

BEFORE THE  
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER THE PUBLIC UTILITY )	
COMMISSION OF OREGON )	CASE NO. UM 1610
Investigation Into Qualifying Facility )	
Contracting and Pricing )	POST-HEARING BRIEF OF THE
)	COMMUNITY RENEWABLE ENERGY
)	ASSOCIATION AND ONEENERGY,
)	INC.

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**I. INTRODUCTION**

The Community Renewable Energy Association (“CREA”) and OneEnergy, Inc. (“OneEnergy”) hereby respectfully submit this post-hearing legal brief on the solar capacity credit issue to the Public Utility Commission of Oregon (“OPUC”). CREA and OneEnergy are qualifying facility (“QF”) parties that initially moved jointly for reconsideration and/or clarification of the solar capacity credit calculation on April 24, 2014. CREA did not file testimony on the solar capacity credit calculation in this phase of the proceeding because doing so would have been duplicative of the testimony of other parties. For the reasons expressed herein, CREA and OneEnergy support the positions set forth in the testimony of OPUC Staff, Oregon Department of Energy (“ODOE”), Obsidian Renewables, LLC (“Obsidian”), and OneEnergy. The Commission should adopt Staff’s revised proposal to ensure that solar renewable QFs are compensated at the full avoided costs.

**II. REGULATORY BACKGROUND**

Section 210 of PURPA “seeks to encourage the development of cogeneration and small power production facilities.” *FERC v. Mississippi*, 456 U.S. 742, 750 (1982); 16 U.S.C. § 824a-3(a). The law directs the Federal Energy Regulatory Commission (“FERC”) to establish

regulations to implement the requirement that electric utilities must purchase power from QFs. 16 U.S.C. § 824a-3(a)(1). In turn, PURPA requires state regulatory authorities to implement FERC's regulations. 16 U.S.C. § 824a-3(f). FERC's regulations require the OPUC to implement PURPA in a manner that requires Oregon utilities to purchase QF output at the purchasing utility's full avoided costs. *See Amer. Paper Institute, Inc. v. Amer. Elect. Power Serv. Corp.*, 461 U.S. 402, 415-18 (1983). Additionally, Oregon law instructs the Commission to implement policies that will increase the marketability of QFs. ORS 758.515(3). Oregon law also instructs the Commission to implement policies aimed at achieving the goal of serving eight percent of Oregon's retail load from small-scale renewable energy projects with a capacity of 20 megawatts or less by 2025. ORS 469A.210. The Commission's avoided cost policies are a critical part of Oregon's existing efforts to meet this eight-percent goal. Consequently, the Commission should ensure that the solar renewable avoided cost rates do not under-compensate solar renewable QFs.

### **III. ARGUMENT**

The Commission should correct the "double discount" inherent in the new methodology for calculating the solar renewable avoided cost rates. The testimony by Staff, ODOE, Obsidian, and OneEnergy irrefutably demonstrates the double discount should be corrected.

The evidence demonstrates that the Commission's methodology prior to Order No. 14-058 included an implicit reduction in overall capacity compensation to lower capacity factor resources simply by virtue of the fact that Oregon QFs are only paid per megawatt-hour ("MWh") of delivered electricity. *See Staff/400, Andrus/3*. The capacity component of rates were set based on the capacity costs of a gas-fired resource with a volumetric rate design that paid those capacity costs to the QF across all on-peak hours. However, the intermittent QF would

receive just a fraction of those capacity dollars due to the fact that it does not deliver in all on-peak hours. ODOE/700, Brockman/1. In effect, the QF was compensated for avoided capacity costs in proportion to the QF's annual *capacity factor* during all on-peak hours, rather than its actual contribution toward serving the few highest periods of demand on the grid *Id.* at 2; Staff/400, Andrus/4.

In the last phase of this proceeding, the Commission adopted Staff's proposal to base the capacity payment to the QF on the QF resource's estimated *capacity contribution to peak load*. Order No. 14-058 at 15. The switch from a discount based on the QF's capacity factor to the QF's capacity contribution to peak load should theoretically result in a more accurate price signal tied to capacity need during peak load. The Commission never stated, however, that it intended to reduce total capacity payments to a QF to a level well below the QF's actual capacity contribution to peak. Yet reducing the capacity costs by both the capacity factor *and* the capacity contribution to peak creates a double discount below full avoided costs. ODOE/700, Brockman/3. As Staff explained, "spreading the discounted rate across all on-peak hours and only paying the QF in the hours it generates, will undercompensate the solar QF for its capacity contribution." Staff/400, Andrus/6-7. The Commission should correct this error to ensure that solar renewable QFs are paid the full avoided costs of the energy and capacity that they supply.<sup>1</sup>

Staff proposed two separate rate design options to implement the correction. Staff/300, Andrus/11-13. The first option would compensate the solar renewable QF by spreading the volumetric payment for the capacity value over all NERC on-peak hours during which the solar

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<sup>1</sup> ODOE also explains the same mathematical correction must be made with regard to standard (non-renewable) wind and solar avoided cost rates under the new capacity contribution to peak methodology. *See* ODOE/600, Brockman/2. CREA and OneEnergy agree and look forward to correction of that problem in Phase 2.

QF delivers. The second option would only spread the volumetric payment for the capacity value over on-peak hours the QF delivers in the months of maximum need. CREA and OneEnergy support the first option for its simplicity. However, CREA and OneEnergy agree that each option would work so long as the volumetric rate is set at a level that is reasonably expected to pay a solar QF the full (single-discounted) capacity value over the course of the year.

The utilities have not refuted the basic mathematical error that works to underpay solar renewable QFs, or provided any sound policy basis not to correct that error. Instead, they raise off-point criticisms of QFs in general that were rejected as bases to lower the eligibility cap for standard rates in the last phase of this proceeding. *See, e.g.*, PGE/500, Macfarlane/2 (complaining that solar QFs are subject to a minimum availability requirement instead of a minimum delivery requirement). The utilities even appear to argue that the Commission should simply allow them to under-compensate solar renewable QFs. But doing so would be contrary to Oregon law and policy. It would also deprive the utilities' customers of a cost-effective, carbon-free energy resource. There is no logical or legal merit to any arguments the utilities have made. Their positions should be rejected.

Finally, CREA and OneEnergy agree with Obsidian that the Portland General Electric Company ("PGE") and PacifiCorp's existing assumptions regarding capacity contribution to peak, of five percent and 13.6 percent respectively, are unrealistically low and should be immediately corrected. *See* Obsidian/ 300, Brown/11. Both utilities are relying upon indefensibly low assumptions from portions of their integrated resource plans ("IRP") that were not specifically endorsed by any Commission order. Fortunately, there are more reasonable assumptions in this case from each of these utilities' own filings. *See id.* at 11-13

(recommending use of PacifiCorp's revised estimate of 36.7 percent and PGE's alternative estimate of 20 percent). The Commission should direct the utilities to correct these unrealistically low assumptions at the time that they correct the double discount in a compliance filing. If the Commission waits until the next IRP cycle to do so, renewable solar QFs may be unable to utilize expiring federal tax benefits, and Oregon may be deprived the benefits of carbon-free renewable generation projects built utilizing those federal benefits.

#### IV. CONCLUSION

For the reasons set forth herein, the Commission should correct the double discount inherent in the capacity contribution calculation adopted in Order No. 14-058. The Commission should direct PGE and PacifiCorp to promptly make corrective compliance filings using the corrected calculation and reasonable contribution to peak load assumptions as described herein.

RESPECTFULLY SUBMITTED this 18th day of December 2014.

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I HEREBY CERTIFY that on the 18th day of December, 2014, a true and correct copy of the within and foregoing **POST-HEARING BRIEF OF THE COMMUNITY RENEWABLE ENERGY ASSOCIATION AND ONEENERGY, INC. IN DOCKET UM 1610** was served as shown to:

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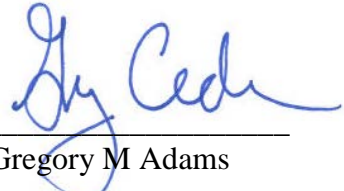
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