

June 30, 2008

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission  
Attention: Filing Center  
550 Capitol Street NE, #125  
PO BOX 2148  
Salem, Oregon 97308-2148

Re: DR-40 Honeywell International, Inc., Honeywell Global Finance, LLC and PacifiCorp Petition for  
Declaratory Ruling

Attention Filing Center:

Enclosed for filing in the captioned docket is an original and five copies of the League of Oregon Cities  
Opening Brief. This document is being mailed electronically to the Filing Center and upon the DR 40  
service List.

Thank you for your attention to this matter.

Sincerely,



Scott J. Winkels

Intergovernmental Relations Associate  
League of Oregon Cities.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

DR 40

In the Matter of

Honeywell International Inc.,	)	Opening Brief of Intervener
Honeywell Global Finance LLC.,	)	League of Oregon Cities
and	)	
PacifiCorp, dba Pacific Power	)	

The League of Oregon Cities (LOC) respectfully submits this opening brief in the matter stated above. Honeywell International Inc. has executed energy service agreements with LOC members the City of Hillsboro and the City of Pendleton and the outcome of this proceeding directly impacts the continuation of those agreements.

The LOC answers the questions most relevant to the interests of cities, namely those dealing with the permissibility of net-metering arrangements through third party owners and whether or not a third party owner could reasonably be considered a "public utility" or "Electricity Service Supplier" as defined in Oregon Revised Statutes Chapter 757.

**Net Metering**

**(1) Is a Facility that Honeywell provides as described above a "net-metering" facility under ORS 757.300(1)(d)**

Yes. The LOC believes that such a facility should be considered a "net-metering" facility under the statute referenced. ORS 757.300(1)(d) requires that a net metering facility be able to generate electricity from a series of proscribed clean renewable resources, be located on the utility customer's property, be able to operate in parallel with an electric utility's transmission and distribution system and be intended to offset part of or all of the customer's electricity requirement. It is acknowledged in the assumed facts that solar generation facilities owned by Honeywell meet these criteria.

It is reasonably clear that a photovoltaic solar generations system installed on the roof of a customer's building that is able to work in conjunction with a public utility's system and offset's the utility customer's electricity usage would qualify as a "net-metering" facility.

**(2) Is Honeywell's customer as described above a "customer-generator" under ORS 757.300(1)(a)?**

Yes. To answer this question, one only need look at the plain language of the statute. ORS 757.300(1)(a) defines a “customer generator” as a “user” of a net metering facility. As it is not disputed in the assumed facts that electricity generated by Honeywell is being used by Honeywell’s customer, the LOC argues that Honeywell’s customer would clearly be considered a “customer-generator” under the statute.

**(3) Does ORS 757.300 require a customer to own a net-metering facility or a portion of the facility to be considered a “customer-generator”?**

No. From the LOC’s reading of ORS 757.300, there does not appear to be any requirement that a utility customer own a net-metering facility, in part or in whole, to be considered a “customer-generator”.

**(4) Does ORS 757.300 place any limitations on third-party ownership of net-metering facilities?**

No. The issue of third party ownership of a net metering facility is not addressed in ORS 757.300.

#### **Electrical Service Suppliers/Utilities**

**(1) Does Honeywell offer “electricity services available pursuant to direct access to more than one retail electricity consumer” under ORS 757.600(16)?**

No. In order for Honeywell to offer “electricity services pursuant to direct access...” it must also offer transmission and distribution services as well as ancillary services as defined by the Oregon Public Utility Commission. To the best of the League’s knowledge, Honeywell has not entered into any transmission agreements as a result of any third party net-metering arrangement and offers no secondary power services as required. It is therefore the conclusion of the LOC that Honeywell does not offer “direct access” as described in ORS 757.600(16).

**(2) If Honeywell sells electricity to the customer, but does not offer any ancillary services for purchase, does Honeywell’s service constitute direct access under ORS 757.600?**

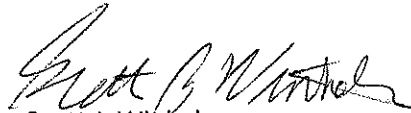
No. “Direct access” is defined in ORS 757.600(6) “as the ability of a retail electricity consumer to purchase electricity and certain ancillary services, as determined by the commission for an electric company or the governing body of a consumer-owned utility, directly from an entity other than the distribution utility”. It is stated in the assumed facts that Honeywell offers no ancillary services , therefore based on the plain language of the statute the service Honeywell provides cannot be considered a “direct access”.

**(3) Is Honeywell a public utility as defined in ORS 757.005(1)?**

No. ORS 757.005(b)(C)(iii) specifically excludes a company that provides heat, power or light from solar or wind generation from the definition of a public utility.

DATED this 30<sup>th</sup> Day of June 30, 2008

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott J. Winkels". The signature is fluid and cursive, with the first name "Scott" being the most prominent.

Scott J. Winkels

Intergovernmental Affairs Associate  
League of Oregon Cities