

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER THE PUBLIC UTILITY)	Docket No. UM 1610
COMMISSION OF OREGON)	
Investigation Into Qualifying Facility)	OBJECTION TO PACIFICORP’S
Contracting and Pricing)	AMENDED COMPLIANCE FILING OF
)	THE COMMUNITY RENEWABLE
)	ENERGY ASSOCIATION AND THE
)	RENEWABLE ENERGY COALITION

INTRODUCTION AND SUMMARY

The Community Renewable Energy Association (“CREA”) and the Renewable Energy Coalition (“REC”) (collectively the “Joint QF Parties”) respectfully submit this Objection to PacifiCorp’s amended compliance filing made in response to the Public Utility Commission of Oregon’s (“OPUC” or “Commission”) Order No. 19-172. This objection is specifically made to the amended compliance filing made by PacifiCorp on August 9, 2019, which was amended in response to the Joint QF Parties’ objection filed on July 29, 2019 (hereafter the “Joint QF Parties’ July 29th Objection”).

While PacifiCorp has agreed to voluntarily revise some of the elements of the initial compliance filing, PacifiCorp’s amended compliance filing continues to contain several flaws that will arbitrarily and unnecessarily deter small renewable energy facilities from being developed in Oregon. The Joint QF Parties urge the Commission to reject PacifiCorp’s suggestion that the remaining unresolved issues have already been resolved in PacifiCorp’s favor. Additionally, to ensure the record is clear, the Joint QF Parties stand by their position with respect to elements of PacifiCorp’s compliance filing that have not been corrected in

response to the Joint QF Parties' July 29th Objection. For the convenience of the Commission, this filing will list the issues that remain outstanding and refer the Commission to the prior position of the Joint QF Parties on the issue without restating such position.

OBJECTION TO AMENDED COMPLIANCE FILING

1. PacifiCorp Is Wrong to Assert the Remaining Issues Were Already Resolved in PacifiCorp's Favor

Throughout its application for approval of the amended compliance filing, PacifiCorp incorrectly suggests that the objections raised by the Joint QF Parties should have been raised in prior proceedings in this docket. The prior proceedings addressed high-level policy questions, and the Joint QF Parties did not have a specific contracting tariff or standard power purchase agreement ("PPA") addendum to evaluate and address until after the Commission's order. Nor did the Commission have such documents before it for its consideration when it issued Order No. 19-172. Not surprisingly, therefore, none of the outstanding issues are matters that were addressed in Order No. 19-172.

PacifiCorp faults the Joint QF Parties for not seeking reconsideration (or perhaps more appropriately clarification) of Order No. 19-172 with respect to the issues in dispute in its compliance filing, but that argument misses the mark. Where a Commission order does not directly address the detailed specifics of implementation of a directive in an order, parties are free to object to the utility's implementation of the issue at the time the utility files its compliance filing. A gap in the level of detail supplied in the order does not leave the utility with the sole discretion to implement whatever treatment it wishes. As a practical matter, the Joint QF Parties cannot anticipate every element and word PacifiCorp will include in its

compliance filings before the time that PacifiCorp makes such filings, and therefore the Joint QF Parties cannot be expected to ask for clarification on hypothetical questions that may never arise before the compliance filing is made.

The one major issue the Commission's order resolved adversely to the Joint QF Parties is the decision that the forecasted transmission costs will be fixed for only five years, as opposed to the entire 15-year term of the fixed-price PPA. But the Joint QF Parties expressly declined to raise that issue in the objection to the compliance filing and instead indicated reservation of the right to challenge such policy as unlawful at a future time.¹

In sum, the outstanding issues discussed below are run-of-the-mill compliance issues that the Commission should resolve by weighing the positions of the parties.

2. The Commission Should Require Pre-Calculated Rates in the Rate Schedule

The Joint QFs Parties' objection demonstrated that the Commission should require PacifiCorp to publish the standard capacity charge (\$/kW-month) and ancillary service charges for the main transmission providers in its rate schedule for approval each time PacifiCorp's avoided costs are approved. *See Joint QF Parties' July 29th Objection*, at 5. PacifiCorp has not proposed to amend the compliance filing to do so. Therefore, the Joint QF Parties stand by the position expressed in their prior objection.

¹ Notably, in the time since issuance of Order No. 19-172, the Ninth Circuit Court of Appeals issued a decision confirming that 18 C.F.R. § 292.304(d)(2)(ii) requires that each QF be offered an option where prices are fixed at the time contracting. However, the Joint QF Parties will present that new decision for the Commission's consideration in a separate filing directed at Order No. 19-172 itself, not through an objection to the compliance filing.

3. PacifiCorp's Amended Proposal Still Provides Fixed Prices for Less than Five Years

The Joint QF Parties asserted that the Commission should require PacifiCorp to begin the five years of forecasted pricing at the same time as commencement of the period five-year period of fixed-price payments under transmission agreement, as opposed to the five-year period commencing at execution of the PPA. *Joint QF Parties' July 29th Objection* at 6-8. In effect, PacifiCorp has shortened the period during which it will provide fixed prices by the time it takes to achieve commercial operation, in contradiction to clear Commission policy on this point. *See id.* PacifiCorp asserts that it has adopted the Joint QF Parties' proposal in its amended compliance filing. *PacifiCorp's Application for Approval of Amended Compliance Filing* at 5. However, PacifiCorp's amended compliance filing does not substantiate PacifiCorp's claim. None of the relevant provisions identified in the Joint QF Parties' initial objection appears to have been modified in PacifiCorp's amended compliance filing.

The amended compliance filing's proposed PPA addendum and rate schedule still suggests in multiple locations that the five-year period of forecasted pricing begins on the *effective date* of the PPA. Specifically, PacifiCorp still proposes the following language:

PacifiCorp will escalate each component annually *following the effective date of the power purchase agreement through the end of the initial five-year*

(Proposed Standard Rate Schedule at p. 6 (emphasis added).)

PacifiCorp will escalate each component annually *following the effective date of the power purchase agreement through the end of the initial five-year*

(Proposed Non-Standard Rate Schedule at p. 3 (emphasis added).)

The Monthly Transmission Rate will be adjusted *on each five (5) year anniversary of the Effective Date* (each, an "Adjustment Date"), consistent with the methodology described below

Posted Rates will be established and fixed as of the Effective Date *for the first five (5) year period following the Effective Date*, and thereafter re-established for any Adjustment Date

(Propose PPA Addendum at p. 2 (emphasis added).)

Similarly, the revised compliance filing's formula contains the same error on this point identified by the Joint QF Parties. *Joint QF Parties' July 29th Objection* at 7 n.2.

Given PacifiCorp's statement that it agreed with the Joint QF Parties' position, it is not clear if the failure to revise these provisions was an oversight, but the Commission should direct that all relevant documents unambiguously require the five-year period of forecasted prices to run from the initial delivery date in the PPA.

4. PacifiCorp's Formula Still Unlawfully Charges the QF for Losses on PacifiCorp's Side of the Point of Interconnection

The Joint QF Parties stand by their position with respect to the unlawful assessment of line losses to the QF beyond the point of delivery to PacifiCorp. *Joint QF Parties' July 29th Objection* at 9-11. PacifiCorp has refused to correct this error in its filing, and the Commission should direct that it be corrected.

5. PacifiCorp's Formula Should Use an Escalation Factor that is Transparent and Consistent with Escalation Used for Other Regulatory Purposes

The Joint QF Parties stand by their position that the escalation factor used by PacifiCorp should be transparent and consistent with escalation factors used for other regulatory purposes, such as that used for escalation of other avoided cost components or consistent with escalation of third-party transmission used in the utility's integrated resource plans ("IRP"). *See Joint QF Parties' July 29th Objection* at 11-12. PacifiCorp's amended compliance filing proposes to use

the “All Items” Consumer Price Index as posted by the United States Bureau of Labor Statistics. *PacifiCorp’s Application for Approval of Amended Compliance Filing* at 7. But PacifiCorp does not allege that is the escalation rate it uses for its own forecast of third-party transmission rates in its IRP or confirm that it uses the consumer price index for purposes of escalating other avoided cost components. The Joint QF Parties continue to recommend the Commission should reject PacifiCorp’s escalation proposal. The Commission should require further explanation of the transmission escalation proposal, including how it compares to similar escalations used by PacifiCorp in its IRP and in PGE’s avoided cost rates. Additionally, the rate should be calculated and set forth in the rate schedule for approval by the Commission and not subject to individual calculation after execution of the PPA.

6. PacifiCorp’s Amended Compliance Filing Inappropriately Assigns a Duplicative Integration Charge to Load Pocket QFs.

In a new provision not included in PacifiCorp’s initial compliance filing, PacifiCorp’s amended compliance filing contains an element to the rate escalation formula that states PacifiCorp will assess the load pocket QF the “variable energy resource balancing service” charges of the third-party transmission provider.² This is not a reasonable charge to assess to the load pocket QF because the load pocket QF is generally already paying for PacifiCorp’s integration charges. Under Commission policy, if the QF is located in PacifiCorp’s balancing authority, the QF is subjected to a rate reduction to account for PacifiCorp’s approved wind integration charges. *See* Order No. 14-058 at 14-15. If the QF is off-system and delivering into

² This new provision is contained in the new definition of “BAL” contained in the rate formula in the proposed PPA addendum (Exhibit X) at pp. 3-4.

a load pocket, it would already be paying its own third-party transmission provider its wind integration charges to deliver a balanced product to the PacifiCorp's system. *See id.* at 14-15. PacifiCorp's proposal in the amended compliance filing would additionally assess the third-party wind integration costs of the third-party transmission provider supplying transmission on PacifiCorp's side of the QF's delivery to PacifiCorp. But PacifiCorp provides no basis to conclude that the third-party transmission provider would assess such integration costs on PacifiCorp in this circumstance, and it is unreasonable in any event to make the QF pay twice for integration charges.

In sum, the Commission should require PacifiCorp to remove the additional charge for variable energy services from its rate formula in the amended compliance filing.

7. PacifiCorp's Proposed Addendum Ignores the Possibility that PacifiCorp Should Use Bonneville Power Administration Network Transmission for Certain QFs

The Joint QF Parties stand by their argument that the Commission should require that PacifiCorp's proposed PPA addendum be modified to clarify that PacifiCorp may only assign third-party point-to-point transmission costs to a QF after PacifiCorp's merchant arm, referred to as Energy Supply Management ("PacifiCorp ESM") has received notification that the QF cannot be designated as a network resource under either of PacifiCorp ESM's network service agreements, including its network service agreement with Bonneville Power Administration ("BPA"). *Joint QF Parties' July 29th Objection* at 12-14. PacifiCorp refuses to do so, but it has not yet provided any substantive reason in this proceeding for why it cannot do so. Nor has the Commission made any findings that would support a ruling against the Joint QF Parties on this point. The Joint QF Parties refer the Commission to their initial objection on this point.

8. PacifiCorp’s Amended Compliance Filing Does Not Provide QFs Sufficient Information and Studies to Support PacifiCorp’s Determinations

The Joint QF Parties stand by their position that the Commission should require PacifiCorp to provide to individual QFs all information and communications with transmission personnel to support any finding by PacifiCorp that the QF is located in a load pocket and subject to load pocket charges. *Joint QF Parties’ July 29th Objection* at 15-16. PacifiCorp appears to agree that its initial proposal was unfair and has now proposed to expand somewhat the materials it will supply the load pocket QF. *PacifiCorp’s Application for Approval of Amended Compliance Filing* at 11. However, PacifiCorp made no changes to the proposed PPA addendum. The Joint QF Parties maintain their position as proposed in the initial objection.

9. The Commission Should Require PacifiCorp to Complete a Preliminary Analysis of the QF’s Load Pocket Status Prior to PPA Execution

The Joint QF Parties stand by their position that PacifiCorp should provide all QFs with a preliminary determination during contract negotiations of whether they may be subjected to load pocket charges after transmission studies are completed during the months after PPA execution. *Joint QF Parties’ July 29th Objection* at 18-19. PacifiCorp has not proposed to amend the compliance filing to accommodate this request. Therefore, the Joint QF Parties stand by the position expressed in their prior objection.

10. The Commission Should Remove the Ability for PacifiCorp to Determine It Will Not Purchase a QF’s Output

PacifiCorp’s amended compliance filing still contains an unlawful right for PacifiCorp to refuse to purchase the QF’s output if PacifiCorp determines there is no third-party transmission solution to the alleged load pocket problem and even to refuse to allow for extensions to the

scheduled commercial operation date to accommodate delays in transmission availability. This is a substantial overreach by PacifiCorp. The Joint QF Parties still stand by their position in the initial objection. *See Joint QF Parties' July 29th Objection* at 19-21.

11. The Commission Should Require PacifiCorp to File Quarterly Status Reports Regarding Load Pocket QFs and Implementation of the Load Pocket Policy

The Joint QF Parties also stand by their position that the Commission should require status reports regarding the impact of this new policy on QFs. *See Joint QF Parties' July 29th Objection* at 21-22. PacifiCorp has refused to agree to this proposal, and therefore the Joint QF Parties request that the Commission require PacifiCorp to do so.

12. Resolved Issues

To aid the Commission and Staff in its evaluation, the Joint QF Parties agree that PacifiCorp has adequately resolved the concerns raised with respect to the following issues:

- PacifiCorp's formula should only assign a charge for the transmission capacity purchased, as requested in *Joint QF Parties' July 29th Objection* at 9.
- The PPA Addendum should contain reasonable deadlines for PacifiCorp to conduct the load pocket studies and for the QF to select an option, as requested in *Joint QF Parties' July 29th Objection* at 16-17.
- The PPA Addendum Should Provide Each QF the Ability to Switch Its Selection of an Option after Each Five-Year Period, as requested in *Joint QF Parties' July 29th Objection* at 18.

Despite the disagreement on the remaining issues, the Joint QF Parties appreciate PacifiCorp's changes on these issues and are hopeful that with some additional direction from

the Commission the parties will be able to work together to properly implement and correct the remaining points of disagreement.

CONCLUSION

The Joint QF Parties respectfully request that the Commission condition approval of PacifiCorp's standard contract and contracting schedule on correction of the issues identified in this Objection.

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Respectfully submitted,



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