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July 15, 2011

Commissioner Susan Ackerman
Commissioner John Savage
Public Utility Commission of Oregon
550 Capitol St. NE
Salem, Oregon 97301-2551

Re: Pacific Power, a Division of PacifiCorp Advice No. 11-011; Schedule 37 – Avoided Cost Purchases from Qualifying Facilities (10,000 kW or less)

Dear Commissioner Ackerman and Commissioner Savage:

I write on behalf of High Plateau Windfarm, LLC; Lower Ridge Windfarm, LLC; Mule Hollow Windfarm, LLC; and Pine City Windfarm, LLC (Collectively “Respondents” or “Projects”) to object to approval of PacifiCorp’s Advice No. 11-0011 filed with the Public Utility Commission of Oregon (“Commission”) on June 27, 2011.

As explained below, the Respondents are each actively developing a ten megawatt PURPA qualifying wind project for sale under standard contracts to PacifiCorp under Schedule 37 as established by the Commission pursuant to: *In the Matter of Staff’s Investigation Relating to Electric Utility Purchases from Qualifying Facilities*, Docket No. UM 1129. PacifiCorp’s filing requests Commission approval of substantial changes to the system this Commission established in that docket for the purchase of electric energy and capacity from QFs such as are being developed by the Projects. Respondents oppose PacifiCorp’s filing and respectfully request that the Commission either reject the Advice outright or at a minimum not process the Advice Filing by any means short of a full investigation and evidentiary hearing providing interested parties full contested hearing and due process rights, as required by Oregon law, ORS 757.205, 757.210. Furthermore, Respondents respectfully request that the Commission suspend the effect of Advice No. 11-011 for six months, pending completion of a full investigation, as allowed by Oregon law, ORS 757.215.

THE PROJECT COMPANIES HAVE AN INTEREST IN THIS MATTER

The four Project Companies claim a direct and substantial interest in the Commission’s processing of PacifiCorp’s Advice No. 11-011 because they are each located in a so-called “load pocket” and the effect of PacifiCorp’s proposed actions will cause possibly fatal financial harm to the Projects such that many dollars and many years of diligent work will be threatened.

The four Projects each propose a 10,000 kW wind generating Qualifying Facility located in Morrow County, Oregon within PacifiCorp's service territory. On May 20, 2011 all four projects requested a power purchase agreement from PacifiCorp pursuant to Oregon Schedule 37. The contracting process has been needlessly stalled by PacifiCorp and if Advice No. 11-011 is approved on the consent agenda, the Projects will be denied their due process rights because they will be without any means of presenting evidence or other informational pleadings showing that Advice 11-011 is unreasonable, not in the public interest and is contrary to this Commission's prior orders.

THE COMMISSION HAS ALREADY RULED THAT PACIFICORP'S ATTEMPT TO IMPOSE PROJECT SPECIFIC COSTS IS UNREASONABLE AND IMPERMISSIBLE

In Order No. 05-584, issued in the UM 1129 Docket, the Commission completed its initial phase of its investigation into issues related to purchases by utilities, such as PacifiCorp, from QFs. Among the issues addressed by the Commission in Order No. 05-584 was whether the utilities could impose price adjustments in the context of a standard contract. PacifiCorp, in particular requested the ability to make such adjustments. Order No. 05-584 at 38-39. PacifiCorp requested "that utilities be allowed to impose certain pricing adjustments in order to address issues that might include integration costs, debt imputation, or commercial and operational costs associated with intermittent QF resources." Order No. 05-584 at 38. In response, the Commission rejected PacifiCorp's request stating "It is inappropriate to request that standard contracts be subject to potential negotiation to address project-specific characteristics." Order No. 05-584 at 30.

Because the question of whether project specific characteristics can be negotiated in the standard contract context has been already answered by this Commission, PacifiCorp's Advice No. 11-011 should be rejected.

PACIFICORP OVERSTATES THE PROBLEM AND RELIES ON CONCLUSIONS NOT SUPPORTED BY THE AFFIDAVITS ACCOMPANYING THE ADIVCE FILING

A central argument in support of its tariff advice is the assertion in PacifiCorp's Memorandum of Law In Support of Advice 11-011 that, "As a result, any time a new generator causes generation within a load pocket to exceed local load, PacifiCorp will incur an additional cost to transmit the excess local pocket generation to another part of its system." *Id* at 3. Mr. Griswold makes the same flawed assertion in his affidavit, "Thus, any time a new generator causes generation within a load pocket to exceed load, PacifiCorp and its customers will incur an additional cost to transmit the excess load pocket generation to another part of PacifiCorp's system." Affidavit of Bruce Griswold in Support of PacifiCorp's Advice No. 11-011 at p. 2. Of course, as is usually the case, such blanket statements are rarely accurate. Belying the assertion that "any time" a new generator causes a load pocket's generation to exceed load, PacifiCorp will incur additional costs to transmit that excess generation to another part of its system is Mr. Griswold's own statement immediately preceding that assertion. Mr. Griswold conceded that, "Any time new generation is interconnected to such a load pocket, PacifiCorp must purchase transmission out of the load

pocket from a third-party transmission provider – or else curtail the local generation, if any...” *Id.* Emphasis provided. So, it is simply not true, that “any time” generation exceeds load in a load pocket that PacifiCorp must incur costs to transmit that excess generation out of the load pocket. It may be specifically untrue in this case as well. For example, there is a large thermal generator¹ of approximately 470 MW with long term transmission service out of the same load pocket as Respondents’ Projects. PacifiCorp has a fifty percent interest in that thermal generator. It would be premature for Respondents to be forced to pay for firm point-to-point transmission services without first exploring whether PacifiCorp can realize savings, not additional costs, by backing down that thermal generation in favor of the Projects’ wind generation (which is the primary goal of PURPA). Under these circumstances, requiring wind generators to purchase firm point-to-point transmission services would be unreasonable and contrary to PacifiCorp’s obligation under PURPA.

Mr. Griswold’s assertion at page 8 of his affidavit that the four wind projects for which he received applications for on May 23, 2011 would cost PacifiCorp \$720,000 in annual wheeling costs is completely unsupported. Our understanding is that this amount is based on purchasing long term firm transmission even though the purported problem can only exist in certain wet years or for a limited number of hours; if it exists at all. There are a number of lower cost alternatives available to deal with such a limited issue. For example, excess energy in the area can be sold into the Mid-C market or delivered over non-firm transmission, which should be readily available during such times. Firm transmission is only necessary to assure on-peak deliveries when the system needs capacity. It is not necessary to export excess energy from a load pocket for a very limited number of hours.

Without the opportunity to cross-examine and present evidence on this point, Mr. Griswold’s affidavit stands as highly prejudicial to Respondents. The four projects referenced by Mr. Griswold are the four projects being developed by Respondents. As noted above, PacifiCorp has ownership in a 470 MW thermal generating resource in that load pocket. PURPA specifically gives priority to renewable energy generation over fossil-fueled generation. Whether and to what extent PacifiCorp’s thermal project may be curtailed during times of excess generation is a question that must be explored in this docket.

PACIFICORP’S DISCUSSION OF THE DALREED SITUATION NEAR TO ARLINGTON IS IRRELEVANT

PacifiCorp, through Mr. Griswold’s affidavit, goes to great lengths to discuss its experience with the Threemile Canyon wind project near Arlington, Oregon. While the efforts PacifiCorp took to move the Threemile Canyon project’s generation to its load may be interesting, none of the projects that are currently the target of Tariff Advice No.11-011 are even located in the Dalreed/Arlington ‘load pocket.’ As Mr. Griswold observed at pp 8 – 9 of his Affidavit, there are only five pending projects, four of which are your four Respondents’ Projects, and one 4 MW

¹ The Hermiston Generating Project is a gas-fired power plant near Hermiston Oregon that was originally built to provide steam to a potato processing plant and electricity to PacifiCorp. It is the understanding of the Projects that PacifiCorp has firm transmission from the plant to its system. It is unclear why that transmission cannot be made available to the Projects to displace purchases for integrating PURPA projects into PacifiCorp’s system.

biofuel project for which Mr. Griswold does not identify the location. None of the Respondents' projects are in the Dalreed/Arlington load pocket. Presumably Mr. Griswold would have noted that the biofuel project is in that load pocket as the company has clearly done extensive studies of that load pocket. Hence, the Dalreed/Arlington discussion is not instructive of how to best handle an overgeneration situation in the Walla Walla load pocket that is at issue in this docket.

The unique facts surrounding Respondents' projects and the universe of solutions to PacifiCorp's perceived problem is further highlighted by the fact that it is currently in the process of constructing the new Walla Walla to McNary 230kV transmission line that will traverse the load pocket in which Respondents' projects are located. Attached as Attachment A is a copy of PacifiCorp's 'fact sheet' explaining many of the details of the project, including anticipated benefits from the project. One of the identified benefits is that this new line, which is scheduled to come on line in 2012, "Provides access to more energy options, including renewable energy (specifically, local wind energy)" *Walla Walla to McNary 230kV transmission line project* p. 2, emphasis provided, parenthetical in original. Painting our projects with the Dalreed/Arlington brush may be intentionally misleading. The Commission should not approve Advice 11-011 without exploring why this new transmission line, that according to PacifiCorp's own documents, is supposed to facilitate additional wind energy development in the load pocket, cannot be used to integrate Respondents' projects into PacifiCorp's system.

PacifiCorp currently has an application pending before this Commission for ratemaking approval for the Walla Walla to McNary ("W2M") line.² In May³ of this year, Mr. Brian Fritz filed testimony on behalf of PacifiCorp in support of that application. Mr. Fritz' testimony identifies him as the Director of Transmission Services, Transmission Department for PacifiCorp d/b/a Pacific Power. At page 7 of his prefiled testimony in that docket Mr. Fritz is asked whether PacifiCorp's Oregon customers would benefit from the W2M line, and if so, how they will benefit. In response, Mr. Fritz' prefiled testimony provides:

Yes. The W2M Line will benefit PacifiCorp's Oregon customers in at least three important ways. First, the proposed line will result in additional transmission capacity in an area which has the potential for significant wind resource development in Oregon. As a result, PacifiCorp and its customers will benefit from access to potential new renewable resources, which promotes a stated public policy goal of the State of Oregon. Renewable resources help diversify generation and mitigate risks associated with fuel price volatility, including potential future carbon costs. Additionally, wind and solar resources use virtually no water to generate electricity.

Prefiled direct testimony of Brian E. Fritz, May 2011, OPUC Docket No. UM -1495, p 7.

It is more than ironic that the same week PacifiCorp justifies a new transmission line before the Commission by touting its use for acquiring more renewable energy; they received the

² OPUC Docket No. UM-1495.

³ Coincidentally Mr. Fritz filed his testimony at the PUC on the same day Respondents requested standard PURPA contracts from PacifiCorp.

Respondents' PPA applications to do just that. To now say to the same Commission that PacifiCorp cannot even absorb 40 MW of wind energy in the exact same load pocket as the new W2M Line without incurring substantial third party transmission costs is contradictory to say the least. Given the apparent contradiction between Mr. Fritz' testimony and the purpose of Advice No. 11-011, at least for the load pocket at issue, a thorough investigation into whether Advice No. 11-011 is necessary is clearly warranted.

PACIFICORP'S ADVICE 11-011 WILL IMPROPERLY CHARGE INTEGRATION FEES TO PROJECTS LESS THAN 10 MW IN SIZE – CONTRARY TO THIS COMMISSION'S ORDERS

Part of PacifiCorp's proposal is to charge, in addition to wheeling fees, for Ancillary Services, and Control Area Services for Scheduling, System Control and Dispatch service. This Commission has already ruled that projects smaller than 10 MW are to be paid full avoided cost rates for firm and non firm energy. *See* Order No. 05-584 at p. 28. In Order No. 07-360 the Commission permitted utilities to charge integration costs to projects greater than 10 MW, but did not extend those charges to projects up to 10 MW. By charging the Projects for Ancillary Services, and Control Area Services for Scheduling, System Control and Dispatch service, PacifiCorp will essentially be assessing a full integration charge to completely firm the output from the wind project, making them non-intermittent firm resources for all practical purposes. This result is directly contrary to the Commission's ruling in Order No. 05-584:

Although we find that firm energy provides the most reliable capacity benefits, we are persuaded by Staff's argument regarding the average availability of intermittent resources. Consequently, we conclude that intermittent and firm resources should be valued equally, and direct utilities to pay full avoided cost pursuant to the appropriate methodology for all energy delivered under a QF standard contract, but only up to the nameplate of the facility.

At p. 28, footnote omitted.

PacifiCorp proposes to charge ancillary services thusly converting these intermittent wind resources into firm resources, which is specifically contrary to the Commission's ruling quoted above.

PACIFICORP'S INTERCONNECTION PROCESS WAS COMPLETED WITHOUT REFERENCE TO THIRD PARTY TRANSMISSION REQUIREMENTS

Each of the four Projects has completed the generation interconnection process⁴ and are prepared to pay, in full, all of the interconnection and substation and transmission system upgrades identified in their Small Generator Interconnection Facilities Study Report. That report

⁴ The Draft Generator Interconnection Agreements ("GIA"s) have been prepared and are pending execution. The GIAs require that the Projects pay a total of over \$7 million in Transmission Provider (PacifiCorp) upgrade costs.

consistently refers to PacifiCorp as the “Transmission Provider”. Specifically, the Facility Study was directed at avoiding Bonneville Power Administration transmission service:

The Project’s proposed generation facility is located approximately 9.7 miles from the Transmission Provider’s [PacifiCorp] existing 69-kV Hinkle substation, co-located with the earlier queue projects...and will use the radial interconnect line constructed for the earlier projects. The Point of Interconnection will be the line side disconnect switch of the 69-kV circuit breaker, 3W201, at Transmission Provider’s [PacifiCorp] Hinkle Substation. Interconnection Customer [Respondents] has requested that the facilities study continue with the evaluation regarding the infrastructure requirements to interconnect the proposed project without acquiring transmission service through Bonneville Power Administration (“BPA”) owned McNary substation.

Small Generator Interconnection Facilities Study Report, June 9, 2010, emphasis provided.

It is clear from PacifiCorp’s Facility Study Report that third party transmission was not contemplated by either the Projects or PacifiCorp when the Facilities Study Report was being developed. It would be prejudicial and a denial of due process to the Projects to allow PacifiCorp to, at this late date, change the fundamental nature of the proposed interconnection and delivery of the output from these projects.

IN THE EVENT THE COMMISSION CHOOSES NOT TO REJECT ADVICE NO. 11-011 AT A MINIMUM IT MUST CONDUCT AN INVESTIGATION INTO THE MYRIAD OF LEGAL AND FACTUAL ISSUES IMPLICATED BY THE FILING

PacifiCorp proposes to pass wheeling costs on to QF developers located in load pockets without bothering to explore and investigate alternative methods of achieving similar results such as exploring the viability of non-firm transmission, conditional firm transmission, dynamic scheduling or other alternatives some of which will not be readily apparent absent a thorough investigation into the physical and contractual opportunities that may be available to solve PacifiCorp’s perceived problem. Clearly a full contested case must be opened to conduct the thorough investigation that is called for should the Commission decide to embark on this journey.

The legality of PacifiCorp’s proposal is questioned above. In addition, however, to just raising the question of its legality, interested parties must be given an opportunity to fully brief those legal implications and, should the Commission so desire, to engage in oral argument before the Commission on the same. Furthermore, approving Advice No. 11-011 without notice and an opportunity for a full evidentiary hearing will surely disadvantage many developers who are, no doubt, proceeding with their projects under the reasonable assumption that the Commission meant what it said in Order No. 05-584 in Docket No. UM-1129.

IN THE EVENT THE COMMISSION ORDERS AN INVESTIGATION, THE TARIFF ADVICE SHOULD BE SUSPENDED OR POSTPONED TO ALLOW EXISTING PROJECTS THAT ARE IN THE INTERCONNECTION QUEUE AN OPPORTUNITY TO COMPLETE THEIR CONTRACTING PROCESS

PacifiCorp has not made a showing that the immediate adoption of Tariff Advice 10-011 is warranted or in the public interest. Furthermore, an immediate adoption or provisional adoption of the advice will deprive Respondents of an opportunity to effectively participate in a docket that will have dramatic consequences on their projects and hence will result in a deprivation of due process rights. Respondents have four projects that have been in the development stages for literally years. They have invested substantial funds in justifiable reliance upon this Commission's clearly established policies for entitlement to standard rates and standard contracts and the compact that PacifiCorp will be required to pay full avoided cost rates for all of the output from their projects. Approving Advice 11-011 will make all of those years of work futile. Project developers are entitled to a modicum of due process when the fundamental ratemaking scheme upon which they justifiably rely is slated to undergo significant changes to their ultimate detriment.

There is no need for an immediate adoption of the Tariff Advice. PacifiCorp has only identified five projects with a total capacity of 44.8 MW (representing only approximately 18 aMW) that are currently being processed by the Company. Respondents represent forty of those forty-four megawatts. As noted above there are alternatives to PacifiCorp's purchase of firm point-to-point transmission that have not been explored and there is even a large thermal generator located in the same load pocket that may be available for curtailment. Furthermore, on a system the size of PacifiCorp's the impact of this 44 MW 'problem' would be lost in rounding while the impact on the projects would be potentially catastrophic.

At a minimum, should the Commission consider approving Tariff Advice 11-011 it should exempt from its reach all projects currently in the interconnection queue. As that number is small and the impact of such an exemption small, it would be highly reasonable for the Commission to make such a finding. It would also obviate the clear due process and lack of notice and opportunity to be heard for such a last minute proposed change in the rules of the road.

CONCLUSION

In closing, Respondents, respectfully request the Commission reject Tariff Advice No. 11-011 outright as it represents a direct affront to Order No. 05-584. In the alternative, should the Commission desire further information and legal briefing on the appropriateness of Tariff Advice No.11-011, a full evidentiary hearing with legal briefing opportunities should be established subsequent to the suspension of the effective date of Tariff Advice No. 11-011.

Sincerely,



Peter J. Richardson, OSB #06668

RICHARDSON AND O'LEARY, PLLC

Attorneys for:

High Plateau Windfarm, LLC;

Lower Ridge Windfarm, LLC;

Mule Hollow Windfarm, LLC; and

Pine City Windfarm, LLC

ATTACHMENT "A"

In Re:

Pacific Power, a Division of PacifiCorp Advice No. 11-011; Schedule 37 – Avoided Cost Purchases from Qualifying Facilities (10,000 kW or less)

On behalf of High Plateau Windfarm, LLC; Lower Ridge Windfarm, LLC; Mule Hollow Windfarm, LLC; and Pine City Windfarm, LLC

Walla Walla to McNary

230kV transmission line project

Project overview

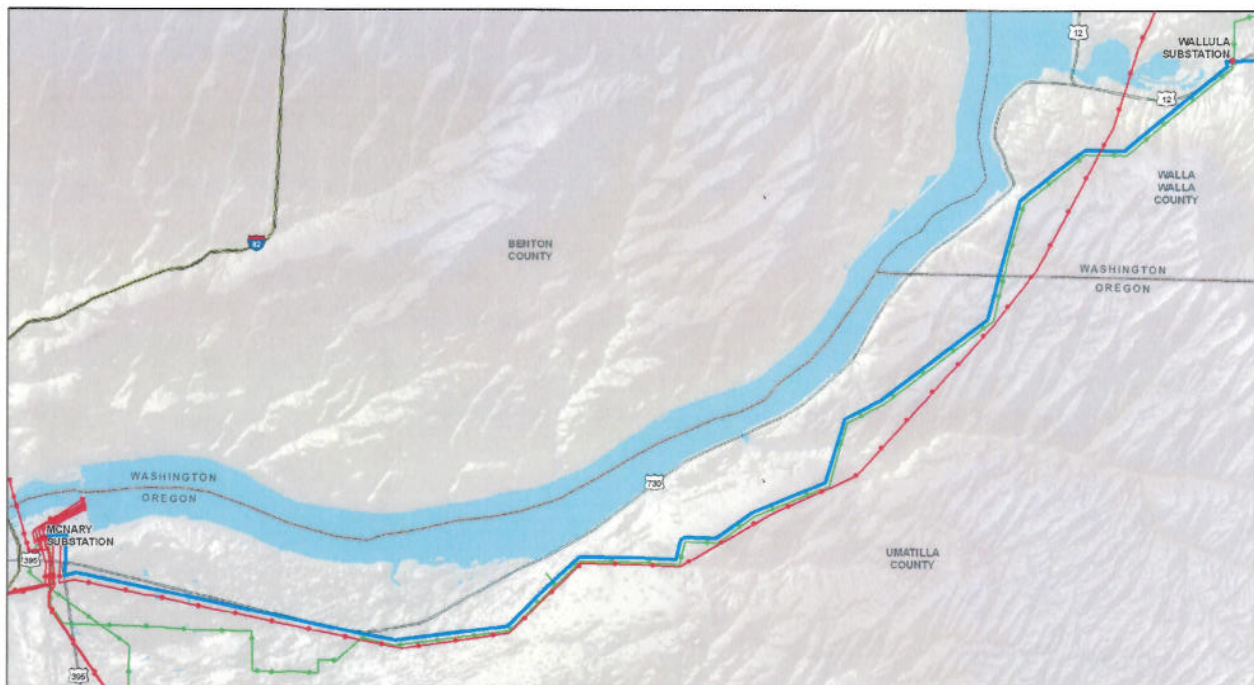
In order to continue to provide reliable, safe and cost-effective energy to our customers and support new renewable energy development, Pacific Power announced plans in 2008 to build a new transmission line between Wallula, Washington, and Umatilla, Oregon. Pacific Power sought input from landowners, residents, agencies and local governments regarding transmission line siting and received local permits for the proposed route in 2009.

In 2009, Pacific Power announced that, based upon transmission service requests from energy developers, the company would move forward to build a 30-mile portion of the line from Wallula, Washington to Umatilla. The remaining 25-mile section, from Wallula to Walla Walla, is not currently scheduled to proceed but will remain under review for future consideration. The 230-kilovolt

transmission line will be built on a 125-foot-wide right of way and connect existing power substations – Wallula and the McNary substation at Umatilla.

Pacific Power is currently working with property owners to obtain rights of way. Construction will follow, beginning in 2012, with a target to have the line in service in the 2012–2013 timeframe. Throughout this process, Pacific Power will continue to minimize impacts to the community and local environment from project development, construction and maintenance, and will regularly update and inform customers and the public.

The transmission line is part of PacifiCorp's ongoing investment program to ensure strong regional electrical infrastructure to cost-effectively meet the needs of our customers and the region.



The blue line shows the route for the portion of the new transmission line that will begin construction in 2012. Pacific Power is adding this transmission line to better serve customers and support new renewable energy development. The red and green lines show existing transmission lines.



Let's turn the answers on.

Customer benefits

- Increases ability of Pacific Power to draw on the most affordable sources of electricity to serve customers
- Improves reliability provided by a stronger transmission grid
- Provides access to more energy options, including renewable energy (specifically, local wind energy)
- Supports local community economic development
- Addresses future energy demand growth
- Supports the region's renewable energy goals, customer expectations and environmental priorities
- Provides more efficient use of existing energy sources

Public information process

- **Public involvement:** Pacific Power will continue to involve the public in the development of this transmission line. This includes continued outreach to landowners, community leaders, local and state agencies, tribes and others.
- **Public input:** Pacific Power gathered public input on transmission line routing through public open houses and ongoing consultation with landowners, agencies and local governments. We continue to welcome questions and comments about the project.
- **Public information:** We pledge to keep the public informed throughout the process of building this line. As the project continues, newsletters and other informational materials will continue to be posted online and distributed to landowners and interested citizens.
- **Project website:** pacificpower.net/energygateway – look for Segment A – Walla Walla to McNary under Energy Gateway.



A typical wood pole 230kV structure that may be used in the new transmission line project.

Pacific Power incorporated community input in determining final route

- To minimize impact from environmental, land use, social, cost and technical factors, this transmission line route was selected as the preferred option.
- This selected route addresses the siting preferences of landowners, stakeholders and local government entities.

How to reach us

Toll-free project contact: 1-877-620-7678

Project e-mail address:

ConstructionProjects@PacifiCorp.com
(Please specify Walla Walla to McNary line in your inquiry.)

Project timeline

2008-2009

- Secured needed permits

2010-2011

- Obtaining rights of way

2012

- Construction

2012-2013

- Estimated line in-service for customers

For additional information, please visit pacificpower.net/energygateway



Let's turn the answers on.