

Law Offices of  
***Thomas H. Nelson & Associates***

Box 1211  
Welches, OR 97067-1211  
Telephone: 503.622.3262  
Fax: 503.622.3562

**Thomas H. Nelson**  
E-Mail: nelson@thnelson.com  
Mobile: 503.709.6397

**Admitted in:**  
Oregon, Washington, and  
Idaho

July 21, 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 Commissioners Ackerman and Savage:

Renewable Energy Coalition ("Coalition") is an assumed business name for a coalition of hydroelectric and biomass qualifying facilities ("QFs") located in Oregon. For the reasons set forth below the Coalition requests that Pacific Power's (occasionally referred to as the "Company") Advice Filing No. 11-011 be summarily rejected as an impermissible evasion of prior Commission orders and an inequitable exercise of the Company's public-utility authority. In the event that the Commission determines not to reject the filing outright, the Coalition requests the filing be suspended, no interim relief be authorized, and that a full evidentiary hearing be commenced to address and resolve the factual, legal, and policy issues raised by the filing and identified in this letter.

The Advice Filing Should be Rejected Outright as an Abuse of Process

On July 1 Threemile Canyon Wind LLC filed a complaint against Pacific Power. That complaint, which addresses the specific circumstances that led to the Company's Advice Filing, provides details regarding how the filing violates the Commission's prior orders; consequently, those details will not be repeated here. The Coalition does wish to note, however, that the solution sought by Pacific Power to its claimed "load pocket" problem would unnecessarily throw into disarray the entire contracting process for under-ten-MW QFs. This is because the effect of Pacific Power's solution would be to create enormous uncertainty for the small power production industry through insertion of a condition subsequent to the validity of *all* power purchase agreements with Pacific Power. Conditions subsequent in power-purchase agreements are anathemas because they create uncertainty regarding the utilities' obligations; they are the equivalent to having no power purchase agreement at all. Planners cannot plan with such conditions present, nor will lenders lend. Moreover, the specific condition subsequent proposed by Pacific Power is completely opened-ended both in time and in potential financial impact.

The Commission should consider another factor: Pacific Power is proposing a wholesale revision of the under-ten-MW contracting process in response to *one isolated* instance - a case in which, according to Three Mile Canyon LLC's filing, the Company was the cause of the problem. See Three Mile Canyon LLC Complaint at 10 *et seq.* Had the Company dealt effectively with the load pocket issue it now faces in at the Dalreed Substation there likely would have been no Advice Filing and thus no proposal to eviscerate the under-ten-MW contracting process. Pacific Power should not be allowed to use its own shortcomings in what appears to be an ill-disguised effort to throttle the small power production industry.

In sum, because Pacific Power's Advice Filing violates prior Commission orders, because the equities are soundly opposed to Pacific Power, and because implementation of the Advice Filing would eviscerate the stability of the QF contracting process for projects under 10 MW, the filing should be rejected summarily and no interim relief provided. The Commission can deal effectively with Pacific Power's concern about the Dalreed Substation situation in the Threemile Canyon Wind LLC complaint docket without casting a cloud over the entire small-power-production industry.

If the Filing Is Not Rejected Both Suspension Without Interim Relief and a Thorough Investigation Are Required

First, as noted above, Pacific Power bases its entire case for a load-pocket process adjustments to Schedule 37 and changes to all standard-form power purchase agreements upon only one concrete instance. If, notwithstanding this scant justification for the Advice Filing, the Commission determines to proceed it should do so only after rigorous examination of the scope of the alleged problem. Specifically, how many actual or potential load pockets are there in Pacific Power's Oregon service territory - *viz.* where are they located, how are they served, and what are the summer and winter loads and generation within each load pocket? This type of information is obviously at the Company's fingertips but was not provided as a part of the Company's filing. Indeed, this information should routinely have been submitted - and should be submitted in the future - to QFs and the Commission as a matter of sound business practice if for no other reason than to maximize the benefits that can be obtained from renewable energy resources. There is simply no good reason why Pacific Power cannot provide specific information about each load pocket in Oregon - its location, how the pocket is served, and statistics regarding summer and winter loads and generation in each pocket. And if such information is not routinely provided as part of the Company's avoided-cost filings, it should at least be provided to individual QFs early in the interconnection study or contracting processes. Possessed with such information, mobile QFs such as wind and solar projects could plan in advance and locate their facilities where they would provide the greatest benefits both to Pacific Power's customers and to the Company's system.

For the foregoing reasons, Renewable Energy Coalition respectfully urges the Commission to dismiss summarily Pacific Power's Advice Filing 11-011. In the event the Commission decides not to do so, the Coalition urges the Commission to suspend the effective date of that filing and authorize no interim relief. Before any relief is authorized there should be thorough investigation into scope of the load pocket problem in Oregon. In addition, the

Commissioner Susan Ackerman  
Commissioner John Savage  
July 21, 2011  
Page 3

Commission should consider instituting a requirement that the Company provide in advance in recurring filings all relevant information for each load pocket identified by the Company to include (1) its location, (2) how it is served (*i.e.*, with what transmission arrangements), and (3) the summer and winter statistics for load and generation during the relevant seasons. In this manner QFs might plan the location(s) of their units more effectively, thus perhaps eliminating the cause of Pacific Power's discomfort.

Respectfully submitted,

Thomas H. Nelson, OSB 78315  
Attorney for Renewable Energy Coalition

Courtesy Copies via Electronic Mail:

PacifiCorp Oregon Dockets  
825 NE Multnomah Street, Ste  
2000  
Portland, OR 97232  
oregondockets@pacificorp.com

Jordan A. White  
Legal Counsel  
1407 W North Temple, Ste 320  
Salt Lake City, UT 84116  
Jordan.white@pacificorp.com

Jeffrey S. Lovinger  
Kenneth E. Kaufmann  
Lovinger Kaufmann LLP  
825 NE Multnomah, Ste 925  
Portland, OR 97232  
lovinger@lklaw.com  
kauffman@lklaw.com