

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

PacifiCorp)	
)	Docket Nos. ER23-407-000
)	ER23-408-000

**MOTION TO INTERVENE OUT-OF-TIME AND COMMENTS OF THE
EDISON ELECTRIC INSTITUTE**

I. INTRODUCTION

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”),¹ the Edison Electric Institute (“EEI”), hereby submits this Motion to Intervene Out-of-Time and Comments (“Motion”) in Docket No. ER23-408-000, regarding the filing of revisions to PacifiCorp’s Large Generator Interconnection Procedures (“LGIP”) in its Open Access Transmission Tariff (“OATT”) to implement generation replacement procedures (the “Generation Replacement Process Filing”),² as well as Docket No. ER23-407-000, regarding the filing of an agreement with an independent Generator Replacement Coordinator (“GRC” and “GRC Agreement”) for use in processing and studying generation replacement requests (the “GRC Agreement Filing”).³

As discussed herein, PacifiCorp’s proposal to create procedures for the replacement of existing generation is an appropriate and cost-effective way to facilitate the transition to cleaner and more efficient generation. The proposed tariff revisions are limited in nature and apply equally to all generation owners. Furthermore, the PacifiCorp proposal closely parallels

¹ 18 C.F.R. §§ 385.212, 385.214.

² PacifiCorp, Existing Generator Replacement Procedures, Docket No. ER23-408-000 (filed Nov. 10, 2022).

³ PacifiCorp, Generator Replacement Coordinator Agreement, Docket No. ER23-407-000 (filed Nov. 10, 2022).

proposals by similarly situated transmission providers, which the Commission has previously accepted.⁴ As the Commission recognized in these instances, the benefits of a generator replacement process are substantial, and when combined with the safeguards of an independent GRC, which protect against unduly discriminatory implementation, represent a process that is consistent with, or superior to, the *pro forma* LGIP.⁵

Due to the importance of promoting efficient use of the transmission system in all areas of the country, EEI seeks to intervene out-of-time and provide comments in support of PacifiCorp's proposal. Through its participation, EEI seeks to ensure that the investor-owned electric utility industry as a whole has an opportunity to comment on this important issue.

II. BACKGROUND

On November 10, 2022, PacifiCorp submitted the Generation Replacement Process Filing, in which it proposed OATT revisions to add processes to its LGIP and associated appendices of its OATT to facilitate the efficient interconnection of replacement generation, which would allow owners of retiring large generators to replace the retiring facility with a new facility, under certain conditions.⁶ On the same day PacifiCorp also submitted the GRC Agreement Filing, which contains the agreement whereby Excel Engineering of MN, LLP will serve as the third-party, independent GRC. The GRC will be the entity tasked with overseeing the generator replacement process.⁷ On December 1, 2022, the Utah Associated Municipal Power Systems filed a protest of PacifiCorp's filings ("UAMPS Protest"), and NewSun Energy

⁴ *Duke Energy Carolinas, LLC; Duke Energy Progress, LLC and Duke Energy Florida, LLC, et al.*, 180 FERC ¶ 61,156 (2022) ("*Duke Energy*"); *Public Service Company of Colorado*, 175 FERC ¶ 61,100 (2021) ("*PSCo*"); *Dominion Energy South Carolina, Inc.* 173 FERC ¶ 61,171 (2020) ("*Dominion*").

⁵ See, e.g., *PSCo* at P 15, *Duke* at P 20.

⁶ Generation Replacement Process Filing, pp. 2-4.

⁷ GRC Agreement Filing, pp. 2-3.

LLC filed a protest and motion to reject PacifiCorp's filings ("NewSun Protest" and, collectively, the "Protests"). On December 8, 2022, the Utah Division of Public Utilities submitted a motion to intervene out-of-time and to submit comments in response to PacifiCorp's filings.

EEI is the association that represents all investor-owned electric companies in the United States. Our members provide electricity for more than 235 million Americans and operate in all fifty states and the District of Columbia. As a whole, the electric power industry supports more than seven million jobs in communities across the United States. EEI's member companies own and operate generation, transmission, and distribution facilities in regions in all areas of the country, both inside and outside of RTOs/ISOs. EEI members are united in their commitment to get the energy they provide as clean as they can, as fast as they can, while keeping reliability and affordability front and center, as always, for the customers and communities they serve. Across the nation, EEI members are leading a clean energy transformation, making significant progress to reduce greenhouse gas emissions in our sector, while also creating good-paying jobs and an equitable clean energy future.

III. MOTION TO INTERVENE

EEI moves to intervene in this proceeding out of time. In deciding whether to grant late intervention, the Commission considers whether (i) the movant had good cause for failing to file a motion to intervene within the time prescribed; (ii) any disruption of the proceeding might result from permitting intervention; (iii) the movant's interest is not adequately represented by other parties in the proceeding; and (iv) any prejudice to, or additional burdens upon, the existing

parties might result from permitting intervention.⁸ As discussed below, EEI satisfies the criteria for late intervention.

EEI has good cause for intervening out-of-time. Several EEI members have incorporated a generator replacement process into their own OATTs, and as a result, the outcome of this proceeding is of particular interest to EEI as it could impact the administration of members' generator replacement processes. EEI did not intervene earlier in this proceeding because it did not anticipate protests to PacifiCorp's proposed LGIP revisions and GRC Agreement, as they are consistent with other proposals previously approved by the Commission. The Motion will not disrupt the proceeding, because EEI accepts the record and procedural posture of the proceeding as it currently exists. In addition, EEI's interest cannot be adequately represented by any other party. As the trade association for investor-owned electric utilities, several of whom have incorporated a generator replacement process into their own OATTs, EEI provides a broad-based perspective on the issues raised in these dockets. Lastly, there will be no prejudice to, or additional burdens upon, the existing parties in the proceeding if the Motion is granted. Accordingly, allowing the participation of EEI as a party in this proceeding is in the public interest. EEI therefore respectfully requests that the Commission grant the Motion.

⁸ 18 C.F.R. § 385.214(d)(1).

IV. NOTICES AND COMMUNICATIONS

All communications and correspondence with respect to this motion should be served upon the following individuals who should be included on the official service lists compiled by the Secretary of the Commission in these proceedings:

Emily S. Fisher
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V. COMMENTS

The most cost-effective placement of new generation is at brownfield sites where existing generators are already located. The Commission should therefore support and encourage the efficient use of existing sites and facilities as generators are replaced or repowered. The Generation Replacement Process Filing is consistent with this objective because it would allow the expedited replacement of existing generation facilities at the same point of interconnection on a fuel-neutral basis.⁹ PacifiCorp's proposal would utilize a more efficient study process because existing interconnection customers do not require the same level of study as newly-interconnected generation facilities.¹⁰ This in turn will reduce interconnection timelines for replacement generation. Furthermore, PacifiCorp's proposal would promote efficiency because it would avoid "the need to construct Interconnection Facilities or additional Network Upgrades since those facilities and upgrades have already been built and are in existence."¹¹ The proposal

⁹ See Generation Replacement Process Filing, p. 7 (noting that a proposed generation replacement facility "may be of a different fuel type or combination of fuel types").

¹⁰ *Id.* at p. 10.

¹¹ *Id.*

would also reduce interconnection-related uncertainty in generation resource planning,¹² and help to maintain tax bases in local communities and mitigate job losses when units are retired.

PacifiCorp's proposal to use a third-party GRC pursuant to the GRC Agreement Filing adequately addresses any concerns that its generator replacement proposal would unduly favor transmission owners that also own generation. As described in the Generator Replacement Process Filing, the GRC would have key responsibilities associated with evaluating requests to replace existing generation facilities, including collecting necessary information from interconnection customers, maintaining a queue, performing necessary studies, and validating data.¹³ In addition, the GRC would be required to satisfy and maintain compliance with certain criteria designed to ensure its independence.¹⁴ As PacifiCorp notes, the GRC's independence from PacifiCorp, its affiliates, and its interconnection customers is a defining element supporting the appropriateness of the GRC Agreement in overseeing the administration of the generation replacement process.¹⁵

Lastly, PacifiCorp's proposals in the Generation Replacement Process Filing and the GRC Agreement Filing comply with Commission precedent. As noted above, the Commission has previously evaluated and accepted similar generator replacement proposals offered by Duke Energy, PSCo, and Dominion.¹⁶ In each of those cases, the Commission found that the benefits of a generator replacement process are substantial and, in combination with safeguards against discriminatory implementation, such processes are superior to the *pro forma* LGIP and LGIA.¹⁷

¹² *Id.*

¹³ *Id.* at pp. 4-5.

¹⁴ *Id.* at pp. 5-6.

¹⁵ GRC Agreement Filing, p. 7.

¹⁶ *See, supra*, n.4.

¹⁷ *See, e.g., PSCo* at P 15, *Duke* at P 20.

The Commission also found that such generator replacement processes result in more efficient and cost effective procedures for existing interconnection customers to continue to use their existing interconnection service.¹⁸ The proposal put forth by PacifiCorp in the Generation Replacement Process Filing is substantially identical to the proposals the Commission accepted in *Dominion*, *PSCo*, and *Duke*.¹⁹ In addition, the Commission approved GRC agreements in the *Dominion*, *PSCo*, and *Duke* proceedings which are substantively the same as the GRC Agreement submitted by PacifiCorp in this proceeding.²⁰ While the Protests allege that PacifiCorp's proposed generator replacement processes and GRC mechanism are flawed and will unfairly advantage PacifiCorp's own generation resources,²¹ the protestors fail to substantiate these allegations or make any demonstration that PacifiCorp's proposal is in any way substantively different from those the Commission accepted in *Dominion*, *PSCo*, and *Duke*. Therefore, the Commission should likewise accept PacifiCorp's proposals in the Generation Replacement Process Filing and the GRC Agreement Filing.

¹⁸ See, e.g., *PSCo* at P 15, *Duke* at P 20.

¹⁹ *Id.* at pp. 6-9 (noting the parallels between the proposals).

²⁰ PacifiCorp notes that its GRC Agreement contains the same provisions regarding independence of the GRC, generation replacement functions of the GRC and payment and funding of the GRC's functions. GRC Agreement Filing, p. 7.

²¹ UAMPS Protest at 3 (alleging the potential for anti-competitive behavior); NewSun Protest at 4 (same).

VI. CONCLUSION

For the foregoing reasons, EEI requests that the Commission grant its motion to intervene out-of-time and take into consideration its comments in support of PacifiCorp's proposals in the Generation Replacement Process Filing and the GRC Agreement Filing.

Respectfully Submitted,

/s/Emily S. Fisher

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December 16, 2022

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C. this 16th day of December 2022.

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