

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**

**Reply 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 reply 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. As described in Cypress Creek’s initial comments, filed October 31, 2016 (“Cypress Creek Comments”), Cypress Creek has a complaint before the Oregon Public Utility Commission (the “Commission”) in Docket No. UM 1799 addressing issues similar to those raised by the Staff Report (the “Complaint”). As discussed in the Cypress Creek Comments, we continue to request that the Commission address the Complaint on an expedited basis in Docket No. UM 1799.

II. REPLY COMMENTS

First, Cypress Creek strongly disagrees with the statement in PacifiCorp’s opening comments, filed October 31, 2016 (“PacifiCorp Comments”), to the effect that Cypress Creek’s Complaint is limited to the “pre-PDDRR world” and that the “Commission’s adoption of the PDDRR methodology renders Cypress [Creek]’s grievances moot on a prospective basis.” PacifiCorp Comments at 6. Cypress Creek’s Complaint is not limited to the “pre-PDDRR

world.” Order No. 11-505 requires 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”). The Complaint details that PacifiCorp was not complying with Order No. 11-505 prior to Order No. 16-174¹ and is not complying with Order No. 11-505 after Order No. 16-174.²

Cypress Creek’s efforts to develop QF projects prior to Order No. 16-174 have been unlawfully thwarted to date by PacifiCorp’s refusal to comply with Order No. 11-505. Cypress Creek’s desire to develop additional non-standard QF projects after Order No. 16-174 will be obstructed by PacifiCorp’s current and continuing refusal to comply with Order No. 11-505. In the Complaint, Cypress Creek seeks relief as to both points on the grounds that PacifiCorp both was prior to Order No. 16-174 and remains now obligated to offer Cypress Creek a renewable price stream for renewable power, as required by Order No. 11-505.

Second, Cypress Creek strongly disagrees with PacifiCorp’s statements that “Staff and others improperly argue that the Commission should deny the compliance filing based on evidence and arguments that are not part of the Phase II record.” PacifiCorp Comments at 5. Instead, as described in the comments of Obsidian Renewables, LLC, filed October 31, 2016 (“Obsidian Comments”), it is PacifiCorp that is arguing for a result based on evidence not in the

¹ See Complaint at 3-4. (“On April 26, 2016, Petitioner requested via email indicative pricing under Schedule 38 for three of its Projects currently in development, and provided all information required by Schedule 38. Petitioner expressly (1) requested indicative pricing for renewable QFs and (2) referred to Order No. 11-505 as the basis for this request. PacifiCorp responded via email that PacifiCorp is unsure whether it is required to provide indicative pricing for renewable QFs under Schedule 38.”)

² See *id.* at 7 (“In the wake of Order No. 16-174, PacifiCorp’s second statement that it is waiting for clarification it expected in that order is likewise unavailing. Nothing in Order No. 16-174 (or any other order since Order No. 11-505) calls into question the Commission’s clear instruction that renewable QFs, including the Projects, “should be offered an avoided cost stream that reflects the costs that [the] utility will avoid,” . . . and that “a separate avoided cost stream for renewable resources should be adopted for PGE and Pacific Power.” (citations omitted))

record. *See* Obsidian Comments at 4-6. Specifically, PacifiCorp states that “no party argued that the PDDRR method should have a separate renewable pricing option or that it was inconsistent with Order No. 11-505.” PacifiCorp Comments at 4.

PacifiCorp is correct that the record in Phase II is bereft of certain evidence, but they are wrong about what evidence is missing. PacifiCorp points to no evidence that they or any other party argued that the Commission should rescind or otherwise limit 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. If anything is to be taken from the record in Phase II and the determinations of Order No. 16-174, it is that Order No. 11-505 continues to apply in what PacifiCorp would describe as the “post-PDDRR world.”

III. CONCLUSION

Cypress Creek again 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. Cypress Creek Comments at 3.

Respectfully submitted this 3rd day of November, 2016.

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