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June 17, 2013

Attention: Filing Center
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Re: *In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Investigation into
Qualifying Facility Contracting and Pricing*
PUC Docket No.: UM 1610
DOJ File No.: 330-030-GN0240-12

Enclosed for filing in the above-captioned matter are an original and five copies of the
Oregon Department of Energy's Post-Hearing Brief.

Sincerely,

Renee M France
Senior Assistant Attorney General
Natural Resources Section

RMF:jrs/4346760
c: UM 1610 Service List (electronic copies only)

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1610

In the Matter of)
)
PUBLIC UTILITY COMMISSION OF) OREGON DEPARTMENT OF
OREGON,) ENERGY'S POST-HEARING
) BRIEF
Staff Investigation into Qualifying)
Facility Contracting and Pricing)

I. INTRODUCTION

This Post-hearing Brief is filed on behalf of the Oregon Department of Energy (ODOE) pursuant to the direction from the Administrative Law Judge in Phase 1 of this investigation into contracting and pricing for qualifying facilities (QFs) under the Public Utilities Regulatory Policies Act of 1978 (PURPA).

States are allowed a "wide degree of latitude" in implementing PURPA provided utilities are not obligated to pay generators more than the utilities' avoided costs.¹

The State of Oregon has a two-part goal relating to the development of QFs: 1) to "[p]romote the development of a diverse array of permanently sustainable energy resources" and 2) to "[i]nsure that rates for purchase by an electric utility from, and rates for sales to, a qualifying facility shall over the term of a contract be just and reasonable to the electric consumers of the electric utility, the qualifying facility and in the public interest."² This two-part goal balances encouraging QF development

¹ California Public Utilities Commission, 133 FERC ¶¶61,059, 61,255 (2010).

² ORS 758.515(2)

1 with protecting ratepayers and was promulgated by the Oregon Public Utility
2 Commission (Commission) in docket UM 1129.³ ODOE's testimony in this docket
3 supports maintaining the balance of this two-part goal.

4 ODOE administers state programs that "promote the efficient use of energy
5 resources" and "develop permanently sustainable energy resources,"⁴ including
6 programs that encourage the development of QF projects.⁵ ODOE's mission is to
7 reduce the long-term cost of energy for Oregonians.

8 This Brief summarizes ODOE's position on each issue in Phase 1 of this docket
9 on which ODOE has offered testimony. The Brief follows the format of the issues list
10 for this proceeding. Issues on which ODOE has taken no position are not included
11 in this Brief.

12 II. ISSUES LIST

13 1. Avoided Cost Price Calculation

14 **1.A. What is the most appropriate methodology for calculating avoided cost** 15 **prices?**

16 **1.A.i. Should the Commission retain the current method based on the cost of** 17 **the next avoidable resource identified in the company's current IRP,** 18 **allow an "IRP" method-based on computerized grid modeling, or allow** 19 **some other method?**

20 The Commission should retain the current method of calculating avoided costs
21 based on wholesale power prices during the resource sufficiency period and the cost

³ *In the Matter of Public Utility Commission of Oregon Investigation into Staff Investigation Relating to Electric Utility Purchases from Qualifying Facilities*, Docket UM 1129, Order No. 05-584 at 11 (May 13, 2005). ("We seek to provide maximum incentives for the development of QFs of all sizes, while ensuring that ratepayers remain indifferent to the QF power by having utilities pay no more than their avoided costs.")

⁴ ORS 469.010.

⁵ ODOE programs that encourage QF development include the Small-scale Energy Loan Program (Loan Program), the Renewable Energy Development grant program, the Community Renewable Energy Feasibility Fund and tax credits for combined heat and power systems.

1 of the next avoidable resource during the resource deficiency period. Under the
2 current method, the next avoidable resource is a natural gas combined cycle
3 combustion turbine (CCCT) proxy resource for standard avoided cost prices⁶ and the
4 next avoidable renewable resource identified in the electric company's integrated
5 resource plan (IRP) for renewable avoided cost prices.⁷

6 These methods for determining avoided cost prices should be retained for both
7 standard and negotiated contracts. ODOE disagrees with PacifiCorp's proposal to
8 change the avoided cost methodology for negotiated contracts to the Partial
9 Displacement Differential Revenue Requirement (PDDRR) modeling method.⁸ That
10 method is complex and "would be opaque and harder to predict than the current
11 method. The result would seriously hamper QF developers in getting projects
12 designed and financed."⁹

13 QF resources using variable (intermittent) energy resources impose costs on
14 the electric companies that are not reflected in the current avoided cost calculation.¹⁰
15 According to PacifiCorp, "few, if any, of the QF resources that qualify for standard
16 prices produce energy that provides equivalent value to the proxy resource
17 energy."¹¹ ODOE opposes the electric companies' proposals to address this
18 problem by lowering the eligibility cap for standard contracts because loss of the

⁶ UM 1129, Order No. 05-584.

⁷ *In the Matter of Public Utility Commission of Oregon Investigation into Determination of Resource Sufficiency*, Docket UM 1396, Order No. 11-505 (December 13, 2011).

⁸ PAC/100, Dickman/7-9. *See also*, ODOE/100, Carver/8-9.

⁹ ODOE/100, Carver/4 at lines 17-19.

¹⁰ In docket UM 1129, Order No. 07-360 at 24, the Commission agreed with staff's approach for integration costs, including not adjusting for these costs in prices for small QFs under standard contracts, in recognition that standard avoided cost rates were not adjusted for any costs or benefits of the QF project relative to the utility proxy plant.

¹¹ PAC/100, Dickman/4 line 22 through Dickman/5 line 1.

1 standard contract would hamper QF development as explained in this Brief under
2 Issue 5.A. In lieu of lowering the standard contract eligibility cap, the avoided costs
3 determined by the current proxy plant method should be adjusted for variable QF
4 resources based on the capacity contribution and integration costs attributable to the
5 QF resource type. This is the same approach that is recommended by Staff,
6 although ODOE's recommendation for the capacity contribution adjustment differs
7 from Staff's. ODOE also recommends adjusting for avoided transmission losses in
8 some cases. These adjustments for capacity, integration and avoided transmission
9 losses should apply to both standard and negotiated contracts, and are explained in
10 the following paragraphs.

11 Capacity: Avoided cost prices paid to the QF during the resource deficiency
12 period should be adjusted for the relative capacity value of the QF resource
13 compared to the electric company's avoided resource. Under standard avoided cost
14 prices, where the avoided resource is a CCCT proxy plant, avoided cost prices paid
15 to wind and solar QF resources should be reduced due to their lower capacity
16 values. Under renewable avoided cost prices, where the avoided company resource
17 is wind:

18 1) The avoided cost price paid to a wind QF should not be adjusted because
19 the QF and the avoided resource have the same capacity value.

20 2) The avoided cost price paid to a solar QF should be increased because solar
21 has a higher capacity value than wind.

1 3) The avoided cost price paid to baseload renewable QF resources (biomass,
2 geothermal and non-run of river hydro) should be increased because baseload
3 resources have a higher capacity value than wind.

4 The capacity values for wind and solar resources, the two main variable energy
5 resources, should be established in the companies' IRPs. Prior to the next IRP
6 cycle, interim capacity values for wind and solar should be established in the next
7 avoided cost update in order to timely improve the accuracy of avoided cost prices
8 paid under new contracts for these QFs. As interim capacity values, ODOE
9 supports Idaho Power's use of the same capacity values that the Company is
10 authorized to use in its Idaho jurisdiction. For PGE and PacifiCorp, ODOE
11 recommends that the interim capacity value for wind be the value in the company's
12 most recently acknowledged IRP, and the interim value for solar be a 30 percent
13 capacity credit, based on the results of a study that modeled the solar resource in
14 PGE service territory.¹² For solar resources, 30 percent "is a conservative value
15 because PGE's service area has more clouds" and "a stronger winter peak which
16 tends to reduce the ELCC capacity credit" compared to PacifiCorp's Oregon service
17 area.¹³

18 ODOE recommends the Commission define the capacity value of a new
19 resource as its contribution to meeting the electric company's reliability requirements
20 during all hours of the year, not just during the highest peak load hours as proposed
21 by PacifiCorp. According to RNP, PacifiCorp's proposal to calculate a QF's capacity
22 value based on its contribution only to the company's highest peak load hours "does

¹² ODOE/400, Carver/3 line 19 through Carver/4 line 1.

¹³ ODOE/400, Carver/4 at lines 2-5.

1 not capture contributions to meet load outside this narrow time period, even if a
2 resource delivers capacity when the system is similarly stressed – for example, in
3 the event of low hydro flows or an outage,”¹⁴ and that PacifiCorp’s proposed method
4 “relies on an arbitrary assumption that greatly affects the method’s results.”¹⁵ Retail
5 customers demand reliability all 8,760 hours per year, not just during peak hours.
6 The best tool for assessing the annual capacity contribution of each resource type is
7 an effective load carrying capability (ELCC) calculation across all hours of the year.¹⁶
8 The Commission should direct the electric companies to determine annual ELCC
9 values for wind and solar resources and compare the results to those of the peak
10 load method for discussion in each electric company’s next IRP process.

11 Integration: Avoided cost prices paid to QFs should be adjusted for the relative
12 integration cost of the QF resource compared to the electric company’s avoided
13 resource. For wind resources, the electric company’s acknowledged IRP should be
14 the source of the integration costs. One value for wind integration costs (\$ per
15 MWh) should be specified in each electric company’s published avoided cost
16 schedule. The values will likely vary among electric companies. Under standard
17 avoided cost prices, where the avoided resource is a CCCT proxy plant with no
18 integration costs, the avoided cost prices paid to wind QF resources should be
19 reduced for wind integration costs during both the resource sufficiency and
20 deficiency periods. Under the renewable avoided cost, the avoided resource is wind
21 with its own integration costs. The avoided cost price paid to a wind QF should be

¹⁴ RNP/200, Lindsay/3 at lines 3-6.

¹⁵ RNP/200, Lindsay/3 at lines 13-14.

¹⁶ ODOE/100, Carver 7-8.

1 reduced during the renewable resource sufficiency period because the electric
2 company is making market purchases and therefore not incurring integration
3 charges during that period but for the wind QF. But the avoided cost price paid to a
4 wind QF should not be adjusted during the renewable resource deficiency period,
5 when the utility's avoided wind resource imposes similar integration costs.

6 No resources other than wind should incur integration charges at this time. In
7 particular, solar QFs should not be charged for integration until the electric
8 companies have demonstrated there are material integration costs for solar
9 generation. The impact of solar QFs on net load variability is negligible at this
10 time.¹⁷ Under standard avoided costs where the avoided resource is a CCCT proxy
11 plant, the avoided cost prices paid to solar and other renewable resource QFs other
12 than wind should not be adjusted for integration costs. Under renewable avoided
13 costs where the avoided resource is wind, the avoided cost prices paid to solar and
14 other renewable resource QFs (including wind, discussed above) should not be
15 adjusted for integration costs during the renewable resource sufficiency period.
16 During the renewable resource deficiency period, avoided cost rates should be
17 increased for solar and other renewable QFs, other than wind, to account for
18 avoided wind integration costs relative to the company's avoided wind proxy
19 resource.¹⁸

20 Avoided transmission losses: ODOE agrees with OneEnergy's
21 recommendation that avoided cost prices paid to QFs up to 3 MW that are
22 connected to the distribution system should be adjusted to account for avoided

¹⁷ ODOE/400, Carver/4-5.

¹⁸ ODOE/100, Carver/10

1 transmission losses.¹⁹ A 3.9 percent adjustment value should be used, unless an
2 electric company demonstrates a different value for transmission losses.²⁰

3 Additionally, ODOE agrees with PacifiCorp's proposal to calculate avoided cost
4 prices during the resource sufficiency period using energy prices from a single
5 market hub rather than blended market prices.²¹ However, ODOE recommends
6 using one of two market hubs, Mid-Columbia or California-Oregon Border,
7 depending on the location of the QF on PacifiCorp's system in order to best
8 represent the costs that would actually be avoided by purchasing energy from the
9 QF. Mid-Columbia hub pricing should be used for QFs interconnecting to PacifiCorp
10 lines north of a dividing line, such as the Alvey transmission substation near Eugene
11 or the Grizzly substation near Redmond. California-Oregon Border hub pricing
12 should be used for QFs located south of that dividing line.²²

13 **1.C. Should QFs seeking renewal of a standard contract during a utility's**
14 **sufficiency period be given an option to receive an avoided cost price for**
15 **energy delivered during the sufficiency period that is different than the**
16 **market price?**

17 The Renewable Energy Coalition's proposal that renewal contracts should
18 receive resource deficiency prices for the entire new contract term has merit.²³
19 PacifiCorp's 2011 IRP deferred the acquisition of new firm resources based on the
20 expectation of QF contract renewal. This is an appropriate planning strategy for all

¹⁹ OneEnergy/100, Eddie/36-37.

²⁰ ODOE/400, Carver 5-6.

²¹ PAC/100, Dickman/5-7.

²² ODOE/400, Carver/8-9.

²³ Coalition/100, Lowe/21-22.

1 electric companies. The avoided cost prices paid to those renewing QFs should
2 reflect the deferral of new resources.²⁴

3 **2. Renewable Avoided Cost Price Calculation**

4 **2.A. Should there be different avoided cost prices for different renewable**
5 **generation sources? (for example different avoided cost prices for**
6 **intermittent vs. base load renewables; different avoided cost prices for**
7 **different technologies, such as solar, wind, geothermal, hydro, and**
8 **biomass.)**

9 ODOE's recommendations for adjustments to avoided cost prices based on the
10 QF resource type are summarized in this Brief under Issue 1.A. and apply to both
11 the standard and renewable avoided cost calculations.

12 **2.B. How should environmental attributes be defined for purposes of PURPA**
13 **transactions?**

14 The definition of environmental attributes should be decided in phase two of
15 this docket in order to give parties time to develop consensus contract language.
16 Environmental attributes should be defined in a manner consistent with Oregon's
17 Renewable Portfolio Standard statute and administrative rules, and with the Western
18 Renewable Energy Generation Information System (WREGIS).²⁵ As explained by
19 RNP, the WREGIS definition explicitly excludes from the Renewable Energy
20 Certificate (REC) the value associated with the capture and destruction of
21 greenhouse gases.²⁶

22 **2.C. Should the Commission amend OAR 860-022-0075, which specifies that**
23 **the non-energy attributes of energy generated by the QF remain with the**
24 **QF unless different treatment is specified by contract?**

²⁴ ODOE/400, Carver/7.

²⁵ ODOE/100, Carver/11-14.

²⁶ RNP/200, Lindsay/16-17.

1 There is no need to amend OAR 860-022-0075.²⁷ The rule is consistent with
2 Order No. 11-505, which “provides clear direction as to when non-energy attributes
3 of energy from a QF would be transferred to the purchasing electric company.”²⁸

4 Idaho Power's revised proposal that it should own “half of the RECs associated
5 with the QF energy that it must purchase from QF projects” under negotiated
6 contracts²⁹ is arbitrary and inconsistent with OAR 860-022-0075. Idaho Power does
7 not offer a renewable avoided cost option, so there is no REC valued included in
8 Idaho Power's avoided cost prices. Therefore, a renewable resource QF selling
9 power to Idaho Power is not compensated for its REC value, and the RECs should
10 remain with the QF consistent with OAR 860-022-075.

11 **3. Schedule for Avoided Cost Price Updates**

12 **3.A. Should the Commission revise the current schedule of updates at least** 13 **every two years and within 30 days of each IRP acknowledgement?**

14 To improve accuracy of avoided costs to protect ratepayers, the frequency of
15 the regularly scheduled avoided cost filings should be increased to annually. And to
16 improve price certainty for QF developers to help meet state and federal PURPA
17 goals, those filings should occur on a date certain each year. ODOE takes no
18 position on the specific date. The regular filing process should include an
19 evidentiary process of fixed duration sufficient for robust stakeholder engagement.
20 Additionally, avoided cost updates should continue to be filed within 30 days of each

²⁷ OAR 860-022-0075(2)(b) states, “Unless otherwise agreed to by separate contract, the owner of the renewable energy facility retains ownership of the non-energy attributes associated with electricity the facility generates and sells to an electric company pursuant to * * * [a]n Oregon contract with the electric company entered into pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978.”

²⁸ ODOE/100, Carver/14 at lines 18-20.

²⁹ Idaho Power Company's Pre-Hearing Memorandum, p. 9.

1 IRP acknowledgement order. The date of resource deficiency should be updated
2 only if the Commission has issued an order updating the date, such as in an IRP
3 acknowledgement order.³⁰

4 **3.D. To what extent (if any) can data from IRPs that are in late stages of review
5 and whose acknowledgement is pending be factored into the calculation
6 of avoided cost prices?**

7 If, by chance, the dates for the utility's regular avoided cost update and its IRP
8 acknowledgement fall close to each other, the Commission should issue an order to
9 skip the regularly scheduled avoided cost filing and rely on the IRP-triggered
10 avoided cost filing, as it did for Idaho Power in Order No. 07-428.³¹

11 **3.E. Are there circumstances under which the Renewable Portfolio
12 Implementation Plan should be used in lieu of the acknowledged IRP for
13 purposes of determining renewable resource sufficiency?**

14 Generally, the IRP acknowledgement order is the best tool for determining the
15 dates of resource sufficiency and deficiency. Still, the Commission should retain
16 discretion to update the renewable resource deficiency date in its acknowledgement
17 order for the Renewable Portfolio Standard implementation plan based on the facts
18 at the time. Such an order updating the renewable resource deficiency date would
19 trigger an update to the renewable avoided cost prices.³²

20 **4. Price Adjustments for Specific QF Characteristics**

21 **4.A. Should the costs associated with integration of intermittent resources
22 (both avoided and incurred) be included in the calculation of avoided cost
23 prices or otherwise be accounted for in the standard contract? If so, what
24 is the appropriate methodology?**

³⁰ ODOE/300, Brockman/3.

³¹ Docket UM 1129, Order No. 07-428 (October 5, 2007).

³² ODOE/300, Brockman/4-5.

1 All of ODOE's recommended adjustments to the avoided cost prices, including
2 those for integration costs, are discussed under Issue 1.A. in this Brief.

3 **4.C. How should the seven factors of 18 CFR 292.304(e)(2) be taken into**
4 **account?**

5 For renewable resource QFs over 10 MW with negotiated contracts, the prices
6 paid should be adjusted for integration costs and the remainder of the Federal
7 Energy Regulatory Commission factors based on the characteristics of the
8 renewable resource facility. The capacity credit for variable renewable resources
9 should be based on an annual ELCC analysis.³³

10 **5. Eligibility Issues**

11 **5.A. Should the Commission change the 10 MW cap for the standard contract?**

12 No. The 10 MW eligibility cap for the standard contract should not be changed.
13 Based on ODOE's experience in the Small-scale Energy Loan Program (Loan
14 Program) processing QF loan applications, we believe that "moving from standard to
15 negotiated PPA contracts would likely impede QFs' ability finance their projects."³⁴

16 All three electric companies have proposed to significantly lower the eligibility
17 cap for standard contracts in order to allow the companies to negotiate the avoided
18 costs paid to most QFs on a case-by-case basis, based on the characteristics of
19 each QF. ODOE supports the electric companies' desire for the prices paid to
20 variable QFs to more accurately reflect the true costs and benefits of adding those
21 QFs to their systems, but ODOE disagrees with the companies that lowering the
22 eligibility cap is the appropriate solution. The companies' concerns should instead

³³ ODOE/100, Carver/11.

³⁴ ODOE/200, Elliott/2 at lines 7-9.

1 be addressed by adjusting the standard contract avoided cost prices to account for
2 the relative capacity contribution and integration costs of the QF resource type
3 compared to the electric company's avoided resource. ODOE's recommended price
4 adjustments are described in this Brief under Issue 1.A.

5 Reducing the eligibility cap for standard contracts from 10 MW would almost
6 certainly reduce the number of QF projects developed in Oregon because
7 negotiating a power purchase agreement would add significant costs and would
8 negatively disrupt the QF project development and financing process.

9 Without a standard contract, QFs would incur additional direct costs to hire
10 attorneys experienced in energy project development and PPA negotiation, as well
11 as indirect costs incurred by lenders and passed on to the QF for consultants to help
12 review negotiated contracts.³⁵ "Some QF projects may be able to absorb the higher
13 transaction costs * * *, while it may be the proverbial last straw for others."³⁶

14 Not having a standard contract would disrupt the entire project development
15 cycle for small QFs. QF developers need to secure project term financing before
16 securing construction financing, entering into construction contracts or purchasing
17 equipment with long lead times. However, term lenders will not commit to finance a
18 project until the power purchase price, which determines project revenues, and other
19 key terms such as power delivery requirements and penalties for under-delivery are
20 defined in the PPA. Therefore, QFs would need to "incur significant upfront legal
21 fees to negotiate a PPA early in the project to determine if they even have a viable

³⁵ ODOE/200, Elliott/3-4.

³⁶ ODOE/200, Elliott/6 at lines 2-4.

1 project, and that may deter some potential project developers altogether.”³⁷ If a QF
2 applies for financing before having negotiated a contract, the lender would likely use
3 a conservative price estimate that would reduce the forecasted project revenues,
4 resulting in a smaller loan amount that may make the project financially unviable.³⁸

5 Lowering the eligibility cap to 100 kW as suggested by PGE and Idaho Power,
6 or to 3 MW as suggested by PacifiCorp, would affect a significant number of small
7 QF projects. Since Commission Order No. 05-584 increased the standard contract
8 eligibility cap to 10 MW, all of the applications received by the Loan Program were
9 for projects 10 MW or less, none were for projects 100 kW or less, and half were for
10 projects between 3 MW and 10 MW.³⁹ Therefore, a 3 MW eligibility cap would have
11 a detrimental effect on future projects, in particular small hydro projects that include
12 “irrigation canal projects and facilities added to non-power dams.”⁴⁰ Promoting this
13 kind of hydropower development is “one of the strategic water goals of the State
14 under the 2012 Integrated Water Resources Strategy.”⁴¹

15 ODOE disagrees with PacifiCorp’s conclusion that QFs over 3 MW “do not face
16 significant market barriers”⁴² and with Staff’s reasoning that most QFs over 3 MW
17 would have a “large, sophisticated developer.”⁴³ The Loan Program’s QF loan
18 applicants have been “small independent entities without the support of any large,
19 sophisticated well-capitalized development company.”⁴⁴ Additionally, ODOE

³⁷ ODOE/200, Elliott/5 at lines 21-13.

³⁸ ODOE/200, Elliott/5.

³⁹ ODOE/500, Elliott/3.

⁴⁰ ODOE/500, Elliott/5 at lines 13-14.

⁴¹ ODOE/500, Elliott/5 at lines 16-17.

⁴² PacifiCorp Pre-Hearing Memorandum, p. 12.

⁴³ Staff/100, Bless/38 at lines 11-15.

⁴⁴ ODOE/500, Elliott/4 at lines 6-8

1 believes that "all developers of QF projects up to 10 MW, regardless of
2 sophistication, will need to retain legal counsel to negotiate a PPA,"⁴⁵ adding
3 transaction costs that may put some projects at risk.

4 In its argument to reduce the eligibility cap to 100 kW, PGE cited Oregon's
5 statutory goal to "[i]nsure that rates for purchases by an electric utility from, and
6 rates for sales to, a qualifying facility over the term of a contract be just and
7 reasonable to the electric consumers of the electric utility, the qualifying facility and
8 in public interest."⁴⁶ However, that same statute states that "It is the goal of Oregon
9 to ... [p]romote the development of a diverse array of permanently sustainable
10 energy resources using the public and private sectors to the highest degree
11 possible."⁴⁷ The Commission balanced this two-part statutory goal in Dockets UM
12 1129 and UM 1396.⁴⁸ The statute further states:⁴⁹

13 It is, therefore, the policy of the State of Oregon to:

- 14 (a) Increase the marketability of electric energy produced by
15 qualifying facilities located throughout the state for the
16 benefit of Oregon's citizens; and
17 (b) Create a settled and uniform institutional climate for the
18 qualifying facilities in Oregon.

19 Lowering the eligibility cap for standard avoided cost prices and standard
20 contracts would constrain access to uniform terms and conditions for selling QF
21 energy and capacity; reduce the development of distributed renewable resources

⁴⁵ ODOE/500, Elliott/4 at lines 9-12.

⁴⁶ PGE Pre-Hearing Memorandum , p. 3; ORS 758.515(2)(b).

⁴⁷ ORS 758.515(2)(a).

⁴⁸ See, e.g., Order No. 05-584 at 1, ("This Commission's goal has been to encourage the economically efficient development of these qualifying facilities (QFs), while protecting ratepayers by ensuring that utilities pay rates equal to that which they would have incurred in lieu of purchasing QF power.") See also, ODOE/500, Elliott/1-2.

⁴⁹ ORS 758.515(3).

1 and combined heat and power facilities in the state, and throw off the balance the
2 Commission achieved in Docket UM 1129 for meeting Oregon's PURPA goals.
3 Instead of lowering the eligibility cap, the Commission can insure just and
4 reasonable rates for electric consumers by adjusting avoided cost prices for capacity
5 value and integration costs as described under Issue 1.A.

6 **6. Contracting Issues**

7 **6.E. How should contracts address mechanical availability?**

8 QFs that miss availability requirements should incur financial penalties based
9 on actual harm to the electric company, rather than face contract termination, as this
10 would make small QF projects non-financeable. "The Loan Program will not finance
11 QFs if the PPA includes such a termination clause."⁵⁰

12 Contracts should require prior notification and provide an opportunity to remedy
13 before financial penalties are imposed. Mechanical availability should be measured
14 on an annual basis (rather than monthly as proposed by Idaho Power.) All three
15 electric companies should adopt similar requirements. ODOE does not take a
16 position on specific mechanical guarantee percentages and number of allowable
17 hours for scheduled maintenance.⁵¹

18 **6.I. What is the appropriate contract term? What is the appropriate duration** 19 **for the fixed price portion of the contract?**

20 The current standard contract length of up to 20 years with fixed prices during
21 the first 15 years should be maintained. Shorter contract terms would require
22 shorter loan terms, resulting in either higher loan payments or a smaller loan

⁵⁰ ODOE/500, Elliott/7 at lines 9-10.

⁵¹ ODOE/200, Elliott/6-9.

1 amount, both of which would likely cause the project to be financially unviable.
2 Higher loan payments could not be supported because a QF's monthly loan
3 payments are "typically 'maxed out' – there isn't any more additional underlying
4 generation revenue."⁵² A smaller loan amount would be detrimental because QF
5 developers typically "either lack capital to increase their equity share * * *, or they
6 would be unwilling to do so because their return on the invested capital would not be
7 worth the risks."⁵³

8 The Loan Program will not offer a loan term that exceeds the contract term, and
9 may require that the loan term not exceed the fixed price portion of the contract
10 term. All but one of the Loan Program's QF loans since 2006 have had 15 to 20
11 year terms.

12 ODOE agrees with OneEnergy's recommendation that QFs under 3 MW that
13 are connected directly to the electric company's distribution system may receive
14 fixed prices for the full contract term, rather than just the first 15 years.⁵⁴ "Such
15 contracts would more closely parallel electric companies' 20-year contracts for many
16 renewable energy purchases," and "[t]he amount of power contracted under such
17 projects will be a tiny fraction of retail loads." However, unlike OneEnergy, ODOE
18 recommends that these projects also receive a maximum contract term of 20
19 years.⁵⁵

20 ///

21 ///

⁵² ODOE/200, Elliott/10 at lines 17-18.

⁵³ ODOE/200, Elliott/11 at lines 2-4.

⁵⁴ OneEnergy/100, Eddie/37-39.

⁵⁵ ODOE/400, Carver/8.

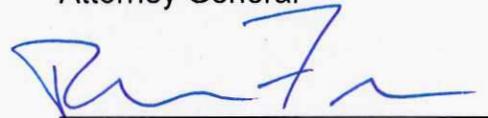
1 **III. CONCLUSION**

2 ODOE's recommendations in this docket are intended to balance Oregon's
3 goal of encouraging QF development while protecting ratepayers. We reiterate the
4 continued importance of the standard contract option, with standard avoided cost
5 rates, in facilitating the development of small distributed generation, and recommend
6 specific adjustments to avoided cost prices based on QF resource type so that the
7 price paid to the QF more closely matches the value electric company customers
8 receive from the QF. ODOE appreciates the opportunity to participate in this docket
9 and respectfully requests that the Commission consider its proposals contained
10 herein.

11 Dated this 17th day of June, 2013.

12
13 Respectfully submitted,

14 ELLEN ROSENBLUM
15 Attorney General
16

17 

18 Renee M. France, #004472
19 Assistant Attorney General
20 Of Attorneys for Oregon
21 Department of Energy

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2013, I served the foregoing Oregon Department of Energy's Post-Hearing Brief in Docket UM 1610 upon all parties of record in this proceeding by electronic mail only as all parties have waived paper service.

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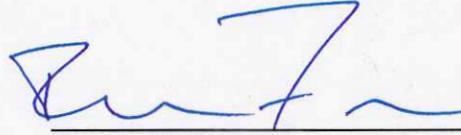
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