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.	STAFF SUPPLEMENTAL COMMENTS

I. Introduction and Summary of Comments.

The filing at issue is PacifiCorp's Non-Standard Avoided Cost Rates (formerly Schedule 38) submitted by PacifiCorp after the Commission issued Order No. 16-174 resolving several disputed issues in Phase II of the Investigation into Qualifying Facility Contracting and Pricing related to the implementation of the Public Utility Regulatory Policy Act (PURPA) (hereinafter referred to as the "Compliance Filing"). The Staff recommends that the Commission not allow the Compliance Filing to become effective because the filing does not explicitly provide renewable qualifying facilities (QFs) the option to select a "renewable" avoided cost price stream.

The question presented to the Commission is whether PacifiCorp is required to offer renewable QFs seeking a non-standard PURPA contract the choice of two avoided cost price streams: a renewable price stream that takes into account Renewable Portfolio Standard (RPS)-related costs that PacifiCorp would avoid with purchases from the QF and a non-renewable price stream that does not. Staff thinks the answer to this question is "yes." In Order No. 11-505, the Commission ordered PacifiCorp and Portland General Electric Company (PGE) to offer both a renewable and non-renewable avoided cost price stream to

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renewable QFs. The Commission has not addressed this requirement since that order and has not altered it.

PacifiCorp believes it is only required to offer renewable QFs seeking a non-standard contract one avoided cost price stream that does not take into account RPS-related costs PacifiCorp would avoid with purchases from a renewable QF. PacifiCorp relies on Staff testimony in Phase II of this proceeding that Staff does not think that utilities have to use standard renewable avoided cost prices "as the starting point" for non-standard renewable avoided cost prices. PacifiCorp's reliance on this testimony is misplaced.

First, as PacifiCorp acknowledges in its comments filed on October 24, 2016, whether PacifiCorp is required to offer two avoided cost price streams to renewable QFs was not at issue in Phase II of UM 1610. Accordingly, the Commission did not address the requirement for two alternate price streams in Order No. 16-174 and certainly did not rescind it. Accordingly, even assuming that PacifiCorp has properly interpreted Staff's testimony to mean that Staff "does not think" PacifiCorp has to offer two avoided cost price streams, (which it has not), Staff's testimony does not make it so.

Second, PacifiCorp's interpretation of Staff's testimony is unreasonable. The testimony on which PacifiCorp relies concerns the "*starting point*" of the calculation of non-standard avoided cost prices, not the end result. Staff's testimony that PacifiCorp did not have to *start* the calculation of non-standard renewable avoided cost prices with the standard renewable avoided cost prices does not imply that the end result of the calculation need not take into account the RPS-related costs PacifiCorp will avoid with purchases from the renewable QF.

That the *end result* of the calculation of non-standard avoided cost prices must be two avoided cost price streams, one that is based on the avoided costs of

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a CCCT and another that is based on the avoided costs of the next renewable resource acquisition in PacifiCorp's IRP, is clear from previous Commission orders. Under Order No. 05-584, PacifiCorp is required to incorporate the costs of the avoided proxy resource in deficiency-period avoided cost prices. Under Order No. 11-505, PacifiCorp is required to offer renewable QFs two avoided cost price streams, one that includes the avoided costs of the next deferrable renewable resource in PacifiCorp's most recently-acknowledged IRP and another that includes the avoided costs of a CCCT.

PacifiCorp also relies on the fact that the Commission authorized PacifiCorp to use its Partial Displacement Differential Revenue Requirement (PDDRR) methodology when calculating avoided cost prices for its assertion it has no obligation to offer avoided cost prices that account for RPS-related costs that PacifiCorp would avoid when purchasing energy and capacity from a renewable resource. The nexus between PacifiCorp's belief it is not required to offer a renewable avoided cost price stream to renewable QFs seeking a non-standard contract and the Commission's order authorizing it to use the PDDRR methodology is not clear for at least two reasons.

First, PacifiCorp's refusal to offer a renewable avoided cost price stream to renewable QFs seeking a non-standard contract pre-dates Order No. 16-174.[1] Second, the Commission's authorization to use the PDDRR method should have no effect on the requirement imposed under Order No. 11-505 to use a proxy

[1] This refusal is the basis for a complaint filed by Cypress Creek that has been docketed as Docket No. UM 1799. PacifiCorp did not explain its rationale for the refusal in its answer to the Cypress Creek complaint filed on October 19, 2016. However, Cypress Creek alleges that PacifiCorp relies on Staff testimony in Phase II of UM 1610 for its refusal to offer Cypress Creek indicative prices with renewable prices because Staff testified in Phase II of UM 1610 that Staff did not think that PacifiCorp had to "start" the determination of renewable avoided cost prices with the standard renewable avoided cost price. (Docket No. UM 1799, Cypress Creek Renewables Petition for Declaratory Ruling 4.)

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renewable resource rather than a proxy CCCT to determine a renewable avoided cost price stream during the utility's renewable resource deficiency period.

II. Argument

A. Background.

1. Distinctions between standard and non-standard avoided cost prices.

Prices for energy purchased from QFs under PURPA are based on the costs the purchasing utility would incur to acquire the energy or capacity but for the purchase from the QF.[2] When determining what costs the utility will avoid with a purchase from the QF, Federal Energy Regulatory Commission (FERC) regulation 18 C.F.R. § 292.304(e) requires that the following be taken into account, "to the extent practicable."

> (e)(1) Utility cost data, including State review of any such data.
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> (e)(2) Seven enumerated factors relating to the availability of the energy and capacity (i.e., reliability and dispatchability) during system and seasonal peak periods.[3]

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[2] 16 U.S.C. §§ 824a-(3)(b), (3)(d).

[3] The enumerated factors regarding availability during system and seasonal peak periods are: (1) the ability of the utility to dispatch the qualifying facility; (2) the expected or demonstrated reliability of the qualifying facility; (3) the terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance; (4) the extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities; (5) the usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation; (6) the individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and (7) the smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities. (18 C.F.R. § 292.304(e)(2).)

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(e)(3) The relationship of the availability of energy or capacity from the qualifying facility as derived from the seven enumerated factors to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use.

(e)(4) Costs or savings related to line losses.[4]

Under 18 C.F.R. § 292.304(c), states must require utilities to offer "standard rates" to QFs smaller than one hundred kWs that are consistent with rates based on the factors in 18 C.F.R. §§ 292.304(e)(1)-(4), but that do not vary depending on the characteristics of the QF, except the Commission can impose different standard rates for different technologies.

The Commission has a long history of taking into account the relationship of the availability of energy and capacity from a QF to the utility's system needs as allowed under § 292.304(e)(3) for both standard and non-standard rates. More specifically, the commission has determined that avoided cost prices should reflect the fixed and variable costs of a proxy resource during periods the utility is resource deficient and should be market-based when the utility is resource sufficient.

Until its order in Phase I of this proceeding in 2014, the Commission did not allow utilities to adjust standard avoided cost prices for the availability of QF energy and capacity vis-à-vis the seven factors in § 292.304(e)(2). Instead, utilities could assume no differences between the availability of the QF resource's energy and capacity and that of the avoided proxy resource when calculating the standard rates. The Commission departed from this policy in Phase I of this proceeding. The Commission decided to require the three utilities to offer

[4] 18 C.F.R. §§ 292.304(e)(1)-(4).

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different standard rates for different resource technologies, taking into account the resource type's capacity contribution to the utility's peak load.[5]

In contrast, utilities are allowed to calculate non-standard avoided cost prices that take into account the availability of the QF's energy related to the seven enumerated factors described in § 292.304(e)(2). In its 2007 order relating to implementation of PURPA for non-standard QFs, the Commission considered whether to adopt specific methodologies for adjusting non-standard avoided cost prices for the seven factors related to availability and for the most part decided to provide guidance rather than prescriptions.

For example, with respect to the first of the seven factors in § 292.304(e)(2), reliability, the commission considered whether to require that the utilities develop a sliding scale model to recognize the differences in QF value based on its degree of availability – in other words, availability that falls short of or exceeds the assumed availability of the utility proxy plant. The Commission decided not to prescribe a specific methodology:

> We do not prescribe a specific formula for determining the reliability adjustment. We note, however, that utility power cost models are well suited to estimating the value of higher or lower reliability relative to that of the utility proxy plant. Whether QF reliability varies on a seasonal or time-of-day basis should be taken into account in determining any reliability adjustment.[6]

Similarly, with respect to the second factor in §292.304(e)(2), dispatchability, the Commission considered whether to adopt Staff's proposal that

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[5] *In the Matter of Public Utility Commission of Oregon Investigation into Qualifying Facility Contracting and Pricing* (Docket No. UM 1610); Order No. 14-058.

[6] *In the Matter of Public Utility Commission of Oregon Staff's Investigation Relating to Electric Utility Purchases from Qualifying Facilities* (Docket No. UM 1129); Order No. 07-360 at 18.

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utilities use stochastic modeling under various futures, such as that used in Integrated Resource Planning, to adjust rates to reflect the reduced value of a "24-7" natural gas-fired combined heat and power facility, relative to the dispatchable utility proxy plant.[7] The Commission declined to adopt Staff's proposal, instead allowing utilities more flexibility.[8]

With respect to the third, fourth and fifth factors, contract terms, outages, and system emergencies, the Commission decided these factors were appropriately addressed in contract provisions rather than as price adjustments.[9] And with the respect to the sixth and seventh factors, individual and aggregate value and smaller capacity increments and shorter lead time, the Commission did not require a specific adjustment or formula for adjusting avoided costs for these factors, but instructed parties to incorporate these factors into the negotiated contract if they can establish a practical and reasonable way to do so.[10]

2. Renewable and non-renewable avoided cost prices.

In Order No. 11-505, the Commission decided that PGE and PacifiCorp must offer renewable QFs two avoided cost price streams, finding that this is consistent with FERC's ruling clarifying the right of the states to determine the avoided cost associated with utility purchases of energy from generators with certain characteristics.[11] The Commission noted that "[r]enewable QFs willing to sell their output and cede their RECs to the utility allow the utility to avoid

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[7] *Id.,* Order No. 07-360 at 18-20.

[8] *Id.,* Order no. 07-360 at 20.

[9] *Id.,* Order No. 07-360 at 20-22.

[10] *Id.,* Order No. 07-360 at 22.

[11] *In the Matter of Public Utility Commission of Oregon Investigation Into Resource Sufficiency Pursuant to Order No. 06-538* (Docket No. UM 1396); Order No. 11-505 at 9.

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building (or buying) renewable generation to meet their RPS requirements[,]" and that "[t]hese QFs should be offered an avoided cost stream that reflects the costs that utility will avoid."[12]

The renewable avoided cost price stream still distinguishes between periods of resource sufficiency and deficiency. However, the deferrable proxy resource under the renewable avoided cost price stream is the next avoidable renewable resource identified in the utility's IRP rather than the CCCT assumed for non-renewable rates. Order No. 11-505 provides:

> Like standard avoided costs, the renewable resource avoided cost rates will vary depending on whether the utility is renewable resource sufficient or deficient. During periods of renewable resource sufficiency, the rate should be based on market prices. During periods of deficiency, we adopt Pacific Power's proposal to base the renewable avoided cost on the next utility scale renewable resource acquisition in the utility's IRP. We find that reference to the utility's IRP will best ensure that the renewable resource avoided cost rate most accurately reflects the costs the utility will avoid with the QF purchase.[13]

B. Order No. 16-174 does not rescind the requirement that PacifiCorp offer non-standard renewable QFs two avoided cost price streams.

The issue presented in Phase II of this proceeding was whether PacifiCorp should be allowed to use its PDDRR methodology in the calculation of non-standard avoided cost prices instead of the method approved in Order No. 07-360. Whether the Commission should eliminate the requirement imposed on PacifiCorp and PGE in Order No. 11-505 to offer two avoided cost price streams,

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[12] *In the Matter of Public Utility Commission of Oregon Investigation Into Resource Sufficiency Pursuant to Order No. 06-538* (Docket No. UM 1396); Order No. 11-505 at 9.

[13] *In the Matter of Public Utility Commission of Oregon Investigation Into Resource Sufficiency Pursuant to Order No. 06-538* (Docket No. UM 1396); Order No. 11-505 at 4.

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one renewable and one non-renewable, was not at issue. Given that no party addressed the Order No. 11-505 requirement in testimony and given that the Order No. 11-505 requirement is not discussed by the Commission in Order No. 16-174, Staff recommends the Commission reject any argument that Order No. 16-174 authorized PacifiCorp to offer renewable QFs only one avoided cost price stream.

Contrary to PacifiCorp's assertion, the following PacifiCorp testimony did not put parties on notice that the PDDRR methodology as proposed by PacifiCorp would eliminate the requirement that PacifiCorp offer two avoided cost price streams to renewable QFs seeking a non-standard contract:

> **Q. Are the avoided fixed costs of the next deferrable resource included in the PDDRR method during the deficiency period?**
>
> A. Yes. The Company calculates the avoided fixed costs of the next deferrable resource outside of the GRID model based on partial displacement of the next major thermal resource acquisition in the IRP (that has not already been displaced by QFs with contracts extending beyond the expected online date of the next major resource). The fixed costs of the deferrable resource as reported in the IRP are adjusted for the capacity contribution of the specific QF type. Because the GRID model results capture the system impacts of displacing the deferrable resource, the avoided fixed costs are converted to a volumetric ($/MWh) rate by spreading them over the QF's expected annual generation.[14]

PacifiCorp's argument that Order No. 16-174 implicitly allows PacifiCorp to offer renewable QFs seeking a non-standard contract only one avoided cost price stream rests almost entirely on the qualifier "thermal" in the third line of the answer excerpted above. The reference to a deferrable thermal resource in this answer was not sufficient to signal to all parties and the Commission that

[14] PAC/800, Dickman/23.

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PacifiCorp intended to calculate only one avoided cost price stream based on avoided costs of a thermal resource.

Notably, the PacifiCorp witness testified that PacifiCorp should be allowed to use the PDDRR methodology because it is superior at accounting for the specific characteristics of the QF as allowed under 16 C.F.R. §292.304(e)(2) and Commission Order No. 07-360. However, the use of the next renewable avoidable resource in the utility's IRP is intended to determine what costs the utility can avoid with purchases from the QF. This determination occurs prior to adjustments based on the availability of the QF resource vis-à-vis the seven characteristics in 16 C.F.R. §292.304(e)(2), or any adjustment under §292.304(e)(4) (i.e., for line losses).

PacifiCorp's testimony regarding the superiority of the PDDRR method at accounting for the characteristics of the QF does not suggest that the PDDRR will be used as a substitute for determining the utility's avoidable fixed costs. The following testimony describing the purpose and providing an overview of the PDDRR methodology, for example, is silent about any change to the Order No. 11-505 requirement of two avoided cost price streams:

> **Q. How are non-standard avoided cost prices for QFs calculated now?**
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> A. Currently, non-standard avoided cost prices are determined beginning with the Proxy Method used to set standard avoided cost prices, and then making a limited set of discrete adjustments meant to mitigate the recognized deficiencies in the Proxy Method. The current method to calculate non-standard avoided cost prices for large QFs was adopted by the Commission in Order No. 07-360. The list of authorized adjustments was derived from the seven factors outlined in 18 CFR § 292.304(e)(2). In practice, many adjustments identified in 18 CFR § 292.304(e)(2) are interdependent and it is often not possible to calculate a particular adjustment viewed in isolation. The Company's experience in its other jurisdictions is that a differential revenue requirement

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approach using the PDDRR method is best suited to account for the factors in 18 CFR § 292.304(e)(2).

Q. Please provide an overview of the PDDRR method.

A. Under the PDDRR method, the Company performs two simulations using the GRID model to determine the system energy value of a QF resource, taking into account its specific operating characteristics and point of delivery on the Company's system. In addition, the PDDRR method includes avoided fixed costs of the Company's next major resource acquisition, based on the cost and timing of the next deferrable resource in the IRP preferred portfolio. The amount of capacity displaced is determined using the capacity contribution of the QF resource and the avoided fixed costs are spread over the capacity factor of the QF. The timing for including avoided fixed costs from the next deferrable resource is adjusted to account for new QFs (since the IRP was published) that will be on the Company's system at the time the next major resource is acquired. These QFs have either signed a long-term power purchase agreement (PPA) with the Company or have requested avoided cost prices and are actively negotiating a long-term PPA, and will be contractually obligated to deliver power to the Company during future periods when the Company's resource planning indicates a major resource would need to be acquired.

Q. Why is a differential revenue requirement approach more accurate than basing avoided cost prices on a proxy plant?

A. As discussed in previous sections, the Proxy Method is a simplified approach to calculating avoided costs, and the costs that are assumed to be avoided by the Company under the Proxy Method are not always incurred. For example, under the Proxy Method it is assumed that the Company is always able to use the QF output to avoid making market purchases (or make additional market sales) during the resource sufficiency period, and is always able to save the variable cost of the IRP proxy resource during the resource deficiency period. In reality this is not the case. In Order No. 14-058 the Commission acknowledged that "the application of our current [standard rate] methodology may result in the utility and its customers offering prices in excess of actual avoided costs." In that Order, the Commission adopted improvements to the Proxy Method, but did not address the proposed changes to the

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> non-standard method that are needed to accurately calculated the avoided costs of large QFs.[15]

The witness's testimony that the PDDRR would flow through improvements to the non-standard avoided cost methodology like those approved in Order No. 14-058 does not put parties on notice regarding elimination of the Order No. 11-505 requirement for two avoided cost price streams for renewable resources. Notably, the description of the PDDRR method in this excerpt of testimony states that "PDDRR method includes avoided fixed costs of the *Company's next major resource acquisition, based on the cost and timing of the next deferrable resource in the IRP preferred portfolio.*" Given the absence of any indication otherwise, parties reasonably assumed the next deferrable resource used to calculate avoided fixed costs could be a renewable or thermal resource.

Similarly, in his response testimony, the PacifiCorp witness testified that the PDDRR methodology would refine the adjustments to standard avoided costs under the current methodology, but did not mention that it would eliminate the requirement that PacifiCorp provide two avoided cost price streams to renewable QFs:

> In Order No. 07-360, the Commission adopted adjustments for the seven FERC factors that were allowed to be made to the standard avoided cost rates. The standard rates are, in the first instance, a simplified calculation of the avoided energy and capacity due to the addition of a QF. The Company's proposal in my direct testimony is to refine the calculation of avoided energy and capacity costs to recognize the individual characteristics of large QFs.[16]

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[15] PAC/800, Dickman/17-19.

[16] PAC/1400, Dickman/8.

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C. PacifiCorp's reliance on staff's testimony is misplaced.

As discussed above, PacifiCorp's refusal to offer renewable QFs a renewable avoided cost price stream for non-standard contracts appears to pre-date Order No. 16-174. PacifiCorp's October 24, 2016 comments reflect that PacifiCorp's position on the availability of renewable avoided cost prices is based on the following Staff testimony in Phase II of this proceeding:

> **Q. Are PGE and PacifiCorp required to use Standard Renewable Avoided Cost prices as the starting point when the QF seeking a non-standard contract is a renewable QF?**
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> A. Staff does not think so. The Commission issued its guidelines for negotiating non-standard contracts prior to their decision to require PGE and PacifiCorp to offer Standard Renewable Avoided Cost prices. The Commission's order requiring Standard Renewable Avoided Cost prices does not specify that PacifiCorp and PGE are to use these renewable prices as the starting point for negotiations with renewable QFs seeking non-standard contracts. In the absence of such a requirement, Staff interprets Order No. 07-360 to require that Standard Non-Renewable Avoided Cost prices are the starting point for negotiations regardless of whether the negotiating QF is a renewable or non-resource.

Staff's testimony regarding the starting place for the calculation of non-standard renewable avoided cost prices must be taken in context with the Commission's order in Phase I of this proceeding. In Phase I, the Commission specified that standard renewable avoided cost prices would be adjusted to take into account the QF resource type's contribution to meeting the utility's peak load (CTP).[17] Accordingly, if PacifiCorp started with the standard renewable avoided cost price for a solar resource to determine the non-standard renewable avoided cost price stream, PacifiCorp would be starting with an avoided cost price stream that had been adjusted to take into account the CTP expected from a proxy solar

[17] Order No. 14-058.

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resource in PacifiCorp's IRP. But, under the PDDRR method, PacifiCorp would be allowed to adjust this previously-adjusted standard renewable avoided price stream for the CTP expected from the QF. Meaning, the non-standard renewable avoided cost prices could be adjusted twice for a solar resource's contribution to peak, once based on the CTP of a proxy solar resource and again for the CTP of the QF seeking the contract.

In this context, Staff opined that it did not think PacifiCorp had to start the calculation of non-standard renewable avoided cost prices with the previously-adjusted standard renewable avoided cost price. Staff based this opinion in part on the fact that Order No. 11-505 does not include an express requirement that the calculation of non-standard renewable avoided cost prices must start with the standard renewable avoided cost price. Staff did not mention, because it was not at issue, that although Order No. 11-505 did not expressly require that PacifiCorp and PGE use the standard renewable avoided cost price as a starting point for non-standard renewable avoided cost prices, PacifiCorp and PGE are still required to offer non-standard renewable QFs a renewable avoided cost price stream.

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III. Conclusion.

Staff recommends that the Commission reject PacifiCorp's Compliance Filing because it does not allow renewable QFs seeking a non-standard contract to choose either a renewable or non-renewable avoided cost price stream.

DATED this 31st day of October 2016.

Respectfully submitted,

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