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May 22, 2017

Via Email

Chair Lisa Hardie
Commissioner Steve Bloom
Commissioner Megan Decker
Oregon Public Utility Commission
201 High St SE, Suite 100
Salem, Oregon 97301

RE: In the Matter of PACIFICORP, dba PACIFIC POWER, Application to Update
Schedule 37 Qualifying Facility Information
In the Matter of IDAHO POWER COMPANY, Application to Update Schedule
85 Qualifying Facility Information
Docket Nos. UM 1729 and UM 1730

Dear Commissioners:

The Renewable Energy Coalition (the “Coalition”) submits these comments regarding the May 1, 2017 avoided cost rate update filings made by PacifiCorp and Idaho Power Company (“Idaho Power”). Both companies have requested June 1, 2017 effective dates. Despite strong arguments that PacifiCorp’s rates are already too low due to an artificially long resource sufficiency period, the Coalition does not oppose the proposed avoided cost rate updates for both utilities, but requests that they not go into effect until June 28, 2017, which is the date after the last public meeting in June of this year. This is the “normal” or expected date for avoided cost rate changes related to the May annual updates, and the date that in previous years Commission staff (“Staff”) specifically stated that both PacifiCorp and Idaho Power’s avoided cost rates should go into effect. Unlike Portland General Electric Company’s (“PGE”) avoided cost rate filing that is now scheduled to go into effect on June 1, 2017, neither PacifiCorp nor Idaho Power have provided any justification for a rate change prior to the end of June. Based on the comments of Chair Hardie and Commissioner Decker at the May 18, 2017 public meeting regarding PGE’s avoided cost rate filing, the Coalition understands that in future years qualifying facilities (“QFs”) should no longer have a reasonable expectation that rate changes will always occur at the end of June. However, this year QFs have such an expectation, and absent evidence of significant harm to ratepayers, that expectation should be honored.

The Coalition previously submitted written comments regarding PGE’s May 1 rate update in UM 1730, and attaches them to this letter for reference. The Coalition would like to emphasize that, in regards to PacifiCorp’s May 2015 avoided cost filing, the Staff report stated: “Future Pacific Power avoided cost updates will be filed under

Docket No. UM 1729, and **Staff will present the filings at a public meeting preceding the 60th day from the filing date.**¹ In regards to Idaho Power, last year Idaho Power requested a June 1 effective date based on concerns that its rates had dropped about 40% and claimed that there would be potential harm to customers associated with a QF entering into a contract prior to the end of June. The Coalition and Staff opposed an early effective date. Idaho Power's filing was considered at the June 7, 2016 public meeting in part because the June 21 public meeting had been cancelled. In opposition to an earlier effective date, Staff stated: "there was no quantification or even estimate of that potential harm, **even if we had it Staff would contend that the process needs to follow what would have happened if we had the June 21 public meeting.**"² For these and the reasons discussed in the Coalition's May 15, 2017 letter regarding PGE's avoided cost rates in UM 1728, any QFs negotiating contract with PacifiCorp and Idaho Power would have a reasonable expectation that the May 1, 2017 rate changes would go into effect after the last public meeting in June 2017.

The Coalition continues to believe that some additional regulatory certainty and more than thirty days to review the filings is warranted.³ While the Coalition understands that the Commission is hesitant to establish policies and standard through the public meeting process, the Commission should provide more guidance for how future filings will be processed until rules are adopted that establish more certainty.

At this time, the Coalition recommends that the Commissioners state that the utilities May 1 updates will ordinarily be considered at the last public meeting in June, but allow the utilities to request earlier effective dates that will be considered on a case by case basis. A non-exclusive list of factors warranting an earlier public meeting could include the size of the rate reduction, the number of projects negotiating contracts, and whether the utilities provided advance notice to those negotiating projects that they would request an effective date earlier than the end of June. If the Commissioners do not want to provide this formal guidance, then at a minimum the Commission could simply approve the filings with an effective date for June 28, 2017.

¹ Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729, Order No. 15-205 at Appendix A at 4 (June 23, 2015).

² June 7, 2016 Public Meeting at 1:44-45 (Brittany Andrus statement).

³ The Coalition recognizes that the Commission will take up this issue in its upcoming rulemaking to codify its Public Utility Regulatory Policies Act ("PURPA") orders. The Coalition also recognizes that the Commission is facing an unprecedented number of cases and rulemakings, many of which have statutory timelines. The Coalition is sympathetic to this regulatory burden, and believes that would reasonable for the PURPA rulemaking to not be completed before the next annual update.

Finally, the Coalition wants to point out that it is not opposing PacifiCorp's avoided cost rates, even though it believes that they are inaccurate and too low. The annual update is not supposed to revisit a utility's resource sufficiency-deficiency demarcation, but only include limited updates. The Coalition is challenging PacifiCorp's resource-sufficiency determination in a separate proceeding and has been doing so for over a year without resolution. During this time PacifiCorp issued, completed, and is now considering issuing a second renewable request for proposal ("RFP"). Despite PacifiCorp stating in every other regulatory proceeding and taking action to acquire renewable energy, PacifiCorp claims in only its PURPA cases that it does not need power. The vast majority of QFs have been unable to sell power to PacifiCorp because its rates assume a 2028 date for both renewable and non-renewable resource deficiency. Thus, PacifiCorp's rates are inaccurately low and preventing QF development. In contrast, PGE's rates, which were considered too high, changed in only one month.

The inconsistent treatment of PGE and PacifiCorp has impacts on both ratepayers and independent power producers, including QFs. Both PGE and PacifiCorp are planning on issuing new RFPs for renewable resources, and claim that they have major renewable resource needs in the next couple years. PGE's avoided cost rates more accurately reflect that reality, while PacifiCorp's assume at 2028 renewable resource need. Thus, qualifying facilities located in PacifiCorp's service territory find it more economic to purchase transmission to wheel their power and sell it to PGE. Depending on your perspective, this either benefiting PGE's ratepayers (deferring potentially more expensive and risky utility owned generation) or harming PGE's ratepayers (requiring them to be served with potentially more expensive non-utility owned generation). Either way, qualifying facilities located in PacifiCorp's service territory should not have to pay additional costs wheel their power long distances when both PGE and PacifiCorp are planning on new renewable resource acquisitions.

There is also an argument that a 2020 resource deficiency date for PacifiCorp is even more certain than PGE's 2021 date. PGE has demonstrated a stronger adherence to Commission policies regarding resource acquisitions by seeking a waiver of the competitive bidding guidelines for its last renewable request for proposal, while PacifiCorp would not have come before the Commission for its last renewable RFP but for a filing by independent power producers. Similarly, PGE is attempting to finish its current integrated resource plan (which is being heavily contested by Staff) prior to issuing its next RFP, rather than (like PacifiCorp) indicating that it will proceed with its RFP significantly prior to acknowledgement its 2017 IRP. Thus, it is more likely that PacifiCorp will immediately proceed with an RFP than PGE.

Despite PGE's greater fidelity to the Commission's policies, or maybe because of it, PGE's renewable resource need is being incrementally reduced by qualifying facility purchases while PacifiCorp has (to date) effectively sent QFs, that should be selling power to PacifiCorp, over to PGE. PacifiCorp has a greater and more certain need, yet it does not have to worry about qualifying facilities meeting any of that need. By

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suppressing its avoided cost prices, PacifiCorp has stifled competition for over 1,000 MWs of renewable power that it wants to acquire in the next few years.

The Coalition, however, strongly believes that the annual avoided cost update process should not be used to address broader issues, and does not support addressing PacifiCorp's inaccurate resource sufficiency date in this proceeding. In the abstract, it would be reasonable to reset PacifiCorp's rates now, or suspend them indefinitely pending the substantive investigation in UM 1794. This should not occur because the process is important. Instead, the Commission should allow both PacifiCorp's and Idaho Power's filings to go into effect on June 28, 2017 (the reasonably expected date), and the Commission should expeditiously remedy PacifiCorp's avoided cost rates in the normal process.

Sincerely,

A handwritten signature in cursive script that reads "Irion A. Sanger". The signature is written in black ink and is centered below the word "Sincerely,".

Irion A. Sanger

Attachment A

**Renewable Energy Coalition May 15, 2017 Comments
in UM 1728**

May 15, 2017

Via Email

Chair Lisa Hardie
Commissioner Steve Bloom
Commissioner Megan Decker
Oregon Public Utility Commission
201 High St SE, Suite 100
Salem, Oregon 97301

RE: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY Application
to Update Schedule 201 Qualifying Facility Information
Docket No. UM 1728

Dear Commissioners:

The Renewable Energy Coalition (the “Coalition”) submits these comments regarding the May 1, 2017 avoided cost rate update filing made by Portland General Electric Company (“PGE”). PGE has proposed an approximately 8.6% reduction for standard base load QF prices, an approximately 9% reduction in renewable base load prices, and an approximately 12-13% reduction in renewable solar prices, all levelized over 15 years. The Coalition has not yet completed its review of the accuracy of PGE’s filing, but is submitting these comments strongly urging the Oregon Public Utility Commission (the “Commission”) not to allow the new rates to go into effect until at least June 28, 2017.¹ June 28, 2017 is the date after the last public meeting in June, which is the regular scheduled date for avoided cost rate changes related to the May annual updates. The Commission should also order PGE to not request an early update in any future May annual update to prevent next year’s May update from being another litigated proceeding. QF parties deserve at least one year in which they do not need to contest issues related to the timing or manner of the annual update, which was supposed to be a simple and streamlined rate change.

There will be avoided cost rate updates every year, with rate decreases in some years and increases in other years. If an 8-13% avoided cost rate reduction is worthy of disregarding the normal process and adopting an early rate change this year, then the Commission will be setting up a situation in which every time there is a modest rate decrease, then the utilities will seek early rate reductions. This will result in considerable uncertainty in the QF contracting process, shortening the time expected to complete

¹ The Coalition appreciates PGE’s regulatory staff for their prompt provision of workpapers and supporting documents; however, two weeks is simply not enough time to review a rate filing.

contracts, and inviting disputes at public meetings and formal complaints before the Commission related to every avoided cost rate reduction. The only way to avoid this is to follow clear, consistent, and fair policies for predictable avoided cost rate changes regardless of whether rates are increasing or decreasing.

PGE claims that it has 45 requests for QF contracts of a total of 531.2 megawatts (“MW”) of nameplate capacity, and that execution of these contracts at current prices would result in \$215 million in higher payments if those contracts are executed after the rate reduction. PGE has provided no information to support these conclusions, including how many of the contracts are likely to be executed if the Commission followed the established policies for changing rates, let alone how many of the projects might be completed. While there is no information to confirm or deny PGE’s claims, the Coalition notes that PacifiCorp and Idaho Power Company (“Idaho Power”) have made previous “sky is falling” arguments regarding huge numbers of QF contracts, which ultimately resulted in far fewer executed contracts, let alone competed projects.² In addition, last year PGE claimed that it had roughly 68 requests for contracts of a total of 326 MWs in the “queue”, and the Commission allowed the rates to become effective the day after the last public meeting in June.³ Similarly, Idaho Power’s rates last year dropped by over

² In 2012, Idaho Power requested that the Commission lower the standard contract size threshold to 100 kW because of a “deluge of QF power on Idaho Power’s system—the vast majority of which is purchased under standard contract.” Re Idaho Power, Docket UE 244, Idaho Power Filing Letter at 1 (Jan. 27, 2012). Despite the concerns raised by Idaho Power, this deluge of new wind QFs “quickly dried up with Idaho Power entering into far fewer contracts”, none or very few of which are operating. See Re Idaho Power, Docket No. UM 1725, Coalition/100, Lowe/4 (July 31, 2015). In 2015, Idaho Power sought Commission assistance to address a huge amount of new solar generation, including 461 MWs of new solar projects in Oregon and Idaho. Re Idaho Power, Docket No. UM 1725, Application to lower standard contract eligibility cap and to reduce the standard contract term at 1-2 (April 24, 2015). The Coalition believes that less than 50 MWs of Oregon projects entered into contracts. In 2015, PacifiCorp also sought to change PURPA policies because of 587 MW in active requests for Oregon QF PPA. Re PacifiCorp, dba Pacific Power’s Application to Reduce the Qualifying Facility Contract Term and Lower the Qualifying Facility Standard Contract Eligibility Cap, Docket No. UM 1734, Application at 1 (May 21, 2015). Far fewer QFs entered into contracts, and only a very small number are operating.

³ June 7, 2016 Public Meeting at 1:36 (PGE’s Brett Sims reported the number of QFs in the queue as nearing 326 MWs).

40% last year, and Idaho Power asked for an early rate reduction, but the Commission agreed with the Coalition and Staff that its regular process should be followed.⁴

Frankly, the Coalition is surprised that PGE has decided to once again ignore the Commission's precedent regarding the timing of avoided cost rate updates. In UM 1610, the Coalition and QF advocates supported the idea of annual updates and more frequent rate changes, but in exchange we expected predictability in terms of the manner and timing of rate changes. Annual updates were supposed to get rid of this wasteful litigation regarding rate changes, but this is the fourth PGE related avoided cost rate dispute in three years, and the third contested public meeting regarding PGE's annual update.⁵ This needs to stop.

PGE's actions are once again requiring QFs and their advocates to waste limited resources re-litigating the same issues, as well as causing considerable uncertainty and distress in the QF contracting process. An early update of about six weeks, as proposed by PGE, will significantly reduce the time to complete contracts and make the difference in terms of finalizing contracts, especially when there is only one year between rate changes. The Coalition requests that the Commission strongly re-iterate its previous conclusions and provide direction that PGE (for the first time) comply with the Commission's policy regarding annual avoided cost rate updates, which is that rate changes will take effect the day after the last regularly scheduled public meeting in June.

1. The Commission Should Ensure that there Are Regular and Timely Avoided Cost Rate Changes at Specific Times that Everyone Can Rely Upon

As the Coalition has frequently expressed, one the most important of the Commission's responsibilities is to ensure predictability in the timing of avoided cost rate changes regardless of whether the changes go up or down. The Commission has the

⁴ Idaho Power's 2016 Annual May Update of Avoided Cost Rates, Schedule 85, Cogeneration and Small Power Production Standard Contract Rates, Docket No. UM 1730, Order No. 16-219 at Appendix A at 3 (June 8, 2016).

⁵ In 2016, there was a dispute about whether PGE's avoided cost rates would go into effect on June 8, 2016, or the day after the last public meeting on June 21, 2016. Re PGE Application to Update Schedule 201 Qualifying Facility Information, Docket No. UM 1728, Order No. 16-220 at Appendix A at 4-6 (June 8, 2016). Earlier in 2016, PGE proposed an out-of-cycle avoided cost update that was rejected by the Commission. Re PGE Revised Schedule 201 Qualifying Facility Information, Consistent with the 2013 Integrated Resource Plan Update, Docket No. UM 1752, Order No. 16-027 at 1 (Jan. 26, 2016). In 2015, PGE proposed to include items in its annual updates that were inconsistent with the limited scope of the annual updates that was rejected by the Commission. Re PGE Application to Update Schedule 201 Qualifying Facility Information, Docket No. UM 1728, Order No. 15-206 at Appendix A at 3-4 (June 23, 2015).

statutory responsibility to increase “the marketability of electric energy produced by” QFs and to create “a settled and uniform institutional climate for the qualifying facilities in Oregon.”⁶ To further these goals, the Commission has concluded that it will encourage:

the economically efficient development of qualifying facilities in Oregon. It is the goal of the Commission to ensure desired qualifying facility development **through stable and predictable actions by the Commission**, accurate price signals, and full information to developers and the public regarding power sales requirements.⁷

QFs are generally risk adverse when it comes to avoided cost rate changes, and often plan their contract negotiation process so that they can have fully executed contracts prior to the next avoided cost rate change. This ensures that they can complete their contracts with prices that they believed were sufficient to obtain financing and develop their projects. As the date for an avoided cost rate filing approaches and prices expected to drop, the utilities often the delay the negotiation process, request information that they should have previously asked for, and sometimes outright refuse to continue the negotiations. An unanticipated premature effective date of an avoided cost rate filing causes great confusion and disruption for all contracting parties and stakeholders.

2. Despite Well-Intended Policies, the Commission’s Implementation of those Policies Was Unpredictable and Unstable from 2007 to 2015

Over the last decade, there has been frequent litigation regarding the appropriate time for avoided cost rate changes, generally to the disadvantage of QF developers. Prior to 2005, the Commission had a generic policy of allowing rate updates on about a two year cycle.⁸ In UM 1129, PacifiCorp requested more frequent updates, with the Oregon Department of Energy and Staff objecting. Staff called PacifiCorp’s proposal:

“unbalanced” as it would allow a utility to update avoided costs when a change in circumstances causes the utility to be in a resource sufficient position, but would fail to direct a utility to update avoided costs when a change in circumstances causes the utility to be in a deficit resource position.⁹

⁶ ORS § 758.515(3).

⁷ Re OPUC Staff’s Investigation Relating to Electric Utility Purchases from Qualifying Facilities, Docket No. UM 1129, Order No. 05-584 at 9 (May 13, 2005) (citing the 1988 OPUC report to the Oregon Legislature) (emphasis added).

⁸ Id. at 5 n.4 (“Currently the companies file avoided cost studies about every two years following IRP acknowledgement and they update standard purchase rates and contract terms accordingly.”).

⁹ Id. at 29.

The Commission agreed with Staff, in affirming a two-year filing cycle, but stated that it would allow more frequent updates because “circumstances can significantly change within a short period of time to render avoided costs outdated.”¹⁰

While the Commission’s decision was reasonable at the time, the Commission’s implementation of that policy was unbalanced, unworkable, and harmful to QFs because it resulted in erratic and multiple avoided cost rate updates within most two-year periods.¹¹ For example, between 2005 and 2012, PacifiCorp updated its avoided cost rates in 2005, 2006, 2007 (twice), 2009, 2010 and 2012, Idaho Power updated its avoided costs in 2005, 2007 (twice), 2009, 2010, and 2012, and PGE changed its avoided cost rates four times in 2007.¹² Also, the Commission effectively allowed Idaho Power to file an early update when it limited the utility’s obligation to enter into certain contracts based on concerns that the avoided costs were outdated in 2012.¹³ In 2013, PGE updated its avoided cost rates out of cycle due the completion of requests for proposals,¹⁴ and all three utilities updated their rates as part of their UM 1610 compliance filings in 2014.

The Commission also rejected other attempts to update rates early. In 2007, the Commission rejected a request by QFs to increase avoided cost rates after a dramatic increase in gas prices following hurricane Katrina. The Commission recognized that the facts of the situation “may warrant the updated avoided cost filings as contemplated by” its previous orders.¹⁵ In other words, the Commission agreed with the QFs that the avoided cost rates were inaccurate, but rejected the update because there would be a rate change in a few months. The Commission also rejected Idaho Power’s early updates filed in 2011 and 2015,¹⁶ and rejected PGE’s early out-of-cycle update in 2016.¹⁷

¹⁰

Id.

¹¹ The out-of-cycle updates listed are not exhaustive of all updates that have been approved or requested.

¹² Re Staff Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Exhibit Coalition/102, Lowe/1, 24, and 46 (Mar. 18, 2013).

¹³ Re Idaho Power, Docket No. UE 244, Order No. 12-042 at 1-2 (Feb. 14, 2012).

¹⁴ Re PGE Application to Update Schedule 201 Qualifying Facility Information, Docket No. UM 1664, Order No. 13-378 at 1 and at Appendix at 1-2 (Oct. 17, 2013).

¹⁵ Re OPUC Staff’s Investigation Relating to Electric Utility Purchases from QFs, UM 1129, Order No. 07-199 at 2 (May 22, 2007).

¹⁶ Re Idaho Power, Docket No. UE 241, Order No. 11-414 at 1 (Oct. 11, 2011); Re Idaho Power Application to Lower Standard Contract Eligibility Cap and to Reduce the Standard Contract Term, for Approval of Solar Integration Charge, and for Change in Resource Sufficiency Determination, Docket No. UM 1725, Order No. 15-199 at 2-3, 6-9 (June 23, 2015).

Overall, the Commission did not consistently apply its policy regarding whether avoided cost updates can be filed outside of the standard two-year cycle. The unpredictable nature of Oregon avoided cost rate changes damaged the QF contracting process. This harmed QFs because it resulted in unexpected and unpredictable avoided cost rate changes, especially where there were ongoing contract negotiations, which often prevented a QF from successfully completing a contract.¹⁸

3. The Commission Adopted a New Policy in 2014 Designed to Protect Ratepayers by Providing More Frequent and Protect QFs with a More Stable and Predictable Process for Changing Prices

In UM 1610, everyone (utilities, Staff, and QF advocates) recognized that the two-year cycle approach with frequent and unexpected rate changes was not working. One of the most important and beneficial recent changes the Commission has made was

¹⁷ Re PGE Revised Schedule 201 Qualifying Facility Information, Consistent with the 2013 Integrated Resource Plan Update, Docket No. UM 1752, Order No. 16-027 at 1 and at Appendix A at 1-2 (Jan. 27, 2016).

¹⁸ For example, 2009 was a particularly difficult year in which confusion regarding the timing of a rate change and the large rate reduction resulted in a high degree of litigation. Re Farmers Irrigation District v. PacifiCorp, dba Pacific Power, OPUC Docket No. UM 1441, Order No. 10-493 at 2 (Dec. 27, 2010) (PacifiCorp raised a concern regarding a QF's continued eligibility, refused to sign a new or renewed PPA until after its prices changed, and then offered only the lower rates); Re Swalley Irrigation District v. PacifiCorp, dba Pacific Power, OPUC Docket No. 1438, Order No. 09-451 at 1 (Nov. 9, 2009) (QF had taken steps to establish a small power production facility, but PacifiCorp refused to execute a completed PPA unless the agreement included new, lower rates); Re International Paper Co. v. PacifiCorp, dba Pacific Power, OPUC Docket No. UM 1449, Order No. 09-439 at 6-7 (Nov. 4, 2009) (PacifiCorp refused to execute a PPA during a pending avoided cost rate change and then argued after the rate change that the lower rates should apply); Re Investigation to Determine if Pacific Power's Rate Revision Is Consistent With the Methodologies and Calculations Required by Order No. 05-584, Docket No. UM 1442, Order No. 09-506 at 3-4 (Dec. 28, 2009); Re Investigation to determine if Portland General Electric's rate revision has been consistent with the methodologies and calculations required by Order No. 05-584, Docket No. UM 1443, Order No. 09-507 (Dec. 28, 2009). The International Paper case was particularly contentious, and the Commission's refusal to find that International Paper had a legally enforceable obligation was the proximate cause in the closure of its Albany mill that resulted the loss of about 250 jobs. If the Commission's conclusions that the loss of industrial load results in stranded costs on remaining ratepayers is correct, then ratepayers were also harmed. The Commission's policies and their implementation matter.

to allow annual updates at a specific time and after an acknowledged integrated resource plan, with a high burden for any party requesting other rate changes.¹⁹ This order was consistent with the Commission's long standing goal of adopting generic policy decisions in investigations, and not to make ad hoc revisions in avoided cost rate filings. As previously explained by the Commission:

As part of our responsibility to provide incentives for QF development, **we have adopted a process to provide predictability in avoided cost pricing in order to allow a potential developer or investor to easily evaluate the economic feasibility of a project.** That process uses recurring, generic investigations to determine what methodologies should be used to most accurately value a utility's avoided costs. Our Order No. 05-584 was the culmination of one such comprehensive and lengthy investigation docketed as UM 1129. We then require the utilities to use these adopted methodologies when updating their respective avoided cost tariffs, and **we review those filings for compliance with the approved methodologies. This process helps ensure that avoided costs are just and reasonable to the QF and the ratepayers of the public utility, and provides certainty to developers by allowing an expeditious review and updates of avoided cost rates.**²⁰

This order is relevant because it illustrates that QFs expect the Commission to maintain reasonable and predictable policies for both the manner and the timing of when avoided cost rates will change.

4. Since 2014, the Commission Has Allowed Frequent Avoided Cost Rate Updates at a More Predictable and Stable Time

Despite the Commission's 2014 decision in UM 1610 to have limited annual updates with rate changes 60 days after May 1, there have been disputes every year. Each of these disputes was initiated by the utilities not following the Commission directed process. In 2015, PGE ignored the Commission's direction, and attempted to

¹⁹ Re Staff Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 25-26 (Feb. 24, 2014). The Commission adopted its current process of annual updates and an update after IRP or IRP update acknowledgment, and concluded that out-of-cycle updates should be rare and more difficult to obtain. Id. ("in light of our decision here to require annual updates in addition to updates following IRP acknowledgement, we caution stakeholders that the 'significant change' required to warrant an out-of-cycle update will be very high.").

²⁰ Investigation to Determine if Pacific Power's Rate Revision Is Consistent With the Methodologies and Calculations Required by Order No. 05-584, Docket No. UM 1442, Order No. 09-427 at 3-4 (Oct. 28, 2009) (emphasis added).

include items outside of the scope of allowable updates. After strong opposition, the Commission rejected PGE's proposal.²¹ Despite losing its effort to include inappropriate items in its annual update, PGE's compliance filing still included impermissible updates, which were corrected with a second compliance filing.²² Idaho Power also proposed to update its resource sufficiency-deficiency demarcation in an annual update, which was rejected after opposition by the Coalition and Staff.²³

In 2015, the QFs, Staff, and the utilities also disagreed with the timing of the rate change following the May 1 filing. In its 2014 order adopting annual updates in UM 1610, the Commission concluded that these "annual updates will be presented at a public meeting, with a rate effective date within 60 days of the May 1 filing."²⁴ QFs and Staff interpreted this ruling as meaning that the annual update rate change would occur exactly 60 days from May 1.²⁵ However, the Commission disagreed, concluding that the rates would become effective within 60 days, which would allow the rates to become effective the day after the last public meeting in June.²⁶

Following the Commission's orders in 2015, Staff and the QFs now assumed that the utilities' annual updates would be placed on the public meeting schedule immediately prior to 60 days after May 1, and effective the day afterwards. The expectation is illustrated by the Staff report in PacifiCorp's 2015 annual update which stated: "Future Pacific Power avoided cost updates will be filed under Docket No. UM 1729, and **Staff will present the filings at a public meeting preceding the 60th day from the filing date.**"²⁷

Last year's annual update further illustrates that QFs have a reasonable expectation that the annual avoided cost rate changes will occur the day after the last regularly scheduled public meeting in June. PGE itself assumed that its annual update

²¹ Re PGE Application to Update Schedule 201 Qualifying Facility Information, Docket No. UM 1728, Order No. 15-206 (June 23, 2015).

²² Re PGE Application to Update Schedule 201 QF Information, UM 1728, Order No. 15-251 (August 25, 2015).

²³ Idaho Power's 2016 Annual May Update of Avoided Cost Rates, Schedule 85, Cogeneration and Small Power Production Standard Contract Rates, Docket No. UM 1730, Order No. 15-263 at 4 (Sept. 3, 2015).

²⁴ Re Staff Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 26 (Feb. 24, 2014).

²⁵ E.g., Re PacifiCorp, dba Pacific Power, Application to Update Schedule 37 QF Information, Docket No. UM 1729, Order No. 15-205 at Appendix A at 1-3 (June 23, 2015). Whether it was 50, 60 or 70 days, the Coalition preferred a specific date that allows sufficient time for staff and interested parties to review the filing, and QFs to plan their contract negotiation process to finish before rates change.

²⁶ Id. at 1.

²⁷ Id. at Appendix A at 4 (emphasis added).

would be reviewed at the last public meeting in June 2016, and PGE requested an effective date of June 22, 2016 (the day after that public meeting).²⁸ The unexpected happened, and the last public meeting (June 21, 2016) was cancelled, with the utilities' filings considered at the June 7, 2016 public meeting. After the changed public meeting date, PGE refused to agree to have the effective date stay set for June 22, 2016, which necessitated yet another dispute before the Commission regarding whether rates would be updated early.²⁹ One reason that PGE initially refused to agree to the later effective date may have been a concern associated with about 326 MWs of QFs in its queue.³⁰

The Coalition and Staff did not dispute PGE's lower avoided cost rates, but urged the Commission not to allow the rate reduction until June 22, 2016 because of the reasonable expectations of independent power producers and to ensure predictability in avoided cost rate changes.³¹ Staff agreed with the Coalition's reasons, and recommended that the rate change reductions should occur on June 22, 2016.³²

Even more on point, last year Idaho Power proposed that its May 1 rates go into effect on June 1.³³ Idaho Power's rate change was "significant" and Staff estimated that "the levelized cost of a baseload resource for 15 years at Idaho Power's authorized rate of

²⁸ Re PGE Application to Update Schedule 201 QF Information, Docket No. UM 1728, PGE Supplemental Application at 1 (April 29, 2016) ("The last public meeting within 60 days of May 1 is on June 21, 2016; hence the Company requests an effective date of June 22, 2016").

²⁹ Despite repeated requests to PGE to agree to an effective date for the day after the last public meeting in June 2016 (which was June 22, 2016), PGE repeatedly refused to agree to the later effective date. Only at the last minute, PGE made oral comments at the June 7, 2016 public meeting agreeing to the later effective date.

³⁰ See June 7, 2016 Public Meeting at 1:36 (PGE's Brett Sims reported the number of QFs in the queue as 68 requests for contracts nearing 326 MWs). For comparison, PGE now claims that it has 45 requests for QF contracts of a total of 531.2 MW of nameplate capacity of QF requests in its queue.

³¹ The Coalition's primary recommendation was for the Commission to set an avoided cost rate update for a specific time, but did not oppose having the rate change for the last regularly scheduled public meeting in June. June 7, 2016 Public Meeting at 1:26 (Irion Sanger statement).

³² Re PGE Application to Update Schedule 201 Qualifying Facility Information, Docket No. UM 1728, Order No. 16-220 at Appendix A at 4-6 (June 8, 2016).

³³ Idaho Power's 2016 Annual May Update of Avoided Cost Rates, Schedule 85, Cogeneration and Small Power Production Standard Contract Rates, Docket No. UM 1730, Supplemental Application at 1 (May 2, 2016).

return changed from \$60.16 to \$34.99 per megawatt-hour.”³⁴ This about \$25 per megawatt hour rate difference dwarfs the about \$7 per megawatt-hour rate change that PGE is proposing now. Idaho Power strenuously argued that the rates should go into effect earlier than the day after the last public meeting in June because it claimed that QFs did not have a reasonable expectation of a late June rate change, and (if they had such an expectation) then it was based on a misreading of the Commission’s policy. Staff, however, recognized that “QFs generally plan for these May 1 updates to be effective at the public meeting immediately prior to the 60-day requirement” established in UM 1610.³⁵ The Coalition did not challenge the significant rate reduction, but strongly opposed Idaho Power’s early rate change.³⁶

At the June 7, 2016 Public Meeting that considered both the PGE and Idaho Power avoided cost rate reductions, the Coalition asked the Commission to provide clear direction about what it would do regarding future updates so that QFs negotiating their PPAs with utilities would know when the rates would change and QFs could start negotiations early enough to complete their PPAs prior to the rate change.³⁷

The Commission adopted Staff’s recommendation that rate changes for both PGE and Idaho Power on June 22. Thus, the Commission’s policy through UM 1610 and all the annual updates has been to provide predictability and clarity to utilities and QFs that the updates will go into effect the day after the last planned public meeting in June.

The Commission also provided the future guidance that the Coalition requested. Chair Hardie’s and Commissioner Bloom’s statements at the June 7 Public Meeting are particularly relevant.³⁸ Both Commissioners emphasized procedural clarity as a means to establish fairness and substantive equity in the annual update process.

Chair Hardie stated:

I come at this from sort of a lawyer’s perspective ... So my preference just with I guess with more of a legal background is to try and stick as close as

³⁴ Idaho Power’s 2016 Annual May Update of Avoided Cost Rates, Schedule 85, Cogeneration and Small Power Production Standard Contract Rates, Docket No. UM 1730, Order No. 16-219 Appendix A at 3 (June 8, 2016).

³⁵ Id. at Appendix A at 4.

³⁶ Idaho Power’s 2016 Annual May Update of Avoided Cost Rates, Schedule 85, Cogeneration and Small Power Production Standard Contract Rates, Docket No. UM 1730, Coalition Comments (May 31, 2016); June 7, 2016 Public Meeting at 1:57-2:00 (statement of Irion Sanger).

³⁷ June 7, 2016 Public Meeting at 1:25-27 and 1:57-2:00 (statement of Irion Sanger).

³⁸ The quoted statements address the PGE filing and Commissioner Savage’s proposal to revisit the PGE resource deficiency date and the date for a rate change.

possible to the existing rules that we have, which I think in this case requires an avoided cost filing based on the last acknowledged IRP recognizing that those are frequently a little bit out of step and that right now they may be more out of step. ... Recognizing that there are issues and some difficulties with this being an accurate avoided cost, I would say that we have an administratively determined avoided cost that can be inaccurate sometimes. **I would make this recommendation, I would agree with Staff's recommendation no matter which way it cut. ... Just for the purpose of keeping with our rules and the parties' expectations where we can.**³⁹

Thus, Chair Hardie recognized that avoided cost rates are established through specific processes, and that the parties' reasonable expectations should be followed, regardless of whether the filing resulted in a rate increase or decrease.

Commissioner Bloom stated:

One of the things that I've always thought that the law needs to do is to give people certainty in what they can expect when they are trying to enter into business agreements. ... We had the May 1 update, Staff indicates that is valid. I do agree with the June 22 date. That is the normal date if we had the June 21 hearing.⁴⁰

Commissioner Bloom explicitly recognized that the regular time for the annual rate to become effective is the day after the last public meeting in June, and that is it key to give QFs certainty in what they can expect when contracting with the utilities. In other words, a QF should be able to begin contract negotiations with the expectation that rates will change in late June and not mid-May.

5. The Commission Should Not Allow PGE's Avoided Cost Rate Change to Go into Effect Until June 28, 2017

This year, the reasonable assumption for most QFs negotiating with PGE would be that PGE's filing would be reviewed at the June 27, 2017 Public Meeting, and (if they were approved) would be effective on June 28, 2017. This assumption is critical because, for those QFs that are aware of the Commission's policies, they generally begin their negotiation process so that they have sufficient time to finalize a contract **before** rates change. QFs should be able request a new contract with certainty that the utility will expeditiously process their application, and not take unexpected actions that delay the process or reduce the amount of time to complete the contract, including the filing of an early rate change.

³⁹ June 7, 2016 Public Meeting at 1:39-40 (Chair Hardie statement).

⁴⁰ June 7, 2016 Public Meeting at 1:41 (Commissioner Bloom statement).

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The Commission has established a policy and reasonable expectation that the annual avoided cost rate changes, whether increases or decreases, will go into effect after the last regularly scheduled public meeting in June. The Commission should ensure that all parties are provided their substantive and procedural due process rights, which include predictable and stable price changes. Process is critically important. Therefore, the Commission should reject PGE's request for an early effective date, and move consideration of the rates to the June 27, 2017 Public Meeting when interested parties will have had an opportunity to fully review the filing.

Sincerely,

A handwritten signature in cursive script that reads "Irion A. Sanger". The signature is written in black ink and is positioned above the printed name.

Irion A. Sanger