

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **UM 1610**

4 In the Matter of the Public Utility Commission
5 of Oregon

6 INVESTIGATION INTO QUALIFYING
7 FACILITY CONTRACTING AND PRICING

MOTION TO ADMIT STIPULATIONS and
MOTION FOR EXTENSION OF TIME TO
FILE SUPPORTING BRIEFS

8
9 Staff of the Public Utility Commission of Oregon (Staff) asks the Administrative Law Judges
10 (ALJs) to admit the attached Stipulation and Stipulation re: Issues List into Docket No. UM
11 1610. Staff also asks the ALJs to give Staff and the other stipulating parties one week, until
12 February 26, 2015, to finalize and file the briefs in support of these stipulations and to establish
13 March 6, 2015, fifteen days from today, as the date to respond to the stipulations. Staff is aware
14 of no party that objects to this motion.

15 OAR 860-001-0350(7)(a) specifies that an explanatory brief or written testimony in support
16 of the stipulation must be filed with a stipulation unless waived by the Commission or ALJ.
17 Staff asks that the ALJs waive this rule to allow Staff to file the supporting briefs in one week,
18 rather than with the stipulations.

19 Finally, OAR 860-001-0350(8) provides that parties may file written objections to a
20 stipulation within 15 days unless another time is set by the Commission or ALJ. Staff asks that
21 the ALJs make objections to the stipulations due 15 days from the date the stipulations are filed,
22 rather than 15 days from the date the briefs are filed.

23 **I. Background**

24 The Commission opened this investigation into qualifying facility (QF) pricing and
25 contracting in June 2012, and subsequently divided the docket into two phases. The Commission
26 issued an order in February 2014 resolving many of the issues litigated in Phase I and deferring

1 issued an order in February 2014 resolving many of the issues litigated in Phase I and deferring
2 consideration of four issues to Phase II. On September 29, 2014, Administrative Law Judges
3 (ALJs) Kirkpatrick and Pines issued a memorandum establishing the procedural schedule for
4 Phase II of Docket No. UM 1610, which included a December 5, 2014 due date for proposed
5 issues. On December 4, 2014, ALJ Pines granted Staff's request for additional time to finalize
6 and file stipulations among several parties addressing the Phase II Issues List and some
7 substantive issues. ALJ Pines granted Staff's January 12, 2015 request for another extension of
8 the time in which to submit the stipulations and to suspend the remainder of the procedural
9 schedule. Under ALJ Pines' January 12, 2015 ruling, parties had until February 17, 2015, to
10 submit their stipulations to ask the ALJs to add issues to the Phase II Issues list. Staff asked for
11 an additional one-day extension of this date on February 17, 2015, and another one-day
12 extension on February 18, 2015.

13 The Stipulating Parties met on October 14 and 28, November 18, 2014, and February 5,
14 2015, to determine whether they could agree on what issues should be considered in Phase II and
15 whether they could agree on the merits of any of these issues.

16 **II. Stipulations**

17 The first stipulation, the Stipulation re: Issues List, is an agreement to ask the Commission to
18 consider five additional contested issues in Phase II. The second, the Stipulation, is an
19 agreement to a number of substantive issues. The parties to the stipulations are Staff of the
20 Public Utility Commission of Oregon (Staff), Portland General Electric Company (PGE),
21 PacifiCorp, Idaho Power Company (Idaho Power), One Energy, Inc., Obsidian Renewables LLC
22 (Obsidian), the Community Renewable Energy Association (CREA), the Renewable Energy
23 Coalition (REC), and the Oregon Department of Energy (ODOE), and Small Business Utility
24 Advocates (SBUA).¹

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26 ¹ SBUA did not enter into the substantive Stipulation. SBUA does not intend to object to this Stipulation, however.

1 As noted above, the Commission has deferred consideration of four substantive issues to
2 Phase II. The Stipulating Parties have agreed to the resolution of one of these issues – how to
3 calculate damages for failure to meet the Minimum Availability Guarantee (MAG) and whether
4 utilities can terminate for consecutive failure to meet the MAG. Accordingly, if the Commission
5 approves both the Stipulation re: Issues List and the substantive Stipulation, the Phase II Issues
6 List will be composed of eight issues, three previously-ordered by the Commission and five
7 agreed to by the Stipulating Parties.

8 The Stipulating Parties have agreed to ask the Commission to approve both the Stipulation
9 re: Issues List and the Stipulation prior to the time parties file their first round of testimony in
10 Phase II of this docket. The Stipulating Parties include the substantive Stipulation in this
11 request so that in the event the Commission disapproves of the Stipulation, parties will have the
12 opportunity to ask the ALJs to add any previously-resolved issues from the substantive
13 Stipulation to the Phase II Issues List.

14 **III. Request**

15 On behalf of the Stipulating Parties, Staff asks the ALJs to admit the Stipulation re: Issues
16 List and the Stipulation into the record.

17 Staff also asks for an extension of one week, to February 26, to finalize and file briefs in
18 support of the stipulations. OAR 860-001-0350(7)(a) requires that briefs or testimony be filed
19 with a stipulation. Staff asks for waiver of this rule.

20 Finally, Staff asks that objections to the Stipulations be due 15 days from the date the
21 Stipulations are filed, rather than from the date the briefs are filed OAR 860-001-0350(8)
22 specifies that parties will have 15 days to file an objection to a stipulation. Staff is not aware of
23 any party that intends to object to either stipulation.

24 **IV. Conclusion**

25 Staff asks that the ALJs (1) admit the Stipulation re: Issues List and Stipulation into the
26 record, (2) waive the requirement of OAR 860-001-0350(7)(a) that supporting briefs or

1 testimony be filed with the stipulation and allow the supporting briefs to be filed on February 26,
2 2015, and (3) require that responses to the stipulations be filed on March 6, 2015, which is 15
3 days after the filing date of the stipulations.

4 DATED this 19th day of February 2015.

5 Respectfully submitted,

6
7 ELLEN F. ROSENBLUM
8 Attorney General

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10 Stephanie S. Andrus, #925123
11 Senior Assistant Attorney General
12 Of Attorneys for Staff of the Public Utility
13 Commission of Oregon
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