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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

October 10, 2012

VIA EMAIL AND U.S. MAIL

Attention: Filing Center
Public Utility Commission of Oregon
550 Capitol Street NE, #215
P.O. Box 2148
Salem, OR 97301-2148
puc.filingcenter@state.or.us

Re: *In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Investigation into
Qualifying Facility Contracting and Pricing*
PUC Docket No.: UM 1610
DOJ File No.: 330-030-GN0240-12

Enclosed for filing with the Commission today are an original and five copies of the
OREGON DEPARTMENT OF ENERGY RESPONSE TO PARTIES' COMMENTS TO OPUC
STAFF PROPOSED ISSUE LIST with certificate of service/service list.

Sincerely,

Renee M. France
Senior Assistant Attorney General
Natural Resources Section

Enclosures

RMF:jrs/#3680917

c: UM 1610 Service List (electronic copy only)

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1610

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| In the Matter of |) | |
| |) | |
| PUBLIC UTILITY COMMISSION OF |) | OREGON DEPARTMENT OF ENERGY |
| OREGON |) | RESPONSE TO PARTIES' COMMENTS |
| |) | TO OPUC STAFF PROPOSED ISSUE |
| |) | LIST |
| Investigation Into Qualifying Facility |) | |
| <u>Contracting and Pricing</u> |) | |

On June 29, 2012, the Oregon Public Utility Commission (the "Commission") opened this investigation to address a number of QF related controversies regarding PURPA implementation and QF contracting. Pursuant to the procedural schedule established in this proceeding, Oregon Department of Energy ("ODOE") appreciates the opportunity to file a response to disputed issues filed by intervening parties on October 3, 2012.

At the outset, ODOE would like to commend the Commission Staff ("Staff") for attempting to provide a holistic summary of all possible issues to be explored in this docket through the submission of the Staff's Proposed Issue List on October 3, 2012. The underlying rationale of this response is to support the goals of the State of Oregon's Public Utility Regulatory Policies Act ("PURPA") as stated in ORS 758.515:

"It is, therefore, the policy of the State of Oregon to:

- (a) Increase the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon's citizens; and

(b) Create a settled and uniform institutional climate for the qualifying facilities in Oregon.”

A. Interconnection Process and Power Purchase Agreement (PPA) – Not mutually exclusive.

Background: Issue List Item VII- Interconnection Process Issues

At the September 19, 2012 workshop, PacifiCorp and Portland General Electric (“PGE”) questioned the necessity for the Issue List to include issues associated to “Interconnection Process” and related requirements. Moreover, in their October 3, 2012 Issues List filing, PacifiCorp explicitly petitioned to “*address issues related to the interconnection process in a separate docket.*” (pg.3) PacifiCorp further stated that, any interconnection process is “*appropriately discrete from the power purchase contracting process.*” (pg. 3)

ODOE response: ODOE respectfully disagrees with the inherent presumption that any interconnection process for a qualifying facility (“QF”) is “exclusive” of the PPA and related contracting and pricing issues. Any QF PPA contract, at a minimum, includes details about the type of QF power, the terms of the contract for the power being supplied, the price(s) at which the QF power will be purchased, **and** pre-supposes the satisfactory implementation of any **related** interconnection steps. If the current docket was established to deal with all generic issues pertaining to qualifying facilities in regards to contracts and pricing, such issues do include and call for interconnection requirements to be met and approved by both parties – the QF power providing entity and the purchasing utility (or entity). It is therefore not possible to investigate issues involving avoided costs, pricing and contract terms to the exclusion of matters involving interconnection that impact or influence a final and legally binding PPA. PacifiCorp and PGE’s concerns about a distinct set of utility representatives needing to be engaged in

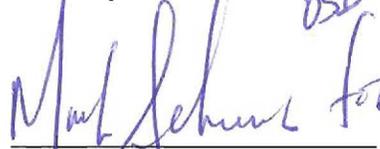
this docket to handle a myriad of issues seems to be more of a logistical challenge and is not consistent with the intended goals of this docket. It is also a known fact that any QF project owner has to engage with a “wide range” of a QF power purchasing utility’s regulatory, financial and other related divisions’ simultaneously to develop an executable and legal PPA, and cannot self-select which divisions of a utility to engage with. ODOE’s disagreement is further reinforced by the fact that the current QF programs¹ of the Oregon utilities’ call for any QF PPA to include “interconnection milestones” to be met as part of executing any legally enforceable PPA.

In conclusion, ODOE respectfully requests the Commission include the Section VII Interconnection Process issues from Staff’s Proposed Issue List filed on October 3, 2012.

DATED this 10th day of October, 2012.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General



Renee M. France, OSB #004472
Senior Assistant Attorney General
Natural Resources Section

¹ PacifiCorp: <http://www.pacificorp.com/es/cg/cqfp.html>, PGE: http://www.portlandgeneral.com/our_company/corporate_info/regulatory_documents/pdfs/schedules/sched_201.pdf; Idaho Power: <http://www.idahopower.com/AboutUs/RatesRegulatory/Tariffs/tariffPDF.cfm?id=269> –)

OREGON DEPARTMENT OF ENERGY RESPONSE TO PARTIES’ COMMENTS TO OPUC
STAFF PROPOSED ISSUE LIST
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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2012, I served the foregoing OREGON DEPARTMENT OF ENERGY RESPONSE TO PARTIES' COMMENTS TO OPUC STAFF PROPOSED ISSUE LIST upon the persons named on the service list, a true and correct copy by electronic mail only as all parties have waived paper service.

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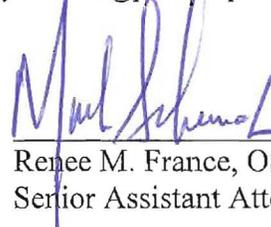
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