

144 FERC ¶ 61,135
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PacifiCorp

Docket Nos. ER13-1206-000
ER13-1206-001

ORDER REJECTING PROPOSED TARIFF REVISIONS

(Issued August 15, 2013)

1. In this order, the Commission rejects, without prejudice, a filing by PacifiCorp proposing to revise its rate schedules for Regulation and Frequency Response Service (Schedule 3) and Generation Regulation and Frequency Response Service (Schedule 3A) under its Open Access Transmission Tariff (Tariff), which would have allowed PacifiCorp to charge differential rates under Schedule 3A for variable energy resources (VERs) and non-VERs.¹

I. Background

2. PacifiCorp's currently-effective rates for Schedules 3 and 3A are interim rates that were agreed to in a settlement that resulted from PacifiCorp's last transmission rate case in Docket No. ER11-3643-000.² The interim rate for each of the two rate schedules is a per-unit capacity charge of \$2.90/kW/year.³

3. On April 1, 2013, as corrected on May 8, 2013, PacifiCorp filed the instant proposed revisions to Schedules 3 and 3A of its Tariff, to become effective on June 1,

¹ "VER" is defined in PacifiCorp's proposed Schedule 3A as a "device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator."

² PacifiCorp Filing at 1. The presiding judge certified the uncontested settlement to the Commission on March 26, 2013, and the Commission approved the settlement in *PacifiCorp*, 143 FERC ¶ 61,162 (2013).

³ *Id.* at 9.

2013, as required by the terms of the prior settlement. Specifically, PacifiCorp proposes to change the per-unit capacity charge from \$2.90/kW/year to: \$4.16/kW/year for Schedule 3;⁴ \$8.255/kW/year for VERs under Schedule 3A; and \$.001/kW/year for non-VER generators under Schedule 3A.⁵

4. In support, PacifiCorp states that, for Schedule 3A, the amount of capacity necessary for managing the variability for VERs exceeds that for non-VERs. Starting with the same annual cost of \$96.726/kW, PacifiCorp then uses an algorithm to determine the amount of capacity needed to regulate VER and non-VER generators. For both VER and non-VER generators, PacifiCorp multiplies the annual cost per kW by the total amount of reserves it argues are necessary to regulate each customer class, and then divides the revenue requirement for each class by the total installed capacity of each class. This results in a rate of \$8.255/kW/year for VERs and a rate of \$.001/kW/year for non-VERs.

5. PacifiCorp asserts that the new charges are in accordance with the Commission's directives in Order No. 764, and states that the Commission recognized in that order that, when VERs impose a disproportionate impact on system variability, it may be appropriate for a transmission provider to differentiate among customer classes in determining their relative regulating reserve responsibilities.⁶ PacifiCorp also notes that the Commission has approved tariffs for two public utilities, Westar Energy Inc. (Westar) and Puget Sound Energy, Inc., which place proportionately higher regulation reserves obligations on VER generators.⁷

⁴ PacifiCorp developed the \$4.16/kW/year rate based on the weighted fixed cost of certain units identified in Attachment B of its filing. The weighting is based on the participation of the units in providing reserves. PacifiCorp's cost study supported an annual cost of \$96.726/kW, which PacifiCorp calculates into a per-unit capacity charge of \$4.166/kW/year for Schedule 3. *See id.* at 8.

⁵ *Id.*

⁶ *Id.* at 3 (citing *Integration of Variable Energy Resources*, Order No. 764, FERC Stats. & Regs. ¶ 31,331, at P 320 (2012) (Order No. 764), *order on reh'g*, Order No. 764-A, 141 FERC ¶ 61,232 (2012) (Order No. 764-A)).

⁷ *Id.* (citing *Puget Sound Energy, Inc.*, 142 FERC ¶ 61,018 (2013) (*Puget*); *Westar Energy, Inc.*, 130 FERC ¶ 61,215 (2010), *order on reh'g*, 137 FERC ¶ 61,142 (2011) (*Westar*)).

6. On May 21, 2013, the Commission issued a deficiency letter in this proceeding requesting more information. PacifiCorp responded on June 20, 2013, with additional workpapers and clarifications.

II. Notice of Filing and Responsive Pleadings

7. Notice of PacifiCorp's April 1, 2013 filing was published in the Federal Register, 78 Fed. Reg. 20,902 (2013), with interventions and protests due on or before April 22, 2013. Notice of PacifiCorp's June 20, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 40,135 (2013), with interventions and protests due on or before July 11, 2013. The comment date was subsequently extended to July 18, 2013 in a notice issued on July 8, 2013.

8. Timely interventions were filed by NextEra Energy Resources, LLC (NextEra), American Wind Energy Association and Renewable Northwest Project (AWEA), Solar Energy Industries Association (Solar Industries), Utah Associated Municipal Power Systems (UAMPS), Bonneville Power Administration (Bonneville), Deseret Generation & Transmission Co-operative, Inc. (Deseret), Iberdrola Renewables, LLC (Iberdrola), Large-Scale Solar Association (Large Solar), Powerex Corp. (Powerex), Utah Municipal Power Agency (Utah Municipal), and Concentrating Solar Power Alliance (Concentrating Solar). All of these entities except for Iberdrola and Large Solar filed protests or comments, either separately or combined with their motions to intervene. On May 15, 2013, PacifiCorp filed an answer.

9. After PacifiCorp filed its response to the deficiency letter, protests, renewed protests, or additional comments were filed by NextEra, AWEA, UAMPS, Powerex, Bonneville, and Concentrating Solar.

III. Protests and Comments

10. PacifiCorp's filing generated a number of protests from intervenors requesting that the Commission either reject the filing entirely or suspend the proposed rates for the maximum five months and set them for hearing before an administrative law judge. Several intervenors argue for rejecting the filing because PacifiCorp's proposed separate charges for VERs and non-VERs in Schedule 3A are not consistent with Order No. 764. For example, AWEA maintains that, before PacifiCorp can charge VERs a greater portion of regulation costs, it must remedy the *de facto* discrimination imposed on VERs by obsolete scheduling practices.⁸ Specifically, AWEA argues that the Commission should not allow the charges until customers are offered the ability to change schedules

⁸ AWEA Protest at 10-13 (citing Order No. 764, FERC Stats. & Regs. ¶ 31,331 at PP 96 and 325).

on a 15-minute basis and PacifiCorp uses a wind energy forecast to minimize the amount of regulation capacity procured based on actual system conditions.⁹

11. AWEA states that, based on the logic in Order No. 764, the Commission should require that PacifiCorp implement 15-minute scheduling, especially since both hourly scheduling and 30-minute scheduling (the time frame currently used by PacifiCorp) were deemed insufficient to be just and reasonable.¹⁰ Additionally, AWEA argues that PacifiCorp employs other obsolete and inefficient operating practices that also drive up the cost of integrating wind onto its system. As an example, AWEA cites PacifiCorp's assumption that, when determining a wind generator's regulation burden, a lead-time of 40 minutes should be employed before the operating hour to forecast the "persistence" of wind energy. AWEA notes that many Independent System Operators set schedules 10 minutes before the operating interval, which greatly reduces forecast error, regulation burden, and cost. AWEA asserts that this and other obsolete operating practices are further illustration of why it would be unjust and unreasonable to assign wind plants costs resulting from PacifiCorp's decision to use inefficient operating practices.¹¹

12. With regard to forecasting practices, AWEA notes that, although PacifiCorp subscribes to a VER forecasting service that is used a day ahead of delivery, it offers no explanation as to how this forecast is used to achieve hourly reductions. In AWEA's view, PacifiCorp's explanation that it holds regulating margin reserve due to anticipated variation in VERs output based on "dispatcher experience" shows that PacifiCorp is not using the forecast in a rigorous manner to ensure that capacity costs incurred are prudently incurred, as required by Order No. 764.¹² Similarly, Solar Industries states that the Commission should not allow PacifiCorp to implement the differential charges for VERs until it can be shown that forecasting tools are being used properly to mitigate costs and that charging differentiated rates to VER generators does not result in discrimination.¹³

⁹ *Id.* at 11.

¹⁰ *Id.* (citing *Integration of Variable Energy Resources*, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,664, at PP 34-35 (2010)).

¹¹ *Id.* at 12.

¹² *Id.* at 13 (citing exhibit of PacifiCorp witness Gregory H. Duvall (Exh No. PAC-7) at 7 and Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 325).

¹³ Solar Industries Protest at 3-5.

13. NextEra notes that, in Order No. 764-A, the Commission explained that, “in reviewing any future proposal to allocate a greater quantity of capacity costs to a particular set of transmission customers, it would be reasonable for the Commission to consider whether the public utility transmission provider has taken steps to mitigate such costs.”¹⁴ Here, according to NextEra, PacifiCorp is asking the Commission to allow it to put its differential rates in place by June 1, 2013, while offering no meaningful explanation of how these rates will or will not be impacted by its grid reform compliance filing (due on November 12, 2013). NextEra further contends that the tentative initial steps taken by PacifiCorp to encourage intra-hour scheduling are not sufficient if the goal is real mitigation of regulation reserve costs to the benefit of all customers.¹⁵

14. NextEra argues that, once 15-minute scheduling is available on the PacifiCorp system, customers utilizing such service should be made exempt from the proposed Schedule 3A charges because those transmission customers would be imposing less of a regulating burden than customers scheduling less frequently. Alternatively, NextEra requests that PacifiCorp be required to track cost savings for regulation reserves due to 15-minute scheduling and have a crediting mechanism in place for those savings to be passed-through to customers in lower transmission rates or refunds.¹⁶

15. Solar Industries requests that, in accordance with Order No. 764, PacifiCorp recalculate its proposed Schedule 3A rate to reflect what the rate will be when 15-minute scheduling is implemented. Solar Industries further proposes that PacifiCorp’s rate be reduced to account for the benefits of an energy imbalance market to be implemented in fall 2014 between California Independent System Operator Corporation and PacifiCorp. Solar Industries cites dispatch savings, reduced flexibility reserves, and reduced renewable energy curtailment as benefits that should be accounted for within PacifiCorp’s proposed Schedule 3A rate.¹⁷

16. Numerous intervenors urge the Commission to set the rates for hearing. They note various methodological problems with PacifiCorp’s derivation of its regulation rates. For example, several intervenors¹⁸ argue that PacifiCorp does not properly take into account “diversity benefits” when calculating the regulation burden of the different customer

¹⁴ NextEra Protest at 9-10 (citing Order No. 764-A, 141 FERC ¶ 61,232 at P 51).

¹⁵ *Id.* at 10.

¹⁶ *Id.*

¹⁷ Solar Industries Protest at 5-6.

¹⁸ Bonneville, AWEA, and Deseret.

classes. Specifically, these intervenors allege that PacifiCorp's incremental method of calculating regulation burden is not consistent with the "portfolio-wide" approach approved by the Commission in Order No. 764.¹⁹ AWEA argues that PacifiCorp discounts the diversity benefits of VERs by not considering the offsetting effect VERs could have on load deviations, and by using a root-sum-square method to calculate diversity benefits, rather than a comprehensive analysis between load, VER, and non-VER generation.²⁰ Bonneville states that, while PacifiCorp considers the diversity benefit from netting balancing error signals, the allocation method assigns all the diversity benefits to generators and none to load and does not account for how the component reserve signals relate to the total net balancing signal.²¹ Several intervenors suggest that PacifiCorp adopt an alternative approach that divides the overall regulation burden based on separately calculated, stand-alone regulation burdens for each customer class.

17. Other intervenors argue that PacifiCorp improperly switched to a levelized gross plant methodology, which does not adjust for depreciation, rather than staying with the current non-levelized net plant methodology, when it developed the fixed charge rate used to calculate the cost of providing regulation reserve. UAMPS notes that the Commission has required that, upon switching from a non-levelized to a levelized methodology, a utility must prove that its proposed method is reasonable in light of its past recovery of capital costs using a different method, to show that there is no over-recovery of depreciation expense.²² According to UAMPS, when this logic is applied to PacifiCorp's proposal, there is no basis by which PacifiCorp can rely on a switch in rate design methodology given its historical use of the net plant cost recovery mechanism.²³ Deseret notes that the Commission has found that the switching of pricing methods may result in unjust and unreasonable rates.²⁴

18. Bonneville notes that PacifiCorp calculates a levelized fixed charge rate to the generating plants PacifiCorp says comprise the rate base, and asserts that this is supported

¹⁹ *E.g.*, Bonneville Protest at 2 (citing Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 319).

²⁰ AWEA Protest at 19.

²¹ Bonneville Protest at 6.

²² UAMPS Protest at 9.

²³ *Id.*

²⁴ Deseret Protest at 10-11.

by Commission precedent, referencing Order No. 888²⁵ and several other cases.²⁶ Bonneville states it has been unable to identify where in Order No. 888 this is referenced.²⁷ Bonneville states the cases cited by PacifiCorp provide limited or ambiguous support to the levelized approach and that more information is needed to determine whether the levelized approach is appropriate.²⁸

19. UAMPS further claims that PacifiCorp includes, among other items, several types of taxes, Administrative and General (A&G) expenses, and Operations and Maintenance (O&M) expenses that should be excluded under the calculations for production-related fixed charge rates, as these items are unrelated to production-related ancillary services like regulation service.²⁹

20. NextEra and Bonneville note the disparity in the treatment between VER resources delivering energy to serve load within PacifiCorp and those exporting energy outside of PacifiCorp's system.³⁰ Bonneville states that this appears to be synonymous with the principle that a transmission provider may not charge both energy imbalance and generation imbalance on the same schedule. However, Bonneville states that it is not appropriate to apply this principle to regulating reserve, since regulating reserve is an added capacity product. Bonneville states that the balancing authority must hold enough capacity to account for both generation and load deviation; thus, it is appropriate to charge both even when generation is being used to serve load in the balancing authority

²⁵ Bonneville Protest at 9. 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, 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).

²⁶ *Id.* & n.9, where Bonneville cites PacifiCorp Exh No. PAC-3 at 6:20-7:11.

²⁷ *Id.*

²⁸ *Id.* at 9-10.

²⁹ UAMPS Protest at 11. Taxes identified as not relevant under the *other taxes* category are Wyoming Franchise tax, certain Possessory taxes paid to Indian tribes associated with transmission facilities, Idaho kWh tax, Washington Public Utility Tax, California Franchise-Income Tax and Local Franchise Tax, and Oregon Franchise Tax.

³⁰ NextEra Protest at 3; Bonneville Protest at 8.

area.³¹ Bonneville states that, if certain generation is not assigned the cost of providing regulation reserves, then there is either an under-recovery or some customers are cross-subsidizing others.

21. Several intervenors assert that the rates are generally excessive, unbalanced, and under-supported. Bonneville notes that PacifiCorp's proposed Schedule 3 rate is almost double the next highest rate in the region.³² NextEra notes that the proposed rates represent a 185 percent increase on charges for VER resources exporting to loads outside of PacifiCorp. AWEA notes that PacifiCorp proposes a Schedule 3A charge for VERs that is 8000 times greater than the rate for non-VERs, whereas in *Puget* and *Westar*, the rates charged to VERs were 14.76 and 2.38 times as great as non-VERs, respectively.³³ UAMPS characterizes PacifiCorp's 4.31 percent service obligation as an "extreme outlier" after comparing it with a group of seven WECC-area utilities and finding that PacifiCorp's service obligation held the highest value and was 3.24 times the average of the peer group.³⁴

22. Intervenors further argue that PacifiCorp excluded operational hours from its calculations to avoid accounting for periods where non-VER generators experienced conventional generator variability and schedule deviations. AWEA states that a significant portion of the excluded data likely includes non-VER schedule deviations that exacerbate total system variability.³⁵ NextEra specifically notes that ramping intervals of non-VER generators are completely excluded from the Duvall analysis.³⁶ AWEA comments that the analysis also excluded contingency events, ramping reserves, manual control adjustments and automatic generation control operations.³⁷ AWEA further

³¹ Bonneville Protest at 8.

³² *Id.* at 5.

³³ AWEA Protest at 6-7.

³⁴ UAMPS Protest at 4.

³⁵ AWEA Protest at 5.

³⁶ NextEra Protest at 2 (citing testimony and exhibits of PacifiCorp witness Duvall (Exh No. PAC-7)). The amount of capacity to regulate VER and non-VER generators is determined in Mr. Duvall's testimony. The revenue requirement for non-VERs is developed by multiplying the annual cost per kW by the amount of reserves necessary to regulate for the non-VERs, which is then divided by the total installed capacity of the non-VER.

³⁷ AWEA Protest at 4; NextEra Protest at 5-6.

comments that, because PacifiCorp did not provide any relevant data regarding load variability and the performance of its non-VER generators, the true reserve burden for non-VER generators cannot be calculated, nor can it be determined whether PacifiCorp's chosen sample of eight non-VER generators is truly representative.³⁸

23. Utah Municipal and Powerex comment on the “all or nothing” approach PacifiCorp takes by requiring that transmission customers purchase 100 percent of its required Regulation and Frequency Response Services from PacifiCorp or self-supply or arrange for the purchase from a third-party of 100 percent of its requirements.³⁹ According to Utah Municipal, the nature of Regulation and Frequency Response services should not prevent a transmission customer from taking a hybrid approach where it self-supplies part of its regulation requirements and purchases from PacifiCorp or a third-party the rest of its requirements.⁴⁰ Utah Municipal claims that PacifiCorp does not sufficiently justify this approach or explain why such limitations are appropriate under Schedule 3 rates but not similarly applicable to Schedule 5 (Spinning Reserve Service) or Schedule 6 (Supplemental Reserve Service) rates, which do include the option for transmission customers to meet all or a portion of those requirements through self-supply.⁴¹ Powerex states that this limitation inhibits the flexibility of transmission customers and may discourage customers from entering self-supply arrangements.⁴²

24. Intervenors also comment on PacifiCorp's use of generator nameplate capacity as a billing determinant for Schedule 3A. NextEra claims that the use of nameplate as a billing determinant penalizes VERs, which often have low capacity factors, and thus contributes to the large imbalance in treatment of VERs and non-VERs under Schedule 3A.⁴³ UAMPS asserts that PacifiCorp did not provide explanation or supporting documentation regarding how it used billing determinants to derive charges under Schedules 3 and 3A.⁴⁴ Powerex generally supports use of generator nameplate capacity as a billing determinant, but seeks clarification on what PacifiCorp means when it says its billing determinants shall be “the amount of system output” multiplied by PacifiCorp's

³⁸ AWEA Protest at 9 & n.14 (citing PacifiCorp Exh No. PAC-7 at 14).

³⁹ Utah Municipal Protest at 6; Powerex Comments at 4-7.

⁴⁰ Utah Municipal Protest at 6-7.

⁴¹ *Id.* at 7.

⁴² Powerex Comments at 4.

⁴³ NextEra Protest at 9.

⁴⁴ UAMPS Protest at 13.

transmission system loss factor.⁴⁵ Powerex states that, because a generator's output can vary significantly from its maximum output at any given time, billing a customer based on its system output would not accurately reflect the amount of reserves PacifiCorp must hold for that customer.⁴⁶

25. Intervenors further question the validity of PacifiCorp's methodology due to the filing's lack of sufficient data and analysis. For instance, Solar Industries and AWEA contend that PacifiCorp's filing is inconclusive as it does not provide adequate evidence, such as worksheets of data and analysis, to warrant its claims of relative regulation burdens for load, VERs, and non-VERs.⁴⁷ Utah Municipal generally characterizes the data provided by PacifiCorp as inconsistent and unexplained.⁴⁸ Bonneville states that it cannot replicate many of PacifiCorp's calculations based on the data provided.⁴⁹ For this reason, a number of the intervenors support either rejecting PacifiCorp's filing outright as unsupported or setting all the issues for hearing with maximum suspension period imposed.

IV. PacifiCorp Answer

26. PacifiCorp states that it will implement Order No. 764 scheduling reforms in a timely manner, and asserts that it is premature to conclude, at this time, that its proposal does not comply with Order No. 764 since the implementation date is still months away. PacifiCorp also notes that it has participated in 30-minute scheduling since August 2011, but recognizes that it has not been used sufficiently to make a genuine impact on the regulation burden. PacifiCorp acknowledges that it may see a greater level of utilization following the implementation of 15-minute schedules, but also states it will need time to assess whether there is any measurable impact on costs.⁵⁰

27. PacifiCorp argues that its proposed Schedule 3 and 3A rates are not excessive and should not be compared with *Westar*, since *Westar* is located in a different area of the country. PacifiCorp states that its rates should be compared with other utilities in the

⁴⁵ Powerex Comments at 7.

⁴⁶ *Id.* at 7-8.

⁴⁷ Solar Industries Protest at 7; AWEA Protest at 3 (citing *Westar*, 130 FERC ¶ 61,215, *order on reh'g*, 137 FERC ¶ 61,142 and *Puget*, 142 FERC ¶ 61,018).

⁴⁸ Utah Municipal Protest at 7 (citing 18 C.F.R. § 385.603 (2013)).

⁴⁹ Bonneville Protest at 10-11.

⁵⁰ PacifiCorp Answer at 21-22.

Pacific Northwest and, to this end, PacifiCorp argues that its generation regulation charges compare favorably with Bonneville's wind integration rate.⁵¹ PacifiCorp claims that, in arguing that its Schedule 3 rates are excessive, intervenors ignore that PacifiCorp's proposal includes both Regulation and Ramp Reserves in Schedule 3 rates, whereas the lower regulation reserves cited by intervenors only include Ramp Reserves. For this reason, PacifiCorp contends that the peer group comparison provided in UAMPS' protest is flawed, as a direct comparison of Ramp Reserve obligation indicates that PacifiCorp's proposed Ramp Reserve obligation of 1.29 percent is actually lower than the average of the peer group studied.⁵²

28. PacifiCorp also argues that its use of levelized cost support is appropriate. PacifiCorp states that contrary to claims by intervenors, it has not changed its use of levelized cost support for ancillary service filings. PacifiCorp notes that in its last transmission rate case it used levelized cost support for its ancillary service rates. PacifiCorp also notes that the Commission has approved levelized cost support.⁵³

29. PacifiCorp argues further that its cost of service methodology is also accurate. PacifiCorp contends that its Fixed Charge Rate reflects plant and labor allocators that are widely used in Commission-approved rates to functionalize and allocate costs to ensure that customers pay their fair share of costs. PacifiCorp also states that it did not take into account a 9 percent reduction in income taxes for manufacturing activities associated with the American Jobs Creation Act of 2004 because it was not able to avail itself of this reduction.⁵⁴ PacifiCorp also argues that its treatment of accumulated deferred income taxes is the standard method for levelized rates.

30. PacifiCorp contends that it included a sufficient number of data and studies, particularly with regard to the Duvall testimony, but that any additional supporting data was considered voluminous and too burdensome to include to the April 1 filing. Nevertheless, PacifiCorp states that it is willing to provide any data to supplement its supporting testimony should it be necessary for future discovery.⁵⁵

⁵¹ *Id.* at 6. PacifiCorp states that Bonneville's wind integration rate is \$15.48 per kW/year.

⁵² *Id.*

⁵³ *Id.* at 7-8.

⁵⁴ *Id.* at 11.

⁵⁵ *Id.* at 8.

31. PacifiCorp also argues that its provision of diversity benefits is appropriate. PacifiCorp notes that it accounts for diversity benefits using the root sum square method. PacifiCorp argues that this methodology provides for far less regulation reserve than simply adding the regulation requirements together would produce. PacifiCorp states that, while the method does not assume a causal relationship between the components, it does capture a large share of diversity benefits.

32. With respect to Utah Municipal's request for a hybrid approach to procuring regulation reserves, PacifiCorp states that it is operationally impossible for it to provide partial regulation reserves for a customer who has elected to self-supply. PacifiCorp contends that, unlike contingency reserves which can be self-supplied on an hourly basis, regulation reserves are needed for second-to-second deviations on the system. According to PacifiCorp, allowing for a partial self-supply would require it to have real-time metering observable by the balancing authority, and to follow generation units or load with automatic generation control, which it deems as operationally infeasible.⁵⁶

33. Additionally, PacifiCorp argues that use of nameplate billing for VERs in Schedule 3A is appropriate and consistent with Commission precedent.⁵⁷ PacifiCorp states that the use of nameplate capacity as a billing determinant does not impact the calculation of total regulating margin reserves or the allocation of these reserves under different customer classes, but ensures that VERs and non-VERs are fully compensating PacifiCorp for their use of Schedule 3A services. PacifiCorp reiterates its view that using transmission demand as the billing determinant is not appropriate because generators may be exporting from PacifiCorp's balancing authority area and may not have purchased firm transmission in amounts that represent the full regulating margin reserves burden.⁵⁸

34. PacifiCorp contends that it appropriately reflected non-VERs' regulation burden, including its exclusion of ramping resources to manage system variations. PacifiCorp states that AWEA's arguments do not recognize the realities of operating a reliable transmission system and ignore the fundamental difference between ramping of dispatchable generation and random ramping of intermittent generation. Therefore, in PacifiCorp's view, AWEA's rule that it is unreasonable to exclude conventional generator variability and deviations when the generator movement is not helping to mitigate load variability is flawed. According to PacifiCorp, this approach would unjustly penalize non-VERs for times when dispatchable resources were ramped down to

⁵⁶ *Id.* at 22-23.

⁵⁷ *Id.* at 19 (citing *Westar*, 130 FERC ¶ 61,215, *order on reh'g*, 137 FERC ¶ 61,142).

⁵⁸ *Id.* at 19-20.

manage fluctuations in load and/or VERs. Therefore, PacifiCorp states that its approach for excluding ramping periods when determining non-VERs variability is reasonable as it does not penalize non-VERs for balancing the system.⁵⁹

V. Deficiency Filing

35. On May 21, 2013, the Commission issued a deficiency letter requesting more information from PacifiCorp on its rate filing. PacifiCorp responded on June 20, 2013 with additional workpapers and clarifications regarding its compliance with Order No. 764, power forecasting practices, and generator deviation data, among other things. While PacifiCorp's deficiency answer generated a number of comments and renewed protests, these submittals largely reiterated the same arguments previously presented, generally noting that the additional information provided in the deficiency response reaffirmed the complexity and opaqueness of the initial analyses used by PacifiCorp. Some intervenors raised additional issues such as PacifiCorp's categorization of solar facilities with thermal energy storage,⁶⁰ premature appropriation of regulation reserves,⁶¹ and double counting of the requirements to meet variations to which Schedule 3 applies.⁶²

VI. Discussion

A. Procedural Matters

36. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

37. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by PacifiCorp as it has provided information that assisted us in our decision-making process.

⁵⁹ *Id.* at 16-17.

⁶⁰ Concentrating Solar Protest at 3.

⁶¹ AWEA Comments at 18.

⁶² UAMPS Renewed Protest at 3.

B. Substantive Matters

38. The Commission rejects, without prejudice, PacifiCorp's proposed Schedules 3 and 3A. PacifiCorp has not demonstrated that its proposed methodology, including the data to support that methodology, is just and reasonable and not unduly discriminatory. Indeed protestors raise a number of fundamental concerns with PacifiCorp's proposal that call into question the underlying rationale and support for the proposal.

39. For example, PacifiCorp states that intra-hour scheduling is currently used infrequently on its system and that this satisfies PacifiCorp's obligation to consider the extent of intra-hour scheduling in developing differential rates on its system. However, PacifiCorp's statement in this regard is inadequate, given the particular circumstances surrounding its filing. As noted above, PacifiCorp chose to use a test year with data that is over two years old to measure the operational conditions of VERs when those operational conditions are rapidly evolving. As PacifiCorp has noted, many of the updated scheduling practices it has recently implemented were either not implemented or not fully implemented during large portions of its test year. PacifiCorp should have determined if any correction to its rates was needed given the difference in operational practices for most of 2011 and the operational practices in place today.

40. In Order No. 764, the Commission did not prescribe a particular approach for rate filings involving differential rates for VERs, noting the fact-specific circumstances surrounding these cases. The Commission also noted that it wanted to provide public utility transmission providers with the opportunity for cost recovery.⁶³ However, the Commission made clear in Order No. 764-A that it "sought to achieve a balanced approach that emphasizes public utility transmission providers' obligation to take the intra-hour scheduling and forecasting reforms into account" in supporting rates for generator regulation service.⁶⁴

41. PacifiCorp has not demonstrated that its rates are just and reasonable and not unduly discriminatory. It used a test year that did not account for the scheduling reforms that have already been implemented on its system. Rather than making an attempt to account for changes in practices in its rates, it has limited itself to preliminary analysis and vague statements regarding the operational reforms of Order No. 764. Accordingly, we will reject, without prejudice, PacifiCorp's rates.

⁶³ Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 324.

⁶⁴ Order No. 764-A, 141 FERC ¶ 61,232 at P 51.

The Commission orders:

PacifiCorp's proposed Schedules 3 and 3A are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.