



**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

February 6, 2006

VIA ELECTRONIC MAIL AND HAND DELIVERY

Public Utility Commission of Oregon  
Attention: Filing Center  
550 Capitol Street NE, #215  
P.O. Box 2148  
Salem, OR 97308-2148  
[Puc.filingcenter@state.or.us](mailto:Puc.filingcenter@state.or.us)

Re: *In the Matter of Public Utility Commission of Oregon Staff's Investigation Relating to Electric Utility Purchases from Qualifying Facilities*  
OPUC Docket No. UM 1129  
DOJ File No. 330-020-GN0041-04

Enclosed for filing are originals and five copies of Oregon Department of Energy's Motion to Admit Partial Stipulation, Partial Stipulation with attachment, and certificate of service in the above-captioned matter.

Sincerely,

/s/ Janet L. Prewitt

Janet L. Prewitt  
Assistant Attorney General  
Natural Resources Section

Enclosures

c: Phil Carver, ODOE (email only)  
Jeff Keto, ODOE (email only)  
UM 1129 Service List

JLP:jrs/GENP1683

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 1129**

In the Matter of the  
  
PUBLIC UTILITY COMMISSION OF  
OREGON  
  
Staff's Investigation Relating to Electric  
Utility Purchases from Qualifying Facilities

**OREGON DEPARTMENT OF  
ENERGY'S MOTION TO ADMIT  
PARTIAL STIPULATION**

The Oregon Department of Energy ("ODOE") moves to admit the Partial Stipulation resolving Issue Number 4 in the Issues List for Track I, as set forth in Appendix A of the Correct Ruling issued herein on November 29 2005.

Current parties to this stipulation are Idaho Power Company ("Idaho Power"), PacifiCorp, Portland General Electric, the Staff of the Public Utility Commission of Oregon ("Staff"), Sherman Count/J.R. Simplot ("Sherman County/Simplot"), and ODOE. Industrial Customer of Northwest Utilities ("ICNU") has indicated that it neither opposes nor supports the stipulation. The partial stipulation is available to any other parties to the docket, who may participate by signing and filing a copy of the Partial Stipulation.

///  
///  
///  
///  
///  
///

This stipulation is supported by the Rebuttal Testimony of Carel Dewinkel, ODOE Exhibit No. 8 and the statement made during the cross examination on February 2, 2006 by Staff witness Lisa Schwartz.

Dated this 6<sup>th</sup> day of February, 2006.

Respectfully submitted,

HARDY MYERS  
Attorney General

*/s/ Janet L. Prewitt*

---

Janet L. Prewitt, #85307  
Assistant Attorney Generals  
Of Attorneys for Oregon  
Department of Energy

## CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of February, 2006, I served the foregoing MOTION TO ADMIT PARTIAL STIPULATION and PARTIAL STIPULATION upon the persons named on the attached UM 1129 service list by electronic mail and by mailing a full, true and correct copy thereof addressed to the persons at the addresses on the UM 1129 service list (with the exception of those parties who have waived paper service).

Dated: February 6, 2006

*/s/ Janet L. Prewitt*

---

Janet L. Prewitt, #85307  
Assistant Attorney General

UM 1129 SERVICE LIST

<p>SARAH J ADAMS LIEN  STOEL RIVES LLP  900 SW FIFTH AVE - STE 2600  PORTLAND OR 97204-1268  sjadamslien@stoel.com</p>	<p>MARK ALBERT  VULCAN POWER COMPANY  1183 NW WALL ST STE G  BEND OR 97701  malbert@vulcanpower.com</p>
<p>RANDY ALLPHIN  IDAHO POWER COMPANY  PO BOX 70  BOISE ID 83707-0070  rallphin@idahopower.com</p>	<p>MICK BARANKO  DOUGLAS COUNTY FOREST PRODUCTS  PO BOX 848  WINCHESTER OR 97495  mick@dcpf.com</p>
<p>R THOMAS BEACH -- <b>CONFIDENTIAL</b>  CROSSBORDER ENERGY  2560 NINTH ST - STE 316  BERKELEY CA 94710  tomb@crossborderenergy.com</p>	<p>LAURA BEANE  PACIFICORP  825 MULTNOMAH STE 800  PORTLAND OR 97232-2153  laura.beane@pacificorp.com</p>
<p>KARL BOKENKAMP  IDAHO POWER COMPANY  PO BOX 70  BOISE ID 83707-0070  kbokenkamp@idahopower.com</p>	<p>LOWREY R BROWN  CITIZENS' UTILITY BOARD OF OREGON  610 SW BROADWAY - STE 308  PORTLAND OR 97205  lowrey@oregoncub.org</p>
<p>JOANNE M BUTLER  IDAHO POWER COMPANY  PO BOX 70  BOISE ID 83707-0070  jbutler@idahopower.com</p>	<p>BRIAN COLE  SYMBIOTICS, LLC  PO BOX 1088  BAKER CITY OR 97814  bc@orbisgroup.org</p>
<p>BRUCE CRAIG  ASCENTERGY CORP  440 BENMAR DR STE 2230  HOUSTON TX 77060  bcraig@asc-co.com</p>	<p>RANDY CROCKET  D R JOHNSON LUMBER COMPANY  PO BOX 66  RIDDLE OR 97469  randyc@drjlumber.com</p>
<p>CHRIS CROWLEY  COLUMBIA ENERGY PARTNERS  100 E 19TH STE 400  VANCOUVER WA 98663  ccrowley@columbiaep.com</p>	<p>DATA REQUEST RESPONSE CENTER  PACIFICORP  825 NE MULTNOMAH - STE 800  PORTLAND OR 97232  datarequest@pacificorp.com</p>
<p>CAREL DE WINKEL  OREGON DEPARTMENT OF ENERGY  625 MARION STREET NE  SALEM OR 97301  carel.dewinkel@state.or.us</p>	<p>CRAIG DEHART  MIDDLEFORK IRRIGATION DISTRICT  PO BOX 291  PARKDALE OR 97041  mfidcraig@hoodriverelectric.net</p>

<p>ELIZABETH DICKSON HURLEY, LYNCH &amp; RE, PC 747 SW MILLVIEW WAY BEND OR 97702 eadickson@hlr-law.com</p>	<p>JASON EISDORFER CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org</p>
<p>JOHN M ERIKSSON STOEL RIVES LLP 900 SW FIFTH AVE - STE 2600 PORTLAND OR 97204-1268 jmeriksson@stoel.com</p>	<p>RANDALL J FALKENBERG -- <b>CONFIDENTIAL</b> RFI CONSULTING INC PMB 362 8351 ROSWELL RD ATLANTA GA 30350 consultrfi@aol.com</p>
<p>JOHN R GALE IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 rgale@idahopower.com</p>	<p>J RICHARD GEORGE -- <b>CONFIDENTIAL</b> PORTLAND GENERAL ELECTRIC COMPANY 121 SW SALMON ST PORTLAND OR 97204 richard.george@pgn.com</p>
<p>THOMAS M GRIM CABLE HUSTON BENEDICT ET AL 1001 SW FIFTH AVE STE 2000 PORTLAND OR 97204-1136 tgrim@chbh.com</p>	<p>DAVID HAWK J R SIMPLOT COMPANY PO BOX 27 BOISE ID 83707 david.hawk@simplot.com</p>
<p>STEVEN C JOHNSON CENTRAL OREGON IRRIGATION DISTRICT 2598 NORTH HIGHWAY 97 REDMOND OR 97756 stevej@coid.org</p>	<p>BARTON L KLINE IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 bkline@idahopower.com</p>
<p>ALAN MEYER -- <b>CONFIDENTIAL</b> WEYERHAEUSER COMPANY 698 12TH ST - STE 220 SALEM OR 97301-4010 alan.meyer@weyerhaeuser.com</p>	<p>MONICA B MOEN IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 mmoen@idahopower.com</p>
<p>THOMAS H NELSON THOMAS H NELSON &amp; ASSOCIATES 825 NE MULTNOMAH STE 925 PORTLAND OR 97232 nelson@thnelson.com</p>	<p>LISA F RACKNER ATER WYNNE LLP 222 SW COLUMBIA ST STE 1800 PORTLAND OR 97201-6618 lfr@aterwynne.com</p>
<p>PGE-OPUC FILINGS RATES &amp; REGULATORY AFFAIRS PORTLAND GENERAL ELECTRIC COMPANY 121 SW SALMON ST 1WTC0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com</p>	<p>DON READING -- <b>CONFIDENTIAL</b> BEN JOHNSON ASSOCIATES 6070 HILL ROAD BOISE ID 83703 dreading@mindspring.com</p>

<p>PETER J RICHARDSON -- <b>CONFIDENTIAL</b>  RICHARDSON &amp; O'LEARY  PO BOX 7218  BOISE ID 83707  peter@richardsonandoleary.com</p>	<p>IRION SANGER -- <b>CONFIDENTIAL</b>  DAVISON VAN CLEVE  333 SW TAYLOR - STE 400  PORTLAND OR 97204  ias@dvclaw.com</p>
<p>LISA C SCHWARTZ -- <b>CONFIDENTIAL</b>  PUBLIC UTILITY COMMISSION OF  OREGON  PO BOX 2148  SALEM OR 97308-2148  lisa.c.schwartz@state.or.us</p>	<p>MARK TALLMAN  PACIFICORP  825 MULTNOMAH STE 800  PORTLAND OR 97232-2153  mark.tallman@pacificorp.com</p>
<p>S BRADLEY VAN CLEVE --  <b>CONFIDENTIAL</b>  DAVISON VAN CLEVE PC  333 SW TAYLOR - STE 400  PORTLAND OR 97204  mail@dvclaw.com</p>	<p>MICHAEL T WEIRICH -- <b>CONFIDENTIAL</b>  DEPARTMENT OF JUSTICE  REGULATED UTILITY &amp; BUSINESS  SECTION  1162 COURT ST NE  SALEM OR 97301-4096  michael.weirich@state.or.us</p>
<p>LINDA K WILLIAMS  KAFOURY &amp; MCDUGAL  10266 SW LANCASTER RD  PORTLAND OR 97219-6305  linda@lindawilliams.net</p>	<p>PAUL WOODIN  WESTERN WIND POWER  282 LARGENT LN  GOLDENDALE WA 98620-3519  pwoodin@gorge.net</p>
<p>TOM YARBOROUGH  WEYERHAEUSER  MAILSTOP: CH 1K32  PO BOX 9777  FEDERAL WAY WA 98063-9777  bruce.wittmann@weyerhaeuser.com</p>	<p>MICHAEL YOUNGBLOOD  IDAHO POWER COMPANY  PO BOX 70  BOISE ID 83707  <a href="mailto:myoungblood@idahopower.com">myoungblood@idahopower.com</a></p>

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1129

In the Matter of Public Utility Commission  
of Oregon Staff's Investigation Relating to  
Electric Utility Purchases from Qualifying  
Facilities.

**PARTIAL STIPULATION**

This Partial Stipulation is entered into for the purpose of resolving a specific issue identified in this docket and does not address issues other than the specifically identified issue.

**PARTIES**

1. The initial parties to this Partial Stipulation are Idaho Power Company ("Idaho Power"), PacifiCorp, Portland General Electric Company ("PGE"), the Staff of the Public Utility Commission of Oregon ("Staff"), Sherman County Court/J.R. Simplot ("Sherman County/Simplot"), and the Oregon Department of Energy ("ODOE") (together "the Parties"). This Partial Stipulation will be made available to the other parties to this docket, who may participate by signing and filing a copy of this Partial Stipulation.

**BACKGROUND**

2. On May 13, 2005, the Commission issued Order No. 05-584 in this Docket which specified terms and conditions to be included in standard QF contracts. The order also indicated that a second phase of Docket No. UM 1129 would be opened to address issues that required further evidentiary development.

3. Each of the electric utilities filed avoided costs, revised tariffs and new standard QF contracts on July 12, 2005. On August 2, 2005, the Commission allowed the filings to go into effect, but ordered that an investigation of the filings be undertaken.



4. Phase II of this Docket was divided into tracks, with one track addressing compliance issues and another addressing the issues the Commission identified in Order No. 05-584 to be further investigated. Following the parties' development of proposed issues lists and the filing of comments, a Corrected Ruling was issued November 29, 2005, adopting an Issues List for Track I, as set forth in Appendix A of the Corrected Ruling, and an Issues List for Track II, as set forth in Appendix B of the Corrected Ruling.

5. Issue number 4 in Appendix A ("Issue 4") states:

"Should the Commission adopt criteria for determining whether multiple energy projects are in fact a single Qualifying Facility to protect the intent of Order No. 05-584, which directs that only projects 10 MW and smaller are eligible for standard avoided cost rates and a standard contract? For example, if a 60 MW wind farm is divided into six 10 MW installments in close proximity to one another, all built in the same calendar year, and with underlying ownership structures containing similar persons or entities, should each installment be eligible for standard rates and standard contracts? What criteria determine when a Qualifying Facility is 10 MW or less and eligible for the standard contract when the project/site has multiple generating units?"

6. Pursuant to Administrative Law Judge Kirkpatrick's August 23, 2005 Prehearing Conference Memorandum, a settlement conference on UM 1129 issues was held on November 1, and an additional settlement conference was held on December 13, 2005. The settlement conferences were open to all parties.

7. As a result of the settlement conferences, the Parties have reached agreement on the matters set forth below. The Parties submit this Partial Stipulation to the Commission and request that the Commission approve the settlement as presented.

## **AGREEMENT**

8. The Parties agree that the definitions and terms set forth in Exhibit A, attached hereto and incorporated herein, are fair and reasonable and should be adopted by the Commission as a resolution to Issue 4.

9. The Parties agree that this Partial Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation of this Partial Stipulation shall not be admissible as evidence in this or any other proceeding.

10. This Partial Stipulation will be offered into the record of this proceeding as evidence pursuant to OAR 860-14-0085. The Parties agree to support this Partial Stipulation throughout this proceeding and any appeal, provide witnesses to sponsor this Partial Stipulation at the hearing and recommend that the Commission issue an order adopting the settlements contained herein.

11. The Parties agree that they will continue to support the Commission's adoption of the terms of this Partial Stipulation. If this Partial Stipulation is challenged by any other party to this proceeding, the Parties agree to cooperate in cross-examination and put on such a case as they deem appropriate to respond fully to the issues presented, which may include raising issues that are incorporated in the settlements embodied in this Partial Stipulation.

12. The Parties have negotiated this Partial Stipulation as an integrated document. If the Commission rejects all or any material portion of this Partial Stipulation or imposes additional material conditions in approving this Partial Stipulation, any party disadvantaged by such action shall have the rights provided in OAR 860-014-0085 and shall be entitled to seek reconsideration or appeal of the Commission's Order.

13. By entering into this Partial Stipulation, no party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed by any other party in arriving at the terms of this Partial Stipulation, other than those specifically identified in the body of this Partial Stipulation, including Exhibit A. No party shall be deemed to have agreed that any provision of this Partial Stipulation is appropriate for resolving issues in any other proceeding, except as previously identified in Paragraph 8 of the Partial Stipulation.

14. This Partial Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Partial Stipulation is entered into by each party on the date entered below such party's signature.

*Signatures follow on next page*

IDAHO POWER COMPANY

By: BT/Ch

Date: January 19, 2006

STAFF

By: \_\_\_\_\_

Date: \_\_\_\_\_

PACIFICORP

By: \_\_\_\_\_

Date: \_\_\_\_\_

ODOE

By: \_\_\_\_\_

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

By: \_\_\_\_\_

Date: \_\_\_\_\_

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

Date: \_\_\_\_\_

IDAHO POWER COMPANY

STAFF

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: *John Blasen*

By: \_\_\_\_\_

Date: 1-18-06

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

IDAHO POWER COMPANY

By: *[Signature]*  
Date: January 19, 2006

PACIFICORP

By: \_\_\_\_\_  
Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

By: \_\_\_\_\_  
Date: \_\_\_\_\_

STAFF

By: \_\_\_\_\_  
Date: \_\_\_\_\_

ODOE

By: *Janet L. Lewitt*  
Date: January 31, 2006

SHERMAN COUNTY/SIMPLLOT

By: \_\_\_\_\_  
Date: \_\_\_\_\_

IDAHO POWER COMPANY

By: BT

Date: January 19, 2006

STAFF

By: Mike

Date: 1/26/06

PACIFICORP

By: \_\_\_\_\_

Date: \_\_\_\_\_

ODOE

By: \_\_\_\_\_

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

By: \_\_\_\_\_

Date: \_\_\_\_\_

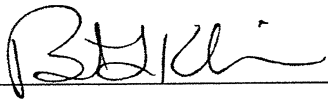
SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

Date: \_\_\_\_\_

IDAHO POWER COMPANY

STAFF

By: 

By: \_\_\_\_\_

Date: January 19, 2006

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: \_\_\_\_\_

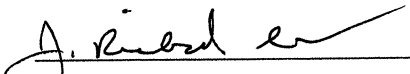
By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: 

By: \_\_\_\_\_

Date: 1/31/06

Date: \_\_\_\_\_



IDAHO POWER COMPANY

STAFF

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: *John Blinn*

By: \_\_\_\_\_

Date: 1-18-06

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

By: *Pete Dehaer*

Date: \_\_\_\_\_

Date: 2/2/05

**EXHIBIT “A”  
TO PARTIAL STIPULATION**

**Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Rates and Standard Contract:**

A Qualifying Facility (either a small power production facility or a cogeneration facility) (“QF”) will be eligible to receive the standard rates and standard contract if the nameplate capacity of the QF, together with any other electric generating facility using the same motive force, owned or controlled by the same person(s) or affiliated person(s), and located at the same site, does not exceed 10 MW.

**Definition of Person(s) or Affiliated Person(s):**

As used above, the term “same person(s)” or “affiliated person(s)” means a natural person or persons or any legal entity or entities sharing common ownership, management or acting jointly or in concert with or exercising influence over the policies or actions of another person or entity. However, two facilities will not be held to be owned or controlled by the same person(s) or affiliated person(s) solely because they are developed by a single entity. Furthermore, two facilities will not be held to be owned or controlled by the same person(s) or affiliated person(s) if such common person or persons is a “passive investor” whose ownership interest in the QF is primarily related to utilizing production tax credits, green tag values and MACRS depreciation as the primary ownership benefit. A unit of Oregon local government may also be a “passive investor” if the local governmental unit demonstrates that it will not have an equity ownership interest in or exercise any control over the management of the QF and that its only interest is a share of the cash flow from the QF, which share will not exceed 20%. The 20% cash flow share limit may only be exceeded for good cause shown and only with the prior approval of the Commission.

**Definition of Same Site:**

For purposes of the foregoing, generating facilities are considered to be located at the same site as the QF for which qualification for the standard rates and standard contract is sought if they are located within a five-mile radius of any generating facilities or equipment providing fuel or motive force associated with the QF for which qualification for the standard rates and standard contract is sought.

**Shared Interconnection and Infrastructure:**

QFs otherwise meeting the above-described separate ownership test and thereby qualified for entitlement to the standard rates and standard contract will not be disqualified by utilizing an interconnection or other infrastructure not providing motive force or fuel that is shared with other QFs qualifying for the standard rates and standard

**EXHIBIT "A"**  
**TO PARTIAL STIPULATION**

contract so long as the use of the shared interconnection complies with the interconnecting utility's safety and reliability standards, interconnection contract requirements and Prudent Electrical Practices as that term is defined in the interconnecting utility's approved standard contract.

**Dispute Resolution:**

Upon request, the QF will provide the purchasing utility with documentation verifying the ownership, management and financial structure of the QF in reasonably sufficient detail to allow the utility to make an initial determination of whether or not the QF meets the above-described criteria for entitlement to the standard rates and standard contract. Any dispute concerning a QF's entitlement to the standard rates and standard contract shall be presented to the Commission for resolution.

**Standard Contract Provision**

To insure continued compliance with the requirements stated above, the standard contracts shall contain a representation in substantially the following form: "Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the *Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Rates and Standard Contract* approved by the Commission at the time this Agreement is executed. Seller will provide, upon request by Buyer not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller's continued compliance with such Definition. Buyer agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except Buyer will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission's request."