

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 19, 2014

REGULAR X CONSENT EFFECTIVE DATE Upon Commission Approval

DATE: August 13, 2014

TO: Public Utility Commission

FROM: Brittany Andrus *BA*

THROUGH: Jason Eisdorfer, *JE* Maury Galbraith, *MEG* and Aster Adams, *AA*

SUBJECT: PACIFICORP: (Docket No. UM 1610/Advice No. 14-007) Replacement Compliance Filing for Avoided Cost Purchases (Schedule 37), and Standard Contracts.

STAFF RECOMMENDATION:

Staff recommends that the Commission issue an order approving PacifiCorp's Replacement Compliance Filing for Avoided Cost Prices (Schedule 37), and Standard Contracts filed on August 11, 2014, in compliance with Order No. 14-058, effective August 20, 2014.

Discussion

On February 24, 2014, the Commission issued Order No. 14-058 in Phase I of its Investigation into Qualifying Facilities Contracting and Pricing (Docket No. UM 1610) resolving several disputed issues regarding pricing and ordering Portland General Electric Company (PGE), PacifiCorp, and Idaho Power to file revised avoided cost prices and revised standard contract forms in compliance with the order.

On April 10, 2014, PacifiCorp d.b.a. Pacific Power (Pacific or Company) filed Advice No. 14-007, revising Schedule 37, Avoided Cost Purchases from Qualifying Facilities (10,000 kW or less), and Schedule 37 Power Purchase Agreements (PPAs). Pacific stated that it made the filing for two purposes, 1) to comply with Order No. 14-058 and 2) to meet the Company's obligation to make an avoided cost update at least once every two years as required under ORS 758.525.¹

¹ Pacific Advice No. 14-007.

The Renewable Energy Coalition (REC) asked the Commission to suspend Pacific's filing to allow additional time for investigation.² At a public meeting on April 29, 2014, Staff recommended that the Commission decline to allow the prices and contracts go into effect to allow interested persons and Staff opportunity to review the filing. The Commission suspended the initial compliance filing to allow further investigation (Order No. 14-148).³

Parties to Docket No. UM 1610, including PGE, PacifiCorp, and Idaho Power, met for a workshop on June 27, 2014, to discuss the utilities' Phase I compliance filings in that docket. During that workshop, PacifiCorp agreed to meet with UM 1610 Parties in additional settlement conferences to discuss submitting a replacement compliance filing that limited the revisions to Schedule 37 and Schedule 37 PPAs to those required by Order No. 14-058 and Order No. 11-505 (Docket No. UM 1396).⁴

The Community Renewable Energy Association (CREA), REC, the Oregon Department of Energy (ODOE), PacifiCorp, One Energy, Inc., Obsidian Renewables, LLC., and Staff participated in subsequent meetings on June 27, July 1, and July 24, 2014.⁵ Ultimately, Staff, Pacific, CREA, REC reached a stipulation under which they agreed to a limited set of changes to Pacific's Schedule 37 and Schedule 37 PPAs to implement the Commission's orders in Docket Nos. UM 1610 and UM 1396 and agreed to address certain disputed issues in Phase II of Docket No. UM 1610. Some of the agreed-to changes in PacifiCorp's August 11, 2014 filing are a temporary resolution of disputed issues that will be raised in Phase II. Finally, the stipulating parties agreed that the question of whether the solar capacity contribution adjustment calculation should be modified placed on a separate and expedited track in Phase II.⁶

The other UM 1610 parties that participated in the settlement meetings on June 27, July 1, and July 24, 2014 do not oppose PacifiCorp's August 11, 2014 Advice Filing. These parties include Obsidian Renewables, One Energy, and ODOE.

² The Community Renewable Energy Association and One Energy, Inc., supported this request.

³ See OAR 860-029-0080(6) ("Any standard rates filed under OAR 860-029-0040 shall be subject to suspension and modification by the Commission.")

⁴ The Commission ordered PacifiCorp and PGE to offer renewable standard avoided cost prices in Docket No. UM 1396.

⁵ Notice of the meetings was sent to all UM 1610 parties.

⁶ On June 10, 2014, the Administrative Law Judge issued a Ruling in response to a filing from Obsidian that the capacity contribution adjustment calculation for solar resources under the Standard Renewable Rate did not what the Commission intended. The ALJ directed Staff and parties to address, changed in connection with the review of the Order No. 14-058 compliance filings, whether the capacity contribution adjustment calculation should be changed.

Staff does not ask for Commission approval of the stipulation between Staff, Pacific, CREA, and REC (Attachment A).⁷ The Commission's approval of Pacific's Advice No. 14-007 will make effective the stipulating parties' agreed-to changes to Pacific's Schedule 37 and Schedule 37 PPAs. The remainder of the stipulation is an agreement about what issues will be raised in Phase II of Docket No. UM 1610. Parties to UM 1610 used a collaborative process to separate issues into Phases I and II at the beginning of UM 1610 and accordingly, Staff does not believe that Commission approval of a stipulation regarding what issues will be addressed in Phase II is necessary to effectuate the parties' agreement.

QFs that are not parties to UM 1610 have contacted Staff regarding the anticipated effective date of the Pacific's Advice No. 14-007. These QFs state that they are in the final stage completing power purchase agreements (PPAs) with Pacific for specific projects, under the Company's Schedule 37, and ask that the effective date of Pacific's filing be delayed so that they can be assured of receiving the current avoided cost purchase price.

Cypress Creek, a solar project developer, states that it has 14 projects in the final step of the contracting process, and that it expects to receive final PPAs from Pacific between August 19 and August 25. Cypress Creek proposes that the "new avoided cost rates be approved on August 19th, but that any QF projects that are simply waiting for PacifiCorp to deliver the final PPA be allowed to receive the current avoided cost rates."⁸

Solexus Development, also a solar developer, states that it has "several power purchase agreements that are on PacifiCorp's desk waiting for signature."⁹ Solexus expresses concern that due to the volume of contracts currently being processed that their agreements will be delayed, and recommends a minimum 45-day delay that would serve as a buffer period prior to implementing the avoided cost prices in Advice No. 14-007.

Staff recommends that Advice No. 14-007 be allowed to go into effect on August 20, 2014. The original filing was made on April 10, 2014, which provided sufficient notice to the QFs that avoided cost price changes were being considered. Regarding the

⁷ The Stipulation is attached to this public meeting memorandum to establish parties' support for Staff's recommendation regarding PacifiCorp's Advice No. 14-007, and a clear understanding as to what CREA, REC, Pacific, and Staff have agreed to and what other UM 1610 parties do not oppose.

⁸ Email from Jerome O'Brien, General Counsel, Cypress Creek Renewables, LLC, to Staff, August 7, 2014.

⁹ Email from David Bunge, President, Solexus Development, to Staff, August 6, 2014.

requests for a delay in the effective date made by the QFs, Staff believes that further delays in adopting accurate avoided costs are not warranted.

The provisions governing the finalizing of PPA's are in the Company's currently approved Schedule 37 (pages 8 through 10 of Schedule 37) "Process for Completing a Power Purchase Agreement." These terms are not the subject of revisions in Advice No. 14-007 and are included as Attachment B. PacifiCorp is not allowed to delay the process outlined in its tariff in order to prevent QFs from getting currently available prices. QFs that have a legally enforceable obligation prior to the effective date of the rates should be entitled to the currently available rates. Those QFs that are not far enough along in the process described in Schedule 37 prior to the effective date of the new prices will receive the new prices.

Staff is not in a position to determine which QFs are entitled to current prices or will be entitled to purchase prices in Advice No. 14-007. Staff advised the QFs to appear and make their case before the Commission at the August 19, 2014 public meeting.

PROPOSED COMMISSION MOTION:

Pacific's Replacement Compliance Filing for Avoided Cost Purchases (Schedule37), and Standard Contracts filed on August 11, 2014, in compliance with Order No. 14-058, be allowed to go into effect on August 20, 2014.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1610

In the Matter of

PUBLIC UTILITY COMMISSION OF OREGON

Staff Investigation Into Qualifying Facility
Contracting and Pricing.

PARTIAL STIPULATION

1 Parties to this docket enter into this Partial Stipulation (Stipulation) to resolve issues
2 related to the April 10, 2014 compliance filing filed by PacifiCorp d/b/a Pacific Power
3 (PacifiCorp or the Company).

4 **PARTIES**

5 1. The parties to this Stipulation are PacifiCorp, Staff of the Public Utility
6 Commission of Oregon (Staff); the Community Renewable Energy Coalition (CREA); and
7 the Renewable Energy Coalition (the Coalition) (collectively the Stipulating Parties). This
8 Stipulation will be made available to the other parties to this docket, who may participate by
9 signing and filing a copy of the Stipulation.

10 **BACKGROUND**

11 2. On April 10, 2014, PacifiCorp made a compliance filing in dockets UM 1610
12 and UM 1396. The compliance filing included updated Schedule 37 (Avoided Cost
13 Purchases from Qualifying Facilities of 10,000 KW or Less) tariff sheets and updated
14 Schedule 37 power purchase agreements (PPAs). The Company's compliance filing
15 incorporated amendments to Schedule 37 and Schedule 37 PPAs necessary to comply
16 with Order No. 14-058 in docket UM 1610, Order No. 11-505 in docket UM 1396, and
17 ORS 758.525, which requires the Company to update avoided cost rates. PacifiCorp
18 requested a May 10, 2014 rate effective date.

1 3. Following an April 29, 2014 public meeting, the Commission issued Order
2 No. 14-148 (Apr. 30, 2014), which rejected PacifiCorp's request for a May 10, 2014 rate
3 effective date and opened an investigation into PacifiCorp's compliance filing.

4 4. The parties held workshops to discuss PacifiCorp's compliance filings on
5 June 27, July 1, and July 14, 2014. During the workshops, the Stipulating Parties agreed to
6 explore a multi-phase approach to allowing PacifiCorp to update its avoided costs pending a
7 full investigation into unresolved issues related to Schedule 37 and the PPAs. The
8 Stipulating Parties ultimately agreed to address certain compliance issues during Phase II of
9 UM 1610. The Stipulating Parties also agreed that updated avoided costs and the temporary
10 settlement of certain disputed issues will be in effect while certain issues—including a
11 number of issues temporarily settled—are litigated before the Commission during Phase II.
12 The parties will have an opportunity to submit testimony, conduct cross examination and file
13 briefs during Phase II. The Stipulating Parties intend for Phase II to start immediately after
14 the compliance Schedule 37 and PPAs are approved by the Commission. All issues, except
15 those the Stipulating Parties have retained their rights to object to or that the Stipulating
16 Parties expressly agree otherwise, will be addressed in Phase II of docket UM 1610, subject
17 to the Commission's approval. The Stipulation Parties preserve their rights to litigate all
18 issues except those that are expressly agreed upon.

19 5. As a result of the settlement conferences, the Stipulating Parties reached a
20 compromise settlement of several of the issues in this docket, as described in detail below.
21 The issues resolved by this Stipulation result in new avoided cost rates going into effect
22 immediately upon approval by the Commission.

1 associated PPAs to assign ownership of Environmental Attributes and Green Tags in the
2 renewable fixed price PPA. These terms were added for the purpose of determining:
3 (1) when the QF is entitled to renewable avoided costs prices, and (2) the ownership of
4 Environmental Attributes and the transfer of Green Tags to PacifiCorp. Provided, however,
5 that the inclusion of these specifically defined terms in Schedule 37 and the PPAs will not
6 affect the proper interpretation of sections of the Commission-approved standard form Power
7 Purchase Agreement for New Firm Qualifying Facilities with 10,000 kW Facility Capacity
8 Rating, or Less and not an Intermittent Resource (Small Firm Contract) regarding
9 termination due to default for delayed commercial operation date, as raised in OPUC docket
10 DR 48.

11 A dispute remains pending before the Commission about the proper interpretation of
12 resource deficiency for purposes of determining the Company's termination rights under the
13 Small Firm Contract. The inclusion of specific dates in Schedule 37 and the associated Small
14 Firm Contract is a compromise position and does not affect the appropriate interpretation of
15 the termination provisions, subject to Commission order in this proceeding.

16 **e. Refinement of the passive investor exemption.** The Stipulating Parties
17 agree that the Schedule 37 in effect during Phase II will include a revised definition of
18 "Person(s) or Affiliated Person(s)" that: (1) addresses the applicability of the passive investor
19 exemption with respect to independent family owned or community-based projects; and (2)
20 clarifies that a unit of Oregon local government may also qualify as a "passive investor" in a
21 community-based project.

22 **f. Renewable Energy Credit (REC) ownership in the last five years of a 20-**
23 **year contract.** The Stipulating Parties agree that renewable PPAs signed during Phase II

1 will include language assigning ownership of all Environmental Attributes to the QF during
2 the last five years of a 20-year contract when prices paid to the QF are at market.

3 **g. Market blending and the production tax credit (PTC).** For PPAs executed
4 during Phase II, the Stipulating Parties agree that the Schedule 37 avoided cost rates in effect
5 will be based on a blended market price rather than just Mid-Columbia market prices, and the
6 Scheduled 37 avoided cost rates in effect during the Renewable Resource Deficiency Period
7 will assume no PTC.

8 **h. Solar capacity adder workshop.** The Stipulating Parties agree that Staff will
9 conduct a workshop regarding the solar capacity adder for renewable standard rates. The
10 Stipulating Parties further agree that PacifiCorp's participation in this workshop does not
11 limit or otherwise waive PacifiCorp's right to argue in testimony in Phase II, or in subsequent
12 phases or dockets, that the solar capacity adder for renewable standard rates is an issue
13 previously resolved by the Commission and not appropriately subject to re-litigation at this
14 time.

15 **j. Phase II issues.** The Stipulating Parties agree that the following issues may
16 be addressed during Phase II of docket UM 1610, subject to Commission resolution of
17 PacifiCorp's June 24, 2014 Request for Certification filed in docket UM 1610:

- 18 • Taxes applicable to PacifiCorp's proxy wind plant in Wyoming;
- 19 • Ownership of Green Tags under a renewable fixed price PPA during the last
20 five years of a 20-year contract when prices paid to the QF are at market;
- 21 • The assumption of no PTC for the Renewable Resource Deficiency Period
22 Rates;
- 23 • Solar capacity adder calculation for renewable resources;

- 1 • Whether the market prices used during the Resource Sufficiency Period
- 2 sufficiently compensates for capacity;
- 3 • Impact of partial acknowledgment of the Company's Integrated Resource Plan
- 4 on the demarcation of the resource sufficiency period and resource deficiency
- 5 period for purposes of calculating avoided cost rates;
- 6 • Avoided point-to-point or network transmission costs for standard and
- 7 renewable proxy resources utilized for purposes of calculating avoided cost
- 8 rates;
- 9 • Sourcing of gas prices;
- 10 • Forum for disputed inputs and assumptions about wind integration costs;
- 11 • Language changes to the PPAs, including but not limited to the contracts
- 12 proposed in PacifiCorp's compliance filing;
- 13 • Criteria and process to determine eligibility for use of the new "community-
- 14 based" and "independent family-owned" exception added to the UM 1129
- 15 Partial Stipulation by Order No. 14-058;
- 16 • The use of blended market prices versus Mid-Columbia market prices; and
- 17 • Whether the capacity contributions adjustment for non-renewable standard
- 18 rates should be modified to mirror changes to the solar capacity contribution
- 19 calculation.

20 k. Any party may raise any of the issues listed in subpart 6(j) of this Stipulation
21 in Phase II of docket UM 1610, and no Stipulating Party will raise a procedural objection to
22 these issues being raised or otherwise assert that raising these issues is beyond the scope of
23 Phase II.

1 7. The Stipulating Parties further agree that the agreement to allow parties to
2 raise these issues during Phase II of docket UM 1610 does not constitute a limitation or
3 waiver of the right to raise other issues or to argue that an issue has been previously resolved
4 by the Commission and is not appropriately subject to re-litigation.

5 8. This Stipulation will be offered into the record in docket UM 1610 as
6 evidence of the Stipulating Parties agreement. The Stipulating Parties agree to support this
7 Stipulation throughout these proceedings and any appeal, provide witnesses to sponsor this
8 Stipulation at hearing, if needed.

9 9. If this Stipulation is challenged by any other party to these proceedings, the
10 Stipulating Parties agree that they will continue to support the terms of this Stipulation. The
11 Stipulating Parties reserve the right to cross-examine witnesses and introduce evidence as
12 they deem appropriate to respond fully to the issues presented.

13 10. The Stipulating Parties have negotiated this Stipulation as an integrated
14 document. If the Commission rejects all or any material portion of this Stipulation or
15 imposes additional material conditions in approving this Stipulation, any of the Stipulating
16 Parties is entitled to withdraw from the Stipulation or exercise any other rights provided in
17 OAR 860-001-0350(9), including the right to present evidence and argument on the record in
18 support of the Stipulation.

19 11. By entering into this Stipulation, no Stipulating Party approves, admits, or
20 consents to the facts, principles, methods, or theories employed by any other party in arriving
21 at the terms of this Stipulation, other than as specifically identified in this Stipulation.

22 12. Each signatory to this Stipulation avers that they are signing this Stipulation in
23 good faith and that they intend to abide by the terms of this Stipulation. The Stipulating

1 Stipulation is rejected or adopted only in part by the Commission. The Stipulating Parties
2 agree that the Commission has exclusive jurisdiction to enforce or modify the Stipulation. If
3 the Commission rejects or modifies this Stipulation, the Stipulating Parties reserve the right
4 to seek reconsideration or rehearing of the Commission order under ORS 756.561 and OAR
5 860-001-0720 or to appeal the Commission order under ORS 756.610.

6 13. This Stipulation may be executed in counterparts and each signed counterpart
7 will constitute an original document.

8 This Stipulation is entered into by each party on the date entered below that party's
9 signature.

PACIFICORP

STAFF

By: [Signature]

By: _____

Date: August 11, 2014

Date: _____

COALITION

CREA

By: [Signature]

By: _____

Date: August 11, 2014

Date: _____

Example of Gas Pricing Options available to the Qualifying Facility

An example of the two gas pricing options using different assumed gas prices is provided at the end of this tariff.

Qualifying Facilities Contracting Procedure

Interconnection and power purchase agreements are handled by different functions within the Company. Interconnection agreements (both transmission and distribution level voltages) are handled by the Company's transmission function (PacifiCorp Transmission Services) while power purchase agreements are handled by the Company's merchant function (PacifiCorp Commercial and Trading).

It is recommended that the owner initiate its request for interconnection 18 months ahead of the anticipated in-service date to allow time for studies, negotiation of agreements, engineering, procurement, and construction of the required interconnection facilities. Early application for interconnection will help ensure that necessary interconnection arrangements proceed in a timely manner on a parallel track with negotiation of the power purchase agreement.

1. Qualifying Facilities up to 10,000 kW

APPLICATION: To owners of existing or proposed QFs with a design capacity less than or equal to 10,000 kW who desire to make sales to the Company in the state of Oregon. Such owners will be required to enter into a written power purchase agreement with the Company pursuant to the procedures set forth below.

I. Process for Completing a Power Purchase Agreement

A. Communications

Unless otherwise directed by the Company, all communications to the Company regarding QF power purchase agreements should be directed in writing as follows:

PacifiCorp
Manager-QF Contracts
825 NE Multnomah St, Suite 600
Portland, Oregon 97232

The Company will respond to all such communications in a timely manner. If the Company is unable to respond on the basis of incomplete or missing information from the QF owner, the Company shall indicate what additional information is required. Thereafter, the Company will respond in a timely manner following receipt of all required information.

(continued)

B. Procedures

1. The Company's approved generic or standard form power purchase agreements may be obtained from the Company's website at www.pacificorp.com, or if the owner is unable to obtain it from the website, the Company will send a copy within seven days of a written request.

2. In order to obtain a project specific draft power purchase agreement the owner must provide in writing to the Company, general project information required for the completion of a power purchase agreement, including, but not limited to:
 - (a) demonstration of ability to obtain QF status;
 - (b) design capacity (MW), station service requirements, and net amount of power to be delivered to the Company's electric system;
 - (c) generation technology and other related technology applicable to the site;
 - (d) proposed site location;
 - (e) schedule of monthly power deliveries;
 - (f) calculation or determination of minimum and maximum annual deliveries;
 - (g) motive force or fuel plan;
 - (h) proposed on-line date and other significant dates required to complete the milestones;
 - (i) proposed contract term and pricing provisions (i.e., fixed, deadband, gas indexed);
 - (j) status of interconnection or transmission arrangements;
 - (k) point of delivery or interconnection;

3. The Company shall provide a draft power purchase agreement when all information described in Paragraph 2 above has been received in writing from the QF owner. Within 15 business days following receipt of all information required in Paragraph 2, the Company will provide the owner with a draft power purchase agreement including current standard avoided cost prices and/or other optional pricing mechanisms as approved by the Oregon Public Utilities Commission in this Schedule 37.

4. If the owner desires to proceed with the power purchase agreement after reviewing the Company's draft power purchase agreement, it may request in writing that the Company prepare a final draft power purchase agreement. In connection with such request, the owner must provide the Company with any additional or clarified project information that the Company reasonably determines to be necessary for the preparation of a final draft power purchase agreement. Within 15 business days following receipt of all information requested by the Company in this paragraph 4, the Company will provide the owner with a final draft power purchase agreement.

(continued)

B. Procedures (continued)

- 5 After reviewing the final draft power purchase agreement, the owner may either prepare another set of written comments and proposals or approve the final draft power purchase agreement. If the owner prepares written comments and proposals the Company will respond in 15 business days to those comments and proposals.

6. When both parties are in full agreement as to all terms and conditions of the draft power purchase agreement, the Company will prepare and forward to the owner within 15 business days, a final executable version of the agreement. Following the Company's execution a completely executed copy will be returned to the owner. Prices and other terms and conditions in the power purchase agreement will not be final and binding until the power purchase agreement has been executed by both parties.

II. Process for Negotiating Interconnection Agreements

[NOTE: Section II applies only to QFs connecting directly to PacifiCorp's electrical system. An off-system QF should contact its local utility or transmission provider to determine the interconnection requirements and wheeling arrangement necessary to move the power to PacifiCorp's system.]

In addition to negotiating a power purchase agreement, QFs intending to make sales to the Company are also required to enter into an interconnection agreement that governs the physical interconnection of the project to the Company's transmission or distribution system. The Company's obligation to make purchases from a QF is conditioned upon the QF completing all necessary interconnection arrangements. It is recommended that the owner initiate its request for interconnection 18 months ahead of the anticipated in-service date to help ensure that necessary interconnection arrangements proceed in a timely manner on a parallel track with negotiation of the power purchase agreement.

Because of functional separation requirements mandated by the Federal Energy Regulatory Commission, interconnection and power purchase agreements are handled by different functions within the Company. Interconnection agreements (both transmission and distribution level voltages) are handled by the Company's transmission function (including but not limited to PacifiCorp Transmission Services) while power purchase agreements are handled by the Company's merchant function (including but not limited to PacifiCorp's Commercial and Trading Group).

(continued)

