

October 15, 2009

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97301-2551

Attn: Filing Center

RE: UM 1442 – Response to Application for Reconsideration or Clarification

PacifiCorp d/b/a Pacific Power hereby submits for filing an original and one copy of the Response to Application for Reconsideration or Clarification.

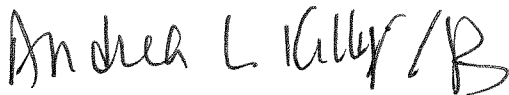
PacifiCorp respectfully requests that all data requests regarding this matter be addressed to:

By e-mail (preferred): datarequest@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Please direct informal correspondence and questions regarding this filing to Joelle Steward, Regulatory Manager, at (503) 813-5542.

Very truly yours,



Andrea L. Kelly
Vice President, Regulation

Enclosures

cc: Service List UM 1442

CERTIFICATE OF SERVICE

I hereby certify that on this 15th of October, 2009, I caused to be served, via E-Mail and U.S. Mail (to those parties who have not waived paper service), a true and correct copy of the foregoing document on the following named person(s) at his or her last-known address(es) indicated below.

SERVICE LIST

UM-1442

Janet L. Prewitt (W) (C)
Department of Justice
Natural Resources Section
1162 Court Street NE
Salem, OR 97301-4096
Janet.prewitt@doj.state.or.us

Vijay A. Satyal (W) (C)
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301
Vijay.a.satyal@state.or.us

Thomas M. Grim (W)
Cable Huston Benedict et al
1001 SW Fifth Ave, Suite 2000
Portland, OR 97204-1136
tgrim@cablehuston.com

Irion A. Sanger (C)
Davison Van Cleve PC
333 SW Taylor, Suite 400
Portland, OR 97204
ias@dvclaw.com

Paul R. Woodin (W)
Community Renewable Energy Assoc
1113 Kelly Ave
The Dalles, OR 97058
pwoodin@communityrenewable.org

Randy Crockett (W)
DR Johnson Lumber Company
PO Box 66
Riddle, OR 97469
randyc@drjlumber.com

Melinda J. Davison (C)
Davison Van Cleve PC
333 SW Taylor, Suite 400
Portland, OR 97204
mail@dvclaw.com

Michael T. Weirich (C)
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Michael.weirich@doj.state.or.us

Jeffrey S. Lovinger (W)
Lovinger Kaufmann LLP
825 NE Multnomah, Suite 925
Portland, OR 97232-2150
lovinger@lklaw.com

Jordan A. White (W)
Pacific Power & Light
825 NE Multnomah, Ste 1800
Portland, OR 97232
Jordan.white@pacificorp.com

Oregon Dockets (W)
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232
oregondockets@pacificorp.com

Ed Durrenberger (C)
Oregon Public Utility Commission
P.O. Box 2148
Salem, OR 97308-2148
ed.durrenberger@state.or.us

Peter J. Richardson (W)
Richardson & O'leary
PO Box 7218
Boise, ID 83707
peter@richardsonandoleary.com

Tom Elliott (W) (C)
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301-3737
Tom.elliott@state.or.us

J. Richard George
Portland General Electric
121 SW Salmon St 1WTC1301
Portland, OR 97204
Richard.george@pgn.com

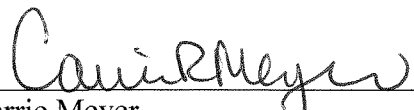
Thomas H. Nelson (W)
Attorney at Law
24525 E Welches Road
Box 1211
Welches, OR 97067
nelson@thnelson.com

Carel Dewinkel (W) (C)
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301-3737
Carel.dewinkel@state.or.us

Doug Kuns
Portland General Electric
121 SW Salmon St
1WTCO702
Portland, OR 97204
Doug.kuns@pgn.com

Renewable Energy Coalition (W)
jravensanmarcos@yahoo.com
renerco@thnelson.com

David A. Lokting
Stoll Berne
209 SW Oak Street, Suite 500
Portland, OR 97204
dlokting@stollberne.com



Carrie Meyer
Coordinator, Administrative Service

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1442

Investigation to determine if PACIFIC POWER's rate revision has been consistent with the methodologies and calculations required by Order No. 05-584

**PACIFICORP'S RESPONSE TO
APPLICATION FOR
RECONSIDERATION OR
CLARIFICATION**

PacifiCorp d/b/a Pacific Power ("PacifiCorp" or "Company") respectfully provides this response to the Application for Reconsideration or Clarification regarding the scope and schedule of this investigation ("Application") filed by the Industrial Customers of Northwest Utilities, Biomass One, Co-Gen II LLC, the Community Renewable Energy Association, and Renewable Energy Association ("Joint Applicants") on October 6, 2009.

Background

On January 20, 2004, the Public Utility Commission of Oregon ("Commission") opened Docket UM 1129 to investigate matters related to electric utility purchases from qualifying facilities ("QFs") under the Public Utility Regulatory Policies Act ("PURPA"). On May 13, 2005, the Commission issued Order No. 05-584 resolving issues related to the standard contract terms and conditions for QFs, including issues regarding the calculation of avoided cost rates. *See* Order No. 05-584 at 27-28.

Pursuant to the Commission's directive set forth in Order No. 05-584, PacifiCorp filed avoided costs, revised tariffs and standard QF contracts on July 12, 2005. Thereafter, the Commission opened an investigation to determine whether these filings complied with Order No. 05-584. The compliance issues were decided by the Commission in Order No. 06-538, corrected by Order No. 06-586. As discussed in Order 06-538, thirty general issues

were raised, and over eighty separate questions were asked about the compliance of the filed standard contracts. *See* Order No. 06-538 at 1. Significantly, no issues regarding the underlying elements of the avoided cost calculation methodology approved by the Commission in Order No. 05-584 were developed for the Commission's resolution.

On July 9, 2009, PacifiCorp filed Advice No. 09-012, revising standard rates in Schedule 37 for avoided cost purchases from Qualifying Facilities of 10,000 kW or less ("Filing"). The Filing, like PacifiCorp's avoided cost filings of July 12, 2005 and July 12, 2007, utilized the methodology for calculating avoided costs as set forth in Commission Order No. 05-584. At the public meeting on August 25, 2009, the Commission directed that the present investigation be opened to determine whether the avoided cost rates filed by PacifiCorp are consistent with the methodologies and calculations required by Order No. 05-584. At the August 25, 2009 public meeting, the Commission also directed that a similar investigation be opened to determine if the avoided cost rates filed by Portland General Electric are consistent with the methodologies and calculations required by Order No. 05-584. The Portland General Electric investigation has been docketed as UM 1443.

Response

The Joint Applicants argue that "the commission cannot legally preclude a review of all aspects of PacifiCorp's avoided cost filing." Application at p. 8. To arrive at this conclusion, Joint Applicants first make a bald reading of ORS § 758.515(2)(b) which states that [it is the goal of Oregon to] "insure that the *rates* for purchases 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” (emphasis added). Joint Applicants then make the leap of applying the provision for rate review found under ORS § 757.210 to the “rates” described in the Oregon PURPA statute. ORS § 757.210 states in relevant part that:

Whenever a public utility files with the Public Utility Commission any rate or schedule of rates stating or establishing a new rate or schedule of rates or increasing an existing rate or schedule of rates, the commission *may*, either upon written complaint or upon the commission’s own initiative, after reasonable notice, conduct a hearing to determine whether the rate or schedule is fair, just and reasonable.

ORS § 757.210 (1)(a) (emphasis added).

As an initial matter, PacifiCorp points out that the statutory provision cited by Joint Applicants for the proposition that the Commission has a mandatory obligation to review all rates (including QF rates) is actually discretionary. As noted above, the Commission “*may*, either upon written complaint or upon the commission’s own initiative . . . conduct a hearing to determine whether the rate or schedule is fair, just and reasonable.” Joint Applicants’ statement that the “Commission is required to conduct a full investigation” is a misstatement of the law. Application at 9. It is the Commission, not the Joint Applicants, that has discretion regarding the scope and necessity of a rate investigation.

The Commission is charged with the obligation to ensure that rates paid to QFs under the Oregon PURPA statute are just and reasonable under the overarching goals of PURPA; “to encourage the economically efficient development of QFs, while protecting customers

by ensuring that utilities pay rates equal to that which they have incurred in lieu of purchasing QF power.” *See* Order No. 05-584 at 1. In other words, the Commission’s review of rates under the Oregon PURPA statute is nuanced by the dual goals of protecting customers and encouraging QF development. It was for that precise reason that the Commission opened Docket UM 1129, a comprehensive and lengthy proceeding that included several rounds of testimony, hearings and briefs. It was in that proceeding that the Commission carefully analyzed and reviewed the avoided cost methodology utilized by PacifiCorp and determined that it accommodated the dual goals of customer protection and QF development.

The Joint Applicants’ request to “review whether the Commission’s existing methodology and standards accurately calculate PacifiCorp’s avoided costs” is tantamount to re-litigating the Commission’s decisions in UM 1129 in the Company’s current compliance filing. In Order No. 06-538, the Commission stated that “[i]n the future, proceedings to address compliance matters will be much more strictly limited to issues of compliance.” *See* Order No. 06-538 at 9. Therefore, PacifiCorp recommends that the Commission deny the Joint Applicants request to expand the scope of this investigation beyond matters of compliance with the Commission’s previous decisions.

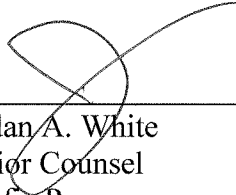
In the event that the Commission believes that further review of the methodologies related to the calculation of avoided costs is warranted, PacifiCorp recommends that such a review be conducted in a generic proceeding, rather than UM 1442 which specifically addresses PacifiCorp’s latest avoided cost compliance filing. The Company notes that a similar Application has not been filed in the concurrent Portland General Electric avoided

cost compliance investigation, UM 1443, despite the fact that changes in methodologies could have implications for other electric utilities. The Company believes that a generic proceeding would be more appropriate if the Commission decides to address avoided costs issues affecting all of Oregon's electric utilities and QFs.

Conclusion

PacifiCorp appreciates the opportunity to provide this Response and recommends that the Application for Reconsideration or Clarification be denied.

DATED: October 15, 2009.



Jordan A. White
Senior Counsel
Pacific Power
PacifiCorp