

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER THE PUBLIC UTILITY)	
COMMISSION OF OREGON)	CASE NO. UM 1610
Investigation Into Qualifying Facility)	
Contracting and Pricing)	SUPPLEMENTAL ISSUE LIST OF
_____)	COMMUNITY RENEWABLE ENERGY
	ASSOCIATION

Pursuant to the procedural schedule in this docket, the Community Renewable Energy Association (“CREA”) hereby respectfully submits its Supplemental Issue List to the Public Utility Commission of Oregon (“Commission” or “OPUC”). CREA appreciates the opportunity to propose its Supplemental Issue List in the Commission’s investigation into qualifying facility (“QF”) rates and contracts.

BACKGROUND

Administrative Law Judge Grant held a prehearing conference on July 10, 2012, and in a Ruling on that date (the “July 10th Ruling”) adopted the parties’ proposed schedule to identify issues in this proceeding. In the July 10th Ruling, Judge Grant instructed parties as follows:

With each proposed issue, parties should provide (1) a concrete problem statement that clearly identifies the policy issue to be addressed; (2) whether the issue is currently being addressed in another docket; and (3) an explanation of the significance of the issue and why the Commission should address the issue in this proceeding.

Subsequently, on August 24, 2012, Judge Grant approved the parties’ modified schedule, wherein Staff would file a Consensus Issues List on October 3, 2012, and other parties would file their respective issues lists for issues not agreed-to by all parties on that same date.

The parties held a workshop on September 19, 2012, to develop the Consensus Issues

List. Subsequently, on September 27, 2012, Staff circulated its final Consensus Issues List to the parties, and suggested that parties file any clarifications in redline/strikeout version. CREA has attached its Supplemental Issue List in redline/strikeout format. Additionally, consistent with Judge Grant's instruction in the July 10th Ruling, CREA provides a description and justification for including CREA's proposed supplemental issue.

DISCUSSION OF SUPPLEMENTAL ISSUE

CREA's supplemental issue was included in an earlier list circulated among the parties, but was either omitted or intended to be included within another issue on Staff's Consensus Issue List. CREA proposes the express inclusion of the issue set forth below to remove any ambiguity regarding its inclusion in this docket.

(1) A concrete problem statement that clearly identifies the policy issue to be addressed.

The concrete problem statement is that the proper procedure for approving standard contracts is currently unclear. Additionally, two Oregon utilities filed proposed standard contracts several months ago, and to date there has been no opportunity for stakeholder input into those proposed standard contract terms.

CREA's supplemental issue is as follows:

What is the appropriate process for updating standard form contracts, and should the utilities' recently filed standard form contracts be amended by edits from stakeholders or the Commission?

(2) Whether the issue is currently being addressed in another docket.

The legal significance of a standard contract is at issue in the complaint proceeding filed by PaTu Wind Farm, LLC (UM 1566). However, CREA is not aware of any other docket wherein the Commission is addressing the generic issue of the proper process for the Commission to review and approve the utilities' proposed standard contracts. PacifiCorp and

Portland General Electric Company (“PGE”) filed proposed standard contracts in UM 1396 several months ago.

(3) An explanation of the significance of the issue and why the Commission should address the issue in this proceeding.

In UM 1129, the Commission required utilities to file standard contracts available to small QFs with terms consistent with the Commission’s policies. *See* Order No. 05-584 at 41-42. The Commission stated that the utilities’ filed standard contract forms would be subject to the same suspension and approval process as tariffs. *Id.* However, the Commission has subsequently indicated that the tariff filing provisions of Oregon law do not govern utilities’ proposed changes to QF rates and standard terms. *See* Order Nos. 09-427, 12-026, 12-032.

The process to review and approve standard contracts is important because unreasonable terms in a standard contract would frustrate small QFs’ ability to utilize standard rates. The Commission has recently stated that standard contracts are non-negotiable once they are approved by the Commission. *See PaTu Wind Farm, LLC v. Portland General Electric Co.*, OPUC Docket No. UM 1566, Order No. 12-316, 5-6 (2012). The Commission stated that a QF that disagrees with a substantive term in a standard contract must negotiate a non-standard contract. *Id.* Generally speaking, negotiating a non-standard contract includes negotiating non-standard rates. If agreeing to the terms of a standard contract is a prerequisite to obtaining standard rates, the Commission should ensure standard contracts contain no unfair terms. *See* 18 C.F.R. § 292.304(c) (requiring standard rates be available to small QFs).

As noted above, there are also currently proposed standard contracts that have not been commented upon by stakeholders or approved by the Commission. *See PacifiCorp’s Application*, OPUC Docket No. UM 1396 (February 13, 2012) (containing PacifiCorp’s

proposed standard contract for renewable avoided cost rates); *Portland General Electric Co.'s Application*, OPUC Docket No. UM 1396 (March 16, 2012) (containing PGE's proposed revisions to all of its standard contracts). CREA understands that the parties to this docket agreed to let the proposed renewable rates and renewable standard contracts filed in UM 1396 go into effect provisionally until any disputed issues are addressed in this proceeding.

CREA therefore proposes that this docket include an issue to address the procedures surrounding standard contract filings, and the terms in the recent standard contract filings.

CONCLUSION

CREA respectfully requests that its supplemental issue be included for investigation in this proceeding.

RESPECTFULLY SUBMITTED this 3rd day of October, 2012.

RICHARDSON & O'LEARY PLLC

/s/ Gregory M. Adams

Peter J. Richardson (OSB No. 06668)
Gregory M. Adams (OSB No. 101779)

Attorneys for the Community Renewable
Energy Association

ATTACHMENT NO. 1

CREA'S SUPPLEMENTAL ISSUES LIST

I. Standard Avoided Cost Price Calculation

- A. What is the most appropriate methodology for calculating avoided cost prices?
 - a. Should the Commission retain the current method based on the cost of the next avoidable resource identified in the company's current IRP, allow an "IRP" method based on computerized grid modeling, or some other method?
 - b. Should the methodology be the same for all three electric utilities operating in Oregon?
- B. Should QFs have the option to elect standard or renewable avoided cost prices that are levelized or partially levelized?
- C. Should QFs seeking renewal of a standard contract during a utility's sufficiency period be given an option to receive an avoided cost price for energy delivered during the sufficiency period that is different than the market price?
- D. Should the Commission eliminate unused pricing options? ¹

II. Renewable Avoided Cost Price Calculation

- A. Should there be different avoided cost prices for different renewable generation sources? (e.g. different avoided cost prices for intermittent vs. base load renewables; different avoided cost prices for different technologies, such as solar, wind, geothermal, hydro, and biomass)
- B. How should environmental attributes be defined for purposes of PURPA transactions?²
- C. Should the Commission revise OAR 860-022-0075, which specifies that the non-energy attributes of energy generated by the QF remain with the QF unless different treatment is specified by contract?

III. Schedule for Avoided Cost Price Updates

- A. Should the Commission revise the current schedule of updates at least every two years and within 30 days of each IRP acknowledgement?
- B. Should the Commission specify criteria to determine whether and when mid-cycle updates are appropriate?
- C. Should the Commission specify what factors can be updated in mid-cycle (e.g. factors including but not limited to gas price or status of production tax credit)
- D. To what extent (if any) can data from IRPs that are in late stages of review and whose acknowledgement is pending be factored into the calculation of avoided cost prices?

¹ Parties at the September 19th workshop identified this issue as one that can likely be settled.

² Parties at the September 19th workshop identified this issue as one that can likely be settled.

- E. Are there circumstances under which the Renewable Portfolio Implementation Plan should be used in lieu of the acknowledged IRP for purposes of determining renewable resource sufficiency?

IV. Price Adjustments for Specific QF Characteristics

- A. Should the costs associated with integration of intermittent resources (both avoided and incurred) be included in the calculation of avoided cost prices or otherwise be accounted for in the standard contract? If so, what is the appropriate methodology?
- B. Should the costs or benefits associated with third party transmission be included in the calculation of avoided cost prices or otherwise accounted for in the standard contract?
- C. How should the seven factors of 18 CFR 292.304(e)(2) be taken into account?³

V. Eligibility Issues⁴

- A. Should the Commission change the 10 MW cap for the standard contract?
- B. What should be the criteria to determine whether a QF is a “single QF” for purposes of eligibility for the standard contract?
- C. Should the resource technology affect the size of the cap for the standard contract cap or the criteria for determining whether a QF is a “single QF”?
- D. Can a QF receive Oregon’s Renewable avoided cost price if the QF owner will sell the RECs in another state?

VI. Contracting Issues

- A. Should the standard contracting process, steps and timelines be revised? (Possible revisions include but are not limited to: when an existing QF can enter into a new PPA and the inclusion of conditions precedent to the PPA including conditions requiring a specific interconnection agreement status.)
- B. When is there a legally enforceable obligation?
- C. What is the maximum time allowed between contract execution and power delivery?

³ The seven factors are (i) ability of the utility to dispatch the QF; (ii) reliability of the QF; (iii) terms of the contract or legally enforceable obligation, termination notice requirement and sanctions for non-compliance; (iv) extent to which scheduled outages of the QF can be usefully coordinated with those of the utility’s facilities; (v) usefulness of energy and capacity from the QF during system emergencies including its ability to separate its load from its generation; (vi) individual and aggregate value of energy and capacity from QFs on the utility system and (vii) smaller capacity increments and shorter lead times available with additions of capacity from QFs.

⁴ Regarding the issue of ETO funding of QFs, ALJ Grant’s letter to Margie Harris of September 13, 2012 includes the Commission’s direction to staff to continue working with the ETO on incentive policies.

- D. Should QFs <10 MW have access to the same dispute resolution process as those > 10 MW?
- E. How should contracts address mechanical availability?
- F. Should off-system QFs be entitled to deliver under any form of firm point to point transmission that the third party transmission provider offers? If not, what type of method of delivery is required or permissible? How does method of delivery affect pricing?
- G. What terms should address security and liquidated damages?
- H. May utilities curtail QF generation based on reliability and operational considerations, as described at 18 CFR 292.304(f)(1)? If so, when?
- I. What is the appropriate contract term? What is the appropriate duration for the fixed price portion of the contract?
- I.J. What is the appropriate process for updating standard form contracts, and should the utilities' recently filed standard form contracts be amended by edits from stakeholders or the Commission?

VII. Interconnection Process

- A. Should there be changes to the interconnection rules, policies or practices to facilitate the timely execution of PPAs under PURPA and a more expeditious process for constructing a QF and bringing it on line?
- B. Should the interconnection process allow, at QFs request or upon certain conditions, third-party contractors to perform certain functions in the interconnection review process that are currently performed by the utility?

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of October, 2012, a true and correct copy of the within and foregoing **SUPPLEMENTAL ISSUE LIST** was served as shown to:

ADAM BLESS
PUBLIC UTILITY COMMISSION OF
OREGON
PO BOX 2148
SALEM OR 97308-2148
adam.bless@state.or.us

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

RANDY DAHLGREN
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST – 1WTC0702
PORTLAND OR 97204
pge.opuc.filings@pgn.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

J RICHARD GEORGE
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST – 1WTC1301
PORTLAND OR 97204
richard.george@pgn.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

JOHN W STEPHENS
ESLER STEPHENS & BUCKLEY
888 SW FIFTH AVE STE 700
PORTLAND OR 97204-2021
stephens@eslerstephens.com
mec@eslerstephens.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

DONOVAN E WALKER
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
dwalker@idahopower.com
dockets@idahopower.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

LISA F RACKNER
MCDOWELL RICKNER & GIBSON PC
419 SW 11th AVE STE 400
PORLTNAD OR 97205
dockets@mcd-law.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

MEGAN WALSETH DECKER
RENEWABLE NORTHWEST PROJECT
421 SW 6TH AVE STE 1125
PORTLAND OR 97204-1629
megan@rnp.org
dockets@rnp.org

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

STEPHANIE S ANDRUS
PUC STAFF – DEPARTMENT OF JUSTICE
BUSINESS ACIVITIES SECTION
1162 COURT ST NE
SALEM OR 97301-4096
stephanie.andrus@state.or.us

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

THOMAS H NELSON
PO BOX 1211
WELCHES OR 97067-1211
nelson@thnelson.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

VIJAY A SATYAL
RENEE M FRANCE
MATT KRUMENAUER
OREGON DEPARTMENT OF ENERGY
1162 COURT ST NE
SALEM OR 97301-4096
vijay.a.satyal@state.or.us
renee.m.france@state.or.us
matt.krumenauer@state.or.us

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

R BRYCE DALLEY
PACIFIC POWER
825 NE MULTNOMAH ST STE 2000
PORTLAND OR 9732
bryce.dalley@pacificorp.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

MARY WIENCKE
825 NE MULTNOMAH ST STE 1800
PORTLAND OR 97232-2149
mary.wiencke@pacificorp.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

PACIFICORP dba PACIFIC POWER
825 NE MULTNOMAH ST STE 2000
PORTLAND OR 97232
oregondockets@pacificorp.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

JOHN LOWE
RENEWABLE ENERGY COALITION
12050 SW TREMONT ST
PORTLAND OR 97225-5430
jravenesanmarcos@yahoo.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

DIANE HENKELS
ATTORNEY AT LAW
6228 SW HOOD
PORTLAND OR 97239
dhenkels@actionnet.net

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

IRION A SANGER
S BRADLEY VAN CLEVE
DAVISON VAN CLEVE PC
333 SW TAYLOR – STE 400
PORTLAND OR 97204
ias@dvclaw.com
bvc@dvclaw.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

BILL EDDIE
ONE ENERGY RENEWABLES
206 NE 28TH AVE
PORTLAND OR 97232
bill@oneenergyrenewables.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

GLENN MONTGOMERY
OREGON SOLAR ENERGY INDUSTRIES
ASSOCIATION
PO BOX 14927
PORTLAND OR 97293
glenn@oseia.org

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

KATHLEEN NEWMAN
OREGONIANS FOR RENEWABLE
ENERGY POLICY
1553 NE GREENSWORD DR
HILLSBORO OR 97214
kathleenopl@frontier.com
k.a.newman@frontier.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

MARK PETE PENGILLY
OREGONIANS FOR RENEWABLE
ENERGY POLICY
PO BOX 10221
PORTLAND OR 97296
mpengilly@gmail.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

By: */s/ Gregory M. Adams*

Gregory M. Adams