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September 25, 2012

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission
550 Capitol Street NE, Ste 215
Salem, OR 97301-2551

Attn: Filing Center

RE: UM 1546 – PacifiCorp’s Response to Threemile Canyon Wind I, LLC. Motion for Relief from Stay and for Scheduling Conference

PacifiCorp, d.b.a. Pacific Power, submits for filing its Response to Threemile Canyon Wind I, LLC Motion for Relief from Stay and for Scheduling Conference in the above-referenced proceeding.

Please direct any informal inquiries to Bryce Dalley, Director, Regulatory Affairs & Revenue Requirement, at (503) 813-6389.

Sincerely,

William R. Griffith
Vice President, Regulation

Enclosures

cc: Service List UM 1546

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1546

THREEMILE CANYON WIND I, LLC,

Complainant,

v.

PACIFICORP, dba, PACIFIC POWER,

Defendant.

PACIFICORP RESPONSE TO
THREEMILE CANYON WIND I, LLC
MOTION FOR RELIEF FROM STAY
AND FOR SCHEDULING
CONFERENCE

1 In accordance with OAR 860-001-0420(5), PacifiCorp, d.b.a. Pacific Power
2 (PacifiCorp or Company), files this Response to the Threemile Canyon Wind I, LLC's
3 (Complainant) Motion for Relief From Stay and For Scheduling Conference (Motion). The
4 Motion should be denied because the legal and policy issue to be resolved in this docket has
5 already been fully briefed and is very likely to be resolved as part of the Oregon Public
6 Utility Commission's (Commission) generic investigation into qualifying facility (QF)
7 contracting and pricing. Further, Complainant does not offer a compelling reason to lift the
8 stay it agreed to in this docket approximately one year ago.

9 **I. ARGUMENT**

10 This docket was initiated by Complainant's filing of a complaint against the
11 Company on July 1, 2011. The sole matter at issue in the initial complaint was whether or
12 not under the Public Utilities Regulatory Policies Act (PURPA), the Company could charge
13 Complainant certain costs associated with the Company's purchase of third-party
14 transmission.¹ On June 27, 2011, the Company filed Advice No. 11-011, proposing revisions
15 to its Oregon Tariff Schedule 37 – Avoided Cost Purchases from Qualifying Facilities

¹ See Complaint of Threemile Wind Canyon I, LLC at 16-17 (July 1, 2011).

1 (10,000 kW or less) that would allow the Company to charge QFs for additional transmission
2 that may be required for the Company to move QF output to load. Advice No. 11-011 was
3 docketed in UE 235. The legal and policy question at issue – namely whether the Company
4 may charge or credit QFs for costs incurred or avoided associated with third-party
5 transmission – is identical in this docket as in UE 235.

6 As a result, the Company proposed to stay filing of testimony in this docket until the
7 Commission issued a legal ruling in UE 235.² In the interim, the Company agreed to enter
8 into an extension of the short-term power purchase agreement (PPA) to preserve the status
9 quo during the resulting delay. Complainant did not object to the Company's request for a
10 stay.³ In addition, the Company has executed extensions of the current short-term PPA in
11 order to continue maintaining status quo while delay continues. Therefore, Complainant is
12 not prejudiced by further delay and is not facing imminent financial or operational harm.
13 The issues identified in UE 235 were fully briefed.

14 On June 29, 2012, the Commission opened an investigation into QF issues, generally,
15 in Docket UM 1610. The Company intervened in UM 1610 and has been actively working
16 with parties to that docket in order to develop an issues list. The third-party transmission
17 issue identified in this docket and in UE 235 has been discussed with parties to UM 1610 and
18 it appears likely that the issue will be addressed as part of that proceeding. The Company
19 understands through discussions with Commission Staff that the UM 1610 was opened in
20 part to consolidate a number of ongoing QF dockets and resolve broad policy and legal issues
21 in one forum. As such, because the third-party transmission issue here affects many QFs and
22 not just Complainant, UM 1610 is the more appropriate forum to resolve the legal and policy

² See Pacific Power Request for a Stay of Proceedings (September 22, 2011).

³ Administrative Law Judge Sarah K. Wallace Ruling (October 6, 2011).

1 issues surrounding third-party transmission. Considering the same issue in two different
2 forums at the same time is unnecessary and redundant and could lead to unclear or
3 inconsistent outcomes.

4 Further, the Motion does not provide justification for this duplicative litigation.
5 Complainant states that the Commission's other dockets (UE 235 and UM 1610) do not
6 provide an adequate or acceptable forum for resolution of issues raised by its complaint, in
7 part because Complainant is not a party to those dockets.⁴ First, there is nothing to prevent
8 Complainant to becoming a party to UM 1610 (even for the limited purpose of addressing
9 third-party transmission costs). Second, less than a year ago Complainant agreed to stay the
10 outcome of this proceeding pending the outcome of UE 235, at which time Complainant was
11 not a party to that docket. It is unclear why Complainant felt it was acceptable to adjudicate
12 this matter in UE 235 a year ago but is now opposed to essentially the same approach.

13 Complainant further states that both UE 235 and UM 1610 are forward looking
14 dockets because they concern how QF contracts and pricing should be handled in the future.
15 Complainant does not provide any support for this statement. However, assuming it is the
16 case that UM 1610 is forward-looking only, it does not follow that resolution of the policy
17 and legal issues raised in UM 1610 will somehow preclude Complainant's seeking further
18 relief in this docket. In fact, the Company understands that this was the purpose of the stay
19 in the first place – to resolve the threshold legal and policy issues first before attempting to
20 apply them to the facts of this case.

21 Due to the foregoing, it continues to make sense to stay these proceedings until such
22 time that the generic policy and legal issues raised herein are resolved. Once the generic

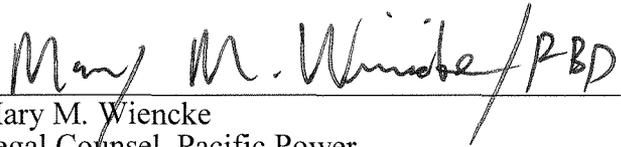
⁴ Motion at 3.

1 policy and legal issues are determined in UM 1610, the issues in this docket may be resolved.
2 As a result, there is no need to lift the stay originally issued in this docket.

3 **II. CONCLUSION**

4 The Commission should reject the Motion because it could result in unnecessary
5 duplicative litigation and because the basis for the original stay of the proceedings remains
6 unchanged.

DATED: September 25, 2012



Mary M. Wiencke
Legal Counsel, Pacific Power
Counsel for PacifiCorp

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document, in Dockets UM 1546, on the date indicated below by email and/or US Mail, addressed to said parties at his or her last-known address(es) indicated below.

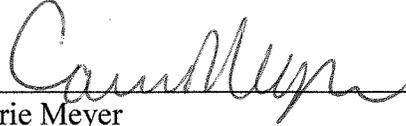
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DATED: September 25, 2012



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