

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 235

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

Investigation Into Avoided Cost  
Purchases from Qualifying Facilities –  
Schedule 37

RULING

**DISPOSITION: SCHEDULE ESTABLISHED**

On September 9, 2011, a prehearing conference was held in this docket at the office of the Public Utility Commission of Oregon (Commission). The purpose of the prehearing conference was to identify a scope and schedule for the proceeding. Conference participants determined, however, that additional discussion was needed before establishing either the issues or a procedural schedule.

On October 4, 2011, PacifiCorp, dba Pacific Power, filed a letter indicating that Commission Staff, Pacific Power, and the Community Renewable Energy Association reached consensus regarding issues to be addressed in the docket, and a schedule for doing so, and that no other party objected.

**Procedural Schedule**

The recommended schedule assumes adoption of the schedule by October 5, 2011. As such, I treat the letter as an expedited motion and I grant it, thereby adopting the proposed schedule, as follows:

Opening Brief by Pacific Power due	October 26, 2011
Response Briefs by Staff and all other parties due	November 17, 2011
Simultaneous Reply Briefs by all parties due	December 12, 2011
Commission Decision (target date)	January 12, 2012

Parties agree this schedule addresses a first phase of the docket only, and that additional investigation may be necessary, as further discussed below.

## **Scope of the Proceeding**

I also adopt the proposed scope of the proceeding, with briefs to address the following:

### **Parties' Questions Presented (Phase One)**

Is PURPA<sup>1</sup> violated if Pacific Power is required to pay Schedule 37 prices and:

1. Pacific Power must also pay for third-party transmission to move Qualifying Facility (QF) output from the point of delivery to Pacific Power load?
2. Pacific Power must also pay for third-party transmission to move QF output from the point of delivery to Pacific Power load; and the cost to purchase third-party transmission service to move qualifying facility output to Pacific Power load is not, in aggregate, offset by savings in third-party transmission service costs created by other Schedule 97 Qualifying Facilities?
3. Pacific Power must also pay for third-party transmission to move QF output from the point of delivery to Pacific Power load; and the cost to purchase third-party transmission service to move qualifying facility output to Pacific Power load is, in aggregate, offset by savings in third-party transmission service costs created by other Schedule 37 Qualifying Facilities?

I note that given the accelerated schedule for this proceeding, briefs should be thorough and unambiguous. For example, the briefs should clearly identify any reliance on stipulated facts or issues.

### **Further Investigation**

The letter also addressed the possible need for further investigation in a second phase of this docket, stating:

1. Should the Commission conclude there is no conflict between PURPA (or Oregon's implementation of PURPA) and the third-party transmission issues raised in Advice No. 11-011, then the Commission will need to determine whether there is any reason to continue with the investigation. Pacific Power reserves the right to seek rehearing or otherwise appeal any determination that third-party transmission costs need not be addressed in Schedule 37.
2. If the Commission concludes that there is a conflict between PURPA (or Oregon's implementation of PURPA) and the third-party transmission issues raised in Advice No. 11-011, then Phase Two of the investigation should be opened to focus on whether the solution proposed by Pacific Power in Advice No. 11-011 is acceptable or whether there are better solutions.

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<sup>1</sup> PURPA is an acronym for the Public Utilities Regulatory Policy Act.

3. If the Commission determines that it cannot decide whether there is a conflict with PURPA (or Oregon's implementation of PURPA) without further inquiry, then Phase Two of the investigation would involve a further inquiry as determined necessary by the Commission, including whether the cost to purchase third-party transmission service to move QF output to Pacific Power load is not, in aggregate, offset by savings in third-party transmission service costs created by other Schedule 37 Qualifying Facilities.

I expect briefs will further address the need for a second phase.

Dated this 5<sup>th</sup> day of October, 2011, at Salem, Oregon.



Traci A. G. Kirkpatrick  
Administrative Law Judge