

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER THE PUBLIC UTILITY)	Docket No. UM 1610
COMMISSION OF OREGON)	
)	
Investigation Into Qualifying Facility)	RESPONSE COMMENTS ON
Contracting and Pricing)	PROCEDURAL SCHEDULE OF
)	COMMUNITY RENEWABLE ENERGY
)	ASSOCIATION AND THE
)	RENEWABLE ENERGY COALITION

The Community Renewable Energy Association (“CREA”) and the Renewable Energy Coalition (“REC”) (collectively the “Joint QF Parties”) respectfully submit their response comments on the procedural schedule for the remainder of this docket before the Public Utility Commission of Oregon (“Commission”). All parties appear to agree that if the Commission wishes to hold additional formal process to complete a “brief examination” of the remaining question – regarding the ability to use Bonneville Power Administration (“BPA”) network integration transmission service agreement (“NITSA”) for qualifying facilities (“QF”) in load pockets – the Commission could attempt to obtain resolution through legal briefing. However, the Joint QF Parties reiterate that it is possible that the issue cannot be formally resolved in a brief examination, and it therefore may be equally reasonable to close this docket without attempting to forever foreclose the possibility of any Oregon QF using the BPA NITSA.

RESPONSE ARGUMENT

Given the Commission’s expressed interest in a brief examination, the Joint QF Parties agree that legal briefing would be an appropriate manner in which to attempt to resolve the issue before the Commission. Past experience in this docket has instructed that obtaining the basic facts from PacifiCorp is not an easy or brief task. Thus, if the case can be resolved on the

existing facts to which PacifiCorp has already admitted, then that could be a fair and brief way to resolve the case. The Joint QF Parties stress that one logical conclusion after reviewing the legal briefing and the existing facts could very well be that it is not possible to conclude in all cases and under all factual scenarios that the BPA BITSA cannot be used. In other words, the Commission may well determine that PacifiCorp's new briefing and legal argument does not overcome its existing admissions that it has used the BPA NITSA to transmit QF and Company-owned generation located in load pockets, and the possibility to do so again in the future must be preserved.

However, the Joint QF Parties take issue with PacifiCorp's proposal that the brief process also include an opportunity where "PacifiCorp would also offer additional detail on certain 2016 PacifiCorp discovery responses that have led to confusion in this proceeding. This additional detail would clarify – not expand – the existing record." *PacifiCorp's Comments*, Docket No. UM 1610, at 4 (April 30, 2020). It is difficult to understand how any fair process could allow PacifiCorp to introduce new facts in an effort to change existing factual record that unambiguously establishes that PacifiCorp has used the BPA NITSA for QF and Company – owned generation located in load pockets. *See Joint QF Parties' July 29th Objection* at 12-14 & Attachment 1 at pp. 1-8. Specifically, PacifiCorp admitted: "PacifiCorp identifies the Network Integration Transmission Service (NITS) agreement with Bonneville Power Administration (BPA) is used to transmit PacifiCorp-owned generation out of load pockets." *Id.* at Attachment 1, pp. 4-5 (CREA Data Request 15.3). PacifiCorp also listed five QFs located in load pockets that are designated as network resources under the BPA NITSA. *Id.* at 6-7 (CREA Data Request 15.4). The Joint QF Parties object to allowing PacifiCorp to supplement these facts through

legal briefing or comments because no party, or even the Staff, would have any ability to use basic due process methods to verify any new facts.

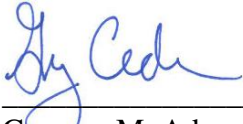
At the same time, the Joint QF Parties agree with the Commission that it would be appropriate to avoid further protracted investigation of this issue at this time while the parties and the Commission are engaged in numerous other matters. Use of a brief examination has only become more reasonable in light of recent events related to the COVID-19 pandemic since the Commission's issuance of Order No. 02-064 on March 3, 2020.

Accordingly, the Joint QF Parties stand by their position that the Commission could appropriately close the docket without further order on the question. If the Commission elects to do so, it should make clear that individual QFs may argue in the future, through complaint or otherwise, that PacifiCorp should have considered use of the BPA NITSA instead of BPA point-to-point transmission to resolve a load pocket issue – just as PacifiCorp has stated in discovery that it has done in the past.

Alternatively, if the Commission would like to attempt to obtain formal resolution through a brief examination of the question, the Joint QF Parties agree that the parties could address the Commission's question through legal briefing, so long as such briefing relies on the existing facts that are already established through PacifiCorp's discovery responses on its use of the BPA NITSA. In that event, the Joint QF Parties agree that PacifiCorp should lead with an opening brief, and Staff and intervenors should then respond.

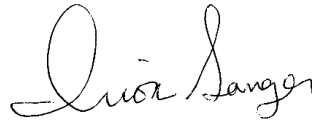
Dated: May 7, 2020.

Respectfully submitted,



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