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May 20, 2013

Attention: Filing Center
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Re: *In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Investigation into Qualifying Facility Contracting and Pricing*
OPUC Docket No.: UM 1610
DOJ File No.: 860-115-GB0532-12

Enclosed for filing with the Commission today are an original and five copies of STAFF PREHEARING MEMORANDUM with certificate of service/service list.

Sincerely,

Stephanie S. Andrus
Senior Assistant Attorney General
Business Activities Section

Enclosures
SSA:jrs/#4247948
c: UM 1610 Service list (electronic copy only)

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.	STAFF PREHEARING MEMORANDUM

Section 1. Avoided Cost Methodology

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

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

The Commission should retain the current methodologies for calculating standard avoided cost prices ("Standard Method") and standard renewable avoided cost prices ("Renewable Method") with modifications to account for the value of the capacity contribution of different qualifying facility "QF" resource types and to account for integration costs, both avoided and incurred.

Currently, standard avoided cost prices are based on monthly on-peak and off-peak forward price curves when the utility is resource sufficient. During the resource deficient periods, the Standard Method is comprised of off-peak and on-peak prices, based on the fixed and variable costs of an avoidable Combined Cycle Turbine (CCCT). The off-peak price is comprised of energy costs, which are the fuel costs plus a portion of the capital costs of the

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CCCT that are allocated to energy. The on-peak price includes all of the above energy costs, plus a capacity cost equal to the portion of CCCT capital costs that are allocated to capacity.[1]

The Renewable Method is similar to the Standard Method, except that the avoided resource is the next renewable generation resource identified for acquisition in the utility's integrated resource plan (IRP) for Renewable Portfolio Standard (RPS) compliance. Currently, the next avoidable resource in PGE's and PacifiCorp's IRP is a wind resource. The avoided wind resource has no fuel cost, but its total fixed costs are allocated to on-peak and off-peak prices. The on-peak price includes an implicit, although small, capacity contribution.[2]

Because the characteristics of QFs lead to different contributions to utilities' on-peak capacity Staff recommends adjusting the capacity component in both the standard and renewable avoided cost prices to capture the expected capacity contribution of each QF resource type.

Staff also recommends including avoided integration costs in the calculation of standard renewable avoided cost prices. And, staff recommends that wind QFs be responsible for certain integration and third-party transmission costs imposed on the utility's system in connection with purchases from the QF.

Portland General Electric Company ("PGE") Idaho Power Company, and to a lesser extent, PacifiCorp propose to significantly limit the use of standard avoided cost prices. PGE urges the Commission to limit availability of standard prices to only the smallest QFs (those

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[1] Staff/100, Bless/4-5.

[2] Staff/100, Bless/4-5.

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under 100 kW).[3] Idaho Power recommends that the Commission lower the eligibility cap for solar and wind QFs to 100 kW.[4] And, PacifiCorp urges the Commission to limit the availability of standard avoided cost prices to QFs under 3 MW.[5] The utilities ask the Commission to require that avoided cost prices for all other QFs be negotiated on a case-by-case basis so that the prices reflect the impact that characteristics of different QFs have on the value of energy and capacity purchased by the utilities. PacifiCorp and Idaho Power propose to use proprietary models to calculate non-standard avoided cost prices for individual QFs.

Staff does not support the utilities' recommendations to significantly limit the availability of standard avoided cost prices and standard renewable avoided cost prices. The benefit obtained by establishing avoided cost prices for small QFs on a case-by-case basis does not clearly outweigh the "costs," which include lack of transparency, lack of predictability, and lack of Commission review when new avoided cost prices are established for small QFs (*i.e.,* with each PPA).

Staff agrees with the utilities that the negative effect of any mismatch between the value of QF energy and standard avoided cost prices is correlated to the size of the QF (the larger the QF, the greater magnitude of the mismatch). Staff believes that its proposed modifications to the Standard and Renewable Methods, which are intended to capture the

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[3] PGE/100, Macfarlane-Morton/3-10.

[4] Idaho Power/200, Stokes/56-63.

[5] PAC/200, Griswold/16-22. PGE, PacifiCorp and Idaho Power recommend that Commission continue to use the same methodology to determine standard avoided cost prices and standard renewable avoided cost prices. However, Idaho Power recommends that the Commission modify the Standard Method to include a capacity adjustment that is similar to the adjustment recommended by Staff.

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actual capacity contribution of different resource types and to account for avoided and incurred integration costs, sufficiently correct the mismatch, even for larger QFs. Accordingly, if Staff's recommendations are adopted, significantly reducing the availability of standard and standard renewable avoided cost prices is not warranted.

Issue 1.A.ii: Should the methodologies be the same for all three electric utilities operating in Oregon.

Yes, except that the Renewable Method should not apply to Idaho Power. In Order No. 11-505, the Commission decided that the Standard Method would not apply to Idaho Power because Idaho Power is not subject to the Renewable Portfolio Standard. This circumstance has not changed since the Commission issued Order No. 11-505.

Although the Commission has previously allowed Idaho Power to use the same method in Oregon that it uses in Idaho to determine standard avoided cost prices, Staff does not recommend that the Commission do so now. In Docket No. UM 1593, Idaho Power asked the Commission for relief from the costs of PURPA PPAs that were based on the method used in Idaho. This method should not be used to determine prices in Oregon for any size QF.

Staff also does not recommend that Commission treat Idaho Power differently from PGE and PacifiCorp by lowering the standard avoided cost price eligibility cap for QFs interconnecting with Idaho Power. Allowing Idaho Power to substitute negotiated non-standard avoided cost prices for standard avoided cost prices for all QFs larger than 100 kW does not obtain administrative efficiencies. Under the Staff's proposal, most of Idaho Power's PPAs would be based on costs determined every two years and updated annually, as opposed to being based on costs determined on a case-by-case basis.

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Issue 1.B. *Should QFs have the option to elect avoided cost prices that are levelized or partially levelized?*

As noted by Staff in its testimony, parties to Docket No. UM 1129 made arguments like those made in this proceeding, both for and against levelization. In Docket No. UM 1129, Staff proposed that the Commission allow levelization of avoided capacity payments when a utility is resource sufficient noting that doing so would encourage QF development.[6] The utilities opposed levelization because it transfers risk from QFs to utility ratepayers. [7] The Commission declined to allow levelization.[8]

Staff agrees that levelization does benefit QFs. However, the benefit comes at a cost, increased risk borne by ratepayers. A policy that requires utility ratepayers to assume additional risk for the benefit QFs is inconsistent with Federal Energy Regulatory Commission ("FERC") rules implementing the Public Utility Regulatory Policy Act, which are intended to leave ratepayers indifferent between purchases under PURPA and purchases outside of PURPA.

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

No. As with levelization, this proposal would shift risk to ratepayers, which is inconsistent with the principle of ratepayer indifference.

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[6] Order No. 05-584 at 23.

[7] Order No. 05-584 at 24.

[8] Staff/100, Bless/12.

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

As discussed more completely in response to issue 4.A., there should be different standard renewable avoided cost prices for different types of QFs to account for the different capacity contributions of different resource technologies and to account for actual costs associated with integration of wind QFs.

Issue 2.B: How should environmental attributes be defined for purposes of PURPA transactions?

The non-energy attibutes of QF generation should be defined as those attributes that are certified under the Renewable Energy Certificate Program ("REC") program overseen in Oregon by the Oregon Department of Energy.[9]

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

No. A utility is entitled to the non-energy attributes of energy purchased from a QF when the QF elects the renewable avoided cost price stream and the QF is compensated for RECs associated with its energy, which occurs during the deficiency period. In order to receive payments for under the renewable avoided cost price stream, the QF must agree, in the standard contract, to deliver its RECs to the utility during the deficiency periods of the contract. Accordingly, the rule is currently consistent with the Commission's policy regarding when non-energy attributes of the QF's energy belong to the utility. [10]

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[9] Staff/100, Bless/17.

[10] See Staff/100, Bless/19.

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Section 3. Schedule for Avoided Cost Price Updates

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

The Commission should continue to require a complete update to all inputs within 30 days of Commission acknowledgment of a utility's IRP. However, the Commission should also require utilities to annually update their standard and renewable avoided cost prices by updating the gas price forecast, the on-peak and off-peak forward market prices, the status of the production tax credit, and changes in the cost and on-line date of the proxy resource taken from the latest *acknowledged* IRP update. [11] Staff recommends annual updates based on these limited factors because they are readily ascertainable and also, can significantly affect avoided cost prices. Other factors are not as readily and objectively ascertainable and accordingly, are appropriately updated after the Commission has acknowledged the utility's IRP.

Issue 3.B *Should the Commission specify criteria to determine whether and when mid-cycle updates are appropriate?*

No. The addition of annual updates should eliminate most mid-cycle update requests so establishing criteria would have little value. Further, staff recommends that the Commission maintain flexibility to determine when the circumstances may warrant a mid-cycle update.[12]

Issue 3.C. *Should the Commission specify what factors can be updated in mid-cycle? (Such as factors including but not limited to: gas price, or status of production tax credits.)*[13]

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[11] Staff/100, Bless/20; Staff/200, Bless/23.

[12] Staff/100, Bless/21.

[13] Staff/100, Bless/21.

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No. Staff anticipates that there will be little need for mid-cycle updates and accordingly, little need to identify what factors may be subject to a mid-cycle update. Also, staff recommends that the Commission maintain the maximum amount of flexibility to determine what factors may be subject to a mid-cycle update.

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

Staff recommends that the Commission not attempt to identify in advance whether there are any circumstances that may warrant an exception to any schedule for updates decided in this docket.[14]

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

No. The Commission concluded in Order No. 11-505 that "[t]he IRP process [is] the appropriate venue for determining when a utility is resource sufficient.[15] No circumstance warrants revisiting that decision now.

Section 4. Price Adjustments for Specific QF Characteristics.

Staff recommends adjusting the capacity component in both the standard and renewable avoided cost prices to capture the value of the expected capacity contribution of each QF resource type. For the Standard Method, staff proposes to multiply the capacity component currently embedded in the Standard Method (that of a CCCT) by a "capacity contribution factor" equal to the expected contribution to peak load of the specific QF

[14] Staff/100, Bless/21.

[15] Order No. 10-488 at 8.

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resource type. For the Renewable Method, staff proposes to adjust the capacity component implicit in the renewable on-peak price by the incremental capacity contribution of the specific QF type relative to the avoided renewable resource.[16]

Staff's proposed adjustment to the Renewable Method would result in no change to renewable avoided cost prices for a wind QF because a wind resource is the current proxy resource used to calculate renewable avoided cost prices for PGE and PacifiCorp. Staff's capacity contribution adjustment would result in a higher capacity component for solar and baseload QFs than assumed for a wind QF, and consequently, higher renewable avoided cost prices.[17]

Avoided cost prices determined under the Standard Method, with staff's proposed capacity adjustment, will result in a downward adjustment to avoided cost prices for wind resources because the capacity contribution of a wind resource is less than that of the avoided CCCT. Solar QFs would also see a downward adjustment (though smaller than that for a wind QF), and a baseload QF would see no change.[18]

Issue 4.A. *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? If so, what is the appropriate methodology?*

Avoided integration costs should be included the calculation of avoided cost prices under the Renewable Method. A utility only avoids integration costs during the deficiency period.

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[16] Staff/100, Bless/23.

[17] Staff/100, Bless/25.

[18] Staff/100, Bless/25.

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Day-ahead, hour-ahead, and within-hour integration costs that a wind QF located within a utility's Balancing Authority (BA) imposes on the host utility's system should be borne by the wind QF, rather than the host utility's ratepayers. These costs should be passed through to the QF either through a separate charge or as an offset against avoided cost prices. Obviously, no such costs should be collected from a QF if the QF contracts for its own integration services or the costs of integration are not imposed on the utility's system for some other reason.[19]

Wind QFs located outside of the purchasing utility's BA and connecting indirectly with the purchasing utility will presumably obtain hour-ahead and within-hour integration services from a third-party transmission provider. Because costs for these services will not be incurred by the utility purchasing from the QF, the QF is not obligated to make payments for these services to the purchasing utility.[20] To the extent a wind QF in a BA other than the purchasing utility's BA imposes day-ahead integration costs on the purchasing utility's system those costs are appropriately passed through to the wind QF by the purchasing utility.[21]

Staff initially proposed that solar QFs should also be responsible for costs incurred by the purchasing utility to integrate the solar QFs energy and capacity. However, Staff is persuaded by testimony of Community Renewable Energy Association, Renewable Northwest Project, OneEnergy, and ODOE that it is not appropriate to pass such charges to

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[19] Staff/100, Bless/28-30.

[20] Staff/100, Bless/29-30.

[21] Staff/200, Bless/30.

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solar QFs because the utilities have yet to conduct solar integration studies to quantify the costs and because the costs are likely to be minimal.[22]

Issue 4.B. *Should the costs or benefits associated with third-party transmission be included in the calculation of avoided cost prices or otherwise accounted for in the standard contract?*

Avoided transmission costs should be included in the calculation of avoided cost prices.

Third-party transmission costs imposed on the host utility to wheel a QF's generation out of a load pocket are appropriately passed on to the QF, rather than absorbed by the purchasing utility's ratepayers.

Issue 4.C. *How should the seven factors of 18 C.F.R. §292.304(e)(2) be taken into account?*

Other than the adjustments for the value of different capacity contributions of different resource types and to account for integration costs, staff does not recommend adjustments to the Standard and Renewable Methods. Staff acknowledges that characteristics of individual QFs may provide value to the purchasing utility's system that are not captured by avoided cost payments. However, no party identified a characteristic that applies to all QFs, or even a QF resource type, for which an adjustment to all standard rates should be made. Further, QFs have individual characteristics that reduce the value of the QF's capacity and energy to the purchasing utility's system. Many of the characteristics that add value to the utility's system and that reduce the value of the energy and capacity to the utility's system likely offset each other, decreasing the need for adjustments to the Standard and Renewable Methods to account for the seven factors of 18 C.F.R. §292.304(e)(2).

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[22] Staff/100, Bless/17-18.

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Section 5. Eligibility Issues

Issue 5.A. Should the commission change the 10 MW cap for the standard contract?

No. Staff's proposed adjustments to the Standard and Renewable Methods are intended to address the potential mismatch between the value of the QFs energy to the utility's system and avoided cost price payments to the QF. Accordingly, it is not necessary for the Commission to adopt the utilities' recommendations and reduce the availability of standard rates.[23]

If the Commission does not adopt Staff's proposed capacity contribution and integration charge adjustments, Staff recommends that the Commission lower the eligibility cap for standard avoided cost prices and standard renewable avoided cost prices to 3 MW to lessen the negative impact of overpayments or underpayments to QFs.[24]

Issue 5.B. What should be the criteria to determine whether a QF is a single QF for purposes of eligibility for the standard contract?

In its opening testimony, Staff recommended no change from the current criteria. The current criteria were agreed to by parties to Docket No. UM 1129 in a partial stipulation (the "Partial Stipulation"), and adopted by the Commission in Order No. 05-538. These criteria specify that a single facility must be owned by the "same person(s) or affiliated person(s)" and that the multiple sites must be located within a five-mile radius. The criteria also include an exemption specifying that a multiple facilities owned by "passive investor" are not owned by the same person.[25]

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[23] Staff/100, Bless/36.

[24] Staff/100, Bless/37.

[25] See PAC/200, Griswold/25.

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Staff is persuaded by PacifiCorp's testimony that the applicability of the passive investor exemption should be limited to independent family owned or community-based projects. [26]

Issue 5.C: *Should the resource technology affect the size of the cap for the standard contract cap or the criteria for determining whether a QF is a "single QF"?*

No.[27]

Issue 5.D: Can a QF receive Oregon's Renewable avoided cost price if the QF owner will sell RECs in another state?

Yes, in certain circumstances. Except for periods of resource deficiency during a contract based on renewable avoided cost rates, the utility is not compensating a QF for the RECs associated with the QF's generation. If the utility is not compensating the QF for the RECs, the QF should be able to sell the RECs outside the state. However, when a QF is receiving payments based on the Renewable Method, the QF must transfer its RECs to the host utility during periods of renewable resource deficiency. [28]

Section 6. Legally Enforceable Obligation, Contract Term and Mechanical Availability

Issue 6.B. *When is there a legally enforceable obligation?*

Staff has concluded that it is not appropriate to resolve this issue in isolation from other contracting issues presented in Phase II of this docket. Staff recommends that the Commission defer this issue until Phase II.

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

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[26] Staff/200, Bless/25 *citing* PAC/200, Griswold/25.

[27] Staff/100, Bless/39.

[28] Staff/100, Bless/39.

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Staff recommends the Commission retain the current policy of a 20-year maximum contract with the fixed price option in effect for 15 years.[29] As Staff discussed in its testimony, the Commission addressed this issue in Docket No. UM 1129. The Commission determined that a 15-year fixed portion was the appropriate balance between ratepayer risk and the certain and predictable prices sought by QFs. The discussion regarding contract duration has not really changed since that time.[30]

Issue 6.E. How should contracts address mechanical availability?

In Docket No. UM 1129, the Commission authorized utilities to adopt a mechanical availability guarantee ("MAG") for wind QFs in their standard contracts. The utilities do not have uniform MAGs.

There appears to be no industry-standard for a MAG for wind generating facilities.[31] Accordingly, staff does not recommend that the Commission prescribe a MAG for the three utilities. Instead, staff recommends that the Commission impose parameters for the planned maintenance allowance and the penalty for non-compliance, because these are the two elements that have been most problematic.[32]

Staff recommends that the Commission require that utilities allow 200 hours of planned maintenance per turbine, per year that will not count against overall mechanical availability.[33] Staff also recommends that the Commission order that any penalty must be

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[29] Staff/100, Bless/40.

[30] Staff/100, Bless/40.

[31] Staff/100, Bless/42.

[32] Staff/100, Bless/44.

[33] Staff/100, Bless/45.

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based on the failure to meet the annual limit on planned maintenance and be based on actual net replacement power costs for the incremental unavailable hours that exceed the aggregate annual mechanical unavailability limit for all turbines.[34] Finally, Staff recommends that the Commission allow utilities to terminate a QF PPA for failure to meet the MAG only when the QF fails to meet the MAG for three consecutive years.[35]

DATED this 20th day of May 2013.

Respectfully submitted,

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[34] Staff/100, Bless/46.

[35] Staff/100, Bless/46.

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CERTIFICATE OF SERVICE/SERVICE LIST

I hereby certify that on May 20, 2013, I served the foregoing STAFF PREHEARING MEMORANDUM upon the persons named on the service list, by electronic mail only as all parties have waived paper service.

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