

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com
Suite 400
333 SW Taylor
Portland, OR 97204

October 10, 2012

Via Electronic and FedEx

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of Public Utility Commission of Oregon Investigation Into
Qualifying Facility Contracting and Pricing
Docket No. UM 1610

Dear Filing Center:

Enclosed please find the original and five (5) copies of the Comments on behalf
of the Renewable Energy Coalition in the above-referenced docket.

Thank you for your assistance.

Sincerely,

/s/ Sarah A. Kohler
Sarah A. Kohler

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Comments on behalf of the Renewable Energy Coalition upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail.

Dated at Portland, Oregon, this 10th day of October, 2012.

Sincerely,

/s/ Sarah A. Kohler
Sarah A. Kohler

(W) PUBLIC UTILITY COMMISSION OF OREGON
ADAM BLESS
P.O. Box 2148
Salem OR 97308-2148
adam.bless@state.or.us

(W) ESLER STEPHENS & BUCKLEY
JOHN W STEPHENS
888 SW FIFTH AVE STE 700
PORTLAND OR 97204-2021
stephens@eslerstephens.com;
mec@eslerstephens.com

(W) IDAHO POWER COMPANY
DONOVAN E WALKER
REGULATORY DOCKETS
PO BOX 70
BOISE ID 83707-0070
dwalker@idahopower.com
dockets@idahopower.com

(W) MCDOWELL RACKNER & GIBSON PC
LISA F RACKNER
419 SW 11TH AVE., SUITE 400
PORTLAND OR 97205
dockets@mcd-law.com

(W) DEPARTMENT OF JUSTICE
STEPHANIE S ANDRUS, AAG
BUSINESS ACTIVITIES SECTION
1162 COURT ST NE
SALEM OR 97301-4096
stephanie.andrus@doj.state.or.us

(W) RENEWABLE NORTHWEST PROJECT
MEGAN WALSETH DECKER
RNP DOCKETS
421 SW 6TH AVE., STE. 1125
PORTLAND OR 97204
megan@rnp.org
dockets@rnp.org

(W) OREGON DEPARTMENT OF ENERGY

RENEE M FRANCE
NATURAL RESOURCES SECTION
1162 COURT ST NE
SALEM OR 97301-4096
renee.m.france@doj.state.or.us

(W) PORTLAND GENERAL ELECTRIC

RANDY DAHLGREN - 1WTC0702
J. RICHARD GEORGE - 1WTC1301
121 SW SALMON ST
PORTLAND OR 97204
pge.opuc.filings@pgn.com
richard.george@pgn.com

(W) PACIFICORP

R BRYCE DALLEY
825 NE MULTNOMAH ST., STE 2000
PORTLAND OR 97232
bryce.dalley@pacificorp.com

MARY WIENCKE

825 NE MULTNOMAH ST, STE 1800
PORTLAND OR 97232-2149
mary.wiencke@pacificorp.com

(W) OREGON DEPARTMENT OF ENERGY

MATT KRUMENAUR
VIJAY A SATYAL
625 MARION ST NE
SALEM OR 97301
matt.krumenauer@state.or.us
vijay.a.satyal@state.or.us

(W) THOMAS NELSON

PO BOX 1211
WELCHES OR 97067-1211
nelson@thnelson.com

(W) RICHARDSON & O'LEARY

GREGORY M ADAMS
PETER J RICHARDSON
PO BOX 7218
BOISE ID 83702
greg@richardsonandoleary.com
peter@richardsonandoleary.com

(W) RENEWABLE ENERGY COALITION

JOHN LOWE
12050 SW TREMONT ST
PORTLAND OR 97225-5430
jravenesanmarcos@yahoo.com

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1610

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	RENEWABLE ENERGY COALITION
OREGON)	RESPONSE TO DISPUTED ISSUES
)	
Investigation Into Qualifying Facility)	
<u>Contracting and Pricing</u>)	

I. INTRODUCTION

The Renewable Energy Coalition (“REC”) submits this response to PacifiCorp’s objection to the inclusion of issues related to the interconnection process in the Oregon Public Utility Commission’s (the “Commission” or “OPUC”) investigation into qualifying facility (“QF”) contracting and pricing under the Public Utility Regulatory Policies Act (“PURPA”). The interconnection issues raised by REC, the Community Renewable Energy Association (“CREA”) and the Oregon Department of Energy (“ODOE”) are directly related to the QF contracting and pricing issues and have caused some of the disputes that have resulted in the Commission opening this investigation. Contrary to PacifiCorp’s comments, consideration of discrete and limited issues regarding the interconnection process will not significantly expand the scope of the process or cause unnecessary delay, but will instead allow the Commission to establish policies and resolve some core issues in a holistic manner. Therefore, the two issues included on Staff’s proposed list (“List”) related to changes to the interconnection rules, practices and policies regarding more timely and expeditious power purchase agreements

(“PPA”), and whether third-party contractors should be allowed to perform additional work should be considered in this proceeding. Both the CREA and the Renewable Northwest Project support this response and the inclusion of interconnection issues in this proceeding.

II. BACKGROUND

On June 29, 2012, the Commission opened this investigation to address, in a generic fashion, a number of QF-related controversies regarding PURPA implementation and QF contracting. Over the past few years, the Commission and the courts have been presented with a number of complaints by QFs over contracting, pricing, and interconnection issues. There also have been disputes about the timing and frequency of avoided cost updates, proposals by utilities to suspend or modify their obligations to purchase QF power, and the need to investigate the utilities’ new renewable avoided cost rates. In addition, this proceeding is also related to REC’s November 2009 request for an investigation to address a number of utility practices that discourage QF development.

Staff conducted a number of workshops to consider the scope of issues in this proceeding and to develop a consensus list of issues. Staff and many of the parties worked hard to consolidate, reduce, and narrow lists as much as possible using an approach that no issues of key importance to any of the other parties would be excluded. There are many issues on Staff’s List that, during the workshops, one or more parties opposed including. Parties, however, recognized that the general approach was to include issues that at least one party believed should be considered.

REC, CREA, and ODOE all raised a number of issues related to the interconnection process but eventually dropped some of their issues, and the interconnection process issues were narrowed and consolidated into the following:

- Should there be changes to the interconnection rules, policies, or practices to facilitate the timely execution of PPAs under PURPA and a more expeditious process for constructing a QF and bringing it on line?
- Should the interconnection process allow, at the QF's request or upon certain conditions, third-party contractors to perform certain functions in the interconnection review process that are currently performed by the utility?

These issues were included on Staff's List. In addition, REC has requested that Administrative Law Judge ("ALJ") Grant add an issue regarding the timing of the interconnection process and the PPAs. Specifically, REC believes that the interconnection milestones should be removed from the PPA. PacifiCorp filed its proposed issues list and was the only party to formally object to the inclusion of this or any other issue in the proceeding.

III. RESPONSE

The contracting and pricing negotiation process for QFs is intricately tied to the interconnection process, and it is impossible to resolve many contractual disputes without considering the interconnection process. This proceeding should not be the forum for a broad revision or modification of the Commission's existing interconnection rules, but should consider making a limited number of important changes that will better ensure that the interconnection and PPA contracting processes work together and do not provide unnecessary hurdles or impediments. Further, these changes will help to prevent certain future disputes between QFs and utilities.

The Commission adopted rules for large and small generator interconnections. E.g., Re Rulemaking to Adopt Rules Related to Small Generator Interconnection, Docket No. AR 521, Order No. 09-196 (June 8, 2009); OAR §§ 860-029-0060, 860-082-0005. REC largely supports these rules and the intent or spirit of Order No. 09-196 as providing much needed clarity and consistency in the interconnection process. After several years of implementation of the rules, there are some limited areas that require revision due to ambiguity. The Commission's interconnection rules, policies, and practices should be revised to streamline the process, provide more clarity, and facilitate more cost effective and timely interconnections.

In submitting its proposed issues list, Staff recognized the importance of addressing interconnection and contracting issues holistically. Staff explained that the two interconnection process issues should be included in this proceeding and “are significant because the PPA process and interconnection process are interrelated through conditions in the PPA process that refer to milestones in the interconnection process.” Staff Issues List at 6. As Staff recognized, QFs often face milestones in their PPA or interconnection process that provides them with little opportunity to review, question, or mitigate the interconnection requirements and estimates. The process has been presented as a take-it-or-leave-it proposition. This in turn causes problems for the QF meeting its PPA obligations, as defaults are commonly tied to the completion of major interconnection steps or a date certain to commence deliveries. Similarly, both the amount of time to complete the interconnection and the estimated costs often change dramatically.

PacifiCorp opposes addressing interconnection issues in this proceeding on the grounds that this will require the Company to bring different utility representatives into this case,

and interconnection issues are different. PacifiCorp Issues List at 2. From the perspective of QFs, the interconnection and PPA contract process are inextricably linked, and many of the problems arise because they are often seen as two separate processes that do not consider how they impact each other. A QF cannot enter into a PPA without a valid interconnection, but the time lines, delays, and cost overruns associated with the interconnection process can result in a QF failing to meet its PPA obligations due to no fault of its own. While REC recognizes that there are some aspects of utility's operations that are not allowed to be communicated during the contract negotiation process, this functional separation supports the inclusion of both interconnection and PPA issues in this generic proceeding. Now, and not during the contract negotiation process, is the best time and opportunity to ensure that the interconnection process does not impose unnecessary burdens on the PPA contract process, and vice versa.

Another interconnection issue inter-related to the PPA contract process is the use of third-party contractors. There is a wide variety of interconnection-related issues in Oregon that allow the utilities to use their leverage in the interconnection process to force concessions in the PPA contract negotiation process or otherwise harm the QFs. These include inaccurate cost and time estimates, additional requirements, amounts for progress payments, timing, and final accounting. In lieu of raising these issues, REC and other parties agreed to focus on a potential solution: allowing QFs the ability to use and contract with utility-approved third parties for portions of the interconnection work, from studies to construction. Typically, such approved contractors are used to perform interconnection work but under the direction of the utility. Having the QF contract directly with the approved third-party contractor can provide the QF with the essential control of the costs, the time for completion, and meeting its power purchase

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obligations. Direct contracting with third parties can also limit the utilities' exposure to excessive cost claims and failure to meet critical deadlines.

PacifiCorp is wrong to assert that consideration of these issues will significantly expand the scope of the proceeding or cause unnecessary delay. The utilities propose to change the Commission's decisions from UM 1129 by reducing the 10 megawatt size threshold, changing the contract length, and suspending the utilities' PURPA obligations. These changes are far more likely to expand the scope of the proceeding and delay resolution of a number of time sensitive issues in this proceeding. New QFs and many long-standing older QFs that need to update their interconnections cannot enter into PPAs without a fair and timely interconnection process, and the Commission should consider specific and limited revisions to its interconnection rules, practices, and policies to ensure that the interconnection and PPA processes work as seamlessly as possible.

IV. CONCLUSION

The Commission has already established PURPA related policies and rules that attempt to balance carefully the interest of QFs and ratepayers, and REC is not proposing that the Commission make radical or wholesale changes in either the PPA or interconnection process. The Commission, however, should make changes to the interconnection process that would allow for negotiating both purchase power and interconnection agreements in a way that does not increase costs or risk to ratepayers and minimizes the number of disputes. REC appreciates the Commission considering these important issues and urges the ALJ not to exclude any important issues that can be resolved in a narrow and straight-forward manner.

Dated this 10th day of October, 2012.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Melinda J. Davison

Melinda J. Davison

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242 telephone

(503) 241-8160 facsimile

mjd@dvclaw.com

Of Attorneys for the Renewable
Energy Coalition