

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**UM 1610**

**In the Matter of**

**PUBLIC UTILITY COMMISSION OF  
OREGON**

**Investigation Into Qualifying Facility  
Contracting and Pricing**

**Comments of  
Cypress Creek Renewables, LLC  
re Issues Raised in the October 19,  
2016, Staff Report addressing Pacific  
Power’s Non-Standard Avoided Cost  
Rates**

**I. INTRODUCTION**

Cypress Creek Renewables, LLC (“Cypress Creek”) provides the following comments in response to Order No. 16-417, addressing issues raised in the October 19, 2016, Staff Report (“Staff Report”) regarding the compliance filing submitted by PacifiCorp d/b/a Pacific Power (“PacifiCorp”) for non-standard avoided cost rates. Cypress Creek is a developer of renewable qualifying facility (“QF”) projects throughout the United States, including Oregon. Cypress Creek petitioned the Oregon Public Utility Commission (the “Commission”) to issue a declaratory ruling confirming the Commission’s determination and directive in Order No. 11-505 that “[r]enewable QFs willing to sell their output and cede their RECs to the utility allow the utility to avoid building (or buying) renewable generation to meet their RPS requirements [and these] QFs should be offered an avoided cost stream that reflects the costs that utility will avoid.” Docket No. UM 1396 (Phase II), Order No. 11-505 at 9 (Dec. 13, 2011) (“Order No. 11-505”). In Order No. 16-378, the Commission chose to treat Cypress Creek’s petition as a complaint (the “Complaint”), which is now pending before the Commission in Docket No. UM 1799.

**II. THE COMMON CORE ISSUE OF CYPRESS CREEK’S COMPLAINT AND THE STAFF REPORT SHOULD BE RESOLVED ON AN EXPEDITED BASIS IN DOCKET NO. UM 1799**

The core issue raised by Cypress Creek in the Complaint is central to issues raised by the Staff Report. Specifically, the Complaint asks the Commission to order PacifiCorp’s compliance with the Order No. 11-505 directive that renewable QFs should be paid a renewable avoided cost-based pricing stream for renewable power. This would apply with respect to both the renewable QFs that Cypress Creek has been negotiating with PacifiCorp since April 2016, as discussed in the Complaint, as well as other renewable QFs on a going forward basis. Cypress Creek believes this foundational question should be resolved in Docket No. UM 1799 first, on an expedited basis, as the parties to Docket No. UM 1799 discussed at the Commission’s October 11, 2016, Regular Public Meeting. Cypress Creek believes that if the matters in this docket are instead resolved first, resolution of the issue central to its Complaint will be prejudiced and its legal position will be undermined.

Cypress Creek strongly agrees with the Staff’s finding in the Staff Report of “no indication in Order No. 16-174 that the Commission intended to rescind its decision on the availability of renewable avoided cost prices for non-standard QFs.” Staff Report at 5. Cypress Creek similarly finds no evidence that Order No. 16-174 undid or superseded the requirements of Order No. 11-505. Indeed, as discussed in the Complaint, Cypress Creek believes that “[t]he Commission specifically reemphasized its determination in Order No. 11-505 as part of Order No. 16-174.” Complaint at 7. Cypress Creek also takes this opportunity to restate its view that “reconciling the Commission’s requirement that a renewable resource deficient utility ‘receives a renewable QF’s RECs for the remainder of the standard contract’ [as stated in Order No. 16-174

at 5] with FERC's determination that PURPA requires such renewable QFs be paid a rate that is inclusive of the value of the transferred RECs leads to the clear requirement of a renewable resource-specific avoided cost stream." Complaint at 6.

Cypress Creek does not have a view at this time on another key issue raised by the Staff Report: whether PacifiCorp's July 12, 2016, compliance filing satisfies the requirements of Order No. 16-174. Cypress Creek has not participated to date in the UM 1610 Phase II proceeding and thus is not currently in a position to comment on this issue. Cypress Creek reserves the right to do so in the future, however, in both this docket and in Docket UM 1799.

### **III. CONCLUSION**

For the foregoing reasons, Cypress Creek respectfully requests that the Commission address its Complaint on an expedited basis in Docket No. UM 1799. Cypress Creek has no objection to the Commission addressing the issues raised in the Staff Report in parallel with its consideration of the Complaint. Cypress Creek respectfully requests that the Commission consider the Complaint first and then proceed to address the remaining issues discussed in the Staff Report subsequent to resolving the question raised in the Complaint.

Respectfully submitted this 31st day of October, 2016.

/s/ Todd G. Glass

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