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May 20, 2013

VIA ELECTRONIC FILING & U.S. MAIL

Oregon Public Utility Commission
Attn: Filing Center
550 Capitol Street, N.E., #215
P.O. Box 2148
Salem, Oregon 97308-2148

Re: In the Matter of Public Utility Commission of Oregon Investigation Into
Qualifying Facility Contracting and Pricing
Docket No. UM-1610

Dear Filing Center:

Enclosed please find the original and five (5) copies of Obsidian Renewables, LLC's Pre-Hearing Memorandum in the above-referenced docket.

Thank you for your assistance with this filing. Should you have any questions, please feel free to contact me.

Very truly yours,



Chad M. Stokes

CMS:sk
Enclosures

cc: UM-1610 Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1610

In the Matter of)	
)	OBSIDIAN RENEWABLES LLC'S
PUBLIC UTILITY COMMISSION OF)	PRE-HEARING MEMORANDUM
OREGON Staff Investigation Into)	
Qualifying Facility Contracting and)	
Pricing)	
)	

Pursuant to the Prehearing Conference Memorandum dated May 13, 2013, Obsidian Renewables LLC (“Obsidian”) submits this Pre-Hearing Memorandum summarizing Obsidian’s legal positions and the factual support for those positions. Obsidian develops larger-scale PV solar projects, primarily in Oregon.

I. INTRODUCTION

The Oregon Public Utility Commission (“Commission”) opened this docket on June 29, 2012 to address contracting under the Public Utility Regulatory Policy Act (“PURPA”), and related avoided cost issues. Obsidian commends the Commission for taking action to address the important issues raised in this docket. The outcome of this proceeding will shape the future development of renewable energy in Oregon through qualifying small power production facilities (“QF”).

Obsidian submitted reply testimony on the following issues: (a) Issue 1A “What is the most appropriate methodology for calculating avoided cost prices?” (b) Issue 4A: “Should the costs associated with the integration of intermittent resources (both avoided and incurred) be included in the calculation of avoided cost prices or otherwise be accounted for in the standard contract?” and (c) Issue 5A. “Should the Commission

change the 10 MW cap for the standard contract?” Obsidian addresses these three issues below.

1. ISSUE 1A. THE APPROPRIATE METHODOLOGY FOR CALCULATING AVOIDED COST PRICES.

The appropriate methodology for calculating a utility’s renewable avoided cost (“Renewable Rate”) seems to be uncontroversial. Obsidian supports the continued use of the methodology set forth in Commission Order 11-505 to calculate the Renewable Rate. Obsidian/100/Brown/3. Staff also supports this approach. Staff/100/Bless/4. PGE indicated that the Commission should retain the current method. PGE/Macfarlane-Morton/12, 15. PacifiCorp agreed that the method for calculating the avoided costs for small generating facilities should remain largely unchanged. PacifiCorp/Dickman/2-3. The bottom line is that most parties agree that the proxy approach set forth in Order 11-505 establishes a Renewable Rate that is acceptable to both the purchasing utility and the QF.

Obsidian urges the Commission to require the utilities to offer a Renewable Rate as expeditiously as possible. Obsidian/100/Brown/3. The Renewable Rate was previously addressed in UM 1396. As required by the Commission in Order 11-505, the utilities developed Renewable Rates based on their renewable avoided costs. Although Renewable Rates were fully developed in that docket, these rates have not yet been approved by the Commission. UM 1396 remains open, but inactive. As a result, there is considerable uncertainty regarding when the Renewable Rates developed in that docket will be made available to QFs.

The current state of uncertainty surrounding the status of the Renewable Rates is an impediment to renewable resource development and the development of new

technology. Obsidian/Brown/100/4. If renewable QF developers do not know the Renewable Rate at which they can sell their power output, it is more difficult (if not impossible) to proceed with development, and research and development into new technology will be limited. Obsidian/100/Brown/4. Renewable projects, like other energy projects, need definitive pricing information in order to move forward. Delays in the development process could mean the loss of financial incentives or other opportunities, loss of priority of prices with contractors and vendors and loss of status in interconnection and transmission queues. Obsidian/100/Brown/4. The Commission should therefore require the utilities to make the Renewable Rate, calculated consistently with Order 11-505, available to QFs effective immediately.

2. ISSUE 4A: SHOULD THE COSTS ASSOCIATED WITH INTEGRATION OF INTERMITTENT RESOURCES (BOTH AVOIDED AND INCURRED) BE INCLUDED IN THE CALCULATION OF AVOIDED COST PRICES OR OTHERWISE BE ACCOUNTED FOR IN THE STANDARD CONTRACT?

All renewable QF projects are not created equal. In this proceeding, the focus of the integration cost issue has been on the costs associated with integrating wind projects. But not all renewable resources have the same impact on a utility's electrical system as wind generation. In general terms, an "integration charge" is intended to recover the within-hour balancing costs incurred by utilities to integrate variable or intermittent generating resources into their electric system. The within-hour balancing costs are largely a function of the predictability of the power output of a generating facility compared to its hourly schedules. The output variability of a generating resource can vary widely by generation technology and by fuel source. For example, solar generation in the desert areas of Oregon is highly predictable and schedulable, even on a day-ahead

basis. Obsidian/100/Brown/6. Although solar generation may still be considered “variable,” it is less variable in many instances than other intermittent technologies.

In spite of these differences, PGE and PacifiCorp urge the Commission to treat all variable energy resources the same. PGE, for example, states that all variable energy resource QFs impose integration costs, but cites only to its wind integration study. Macfarlane-Morton/8. PGE presents no information specific to integrating solar facilities. Similarly, PacifiCorp admits that it has not “calculated separate integration costs for solar resources.” PacifiCorp/Dickman/19. PacifiCorp further testifies that it “proposes to use its calculated wind integration costs as a proxy for integrating solar resources at this time.” PacifiCorp/Dickman/19. To its credit, however, Idaho Power does not attempt to equate wind integration costs with the costs of integrating other intermittent generating technologies. Idaho Power/Stokes/67-73.

Obsidian and several other parties disagree with applying the wind integration rate to all variable QFs. Commission Staff supports exempting solar QFs from wind integration costs. Staff determined that solar QF penetration is small enough to minimize any potential harm to ratepayers. Staff/200/Bless/18. CREA and OneEnergy also argue that the Commission should not allow the use of a wind integration charge for solar projects. OneEnergy/100, Eddie/32; CREA/200, Reading/17. RNP and ODOE also oppose integration charges for solar projects. RNP/100, Lindsey/8-9; ODOE/100, Carver/10.

Any integration charge that may be imposed on solar facilities in the future must be based on actual integration costs—which are not yet known. PGE and PacifiCorp essentially seek non-cost based integration charges on solar projects. Each of the utilities admit that it has not specifically studied or calculated the integration costs associated with solar projects. Absent such studies, any integration charge applied to solar resources will be arbitrary and not tailored to recover actual costs. Accordingly, none of the

purchasing utilities should be permitted to charge solar QFs an integration charge unless and until they have done a cost-study specific to integrating solar power.

3. ISSUE 5A: SHOULD THE COMMISSION CHANGE THE 10MW CAP FOR THE STANDARD CONTRACT?

The Commission should retain the 10MW cap for the standard contract. The 10MW threshold has worked well in terms of fostering an active QF industry in this state. Obsidian/100/Brown/10. A reduction in the 10MW cap would only serve to impede the development of clean energy in Oregon by making it more difficult and more expensive. Obsidian/100/Brown/10. It is telling that all of the non-utility parties, including Commission Staff, support retaining the cap at 10MW.

The 10 MW threshold for small QF projects has helped foster QF development and investment in new technology, which ultimately helps bring the price of renewable resources down. This point is well illustrated by HB 3039 in 2009 and HB 2690, which set-up the state's pilot Feed-in Tariff program. As shown in the attached Exhibit A, the price of the solar bids for a 500kW solar project in PacifiCorp's service territory from July 2010 to April 2013 dropped by 54 percent. The price reduction is a direct result of the investment in the technology, experience, dropping equipment prices and the creation of a competitive market. Economics of scale significantly favor a 500kW project compared to a 100kW project and significantly favor a 10MW project compared to a 500kW project. Obsidian estimates the cost savings for a 10MW project as compared to a 500kW project at ten percent. Changing the 10MW cap for the standard contract will create a barrier to the continued development of cost effective solar and other renewable projects, and stunt the growth in clean energy investment.

If the threshold is reduced to 100kW, as PGE and Idaho Power have argued it should be, the end result would be that virtually all QF projects in the Oregon will be forced to negotiate separate individualized power sales agreements with the host utility. Idaho Power admits in its testimony that reducing the cap to 100kW means that “most wind and solar QF contract [must] be individually negotiated * * *.” Idaho Power/Stokes/45. This, in turn, means that nearly every QF project in Oregon will face delay, cost increases, uncertainty in pricing, and potentially onerous contract terms and conditions intended to render QF development undesirable. Obsidian/100/Brown/7.

Furthermore, the only rationale that PGE and Idaho Power offer in support of a 100kW cap is that it is what the Idaho Commission has adopted. PGE’s initial testimony states that the Oregon Commission should reduce the eligibility cap to 100kW because “[t]he Idaho Commission recently reduced the cap for solar and wind QFs to 100kW leaving Oregon with a disproportionately large cap relative to the rest of the region.” PGE/Macfarlane-Morton/5. This rationale is unpersuasive. The Idaho Commission was reacting, perhaps overreacting, to an existing disaggregation problem. Idaho Power testifies that as of “December of 2010, the Company had just under 1000 MW of QF generation under contract, nearly 700 MW of which was comprised of wind generation.” Idaho Power/Grow/13. Idaho Power then admits, however, that “the majority of the Idaho Power’s QF development has occurred in the state of Idaho * * *.” Idaho Power/Stokes/47. In other words, the disaggregation problem was limited to Idaho, and none of the purchasing utilities have submitted credible testimony that they are currently experiencing this problem in Oregon. Thus, PGE and Idaho Power are proposing the most draconian solution possible to a problem that does not even exist in Oregon.

Furthermore, PGE's witness incorrectly testifies that "PURPA *recommends* the 100 kW cap." PGE/Macfarlane-Morton/8 (emphasis added). PURPA does not "recommend" anything. It merely describes what is permitted and what is not permitted under the law. With respect to the eligibility threshold for standard contracts, PURPA says that the floor is 100 kW. Individual state utility commissions may establish an eligibility cap greater than 100 kW, but they may not set a cap below 100 kW. PGE's recommendation, therefore, is for this Commission to do the absolute minimum required by federal law, rather than establishing a policy that is in the best interest of the State. It is clear that Oregon has had a relatively healthy industry for small renewable power development since it raised the eligibility threshold to 10MW. Obsidian/100/Brown/9. Revising the 10MW eligibility threshold to 1% of its current level would serve no purpose other than to stifle future QF development.

PacifiCorp proposes to decrease cap to 3MW. But PacifiCorp provides no substantive basis for its proposal. Again, it is unclear what problem PacifiCorp is proposing to solve, or how a move to 3MW would solve that problem. PacifiCorp testifies that it chose 3MW based on its opinion that QFs larger than 3MW are more sophisticated and better financed and therefore do not need standard contracts and rates. There is, however, nothing more than anecdotal evidence in the record suggesting that the sophistication and resources of the developers dramatically increases at 3MW. For example, PacifiCorp relies on the unsubstantiated assertion that "[t]here has been a shift from the 'mom & pop' developer to the well-staffed development firm." PacifiCorp/Griswold/19. PacifiCorp's 3MW proposal is an arbitrary number that was apparently generated to solve a desegregation problem that does not exist in Oregon.

Finally, Obsidian concurs with the recommendation of OneEnergy and Staff to clarify the definition of solar QF output for purposes of eligibility for the standard contract. The Commission should, for now, adopt the industry standard conversion factor of 0.85 to convert nominal solar panel DC output for purposes of standard contract eligibility. A factor of 0.85 is consistent with the factor used for the solar feed-in tariff. See Order No. 10-200 at 5; OAR 860-084-0040(2). However, Obsidian believes the question of how to measure the capacity of a solar project is a more complex question that merits further study.

CONCLUSION

Obsidian encourages the Commission to adopt and enforce QF contracting policies that are consistent with PURPA's goal of encouraging clean energy investment. Obsidian respectfully requests the Commission: (a) Order the purchasing utilities to immediately make their respective Renewable Rates available to QFs; (b) Recognize that not all variable energy generating technologies cause the same impacts to a utility, and therefore decline to apply wind integration charges to solar projects; and (c) Retain the 10 MW eligibility cap for standard contracts, and adopt the conversion factor of 0.85 to determine the eligibility of solar facilities for the standard contract.

Dated this 20th day of May 2013.

Respectfully submitted,

/s/Chad Stokes

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Success of Oregon's pilot Feed-in-Tariff program

Description:

Oregon passed HB 3039 in 2009 and HB 3690 in 2010 to set up the state's pilot Feed-in-Tariff program. As that program now draws to a close, it is worth looking at one of the successes of the project, as determined by its efficacy in driving down costs. Because of our familiarity with it, we are going to focus on the larger system size (100-500 kW) auction process in Pacific Power territory. Below are the lowest bids in each of the four bid dates. Obsidian Renewables' bids are highlighted in yellow.

July 2010 - Large		April 2011 - Large		April 2012 - Large		April 2013 - Large	
Nameplate Capacity kW	Bid Price						
500.00	\$0.2397	300.00	\$0.2000	500.00	\$0.1575	500.00	\$0.1095
500.00	\$0.2690	495.88	\$0.2340	500.00	\$0.1695	500.00	\$0.1345
495.00	\$0.2830	488.40	\$0.2349	500.00	\$0.1748		

Outcome: We at Obsidian Renewables believe the Feed-in-Tariff program has effectively and successfully created a very small but competitive marketplace that has been instrumental in driving down the cost of the larger solar projects in the pilot program. The winning bid has significantly dropped each of the 4 allocation rounds in which the program has been in effect. From the first auction to the most recent, the winning bid has dropped by 54%. We have been proud to participate in that competitive marketplace, even in the years in which we were not successful in obtaining an allocation. The reasons the bids have come down so much include experience, dropping prices of equipment, and the creation of a competitive market for solar.

About Obsidian Renewables:

Obsidian Renewables has a long-standing interest in alternative energy, including solar, biofuels, and small-scale geothermal. Obsidian Renewables employs a multi-disciplinary approach to finding and creating value by solving difficult and complex problems. Obsidian's senior principals and professional team have expertise in energy, law, real estate, public accounting, investment banking, finance, tax, and insolvency.

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Obsidian Renewables' Lakeview 363 kW solar project

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CERTIFICATE OF SERVICE

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Dated in Portland, Oregon, this 20th day of May 2013.

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