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December 15, 2009

Attention: Filing Center
Public Utility Commission of Oregon
550 Capitol Street NE, #215
PO Box 2148
Salem, OR 97308-2148
puc.filingcenter@state.or.us

Re: *Investigation Into If The Avoided Cost Rate Is Consistent with Order 05-584*
PUC Docket No. UM 1443
DOJ File No. 330-030-GN0403-09

Enclosed are an original and five copies of Oregon Department of Energy's Opening Brief in the above-captioned matter for filing with the PUC for today.

Sincerely,

Janet L. Prewitt
Assistant Attorney General
Natural Resources Section

Enclosure
JLP:mme/#1782524
c: UM 1443 Service List

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1443

In the Matter of the)	
Investigation To If The Avoided Cost)	OREGON DEPARTMENT OF
Rate Is Consistent With Order 05-584)	ENERGY'S OPENING BRIEF
_____)	

The Oregon Department of Energy (“ODOE”) submits these comments as our Opening Brief in Oregon Public Utility Commission (PUC) Docket Number UM 1443. These comments support the State of Oregon’s policy and ODOE’s mission to ensure the supply of reliable and affordable sources of renewable energy. ODOE recognizes that Portland General Electric complied with the existing process for Avoided Cost rate filing (as set forth in UM 1129 docket); the outcome of that filing was appropriate and duly followed the identified process. We also recognize that recent market events may require a fresh look at the methodology to assure current and future Qualifying Facilities (“QFs”) of a stable and predictable financial environment.

The recent economic downturn and crisis in the financial markets, coupled with fuel price volatility, and financial uncertainty, are impacting current and future QFs financial planning. Should Oregon PUC initiate a separate and generic investigation into the current Avoided Cost rate determination process (inputs used and methodology), ODOE would support such an effort for reasons set forth below.

1. Review of the Methodology

ODOE suggests that in light of increased market volatility that tends to impact rate setting, and alternative suggestions from other intervenors on how to determine Avoided Costs, any future review of the current procedure of Avoided Cost rate setting (inputs and methodology) should at least examine the following issues:

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A) Integrated Resource Plan (IRP) Based Rate Setting

A review of the process, if undertaken, should assess whether a rate setting timeline based on the IRP process conflicts with a typical Avoided Cost rate filing (2-year) process and consequential impact to QF project development. ODOE would support exploring other ways of pricing QF power that address the unintended effect of market volatility and the consequent conflict with the inherent time-lag associated with project development by QFs.

Of further interest to ODOE is the potential market uncertainties that affect prospective QF developments or expansions as they participate in ODOE's Business Energy Tax Credit ("BETC") program, ORS 469.185-.225, Small-Scale Loan Energy Program ("SELP"), ORS 470, and Community Renewable Energy Fund (CREF). In essence, issues of IRP-based rate setting, its timing versus the typical 2-year Avoided Cost rate filing and related impact on project development and contract setting are matters to assess, should a separate investigation occur.

B) Review of Other States' Methodologies

ODOE is also undertaking a review of other states' efforts to deal with similar issues and evaluate if any other approaches deserve assessment from Oregon's perspective. We would support any similar efforts if undertaken by the PUC Staff.

C) Renewable Portfolio Standard (RPS) Based Avoided Cost Setting For QFs

ODOE also believes that any investigation of RPS based Avoided Cost setting should explore the potential for a differentiated or tiered Avoided Cost rate under which a QF would have an option to sell Renewable Energy Certificates ("REC") that could be used by an electric company to comply with the Oregon RPS.

2. Reduced Financial Uncertainty for Current and Future QF Development

For ODOE to undertake its role as "facilitator and financier" for prospective QF developments or expansions – [Order 05-584, p. 20], resolution of the issues identified in


this brief that impact the planning and development process of contract setting and related financing plans (that typically vary between one and five years) are critical.

Any review should consider the impacts of financial assistance that the State of Oregon through ODOE provides through the SELP and other incentive measures to ensure the Avoided Cost methodology and rates will not negatively impact current and future financial planning process.

Dated this 15th day of December 2009

Respectfully submitted,

JOHN R. KROGER
Attorney General


OSB#043944 

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

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of December 2009, I served the foregoing OREGON DEPARTMENT OF ENERGY'S OPENING BRIEF upon the persons named on the service list, by mailing a full, true and correct copy thereof to such persons waiving such service by mail who were served at their e-mail address as listed on the service list.

DATED: December 15, 2009

OS # 043944 

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