

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1729

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application to Update Schedule 37
Qualifying Facility Information.

RENEWABLE NORTHWEST'S
RESPONSE TO PACIFICORP'S
MOTION FOR EMERGENCY
INTERIM RELIEF

I. INTRODUCTION

Renewable Northwest makes this filing in response to the Motion for Emergency Interim Relief (“the Motion”) that PacifiCorp, dba Pacific Power (“PacifiCorp” or “the Company”) filed on April 26, 2018. In the Motion, PacifiCorp requests that the Oregon Public Utility Commission (“Commission”) immediately, and on an interim basis, 1) approve its concurrently filed updated avoided cost rate prices, and 2) require that “all qualifying facilities (‘QFs’) receive the same avoided cost price based on the assumed deferral of a new wind resource in 2021.”¹

Renewable Northwest takes no position on PacifiCorp’s first request. However, Renewable Northwest encourages the Commission to reject PacifiCorp’s second request: to require that all QFs receive the same avoided cost price based on the assumed deferral of a new wind resource in 2021. As a result of the timeline for response to PacifiCorp’s Motion, Renewable Northwest has simply not had the opportunity to fully explore the substantive issues raised.

II. DISCUSSION

We encourage the Commission to reject PacifiCorp’s request that the Commission require all QFs receive the same avoided cost price based on the assumed deferral of a new wind resource in 2021 for the following reasons: first, an emergency motion for interim relief is not a process that allows affected parties, stakeholders, and the Commission the opportunity to properly consider the significant implications of PacifiCorp’s request on the carefully considered Commission implementation of the Public Utility Regulatory Policies Act of 1978 (“PURPA”); second, UM 1729 does not appear to have been opened to establish methodological changes and is therefore not the appropriate forum for PacifiCorp’s request.

¹ PacifiCorp’s Motion for Emergency Interim Relief at 1 (Apr. 26, 2018).

A. An Emergency Motion for Interim Relief Is Not An Appropriate Vehicle for Consideration of PacifiCorp’s Request.

PacifiCorp requests that the Commission adopt a major change in its implementation of PURPA through an emergency motion for interim relief. However, “emergency motions” in the Commission appear to generally deal with two issues: timing as a result of actual emergencies, and clarification of orders that must be carried out by affected parties. PacifiCorp’s requested change here is neither.

For example, in UM 1725, Gardner Solar filed a motion seeking a one-day filing extension on an emergency basis because “[u]nexpected travel issues have created conflicts in completing the filing and have prevented Gardner Solar from seeking other party’s input before filing this request.”² ALJ Allan Arlow promptly granted the motion.³ And in DR 10, the Utility Reform Project filed an emergency motion seeking clarification of an order disqualifying counsel, arguing that the disqualification “with no notice within a month of the hearing” created a “substantial hardship”⁴; Chief ALJ Michael Grant issued a ruling clarifying the order but effectively rejecting the Utility Reform Project’s substantive arguments.⁵ Although other motions over the years have been characterized by opposing parties as “emergency motions,”⁶ for a movant to file a motion seeking unprecedented substantive relief on an emergency basis appears to be a significant departure from standard practice before the Commission.

Altogether, major decisions on PURPA implementation are simply not effectively dealt with as an “emergency motion” in a docket opened to apply existing methodology to determine avoided costs. The timeline associated with this emergency motion does not offer sufficient opportunity for the Commission, stakeholders, or Staff to consider the implications of PacifiCorp’s second request.

B. UM 1729 is not an Appropriate Forum for PacifiCorp’s Request.

Under OAR 860-001-0390(2), “motions are requests seeking a ruling in a Commission proceeding.” Substantive motions are those that “address the rights or duties of a party or seek summary determination of any or all issues in the proceeding, such as a motion to dismiss.”⁷

² UM 1725, Emergency Motion (Jul. 16, 2017).

³ UM 1725, Law Judge Ruling (Jul. 17, 2017).

⁴ DR 10/UE 88/UM 989, Emergency Motion (Aug. 23, 2005).

⁵ DR 10/UE 88/UM 989, Law Judge Ruling (Aug. 26, 2005).

⁶ See, e.g., UM 1854, The Northwest and Intermountain Power Producers Coalition, Community Renewable Energy Association, and the Renewable Energy Coalition’s Joint Response to Portland General Electric Motion for Interim Relief, *passim* (Jul. 27, 2017).

⁷ OAR 860-001-0390(2)(a).

Implicit in those definitions is the principle that motions must address the subject matter of the docket in which they have been filed.

UM 1729 appears to have been opened for the review of PacifiCorp's avoided cost rates pursuant to the methodology originally established in UM 1610 via Order 14-058 and revised in subsequent orders. UM 1729 does not appear to have been opened to establish methodological changes. The methodology established in Order 14-058, and subsequent orders in UM 1610, in conjunction with Order 11-505, allows QFs to select from renewable or non-renewable avoided-cost rates. As a result, the scope of UM 1729 should limit what PacifiCorp can request in UM 1729.

PacifiCorp should either request that the Commission open a new docket addressing avoided cost methodology or file into the docket that established the methodology. Filing a request for a methodological change in a related but distinct docket as an emergency motion does not necessarily afford the full suite of affected parties with adequate notice.

III. CONCLUSION

Renewable Northwest takes no position on PacifiCorp's first request that the Commission approve its concurrently filed updated avoided cost rate prices. However, Renewable Northwest encourages the Commission to reject PacifiCorp's second request that the Commission immediately, and on an interim basis, require that all QFs receive the same avoided cost price based on the assumed deferral of a new wind resource in 2021. PacifiCorp is requesting a major change in PURPA implementation through a motion for emergency relief; the thoughtful consideration that the Commission has traditionally brought to PURPA implementation would not be possible here. Additionally, UM 1729 is not the appropriate forum for PacifiCorp's request.

Respectfully submitted this 11th day of May, 2018.

/s/ Silvia Tanner

Silvia Tanner

Senior Counsel & Analyst

Renewable Northwest

silvia@renewablenw.org