

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

DOCKET NOS . UM 1129 and _____

In the Matter of the PUBLIC UTILITY
COMMISSION OF OREGON Staff's
Investigation relating to Utility Purchases
from Qualifying Facilities

and

In the Matter of the Application of
PACIFICORP for Approval of Proposed
Schedule Nos. 37 and 28 and Standard
Form Power Purchase Agreements for
Qualifying Facilities up to 10 MW

COMMENTS OF DOUGLAS COUNTY
FOREST PRODUCTS

I. Introduction

Douglas County Forest Products (“Douglas County”) is an assumed business name of Douglas County, Inc., a privately owned Oregon corporation that is engaged in the forest products business from its headquarters in Winchester, Douglas County, Oregon. Douglas County intends to own and operate a 6.25 MW biomass-fired qualifying facility that will operate in a cogeneration mode; consequently, the facility has been certified to the Federal Energy Regulatory Commission as both a small power production facility and a cogeneration facility. See FERC Docket No. QF05-092-000. The facility will be located in PacifiCorp’s service territory in Winchester, Oregon. PacifiCorp has been informed of Douglas County’s plans and the parties have conferred regarding the interconnection of the facility to PacifiCorp’s system and PacifiCorp’s obligation to purchase of power from the facility. Douglas County moved to intervene in Commission Docket No. UM1129 following the issuance of Order No. 05-548

because that order made it clear that the events in that and related dockets could affect Douglas County's efforts to bring its qualifying facility on line.

II. Discussion

Introduction

Douglas County believes that the Commission's Order No. 05-584 created both appropriate incentives for the development of renewable resources in the State of Oregon as well as providing adequate protection for ratepayers. Douglas County is concerned, however, that PacifiCorp's draft purchase agreement contained in its Application violates the express terms of the Order and that the violation will upset the balance contained in the Order. The specific problem is contained in Section 3.2.7(e) of PacifiCorp's draft,¹ which requires that qualifying facilities of over three (3) MW meet PacifiCorp's definition of "Credit Requirements," which Section 1.8 describes as a "long-term credit rating (corporate or long-term senior unsecured debt)" established by Moody's, S&P, or "such other indicia of credit worthiness acceptable to PacifiCorp in its reasonable judgment." The specific shortcomings of the requirement are that it is not workable and that it is not authorized.

The Requirement is not Workable

Douglas County has a solid history of financial responsibility and is willing to demonstrate that financial responsibility in appropriate ways and with appropriate safeguards if it can be shown that such is relevant. Notwithstanding this solid history, however, Douglas County (and most likely most other qualifying facilities) is not in a position to meet PacifiCorp's definition of credit worthiness for the simple reason that its debt is not publicly traded. (Indeed, Mid American Energy Holdings, which is currently seeking approval to replace Scottish Power

¹ The subsection by its terms would apply to Douglas County because it is "[**Applicable only to Seller's [sic.] with a Facility having a Facility Capacity Rating greater than 3 MW**]". (Boldface in original.)

as PacifiCorp's new absentee owner, itself could not meet PacifiCorp's creditworthy test because it, like Douglas County, does not have publicly traded debt.) Thus compliance with PacifiCorp's requirements is simply not attainable.

The Requirement is Not Authorized

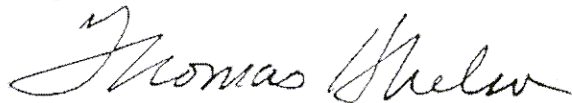
Second, the Order does not authorize PacifiCorp to insist that facilities over three (3) MW meet its unworkable credit-rating requirement. The Commission restated the positions of the parties in the docket, and in that restatement did note that PacifiCorp had indicated that a special credit worthiness test be established for facilities over three (3) MW. *See* Order at 45. The subsequent discussion, however, nowhere authorized a special "test" for facilities over that threshold. At a minimum, PacifiCorp should be required to cite the chapter and verse of the Order that authorizes its unworkable requirement.

III. Conclusion

For the foregoing reasons, Douglas County respectfully requests that the Commission instruct PacifiCorp to delete Section 3.2.7(e) from its draft power purchase agreement.

DATED: July 26, 2005

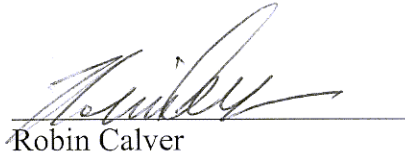
Respectfully submitted,



Thomas H. Nelson
Of Attorneys for Douglas County

CERTIFICATE OF SERVICE

I certify that I mailed a copy of the foregoing COMMENTS OF DOUGLAS COUNTY FOREST PRODUCTS to the following parties listed on the official service list by first class mail, postage prepaid, on July 26, 2005.



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