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BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER THE PUBLIC UTILITY COMMISSION OF OREGON)	CASE NO. UM-1394
Open an investigation into electric companies providing Qualified Reporting Entity Services for Certification of Renewable Energy Certificates by the Western Renewable Energy Generation Information System)	REPLY COMMENTS OF THE COMMUNITY RENEWABLE ENERGY ASSOCIATION

Comes now the Community Renewable Energy Association and provides its reply comments in the above captioned matter. CREA will not comment on all of the issues raised, but rather has focused on several of the salient questions that remain outstanding.

- I. Does the Commission have authority to require a public utility to provide QRE service to all generators over 350 kilowatts (kW) upon request if:
 - a. The generator is located in the public utility's Oregon service territory and is interconnected to the public utility's distribution or transmission system under a valid interconnection agreement.

PacifiCorp misstates the law when it argues that the Commission has no jurisdiction under the facts outlined in Issue No. I(a) when it asserts:

By statute, the Commission may grant utilities exclusive service territories for the provision of "utility service". See ORS § 758.435. "Utility Service" is defined in relevant part as: service provided by any plant or facility for the distribution of electricity

to users...” ... The provision of QRE service has no relation to the “distribution of electricity to users,”... [PacifiCorp comments at pp. 2-3]

The definition of “utility service” relied upon by PacifiCorp is specifically limited to ORS §§ 758.400 through 758.475 which is the Oregon service territory integrity statute. As used in ORS §§ 758.400 through 758.475 “utility service” includes service by entities not under the Commission’s ratemaking jurisdiction provided for in ORS § 757.005 such as municipalities and cooperative utilities. In other words, the definition of utility service cited by PacifiCorp is not part of nor does it intend to confer or restrict the Commission’s general authority over Section 757.005 utilities. “Utility service” as used in § 758.435 is simply not relevant to or applicable when discussing the Commission’s general ratemaking authority. Without repeating the above argument, it should be noted that PGE makes the same error in its Comments at page 4.

What is unusual about the three utilities’ comments is that, while strongly objecting to any Commission jurisdiction over the provision of QRE service, all three are willing to provide the service via a tariff or Commission sanctioned contract. By doing so, the utilities should be barred from objecting to the exercise of Commission jurisdiction over all aspects of their provision of QRE service in the future. In addition, the provision of QRE service should be done in a manner that complies with all of the traditional/statutory ratemaking constraints such as the non-discriminatory and cost based provision of QRE service.

ICNU’s comments on jurisdiction are persuasive. QRE service within the service territory and load control area of utility appears to fall under the definition of a ‘natural monopoly.’ That is, it is a service that is expensive to replicate, wasteful to duplicate and the public good is served by it being offered on a non-discriminatory and rate regulated basis. As the Staff noted:

[T]here can be no serious dispute that where the generator is interconnected to the

utility's distribution or transmission system and the utility owns and reads the meter(s) measuring generation output, third parties cannot compete effectively with utilities to provide QRE service. That is because any third party would needlessly replicate the hardware and processes already in place to meter generation output, read the meter and make any adjustments to monthly data for reconciliation. [Staff Comments at p. 10]

Iberdrola Renewables made the same point with the following comments:

The balancing authority that provides transmission and interconnection services for generators is in the optimal position to provide QRE service. The data that is needed and used for transmission settlements, whether for third parties or for facilities that serve PacifiCorp's customers, is the same that is needed to report generation to WREGIS. [Iberdrola Comments at p. 5]

CREA believes the Commission's jurisdiction is clear when the third party generator is within both the load control area and the service territory of the utility. CREA appreciates that the three utilities are willing to provide QRE service despite their view that the Commission does not have the authority to require them to do so.

The utility-eye view of the transaction is that it is voluntary on their part. The voluntary nature of the service, if indeed it is voluntary, implicates Issue No. 4. ODOE expressed CREA's concern succinctly when it stated: "It should be clear under what circumstances the utilities find the denial of QRE services to be warranted." CREA would like to see the tariff/contracts for the provision of QRE service to be administered under the non-discriminatory standards that all utilities are required to provide service. That is all third party generators who meet the qualification standards contained in the tariff/contract are entitled to QRE service from the utility.

ICNU's comment that the cost of providing QRE services is likely to be less than the cost of prosecuting this docket is probably accurate. Therefore, CRE endorses ICNU's position to the effect that the utilities should be required to provide this service at minimal cost pending the conclusion of a pilot period to allow the Commission an opportunity to accurately audit historic

costs of QRE service and to arrive at a fair allocation of those costs among the parties who benefit.

Dated this 7th day of January 2009.

Richardson & O'Leary, LLP

By 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of January 2009, a true and correct copy of the within and foregoing REPLY COMMENTS OF THE COMMUNITY RENEWABLE ENERGY ASSOCIATION, Case No. UM-1394, was served by prepaid U.S. Mail and electronically as noted.

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