

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1610

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF OREGON)	RENEWABLE ENERGY COALITION’S MOTION TO COMPEL DISCOVERY PHASE II – LOAD POCKETS
)	
Investigation Into Qualifying Facility Contracting and Pricing.)	
)	
_____)	

I. INTRODUCTION

The Renewable Energy Coalition (“REC”) files this motion to compel discovery, requesting that the Oregon Public Utility Commission (the “Commission” or “OPUC”) Administrative Law Judge (“ALJ”) Traci A. G. Kirkpatrick require PacifiCorp to provide full and complete answers to REC’s discovery requests. PacifiCorp has refused to provide basic information relevant to the key remaining issues regarding how the third party transmission costs incurred moving qualifying facility (“QF”) output from load pockets to load should be calculated and accounted for. This refusal involves REC data requests (“DRs”) 11.1, 11.2, 11.3, 11.7, 11.8, 11.9, 11.12, 12.2, 12.3, and 12.4. Attachment A includes copies of REC’s requests and PacifiCorp’s narrative responses listed above.

Pursuant to OAR §§ 860-001-0420 and 860-001-0500, REC has made a good faith effort to confer and resolve this discovery dispute related to the eleventh set of DRs (due September 2, 2016) and the twelfth set of DRs (due on September 6, 2016). On September 1, 2016, PacifiCorp’s counsel contacted REC’s counsel to discuss REC’s eleventh and twelfth sets of DRs. On September 2, 2016, legal counsel discussed

PacifiCorp's objections to certain DRs. PacifiCorp and REC's legal counsel were unable to resolve their differences. By September 7, 2016, PacifiCorp provided REC all the information that the Company is willing to provide. On September 9, 2016, counsel for REC requested via email that PacifiCorp provide full and complete responses to the above listed DRs or REC would file a motion to compel. A discovery conference is scheduled for September 15, 2016, and REC has filed this Motion now to provide the ALJ with information regarding the dispute and a forum to resolve the issues if a mutually agreed resolution cannot be reached. Attachment B includes copies of electronic communications between counsel attempting to resolve this dispute.

II. BACKGROUND

The Commission has struggled with addressing and resolving the issue of third party transmission costs to move QF output out of load pockets. The Commission was unable to issue a final ruling on this issue in Phase I or the last Phase II order, and has directed the parties to attempt to reach a settlement or agree on further process to resolve the disputes. The parties have not reached a settlement, and have agreed to conduct additional discovery on key issues before recommending what additional process should occur to obtain final resolution of the load pocket disputes.

Phase I addressed how the costs associated with "load pockets" should be accounted for when QF output is received in a geographic area that is surplus to the load, and must be transported by third party transmission to load in another part of a utility's service area.¹ Load pockets are the areas of PacifiCorp's Oregon service territory that are non-contiguous, and interconnected in places by third- party transmission. For **both** QF

¹ Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 21 (Feb. 24, 2014).

and the Company’s own generation resources, third party transmission is often needed to import to, or export from, these load pockets. The Commission concluded in Phase I “that any costs imposed on a utility that are above the utility’s avoided costs must be assigned to the QF in order to comport with PURPA avoided cost principles.”²

The Commission did not resolve all issues in Phase I finding that “the parties did not fully address how to calculate and assign the third-party transmission costs that are attributable to the QF.”³ The Commission deferred this issue to Phase II expecting that parties would make recommendations regarding “how third-party transmission costs to transport QF output from receipt in a load pocket to load should be accounted for in standard contracts”⁴ The Commission suggested that parties could propose that third party transmission costs could be accounted for “by lowering [standard] avoided cost rates, separately in interconnection cost assessments, through an addendum as suggested by Pacific Power, or by some other means.”⁵

Among other things, REC recommended:

- Existing and operating QFs should be grandfathered and should not be responsible for third party transmission costs that they did not cause the utility to incur. Existing QFs already have network resource status and maintain that status when their contracts renew.
- PacifiCorp should be required to provide QFs with all relevant data regarding the availability or lack of availability of transmission on its system. If PacifiCorp merchant or transmission does not have critical data, then the QF should be able to ask or require PacifiCorp to ask for all reasonable third party transmission information.
- PacifiCorp should be required to make every reasonable effort to acquire the lowest cost third party transmission that meets reliability standards.

² Id. at 22.

³ Id. at 22.

⁴ Id. at 22-23.

⁵ Id. at 22.

- QFs should have the option to obtain a fixed price for transmission for part or all of the contract, or pay actual transmission costs as they are incurred.
- QFs should be able to select between a separate contract addendum that includes the costs of third party transmission or a reduction in their avoided cost rates.⁶

The Commission did not resolve the third party transmission issues in Phase II.

The Commission directed “staff and utilities to work with parties to resolve how to assign third party costs” and to recommend a process if the parties could not reach mutual agreement.⁷ The parties agreed that additional discovery would be needed before proposing a process to resolve the load pocket issue.⁸ The parties are required to file a status report by October 12, 2016.⁹

III. LEGAL STANDARD

In a proceeding before the Commission, discovery is a matter of right, and the Commission follows the Oregon court rules of discovery, to the extent not inconsistent with the Commission’s administrative rules.¹⁰ Under the Oregon Rules of Civil Procedure (“ORCP”), a party is entitled to discovery of any document that is relevant to a

⁶ Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, REC Pre-hearing Brief at 23-25 (Sept. 2, 2015).

⁷ Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 16-174 at 30 (May 13, 2016).

⁸ Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Staff Status Report at 2 (Aug. 12, 2016).

⁹ Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Ruling at 1 (Sept. 1, 2016).

¹⁰ OAR § 860-001-0000(1); OAR § 860-001-0500; Re Pacific Power & Light, dba PacifiCorp, Docket No. UE 177, Order No. 08-003 at 2 (2008); Re Portland General Elec. Co., OPUC Docket No. UE 102, Order No. 98-294 at 3 (1998)(“[d]iscovery is a right afforded to parties in a legal proceeding by our rules and by the Oregon Rules of Civil Procedure, which we follow except where our rules differ.”).

claim or defense.¹¹ Specifically, “parties may inquire regarding any matter, not privileged, which is relevant to the claim or defense of the party seeking discovery or to the claim or defense of any other party.”¹² Additionally, although not provided for in the ORCP, the Commission’s rules also provide parties with the right to written interrogatories into potentially relevant matters.¹³ Relevant evidence must: 1) tend to make the existence of any fact at issue in the proceedings more or less probable than it would be without the evidence; and 2) be of the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs.¹⁴

In addition, “[i]t is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to discovery of admissible evidence.”¹⁵ The Oregon courts and the Commission have affirmed that the information sought need not be admissible itself, as long as it is reasonably calculated to lead to the discovery of admissible evidence.¹⁶

A party may move to compel production under ORCP 46 if the opposing party is not responsive to the discovery request. On a motion to compel, “an evasive or incomplete answer is to be treated as a failure to answer.”¹⁷ The Commission expects parties to err “on the side of producing too much information . . . rather than too little.”¹⁸

¹¹ ORCP 36(B).

¹² Id.

¹³ OAR § 860-001-0540(1).

¹⁴ OAR § 860-001-0450.

¹⁵ ORCP 36(B).

¹⁶ Baker v. English, 324 Or. 585, 588 n.3 (1997); Re Portland Extended Area Service Region, OPUC Docket No. UM 261, Order No. 91-958 at 5 (July 31, 1991).

¹⁷ ORCP 46A(3).

¹⁸ Re Portland General Electric Co., Docket No. UE 196, Order No. 09-046 at 8 (Feb. 5, 2009).

IV. ARGUMENT

1. PacifiCorp Should Provide Copies of All Its QF PPAs

REC has requested copies of PacifiCorp's QF PPAs to investigate key issues in this case regarding whether there are other QFs located in load pockets, the type of transmission used to move their power to load, the cost of third party transmission, whether PacifiCorp has the right to curtail QF power, and the impact of any curtailment on the QF's avoided cost rates and transmission rights. These DRs may allow REC to identify the types of transmission used to wheel QF power to load, its costs, and how avoided cost rates can be adjusted to reflect the wheeling arrangements and curtailment rights.

Relevant REC DRs include 11.1, 11.2, and 11.3. REC DR 11.1 requested copies of PacifiCorp's existing and terminated QF PPAs, including associated transmission and other agreements.¹⁹ REC DR 11.2 requested that PacifiCorp identify whether any of the QFs currently or previously under contract were, or are, located in a load pocket, and the contractual arrangements (if any) associated with wheeling the generation out of the load pocket.²⁰ REC DR 11.3 requested that PacifiCorp identify any PacifiCorp rights to curtail the QFs' generation.²¹

PacifiCorp objected to the REC DRs as being overly broad, unduly burdensome, and not reasonably calculated to the discovery of admissible evidence.²² Despite the

¹⁹ Attachment A at 1-3.

²⁰ Id. at 2.

²¹ Id. at 3.

²² Id. at 1-3. PacifiCorp's objection appears to be a stock response that does not reflect any particular DR. For example, PacifiCorp has previously provided REC's counsel with much of the information in response to REC DR 11.1 in a different proceeding. It should not be overly burdensome for PacifiCorp to either

breadth of the Company's objections, PacifiCorp provided very little written explanation regarding the real reasons for why it believes it should not respond. PacifiCorp only provided responses relevant to its Oregon QFs, including some limited documents and a link to the publicly available Commission website with Oregon QF PPAs.²³ While not stated in writing, REC understands that PacifiCorp's position is that only Oregon QFs are relevant because this proceeding is focusing on PacifiCorp's Oregon QFs.

Non-Oregon QF and previously in effect contracts may be relevant to the questions of whether PacifiCorp has load pocket QFs or unusual delivery arrangements in other states, and what transmission arrangements may have been used to wheel their power to the Company's load. While the Commission has ruled that QF parties must be responsible for third party transmission costs, the Commission has not decided **what type** of third party transmission must be purchased and is attributable to the QF.²⁴

PacifiCorp's position in this case is that it must use firm point-to-point transmission to wheel QF power out of a load pocket. In contrast, REC and other QF parties' positions are that PacifiCorp has, can, and should use other lower cost transmission options. If the Company has used other transmission arrangements for non-Oregon QFs under currently effective or previously effective PPAs, then this information is relevant to what transmission options are available to wheel load pocket QF power.

²³ provide the information again, or allow REC's counsel to use the confidential material already in his possession.

²⁴ Id.
UM 1610, Order No. 14-058 at 22-23.

PacifiCorp recently made similar arguments to refuse to provide its QF contracts in other states, which an ALJ rejected.²⁵ PacifiCorp refused to purchase the net output of a QF because the Company alleged that the QF had not obtained the necessary transmission arrangements. Because the QF was located in Oregon, PacifiCorp asserted that non-Oregon QF transmission arrangements were not relevant. The ALJ rejected PacifiCorp's arguments, concluding that the QF "is entitled to investigate whether PacifiCorp has been willing to accept power delivered through displacement with other qualifying facilities, as well as whether the company has agreed to any unique delivery arrangements in its other contracts."²⁶ Similar issues are at play here regarding the manner in which PacifiCorp has accepted delivery of the net output of other QFs that may be located in load pockets, or that may be willing to curtail their net output in lieu of requiring PacifiCorp to purchase firm transmission.

PacifiCorp may assert that it has no load pocket QFs in other states. The parties should have the opportunity to review the veracity of any PacifiCorp claims. Notably, PacifiCorp's responses to REC listing of Oregon QFs that were or are located in a load pocket is missing at least one potential Oregon load pocket QF, which highlights the importance of obtaining all contracts and documents from PacifiCorp to verify the accuracy of any assertions.²⁷

²⁵ Surprise Valley Electrification Corp. v. PacifiCorp dba Pacific Power, Docket No. UM 1742, Ruling at 1-2 (Nov. 19, 2015) (Some of the information provided is confidential, and REC's counsel cannot review it for the purposes of this proceeding.).

²⁶ Docket No. UM 1742, Ruling at 1 (Nov. 19, 2015).

²⁷ PacifiCorp states that Attachment REC 11.1-1 "provides a list of Oregon qualifying facility (QF) projects located in load pockets". Attachment A at 1. See PacifiCorp's Attachment REC 11.1-1. Attachment A at 2. This attachment does not list the EBD Hydro, LLC - Oregon PPA, which includes an Addendum D

PacifiCorp's QF contracts that include the right to curtail QFs' generation are relevant to the issue of what third party transmission should be purchased and how the QF should pay for it. REC and other parties' position is that one option is that, instead of purchasing the most expensive firm third party transmission, PacifiCorp could purchase non-firm transmission for the portion of the power that exceeds load and curtail the QF's power the exceeds load and when the non-firm transmission is not available.²⁸

²⁸ regarding "Load Area Curtailment and Third-Party Transmission". A similar comparison with the Company's claims and its actual QF PPAs cannot be undertaken without a review of the actual PPAs. The EBD PPA is available at: <http://edocs.puc.state.or.us/efdocs/RPA/re142rpa104242.pdf>

This option is consistent with Oregon QF policy. For example, PacifiCorp's standard PPA for off-system QFs does not require the QF to transmit its power to only one expensive option. PacifiCorp Power Purchase Agreement for Firm Off-system QFs 10 MWs and under, Addendum W at 1-3. The QF has the obligation to secure and deliver its net output, but also takes the risk that transmission may be curtailed or otherwise unavailable. *Id.* This option is also consistent with PacifiCorp's historic Oregon practices for moving QF power out of load pockets and REC should be able to review whether there are other examples in other states. Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, PacifiCorp's Opening Testimony, PAC/1000, Griswold/24-28 (May 22, 2015); Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, PacifiCorp's Response Testimony, PAC/1300, Griswold/19 (July 24, 2015) (PacifiCorp using other cost effective transmission options for QFs and not always requiring non-QF resources to purchase long term firm point to point transmission). In addition, PacifiCorp has in fact used or is planning to use some of these options to move QF power out of loads pockets, including short term firm transmission and discounted transmission charges. Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, PacifiCorp's Opening Testimony, PAC/1000, Griswold/24-28 (May 22, 2015); Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, PacifiCorp's Response Testimony, PAC/1300, Griswold/19 (July 24, 2015); Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, ODOE's Testimony, ODOE/800, Broad/16 (May 22, 2015). There also are other options that PacifiCorp could utilize to achieve more efficient and economical third party transmission, including conditional firm products, non-firm transmission, use of facilities agreements, transfer agreements, and the utilization of unused point to point transmission rights on the secondary market. Re Commission Investigation Into Qualifying Facility Contracting and Pricing,

In contrast, PacifiCorp has recently argued that it cannot or has limited legal rights to curtail QF power. REC agrees that there are limitations on the ability of utilities to require a QF selling its power on a firm basis to be curtailed.²⁹ QFs, however, can enter into PPAs that allow curtailment, and in fact the QF power may even be more valuable to the utility if the utility possesses the right to curtail it during times when the utility has little ability to use it.³⁰ The value of QF power can also be adjusted to reflect its “firmness”, which this Commission already accounts for with wind resources that require the utility to incur integration costs.³¹ QFs also have the option to negotiate non-standard contract terms,³² which could form the basis of an option that QFs could use if they do not want to require PacifiCorp to transmit their power through expensive transmission. In the end, there is nothing that prevents the Commission from establishing a separate avoided cost rate or methodology for QFs that are willing to agree to have their power delivered via non-firm transmission or agree to provide PacifiCorp with the right to curtail the QF output. REC should be entitled to investigate what curtailment rights and avoided cost rate reductions PacifiCorp has agreed to with its other QF contracts.

Docket No. UM 1610, CREA’s Opening Testimony, CREA/500, Skeahan/23-24 (May 22, 2015); Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, REC’s Opening Testimony, Coalition/400, Lowe/29 (May 22, 2015); Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, REC’s Response Testimony, Coalition/500, Lowe/18 (July 24, 2015).

²⁹ 18 C.F.R. §§ 292.304(f), 292.307(b); Pioneer Wind Park I, LLC, 145 FERC ¶ 61,215 P. 36 (2013).

³⁰ Idaho Wind Partners 1, LLC, 140 FERC ¶ 61,219 PP. 39-40 (2012); Pioneer Wind Park I, LLC, 145 FERC ¶ 61,215 P. 36 (2013).

³¹ Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 13-14 (Feb. 24, 2014).

³² E.g., Re Commission Staff’s Investigation Relating to Electric Utility Purchases from Qualifying Facilities, Docket No. UM 1129, Order No. 07-360 at 15-29 (Aug. 20, 2007).

This could allow REC to develop evidence to support its arguments regarding how to adjust avoided cost rates to reflect the actual costs of the third party transmission acquired to move the net output to load.

2. PacifiCorp Should Be Required to Provide Information Regarding Third Party Transmission for Non-QF Resources

REC has requested that PacifiCorp provide information regarding the transmission arrangements that it has or may enter into to move its own generation to load, including generation located in load pockets. The third party transmission arrangements and curtailment rights that PacifiCorp uses for its own generation, including that which may be located in a load pocket, could also be used to transmit QF power out of load pocket. PacifiCorp is not permitted to discriminate against QFs by using lower cost transmission for its own resources than for its non-owned generation.

Relevant DRs include 11.7, 11.8, 11.9, 11.12, and 12.2. REC DR 11.7 focused only on the Company’s western control area operations, and requested that PacifiCorp “identify the types of third transmission arrangements the company uses to wheel its own generation to load” and provide specific information regarding the transmission.³³ REC DR 11.8 requested relevant information regarding transmission arrangements and requirements for third party transmission in load pockets in PacifiCorp’s recently completed request for proposal.³⁴ REC DR 11.9 requested that PacifiCorp provide information regarding curtailment rights in non-QF PPAs for cogeneration and renewable

³³ Attachment A at 5.

³⁴ Id. at 6; OPUC Special Public Meeting, PacifiCorp Presentation to the Commission regarding ongoing renewable and renewable energy certificate request for proposal process with the potential of an executive session at 22 (July 26, 2016).

resources, many of which could also sell power as QFs.³⁵ REC DR 11.12 requested that PacifiCorp identify the last three years of transmission used for the Company's front office transactions.³⁶ Finally, REC DR 12.2 requested that PacifiCorp identify the amount of the Company's load and/or generation wheeled between non-contiguous portions of PacifiCorp's service territory by third party transmission.³⁷

PacifiCorp objected to the REC DRs as being overly broad, unduly burdensome, and not reasonably calculated to the discovery of admissible evidence.³⁸ In addition, PacifiCorp re-interpreted REC DR 12.2 to refuse to provide relevant information.³⁹ While not stated in writing, REC understands that PacifiCorp objects to providing information regarding its non-QF generation transmission arrangements for similar reasons as its non-Oregon QFs: because this proceeding is focusing on PacifiCorp's Oregon QFs. In addition, REC understands that PacifiCorp believes that the contractual arrangements for how it wheels its own generation to load are not relevant to QF purchases.

PacifiCorp's contractual arrangements with its non-QF contracts are relevant for the same reasons as its Oregon and non-Oregon QF contracts, which is that they could allow REC to identify the types of transmission used to wheel the Company's generation and purchased power to load, its costs, and how avoided cost rates can be adjusted to reflect the wheeling arrangements. For example, PacifiCorp's avoided cost rates during the sufficiency period are based on forecasted prices of firm market purchases, or front

³⁵ Attachment A at 7.

³⁶ Id. at 8.

³⁷ Id. at 9.

³⁸ Id. at 5-8, 10.

³⁹ Id. at 9-10 (PacifiCorp essentially redrafted the DR to insert the word "Oregon", which significantly limits the scope of the DR).

office transactions.⁴⁰ If PacifiCorp uses transmission for its own generation or non-QF market purchases that are used to set avoided cost rates, then those arrangements may be relevant to the transmission that the Company should purchase for QF purchases.⁴¹

Instead of objecting to the information requested in REC DR 12.2, PacifiCorp decided to re-interpret the question and refuse to provide information. REC requested information regarding third party transmission in the Company's non-contiguous portions of PacifiCorp's entire service territory. PacifiCorp elected to interpret the response as only its Oregon service territory and essentially inserted the word "Oregon."⁴²

PacifiCorp should not be permitted to re-write discovery requests in its responses. If the Company does not like or agree with the breadth of the request, the proper approach is to object and provide a basis for the objection. The relevance of non-QF PPAs for resources located outside of Oregon is particularly pertinent here because PacifiCorp has non-QF PPAs with projects located in Wyoming. These non-QF PPAs are relevant to determining how PacifiCorp accepts and delivers energy from those facilities with or without curtailment rights and whether PacifiCorp has been able to designate those facilities as network resources to serve PacifiCorp loads.

In addition, PacifiCorp only provided information regarding Bonneville Power Administration ("BPA") and Portland General Electric Company ("PGE") transmission in response to REC DR 12.2. PacifiCorp uses other third party transmission in Oregon

⁴⁰ Order No. 16-174 at 15-19.

⁴¹ REC acknowledges that some transmission that PacifiCorp uses for its own generation and purchases may not be directly applicable to the unique circumstances of QF purchases. However, that does not mean that none of it is relevant, nor that PacifiCorp gets to decide which of the non-QF transmission arrangements may or may not be relevant.

⁴² Attachment A at 9-10.

and its other states, and REC's counsel specifically informed counsel for PacifiCorp that the response was "incomplete and does not include general transfer and other wheeling agreements" and inquired as to whether PacifiCorp would supplement the response.⁴³

While PacifiCorp did not object to providing information in its original response to REC 12.2 (and just did not provide relevant information), PacifiCorp has subsequently amended its response to include its generic standard objection.⁴⁴ Regardless of PacifiCorp's justifications or objections, PacifiCorp has not fully responded and should provide REC with all the types of third party transmission, not just that purchased from BPA and PGE.

3. PacifiCorp Should Provide QFs with Information Regarding their Load Pocket Status and Should Allow REC to Investigate Whether QFs Reduce the Need to Purchase Third Party Transmission

REC has requested that PacifiCorp provide basic information regarding the load and generation situation for Oregon QFs. QFs in areas in which there is insufficient PacifiCorp generation to meet the local load may provide benefits because, but for the existence of the QF, PacifiCorp would need to purchase third party transmission to move its own generation to load. These DRs will provide information regarding whether the benefits provided by existing QFs should be passed by to them or otherwise reduce the costs of third party transmission. This information is also relevant to REC's recommendation that PacifiCorp provide QFs with information regarding the availability or lack of availability of transmission associated with the QF generation and load served. Without this information, the Commission and the parties will not know which existing QFs could be required to pay for third party transmission if loads drop or if new

⁴³ Attachment B at 4.

⁴⁴ Attachment A at 9-10.

generation is cited in their area. The Commission and the parties should understand which Oregon QFs may be impacted by PacifiCorp’s proposals.

Relevant DRs include 12.3 and 12.4. For each Oregon QF, REC DR 12.3 requested “the minimum and maximum retail electric load in the non-contiguous portion of PacifiCorp’s service territory that the QF serves on an electrical basis.”⁴⁵ For each Oregon QF, REC DR 12.4 requested that PacifiCorp identify “the amount of third party transmission to wheel additional generation to load and that PacifiCorp would need to purchase if the QF ceased operations.”⁴⁶

PacifiCorp provided its standard objection that the REC DRs are overly broad, unduly burdensome, and not reasonably calculated to the discovery of admissible evidence.⁴⁷ In response to 12.3, PacifiCorp also stated that it does not maintain the minimum or maximum retail load by load pocket for each QF, but then identified the minimum load in one load pocket related to two Oregon QFs.⁴⁸ In response to 12.4 PacifiCorp identified the amount of third party transmission that it is purchasing to move only certain QF generation out of load pockets.⁴⁹ PacifiCorp, however, did not provide information regarding the amount of third party transmission that PacifiCorp would need to purchase if other QFs ceased operations.⁵⁰ The data request was not limited to just a couple QFs, but all Oregon QFs.⁵¹

⁴⁵ Id. at 11.

⁴⁶ Id. at 12.

⁴⁷ Id. at 11-12.

⁴⁸ Id. at 10.

⁴⁹ Id. at 12-14.

⁵⁰ Id.

⁵¹ Id.

PacifiCorp’s response that it “does not maintain minimum or maximum load by load pocket for each” QF is not an adequate objection.⁵² PacifiCorp has proposed to charge Oregon QFs in an area in which the minimum or maximum load in the load pocket requires the Company to purchase third party transmission. PacifiCorp may also seek to charge existing Oregon QFs for third party transmission if new generation is located in their local area.

At some point PacifiCorp will need to “maintain” or otherwise obtain this information to determine whether to charge existing and already operating Oregon QFs. PacifiCorp does not state that it does not possess the underlying information that can be provided to REC. If PacifiCorp wants to someday charge currently existing and operating QFs these costs, then it should at least identify in this proceeding which QFs may potentially be charged these costs and allow the parties to make informed recommendations. It could be that very few or potentially all existing and operating Oregon QFs are at risk of being required to pay for third party transmission when their current contracts expire. Before making long-term policy decisions, the Commission should at least be aware of whether its decision is likely to lead to the imposition of a significant cost increase on the QFs that have been operating on PacifiCorp’s system for decades.

PacifiCorp also re-interpreted REC’s DRs 12.3 and 12.4, and provided incomplete information. These DRs are seeking to identify areas of PacifiCorp’s Oregon service territory in which QFs are serving load for which there is insufficient PacifiCorp owned generation to serve its retail load. These existing QFs benefit PacifiCorp by reducing the

⁵² Id. at 11.

utility's need to build or acquire transmission to serve its loads.⁵³ If these QFs cease operations, PacifiCorp would need to build transmission or buy third party transmission to wheel the power to its load. REC is seeking to identify how much retail customers benefit, because PacifiCorp would be required to pay additional transmission costs if the QFs disappeared. These cost savings could also be credited against any future need to acquire third party transmission. The first step in answering these questions is for PacifiCorp to identify the maximum and minimum retail electric load in areas of its non-contiguous Oregon service territory that QFs are serving, and how much third party transmission PacifiCorp would need to purchase if these QFs shut down. PacifiCorp's responses did not provide any of this information.

V. CONCLUSION

For the reasons discussed above, REC respectfully requests that the ALJ require PacifiCorp to provide complete responses to REC DRs 11.1, 11.2, 11.3, 11.7, 11.8, 11.9, 11.12, 12.2, 12.3, and 12.4.

⁵³ Re Commission Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, REC's Reply Testimony, Coalition/600, Lowe/19 (Aug. 7, 2015).

Dated this 14th day of September, 2016.

Respectfully submitted,

A handwritten signature in black ink that reads "Irion Sanger". The signature is written in a cursive style with a large, looped initial "I".

Irion A. Sanger
Sanger Law, PC
1117 SE 53rd Avenue
Portland, OR 97215
Telephone: 503-756-7533
Fax: 503-334-2235
irion@sanger-law.com

Of Attorneys for Renewable Energy Coalition

ATTACHMENT A

REC Data Request 11.1

Please provide copies of all PacifiCorp's power purchase agreements with qualifying facilities since the passage of PURPA, including all associated agreements including but not limited to PPA amendments, transmission agreements, wheeling agreements, and settlement agreements.

Response to REC Data Request 11.1

PacifiCorp objects to REC Data Request 11.1 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, the Company responds as follows:

Please refer to Attachment REC 11.1 -1, which provides a list of Oregon qualifying facility (QF) projects located in load pockets.

With regard to providing copies of the Oregon QF projects' power purchase agreements (PPA) listed in Attachment REC 11.1 -1, please note the following: since August 2014, the Company has submitted copies of Oregon executed QF PPAs with the Public Utility Commission of Oregon (OPUC) in Docket RE-142. The OPUC posts copies of the submitted redacted and non-confidential QF PPAs on their website. Please refer to column D of Attachment REC 11.1 -1, whereby the Company notes which Oregon QF PPAs have been submitted to OPUC in Docket RE-142. Note: Docket RE-142 is publicly accessible on the OPUC website utilizing the following website link:

<http://apps.puc.state.or.us/edockets/docket.asp?DocketID=19097>

For copies of the Oregon QF projects' PPAs listed in Attachment REC 11.1 -1 which pre-date the Company's first submission in Docket RE-142, please refer to Attachment REC 11.1 -2.

As noted in column G of Attachment REC 11.1 -1, where transmission agreements exist for the Oregon QF projects listed in Attachment REC 11.1 -1, they are provided in Attachment REC 11.1 -3.

Qualifying Facility (QF) Name / Project	Entitlement Start Date	Entitlement End Date	Submitted to Public Utility Commission of Oregon (PUC) in Docket RE-142	Power Purchase Agreement (PPA) Confidentiality Type (including where PPA is provided / available)	Located in Load Pocket - Yes / No	Wheeling Arrangements	Curialment Rights
Adams Solar Center, LLC	Not Yet COD	Dependent Upon COD	Yes	Non-Confidential - refer to Docket RE-142	Yes	Long-Term Firm (LTF) Point-to-Point (PTP) transmission with Portland General Electric (PGE) and Bonneville Power Administration (BPA) for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Eibe Solar Center, LLC	Not Yet COD	Dependent Upon COD	Yes	Non-Confidential - refer to Docket RE-142	Yes	LTF PTP transmission with PGE and BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Evergreen BioPower	1/2/07	12/31/17	Yes	Non-Confidential - refer to Docket RE-142	Yes	Consumed in load pocket	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Orchard Windfarm 1, LLC	Not Yet COD	Dependent Upon COD	Yes	Non-Confidential - refer to Docket RE-142	Yes	Transmission service request initiated and being studied by PacifiCorp Transmission	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Orchard Windfarm 2, LLC	Not Yet COD	Dependent Upon COD	Yes	Non-Confidential - refer to Docket RE-142	Yes	Transmission service request initiated and being studied by PacifiCorp Transmission	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Orchard Windfarm 3, LLC	Not Yet COD	Dependent Upon COD	Yes	Non-Confidential - refer to Docket RE-142	Yes	Transmission service request initiated and being studied by PacifiCorp Transmission	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Orchard Windfarm 4, LLC	Not Yet COD	Dependent Upon COD	Yes	Non-Confidential - refer to Docket RE-142	Yes	Transmission service request initiated and being studied by PacifiCorp Transmission	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	6/10/09	9/30/09	Yes	Non-Confidential - refer to Docket RE-142	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	10/1/09	10/31/09	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	11/1/09	11/30/09	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	12/1/09	4/30/10	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	5/1/10	10/31/10	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	11/1/10	3/31/11	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	6/1/11	9/30/11	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	10/1/11	3/31/12	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	4/1/12	9/30/12	Yes	Non-Confidential - refer to Docket RE-142	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	10/1/12	9/30/13	Yes	Non-Confidential - refer to Docket RE-142	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	10/1/13	12/31/14	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
Thremile Canyon Wind 1, LLC	1/1/15	6/18/29	No	Non-Confidential - refer to Attachment REC 11.1-2	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations
TMP Biofuels	2/21/12	4/30/23	Yes	Non-Confidential - refer to Docket RE-142	Yes	LTF PTP transmission with BPA - for relevant transmission agreements - refer to Attachment REC 11.1-3	System emergency and reliability as directed by PacifiCorp Transmission Grid Operations

UM 1610 / PacifiCorp
September 6, 2016
REC Data Request 11.2

REC Data Request 11.2

For each PPA listed in response to 11.1, please identify:

- (1) whether the QF was or is located in a load pocket, and
- (2) the contractual arrangements (if any) associated with wheeling the generation out of the load pocket.

Response to REC Data Request 11.2

PacifiCorp objects to REC Data Request 11.2 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, the Company responds as follows:

Please refer to the Company's response to REC Data Request 11.1; specifically Attachment REC 11.1 -1.

UM 1610 / PacifiCorp
September 6, 2016
REC Data Request 11.3

REC Data Request 11.3

For each PPA listed in response to 11.1, please identify any PacifiCorp rights to curtail the generation.

Response to REC Data Request 11.3

PacifiCorp objects to REC Data Request 11.3 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, the Company responds as follows:

Please refer to the Company's response to REC Data Request 11.1; specifically Attachment REC 11.1 -1.

UM 1610 / PacifiCorp
September 2, 2016
REC Data Request 11.7

REC Data Request 11.7

For PacifiCorp's western control area operations in California, Oregon, and Washington: Please identify the types of third transmission arrangements the company uses to wheel its own generation to load, including but not limited to transmission purchases under open access transmission tariffs (OATT), general transfer agreements, exchange agreements, use of facilities agreements, etc. For each third party transmission agreement, identify the third party, whether the transmission is network or point to point, the peak megawatt contract rights, and the average megawatt hour cost of transmission for the last available calendar year.

For all transmission agreements or arrangements that are not under a Federal Energy Regulatory Commission OATT, please provide a description of the billing arrangements.

Response to REC Data Request 11.7

PacifiCorp objects to REC Data Request 11.7 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

UM 1610 / PacifiCorp
September 2, 2016
REC Data Request 11.8

REC Data Request 11.8

For each bid in PacifiCorp's recent renewable resource request for proposal, please provide copies of the confidential materials discussed at the July 26, 2016 public meeting, and identify the location of the generation resource, the assumed transmission costs, and whether it was located in a load pocket.

Response to REC Data Request 11.8

PacifiCorp objects to REC Data Request 11.8 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

UM 1610 / PacifiCorp
September 2, 2016
REC Data Request 11.9

REC Data Request 11.9

Provide each PPA between PacifiCorp and a counter party selling electrical output to PacifiCorp from a cogeneration, or renewable facility as an exempt wholesale generator (i.e. projects that are not selling as QFs and covered under request 11.1), and for each such PPA please identify the sections of the contract addressing curtailment and explain PacifiCorp's curtailment rights.

Response to REC Data Request 11.9

PacifiCorp objects to REC Data Request 11.9 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

UM 1610 / PacifiCorp
September 2, 2016
REC Data Request 11.12

REC Data Request 11.12

For the last three years, please identify the transmission utilized for all of PacifiCorp's front office transactions.

Response to REC Data Request 11.12

PacifiCorp objects to REC Data Request 11.12 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

UM 1610 / PacifiCorp
September 6, 2016
REC Data Request 12.2

REC Data Request 12.2

- (a) Please provide a transmission map showing PacifiCorp's non-contiguous service territory, and how it is interconnected by third-party transmission.
- (b) Please identify the amount of load and/or generation that uses third party transmission to be wheeled between non-contiguous portions of PacifiCorp's service territory.

Response to REC Data Request 12.2

- (a) Please refer to the links below to view maps depicting PacifiCorp's transmission system and the general service territory.

http://www.oasis.oati.com/PPW/PPWdocs/Transmission_Network_Diagram.pdf

https://www.pacificpower.net/content/dam/pacific_power/doc/Business/PPonly-Big-ServiceAreaMap-2015-NoFacilities.pdf

- (b) PacifiCorp interprets the "amount of load and / or generation that uses third party transmission to be wheeled between non-contiguous portions of PacifiCorp's service territory" to mean to or from non-contiguous portions of PacifiCorp's service territory in Oregon. Based on the foregoing interpretation, the Company responds as follows:

PacifiCorp holds services with Bonneville Power Administration (BPA) and Portland General Electric (PGE) transmission service providers to wheel generation and / or load to or from Oregon. Please refer to Confidential Attachment REC 12.2, which provides a list of the third party transmission arrangements.

Information in Confidential Attachment REC 12.2 is designated as confidential under the protective order in this docket, Order No. 12-461.

REC Data Request 12.2

- (a) Please provide a transmission map showing PacifiCorp's non-contiguous service territory, and how it is interconnected by third-party transmission.
- (b) Please identify the amount of load and/or generation that uses third party transmission to be wheeled between non-contiguous portions of PacifiCorp's service territory.

1st Revised Response to REC Data Request 12.2

The Company revises the text of its original response, dated September 6, 2016, as shown below. The underlined portion has been added. The remainder of the response, including the attachment, has not changed.

PacifiCorp objects to REC Data Request 12.2 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, the Company responds as follows:

- (a) Please refer to the links below to view maps depicting PacifiCorp's transmission system and the general service territory.

http://www.oasis.oati.com/PPW/PPWdocs/Transmission_Network_Diagram.pdf

https://www.pacificpower.net/content/dam/pacific_power/doc/Business/PPonly-Big-ServiceAreaMap-2015-NoFacilities.pdf

- (b) PacifiCorp interprets the "amount of load and / or generation that uses third party transmission to be wheeled between non-contiguous portions of PacifiCorp's service territory" to mean to or from non-contiguous portions of PacifiCorp's service territory in Oregon. Based on the foregoing interpretation, the Company responds as follows:

PacifiCorp holds services with Bonneville Power Administration (BPA) and Portland General Electric (PGE) transmission service providers to wheel generation and / or load to or from Oregon. Please refer to Confidential Attachment REC 12.2, which provides a list of the third party transmission arrangements.

Information in Confidential Attachment REC 12.2 is designated as confidential under the protective order in this docket, Order No. 12-461.

UM 1610 / PacifiCorp
September 6, 2016
REC Data Request 12.3

REC Data Request 12.3

For each Oregon QF, please identify the minimum and maximum retail electric load in the non-contiguous portion of PacifiCorp's service territory that the QF serves on an electrical basis.

Response to REC Data Request 12.3

PacifiCorp objects to REC Data Request 12.3 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. PacifiCorp further objects to this request as requiring information not maintained in the ordinary course of business. Without waiving these objections, the Company responds as follows:

The Company does not maintain minimum or maximum retail load by load pocket for each qualifying facility (QF). In the case of the two Oregon QFs identified in the Company's response to REC Data Request 12.5; specifically Attachment REC 12.5, where transmission is purchased to export excess generation, the minimum load in the pocket is approximately 2 megawatts (MW), which was identified by PacifiCorp Transmission in the Designated Network Resource studies.

REC Data Request 12.4

For each Oregon QF, please identify the amount of third party transmission to wheel additional generation to load and that PacifiCorp would need to purchase if the QF ceased operations.

Response to REC Data Request 12.4

PacifiCorp objects to REC Data Request 12.4 because it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. PacifiCorp also objects to this request as vague and ambiguous. Without waiving these objections, the Company responds as follows:

Two qualifying facilities (QFs) producing a maximum of 15 megawatts (MW) are connected to a PacifiCorp load pocket where the load peaks heavily during the summer season, and decreases drastically during the winter season. When load demand is at a minimum, the two QFs produce generation in surplus to the area load creating a situation where third party transmission (Bonneville Power Administration (BPA)) is required to be purchased to export the local surplus energy to sink with PacifiCorp loads:

QF	Transmission Service Provider	Type of Transmission Service	Average Megawatt-Hour (MWh) Cost for 2015	Billing
Threemile Canyon Wind I LLC	Bonneville Power Administration (BPA)	Long-term firm (LTF) point-to-point (PTP) for 8 megawatts (MW)	Based on BPA tariff, \$2.45 per megawatt-hour (\$/MWh)	Threemile Canyon does not reimburse PacifiCorp for transmission service out of load pocket per Public Utility Commission of Oregon (OPUC) Order 14-058
TMF Biofuels (Three Mile Digester)	BPA	LTF PTP for 5 MW	Based on BPA tariff, \$2.45/MWh	TMF Biofuels and PacifiCorp negotiated a fixed \$/MWh adjustment of \$4.10/MWh over the 10-year term of the power purchase agreement (PPA) to capture current tariff prices and escalation of the tariff over the term

Two additional QFs with planned interconnection to a PacifiCorp load pocket and 20 MW total nameplate capacity, are expected at times to produce up to 12 MW of local surplus energy that must be exported with third party transmission (BPA and Portland General Electric (PGE)) to sink with PacifiCorp loads:

QF	Transmission Service Provider	Type of Transmission Service	Average Megawatt-Hour (MWh) Cost for 2015	Billing
<p>Adams Solar Center, LLC, and Elbe Solar Center, LLC</p>	<p>Bonneville Power Administration (BPA)</p>	<p>Long-term firm (LTF) point-to-point (PTP) with short-distance discount for 10 megawatts (MW) and 2 MW</p>	<p>Based on current BPA tariff, \$2.45 per megawatt-hour (\$/MWh)</p>	<p>Adams Solar Center, LLC, and Elbe Solar Center, LLC will pay all costs incurred by PacifiCorp to secure transmission service from BPA for exporting Excess Generation.</p> <p>Over the Term as the BPA Open Access Transmission Tariff (OATT) prices and / or terms change PacifiCorp will update its transmission wheeling expense and billing to Adams Solar Center, LLC, and Elbe Solar Center, LLC.</p> <p>The transmission wheeling expense will be deducted monthly from the Adams Solar Center, LLC, and Elbe Solar Center, LLC PPA payments.</p>

QF	Transmission Service Provider	Type of Transmission Service	Average Megawatt-Hour (MWh) Cost for 2015	Billing
Adams Solar Center, LLC, and Elbe Solar Center, LLC	Portland General Electric (PGE)	LTF PTP for 10 MW and 2 MW	Based on current PGE tariff, \$0.79/MWh	<p>Adams Solar Center, LLC, and Elbe Solar Center, LLC will pay all costs incurred by PacifiCorp to secure transmission service from PGE for exporting Excess Generation.</p> <p>Over the Term as the PGE OATT prices and / or terms change PacifiCorp will update its transmission wheeling expense and billing to Adams Solar Center, LLC, and Elbe Solar Center, LLC.</p> <p>The transmission wheeling expense will be deducted monthly from the Adams Solar Center, LLC, and Elbe Solar Center, LLC PPA payments.</p>

If operation of the Three Mile Canyon Wind I, LLC, TMF Biofuels, Adams Solar Center, LLC, and Elbe Solar Center, LLC projects ceased operations, there could no longer be surplus energy conditions in the respective PacifiCorp load pockets, subject to other generating projects being built and operating in the load pocket, and PacifiCorp would no longer be required to purchase transmission service for these projects to export surplus energy from these PacifiCorp load pockets to other PacifiCorp loads.

One QF, Evergreen BioPower, (located in Lyons, Oregon) producing a maximum of 10 MW is connected to a PacifiCorp load pocket served via a BPA Network Transmission Service agreement. This QF has been designated as a Local (behind the meter) Network Resource in the Network Transmission Service agreement which allows BPA to “gross” schedules and produce a bill as if the QF was not serving any load. BPA will not reduce load pocket demand for any behind the meter resources because they are required to provide load service should the resource not produce.

ATTACHMENT B

Subject: UM 1610 REC Data Request Set 11
Date: Thursday, September 1, 2016 at 4:35:58 PM Pacific Daylight Time
From: Apperson, Erin <Erin.Apperson@pacificorp.com>
To: irion@sanger-law.com <irion@sanger-law.com>
CC: Till, Dustin <Dustin.Till@pacificorp.com>

Irion,

I am following up on the message left by Dustin today regarding UM 1610 REC data request set 11. Is there a time that you are available to discuss tomorrow?

Thanks,

Erin Apperson
Attorney, Pacific Power
PacifiCorp
825 NE Multnomah St., Suite 1800
Portland, OR 97232
|503-813-6642 office |503-964-3542 cell
Erin.Apperson@pacificorp.com

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Subject: RE: UM 1610 REC Data Request Set 11
Date: Friday, September 2, 2016 at 9:15:07 AM Pacific Daylight Time
From: Apperson, Erin <Erin.Apperson@pacificcorp.com>
To: Irion Sanger <irion@sanger-law.com>
CC: Till, Dustin <Dustin.Till@pacificcorp.com>

Thanks, Irion. We'll plan to call you at 11AM today.

Erin Apperson
Attorney, Pacific Power
PacifiCorp
825 NE Multnomah St., Suite 1800
Portland, OR 97232
|503-813-6642 office |503-964-3542 cell
Erin.Apperson@pacificcorp.com

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From: Irion Sanger [mailto:irion@sanger-law.com]
Sent: Friday, September 02, 2016 7:26 AM
To: Apperson, Erin
Cc: Till, Dustin
Subject: [INTERNET] Re: UM 1610 REC Data Request Set 11

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Yes. Anytime. I was in a meeting all day yesterday.

Irion Sanger
Sanger Law PC
1117 SE 53rd Ave
Portland, OR 97215

503-756-7533 (tel)
503-334-2235 (fax)
irion@sanger-law.com

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From: "Apperson, Erin" <Erin.Apperson@pacificorp.com>
Date: Thursday, September 1, 2016 at 4:35 PM
To: Irion Sanger <irion@sanger-law.com>
Cc: Dustin Till <Dustin.Till@pacificorp.com>
Subject: UM 1610 REC Data Request Set 11

Irion,

I am following up on the message left by Dustin today regarding UM 1610 REC data request set 11. Is there a time that you are available to discuss tomorrow?

Thanks,

Erin Apperson
Attorney, Pacific Power
PacifiCorp
825 NE Multnomah St., Suite 1800
Portland, OR 97232
|503-813-6642 office |503-964-3542 cell
Erin.Apperson@pacificorp.com

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Subject: UM 1610 Discovery

Date: Friday, September 9, 2016 at 3:44:26 PM Pacific Daylight Time

From: Irion Sanger <irion@sanger-law.com>

To: Apperson, Erin <Erin.Apperson@pacificcorp.com>, Dustin Till <Dustin.Till@pacificcorp.com>

Dustin and Erin

REC intends to file a motion to compel in UM 1610 regarding PacifiCorp's 11th and 12th sets of data requests. We will specifically request complete responses to REC data requests 11.1, 11.2, 11.3, 11.7, 11.8, 11.9, 11.12, 12.2, 12.3, and 12.4. In addition, please identify what relevant information what not provided in response to 12.5 so that we can decide whether to request a complete response to this data request. Based on our conversation last Friday, I assume that PacifiCorp is not willing to reconsider its objections.

We when discussed the data requests last week, we did not discuss that relevant information would be withheld from 12.2 and the Company did not raise an objection to it. The response, however, is incomplete and does not include general transfer and other wheeling agreements. Let me know if PacifiCorp is willing to supplement it.

Irion Sanger

Sanger Law PC
1117 SE 53rd Ave
Portland, OR 97215

503-756-7533 (tel)
503-334-2235 (fax)
irion@sanger-law.com

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Subject: Re: UM 1610 Discovery
Date: Monday, September 12, 2016 at 7:37:36 AM Pacific Daylight Time
From: Irion Sanger <irion@sanger-law.com>
To: Apperson, Erin <Erin.Apperson@pacificcorp.com>, Till, Dustin <Dustin.Till@pacificcorp.com>
CC: Sidney Villanueva <sidney@sanger-law.com>

Erin

I am not sure I follow your response on 12.2. When you “interpreted” 12.2, you added the word “Oregon” to limit the request, and I object to PacifiCorp redrafting (not reinterpreting) my data requests. However, my email below addresses a separate aspect of the request, which is that it is not just limited to BPA and PGE transmission providers. Even if the request was limited to “Oregon” transmission, there are other forms of Oregon transmission that should be included. In addition, while PacifiCorp objected to 12.1, 12.3, 12.4, and 12.5, the narrative responses did not raise any objections to 12.2. Therefore, there has been no objection to providing complete Oregon third party transmission in response to 12.2.

Regardless, please let me know if PacifiCorp will be supplementing 12.2.

Given the number of data requests that PacifiCorp has objected to and the complexity of some of the objections, REC will insist upon a formal opportunity to address and resolve the discovery dispute, and intend to file a motion to compel. If PacifiCorp would like to have an informal discovery conference, then it may make sense to hold the conference after we file our motion to compel. We plan to file our motion tomorrow.

Irion Sanger

Sanger Law PC
1117 SE 53rd Ave
Portland, OR 97215

503-756-7533 (tel)
503-334-2235 (fax)
irion@sanger-law.com

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From: "Apperson, Erin" <Erin.Apperson@pacificcorp.com>
Date: Friday, September 9, 2016 at 4:36 PM
To: Irion Sanger <irion@sanger-law.com>, Dustin Till <Dustin.Till@pacificcorp.com>
Subject: RE: UM 1610 Discovery

Irion,

PacifiCorp intends to invoke the discovery dispute process under OAR 860-001-0500(6) and request that the ALJ conduct a conference to facilitate the resolution. We will reach out to the ALJ on Monday to schedule a conference.

Regarding set 12, I left you a voicemail on Friday, September 2 to discuss our objections contained within that set. As for 12.2(b), PacifiCorp explained its interpretation of the question in its response.

Erin Apperson
Attorney, Pacific Power
PacifiCorp
825 NE Multnomah St., Suite 1800
Portland, OR 97232
|503-813-6642 office |503-964-3542 cell
Erin.Apperson@pacificorp.com

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From: Irion Sanger [<mailto:irion@sanger-law.com>]
Sent: Friday, September 09, 2016 3:44 PM
To: Apperson, Erin; Till, Dustin
Subject: [INTERNET] UM 1610 Discovery

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Dustin and Erin

REC intends to file a motion to compel in UM 1610 regarding PacifiCorp's 11th and 12th sets of data requests. We will specifically request complete responses to REC data requests 11.1, 11.2, 11.3, 11.7, 11.8, 11.9, 11.12, 12.2, 12.3, and 12.4. In addition, please identify what relevant information what not provided in response to 12.5 so that we can decide whether to request a complete response to this data request. Based on our conversation last Friday, I assume that PacifiCorp is not willing to reconsider its objections.

We when discussed the data requests last week, we did not discuss that relevant information would be withheld from 12.2 and the Company did not raise an objection to it. The response, however, is incomplete and does not include general transfer and other wheeling agreements. Let me know if PacifiCorp is willing to supplement it.

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Sanger Law PC
1117 SE 53rd Ave

Portland, OR 97215

503-756-7533 (tel)

503-334-2235 (fax)

irion@sanger-law.com

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Subject: Re: UM 1610 Discovery Dispute Conference Request Per OAR 860-001-0500(6)
Date: Tuesday, September 13, 2016 at 3:05:26 PM Pacific Daylight Time
From: Irion Sanger <irion@sanger-law.com>
To: Apperson, Erin <Erin.Apperson@pacificorp.com>, traci.kirkpatrick@state.or.us
<traci.kirkpatrick@state.or.us>
CC: Till, Dustin <Dustin.Till@pacificorp.com>, Sidney Villanueva <sidney@sanger-law.com>

ALJ Kirkpatrick

REC welcomes your assistance to resolve the discovery dispute. In order to provide you with additional information to understand the nature of the dispute and in case the conference does not resolve the issues, REC intends to file our motion to compel tomorrow morning.

Irion Sanger

Sanger Law PC
1117 SE 53rd Ave
Portland, OR 97215

503-756-7533 (tel)
503-334-2235 (fax)
irion@sanger-law.com

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From: "Apperson, Erin" <Erin.Apperson@pacificorp.com>
Date: Monday, September 12, 2016 at 1:38 PM
To: "traci.kirkpatrick@state.or.us" <traci.kirkpatrick@state.or.us>
Cc: Dustin Till <Dustin.Till@pacificorp.com>, Irion Sanger <irion@sanger-law.com>
Subject: UM 1610 Discovery Dispute Conference Request Per OAR 860-001-0500(6)

ALJ Kirkpatrick,

I am reaching out regarding a discovery dispute in UM 1610 arising from data requests that PacifiCorp has received from the Renewable Energy Coalition (REC) in this proceeding. PacifiCorp and REC attempted to resolve this dispute informally telephonically on Friday, September 2, and PacifiCorp is now requesting a conference to facilitate the resolution of this dispute as permitted by OAR 860-001-0500(6). On September 9,

PacifiCorp informed REC that it intended to request this conference. PacifiCorp understands that REC would like to file a motion to compel, but PacifiCorp believes this dispute can be resolved through a conference and PacifiCorp is available for such a conference tomorrow or later this week.

The dispute involves REC's 11th and 12th data request sets (specifically, 11.1, 11.2, 11.3, 11.7, 11.8, 11.9, 11.12, 12.2, 12.3, and 12.4).

PacifiCorp looks forward to your response regarding this request.

Thank you,

Erin Apperson
Attorney, Pacific Power
PacifiCorp
825 NE Multnomah St., Suite 1800
Portland, OR 97232
|503-813-6642 office |503-964-3542 cell
Erin.Apperson@pacificcorp.com

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Subject: RE: UM 1610 Discovery Dispute Conference Request Per OAR 860-001-0500(6)
Date: Wednesday, September 14, 2016 at 10:23:51 AM Pacific Daylight Time
From: GRANT Michael <michael.grant@state.or.us>
To: 'Apperson, Erin' <erin.apperson@pacificorp.com>, Irion Sanger <irion@sanger-law.com>, KIRKPATRICK Traci <traci.kirkpatrick@state.or.us>
CC: MENZA Candice <candice.menza@state.or.us>, Till, Dustin <dustin.till@pacificorp.com>, Sidney Villanueva <sidney@sanger-law.com>

I have consulted Judge Kirkpatrick on this matter. She plans on convening the conference tomorrow as scheduled.

If REC files a formal motion to compel today, at the conference Judge Kirkpatrick will defer to PacifiCorp on whether to proceed with the informal conference, or whether to forgo the conference and allow PacifiCorp the opportunity to file a written response.

Michael Grant
Chief Administrative Law Judge
Public Utility Commission of Oregon
(503) 378-6102

From: Apperson, Erin [mailto:Erin.Apperson@pacificorp.com]
Sent: Tuesday, September 13, 2016 4:51 PM
To: Irion Sanger; KIRKPATRICK Traci; GRANT Michael
Cc: Till, Dustin; Sidney Villanueva
Subject: RE: UM 1610 Discovery Dispute Conference Request Per OAR 860-001-0500(6)

Copying Chief Grant to this communication regarding the discovery dispute in UM 1610 because I spoke to him this morning about scheduling this conference. Please see below for PacifiCorp's concerns regarding REC's assertion that it intends to file a motion to compel tomorrow in advance of the scheduled discovery conference. I believe I may have included the incorrect email for Chief Grant in the prior chain.

Erin Apperson
Attorney, Pacific Power
PacifiCorp
825 NE Multnomah St., Suite 1800
Portland, OR 97232

|503-813-6642 office |503-964-3542 cell
Erin.Apperson@pacificcorp.com

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From: Apperson, Erin
Sent: Tuesday, September 13, 2016 4:19 PM
To: 'Irion Sanger'; traci.kirkpatrick@state.or.us; 'michael.w.grant@doj.state.or.us'
Cc: Till, Dustin; Sidney Villanueva
Subject: RE: UM 1610 Discovery Dispute Conference Request Per OAR 860-001-0500(6)

ALJ Kirkpatrick,

PacifiCorp thanks the Commission for responding to its request and scheduling a telephone conference to resolve this discovery dispute with REC. PacifiCorp believes that this discovery dispute can be resolved through the conference as permitted by OAR 860-001-0500(6). REC's assertion that it intends to file a motion to compel, even in light of the scheduled conference, defeats the purpose of this dispute resolution process. PacifiCorp would be unfairly disadvantaged if REC files its motion just one day before the conference and PacifiCorp would either be forced to respond to REC's motion in just 24 hours, which is not practicable, or would need to subsequently file its response, which would undermine the purpose of holding the conference.

The only issue remaining in this proceeding is how to calculate and assign third-party transmission costs attributable to a QF in Oregon. This discovery dispute centers around what information is relevant to the resolution of this limited issue.

PacifiCorp would like to participate in this conference to resolve this dispute. In the event that the conference on Thursday does not provide a resolution as REC suggests, REC could then file a motion to compel. PacifiCorp believes that this would be the most efficient approach to resolving this discovery dispute.

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From: Irion Sanger [<mailto:irion@sanger-law.com>]
Sent: Tuesday, September 13, 2016 3:05 PM
To: Apperson, Erin; traci.kirkpatrick@state.or.us
Cc: Till, Dustin; Sidney Villanueva
Subject: [INTERNET] Re: UM 1610 Discovery Dispute Conference Request Per OAR 860-001-0500(6)

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ALJ Kirkpatrick

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