QF's power.").

[63] Schedule 38, § II.B. ("For interconnections greater than twenty (20) megawatts, the Company will process the interconnection application through PacifiCorp Transmission Services generally following the procedures … described in the Company's Open Access Transmission Tariff."). *See also* OATT, Attachment N, Large Generator Interconnection Agreement, Section 4.1.2.2 (Transmission Delivery Service Implications).

[64] *See e.g.* OATT Section 30.2 (Designation of New Network Resource).

[65] OATT Part III, Section 32.3 (System Impact Study Procedures).

resource's impact on the system constraint."[66] If PacTrans has information about whether any resource outside its control area could relieve the constraint, it must also identify those resources in the SIS.[67]

RMP's Request makes the misleading claim that the cost of interconnecting the referenced project will result in approximately $410 million in Interconnection Costs and Network Upgrades.[68] The Request fails to note that the referenced study was conducted for a much larger, non-QF project, and is not representative of smaller QF projects like the GC Projects.[69] The SIS Report did not account for critical facts relative to the GC Projects, including the fact that RMP holds 95 MW of firm transmission rights that, through Redispatch of other generation resources or otherwise, RMP can use to transmit the GC Energy from the point of interconnection to RMP's loads.

The Network Upgrades specified in the larger, non-QF SIS Report are all avoidable with respect to the GC Projects. PURPA obligates RMP to make transmission arrangements to deliver QF output to load on a firm basis. RMP, as the network customer, can ask PacTrans to study any given QF under various Redispatch assumptions that might allow RMP to deliver QF output on a firm basis, while avoiding unnecessary Network Upgrades. Indeed, Schedule 38 reflects this PURPA-compliant option in that it requires RMP—not the QF—to submit a TSR to PacTrans, giving RMP the control and ability to reduce and avoid unnecessary costs, and also the obligation to pay for un-avoidable costs.

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[66] *Id*.
[67] *Id*.
[68] Request at 8.
[69] Request at 8, n.11 (citing SIS Report, Section 1.0 "Interconnection Customer will NOT operate this generator as a Qualified Facility as defined by [PURPA]." (emphasis in original)).

2. Existing Protocols Allow RMP to Fulfill its PURPA Obligations Without the Need for Network Upgrades.

As a transmission network customer, RMP is required to operate its network resources pursuant to its NOA.[70] Even to the extent transmission constraints could not be relieved through planning redispatch options contemplated by the OATT, the NOA Amendment provides an operational redispatch option to allow RMP to Redispatch other network resources in order to make sufficient transmission capacity available to deliver QF energy on a firm basis.[71]

In requesting FERC approval of the NOA Amendment, PacifiCorp explained that the amendment was necessary to allow a network customer (e.g. RMP) the ability to decline to execute a Facilities Study Agreement (to study transmission facilities/Network Upgrades) *but still receive a network resource designation* by managing a new DNR (e.g. the GC Projects), along with the rest of its DNRs, within all relevant limitations.[72] FERC approved the NOA Amendment, finding that it complies with PURPA requirements because it "obligate[s] [RMP] to curtail the schedules of [RMP's] non-QFs before the schedules of any QFs during normal operating conditions."[73] FERC also found that the amendment would allow RMP customers to avoid paying for Network Upgrades that would not otherwise be required, while still allowing RMP to designate a QF as a network resource and provide firm transmission service as required by PURPA.[74] In other words, the NOA allows RMP to meet is PURPA must-take obligations

[70] OATT Section 35.2 (Network Operating Agreement).
[71] NOA Amendment, Section 8 (attached to the FERC NOA Filing included as Exhibit 1 to these Comments).
[72] FERC NOA Order at ¶¶ 5-6.
[73] *Id*., ¶ 27.
[74] *Id*., ¶ 28.

and provide firm transmission service to deliver QF output to load, while at the same time satisfying PURPA's customer indifference mandate.[75]

RMP's brief characterization and dismissal of the NOA, particularly its suggestion that the NOA is not intended to prevent the cost issues identified in the Request, is disingenuous and directly contradicted by PacifiCorp's reasoning before FERC in requesting approval of the NOA Amendment.[76] The Amended NOA was specifically intended to allow RMP to study the GC Projects as a DNR under Redispatch assumptions that allow RMP to meet its PURPA and other obligations while avoiding unnecessary Network Upgrades. RMP's Request would have the Commission ignore this protocol, RMP's PURPA obligations, and FERC precedent.[77]

RMP attempts to create a false dilemma in which RMP customers will either be saddled with the cost of uneconomic Network Upgrades or the Commission must change its rules to assign Network Upgrade costs to a QF as a component of Interconnection Costs[78]—which they clearly are not. This is not the case; RMP has other options, including the use of Existing RMP Transmission Rights, including Redispatch protocols. Implementation of a solution to such a

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[75] *Id*., ¶ 28 (noting that the NOA Amendment would "allow [RMP's] customers to avoid paying for network upgrades when the network upgrades are not justified by economic or reliability needs.").

[76] *Compare* Request at 24, n.54 (asserting that NOA redispatch protocol merely permits RMP, acting as transmission customer, to "manage transmission constraints" by allowing it to back down its own resources to avoid transmission upgrades and that the protocol "is not intended as a tool for QFs to avoid upgrades required for interconnection service.") *with* FERC NOA Filing at 7 (stating that the NOA Amendment would permit PacifiCorp to avoid transmission service Network Upgrades because it would "provide [PacTrans] the ability to grant additional DNRs even where there is zero ATC available, and provide [RMP] the option to manage its DNRs within existing transmission system limits.").

[77] Request at 23-24 (asserting that upgrades are necessary to accommodate NR interconnection service for QFs and that all associated upgrade costs, including transmission system costs, should be allocated to QFs to avoid these costs later being absorbed by RMP customers though FERC-jurisdictional transmission service rates).

[78] *Id*.

false dilemma would effectively serve to relieve RMP of its PURPA obligation to purchase QF output and deliver that output to load, in direct contradiction to both state and federal laws, the OATT, and the NOA.[79]

3. Existing Laws Do Not Permit RMP to Misclassify Costs for Transmission Facilities or Network Upgrades as Interconnection Costs.

In addition to the fact that the OATT and NOA eliminate the need for unnecessary Network Upgrades, no existing laws or regulations would permit the assignment of any such costs to a Utah QF. Existing Commission rules allow RMP to assign Interconnection Costs and distribution system upgrades to a QF of 20 MW or less connecting to a distribution system.[80] No such rules purport to permit assignment of costs for transmission facilities or Network Upgrades to a Utah QF.

To the contrary, RMP's Schedule 38 requires RMP to process interconnection and transmission applications for a QF greater than 20 MW pursuant to the OATT.[81] The OATT, in turn, assigns Interconnection Costs to the interconnection customer—the QF—and Network Upgrade costs to the network customer—RMP.[82] Thus, while Interconnection Costs are the responsibility of the GC Projects, the costs for constructing any Network Upgrades are allocated

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[79] *See* Schedule 38; OATT Section 32.3 (System Impact Study Procedures); OATT Section 35 (Network Operating Agreements); FERC NOA Filing; FERC NOA Order.
[80] Utah Admin. Code R746-312-10(2)(g)(v).
[81] Schedule 38, § II.B., at Sheet 38.10.
[82] *See e.g.* OATT, Attachment N, Large Generator Interconnection Agreement, Section 4.1.2.2 (Transmission Delivery Service Implications) ("The provision of Network Integration Transmission Service or firm Point-to-Point Transmission Service may require additional studies and the construction of additional upgrades. Because such studies and upgrades would be associated with a request for delivery service under the Tariff, cost responsibility for the studies and upgrades would be in accordance with FERC's policy for pricing transmission delivery services").

to RMP pursuant to the OATT and FERC's transmission cost allocation policies.[83] This distinction between Interconnection Costs and Network Upgrade costs[84] is particularly important when, as here, the interconnection customer is not also the transmission customer.

Neither RMP nor RMP's customers will face unnecessary Network Upgrade costs as a result of the GC Projects if RMP simply follows applicable rules and procedures for interconnecting QFs larger than 20 MW. The OATT and the NOA outline a clear path for RMP to designate the GC Projects as network resources, while managing RMP's DNRs such that the output of the GC Projects can be transmitted to RMP's load areas without triggering unnecessary Network Upgrades.

C. RMP'S REQUEST FOR DECLARATORY RULING IS INCONSISTENT WITH COMMISSION-APPROVED AVOIDED COST PRICING CALCULATIONS.

A declaratory ruling regarding the allocation of QF Interconnection Costs is unnecessary, in that existing regulations and precedent provide clear guidance to RMP and QF developers alike. Moreover, the modeling approach used by RMP and approved by the Commission for setting avoided cost prices for QF projects ***already*** reflects cost implications of resource Redispatch (avoiding or backing down other resources) as needed to allow RMP to utilize QF energy. This approach is self-correcting; avoided cost prices are reduced, potentially to zero, for a QF project in a location where transmission constraints restrict RMP's ability to utilize QF energy to avoid other resources. The pricing model thus ensures consistency with the ratepayer

[83] *See e.g.* OATT Sections 32.3 and 32.4.
[84] *See e.g.* OATT Part IV, Section 36 ("Interconnection Facilities") ("Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.").

indifference standard to the extent transmission constraints may limit RMP's ability to utilize QF energy to avoid purchasing or generating energy from other generation resources.

Schedule 38 contemplates RMP's use of the Existing RMP Transmission Rights[85] to move QF power to load. It requires RMP to "submit to PacifiCorp Transmission Services a request for network transmission service relating to the project within seven (7) days after execution of a power purchase agreement, or otherwise as early as practicable based on the applicable PacifiCorp Transmission Services tariff."[86] The 95 MW of Existing RMP Transmission Rights can accommodate all of the energy generated by the GC Projects, and use of those same rights was assumed in setting avoided cost prices for the GC Projects.[87] If RMP did not have 95 MW of firm transmission rights on the Sigurd-GC Line, the pricing for the GC Projects would have reflected that fact. The same transmission rights and assumptions used in setting avoided cost prices for a QF must then be utilized for the QF energy in real time so that RMP can efficiently dispatch the QF resource and realize the anticipated savings from avoiding other resources. Any failure by RMP to do so would be inappropriate, imprudent and contrary to Schedule 38 and PURPA.

Moreover, as discussed in Section III.B, above, both the FERC-approved OATT and RMP's NOA with PacTrans expressly contemplate and authorize RMP's use of the Existing RMP Transmission Rights, including Redispatch, to avoid costly and unnecessary Network Upgrades, while also facilitating RMP's compliance with its PURPA obligations. It would be inappropriate, imprudent and contrary to PURPA and Schedule 38 for RMP to set avoided cost

[85] *See* Section II., "Factual Background" ¶¶ 16-26.
[86] RMP Schedule 38, § I.B.8.e), at Sheet 38.8.
[87] *See* Section II, "Factual Background" ¶¶ 27-31.

prices in a manner that assumes the use of Existing RMP Transmission Rights, and then refuse to utilize those same rights and procedures in purchasing QF energy. Such imprudence would, under clear FERC precedent, result in costly Network Upgrades, most of the cost of which would be passed back to RMP and, but for the availability of regulatory orders disallowing recovery of imprudently incurred costs, to RMP's customers. These costly Network Upgrades can be fully avoided based on existing regulations and rulings that give clear guidance to PacTrans, RMP and QF developers. RMP's Request is unnecessary and unhelpful, and should be dismissed.

IV. CONCLUSION

RMP's Request in this docket is procedurally defective; the requested relief is not legally available. Moreover, RMP's Request as presented is unnecessary and unhelpful in resolving any specific disputes, including disputes relating to the Glen Canyon Solar QF projects. The requested relief is also inconsistent with RMP's avoided cost pricing model, Schedule 38, the OATT and the NOA. RMP's Request should thus be dismissed or denied.

If an analysis of prospective rights and obligations of RMP and QF developers in transmission constrained areas is desired, such a request must be made in a procedurally appropriate adjudicative or rulemaking proceeding. In any event, Glen Canyon Solar will soon initiate a proceeding requesting resolution of specific factual and legal issues relative to the GC Projects. Glen Canyon solar respectfully asks the Commission to look to that docket to resolve issues of relevance to the two current GC QF projects.

DATED this 1st day of June 2017.

Respectfully submitted,

HATCH, JAMES & DODGE, P.C.

By: _____
Gary A. Dodge
Phillip J. Russell

Attorneys for Glen Canyon Solar A, LLC and Glen Canyon Solar B, LLC

Certificate of Service
Docket No. 17-035-25

I hereby certify that a true and correct copy of the foregoing was served by email this 1st day of June 2017 on the following:

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Exhibit 1

[FERC NOA Filing, Including Attachment Showing NOA Amendment]

PACIFICORP

Pacific Power |
Rocky Mountain Power
825 NE Multnomah, Suite 1600
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December 24, 2014

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

RE: *PacifiCorp*
Network Operating Agreement Amendment, Docket No. ER15-___-000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act ("FPA")[1] and Part 35 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure,[2] PacifiCorp hereby submits a proposed amendment to the Network Operating Agreement ("NOA") between PacifiCorp Transmission and PacifiCorp Energy.[3] PacifiCorp respectfully requests an effective date of 60 days after the date of filing, or February 22, 2015.

I. Executive Summary

The instant NOA amendment proposes a narrow, customer-specific operational solution to enable PacifiCorp to continue fulfilling its Public Utility Regulatory Policies Act of 1978 ("PURPA") mandatory purchase obligation and complying with the Commission's open access policies when qualifying facilities ("QF") are constructed in constrained areas of PacifiCorp's transmission system. In particular, the NOA amendment would allow PacifiCorp Transmission to grant additional Designated Network Resource ("DNR") applications on behalf of PacifiCorp Energy in order to enable firm delivery from QFs even in the absence of Available Transfer Capability ("ATC"), provided that PacifiCorp Energy agrees to operate its portfolio of DNRs in the affected area within system reliability limits defined by PacifiCorp Transmission and curtail QF power last, even if that is out of economic merit order. PacifiCorp Transmission could grant such DNRs under two specific circumstances: (1) to provide a

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1 16 U.S.C. § 824d.

2 18 C.F.R. Part 35 (2014).

3 The NOA between PacifiCorp Transmission and PacifiCorp Energy is currently on file with the Commission and designated as PacifiCorp Service Agreement No. 504. *PacifiCorp*, Docket No. ER08-1424, Letter Order, dated Oct. 16, 2008.

longer-term measure until network upgrades are identified pursuant to PacifiCorp's Open Access Transmission Tariff ("OATT"), including the normal OATT Attachment K process; and (2) to provide an interim measure while previously-identified network upgrades are still being constructed.

Importantly, the proposed NOA amendment does not affect the transmission capacity reserved for any other existing PacifiCorp Transmission customer. Indeed, PacifiCorp is not proposing any modifications to its OATT, including, but not limited to, the interconnection process, the transmission service reservation process, or the transmission planning process. Rather, the NOA amendment simply allows PacifiCorp to meet its PURPA must-take obligations by providing firm transmission service to deliver QFs, while at the same time avoiding the need to undertake potentially uneconomic transmission expansions. For all of the foregoing reasons, which are discussed in more detail herein, PacifiCorp believes the proposed amendment is just and reasonable and should be approved.

II. Background

A. FERC-Approved Methodologies for Planning and Reserving Capacity for Network Customers and Determining ATC

PacifiCorp provides transmission service pursuant to its OATT, which contains Commission-approved methodologies for planning and reserving capacity for its network customers and for determining ATC. Nothing proposed herein would change those methodologies. Moreover, the NOA amendment would not diminish the transmission capacity reserved for service to any existing transmission customers. PacifiCorp will continue to plan, reserve transmission capacity, and determine ATC for its network customers, as well as serve firm their designated network loads using their DNRs in accordance with Order No. 888,[4] Order No. 890[5] and PacifiCorp's FERC-approved OATT.[6] This ensures that PacifiCorp reserves capacity equal to, but not in excess of, the

[4] *See Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996) ("Order No. 888"), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997) ("Order No. 888-A"), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[5] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

[6] *See, e.g.*, PacifiCorp OATT, Attachment C.

amount necessary to reliably serve network load.[7] PacifiCorp will also continue to identify and plan for necessary transmission system upgrades pursuant to its Order No. 1000-compliant OATT Attachment K process.[8]

The proposed operational protocol is consistent with and does not change any of these FERC-approved methodologies or any other aspect of the PacifiCorp OATT.

B. Implementation of PURPA Must-Take Obligation in Constrained Areas

When QFs site projects in constrained areas, the intersection between the utility's PURPA must-take requirement and the Commission's open access policies requires the utility to navigate:

1. **Firm transmission arrangements for QFs.** FERC regulations and precedent that state a utility has an obligation under PURPA to purchase, and make firm transmission arrangements for, QF power, as well as to keep customers indifferent to such QF purchases.
2. **Limitations on granting DNR status.** FERC precedent that does not appear to support the granting of additional DNRs where there is zero ATC; and
3. **Constructing network upgrades to accommodate new DNRs.** FERC policies that obligate a transmission provider to build transmission to accommodate firm transmission service requests, including new DNR requests, in constrained areas.

As discussed in more detail below, these requirements collectively have the potential to require the construction of uneconomic network upgrades that are needed solely to accommodate the QF power sited in the constrained area, rather than to maintain compliance with reliability requirements (including load service) or to achieve improvements where upgrades are economically justified – traditionally the primary drivers of the open access transmission planning process.[9] In addition, there is a separate but related issue of how to provide firm transmission for the QF during any interim periods when transmission upgrades have been previously identified in accordance with PacifiCorp's OATT and Commission-approved transmission planning process and are in the process of being constructed.

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[7] *See, e.g.*, Order No. 888 at p. 31,754 (addressing whether and how to set limits on the amount of network resources a customer can designate, ultimately limiting it to the resources a customer owns or commits to purchase, and noting that a transmission customer would have "an incentive not to oversubscribe its capacity requirements because the cost of excessive reserve margins will be prohibitive," which would protect the utility from having to incur costs that are out of proportion to the customer's load).

[8] PacifiCorp OATT, Attachment K; *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 Fed. Reg. 49,842 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

[9] PacifiCorp recognizes that there are other considerations in the transmission planning process, but believes that reliable load service and economic considerations are the drivers most relevant to the instant proposal.

1. Firm Transmission Arrangements for QFs

PURPA obligates a utility to purchase, and make firm transmission arrangements for, a QF's power,[10] and to keep customers indifferent to such QF purchases.[11] PacifiCorp Energy has historically made these firm transmission arrangements by designating QF power purchase agreements ("PPA") as Network Resources under its Network Integration Transmission Service Agreement ("NITSA") with PacifiCorp Transmission. However, where the transmission system is constrained, and constraints cannot be relieved by planning redispatch, the OATT and FERC's transmission pricing policies obligate a transmission provider to build network upgrades to accommodate firm transmission service requests[12] and roll the cost of those network upgrades into rate base.[13]

2. Limitations on Granting DNR Status

Furthermore, Commission precedent does not appear to support the granting of new DNR requests where there is zero ATC.[14] In *Madison Gas & Electric v. Wisconsin Power & Light Company*, the Commission examined, among other issues, whether the transmission provider had acted inappropriately by granting its own merchant's request to designate a new network resource without first evaluating whether ATC was available to meet the request. The transmission provider defended its actions, arguing that "any network customer may designate network resources without regard to the amount of ATC, and that requests for network service (an initial service request or a change in a network resource for an existing service) cannot be rejected on the ground that there is no ATC."[15]

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[10] *See, e.g.*, 18 C.F.R. § 292.303 (discussing a utility's obligation to interconnect with and purchase power from QFs); *Pioneer Wind Park I, LLC*, 145 FERC ¶ 61,215 at P 38 (2013) ("*Pioneer*") (stating, for example, that the proposed curtailment provision "treats Pioneer Wind as if it is the transmission customer and it curtails Pioneer Wind as if it were a non-firm, secondary network service transmission customer that can be curtailed by PacifiCorp before any existing PacifiCorp Network Resource that was designated as a Network Resource prior to execution of the PPA between Pioneer Wind and PacifiCorp.") (emphasis added). The Commission has also stated that, once QF energy is purchased, it is the utility's responsibility to "deliver that energy to its load (or otherwise manage the energy)." *See, e.g.*, *Entergy*, 137 FERC ¶ 61,199 at P 52 (2011); *Exelon Wind*, 140 FERC ¶ 61,152 at P 50 (2012) (emphasis added). The Commission has not expanded on this statement other than to state what utilities cannot do (*e.g.*, utilities cannot treat QF purchases subordinate to tariff considerations and/or curtail QF output along with non-firm service).

[11] *See, e.g.*, 18 C.F.R. § 292.304 (a)(1)-(2) (stating that rates for QF purchases must "[b]e just and reasonable to the electric consumer of the electric utility and in the public interest; and [n]ot discriminate against qualifying cogeneration and small power production facilities. Nothing in this subpart requires any electric utility to pay more than the avoided costs for purchases.").

[12] *See, e.g.*, OATT Sections 32.3 and 32.4. These sections are discussed in more detail below.

[13] *See, e.g., Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act*, FERC Stats. & Regs. ¶ 31,005 (1994), *clarified*, 71 FERC ¶ 61,195 (1995) (FERC's Transmission Pricing Policy).

[14] *Madison Gas & Elec. Co v. Wisc. Power & Light Co.*, 80 FERC ¶ 61,331 at 62,103-04 (1997).

[15] *Id*. at 62,103-04.

The Commission disagreed, finding that the transmission provider had confused the restrictions placed on network customers in placing requests for network service with the procedures that a transmission provider must use to evaluate its ability to provide the requested service.[16] While a customer does not need to consider ATC when deciding whether to submit a request, the Commission concluded that the determination of ATC is most certainly an element of the transmission provider's evaluation of and response to the request.[17] To that end, the Commission stated:

> When a network service application (initial or proposed modification) is received, the transmission provider must evaluate ATC and determine if it is adequate to meet the request. This analysis would properly consider whether any pending reservations were conditional. If there is adequate ATC (as was the case here once the [MG&E] conditional reservation was canceled), the request should be granted. If there is inadequate ATC, the transmission provider would perform a system study to determine what changes to the transmission grid would be required to provide the requested service. Until sufficient ATC is available to meet the request, the application could not be granted. However, we note that the resource could be used as a substitute resource, accessible to the network customer on an as available basis with a priority above all other nonfirm transmission services.[18]

Thus, a potential conflict between federal obligations arises because, on the one hand, PURPA requires a utility to purchase QF power and make firm transmission arrangements (*e.g.*, DNR status) to deliver it, even if the QF has chosen to site in a constrained area. On the other hand, Commission open access policy and precedent do not appear to support the granting of new DNRs until sufficient ATC is available to meet the request. As discussed in the next section, this appears to put the utility in the position of having to construct network upgrades in order to accommodate the PURPA-required QF firm transmission service, even if the utility would not have otherwise constructed those upgrades – certainly not for load service, reliability or because they were cost-justified.[19]

3. Constructing Network Upgrades to Accommodate New DNRs

If a DNR request is pursued where constraints are present, the OATT essentially provides two options: (1) study whether the constraints can be resolved using planning redispatch; or (2) upgrade the system to relieve the constraints.[20] The OATT does not contemplate an option under which a network customer can decline to execute a Facilities

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16 *Id*.

17 *Id*.

18 *Id* at 62,103-04. (emphasis added).

19 Indeed, simply using the QF resource "as a substitute resource, accessible to the network customer on an as available basis" (*i.e.*, secondary network service) would be inconsistent with FERC precedent that bars utilities from curtailing QFs as if they are non-firm, secondary network service transmission customers. *See Pioneer*, 145 FERC at P 38.

20 OATT Section 32.3 and 32.4.

Study Agreement but still receive a network resource designation and simply manage that new DNR along with the rest of its DNRs within its existing capacity limitations.

To that end, if planning redispatch does not resolve the constraints and the System Impact Study ("SIS") indicates that upgrades are needed to accommodate that transmission service request, OATT Section 32.4 states that PacifiCorp Transmission must tender a Facilities Study Agreement to the customer, and that "For a service request to remain a Completed Application, the Eligible Customer shall execute the Facilities Study Agreement and return it…within fifteen (15) days. If the Eligible Customer elects not to execute the Facilities Study Agreement, its Application shall be deemed withdrawn and its deposit shall be returned with interest."[21]

Building significant network upgrades that are solely to accommodate QFs and not otherwise necessary for load service or reliability nor cost-justified would seem to conflict with the PURPA customer indifference mandate, as well as run counter to FERC long-term transmission planning policies noted above. The following section describes the proposed NOA amendment, which is designed to address this conflict.

III. Proposed NOA Amendment

A number of QF resources have indicated a desire to interconnect with PacifiCorp in areas where the transmission system is constrained or has the potential to become constrained. The NOA amendment proposes a narrow, customer-specific operational solution to apply in such areas,[22] while still allowing PacifiCorp to fulfill its PURPA mandatory purchase obligation and comply with open access policies.

In particular, the new NOA provision would give PacifiCorp Transmission the right to grant additional DNR applications (QF and non-QF) in constrained areas without the construction of uneconomic network upgrades or during the interim period while approved upgrades are developed, provided that PacifiCorp Energy (as the network customer) agrees to operate its DNRs within its network rights under its NITSA and system limits defined by PacifiCorp Transmission and curtail QF power last, even if that is out of economic merit order. These proposed provisions have been developed within the construct of existing OATT study processes and concepts, *i.e.*, the existing OATT planning redispatch option.

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[21] OATT Section 32.4 (emphasis added).

[22] Transmission providers and transmission customers have flexibility with respect to the terms and conditions they decide to include in their NOA. To that end, FERC recognized in Order No. 888-A that the NOA "is expected to be a highly detailed agreement between the transmission provider and network customer that establishes the integration of the network customer within the transmission provider's transmission system. Due to the unique characteristics of network customers' systems and the level of customer-specific information and arrangements required under a network operating agreement, it is likely that each network operating agreement will be different for each customer. Accordingly, the Commission does not believe it appropriate to mandate a particular form of network operating agreement for inclusion in the *pro forma* tariff." Order No. 888-A at 30,325.

The amendment language begins by stating that where an SIS indicates that (1) upgrades are needed to relieve system constraints and accommodate PacifiCorp Energy's request to designate a new Network Resource, and (2) the delivery of QF power has caused or contributed to those system constraints, then PacifiCorp Energy can choose from two standard OATT options: (1) planning redispatch or (2) a facilities study and construction of upgrades. The proposed NOA amendment falls under the planning redispatch option.

To that end, the new NOA provision would provide PacifiCorp Transmission the ability to grant additional DNRs even where there is zero ATC available, and provide PacifiCorp Energy the option to manage its DNRs within existing transmission system limits, under two different circumstances: (1) as an interim measure while network upgrades are being constructed; and (2) as a longer-term measure where no upgrades will be constructed for purposes of accommodating the QF request(s), but may later be identified as necessary by PacifiCorp Transmission pursuant to its OATT, including in the normal Attachment K process. More specifically:

- **Section 8.1(a) - Interim planning redispatch while facilities are being constructed.** Section 8.1(a) of the NOA amendment addresses circumstances where network upgrades were previously identified as necessary pursuant to the OATT, including the Attachment K planning process, and are currently being pursued. In order to remain fully consistent with the existing OATT construct, that same section also gives PacifiCorp Energy the option to enter into a Facilities Study Agreement if the necessary upgrades have not been previously identified, and PacifiCorp Energy would like those upgrades studied and constructed. In either case, this section contemplates upgrades being constructed, and addresses the treatment of new requests and resource management in the interim.

- **Section 8.1(b) - Longer-term planning redispatch.** Section 8.1(b) addresses circumstances where network upgrades have not been previously identified pursuant to the OATT, including the Attachment K planning process, and the treatment of new requests and resource management where there is no current plan to construct upgrades.

Importantly, in either case – whether an interim or longer-term plan – the amendment would allow PacifiCorp Transmission to grant DNR applications even if there is zero ATC, so long as PacifiCorp Energy agrees to operate within identified system limits unless and until upgrades are built and constraints are relieved. Also, under either option 8.1(a) or 8.1(b), PacifiCorp will prioritize its scheduled dispatch of its DNRs in the constrained area so that schedules of non-QF resources will be limited before any QF PPA schedules as necessary to maintain identified transmission limits. This provision ensures that QFs will remain protected and PacifiCorp will remain in

compliance with its PURPA obligations to purchase and make firm delivery arrangements for QF power.[23]

Other network customers will also remain protected under the proposed protocol, as it will only address PacifiCorp Energy's network service. Indeed, PacifiCorp will continue to comply with all of the FERC-approved methodologies for planning and reserving capacity for network customers and determining ATC noted above. Importantly, the proposal will not affect any other network customer's network allocation, and all network loads will continue to be served on a firm basis. Only PacifiCorp Energy's DNRs will be subject to the proposed operating protocol, unless another network customer requests similar treatment.

PacifiCorp believes it is appropriate to characterize the proposed operational practice as a form of planning redispatch. Traditional planning redispatch contemplates a transmission provider studying whether existing resources could be delivered firm in a different manner, *i.e.*, through a redispatch that alters flows and creates additional ATC for a new service request to also be delivered on a firm basis.[24] The proposed NOA amendment involves an individual network customer (PacifiCorp Energy) agreeing to operate within certain limits because there is insufficient capacity to accommodate all of the DNRs without limitation. Thus, the DNRs in that constrained area would be more akin to replacement or alternate resources, rather than resources that can be delivered firm through a redispatch that alters flows and creates additional ATC. However, both approaches favor the efficient redispatch of resources over time-consuming and expensive network upgrades, and for that reason, PacifiCorp believes it would be appropriate to characterize its proposed resource management as a form of planning redispatch.[25]

Finally, the proposed NOA amendment includes provisions that: (1) address certain considerations that can be taken into account for the prioritizing of non-QF DNRs; and (2) clarify that the NOA planning redispatch procedures will apply during normal operating conditions, not system emergency conditions. With regard to the first, the NOA amendment notes that PacifiCorp Energy can take additional contractual obligations into account in prioritizing the planning redispatch of its non-PURPA DNRs. This language is intended to address PacifiCorp Energy's ability to consider, for example,

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[23] As noted above, the Commission has also stated that once QF energy is purchased, it is the utility's responsibility to "deliver that energy to its load (or otherwise manage the energy)." *See, e.g.*, *Entergy*, 137 FERC ¶ 61,199 at P 52 (2011); *Exelon Wind*, 140 FERC ¶ 61,152 at P 50 (2012) (emphasis added). While the Commission has not expanded on this statement other than to state what utilities cannot do (*e.g.*, utilities cannot treat QF purchases subordinate to tariff considerations and/or curtail QF output along with non-firm service), PacifiCorp believes that its proposed NOA amendment is consistent with this statement.

[24] *See, e.g.*, Order No. 890 at P 901 ("Planning redispatch is a product that Order No. 888 required transmission providers to use, in certain circumstances, to create additional transmission capacity to accommodate a request for firm transmission service.").

[25] Doing so also offers the benefit of keeping the proposal within the current OATT construct and study processes.

contractual liquidated damages provisions, when making decisions about the priority of non-QF DNRs.

With regard to the second, the NOA amendment makes it clear that the new planning redispatch procedures are different than the Reliability Redispatch Procedures discussed in Section 8.2 of the NOA, or the system emergency operations discussed in Section 307 of FERC's PURPA regulations.[26] In other words, the operations described in the NOA amendment apply during *normal* operating conditions. System emergency conditions have separate and distinct rules, including the right to curtail QF power on a nondiscriminatory basis to the extent it is contributing to the emergency – something not contemplated or addressed by this NOA amendment.[27]

IV. Communications

All communications and correspondence regarding this filing should be forwarded to the following persons:

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V. Effective Date

Consistent with 18 C.F.R. § 35.3(a)(1), PacifiCorp respectfully requests an effective date of 60 days after date of filing.

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[26] 18 C.F.R. § 292.307.

[27] Nothing in this filing or the proposed NOA amendment modifies the ability of PacifiCorp Transmission to curtail the output of a QF, in accordance with the interconnection agreement and the Commission's regulations applicable in a system emergency. The Commission's regulations define "system emergency" as "a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property." 18 C.F.R. § 292.101(b)(4). In this limited emergency situation, PacifiCorp would have the right to discontinue purchases from QFs if such purchases would contribute to the system emergency. 18 C.F.R. § 292.307.

VI. Documents Submitted with this Filing; Request for Waiver

PacifiCorp is submitting the NOA amendment changes in eTariff format in accordance with the requirements of Order No. 714.[28] In addition to this transmittal letter, PacifiCorp is submitting a clean copy of the amended NOA (Exhibit A) and a redline copy of the amended NOA (Exhibit B).

To the extent necessary, PacifiCorp also respectfully requests waiver of any of the requirements in Part 35 of the Commission's regulations which have not been fulfilled by this filing.

VII. Conclusion

For the foregoing reasons, PacifiCorp respectfully requests that the Commission accept the proposed NOA amendment.

Respectfully Submitted,

/s/ Karen J. Kruse
Karen J. Kruse

Attorney for PacifiCorp

[28] *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).

EXHIBIT B

Redline Copy of Amended NOA

PacifiCorp

NETWORK OPERATING AGREEMENT

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PACIFICORP

Network Operating Agreement
between

PacifiCorp, on behalf of its transmission function

and

PacifiCorp Energy, the merchant function of PacifiCorp

This Network Operating Agreement ("NOA"), dated as of _12/24/2014_ ~~July 24, 2008~~, is entered into by and between PacifiCorp, on behalf of its transmission function ("Transmission Provider"), and PacifiCorp Energy, the merchant function of PacifiCorp ("Network Customer"), referred to herein individually as "Party" and collectively as "Parties".

WHEREAS, Network Customer has requested and Transmission Provider has agreed to provide Network Integration Transmission Service under Part III of PacifiCorp's Open Access Transmission Tariff ("Tariff"), as it may be amended from time to time; and

WHEREAS, Network Customer and Transmission Provider have entered into a Network Integration Transmission Service Agreement ("NITSA") originally dated August 13, 1997 and revised from time to time thereafter; and

WHEREAS, the Parties wish to define the terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Part III of the Tariff.

NOW, THEREFORE, in consideration of the foregoing premises and of the benefits to be obtained from the covenants herein, Transmission Provider and Network Customer agree as follows:

Section 1. Purpose

This Agreement shall provide for the Parties to:

(i) operate and maintain equipment necessary for integrating the Network Customer within the Transmission Provider's Transmission System (including, but not limited to, remote terminal units, metering, communications equipment, and relaying equipment);

(ii) transfer data between the Transmission Provider and the Network Customer (including, but not limited to, heat rates and operational characteristics of Network Resources, generation schedules for units outside the Transmission Provider's Transmission System, Network Loads, interchange schedules,

unit outputs for redispatch required under Section 33, voltage schedules, loss factors and other real time data);

(iii) use software programs required for data links and constraint dispatching;

(iv) exchange data on forecasted loads and resources necessary for longterm planning; and

(v) address any other technical and operational considerations required for implementation of Part III of the Tariff, including scheduling protocols.

This Agreement shall recognize that the Network Customer shall either (i) operate as a Balancing Area under applicable guidelines of the North American Electric Reliability Corporation ("NERC"), and the Regional Reliability Organization the Western Electricity Coordinating Council ("WECC") (ii) satisfy its Balancing Area requirements, including all necessary Ancillary Services, by making arrangements with the Transmission Provider, (iii) satisfy its Balancing Area requirements, including all necessary Ancillary Services, by making alternative comparable arrangements with another entity, consistent with Good Utility Practice, which satisfies the applicable reliability guidelines of the NERC/WECC, or (iv) satisfy its Balancing Area requirements by self-providing all necessary Ancillary Services consistent with Transmission Provider requirements. The Transmission Provider shall not unreasonably refuse to accept contractual arrangements with another entity for Ancillary Services.

Section 2. Incorporation

The provisions of Part I (Common Service Provisions) and Part III (Network Integration Transmission Service) of the Tariff are incorporated herein by this reference. In the event of an actual direct conflict between any provision of this NOA and any provision of Part I or Part III of the Tariff, with respect to a matter governed by such Parts, the terms of the Tariff shall control to the extent of such conflict.

Section 3. Definitions

Capitalized terms used in this NOA shall have those definitions as contained in the Tariff, including all schedules and attachments to the Tariff and to this NOA.

Definitions other than those currently contained in the OATT or as defined by NERC and NAESB are as follows:

Data Links — A means of communications to move real time information from a substation or load point to the PacifiCorp balancing authority operations center. Examples of acceptable communications are microwave paths, leased lines, and certain radio equipment. All proposed systems and methodologies must be approved by Transmission Provider and consistent with the systems or media in use. Data Links may include Inter-Balancing Area Communication Protocol ("ICCP"), Electronic Information Data Exchange ("EIDE"), or other accepted industry methods.

Point(s) of Interconnection ("POI"): The point(s) where the load or Network Customer's conductors or those of their respective agents meet the PacifiCorp system (point-of-ownership change).

Data Acquisition or Communication and Control Equipment: All equipment, hardware, software, and telecommunications utilized to transfer information from load substations as Points of Interconnection and generation stations as Points of Interconnection to the Transmission Provider for managing the reliability of the interconnected network system.

Metering Equipment: Metering devices including potential and current transformers utilized to measure the flow of energy from the network to loads or from resources into the network.

Network Integration Transmission Service Agreement ("NITSA"): The agreement between the Transmission provider and the Network Customer for network service under Tariff.

Points of Interconnection: All load points and generation resource points as identified in the NITSA and applicable Exhibits.

Protective Equipment: All equipment utilized to protect the electrical network from transient and permanent faults including primary and back-up systems. Equipment and settings between the PacifiCorp system and Network Customer owned systems shall be studied, defined, and coordinated during the interconnection process. Any subsequent event that indicates mis-operation shall be jointly studied and modified as required to meet NERC, WECC, and industry practice.

Regional Reliability Coordinator: The entity responsible to NERC for managing the reliability of the regional network. At the present time, this entity is WECC. The Reliability Coordinator ("RC") is responsible for continually monitoring and analyzing the Western Interconnected System. They access real-time data and provide information to Balancing Authorities ("BA"), Transmission Operators ("TOP") and other entities.

Section 4. Term of Service

4.1 Term:

The requirements of this NOA shall commence on the date first written above and shall continue in effect for the life of the NITSA; except that if Network Customer maintains points of interconnection between its facilities and those of the Transmission Provider's electric system following the expiration or termination of the NITSA, this NOA shall remain effective until such points of interconnection are no longer in service or a replacement agreement governing such interconnection is executed and effective between the Parties. In no event shall this NOA terminate without a filing of and acceptance of a notice of termination with FERC. The filing of a notice of termination is the responsibility of the Transmission Provider.

Section 5. Interconnection Provisions

5.1 Points of Interconnection:

This NOA shall be applicable to system operations associated with the Points of Interconnection between the Transmission Provider and the Network Customer identified in the NITSA and applicable Exhibits.

5.2 Ownership of Facilities:

Each Party shall own and operate any electric facilities installed on its respective side of the Points of Interconnection, as defined in the NITSA.

5.3 Voltage Change:

Transmission Provider may in the future, consistent with regional planning efforts, and in its sole discretion change the voltage on its side at the Point(s) of Interconnection. Transmission Provider shall inform Network Customer of such changes as far in advance as is practical. Network Customer shall respond to Transmission Provider within 30 days of receipt of Transmission Provider's notice in order to: (1) inform Transmission Provider that Network Customer agrees to make the required modifications to its Electric System to maintain voltage compatibility at the Point of Interconnection, at Network Customer's own expense and before the effective date of the change, or (2) inform Transmission Provider that Network Customer intends to terminate the Point(s) of Interconnection. Network Customer may request a study from the Transmission Provider to change the voltage on its side of the Points of Interconnection.

Section 6. Operational Requirements

Parties acknowledge that this Section 6 is general in nature and that the Transmission Provider's specific technical and reliability related operating requirements for the interconnected system and Points of Interconnection as defined in the NITSA, current at the time of the execution of this NOA, are posted on the Transmission Provider's OASIS web site. In some instances, the parties recognize that procedures and operating requirements reflect third party interests, particularly for joint ownership arrangements and these may not all be posted on OASIS. Further, Parties acknowledge that such technical operating requirements may change from time to time. When practical, the Transmission Provider shall consult in advance with Network Customers regarding such changes. Time for implementation shall be provided if the Network Customer must complete certain actions on its side of the Points of Interconnection. Such changes shall be posted on the website and all Network Customers shall receive notice as provided in Section 15.

6.1 Standard of Operation:

Network Customer shall design, construct, operate and maintain its Electric System that is interconnected to the Transmission Provider, including any additions or modifications thereto, in accordance with:

a) Good Utility Practice;
b) all applicable reliability standards established by NERC, NAESB, WECC or any other national or regional reliability standard-setting body, as approved by FERC, and as modified from time to time;
c) Transmission Provider's *Interconnection and Operating Requirements* as posted on the Transmission Provider's OASIS and as they may be modified from time to time;
d) any of Transmission Provider's Grid Operating Procedures, as are specifically provided to the Network Customer and as may be modified from time to time, that are applicable to or may have an effect on the Network Customer's service and;
e) such design, construction, operation and maintenance shall be performed in a manner that prevents the Network Customer's electric system from adversely affecting Transmission Provider's electric system.

6.2 Integration and Protective Equipment Requirements:

Network Customer shall purchase, install, upgrade, operate, maintain and replace all Data Acquisition Equipment, Metering Equipment, Protective Equipment, data lines and/or communications services and any other associated equipment under its control, and software necessary for Network Customer to integrate into the Transmission Provider's transmission system in accordance with:

1) Good Utility Practice,
2) Transmission Provider's *Interconnection and Operating Requirements,* and
3) all applicable operating and protective requirements promulgated by NERC or WECC (including, but not limited to, Balancing Authority functions), and as are approved by FERC.

Such protective equipment may include, but is not limited to, installation, operation and maintenance of under-frequency relaying equipment, load shedding equipment and voltage reduction equipment.

Prior to installation and use of such equipment and software, Network Customer shall submit to the Transmission Provider for review and approval related documents and specifications as may be required to ensure conformance with Good Utility Practice. Such submission of information shall allow for sufficient time for review and approval and such approval by the Transmission Provider shall not be unreasonably withheld.

6.3 Computer Modifications:

For equipment under Network Customer's control, Network Customer shall be responsible for implementing any computer modifications or changes required to its own computer system as necessary to implement the provisions of the Tariff, this NOA and

the Transmission Provider's technical operating requirements, initially and as they may change from time to time. Any such modifications on Transmission Provider's computer systems to accommodate the Network Customer shall be at the Network Customer's expense. Transmission Provider shall provide advance notice of computer system changes sufficient to allow Network Customer to plan and implement required changes.

6.4 Metering:

For equipment under Network Customer's control, Network Customer's Network Load shall be metered on an hourly integrated basis in accordance with Transmission Provider's standards and requirements. Meters shall be maintained by the Parties in accordance with maintenance of Metering, Communications and Control Equipment below. (Section 10.5)

6.5 System Data Requirements:

For equipment under Network Customer's control, Network Customer shall provide or cause to be provided to Transmission Provider, via established Data Links, such data and operating information as necessary for Transmission Provider to provide service under the Tariff and to ensure system security and reliability, consistent with NERC, NAESB and WECC requirements as approved by FERC and as may be modified from time to time.

For equipment under Transmission Provider's control, Transmission Provider shall provide or cause to be provided to Network Customer, via established Data Links, such data and operating information as necessary for Network Customer to ensure system security and reliability, consistent with NERC, NAESB, and WECC requirements as approved by FERC and as may be modified from time to time.

Transfer data requirements must include: operational characteristics of Network Resources, generation schedules for remotely located network resources outside the Transmission Provider's Transmission System, interchange schedules for all purchases and sales not otherwise provided by electronic etag, unit outputs for redispatch required under Section 33, voltage schedules, loss factors, and other real time data. Such information may also include, loads, line flows, voltages, breaker status, and disconnect switch status.

The Transmission Provider and Network Customer shall share real time system data through the use of *ICCP, EIDE, or other applicable* software programs required for data links and constraint dispatching.

The Transmission Provider and Network Customer shall exchange data for forecasted loads and resources necessary for long-term planning as defined in Section 11.

6.6 Outage of Data Link:

Whenever an outage of a Data Link occurs, the Party responsible for the component that has failed shall use best efforts to correct the problem and minimize the outage time. If, as a result of an outage of the Data Link for which Network Customer is responsible, Network Customer receives services from Transmission Provider and Transmission Provider shall charge Network Customer for such services at the higher of Transmission Provider's actual cost or the rate specified in the Tariff for identical services if provided on a prearranged-basis.

6.7 Generation:

Network Customer's generation interconnected with Transmission Provider's electric system shall be operated in accordance with an effective generation interconnection agreement between Transmission Provider and the Network Customer. In the absence of an interconnection agreement for grandfathered generation (generation facilities that were interconnected to the Transmission Provider's system before implementation of FERC Order Nos. 2003, 2003—A, 2003—B, and 2003-C), the terms of the current FERC pro-forma LGIA shall apply.

6.8 Designated Network Resources (refer to section 30.4 of the Tariff)

Network Customer shall operate its designated Network Resources located in the Network Customer's or Transmission Provider's Balancing Area such that the output of those facilities is equal to its designated Network Load, plus non-firm sales delivered pursuant to Part II of the Tariff, plus losses. This limitation shall not apply to changes in the operation of a Transmission Customer's Network Resources at the request of the Transmission Provider to respond to an emergency or other unforeseen condition which may impair or degrade the reliability of the Transmission System or in satisfying Network Customer Redispatch Obligations.

Transmission Provider or its designated Balancing Authority shall provide advance notification in accordance with posted business practices of all transmission facility planned outages that would impact the operation and dispatching of designated Network Resources.

6.9 Undesignations for Off-System Sales

To the extent that a Resource has been designated as a Network Resource, the resource must be available to serve the Network Customer's designated Network Load on a non-interruptible basis. Network Customers that have designated a resource (whether owned or contracted) as a Network Resource, have the option to temporarily undesignate such Network Resource in whole or in part on a short-term basis under the applicable posted business practice and under the terms of the Tariff.

6.10 Reactive Requirements

Network Customer shall have sufficient reactive compensation and control to meet the power factor requirements specified in the Transmission Providers *Specifications and Operating Requirements.* Such power factor range shall be adhered to at each Point of Interconnection except for momentary deviations or with Transmission Provider's written consent. If Network Customer does not provide the necessary reactive compensation and control to comply with such power factor requirements, Transmission Provider shall provide notice of such deficiency to the Network Customer. Upon receipt of such notice, Network Customer shall within 30 days file a corrective plan. If such plan is unacceptable to the Transmission Provider or the Network Customer fails to implement the plan in a timely manner, the Transmission Provider shall have the unilateral right to install the equipment necessary to meet these standards at Network Customer's expense.

6.11 Network Customer Obligations Regarding Balancing Authority Requirements

Network Customer shall either (1) operate as a Balancing Authority under applicable guidelines of NERC and/or the WECC, (2) satisfy its Balancing Area requirements, including all necessary Ancillary Services, by making arrangements with the Transmission Provider, (3) satisfy its Balancing Area requirements, including all necessary Ancillary Services, by self-supply or by making alternative comparable arrangements with another entity, consistent with Good Utility Practice, and which complies with all applicable reliability and commercial business practice requirements of PacifiCorp, NERC, and/or WECC or (4) satisfy its Balancing Area requirements by self-providing all necessary Ancillary Services consistent with Transmission Provider requirements. To the extent that the Network Customer elects option (3), the Network Customer shall complete the ancillary service self-supply or third-party supply certification process according to the applicable PacifiCorp business practice.

6.12 Notice of System or Equipment Changes:

A Party proposing to make changes to its facilities, systems or operating procedures that will have an operational or cost impact on or require new or modified facilities to be constructed or installed by the other Party shall provide notice and details of the proposed change sufficient to allow for coordinated planning and execution of the changes. Such changes include but are not limited to voltage change (see Section 4.2), addition or retirement of generation resources, accommodation of load growth, and changes to applicable reliability requirements, commercial business and communication standards and operating procedures.

6.13 Daily Operations Forecast:

Network Customer shall provide to the Transmission Provider its daily network resource plan including, but not limited to, available units, status of units, generation schedule for each hour, units in reserve (spinning and non-spinning), scheduled unit outages for the day, fuel nomination for loaded and reserve network resources for the day. Network Customer shall provide all forecast information as defined by the applicable PacifiCorp business practice.

6.14 E-Tagging:

Network Customer agrees to the use of electronic tagging (E-Tag) for paths internal to the PacifiCorp balancing authority areas which may be constrained and require scheduling per the Balancing Authority's requirements. Parties agree to work in good faith toward the expanded use of E-Tagging on internal constrained paths for scheduling designated Network Resources to Network Load. The Network Customer shall follow E-Tagging requirements according to the applicable PacifiCorp business practice.

Section 7. Emergency System Operations

7.1 Definition:

Emergency Condition shall have the meaning as defined in Section 1.33 of the Tariff.

7.2 Obligation to Notify of Forced Generation Outage:

Network Customer shall immediately notify Transmission Provider at the time when any unscheduled or forced outages occur and again when such unscheduled or forced outages end. Network Customer shall notify and coordinate with Transmission Provider before re-synchronizing the Network Resource, transmission line or substation.

7.3 Remedial Actions:

Transmission Provider shall, in its sole judgment, determine appropriate remedial actions to be taken under Emergency Conditions. Such actions to protect life, equipment and the security of its electrical system must comply with NERC and/or WECC reliability requirements or any directive of the Regional Reliability Coordinator. If under Emergency Conditions the Transmission Provider issues instructions to Network Customer, Network Customer shall comply with such orders immediately. Actions that may be taken or ordered by the Transmission Provider include but are not limited to any one or a combination of the following:

a) Redispatch as provided for in Section 33.2 of the Tariff. Redispatch procedures are described in Section 7 below.
b) Load shedding as provided for in Section 33.6 of the Tariff. Load shedding, if required to maintain system reliability, will be done on a pro-rata basis for obligations of each firm user (Network Customer, Point-to-Point, Legacy Customer). Obligations will be calculated based upon each customer's assigned firm transmission rights across the congested path in proportion to the amount of curtailment needed. Example: a firm customer with 50% of the transmission rights on a path will be assigned 50% of the required load curtailment as required to maintain system reliability.
c) Curtailments of scheduled deliveries as provided for in Sections 33.4 and 33.5 of the Tariff and described further in Section 8 below.

Transmission Provider may propose and implement remedial action schemes as a means of addressing constraints and maximizing transmission capacity on the network and/or to accommodate new generation sources. Remedial action schemes may require real time curtailment of a Network Customer's resources, however Network Customer must agree to expansion of remedial action schemes impacting any designated network resources. Existing remedial action schemes are identified in Appendix B. Tripping characteristics, set points, and status of remedial action schemes impacting Network Customer's resource(s) shall be provided to Network Customer, upon request, via Data Links.

7.4 Transmission Provider May Interrupt:

If Network Customer does not take appropriate corrective actions immediately, Transmission Provider may interrupt Network Integration Transmission Service until appropriate corrective action is taken by Network Customer.

7.5 Network Customer May Review:

If Transmission Provider issues instructions to the Network Customer or takes corrective actions, Network Customer or delegated representative may review such instructions and/or actions and the conditions predicating such instructions and/or actions after the Emergency System Operations have concluded to the extent necessary to confirm conformance with Tariff.

Section 8. ~~Reliability~~ Redispatch Procedures

8.1 Planning Redispatch Procedures

Where (1) a System Impact Study indicates that additions or upgrades to the Transmission System are needed to relieve system constraints and accommodate Network Customer's request to designate a new Network Resource, and (2) Network Customer request(s) for Network Resource designation of Public Utility Regulatory Policies Act of 1978 ("PURPA") must-take power purchase agreement(s) have caused or contributed to the system constraints, Transmission Provider shall provide Network Customer with the following options:

(a) In accordance with Facilities Study Procedures in Tariff Section 32.4, Network Customer may execute a Facilities Study Agreement, in which case Transmission Provider shall perform the Facilities Study and identify, among other things, the time required to complete facility construction and initiate the requested designation. In the alternative, to the extent Transmission Provider has already identified necessary additions or upgrades in accordance with its Tariff, including the Tariff Attachment K Transmission Planning Process, and those additions or upgrades would also relieve constraints sufficient to accommodate the Network Customer's request to designate a new Network Resource, no Facilities Study Agreement is necessary. In either case, Transmission Provider shall grant Network Customer's designated Network Resource application, provided that Network Customer agrees that its schedules will not exceed the transmission limits identified by Transmission Provider in the constrained area until facility construction is completed and sufficient transmission capacity is available to accommodate all of the designated Network Resources without limitation; or

(b) In accordance with System Impact Study Procedures in Tariff Section 32.3, Transmission Provider may offer, as a planning redispatch option, to grant Network Customer's designated Network Resource application, provided that Network Customer agrees that its schedules will not exceed the transmission limits identified by Transmission Provider in the constrained area. This planning redispatch arrangement would be in effect unless and until:

(1) Network Customer requests a Facilities Study Agreement, in which case Transmission Provider shall perform the Facilities Study and identify, among other things, the time required to complete facility construction and initiate the requested designation in accordance with Tariff Section 32.4.

In that case, Network Customer must continue to maintain schedules within the transmission limits identified by Transmission Provider in the constrained area until facility construction is completed and sufficient transmission capacity is available to accommodate all of the designated Network Resources without limitation; or

(2) Transmission Provider determines that Network Upgrades are necessary in accordance with its Tariff, including the Tariff Attachment K Transmission Planning Process, the identified Network Upgrades are constructed, and sufficient transmission capacity is available to accommodate all of the designated Network Resources without limitation.

Under either option 8.1(a) or 8.1(b), Network Customer will prioritize its scheduled dispatch of the designated Network Resources in the constrained area such that schedules of non-PURPA must-take resources will be limited before the schedules of any PURPA must-take resources, to the extent feasible in accordance with Good Utility Practice, in order to allow PURPA must-take power to flow while still maintaining schedules within any transmission limits identified by the Transmission Provider in the constrained area. The Network Customer may take additional contractual obligations into account in prioritizing the planning redispatch of the non-PURPA designated Network Resources.

Nothing in this Section 8.1 is intended to address the Reliability Redispatch Procedures discussed in Section 8.2 below, or the system emergency operations discussed in Section 18 C.F.R. § 292.307 of FERC's regulations.

8.2 Reliability Redispatch Procedures

8.2.1 Transmission Provider May Redispatch For Reliability Purposes

If Transmission Provider determines, following Good Utility Practice, that reliability redispatching of the designated Network Resources including establishing minimum operating levels of Network Resources, i.e., "must run" resources, to relieve an existing or potential transmission constraint is the most effective way to ensure reliable system operation, Transmission Provider shall redispatch designated Network Customer's and/or any third-party Network Resources, on a least-cost basis, without regard to the ownership of such resources. Transmission Provider may order reliability redispatch service from any generation designated as a Network Resource. Network Customer shall comply immediately with reliability redispatch orders from the Transmission Provider, the Balancing Authority, or the Reliability Coordinator.

8.2.2 Network Customer to Provide Certain Data:

Network Customer shall submit regularly (but at least annually on January 1 of each year), verifiable incremental and decremental cost data for its designated Network Resources. These costs shall be used (along with similar resource costs of Transmission Provider's other network customers) as the basis for least-cost redispatch decisions. Network Customer shall notify Transmission Provider of significant changes in its generation costs on a timely basis.

Transmission Provider shall implement least-cost redispatch consistent with its existing contractual obligations and its current practices and procedures as amended from time to time.

8.2.3 Recording of Network Customer's Costs:

The Transmission Provider reserves its right to bill or credit Network Customers a proportional share of the total reliability redispatch costs based on its then current load ratio share. To the extent the Transmission Provider elects to bill or credit Network Customers a proportional share of the total reliability redispatch costs, the Transmission Provider shall record in a separate account costs incurred by Network Customers based on the submitted incremental and decremental costs at the time of redispatch and shall have the right to audit Network Customer's cost data.

8.2.4 Reliability Redispatch Procedures

Reliability Redispatch shall follow the Reliability Redispatch Business Practice as currently posted on Transmission Provider's OASIS site.

8.2.5 Network Customer May Review:

If Transmission Provider issues reliability redispatch orders to the Network Customer or bills the Network Customer for reliability redispatch costs, Network Customer or delegated representative may review such orders and/or billing and the conditions predicating such orders and/or billing after the Reliability Redispatch Procedures have concluded to the extent necessary to confirm conformance with Tariff.

Section 9. Curtailments

9.1 Definition:

Curtailment shall have the meaning as defined in the Tariff at Section 1.8.

9.2 Curtailment Procedures:

If after curtailment of all non-firm transmission schedules, a transmission constraint on the Transmission Provider's Transmission System cannot be relieved through the implementation of reliability redispatch as described in Section 8 and the Transmission Provider determines that Curtailments of firm scheduled deliveries are necessary to maintain the safety, reliability and integrity of its system, the Transmission Provider shall Curtail such schedules as it deems necessary in accordance with the Tariff and applicable business practices. To the extent practicable and consistent with Good Utility Practice, Curtailments to firm services shall be made on a non-discriminatory basis, to all firm Network, Legacy Customer load schedules, and Point-To-Point schedules. Curtailments will be calculated on a load share basis using each customer's assigned capacity rights on the path. Capacity rights will be granted and updated annually based upon accepted Load and Resource submittals. Network Customer shall comply immediately with reliability curtailment orders from the Transmission Provider, the Balancing Authority, or the Reliability Coordinator.

9.3 Stranded Loads:

Loads which have the potential to become stranded on adjacent transmission provider systems shall be managed according to business practices, including **"E-Tagging Load that may be Stranded on External Transmission Systems during Planned Outages and Emergency Conditions".**

9.4 Network Customer May Review:

If Transmission Provider issues reliability curtailment orders to the Network Customer, Network Customer or delegated representative may review such orders and the conditions predicating such orders after the reliability curtailments have concluded to the extent necessary to confirm conformance with Tariff

Section 10. Coordination of Facilities Maintenance

10.1 Maintenance Requests:

Not later than each January 1st, Network Customer shall submit to the Transmission Provider its planned maintenance schedule for facilities at its points of delivery and network resources identified in the Network Customer's NITSA for the upcoming calendar year. Such schedule shall contain maintenance requirements for the Network Customer's generating resources, transmission equipment, substation equipment, Data Link equipment, Data Acquisition equipment, Protective Equipment and any other equipment for which maintenance must be scheduled for reliability or economic reasons. Such requests shall contain information sufficiently detailed as is reasonably required by the Transmission Provider to enable effective planning.

10.2 Review and Approval:

Transmission Provider shall review, consolidate, and modify, in consultation with Network Customer(s) and as necessary to maintain system reliability, all submitted planned maintenance requests. Once approved by the Transmission Provider, the Transmission Provider's annual system maintenance plan shall be effective for the upcoming calendar year and shall be made available on Transmission Provider's OASIS. Network Customer's maintenance information shall be kept confidential.

10.3 Maintenance Plan Modifications:

Network Customer may request, at any time, changes to the approved maintenance plan. Requested modifications shall be evaluated by the Transmission Provider for impacts on system reliability and operations and on other users of the system. Requested modifications shall not be unreasonably withheld. Any modification approved by the Transmission Provider shall be incorporated into the annual transmission system maintenance plan and shall be updated on the Transmission Provider's OASIS. Market sensitive information provided by the Network Customer shall be held confidential, consistent with the obligation to update the

posted maintenance plan, except to the limited extent information is required to be posted on PacifiCorp's OASIS in response to a request for transmission or ancillary service.

10.4 Clearance to begin work:

Network Customer shall use best efforts to provide to Transmission Provider the minimum notices as identified in the appropriate business practices, including, **"Outage Planning and Notification Requirements."** The Network Customer shall request planned transmission line outages in advance of the start of work on approved maintenance items on its system contained in the currently approved maintenance plan. If notice is not timely received, the Transmission Provider has the right to decline the outage, but shall not unreasonably do so.

Transmission Provider shall provide notice to Transmission Customers according to posted business practice timelines that maintenance work planned by the Transmission Provider will take place. Outage postings, planned and forced, shall be provided on the OASIS website and through other public methods as may be developed to provide Network Customers with the most timely information available.

Network Customers may comment on planned and posted outages, consistent with PacifiCorp business practices, particularly when planned outages impact the Network Customers costs or contractual and regulatory obligations. The Transmission Provider shall consider comments, but reserves the right to proceed with any planned or emergency outage.

10.5 Maintenance of Metering, Communications and Control Equipment:

Network Customer shall at Transmission Provider's request (not more than once every two years), and at its own expense, test, calibrate, verify and validate the Metering Equipment, Data Acquisition Equipment and other equipment or software used to determine Network Load. Transmission Provider shall have the right to inspect any tests, calibrations, verifications and validations of the Metering Equipment, Data Acquisition Equipment and other equipment or metering software used to determine the Network Load. Upon Transmission Provider's request, Network Customer shall provide Transmission Provider a copy of the installation, test and calibration records of the Metering Equipment, Data Acquisition Equipment and other equipment or software. Transmission Provider shall, at Network Customer's expense, have the right to monitor the factory acceptance test, the field acceptance test, and the installation of any Metering Equipment, data acquisition equipment, and other equipment or software used to determine the Network Load.

The Transmission Provider shall provide load data or aggregate load data in its possession to the Network Customer upon request. The Network Customer shall be obligated to provide the telecommunications and data link required for data transfer and shall be required to pay all costs associated with the provision of meter data provided by the Transmission Provider which is not otherwise publicly available. The Transmission Provider will have the sole authority to evaluate requests for data and decline these requests if access to third party information is at risk, or the provision of such data imposes any liability upon the Transmission Provider.

10.6 Coordination of Transmission Maintenance:

Transmission Provider shall coordinate the transmission maintenance and outage schedules for all Network Customers and post the impacts on OASIS. These postings and notifications shall be in accordance with Northwest Power Pool Operating Manual section H and the appropriate business practices. Market sensitive information provided by the Network Customer shall be held confidential, consistent with the obligation to update the posted maintenance plan, except to the limited extent information is required to be posted on PacifiCorp's OASIS in response to a request for transmission or ancillary service.

Section 11. Network Operating Committee

11.1 Network Operating Committee:

As described in Section 35.3 of the Tariff, there shall be established a Network Operating Committee which shall meet on a regular basis but no less than once each calendar year.

11.2 Responsibilities:

The Network Operating Committee shall act in an advisory capacity in coordinating operating criteria for the Parties' respective obligations under this NOA.

11.3 Membership

Network Operating Committee membership shall consist of two designated members each from the Network Customer and the Transmission Provider.

Section 12. Technical Data Requirements: Ten Year Load and Resource Forecast of Load, Resource and Transmission Facility Expansion Forecasts

The Parties acknowledge that, in order to economically and reliably plan expansions or other changes to its system in a timely manner, and to respond to regulatory reporting requirements, the Transmission Provider requires certain forecasts of Network Customer's load, resources (including additions and retirements) and any planned changes to Network Customer's transmission facilities. Such annual forecast updates shall be consistent with Section 31.6 of the Tariff and NERC and/or WECC requirements.

12.1 Ten Year Load and Resource Forecast Template:

Each year by October 1, the Transmission Provider shall provide a template of the Ten Year Load and Resource Forecast to the Network Customer. The template shall be in an electronic format and shall provide the Network Customer a means of notifying the Transmission Provider of relevant information relating to Network Load Forecast, Network Resource Availability Forecasts, Resource Additions and retirements, and Expansions of and Upgrades to Network Customer's Transmission Facilities. The time period for the Ten Year Load and Resource Forecast and subsequent Transmission Provider study shall be the ten year period

commencing on January 1 of the calendar year following the submission of the template to the Network Customer.

12.2 Network Load Forecast (refer to Section 29.2(iv) and (v) of the Tariff):

Network Customer shall provide Transmission Provider by January 1 of each year, or earlier to meet any WECC or NERC data requirements, Network Customer's forecast of expected Network Load for the ten calendar years commencing on January 1 of the current calendar year. This forecast shall provide the Network Customer's best estimate of its non-coincident peak Network Load at each existing substation bus as specified in Exhibit D in the NITS expressed in kilowatts for each month. Such forecast shall be made using prudent forecasting techniques available and generally deemed acceptable in the electric utility industry. In addition, any amount of the above described Network Load Forecast that is interruptible shall also be quantified at each substation bus expressed in kilowatts for the summer and winter seasons. Network Customer shall inform Transmission Provider as soon as significant changes are known, of any material changes to Network Customer's Load Forecast.

12.3 Network Resource Availability Forecast (refer to Section 29.2(vi) of the Tariff):

Transmission Provider shall provide the Network Customer sufficient information to determine the applicable reserve obligations and applicable real power losses by October 1 of each year to be used in the subsequent January Network Resource forecast. Network Customer shall provide to Transmission Provider by January 1 of each year Network Customer's forecast of expected Network Resources for each year of the ten calendar years commencing on January 1 of the current calendar year. This forecast shall provide the Network Customer's best estimate of its planned Network Resource availability forecast at each injection point expressed in kilowatts for each month. Network Customer shall also provide its estimates of unplanned outages, operating reserve obligations, and units designated for reserves over the forecast period. The total amount of the Network Customer's Network Resource Forecast, less reserve obligations shall equal or exceed the total amount of the Network Customer's yearly Network Load Forecast plus applicable real power losses on the Transmission Provider's system. The Network Resource Availability Forecast shall also include all applicable information as detailed in Section 29.2(vi) of the Tariff, including, but not limited to all planned resource outages, including off-line and on-line dates. Such forecast shall be made using prudent forecasting techniques available and generally deemed acceptable in the electric utility industry. Network Customer shall inform Transmission Provider as soon as significant changes are known, of any material changes to Network Customer's Resource Availability Forecast.

12.4 Resource Additions:

To the extent that a Network Customer's existing designated Network Resources are insufficient, it may be necessary for a Network Customer to include in its Network Resource Availability Forecast new resources or expansions to existing Network Resources. Network Customers shall identify the interconnection point, fuel source, and capacity of all future resources. Such inclusion is encouraged and required for long range system planning, however, submittal within the Network Resource Availability Forecast does not constitute a service request for generation interconnection (see Parts IV and V of the Tariff), for the designation of

new Network Resources (see Section 30.2 of the Tariff), or for the termination of Network Resources (see Section 30.3 of the Tariff).
Network Customer must make a request for interconnection of and transmission services for a new network resource and/or capacity additions or reductions at existing resource sites according to Tariff provisions listed above. PacifiCorp shall allocate network transmission capacity, as required to accommodate resources, subsequent to each annual L&R study process.

12.5 Expansions of and Upgrades to Network Customer's Transmission Facilities (refer to Section 29.2(vii) of the Tariff):

Network Customer shall provide or cause to be provided to the Transmission Provider by January 1 of each year, plans of any expansions of or upgrades to its owned transmission facilities (lines, transformers, reactive equipment, etc.) for each of the subsequent 10 calendar years commencing on January 1 of the next calendar year. To the extent that a Network Customer's transmission system is operated by an affiliated transmission provider subject to the Commission's rules relating to Open Access Transmission Service and Standards of Conduct, the Network Customer shall cause its affiliated transmission provider to provide the Transmission Provider with such information that shall be kept confidential.

12.6 Transmission Provider's System-Wide Plan:

The Transmission Provider shall review the load, resources, and transmission facility expansion forecasts of all Network Customers and utilize the combined forecasts to conduct system planning and expansion studies constant with the Tariff Attachment K obligations. Network Customers shall be notified of the Transmission Provider's study results and system-wide plan according to Attachment K public review of plans. Such result may include a total or partial approval of the Network Customer's Ten Year Load and Resource Forecast. Approval of any amounts during any time periods that exceed the amounts previously approved for those time periods in the previous ten year load and resource forecast may be withheld or conditioned upon the timing and pricing requirements associated with new construction requirements. Once a Transmission Customer's forecast submissions are unconditionally approved by the Transmission Provider, it shall represent Transmission Provider's minimum obligation and maximum liability to serve Network Customer's forecasted loads from Network Resources and shall be effective until the next Ten Year Load and Resource Forecast is approved.

12.7 Load Growth and New Network Load:

Network Load growth at existing Points of Delivery and Network Load growth expected to be served at new Points of Delivery shall be included in the Network Customers Network Load Forecast. However, submittal within the Network Load Forecast does not constitute a service request for the designation of new Network Load (see Section 30.2 of the Tariff), or for the termination of Network Resources (see Section 31 of the Tariff). Network Customer must make a request for transmission service for new Network Load according to Tariff provision listed above. New Network Load requiring the submittal of a Completed Application shall be defined in the business practice titled, "**NETWORK LOAD AND RESOURCE ADDITIONS AND**

CHANGES." The Transmission Provider shall review the Completed Application in accordance with the applicable Tariff provisions.

12.8 Planning and Construction:

When preparing submittals of Ten Year Load and Resource Forecast information, the Network Customer should consider the following construction timeline estimates: (1) Load or resource additions requiring a substation expansion or addition require a minimum of 2 years notice to allow time for necessary permitting, design, procurement, and construction, and (2) Load or resource additions requiring a new transmission line require a minimum of 5 years notice to allow time for necessary permitting, design, procurement, and construction. The Transmission Provider reserves the right to refuse un-timely requests for service, to condition any approval of service, or to place remedial action requirements on such new loads or resources added to the system pending system upgrades necessary to accommodate new loads and resource additions in a reliable manner.

12.9 Unplanned Resource or Load Changes:

To the extent that the Network Customer obtains information that its most recent submittals of Ten Year Load and Resource Forecast information are inaccurate enough to cause construction of unnecessary facilities, Network Customer shall submit new information to Transmission Provider. Transmission Provider shall make reasonable efforts to supply Network Customer partial or unconditional approval.

Section 13. Record Keeping and Confidentiality Requirement

Each Party shall maintain operating records in accordance with Good Utility Practice. Each Party shall have reasonable access to such operating records kept by the other Party that reasonably relate to interconnected operation of the Parties' Electric Systems; *provided that* if requested to do so by the other Party, the Party requesting such records shall be required to keep such records confidential to the extent permitted by applicable law. A Party may condition release of such records to the other Party on the Parties' entry into a confidentiality agreement reasonably designed to protect the confidentiality of such records. Transmission Provider recognizes that such Network Customer-specific information may be market sensitive and shall protect the confidentiality of such information to the extent permitted by applicable law, except to the limited extent information is required to be posted on PacifiCorp's OASIS in response to a request for transmission or ancillary service. Such records shall include, but not be limited to, operating logs, scheduled transfers through each Point of Interconnection, line loadings, voltages and reactive power.

Section 14. Force Majeure

Events constituting Force Majeure shall be determined as specified in the Tariff. Neither Transmission Provider nor the Network Customer shall be considered in default as to any obligation under this NOA if prevented from fulfilling the obligation due to an event of Force

Majeure. However, a Party whose performance under this NOA is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this NOA.

Section 15. Notices

Any written notices to be given to Transmission Provider under this NOA shall be directed to:

PacifiCorp Transmission Services
ATTENTION: Transmission Account Manager
825 NE Multnomah Street, Suite 1600 LCT
Portland, Oregon 97232

Any written notices to be given to Network Customer under this NOA shall be directed to:

All matters:

PacifiCorp Energy
ATTENTION: Director, Marketing and Trading Contracts
825 NE Multnomah Street, Suite 600 LCT
Portland, Oregon 97232

Invoices and billing concerns:

PacifiCorp Energy
ATTENTION: Energy Trading Back Office
825 NE Multnomah Street, Suite 700 LCT
Portland, Oregon 97232

Matters involving this NOA:

PacifiCorp Energy
ATTENTION: Director, Marketing and Trading Contracts
825 NE Multnomah Street, Suite 600 LCT
Portland, Oregon 97232

Section 16. Applicable Law

The Parties in the performance of their obligations hereunder shall conform to all applicable laws, rules and regulations and, to the extent their obligations are subject to the jurisdiction of state or federal agencies, shall be subject to orders of such agencies. This NOA shall be construed in accordance with the laws of the state of Oregon except to the extent preempted by the Federal Power Act or other federal law.

Section 17. Waiver

Any waiver at any time by either Party hereto of its rights with respect to the other Party or with respect to any matter arising in connection with this NOA shall not be considered a waiver with respect to any subsequent default of such matter.

Section 18. Successors and Assigns

This NOA shall inure to the benefit of, and be binding upon, the Parties and their respective successors and assigns, and may be assigned by either Party with prior written consent of the other Party, for which written consent shall not be unreasonably withheld; *provided that* such consent shall not be required (1) for any assignment that arises by reason of a deed of trust, mortgage, indenture or security agreement granted or executed by a Party or (2) in the case of an assignment to a successor in the ownership of all or a significant portion of either Party's Electric System by reason of a merger, consolidation, reorganization, sale, spin-off or foreclosure. Any successor to or transferee or assignee of the rights or obligations of a Party, whether by voluntary transfer, judicial sale, foreclosure sale or otherwise, shall be subject to all terms and conditions of this NOA to the same extent as though such successor, transferee or assignee were an original Party.

Section 19. Indemnification and Liability

19.1 Indemnity

Subject to the limitations imposed by the remainder of this Section 18, each Party hereby agrees to indemnify and hold the other Party, and the other Party's employees, agents, or contractors, harmless from any direct loss or damage and from any liability on account of personal injury, death or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made, but only to the extent the foregoing directly arise out of the gross negligence or the Intentional Misconduct of the indemnifying Party, or its employees, agents or contractors, with respect to the indemnifying Party's obligations arising under this NOA.

19.2 Exemptions

Except for its Intentional Misconduct or gross negligence or with respect to breach of this NOA, and only to the extent not otherwise limited herein, no Party, nor its directors or members of its governing board, officers, employees or agents, shall be liable to the other Party for any loss, damage, claim, cost, charge or expense arising from or related to the Parties' obligations under this NOA.

19.3 Electrical Disturbances

Each Party shall be responsible for protecting its Electric System from possible damage by reason of Electrical Disturbances or faults caused by the operation, faulty operation or non-operation of the other Party's Electric System. Except to the extent caused by its own Intentional

Misconduct, neither Party, nor its directors or members of its governing board, officers, employees or agents, shall be liable (directly, via indemnity or otherwise) to the other Party for any loss, damage, claim, cost, charge or expense arising from or related to an Electrical Disturbance.

19.4 No Liability for Interruption or Curtailment of Power Flow

Neither Party, nor its directors or members of its governing board, officers, employees or agents, shall be liable (directly, via indemnity or otherwise) to the other Party for any loss, damage, claim, cost, charge or expense arising from or related to the interruption or curtailment of power flows through a Point of Interconnection.

19.5 Consequential Damages

Notwithstanding any of the foregoing in this Section 18, or any other provision of this NOA to the contrary, and to the full extent not prohibited by law, under no circumstances shall a Party be liable to another Party (directly, via indemnity or otherwise) for any consequential, exemplary, punitive, special, indirect or incidental damages or economic losses arising out of any claim, demand or action brought with respect to this NOA, whether couched in terms of contract, tort, strict liability or otherwise.

Section 20. No Dedication of Facilities

Any undertaking by one Party to the other Party under any provision of this NOA is rendered strictly as an accommodation and does not constitute the provision of a public utility service or the dedication of all or any portion of either Party's Electric System or other facilities to the other Party, the public or any third party.

Section 21. Effect of Section Headings

Section headings appearing in this NOA are inserted for convenience of reference only and shall not be construed to be interpretations of the text of this NOA.

Section 22. Disputes

Disputes arising out of this NOA shall be resolved pursuant to the applicable paragraphs of Section 12 of the Tariff.

IN WITNESS WHEREOF, the parties hereto have caused this NOA to be executed by their duly authorized officers as of the date first written above.

PACIFICORP, on behalf of its transmission function

By:	~~*/s/ K Houston*~~ */s/ Rick Vail*
Printed Name:	~~Kenneth Houston~~ Rick Vail
Title:	~~Director,~~ VP - Transmission
Date:	~~July 9, 2008~~ 12/24/2014

NETWORK CUSTOMER

By:	*/s/ John Apperson*
Printed Name:	John Apperson
Title:	Trading Director
Date:	~~24 July 2008~~ 23 Dec 2014

Exhibit 2

[FERC NOA Order]

151 FERC ¶ 61,170
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

PacifiCorp Docket Nos. ER15-741-000
ER15-741-001

ORDER ACCEPTING PROPOSED NETWORK OPERATING AGREEMENT AMENDMENT

(Issued May 21, 2015)

1. In this order, we accept PacifiCorp's proposed amendment to the Network Operating Agreement (Network Operating Agreement) between PacifiCorp and its merchant function, PacifiCorp Energy, to be effective February 22, 2015, as requested.

I. Background

2. On December 24, 2014, PacifiCorp filed the proposed amendment to the Network Operating Agreement pursuant to section 205 of the Federal Power Act (FPA).[1] PacifiCorp states that there is a potential conflict between the Commission's policies regarding the designation of network resources and the obligations imposed by the Public Utility Regulatory Policies Act (PURPA)[2] regarding qualifying facility (QF) power.[3] PacifiCorp notes that the Commission's precedent in *Madison Gas & Electric Company v. Wisconsin Power & Light Company*[4] does not appear to allow a transmission provider to grant new designated network resource requests unless there is sufficient available transfer capability (ATC) to meet that request.[5] In *Madison*, the Commission also noted

[1] 16 U.S.C. § 824d (2012).

[2] 16 U.S.C. § 824a-3 (2012).

[3] PacifiCorp December 24 Filing at 5.

[4] *Madison Gas & Elec. Co v. Wisc. Power & Light Co*., 80 FERC ¶ 61,331 (1997) (*Madison*).

[5] PacifiCorp December 24 Filing at 4 (citing *Madison*, 80 FERC at 62,103-04).

that a resource could be designated as a substitute "as-available" resource with priority above all non-firm transmission if there is no ATC.[6]

3. PacifiCorp further explains that PURPA requires a utility to purchase, and make firm transmission arrangements for, a QF's power, and to keep customers indifferent to such QF purchases.[7] PacifiCorp states that PacifiCorp Energy has historically made these firm transmission arrangements by designating QF power purchase agreements as network resources. PacifiCorp asserts that, when the transmission system is constrained, and constraints cannot be relieved by using planning redispatch, it is required to construct network upgrades to accommodate firm transmission service requests.

4. PacifiCorp states that this appears to put it in the position of having to construct network upgrades that are not justified by economic or reliability reasons.[8] Specifically, PacifiCorp explains that, because PURPA requires a utility to purchase QF power and make firm transmission arrangements to deliver it even if the QF has chosen to site in a constrained area, but Commission precedent does not allow the designation of a new network resource until sufficient ATC is available, a utility is in the position of having to construct network upgrades to accommodate the PURPA-required QF firm transmission service, even if the utility would not have otherwise constructed those upgrades for economic or reliability reasons.

5. PacifiCorp argues that building these upgrades that are solely to accommodate QFs, and not otherwise cost-justified or necessary for load service or reliability, could run contrary to the Commission's long-term planning policies and to the mandate that customers should be kept indifferent to QF purchases (i.e. they pay no more than the avoided cost).[9]

II. PacifiCorp Filing

6. PacifiCorp asserts that the proposed amendment to the Network Operating Agreement is designed to address this conflict. The proposed amendment would allow PacifiCorp to grant additional designated network resource applications on behalf of PacifiCorp Energy in order to enable firm delivery from QFs even if there is no ATC, provided that PacifiCorp Energy agrees to operate its portfolio of designated network

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[6] *Madison*, 80 FERC at 62,103-04.

[7] PacifiCorp December 24 Filing at 4.

[8] *Id.* at 5.

[9] *Id.* at 6.

resources in the affected area within system reliability limits and curtail QF power last, even if that is out of economic merit order.[10] PacifiCorp's proposed amendment would allow the designation of network resources in two circumstances: (1) as an interim measure while previously-identified network upgrades are being constructed; and (2) as a longer-term measure where no upgrades will be constructed for purposes of accommodating the QF request(s). PacifiCorp states that the proposed amendment provisions have been developed within the construct of the existing Open Access Transmission Tariff (OATT) planning redispatch option.[11]

7. PacifiCorp believes that it is appropriate to characterize the proposed operational practice as a form of planning redispatch.[12] PacifiCorp states that the practice under its proposed amendment is distinguished from current OATT processes because, while traditional planning redispatch contemplates delivering designated resources in a different manner, the proposed Network Operating Agreement amendment involves a network customer (in this case, PacifiCorp Energy) agreeing to operate its network resources within certain limits because there is insufficient capacity to accommodate all of the designated network resources without limitation.[13] PacifiCorp argues that this amendment will allow it to accommodate QF requests in constrained areas without building uneconomic upgrades.[14]

8. PacifiCorp asserts that other network customers will remain protected under the proposed protocol because it will only address PacifiCorp Energy's network service. PacifiCorp maintains that the proposal will not affect any other network customer's network allocation, and that all network loads will continue to be served on a firm basis. PacifiCorp states that only PacifiCorp Energy's designated network resources will be subject to the proposed operating protocol, unless another network customer requests similar treatment.[15]

9. PacifiCorp states that the proposed Network Operating Agreement amendment includes provisions that: (1) address certain considerations that can be taken into account

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[10] *Id.* at 1.

[11] *Id.* at 6.

[12] *Id.* at 8.

[13] *Id.*

[14] *Id.* at 2.

[15] *Id.* at 8.

for the prioritizing of non-QF designated network resources; and (2) clarify that the Network Operating Agreement planning redispatch procedures will apply during normal operating conditions, not system emergency conditions. PacifiCorp states that, with regard to the first, the proposed Network Operating Agreement amendment notes that PacifiCorp Energy can take additional contractual obligations into account in prioritizing the planning redispatch of its non-PURPA designated network resources. PacifiCorp states that, with regard to the second, the proposed Network Operating Agreement amendment makes it clear that the new planning redispatch procedures are different than the Reliability Redispatch Procedures discussed in Section 8.2 of the Network Operating Agreement, or the system emergency operations discussed in section 307 of the Commission's PURPA regulations.[16]

III. Notice of Filing and Responsive Pleadings

10. Notice of PacifiCorp's December 24, 2014 filing was published in the *Federal Register*, 80 Fed. Reg. 217 (2015), with interventions and protests due on or before January 14, 2015. None was filed.

11. On February 20, 2015, the Commission staff issued a letter notifying PacifiCorp that its filing was deficient. On March 23, 2015, PacifiCorp submitted a filing in response to the February 20, 2015 deficiency letter. Notice of PacifiCorp's March 23, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 16,669 (2015), with interventions and protests due on or before April 13, 2015. Utah Associated Municipal Power Systems (UAMPS) filed a timely motion to intervene and protest. On April 28, 2015, PacifiCorp filed a motion for leave to answer and answer to the UAMPS protest.

A. Deficiency Letter and Response

12. The deficiency letter asked four questions. First, PacifiCorp was asked to identify the transmission paths on which PacifiCorp Energy's schedules will not exceed the transmission limits prescribed by PacifiCorp and how the limits would be prescribed. In response, PacifiCorp states that its amendment is not limited to a particular line or area of PacifiCorp's system; rather, the amended Network Operating Agreement would apply in any area of PacifiCorp's system where QFs have caused or contributed to transmission constraints that limit PacifiCorp's ability to fully accommodate designated network resource requests. PacifiCorp explains that transmission limits would be prescribed in accordance with PacifiCorp's OATT Attachment C, which sets forth PacifiCorp's ATC methodology.[17]

[16] *Id.* at 8-9.

[17] PacifiCorp March 23 Filing at 3.

13. Second, PacifiCorp was asked to provide the amount of must-take QF power that PacifiCorp is currently contractually obligated to deliver, the amount of pending QF interconnection requests, and the transmission paths associated with this generation. In response, PacifiCorp identified the amount of QF generation in each state. With regard to specific transmission path information, PacifiCorp states that the amendment proposal is not limited to a particular line or area of PacifiCorp's system, but notes that in Utah there is a current need to implement the amendment because there has been an influx of QF requests and there is limited ATC.[18]

14. Third, PacifiCorp was asked to explain its statement that only PacifiCorp Energy would be subject to the proposed operating protocol, unless another network customer requests similar treatment, and asked how honoring such other customer requests would comply with the Commission's regulations. In response, PacifiCorp states that offering this treatment to other network customers is consistent with the Commission's open access policies. PacifiCorp explains that, if another customer requested a similar amendment to its network operating agreement, PacifiCorp would file a request for approval of the amendment pursuant to section 205 of the FPA, just as it has done with the proposed amendment in this case.[19]

15. Fourth, PacifiCorp was asked to clarify the long term solution to the constraints that PacifiCorp believes the proposed amendment addresses. In response, PacifiCorp states that it does not envision its proposal as an interim measure. PacifiCorp asserts that the first option of the proposed Network Operating Agreement amendment is an interim measure to be used until upgrades that have already been identified are constructed, but that the second option is intended to have an indefinite timeline. PacifiCorp explains that, in either case, requests for designation of network resources could be granted immediately, despite the fact that network upgrades have not yet been completed or identified pursuant to the OATT.[20]

B. Protest

16. UAMPS states that it is an interlocal association and a political subdivision of the State of Utah that provides power pooling, scheduling, resource management, and other electric services to its members, consisting of 44 municipal and other public power systems in eight western states.[21] UAMPS explains that it is a PacifiCorp transmission

[18] *Id.* at 4.

[19] *Id.* at 5.

[20] *Id.* at 6.

[21] UAMPS Protest at 2.

customer. UAMPS argues that PacifiCorp's proposed amendment to the Network Operating Agreement should be rejected, or at the least suspended and set for hearing.[22]

17. UAMPS argues that, if any other network customer can request a similar amendment to its network operating agreement, then the amendment should be proposed in PacifiCorp's generally applicable OATT.[23] UAMPS asserts that neither Order No. 888[24] nor PacifiCorp's OATT appears to qualify PacifiCorp's obligation to construct additional capacity when a request for network service requires such construction (and redispatch cannot create sufficient ATC to accommodate the request) on PacifiCorp's unilateral determination that the additions are cost-justified.[25]

18. UAMPS questions PacifiCorp's assertion that the proposed amendment will not impair transmission service for existing customers. UAMPS notes that, under the amendment, PacifiCorp Energy must curtail other resources if necessary to accommodate its PURPA deliveries without violating system reliability limits. UAMPS asserts that this will alter the amount of generation input on the transmission system for multiple generators, which will alter flows on the system and potentially create new constraints and affect other customers' transmission service use in real time operations.[26]

19. UAMPS argues that PacifiCorp has not committed to make any adjustments to its planning models in light of the proposed amendment, which makes it possible that a new designated network resource could be denied while a PacifiCorp QF designated network

[22] *Id.* at 11.

[23] *Id.* at 3.

[24] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[25] UAMPS Protest at 4.

[26] *Id.* at 4-5.

resource would be granted. UAMPS asserts that this could have a chilling effect on the addition of new designated network resources in the PacifiCorp footprint.[27]

20. UAMPS also contends that the proposed amendment should not be accepted without more complete cost justification. UAMPS states that there is no data in PacifiCorp's filing comparing the potential costs of PacifiCorp's proposed redispatch practice under the amendment to the costs of construction of additional facilities to accommodate the desires of PacifiCorp's merchant function.[28]

C. PacifiCorp Answer

21. PacifiCorp argues that the proposed customer-specific Network Operating Agreement is the appropriate place for the proposed language, not the generally applicable OATT. PacifiCorp asserts that PacifiCorp Energy is the only customer whose PURPA mandatory purchase obligation is likely to trigger the need for unnecessary upgrades and notes that, if UAMPS or any other network customer believes it has particular operational needs that would justify a similar redispatch protocol, PacifiCorp would welcome a discussion regarding incorporating a similar amendment to that customer's network operating agreement.[29]

22. PacifiCorp asserts that economic considerations are one of the primary factors to be considered in transmission planning.[30] PacifiCorp argues that UAMPS does not understand the circumstances under which PacifiCorp will not construct a network upgrade under the proposed amendment. PacifiCorp states that it is not upon PacifiCorp's unilateral determination that an upgrade is or is not cost justified; rather, it is when a QF chooses to site its project in a constrained area and the transmission studies performed in accordance with the OATT process demonstrate that there is insufficient ATC to accommodate the request.[31]

23. In response to UAMPS' concerns that PacifiCorp's curtailment practices pursuant to the proposed amendment could affect other customers' transmission service, PacifiCorp asserts that the proposal will not affect any other network customer's network

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[27] *Id.* at 5-6.

[28] *Id.* at 7.

[29] PacifiCorp Answer at 3-4.

[30] *Id.* at 4-5.

[31] *Id.* at 6.

allocation, all network loads will continue to be served on a firm basis, and the physical transmission entitlements of other transmission customers will be preserved.[32]

24. PacifiCorp states that it did not provide a comparison of the costs of PacifiCorp's proposed redispatch to the costs of construction of additional facilities because no such comparison can be made with certainty at this time. PacifiCorp explains that it does not know exactly whether, when, and where the Network Operating Agreement amendment protocol will be used, as that depends almost exclusively on where QFs choose to site their projects, whether those projects remain viable and eventually come online, and whether allowing the QF power to flow in a particular constrained area will indeed require other resources to be backed down. With regard to the potential cost of construction of network upgrades, PacifiCorp contends that this amount also necessarily depends on the same QF-driven factors and the specific additional facilities necessary to accommodate those QF requests.[33]

IV. Discussion

A. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motion to intervene serves to make UAMPS a party to this proceeding.

26. Rule 213(a)(2) of the Commission's Rule of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PacifiCorp's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

27. We will accept PacifiCorp's proposed amendment to the Network Operating Agreement, to be effective February 22, 2015, as requested. We find that PacifiCorp's proposed amendment is consistent with PURPA. As PacifiCorp acknowledges, Commission precedent requires electric utilities, such as PacifiCorp, to deliver a QF's power on a firm basis and prohibits the curtailment of QF resources except under two very narrow circumstances: (1) system emergencies; and (2) extreme light loading

[32] *Id.* at 8-9.

[33] *Id.* at 11-12.

conditions.[34] PacifiCorp's proposed amendment complies with these requirements because it would obligate PacifiCorp Energy to curtail the schedules of non-QFs before the schedules of any QFs during normal operating conditions.[35]

28. PacifiCorp's proposed amendment would, at the same time, also allow its customers to avoid paying for network upgrades when the network upgrades are not justified by economic or reliability needs. In addition, PacifiCorp appropriately proposes to limit the impact of the additional designation of network resources on the generation of other network customers by requiring PacifiCorp Energy to operate its portfolio of designated network resources within its network rights and within transmission system limits.[36] Moreover, PacifiCorp represents that the proposed amendment does not affect the transmission capacity reserved for any other existing PacifiCorp transmission customer or any other network customer's network allocation, and that all network loads will continue to be served on a firm basis.[37] While the proposed amendment departs from the *Madison* precedent that new designated network resource requests cannot be granted unless there is sufficient ATC, we believe that this departure is justified under the specific circumstances here, given PacifiCorp's commitments that the proposed amendment will not affect the transmission service received by other customers and PacifiCorp Energy's obligation to operate its entire portfolio of designated network resources within its existing network rights.

29. We are not persuaded by UAMPS' arguments that the proposed amendment to the Network Operating Agreement should be rejected or set for trial-type, evidentiary hearing. PacifiCorp Energy commits to operating its network resources within its existing transmission rights. Therefore, the additional designation of network resources

[34] *See* PacifiCorp Answer at 7-8 (citing *Pioneer Wind Park I, LLC*, 145 FERC ¶ 61,215, at P 38 (2013) ("The Commission has specifically held that…the purchasing utility cannot curtail the QF's energy as if the QF were taking non-firm transmission service on the purchasing utility's system"); 18 C.F.R. § 292.307(b) ("During any system emergency, an electric utility may discontinue: (1) Purchases from a qualifying facility if such purchases would contribute to such emergency"); 18 C.F.R. § 292.304(f); *Entergy Servs., Inc.*, 137 FERC ¶ 61,199, at P 55 (2011) ("In Order No. 69, which implemented section [292.]304(f), the Commission stated that that section was intended to deal with a certain condition which can occur during light loading periods…Section [292.]304(f)…applies only to such low loading scenarios")).

[35] *See* PacifiCorp December 24 Filing at 9; PacifiCorp Answer at 7-8.

[36] *See* PacifiCorp December 24 Filing at 6.

[37] *Id.* at 2, 8.

pursuant to the proposed amendment should not impact ATC or impair the transmission rights of other customers. To the extent generation will be curtailed to accommodate these additional network resources, it will be the generation of PacifiCorp Energy, not the generation of any third party, that will be curtailed. We also disagree with UAMPS that the proposed amendment must be included in PacifiCorp's OATT. PacifiCorp has made it clear that any network customer requesting similar terms would be accommodated through an amendment to its network operating agreement. Finally, we disagree with UAMPS that PacifiCorp's proposal must be supported with a more complete cost justification. Any showing in this regard would be hypothetical, speculative, and not necessary to show that this proposal is just and reasonable.

The Commission orders:

PacifiCorp's proposed Network Operating Agreement amendment is hereby accepted, effective February 22, 2015, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.