

BEFORE THE  
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER THE PUBLIC UTILITY	)	
COMMISSION OF OREGON	)	CASE NO. UM 1610
	)	
Investigation Into Qualifying Facility	)	RESPONSE IN SUPPORT OF
Contracting and Pricing	)	RENEWABLE ENERGY COALITION'S
	)	MOTION BY THE COMMUNITY
	)	RENEWABLE ENERGY ASSOCIATION
	)	AND ONEENERGY, INC.

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The Community Renewable Energy Association (“CREA”) and OneEnergy, Inc. (“OneEnergy”) hereby respectfully submit their Response in Support of the Renewable Energy Coalition’s (“REC”) Motion to Suspend PacifiCorp’s Advice No. 14-007. CREA and OneEnergy understand that the Public Utility Commission of Oregon (“OPUC” or “Commission”) currently plans to address this Advice filing at the public meeting on April 29, 2014 – just a few weeks after the 781 page filing was made. CREA and OneEnergy urge the Commission to suspend Advice No. 14-007 and not allow the proposed rates and revised tariffs to take effect without allowing for a reasonable investigation for the reasons set forth in REC’s Motion, and for the additional reasons set forth below.

First, Oregon law requires the Commission to *review* and approve avoided cost rates. The law specifically states “each electric utility shall prepare, publish and file with the Public Utility Commission a schedule of avoided costs . . . . Prices contained in the schedules filed by public utilities shall be reviewed and approved by the commission.” ORS 758.525(1). While the Commission set broad policy guidelines in Order No. 14-058, it reviewed no rates. Nor could the Commission or stakeholders possibly conduct an adequate review in the two weeks that have

passed since PacifiCorp filed Advice No. 14-007 on April 10, 2014.

Second, a preliminary review of the rates indicates that there are serious methodological and accounting issues that warrant revision or rejection of the proposed rates. PacifiCorp has purportedly inputted numbers from its unapproved Integrated Resource Plan (“IRP”) into its avoided cost rate calculations. Setting aside the fact that the IRP is not yet approved, numbers even from an approved IRP are not per se reasonable for use in avoided cost rate calculations. The Commission has itself stated so in docket UM 1396, after implementing policies for renewable avoided cost rates. The Commission stated:

We agree with Staff, ICNU, ODOE, and CREA, that implementation of these policies requires an evidentiary record to derive utility-specific avoided cost rates for renewable resources. As CREA notes, the IRP process, while complex, is not a litigated proceeding in which a utility's estimates of the costs of its resources are subjected to extensive discovery.

*In re Public Utility Commission of Oregon: Investigation Into Resource Sufficiency,*

*Pursuant to Order No. 06-538, Docket No. UM 1396, Order No. 11-505 at 11 (2011).*

Although a preliminary review indicates that the numbers in the unapproved IRP appear to correspond to numbers in the work papers provided by PacifiCorp, several of the underlying assumptions warrant further review. Many critical elements of the avoided costs are missing from PacifiCorp’s rate calculations, such as the costs associated with taxes at a Wyoming wind farm and adequate accounting for gas infrastructure at the avoided gas plants. It also appears that PacifiCorp’s proposed renewable avoided cost rates presume the existence of the federal production tax credit for wind energy facilities; yet that tax credit expired on December 31, 2013 and has not been renewed. Additionally, PacifiCorp’s IRP indicates it has growing loads on the east side of its system where the proxy resources utilized to calculate the proposed rates are located, and the Idaho Public Utilities Commission (“IPUC”) recently determined that

PacifiCorp is currently resource deficient for purposes of calculating avoided cost rates.<sup>1</sup> Yet PacifiCorp's proposed Oregon rates contain a sufficiency period until 2024. Attached to this Response as Exhibit 1 are CREA's outstanding discovery requests that were promptly served as soon as it was possible to begin reviewing PacifiCorp's 781 page filing. These are legitimate questions. However, interested stakeholders and the Commission will have no real opportunity to consider, let alone make use of, the responses prior to the public meeting on April 29, 2014. Additionally, there are serious issues regarding calculation of the capacity component of the avoided cost rates raised in motions for reconsideration or clarification that warrant further consideration.

Finally, even a preliminary review of PacifiCorp's filing indicates that recent changes to the contracting process and the contracts themselves warrant more consideration by the Commission than the two-week period available would allow. For example, PacifiCorp failed to include in Advice No. 14-007 a jury trial waiver addendum to the standard contract that CREA understands PacifiCorp has been requiring of small QFs. This omission prohibits full review of the standard contract and whether it is appropriate, or even lawful, to condition access to avoided cost rates on a QF's "agreement" to waive its right to a jury trial when Article I, section 17, of the Oregon Constitution provides: "In all civil cases the right of Trial by Jury shall remain inviolate." *See also Molodyh v. Truck Insurance Exchange*, 304 Or. 290, 295-300, 744 P.2d 992 (1987) (holding that a party may not be compelled to give up that right, even by statute).

PacifiCorp has also added to the list of information that small QFs must supply to obtain a draft

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<sup>1</sup> *See In Re Application of PacifiCorp dba Rocky Mountain Power for Approval of Its Capacity Deficiency Period to Be Utilized in the Company's SAR Methodology*, IPUC Case No. PAC-E-13-12, Order No. 33015 (April 8, 2014), available online at [http://www.puc.idaho.gov/orders/recent/Final\\_Order\\_No\\_33015.pdf](http://www.puc.idaho.gov/orders/recent/Final_Order_No_33015.pdf).

contract, such as a 12x24 generation profile that many small QFs may lack the resources to produce. Further review will likely uncover additional changes proposed in (or omitted from) PacifiCorp's filing that will require more than the two-week review period urged by PacifiCorp.

For all of the reasons set forth herein and in REC's Motion, CREA and OneEnergy urge the Commission to suspend Advice No. 14-007 at least until the time when Portland General Electric Company's compliance filing is processed and possibly longer to allow for a complete review of the rates and contracts for compliance with applicable laws and policies.

Alternatively, if the Commission is inclined to address the merits of the filing, as PacifiCorp urges, the Commission should reject the filing because an adequate review has not occurred as required by law and there is no record supporting the assumptions made therein.

RESPECTFULLY SUBMITTED this 24th day of April 2014.

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# **Exhibit 1**



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April 14, 2014

***Via Electronic Mail***

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**Re: UM 1610 – Community Renewable Energy Association’s Sixth Set of Data Requests to PacifiCorp**

Please see the data requests set forth below with regard to the above-referenced docket. Please refer to the instructions and definitions included with CREA’s First Set of Data Requests. Please also assume that these are ongoing requests, and include requests for information that becomes available during these proceedings.

Please provide responses to the following persons:

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## DATA REQUESTS

6.1 Please provide all fully executed Oregon standard PURPA contracts (10 MW or less) entered into by PacifiCorp in the past twelve months, including all addendums, appendices, and exhibits.

6.2 Please provide all final Oregon standard PURPA contracts (10 MW or less) that PacifiCorp has offered for signature to a QF, whether finally executed by the QF or not, including all addendums, appendices, and exhibits as offered by PacifiCorp.

6.3 Please admit or deny that PacifiCorp has required inclusion of a jury trial waiver as an addendum to Oregon standard contracts. If admit, please:

- (a) Identify each QF with which PacifiCorp has negotiated and required a jury trial waiver in the Oregon standard contract at any point in the negotiations, and provide all written correspondence (including email) from PacifiCorp requiring or explaining the jury trial waiver requirement.
- (b) Identify the OPUC order authorizing the jury trial waiver in Oregon standard PURPA contracts.
- (c) Explain if PacifiCorp intends to continue requiring the jury trial waiver in the Oregon standard contract.
- (d) Explain why the jury trial waiver addendum is not attached to the standard contract submitted for approval in the UM 1610 compliance filing.

6.4 Please explain the basis for the jury trial waiver included in Section 10.7 of the QRE reporting agreement attached as an exhibit to the Oregon standard contracts included with PacifiCorp's UM 1610 compliance filing.

6.5 Please provide PacifiCorp's QRE reporting agreement that is currently approved by the OPUC, and identify the OPUC order approving the agreement.

6.6 Please explain the assumptions made with regard to taxes applicable to the 40% capacity factor WY wind plant used for purposes of calculating the deficiency period renewable avoided cost rates, including:

- (a) Identify the assumption regarding use of the production tax credit or other federal tax credits and the assumed value of the benefit in \$/MWh, and any other available metrics, including the impact on the all in \$/MWh avoided cost rate calculated during the deficiency period.
- (b) Identify the assumption for the amount of state taxes paid for the wind plant, including sales tax (%) and excise tax (\$/MWh), and provide the impact on the all in \$/MWh avoided cost rate calculated during the deficiency period.



- (c) Identify all other tax benefits or costs assumed in the rate including identification of the tax and the amount of the tax in \$/MWh, and any other available metrics, including the impact on the all in \$/MWh avoided cost rate calculated during the deficiency period.
- (d) Provide all work papers supporting subparts (a) through (c).

6.7 Please provide the actual capacity factors for each year of commercial operation for each of PacifiCorp's owned and contracted wind plants in Wyoming. In calculating this capacity factor, all hours of forced or planned outages should be included so as to reduce the capacity factor.

6.8 Please provide the assumed annual capacity factors for each of PacifiCorp's owned and contracted wind plants in Wyoming utilized for purposes of calculating net power costs in PacifiCorp's most recent net power cost filing at the OPUC, and identify the OPUC docket number. Please provide the source of assumption used.

6.9 Please provide the assumptions made for fixed price demand charges for gas delivery at the SCCT and CCCT gas plants modeled for purposes of calculating the deficiency period standard (non-renewable) avoided cost rates. Please identify the source of the assumption.

6.10 Please provide the actual fixed price demand charge for gas delivery at the Company's Lake Side 2 CCCT gas plant in \$ per month and \$ per year, and the projected cost per month and year for the life of the plant.

6.11 Please provide the assumptions made for the cost of lateral lines for gas delivery at the SCCT and CCCT gas plants modeled for purposes of calculating the deficiency period standard (non-renewable) avoided cost rates. Please identify the source of the assumption.

6.12 Please provide the assumptions made for the cost of upgrades to the local and trunk gas lines, as well as storage, for gas delivery at the SCCT and CCCT gas plants modeled for purposes of calculating the deficiency period standard (non-renewable) avoided cost rates. Please identify the source of the assumption.

6.13 Please identify the assumed location (City and State) of the SCCT and CCCT gas plants modeled for purposes of calculating the deficiency period standard (non-renewable) avoided cost rates. Please provide the assumptions for applicable state and local taxes, altitude impacts on efficiency, and adjustments for variations in regional construction costs, as well as the source of the assumption for each at the specified location.

6.14 Please identify the source of the gas price forecast used to calculate the cost of the SCCT and CCCT gas plants modeled for purposes of calculating the deficiency period standard (non-renewable) avoided cost rates, and provide the gas forecast.

6.15 Reference Idaho PUC Order No. 33015, issued April 8, 2014 and approving PacifiCorp's avoided cost rates with a capacity deficiency period beginning in 2013. Please explain why the

Idaho avoided cost rates have a capacity deficiency period that begins in 2013 while the proposed Oregon avoided cost rates have a capacity deficiency period that begins in 2024.

Thank you for your prompt attention to this request.

Sincerely,

*/s/ Gregory M. Adams*

Gregory M. Adams  
Attorney for the  
Community Renewable Energy Association



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**Re: UM 1610 – Community Renewable Energy Association’s Seventh Set of Data Requests to PacifiCorp**

Please see the data requests set forth below with regard to the above-referenced docket. Please refer to the instructions and definitions included with CREA’s First Set of Data Requests. Please also assume that these are ongoing requests, and include requests for information that becomes available during these proceedings.

Please provide responses to the following persons:

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## DATA REQUESTS

7.1 The wind capacity contribution of 4.2% that is used to calculate the Standard Avoided Cost Prices for Wind QF Resources (Exhibit 2) are referenced in Appendix O, Volume II, 2013, IRP, p. 361.

(a) Please provide all documents, workpapers, spreadsheets, including the top 100 peak load hours, all in workable electronic formats with formulas intact, that were used in calculating the 4.2% capacity contribution for wind QFs.

(b) For Figure O.1 please provide the MW and MWh for each of the four years 2007 through 2010 that are associated with the wind peak contributions percentages that were calculated.

(c) For each of the wind resources listed in Table O.2 please indicate their location by county and state.

7.2 The solar capacity contribution of 13.6% that is used to calculate the Standard Avoided Cost Prices for Solar QF Resources (Exhibit 3) are referenced in Appendix O, Volume II, 2013, IRP, p. 361.

(a) Please provide all documents, workpapers, spreadsheets, including the top 100 peak load hours, all in workable electronic formats with formulas intact, that were used in calculating the 13.6% capacity contribution for solar QFs.

(b) For Figure O.2 please provide the MW and MWh for each of the four years 2007 through 2010 that are associated with the wind peak contributions percentages that were calculated.

(c) Please provide the individual and combined simulated profiles for each of the five locations (Pocatello, ID; Yakima, WA; Pendleton, OR; Lander, WY; and Salt Lake City, UT) used as input in calculating the solar capacity contribution.

(b) Please provide the PVWatts NERL tool, in working electronic format, used in developing the solar generation profiles.

7.3 Please provide the wind capacity contribution for the Company owned (not 3<sup>rd</sup> party PPAs) wind resources calculated using the same method and years that were used to find the QF avoided cost prices.

7.4 Please provide the Company's Official Price Forecast for Mid-Columbia Market Prices – December 2013 for the years beyond 2023 in the same format as that found in Table 2, in spreadsheet OR AC Sch 37 – AC Study (2013 IRP Filing – Mid C – 1403 OFPC)\_2014 04 04 (clean).

Thank you for your prompt attention to this request.

Sincerely,

*/s/ Gregory M. Adams*

Gregory M. Adams  
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24<sup>th</sup> day of April, 2014, a true and correct copy of the within and foregoing **RESPONSE IN SUPPORT OF RENEWABLE ENERGY COALITION'S MOTION BY THE COMMUNITY RENEWABLE ENERGY ASSOCIATION AND ONEENERGY, INC.** was served as shown to:

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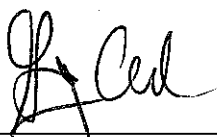
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