PACIFICORP
A MIDAMERICAN ENERGY HOLDINGS COMPANY

PacifiCorp
825 NE Multnomah
Portland, OR 97232

March 5, 2010

Clerk of the Board
California Air Resources Board
1001 I Street, 23rd Floor
Sacramento, CA 95814

Re: Comments of PacifiCorp Concerning the AB 32 Administrative Fee

Dear Members of the California Air Resources Board:

PacifiCorp, dba Pacific Power (or, the "Company"), respectively submits these comments on the California Air Resources Board's ("CARB") proposed administrative fee regulations for sources of greenhouse gas ("GHG") emissions ("Fee Regulation") pursuant to Assembly Bill 32 ("AB 32"), as revised and amended, in terms of its applicability to the Company's multi-state operations.[1] PacifiCorp's comments are intended to clarify any outstanding questions regarding the impact on multi-jurisdictional retail providers ("MJRP"), like PacifiCorp, and the specific applicability of the Fee Regulation. PacifiCorp appreciates the opportunity to submit comments in this proceeding and Staff's efforts to address the Company's particular circumstances.

I. Introduction

PacifiCorp is a regulated multi-jurisdictional utility serving 1.7 million retail electricity customers, in California, Idaho, Oregon, Utah, Washington, and Wyoming. PacifiCorp owns, or has interests in, 74 thermal, hydroelectric, wind-powered and geothermal generating facilities, with a net owned capacity of approximately 10,188 megawatts. PacifiCorp also owns, or has interests in, electric transmission and distribution assets, and transmits electricity through approximately 15,800 miles of transmission lines. PacifiCorp maintains a transmission and distribution system and is the Balancing Authority for the areas known as PacifiCorp West and PacifiCorp East.[2] PacifiCorp's California retail customers are served primarily by the PacifiCorp West control area, which is not a part of the California Independent System Operator ("CAISO") controlled grid. PacifiCorp also buys and sells electricity on the wholesale market with public and private utilities, energy marketing companies, and incorporated municipalities as a result of excess electricity generation or other system balancing activities.

[1] See, Rulemaking To Consider Adoption Of Proposed AB 32 Cost Of Implementation Fee Regulation And Proposed Amendment To The Regulation For The Mandatory Reporting Of Greenhouse Gas Emissions, available at http://www.arb.ca.gov/regact/2009/feereg09/modtext.pdf .

[2] A Balancing Authority is defined as the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time. A Balancing Authority Area is defined as the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load resource balance within this area.

PacifiCorp has been active in the CARB proceedings for AB 32, the joint agency proceedings of the California Public Utilities Commission ("CPUC") and the California Energy Commission ("CEC"), as well as the Western Climate Initiative ("WCI") proceedings for developing a regional cap-and-trade program. PacifiCorp has long advocated that California and the WCI program be pre-empted by a comprehensive national program provided by federal legislation. Regulating greenhouse gases in a broader framework will increase program efficiency and effectiveness given the global nature of climate change. PacifiCorp continues to strongly encourage states to support the enactment of a comprehensive national program instead of attempting to establish an inherently inefficient regional climate program. A national program will result in a greater likelihood of fulfilling the WCI's stated purpose of reducing this region's contribution to global climate change.

II. Discussion

A. PacifiCorp's Role as a Retail Electricity Provider

PacifiCorp's primary function is to serve retail load. Unlike other California investor-owned utilities ("IOUs"), PacifiCorp remains a vertically-integrated multi-jurisdictional utility owning approximately 80 percent of its generation portfolio, and utilizing the majority of the electricity generated from those assets to serve customer retail load. PacifiCorp's owned-generation portfolio is a mix of assets located within nine western states (Arizona, California, Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming).

Consistent with a long-standing regulatory practice agreed to among the various state regulatory entities overseeing PacifiCorp, all energy produced by PacifiCorp-owned resources, as well as purchased energy delivered pursuant to a power purchase agreement is referred to as "system" power.[3] System power is electricity that is not assigned by PacifiCorp for use within a particular state or balancing authority. Unlike IOUs located entirely within California, PacifiCorp combines all of the costs for generating and maintaining the appropriate level of the power within the system and allocates to each jurisdiction its proportionate share of system resources based upon retail load served. PacifiCorp's California retail customers make up approximately a two percent (2%) share of PacifiCorp's system resources.

A useful analogy would be to think of PacifiCorp's multi-jurisdictional system as a water reservoir. There may be a pipe bringing water into the system from one end (representing power generated in Wyoming) and a pipe of water flowing out of the system on another end (represented by power delivered to California). The result is that PacifiCorp does not track the location, flow and physical delivery (i.e., transmission) of power used to serve retail load from a point of generation to a point of consumption. Rather, PacifiCorp

[3] An exception is the assigning of the power produced by Qualifying Facilities ("QFs") subject to contracts that mandate utility purchases under federal law (e.g., Public Utility Regulatory Policies Act of 1978). The output from QFs is usually assigned to the state where the QF is physically located.

combines all of the costs for generating and maintaining the appropriate level of the power within the integrated system, calculates a cost of service for doing so, and allocates the costs to each of the states based on the respective retail load served. PacifiCorp uses a system power cost allocation factor referred to as a System Energy ("SE") factor. As a result of this shared resources approach, PacifiCorp's states receive the various benefits created by resource diversification. The SE factor is part of a more comprehensive cost allocation methodology referred to as the PacifiCorp Multi State Process ("MSP") revised protocol. The revised protocol is a cost allocation methodology agreed to by the various utility commissions that regulate PacifiCorp.

There are two important points to emphasize about PacifiCorp's use of a SE cost allocation factor to assigning costs and benefits from resources. First, unlike other IOUs located solely within California, for the reasons previously stated, PacifiCorp assigns power produced by its various system resources to the individual state consumers within its system by using the applicable SE factor. Accordingly, power is imputed as used by retail customers and is not assigned based on the dynamics of actual physical power flows from specific generators to the customers' premises. Second, consistent with this long-standing practice of assigning costs and benefits of the system based upon the SE cost allocation factor, PacifiCorp similarly assigns greenhouse gas emissions attributable to its various system resources to the states it provides retail electricity service.

PacifiCorp's GHG mandatory reporting compliance obligation for system power used to serve California customer retail load is ultimately tied to an existing cost allocation methodology. The amount of the power output generated by that system asset and the amount of power ultimately assigned to California using a SE factor is reportable on an annual basis. Again, PacifiCorp does not currently track the dynamic power flows within the PacifiCorp system that serve retail load—such an approach would be administratively impractical. Power moves within the PacifiCorp system in accordance with the laws of physics to reliably meet demand while maintaining transmission system reliability.

B. PacifiCorp's Role as a Seller of Wholesale Electricity

There is an important distinction between PacifiCorp system power used to serve retail customer load and system power sold by PacifiCorp into the western wholesale electricity market for consumption by other entities' retail customers. PacifiCorp's primary function is to serve retail load, although from time to time PacifiCorp does sell excess power into the wholesale markets when it exists or when system reliability warrants it. Unlike retail system power sales where PacifiCorp acts as the load-serving entity, PacifiCorp's wholesale system power sales are transactions where power delivery is scheduled and each transaction explicitly identifies a final point of delivery. In Attachment 1, PacifiCorp has provided a detailed GIS map illustrating the various interconnections between different service areas.

For wholesale electricity transactions, PacifiCorp's commercial and trading group conducts transactions with an identified counterparty and a scheduled point of delivery. For example, in 2008 several PacifiCorp wholesale system power imports into California

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were transmitted from Four Corners to the SP15 CAISO service area (see map in Attachment 1). In those transactions, the counterparty, amount of electricity and point of delivery are all recorded and available. For staff's convenience, within Attachment 2, PacifiCorp has provided a list of points of delivery within California, as well as a list of points of delivery where a counterparty took delivery from PacifiCorp. PacifiCorp may be doing future transactions with deliveries to counterparties at the edges of the CAISO system, so that the counterparty takes title at that point and brings it into California, which would not subject PacifiCorp to the fee (but rather the counterparty).

III. Application of the Fee Regulation to PacifiCorp

PacifiCorp representatives and CARB Staff have worked cooperatively over the last several months in an effort to understand the unique circumstances applicable to PacifiCorp as an MJRP and the impact of the Fee Regulation. In particular, PacifiCorp and CARB Staff discussed the concerns about a potential disconnect between the allocation-based manner in which PacifiCorp reports California's share of system power-related emissions and the proposed implementation of the Fee Regulation as applicable to retail and wholesale imports of electricity. Based on the mandatory reporting rules developed by CARB, PacifiCorp reports GHG emissions consistent with California's two percent (2%) share of system emissions, although, as discussed above, the actual power flows physically serving the California electric demand primarily come from a different subset of system resources located in the PacifiCorp West control area. This proportionate share approach to emissions reporting is an administratively efficient mechanism based upon PacifiCorp's long-standing cost allocation mechanism that has been agreed to by the various states' regulatory bodies and which is routinely reflected in California regulatory filings and cost structures.

The Fee Regulation relies on the types and quantities of GHG emissions reported pursuant to the CARB's GHG Mandatory Reporting Regulation as the basis for imposing a fee on individual entities, including electricity importers.[4] Pursuant to proposed § 95201(a)(4), the Fee Regulation is applicable to an MJRP on a limited basis, specifically stating that "[f]ees shall also be paid for each megawatt-hour of imported electricity reported pursuant to sections 95111 (b)(2)(B and C) and 95111 (b)(3)(N) of the Mandatory Reporting Regulation if the electricity is from either unspecified sources or specified sources that combust natural gas, coal, petroleum coke, catalyst coke, refinery gas or other fossil fuels (except California diesel)."[5] In sum, the Fee Regulation applies only to each megawatt-hour of imported electricity from the MJRP's wholesale power sales.

A. Section 95111(b)(2)(B and C)

[4] See §§ 95204(g) and 95205(a).

[5] See § 95201(a)(4).

When section 95111(b)(2)(B and C) is applied, which addresses wholesale power imports into California, MJRPs are explicitly exempted within section 95111(b)(2) from this specific reporting requirement. Since wholesale power imports are not reported by MJRPs as part of the GHG Mandatory Reporting Regulations, no AB 32 fees can be assessed on an MJRP's wholesale power imports into California under this provision.

B. Section 95111(b)(3)(N)

When section 95111(b)(3)(N) is applied, AB 32 fees may be assessed on MJRP's wholesale power imports into California. Specifically, section 95111(b)(3)(N) states that "[m]ulti-jurisdictional retail providers shall indicate those wholesale sales included in section 95111(b)(3)(K)-(M) for which they are the deliverer to the first point of delivery in California (not located within their own service territory)". As discussed above, these wholesale power sales are transactions where power delivery is scheduled and each transaction explicitly identifies a final point of delivery. Moreover, these wholesale power sales are reported by PacifiCorp pursuant to the GHG Mandatory Reporting Regulations as part of the CARB's "Power Transaction Reporting" excel workbook (specifically within the spreadsheet titled "WSP Sold to CA (MJRP&DWR)".

PacifiCorp appreciates CARB Staff's responsiveness and efforts to ensure that the proposed Fee Regulation does not unduly burden PacifiCorp's retail customers. The Fee Regulation represents a reasonable approach to make sure that PacifiCorp's retail customers continue to be served in a cost-effective manner consistent with PacifiCorp's long-standing multi-state regulatory structures. PacifiCorp appreciates CARB Staff's careful work and looks forward to working with the CARB and other interested parties to ensure that the Fee Regulation is implemented in a manner consistent with the parties' understanding.

If you have any questions concerning these comments, please contact me at (503) 813-6601 or Ryan Flynn at (503) 813-5854. Thank you for your consideration of these comments.

Respectfully submitted,

By

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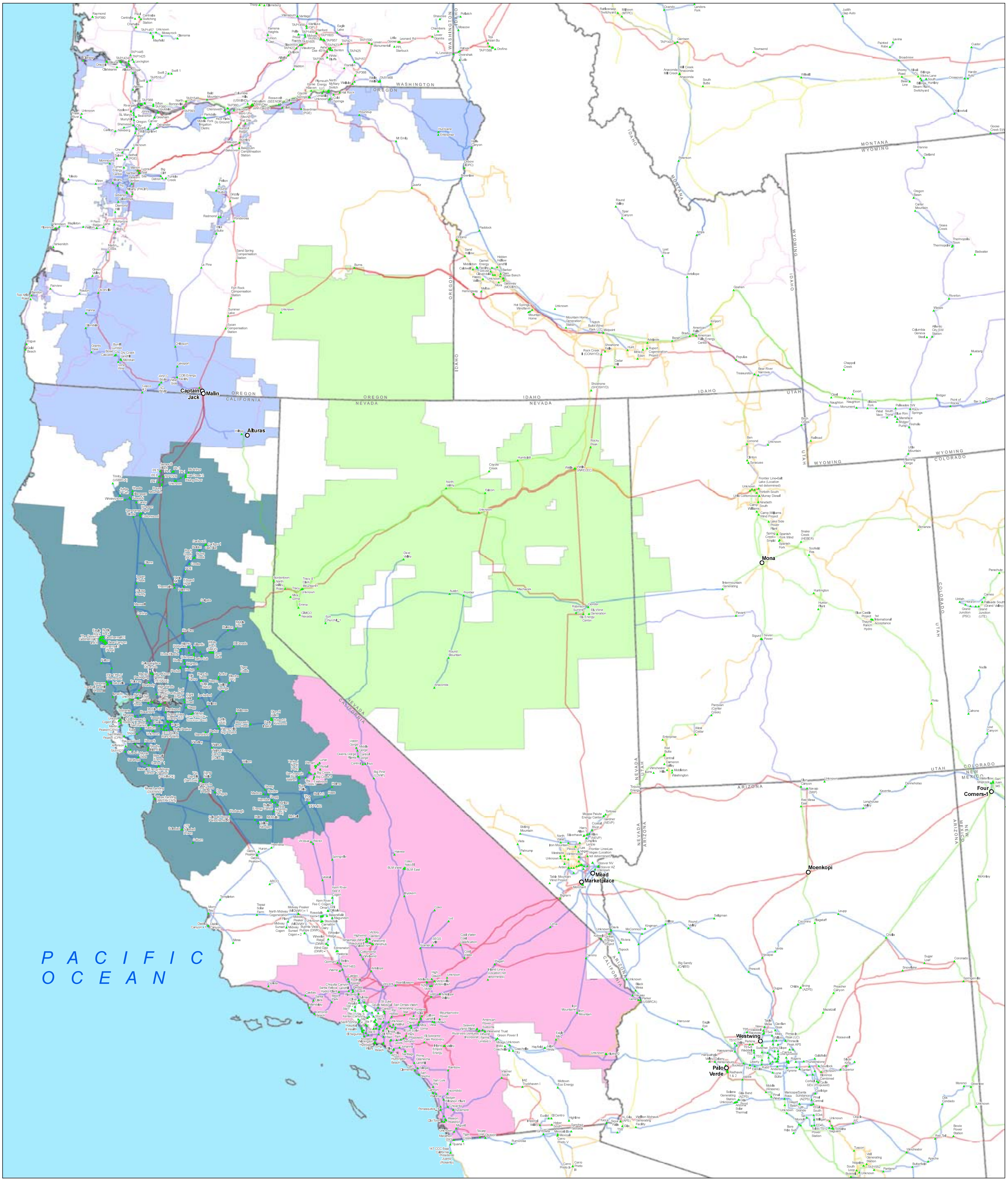
Attachments

Cc: Mr. Jon Costantino, Manager, Climate Change Planning Section
Ms. Jeannie Blakeslee, Air Pollution Specialist



California ISO Transmission

DRAFT

Transmission Lines

VOLTAGE (kV)

- 115
- 138
- 230
- 345
- 500
- Delivery Points
- Substations

ISO Areas

- North Path 15
- South Path 15
- Sierra Nevada
- PAC West
- State Boundary
- Ocean

Parts of the transmission line data used in this map and some of ISO areas are property of Platts, a division of The McGraw-Hill Companies, Inc. and should not be made public by any means.

Attachment 1

N
W E
S

0 75 150
Miles

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Data Management/
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Data are projected in UTM Zone 12, units meters, NAD83. PacifiCorp GIS collects data from a variety of government and private sources. PacifiCorp makes no warranty as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. For complete validation, the source organization should be contacted to verify the findings of this product.

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Attachment 2

Points of delivery within California where PacifiCorp has had wholesale system power sales in the past five years and may be subject to the Fee Regulation:

NP15
SP15
Alturas

Points of delivery at the border of California where PacifiCorp has had wholesale sales in the past five years and the counterparty may have imported the PacifiCorp system power into California:

PacifiCorp West (OR)
California/Oregon Border (OR)
Captain Jack (OR)
Malin (OR)
Nevada/Oregon Border (NV)
Sierra Pacific (NV)
Mead (NV)
MarketPlace (NV)
Mona (UT)
Four Corners (NM)
Westwing (AZ)
Moenkopi (AZ)
Palo Verde (AZ)