



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

October 28, 2005

Traci Kirkpatrick
Administrative Law Judge
Office of Administrative Hearings
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

Re: UM 1129; Correction to Staff's Phase II Issues List

Dear Judge Kirkpatrick:

Staff has just realized that its "Staff's Proposed Consolidated Issues List" for UM 1129 – Phase II ("List") is missing an intended footnote as an inadvertent result of converting it to a PDF file. The List originally submitted has an asterisk (*) after Issue 6 and nothing more. The List staff intended to submit should have had an asterisk after both Issue 2 and Issue 6. Further, the asterisks for these issues were intended to reference a footnote that stated as follows: "Staff proposes to address issues 2 and 6 on the same schedule as the phase I compliance investigation. Therefore, staff did not include these items in its proposed consolidated list of issues for that investigation."

Staff notes that all the parties received the correct version of the List prior to staff submitting it to you last Friday. Indeed, Portland General Electric correctly quotes the footnote in its comments about the revised List.

Staff is re-submitting a corrected version of the List. Staff would also like to clarify that it proposes Issues 2 and 6 be addressed on the same schedule as adopted for Phase I only as they relate to standard contracts for QFs 10 MW or less.

Sincerely,

Michael T. Weirich
Assistant Attorney General
Regulated Utility & Business Section

cc: Service list
MTW:nal/GENO2820

UM 1129 - Phase II
Staff's Proposed Consolidated Issues List
October 11, 2005
(Corrected October 28, 2005)

Issues Directed by the Commission (Order No. 05-584)

1. Development of negotiation parameters and guidelines for nonstandard QF contracts. For example:
 - a. What contract length should Qualifying Facilities larger than 10 MW be entitled to? [Order No. 05-584 at 17]
 - b. How should QF power supply commitments differentiate between “as available” and “legally enforceable obligations” for delivery of energy and capacity? [PGE]
 - c. How should “firm” or “non-firm” supply commitments be defined and differentiated through contractual default and damages provisions? [PGE]
 - d. How should avoided costs be adjusted for factors, such as those described in 18 CFR § 292.304, for a Qualifying Facility’s specific power supply attributes and commitments? [PGE]
 - e. Regarding PacifiCorp’s Schedule 38 for Qualifying Facilities larger than 10 MW, are the procedures for negotiating avoided costs, schedules for negotiations, and the information to be exchanged by PacifiCorp and the Qualifying Facility reasonable? [ICNU]
 - f. Can the utilities adjust the avoided cost calculations for Qualifying Facilities over 10 MW based on factors that have not been approved by the Oregon Public Utility Commission? [ICNU]
2. In the event of the inability of a QF to establish creditworthiness, determination of an appropriate amount of default security to be required. *
3. Further exploration of how the calculation of avoided cost should reflect the nature and quality of QF energy. Specifically:
 - a. How should firm vs. non-firm commitments and integration of intermittent resources affect the calculation of avoided costs? [Order No. 05-584 at 39]
 - b. Costs and contractual provisions necessary to address purchases from QF projects that are located outside the utility’s control area [PacifiCorp]
4. Further exploration of a Mechanical Availability Guarantee (MAG). For example, are avoided cost prices affected by a Mechanical Availability Guarantee? [PGE]
5. Further exploration of market pricing options and alternatives to using nameplate capacity to determine the size of a QF project for standard contract eligibility purposes, including:
 - a. Should PacifiCorp offer a market pricing option? [Order No. 05-584 at 35; PacifiCorp]

* Staff proposes to address issues 2 and 6 on the same schedule as the phase I compliance investigation. Therefore, staff did not include these items in its proposed consolidated list of issues for that investigation.

- b. Provide clear definition of “nameplate capacity” if that is retained as basis for defining eligibility for standard contracts and avoided cost rates. [PacifiCorp]
6. Cap on amount of default losses that can be recouped, pursuant to future QF contract payment reductions.*
7. Liability insurance for QFs with a design capacity at or under 200 kW.
8. Negotiation parameters and guidelines for “simultaneous sale and purchase” QF contract.
9. Negotiating “net output sales” for non-standard contracts.
10. Further exploration of Staff’s role in the informal dispute resolution of QF contract disputes. Related to that issue, what is the role of the Commission in dispute resolution during contract negotiations and during the term of the power purchase agreement? [PGE]

Other Issues

11. Should competitive bidding be used to set pricing for Qualifying Facilities greater than a certain size (e.g., larger than 100 MW) if the utility has recently completed an RFP, or a bidding process is in progress or imminent? If so, how? [UM 1182 issue moved with consent of UM 1182 parties]
12. Do provisions of the Energy Policy Act of 2005 affect the rules regarding new contracts with Qualifying Facilities? Specifically, should an Oregon electric company be required to enter into a new contract with a Qualifying Facility that is located in the service territory of an electric utility that has been relieved by FERC of a mandatory purchase obligation under PURPA? [PGE]

CERTIFICATE OF SERVICE

I certify that on October 27, 2005, I served the foregoing upon the parties hereto by sending a true, exact and full copy by postage prepaid, regular mail, or shuttle mail, and by electronic mail:

| | |
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| RANDY ALLPHIN IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 rallphin@idahopower.com | MICK BARANKO DOUGLAS COUNTY FOREST PRODUCTS PO BOX 848 WINCHESTER OR 97495 |
| R THOMAS BEACH -- CONFIDENTIAL CROSSBORDER ENERGY 2560 NINTH ST, STE 316 BERKELEY CA 94710 tomb@crossborderenergy.com | LAURA BEANE PACIFICORP 825 MULTNOMAH STE 800 PORTLAND OR 97232-2153 laura.beane@pacificorp.com |
| KARL BOKENKAMP IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 kbokenkamp@idahopower.com | LOWREY R BROWN CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY, SUITE 308 PORTLAND OR 97205 lowrey@oregoncub.org |
| JOANNE M BUTLER IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 jbutler@idahopower.com | BRIAN COLE SYMBIOTICS, LLC PO BOX 1088 BAKER CITY OR 97814 bc@orbisgroup.org |
| BRUCE CRAIG ASCENTERGY CORP 440 BENMAR DR STE 2230 HOUSTON TX 77060 bcraig@asc-co.com | RANDY CROCKET D.R. JOHNSON LUMBER COMPANY PO BOX 66 RIDDLE OR 97469 randyc@drjlumber.com |
| CHRIS CROWLEY COLUMBIA ENERGY PARTNERS PO BOX 1000 LA CENTER WA 98629 ccrowley@columbiaeep.com | DATA REQUEST RESPONSE CENTER PACIFICORP 825 NE MULTNOMAH, SUITE 800 PORTLAND OR 97232 datarequest@pacificorp.com |
| CAREL DE WINKEL OREGON DEPARTMENT OF ENERGY 625 MARION STREET NE SALEM OR 97301 carel.dewinkel@state.or.us | JIM DEASON CABLE HUSTON BENEDICT HAAGENSEN & LLOYD 521 SW CLAY ST – STE 107 PORTLAND OR 97201-5407 jdeason@chbh.com |

| | | |
|----|---|---|
| 1 | CRAIG DEHART MIDDLEFORK IRRIGATION DISTRICT PO BOX 291 PARKDALE OR 97041 mfidcraig@hoodriverelectric.net | ELIZABETH DICKSON HURLEY, LYNCH & RE, PC 747 SW MILL VIEW WAY BEND OR 97702 eadickson@hrl-law.com |
| 4 | JASON EISDORFER CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org | JOHN M ERIKSSON STOEL RIVES LLP 900 SW FIFTH AVENUE, SUITE 2600 PORTLAND OR 97204-1268 jmeriksson@stoel.com |
| 6 | RANDALL J. FALKENBERG RFI CONSULTING PMB 362 8351 ROSWELL ROAD ATLANTA GA 30350 consultrfi@aol.com | JAMES F FELL STOEL RIVES LLP 900 SW 5TH AVE STE 2600 PORTLAND OR 97204-1268 jffell@stoel.com |
| 9 | JOHN R GALE IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 rgale@idahopower.com | J RICHARD GEORGE -- CONFIDENTIAL PORTLAND GENERAL ELECTRIC COMPANY 121 SW SALMON ST PORTLAND OR 97204 richard.george@pgn.com |
| 12 | THOMAS M GRIM CABLE HUSTON BENEDICT ET AL 1001 SW FIFTH AVE STE 2000 PORTLAND OR 97204-1136 tgrim@chbh.com | DAVID HAWK J R SIMPLOT COMPANY PO BOX 27 BOISE ID 83707 david.hawk@simplot.com |
| 15 | STEVEN C JOHNSON CENTRAL OREGON IRRIGATION DISTRICT 2598 NORTH HIGHWAY 97 REDMOND OR 97756 stevej@coid.org | BARTON L KLINE IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 bkline@idahopower.com |
| 17 | ALAN MEYER -- CONFIDENTIAL WEYERHAEUSER COMPANY 698 12TH STREET, SUITE 220 SALEM OR 97301-4010 alan.meyer@weyerhaeuser.com | MONICA B MOEN IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 mmoen@idahopower.com |
| 20 | THOMAS H NELSON THOMAS H NELSON & ASSOCIATES 825 NE MULTNOMAH STE 925 PORTLAND OR 97232 | JANET L PREWITT DEPARTMENT OF JUSTICE 1162 COURT ST NE SALEM OR 97301-4096 janet.prewitt@doj.state.or.us |
| 23 | LISA F RACKNER ATER WYNNE LLP 222 SW COLUMBIA ST STE 1800 PORTLAND OR 97201-6618 lfr@aterwynne.com | PETER J RICHARDSON RICHARDSON & O'LEARY PO BOX 7218 BOISE ID 83707 peter@richardsonandoleary.com |
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| IRION SANGER -- CONFIDENTIAL DAVISON VAN CLEVE 333 SW TAYLOR, STE 400 PORTLAND OR 97204 ias@dvclaw.com | LISA C SCHWARTZ -- CONFIDENTIAL PUBLIC UTILITY COMMISSION OF OREGON PO BOX 2148 SALEM OR 97308-2148 lisa.c.schwartz@state.or.us |
| MARK TALLMAN PACIFICORP 825 MULTNOMAH STE 800 PORTLAND OR 97232-2153 mark.tallman@pacificorp.com | S BRADLEY VAN CLEVE -- CONFIDENTIAL DAVISON VAN CLEVE PC 333 SW TAYLOR, STE 400 PORTLAND OR 97204 mail@dvclaw.com |
| LINDA K WILLIAMS KAFOURY & MCDUGAL 10266 SW LANCASTER RD PORTLAND OR 97219-6305 linda@lindawilliams.net | BRUCE A WITTMANN WEYERHAEUSER MAILSTOP: CH 1K32 PO BOX 9777 FEDERAL WAY WA 98063-9777 bruce.wittmann@weyerhaeuser.com |
| PAUL WOODIN WESTERN WIND POWER 282 LARGENT LN GOLDENDALE WA 98620-3519 pwoodin@gorge.net | PGE- OPUC FILINGS RATES & REGULATORY AFFAIRS PORTLAND GENERAL ELECTRIC COMPANY 121 SW SALMON STREET, 1WTC0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com |

Neoma Lane
Neoma Lane
Legal Secretary
Department of Justice
Regulated Utility & Business Section