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June 17, 2013

Via Electronic and U.S. Mail

Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of Public Utility Commission of Oregon Investigation Into Qualifying Facility Contracting and Pricing
Docket No. UM 1610

Dear Filing Center:

Enclosed for filing in the above-referenced docket, please find the original and five (5) copies of the Renewable Energy Coalition's Posthearing Brief.

Thank you for your assistance, and please do not hesitate to contact our office if you have any questions.

Sincerely,

/s/ Jesse Gorsuch
Jesse Gorsuch

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing documents upon the parties on the service list via electronic mail only, as all parties have waived paper service.

Dated at Portland, Oregon, this 17th day of June, 2013.

Sincerely,

/s/ Jesse Gorsuch
Jesse Gorsuch

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1610

In the Matter of	)
	)
PUBLIC UTILITY COMMISSION OF OREGON	)
	)
	)
Investigation Into Qualifying Facility Contracting and Pricing	)

RENEWABLE ENERGY COALITION POSTHEARING BRIEF

PHASE I

June 17, 2013

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I. INTRODUCTION

The Renewable Energy Coalition (the "Coalition") submits this posthearing brief addressing the issues in Phase I of the Oregon Public Utility Commission's (the "Commission" or "OPUC") investigation of issues regarding qualifying facility ("QF") contracting and pricing. Pursuant to the May 30, 2013 Posthearing memorandum, the Coalition has organized this brief to follow the official issues list, identifying the letter and number of each issue.

The Coalition urges the Commission to maintain its solid foundation of policies related to the federal and state Public Utility Regulatory Policies Act ("PURPA"), and only make incremental changes to improve the process for updating avoided cost rates, revise its policies regarding legally enforceable obligations, and to more accurately set avoided cost rates, especially those for existing QFs. In resolving issues in this proceeding, the Commission should carefully balance the interests of QF developers with the rate concerns of customers, and bear in mind that the utilities have a historic reluctance to meet their mandatory purchase obligations through a variety of creative and harmful approaches. QF developers typically have little to no options when selling their power, and the Commission should ensure that its final policies provide a settled and uniform climate for QF sales. The goal of this proceeding should be to have a smooth process that minimizes problems and complaints, and not simply reduce prices paid to QFs and allow the utilities to reduce their number of QF contracts.

For the most part, Oregon's PURPA policies are working to meet the statutory objectives of increasing the diversity of utility resources, promoting the development of non-utility generation sources, and ensuring just and reasonable rates for both QF developers and

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ratepayers. The Commission should maintain these policies, including the current ten megawatt ("MW") size threshold for standard contracts, the prohibition on adjusting avoided cost rates for standard contracts, that renewable energy credits remain with a QF selling power under non-renewable rates, the 15-year fixed price contract terms, and the specific guidelines for larger QFs. These policies have provided considerable guidance to both QFs and the utilities, reduced the ability of utilities to stonewall or impose arbitrary barriers in the negotiation process, and have increased opportunities for QF developers without harming ratepayers.

The Coalition urges the Commission not to make radical changes in its PURPA policies, which would have a harmful impact on QFs. Coalition/100, Lowe/3. With very "few exceptions, the utilities' proposed changes will have a significant cooling effect upon the development of new projects." Id. at 4. For example, the proposals to lower the fixed price component to 10 years for new QFs and 5 years for existing QFs would have a devastating impact on QFs. Instead of focusing on maintaining the Commission's PURPA framework, Portland General Electric Company ("PGE") and PacifiCorp have taken the opportunity to seek a "wholesale re-design of PURPA's implementation." Id. The Commission should reaffirm most of its previous orders and make minor changes that will benefit both QFs and ratepayers, and not dismantle nearly a decade of constructive PURPA policy decisions.

The Commission should make a few changes to address issues and concerns that have developed over the past few years, including inconsistent updates for updating avoided cost rates, which is currently supposed to occur every two years and about the time of the utility's last-acknowledged integrated resource plan ("IRP"). QF developers require stable avoided cost rates in order to complete power purchase and interconnection agreements, but recognize that the

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utilities desire more frequent updates. To accommodate these divergent needs, most parties support some form of annual updates. More frequent updating, however, will make it more difficult for QFs to timely complete their power purchase agreements and interconnection agreements, and may require more extensive contracting changes (which will be addressed in Phase II of the proceeding).

If the Commission adopts annual updates, then it should ensure that its policies will not result in frequent changes, or "pancaking," of avoided cost updates.[1/] The Commission can avoid pancaked rate changes by: 1) adopting annual updates that occur one year after the last approved avoided cost rates; or 2) setting the annual avoided cost rate change at a specific time, but not allowing a second annual update following approval of a utility IRP. In addition, if the Commission allows annual avoided cost updates, then there is no reason for avoided cost updates for other reasons, and both utilities and QF developers should be prohibited from proposing out of cycle avoided cost updates.

Existing QFs that renew their contracts should be provided energy and capacity payments during the resource sufficiency period. Utilities plan on existing QFs selling power after the expiration of their contracts, and these QFs help to defer new capacity resources. In other words, without existing QFs renewing their contracts, the utilities would need to acquire new, more expensive capacity resources sooner. As existing QFs provide capacity value by helping to defer the utilities' need to buy or build new capacity resources, their avoided cost rates should include both capacity and energy components during the resource sufficiency period.

1/ Pancaking of rate changes refers to two or more rate changes that occur in a brief period of time. Frequent changes in rates harm QFs because they plan their operations and obtain their financing based on the assumption that the then-current avoided cost rates will be in effect until the next scheduled rate change.

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The Commission should also revise its policies regarding when a legally enforceable obligation exists. The Commission's current rules and policies require a QF to enter into a written contract to form a legally enforceable obligation, which is inconsistent with precedent from the Federal Energy Regulatory Commission ("FERC"). The Commission should adopt a general policy that a legally enforceable obligation can exist after a QF expresses an unequivocal commitment to sell electricity and has provided all required project information. Similarly, the Commission should reject PGE's recommendation that a legally enforceable obligation cannot occur more than one year before power deliveries. As these issues are inextricably tied to resolution of other contracting and interconnection issues which have been deferred to Phase II, the Coalition recommends that all issues related to a legally enforceable obligation be addressed later.

II. BACKGROUND

Congress enacted PURPA in 1978 to promote greater use of renewable energy and to force monopoly utilities to purchase power from small and independent power producers. FERC v. American Elec. Power Serv. Ass'n, 461 U.S. 402, 404 (1983). The law's purpose was to diversify the supply of electric power by developing cost-effective non-utility resources. FERC v. Mississippi, 456 U.S. 742, 750-51 (1982).

Much of the implementation of PURPA has been delegated to FERC and the states, and Oregon passed its own statute in 1979. 16 U.S.C. § 824a-3(f); ORS § 758.505-555. The Commission first began implementing the federal and state PURPA laws in 1980, and its first PURPA policies were designed "to provide for the maximum economic incentives for development of qualifying facilities while insuring that the costs of such development do not

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adversely impact utility ratepayers who ultimately pay these costs." Docket No. UM 1129, Order No. 05-584 at 7 (May 13, 2005) (citing Order No. 81-319).

The Commission has adopted a comprehensive PURPA policy, which has resolved many of the issues that are being re-raised now. Order No. 05-584 in UM 1129 addressed the size threshold for eligibility for standard contracts, contract length, the calculation of avoided costs rates, the frequency of rate changes, and pricing adjustments. Id. at 1-4. Specifically, the Commission adopted a 10 MW size threshold for standard contracts, 20 year standard contracts with 15-year fixed prices, the use of the proxy method for calculation of PGE's and PacifiCorp's avoided cost rates, the two-year cycle for adjusting rates, and a prohibition on additional pricing adjustments for standard contracts. Order No. 07-360 in UM 1129 addressed issues related to larger QFs, and the Commission adopted specific guidance for adjusting avoided cost rates and barring the utilities from making adjustments for other factors. Order No. 09-196 in AR 521 adopted policies for small generator interconnections, which has streamlined and improved the interconnection process. Finally, in UM 1396, the Commission issued Order Nos. 10-488 and 11-505 designating the IRP as the appropriate venue for the resource sufficiency/deficiency demarcation, and requiring PGE and PacifiCorp to purchase renewable QF power at a renewable avoided cost rate.

While there were a number of contracts immediately following the passage of PURPA, new contracts dwindled and there were few new Oregon QF contracts until UM 1129. As explained by Coalition witness John Lowe, "[t]he environment for renewable energy projects has vastly improved following the Commission's orders in UM 1129 relating to power purchase agreements and AR 521 related to small generator interconnection rules." Coalition/100,

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Lowe/3. These orders led to critically important improvements that have significantly reduced the ability of the utilities to impose arbitrary barriers to QF development. Id. at 3-4.

The Commission opened this proceeding to make incremental refinements and improvements and address some issues that had not been fully resolved. First, there have been a number of requests by the utilities and some QF developers to update avoided cost rates outside of the two-year update cycle, and utility proposals to update rates based on non-approved integrated resource plans. E.g., Coalition Petition to Initiate Investigation, Docket No. UM 1457 at 3-4; Docket No. UE 241, Order No. 11-414 (Oct. 11, 2011); Docket No. UM 1129, Order No. 07-199 at 2-3 (May 22, 2007). Second, there have been a number of QF and utility contracting and interconnection disputes that have been brought to the Commission and/or the Courts. E.g., Docket No. UM 1457 at 5-10. Third, there were a number of implementation disputes regarding the pricing and availability of the renewable avoided cost rates.

III. LEGAL STANDARD

PURPA requires electric utilities to purchase power from QFs at the utilities' avoided costs, which must also be just and reasonable for ratepayers. 16 U.S.C. § 824a-3(b)(1). Avoided costs should be based on a utility's incremental costs that, but for the purchase from the QFs, the utility would generate or purchase from another source. Id. at § 824a-3(d); ORS § 758.515(2)(b). Oregon law and FERC require utilities to purchase electricity from QFs based on the utilities' full avoided cost. ORS § 758.525; FERC, 461 U.S. at 406.

Congress included mandatory purchase requirements because electric utilities are reluctant to purchase power from non-traditional facilities. FERC, 461 U.S. at 404-05. Congress sought to encourage the development of non-utility resources by removing structural barriers that

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prevented independent small power producers from selling electricity to utilities at reasonable prices. Swecker v. Midland Power Coop., 105 F.E.R.C. ¶ 61,238 (2003).

Similarly, the goal of the Oregon PURPA was to increase the marketability of QF electric sales and "[p]romote the development of a diverse array of permanently sustainable energy resources . . . ." ORS 758.515. The Oregon legislature specifically directed the Commission to increase "the marketability of electric energy produced by" QFs and to create "a settled and uniform institutional climate for the qualifying facilities in Oregon." ORS § 758.515(3). The Commission has recognized these goals, finding that it must encourage:

> the economically efficient development of qualifying facilities in Oregon. It is the goal of the Commission to ensure desired qualifying facility development through stable and predictable actions by the Commission, accurate price signals, and full information to developers and the public regarding power sales requirements.

Order No. 05-584 at 9 (citing the 1988 OPUC report to the Oregon Legislature).

The Commission must also balance the interests of ratepayers (which ultimately pay for the costs of QF power) with QF developers (which must be provided the maximum economic incentives for their development). Docket No. R-58, Order No. 81-319 at 3 (May 6, 1981). Fundamentally, the Commission's goal is "to encourage the economically efficient development of [QFs], while protecting ratepayers by ensuring that utilities pay rates equal to that which they would have incurred in lieu of purchasing QF power." Order No. 05-584 at 1.

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IV. ARGUMENT

1. The Commission Should Retain Its Proxy Resource Approach for Calculating PGE and PacifiCorp's Avoided Cost Rates (Issue 1Ai)

The Commission should continue to use its current methodologies for calculating the avoided cost rates, and reject the various major revisions of Staff, PGE and PacifiCorp. For standard avoided cost rates, the Commission requires PGE and PacifiCorp to set rates upon a proxy resource during periods of resource deficiency and upon monthly market prices during periods of resource sufficiency. Order No. 05-584 at 2, 26-29, 38-39. Non-standard avoided prices for large QFs are negotiated between the utility and the individual QF using the standard avoided cost rates as a starting point with specific guidelines and methodologies approved by the Commission. Order No. 07-360 at 5.

A. The Commission Should Reject Staff's Capacity Adjustment to Standard Avoided Cost Rates

Staff has recommended that all the avoided cost rates for QFs under the 10 MW size threshold be adjusted to reflect their capacity component. Staff/100, Bless/22-25.[2/] Staff supports this change because different QFs have different capacity values and accounting for the specific value could reflect the expected capacity contribution of each QF. Id. Staff, however, has not proposed a specific methodology and it is impossible to determine how its capacity adjustment would work in practice. In addition, the utilities' approach to valuing capacity is very controversial, could significantly harm QFs, and may not fully account for the capacity contribution of many resources. RNP/200, Lindsay/1-6; ODOE/100, Carver/7-8. The

[2/] In testimony, Staff addressed this issue under Issue 4A (costs associated with intermittent resources), but in the prehearing memorandum addressed the issue under Issue 1A (the appropriate methodology for setting avoided cost rates).

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Commission should first address the issue of the appropriate capacity value that resources provide in their IRPs.

Staff's capacity adjustment should also be rejected because there are other operational characteristics that individually or in total add value to QF power, as opposed to reducing it. These characteristics include investment deferral, natural gas transportation infrastructure costs, gas price volatility and avoided transmission costs for standard cogeneration QFs located close to load. See, e.g., RNP/200, Lindsay/7-8. Staff is not proposing that these factors be accounted for in standard contracts, and it would be inappropriate to adjust standard contracts for one factor that lowers avoided cost rates when there are numerous other factors that increase avoided cost rates that will be excluded.

Staff's capacity adjustment would also add significant complexity to the standard contract negotiation process and could allow the utilities to arbitrarily lower avoided cost rates. Staff's proposal would "provide too much opportunity for gaming by the utility and impose too large an administrative cost on QFs seeking to ensure the avoided cost rates are accurately and transparently calculated." CREA/400, Hilderbrand/6. In UM 1129, the Commission previously rejected PGE and PacifiCorp proposals to adjust standard contracts for certain project specific characteristics, agreeing that a specific QF may impose costs greater or lesser than the standard contract rate, but that on balance the standard contract provides a fair rate to QFs. Order No. 05-584 at 38-39. The Commission should reaffirm its earlier conclusion that "further flexibility in negotiating the terms of a standard contract would fundamentally undermine the purposes and advantages of standard contracts" which are "designed to minimize the need for parties to engage in contract negotiations." Id. at 39.

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B. The Commission Should Reject PacifiCorp's Computer Modeling Approach for Non-Standard Avoided Cost Rates

PacifiCorp has proposed to replace the current proxy plant methodology for non-standard contracts with a method based on its GRID model that will add unnecessary complexity, increase QF costs, and not result in more accurate rates. From the perspective of QF developers, the proxy resource method with Commission-approved adjustments is more straightforward and transparent. Coalition/200, Schoenbeck/8. QF developers would be unable to review the accuracy of the GRID computer model without hiring expensive experts to analyze the inputs and modeling. Id. at 8-9.

PacifiCorp supports use of its GRID model approach on the grounds that it would be more accurate. The computer model approach can take into account expected loads and resources over a longer planning period, which gives the appearance of more precisely determined, and therefore more accurate, avoided cost prices. Id. at 9. The result, however, is based on numerous assumptions that are proven to be wrong over time. Id. This does not lead to a more accurate result. The most important input for both the proxy and GRID model approach are gas price forecasts, which have similar impacts on both methods. Id. Coalition witness Don Schoenbeck reviewed and compared the GRID and proxy methods, and found that the difference in avoided cost rates "is negligible given the substantial amount of additional effort and loss of transparency required under the" PacifiCorp model approach. Id. at 10. Therefore, the Commission should continue to use the proxy method for PacifiCorp because the GRID model is a complex, internally developed model that, even if properly used, should have a minimal impact on avoided cost rates. Id. at 11.

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2. Idaho Power Should Be Allowed to Use a Different Methodology (Issue 1Aii)

Idaho Power has demonstrated that it should be allowed to use the same methodology for setting avoided cost rates that has been approved by the Idaho Public Utility Commission ("Idaho Commission"). Coalition/100, Lowe/22-23. Idaho Power's methodology will result in differences in rates that may be significant and more accurate. The Commission previously allowed Idaho Power to use a different method due to "administrative efficiency interests." Order No. 05-584 at 26. Finally, Idaho Power should not pick and choose among aspects of the avoided cost rate calculation methodology approved by the Idaho Commission, but should use the exact rate methodology that it uses in Idaho. Coalition/100, Lowe/23.

While Idaho Power should be allowed to use the Idaho Commission method for calculating its QF rates, the Commission should reject Idaho Power's other requests to deviate from Oregon PURPA policies. The Commission's policies regarding renewable energy certificate ownership, legally enforceable obligations, schedules for updating avoided cost rates, and other broad PURPA policies should equally apply to all three Oregon utilities.

3. QFs Should Have the Right to Elect Levelized Avoided Costs in Limited Circumstances (Issue 1B)

The Commission should allow certain QFs to elect partially levelized avoided cost rates in limited circumstances.[3/] Levelization helps QFs when there are low prices during the early years due to the resource sufficiency period, but also shifts some risk to ratepayers. E.g., Staff/200, Bless/12. The Commission's initial PURPA policies included rates for QF

[3/] Levelized rates transfer revenues from later contract years to early years to ensure that payments are equal for the life of the contract (full levelization) or to reduce but not eliminate the difference between early and late year prices (partial levelization).

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purchases based on avoided costs and levelized payments. Order No. 05-584 at 7 (citing Order No. 81-319). More recently in UM 1129, Staff recommended a levelization methodology for valuing capacity, but the Commission rejected Staff's overall approach and specifically declined to address the merits of levelization. Id. at 23, 28 n46. Utilities are not currently required to levelize contracts, but they have the ability to negotiate levelization with individual QFs.

The Coalition agrees that levelization should be rare, but that QFs should be allowed to select levelized rates in limited circumstances, including when QFs enter into contract renewals during long resource sufficiency periods. Existing QFs are uniquely situated because their contracts have specific expiration dates with no flexibility to time their new contracts with the start of higher resource deficiency based avoided cost prices. E.g., Coalition/100, Lowe/22-23. This issue is expected to become a significant problem for all QFs if the utilities have long resource sufficiency periods or the equivalent beyond the traditional three to five years in which pricing is based on wholesale market prices without capacity. See Coalition/102, Lowe/18 (PacifiCorp resource sufficiency periods). For example, PacifiCorp's most recently filed IRP identifies an immediate resource need, but plans on filling the need with market purchases, and not building or acquiring a new baseload resource until 2024. Coalition/405 at 8. A more than 10-year resource sufficiency period with low market price based avoided costs could significantly harm the ability of QFs to obtain financing or remain economic, even potentially impacting small hydroelectric projects.

The Coalition prefers that the Commission adopt fair and balanced policies that make levelization unnecessary. For example, levelization may not be necessary if QFs can still enter into long-term contracts with fixed prices for at least 15 years, existing projects are not paid

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low resource sufficiency prices when entering into a replacement contract, and the resource sufficiency periods do not extend beyond a few years. E.g., Coalition/100, Lowe/22-23.

4. Existing QFs Should Be Paid for the Capacity They Provide to Utilities During the Resource Sufficiency Period (Issue 1C)

Existing QFs that renew their contracts should be provided energy and capacity payments by allowing them to enter into follow-on contracts with no resource sufficiency period. When conducting resource planning, Oregon utilities count on existing QFs providing energy and capacity, which has the practical result of deferring the next major resource and extending the resource sufficiency period. Staff, PGE and PacifiCorp all opposed paying QFs for the capacity as subsidies, but have not disputed that QFs provide capacity value during the resource sufficiency period. Paying existing QFs for the value that no party has disputed they provide is a fundamental principle of compensating QFs for the full costs they cause the utility to avoid.

Other states that have considered this issue require utilities to compensate existing QFs that renew their contracts for both the capacity and energy they provide during the resource sufficiency periods. Coalition/200, Schoenbeck/13. The California Commission addressed contract options for existing QFs with expiring contracts, and provided these QFs with capacity payments in each year of their contract. Id. The Idaho Commission uses an avoided cost methodology similar to Oregon that has a resource sufficiency period with energy payments only, and energy and capacity payments when the utility is resource deficient. The Idaho Commission recognized that existing QFs should be treated differently and paid both energy and capacity during the sufficiency period because the "existing QF's capacity would have already been included in the utility's load and resource balance and could not be considered surplus

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power. Therefore, we find it reasonable to allow QFs entering into contract extensions or renewals to be paid capacity for the full term of the extension or renewal." Idaho Commission Case No. GNR-E-11-03, Order No. 32697 at 21-22 (2012).

Oregon utilities can and do plan on existing QFs continuing to provide capacity after the expiration of the contracts. For example, PacifiCorp's IRP treats existing QF contracts "as if the contracts renewed, so they will continue over the planning study period." Coalition/102, Lowe/3. PacifiCorp's IRP specifically states that it assumes "that all QF agreements will stay in place for the entire duration of the 20-year planning horizon." ODOE/400, Carver/7. As explained by ODOE witness Phil Carver, this:

> indicates that PacifiCorp's IRP delays its commitment to firm resources based on the expectation of contract renewal. This is an appropriate planning principle. Under such planning, retail customers will avoid the costs of additional firm energy resources. The avoided cost price paid for renewed contracts should reflect that new firm resources are, or should be, deferred.

Id. PacifiCorp agrees that existing QFs help defer its next capacity resource, stating that the "capacity contribution of all signed QF contracts executed subsequent to the development of the IRP preferred portfolio reduce the deferrable capacity of the next avoidable resource . . . ." PAC/100, Dickman/15.

PacifiCorp opposes compensating existing QFs for the value of deferring new capacity resources because "a utility cannot expect QFs to be available to provide capacity beyond their useful lives or contract terms." PAC/100, Dickman/16. This is inconsistent with the undisputed fact that PacifiCorp actually "expects" these QFs to renew their contracts when planning its actual resource acquisitions and when setting the resource sufficiency/deficiency

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demarcation that impacts the avoided cost rates. In addition, most of the Coalition's QF members are hydroelectric projects with extremely long useful lives. PacifiCorp's resource acquisition plans could be altered if the hundreds of megawatts of existing QFs did not renew their contracts. See Coalition/102, Lowe/6-8 (list of PacifiCorp QF contracts).

Providing renewing QFs capacity payments would also treat QFs more comparably with utility-owned resources. Coalition/200, Schoenbeck/12-13. QF facilities are not provided the opportunity to obtain fixed price contracts for their full resource life and are compensated with lower market prices during the initial years of their original contract. Id. at 12. Not providing existing QFs with full avoided cost pricing (including capacity payments) "would be inequitable as compared to the treatment afforded utility-owned resources." Id. at 13.

PacifiCorp and PGE argue that removing the resource sufficiency period for contract renewals would result in contracts longer than the current 15-20 year term. PAC/100, Dickman/16; PGE/100, Macfarlane-Morton/14. Compensating renewing QFs for the capacity they provide would not actually result in longer contracts. Coalition/100, Lowe/21. Replacement contracts are separate contracts with new avoided cost rates, and renewing QFs will still need to revise their contracts and interconnection agreements to comply with changed policies, especially if the Commission makes significant changes in this proceeding.

Finally, Staff, PGE and PacifiCorp oppose removing the resource sufficiency period for renewing QFs because it provides them with "preferential" or "special" treatment. PAC/100, Dickman/16; PGE/100, Macfarlane-Morton/14; Staff/200, Bless/13. It is not preferential treatment to recognize that existing QFs provide the utilities with energy and capacity that should be reflected in their avoided cost rates. As summarized by Mr. Lowe:

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> As long as the QF was considered a firm resource and the new contract will be a firm contract, then the new contract should be considered as firm contract for its entire duration. Since existing projects have been part of the Utilities' resource portfolio, they should be treated differently when it comes to this component of the appropriate avoided cost prices and not receive resource sufficiency prices.

Coalition/100, Lowe/21-22.

5. Different Renewable Avoided Cost Rates for Different Renewable Resources (Issue 2A)

The Coalition supports the concept of providing separate renewable avoided cost rates based on whether the resources require integration. Baseload renewable QFs allow the utilities to avoid integration costs, and should be compensated for this more valuable power.[4/]

6. The Commission Should Not Modify the Oregon Rules that Specify the Non-Energy Attributes of Energy Generated by the QF Remain with the QF (Issue 2C)

The Commission should not revise its rule that allows a renewable QF to retain ownership of the non-energy attributes associated with the renewable power. Coalition/100, Lowe/23-24. The Commission's current policy is that a QF owns the non-energy attributes, including green tags, renewable energy credits, tradable renewable certificates and other attributes. Docket No. AR 495, Order No. 05-1229 (Nov. 28, 2005); OAR § 860-022-0075. Renewable QFs have the choice to sell these non-energy attributes to the utility, or third parties.

This policy is based on non-energy attributes being "valuable commodities that are different and distinct from the power generated and sold to the utility." Coalition/100, Lowe/24. There are separate markets for the non-energy attributes as they do not have to be bought or sold with the power. The standard non-renewable avoided cost rates do not include

4/ The Coalition is addressing this issue under Issue 4A.

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compensation for any social or environmental benefits that may be associated with the electricity generation, and are not intended to compensate the QF for anything other than their power.

The Commission, however, should not adopt a broad definition of non-energy attributes, which would result in the QF selling both renewable energy credits and all other non-power attributes to the utility when selling power at renewable avoided cost rates. Id. Non-energy attributes include other rights and benefits which are different from compliance with a state renewable portfolio standard, and those benefits should remain with the QF. The renewable avoided cost rates "compensate the QF for the power and renewable energy credits, but not all the social and environmental benefits that may accrue due to the electricity being generated by a QF rather than a utility's generation resource." Id. at 24-25.

7. The Commission Should Allow More Frequent Updates But Prevent Multiple Updates Within One Year (Issue 3A)

The Commission should allow the utilities to update avoided costs on a more frequent basis, but should ensure that changes occur on a predictable basis, but not necessarily a set calendar date that allows QFs to rely upon rates being effective for at least 12 months. This would assure that there should not be avoided cost updates that are "pancaked" or occur within a period of a few months.

Oregon law provides that avoided cost rates shall be reviewed and approved by the Commission at least every two years, but must occur in a manner that allows for a settled and uniform institutional climate for QFs. ORS §§ 758.515(3)(b); 758.525(1). The Commission historically has allowed the utilities to update their avoided cost rates every two years coincident with the IRP process. Order No. 05-584 at 29. PacifiCorp previously proposed that utilities be

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allowed to update avoided costs more frequently than every two years, and Staff objected to the proposal on the grounds it was "unbalanced." Id. The Commission rejected PacifiCorp's proposal, and continued a two year filing cycle for avoided cost updates, which is expected to be 30 days after IRP acknowledgement. When the IRP cycle has taken longer than two years, the Commission has allowed the utilities an additional update after IRP acknowledgement, which has resulted in more than one update in a two-year period, often at unpredictable times.

In practice, the utilities have requested and sometimes obtained avoided cost rate updates more frequently than every two years. Coalition/100, Lowe/7; Coalition/102, Lowe/1, 24, and 46. The issue of mid-cycle avoided cost updates has been controversial, and the Commission has rejected some of the attempts to update avoided costs outside of the two-year cycle by QF advocates and by Idaho Power. Docket No. UE 241, Order No. 11-414; Docket No. UM 1129, Order No. 07-199. In addition, while the Commission did not allow an early update, Idaho Power's obligation to enter into new standard contracts was recently suspended due to concerns that their avoided costs were outdated. Docket No. UE 244, Order No. 12-042.

The Commission's standard two-year cycle has not been consistently applied, which has resulted in ad hoc updates that result "in significant pricing uncertainty to QFs negotiating contracts with the utilities." Coalition/100, Lowe/7. Predictability of price changes is one of the most important aspects of project development and continued operation, and unforeseen avoided cost updates can prevent a QF from successfully completing a contract. Id.; CREA/100, Hilderbrand/9. QFs often "plan to complete their negotiation process before a scheduled update will occur" so that "they can obtain price certainty and not have their avoided cost rates significantly change in the middle of the negotiation process." Coalition/100,

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Lowe/12. QFs are not only concerned with the direction that prices will move, but need to know that they can finalize a contract without prices changing, which can only occur if the update process is infrequent, well understood and consistently applied. Id. at 7-9.

Frequent updates also result in additional barriers to QF development and another opportunity for utilities to delay the negotiation process. Id. at 9. QFs and the utilities have an asymmetrical level of information, including "whether an update will increase or decrease the avoided cost rates." Id. The utilities "have an incentive to delay the negotiation process or impose other barriers to finalizing a contract if avoided cost rates are declining, and the opposite incentive if avoided cost rates are increasing." Id.

The Commission should reject PacifiCorp, Idaho Power, and Staff's recommendation for an annual update at a specific time, plus an additional update within 30 days of IRP acknowledgement. PacifiCorp Prehearing Memo at 6; Staff Prehearing Memo at 7; Idaho Power Prehearing Memo at 10. The problem with the approach of an annual update at a set time plus an update after IRP acknowledgement is that this will frequently result in two major changes to avoided cost rates, potentially within months of each other. Coalition/100, Lowe/10-11. The practical impact would be that in any year in which an IRP or IRP update is acknowledged (which would normally be every two years, but could be every year), there would be two avoided cost rate updates (one from the annual update at a specific time and one from the IRP update). This will result in unpredictable price changes and will make it impossible for QFs to have reasonable expectations of when price changes will occur. Other problems with pancaked avoided cost rate filings include the utilities filing updates based on unacknowledged

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IRPs and utilities delaying or expediting the contractual negotiation process based on their acknowledgement of the direction in which avoided cost rates will change.

The Coalition's recommendation is for an update to avoided cost rates 30 days after acknowledgement of an IRP, and then on an annual basis until the next IRP acknowledgement. The avoided cost rate update should always occur at least 12 months after the last update. If a new avoided cost rate update is scheduled to occur within 90 days of when a new IRP is scheduled to be acknowledged, then the rate update should be deferred until acknowledgement occurs. Id. at 10. This approach will avoid the problem of having two major rate changes within months of each other, something that is contrary to the notion of reasonable price stability, and will provide more frequent avoided cost updates than the current two-year schedule. Id. at 10-11. The Coalition is open to other avoided cost update approaches, as long they ensure that avoided cost rates do not change more than once in any 12 months. For example, avoided cost rates could be changed at a set annual time; however, the Commission should not allow an additional unplanned update immediately after IRP acknowledgement as that would result in two updates a year.

8. The Commission Should Bar Utilities and QFs From Proposing Out-of-Cycle Updates (Issue 3B)

When adopting the current IRP update cycle, the Commission said it would use its discretion to allow a utility to update its avoided costs within two years. Order No. 05-584 at 29. This has resulted in requests to update avoided costs outside of the established process, and an unstable institutional climate for QF development. If the Commission allows more frequent updating, then there should be no updates outside of regularly approved or scheduled updates.

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Coalition/100, Lowe/12; Coalition/200, Schoenbeck/14-16. The Commission should establish policies that allow QFs "to plan on whatever cycle the Commission approves remaining in effect, and the Commission should make it clear that out of cycle updates close to normally scheduled updates are particularly inappropriate." Coalition/100, Lowe/12. There is no reason for out of cycle updates if avoided cost rates are changed on an annual or near annual basis.

9. Annual Updates Should Be Limited to Only Key Inputs that Can Be Easily Reviewed (Issue 3C)

Annual updates should be streamlined, and limited to those factors that can be easily reviewed and are not likely to generate considerable controversy. An annual update as a result of acknowledgement of an IRP would include all inputs. An annual update without an IRP acknowledgement should only be for the main elements that can cause avoided cost rates to change, including: 1) updated gas prices; 2) new executed contracts in excess of four years; and 3) Commission approved load forecasts. Coalition/200, Schoenbeck/15-18. For example, gas prices should be allowed, as they are the most important input in adjusting avoided cost rates and typically can be checked against third-party sources. Id. at 17. In contrast, there should only be a complete update after the most recently acknowledged IRP, which would include factors that are likely to require significant vetting. Id. at 15-18.

Allowing unconstrained updating of all factors on a frequent basis would create "a substantial burden on the QF to have to analyze and evaluate the reasonableness of any change made by the utility subsequent to the integrated resource planning process." Id. at 16-17. In addition, comprehensive updating "could allow for game playing by the utility, as there are many modifications that could be made simply to produce lower prices for the QF by parameters that

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are not even reviewable by the QF developer." Id. at 17. PacifiCorp responds to these concerns by pointing out that its GRID computer model has been used for years to set net power costs; however, the Commission is well aware that GRID is extremely complex, continually changing, and remains the subject of controversy in nearly every rate case.

10. Data from IRPs that Have Not Been Acknowledged and Should Not Be Factored into the Calculation of Avoided Cost Updates (Issue 3D)

Both QFs and utilities should be barred from using data from IRPs or IRP updates that have not been acknowledged in the calculation of avoided cost updates and they should not be used to support "updates outside of the normal scheduled process." Coalition/100, Lowe/12. The only exception is that the annual update should use updated gas prices or new contracts, even if that same information is included in a not-yet acknowledged IRP.

PacifiCorp recommended in rebuttal testimony that non-acknowledged IRP information should be used to update avoided cost rates. PAC/300, Dickman/26-28. PacifiCorp points out that, in its last baseload request for proposal, the company relied upon the most recent load and resource forecasts, which resulted in the decision not to acquire a new baseload resource. Id. PacifiCorp argues that the avoided costs for QFs should be updated as soon as possible after the company revises its actual resource acquisition decisions. Id.

PacifiCorp fails to recognize that the current approach to setting the resource sufficiency/deficiency period in the IRP has often worked to the detriment of QFs. The IRP method has frequently shown that the utilities were resource sufficient, but then the utilities built or purchased significant amounts of new energy and capacity resources during the resource sufficiency period. For example, PGE acquired the Port Westward gas plant in 2007, and

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PacifiCorp brought the Lakeside gas plant on-line in 2007 and acquired the Chehalis gas plant in 2008, all of which were during the utilities' avoided cost resource "sufficiency" time periods when QFs were paid lower market prices.

The Commission was aware of these issues when it recently reaffirmed its policy of using the acknowledged IRP for setting resource sufficiency/deficiency determinations in Docket No. UM 1396. Order No. 10-488 at 8. The Commission concluded that "the IRP process is the appropriate venue for addressing resource sufficiency/deficiency issues because the IRP processes are conducted with extensive public review regarding the timing of the utility's loads and its consequent resource needs." Id. The Commission's policy strikes a balance between the utilities' desire to continually update the resource sufficiency/deficiency demarcation based on the most current information and the fact that the QFs are typically under compensated because they are frequently being paid lower resource sufficiency avoided cost rates during time periods in which the utilities are acquiring capacity resources.

11. The Costs of the Integration of Intermittent Resources and the Benefits of Baseload Resources Should Be Included in the Calculation of Avoided Cost Rates (Issue 4A)

The costs associated with the integration of intermittent resources should be considered when setting avoided cost rates. When integration costs are included in calculating the renewable avoided cost rates, then a baseload renewable QF should have their renewable avoided cost rates adjusted to account because they do not cause the utility to incur integration costs. The Commission should establish a reciprocal policy that treats QFs fairly and "[i]f the cost of integration will be included in standard rates, then it is appropriate to charge variable resources and credit non-variable resources as PGE does." Coalition/200, Schoenbeck/4.

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PGE's renewable avoided cost rates generally follow this principle while PacifiCorp does not. Id.; PGE/100, Macfarlane-Morton/20; PAC/100, Dickman/18-19. PGE includes the cost of integration in its standard renewable avoided cost rates, and appropriately credits baseload resources. Coalition/200, Schoenbeck/4. PacifiCorp, however, seeks to charge intermittent renewable resources for their integration costs, but not to credit baseload renewable resources when they do not require PacifiCorp to incur any integration costs. PAC/100, Dickman/18-19. PacifiCorp cannot and does not claim that baseload renewables actually cause the company to incur integration costs, but instead asserts that baseload renewable QFs should have their renewable avoided cost rates lowered because they can simply choose to sell power under the non-renewable standard avoided cost rate. Id. PacifiCorp's approach of keeping integration costs in the renewable rates for baseload renewables will effectively remove the renewable avoided cost rate as an option for baseload renewable resources.

The Coalition also opposes the proposals to charge solar resources an integration charge based on the costs of wind integration. The utilities have proposed solar integration charges, which the Coalition does not oppose in principle. The utilities, however, have not conducted solar integration studies, and instead base their costs on wind integration studies, which do not reflect actual solar integration costs. ODOE/100, Carver/10; CREA/200, Reading/17. Integration costs should be based on accurate information and actual costs, and the utilities should not be allowed to impose any integration costs until after they have completed a resource specific study.

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12. The Commission Should Not Change How It Accounts for the FERC Seven Factors and Should Reject PGE's Proposal for Unfettered Discretion in Negotiations (Issue 4C)

PGE proposes to replace the current proxy method with bilateral negotiations for nearly all QFs. Coalition/200, Schoenbeck/9-10. PGE has little experience successfully negotiating QF contracts over 1 MW, and all but one of its few QF contracts over 1 MW occurred after the Commission's orders in UM 1129. See Coalition/102, Lowe/28. PGE's approach would allow it to again refuse to enter into new QF contracts.

The Commission previously rejected PGE's same recommendation when it established a negotiation process for non-standard QFs above 10 MWs explaining that guidelines "are likely to be useful to both parties in contract negotiations" as they will "increase certainty and may streamline the process, to the ultimate benefit of customers." Order No. 07-360 at 5. Based on a comprehensive record, the Commission adopted specific methodologies and approaches to adjust avoided cost rates for large QFs, including how to account for each of the FERC authorized factors. Id. at 15-28. The Commission also concluded that a "utility should not make adjustments to standard avoided cost rates other than those approved by the Oregon Commission and consistent with these guidelines." Id. at 16 and Appendix A at 3.

PGE has proposed to replace the Commission's carefully considered methodologies with a bilateral negotiation process with no guidance or direction. Essentially, "PGE wishes to retain discretion to make up on a case by case basis how to account for the FERC factors." Coalition/200, Schoenbeck/10. PGE was asked to identify the manner in which it would adjust avoided costs for each of the FERC factors, and PGE stated it "does not propose

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any specific methodology be used for the FERC Adjustment Factors." Coalition/102, Lowe/31-33.

PGE's approach should again be rejected as it would provide no guidance to the QF or the utility, and would allow PGE to impose artificial barriers and inappropriate adjustments. PGE refused to provide any "explanation regarding why the Commission should abandon the specific methodologies or guidance for adjusting the avoided cost rates and contracts for large QFs." Coalition/200, Schoenbeck/11. If PGE disagreed with any of the Commission's specific methodologies, then it should have identified its specific concerns and recommended changes. PGE has instead "proposed to completely eliminate how avoided cost terms and rates are determined for both standard and non-standard QFs, and replace that with an unknown case-by-case negotiation process." Id. The Commission should retain its current approach as PGE has not provided any "justification to eliminate the well-developed Commission policies that provide certainty and clear guidance to both QFs and the Utilities." Id.

13. The Commission Should Not Lower the 10 MW Cap for Standard Contracts (Issue 5A)

The Commission should retain its current 10 MW size threshold for standard contracts to remove transaction costs and eliminate market barriers to QFs attempting to sell their power. Standard contract eligibility is a major factor in the ability of QFs to successfully negotiate contracts with low transaction costs, and without unreasonable delays and obstacles.

The Commission increased the size threshold from 1 MW to 10 MW in 2005 explaining that the primary purpose of standard contracts was "to remove transaction costs associated with QF contract negotiation when such costs act a market barrier to QF

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development." Order No. 05-584 at 16. The Commission recognized that market barriers other than transaction costs existed, including "asymmetrical information and an unlevel playing field that obstruct the negotiation of non-standard contracts." Id. The Commission ultimately concluded that the size threshold should be increased to 10 MWs "to overcome economic impediments caused by these market barriers." Id.

Increasing the size threshold from 1 to 10 MWs was a very positive development that "resulted in moderate development rates for new projects and has contributed to the continuing operation of many existing projects." Coalition/100, Lowe/25. The importance of the 10 MW size threshold can be illustrated by reviewing the utilities' QF contacts. For example, PGE has entered into only one QF contract over 10 MWs, which was negotiated in 1984. Coalition/102, Lowe/28. Similarly, the vast majority of PacifiCorp's Oregon QF contracts are 10 MWs or under, with many sized at 10 or 9.9 MWs. Id. at 6-10.

The utilities argue that times have changed, and that the size threshold is not needed because QF developers are now sophisticated entities with access to large amounts of capital. E.g., PGE/100, Macfarlane-Morton/6; PAC/200, Griswold/18-20. While there are some sophisticated and well funded QF developers, this does not reflect the majority of QFs. The ability to enter into standard contracts rather than detailed negotiations remains a critical issue for both new and existing QFs. For example, the Coalition's thirty-two members include cities, irrigation districts, water districts, small companies and individual operators, including Farmers Irrigation District and Deschutes Valley Water District (jointly, the "Districts"). Coalition/100, Lowe/1-2; Coalition/300, Camarata-Pugh/1-6. The Districts are not large, sophisticated energy developers and their "primary business is not the development of energy producing projects."

Coalition/300, Camarata-Pugh/7-8. The Districts and other similar QFs "do not have the expertise to negotiate such prices and terms without significant third-party assistance and expense" and count on the ability to quickly enter into a new contract with little to no negotiation over contract terms or prices. Id. Small QFs should not need to conduct an expensive, lengthy, and burdensome negotiation process simply to enter into a normal contract.

Lowering the size threshold would have a devastating impact on the ability of QFs to obtain financing and would significantly increase their costs. When the Commission adopted the 10 MW size threshold, it relied upon the testimony of ODOE, "which has significant experience with the development of QF projects" and "indicated that 10 MW represented a point at which the costs of negotiation became a reasonable fraction of total investment costs." Order No. 05-584 at 17. ODOE again supports a 10 MW size threshold on the grounds that lowering the threshold would impede QFs ability to finance projects, unreasonably increase transaction costs, and would result in fewer projects being developed. ODOE/200, Elliott/2-6.

The utilities' concerns with the size threshold are directed at wind resources. These concerns should not be fixed by lowering the size threshold for all QFs. Coalition/100, Lowe/27. For example, PacifiCorp identified a range of concerns with the current 10 MW size threshold, all of which were directed toward wind and solar resources. PAC/200, Griswold/21-26; Coalition/102, Lowe/14. In addition, PacifiCorp has a large number of baseload QFs between 3 to 10 MWs that would be affected by a reduction in the size threshold. Coalition/102, Lowe/6-9, 13. The Commission should address the utilities' concerns by setting accurate avoided cost rates and preventing disaggregation of large QFs instead of harming all QFs.

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14. An Oregon QF Should Be Able to Obtain Renewable Avoided Costs and Sell Its RECs in Another State During the Resource Sufficiency Period (Issue 5D)

The Commission should reaffirm its recent order on renewable avoided costs, which concluded that QFs should retain the renewable energy credits during the renewable resource sufficiency period, but must sell the renewable energy credits and power to the utilities during the resource deficiency period. Coalition/100, Lowe/27; Order No. 11-505 at 9-10.

15. A Legally Enforceable Obligation Should Exist When the QF Has Provided All Required Information and Obligates Itself to Sell Power to the Utility (Issue 6B)

The Commission should modify its current rules and policies to reflect that a QF need not enter into a binding written contract before a legally enforceable obligation occurs. The Commission should not adopt a detailed rule on legally enforceable obligations that addresses all potential situations or identifies the specific point in the negotiation process that creates a legally enforceable obligation. The Commission should instead adopt a general policy that a legally enforceable obligation can exist a reasonable amount of time after a QF expresses an unequivocal commitment to sell electricity and has provided all required project information to the utility. In addition, the Commission should reject PGE's proposal to prevent QFs from entering into purchase power agreements more than a year before power deliveries. Finally, the Coalition agrees with Staff that issues related to a legally enforceable obligation are inextricably linked with the other contracting and interconnection issues that will be addressed in Phase II, and this issue should be deferred.

The Commission's current rule and policy requires a QF to enter into a binding written contract before a legally enforceable obligation occurs and is inconsistent with FERC precedent that has repeatedly held that a written contract is not required to form a legally

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enforceable obligation. Coalition Prehearing Memorandum at 12-13. According to FERC, the key factor is when the QF commits itself to sell power to the utility, and a non-contractual legally enforceable obligation can be established when a QF and the utility are unable to finalize a written contract. Cedar Creek Wind, LLC, 137 FERC ¶ 61,006 at P. 36, 39 (2011).

PacifiCorp has proposed a minor change in Commission policy, which would allow a non-contractual legally enforceable obligation to only be formed after the QF approves the final draft purchase power agreement. PAC/200, Griswold/28-30.[5/] This would mean that a QF and utility would need to be in full agreement of all terms and conditions, and would simply remove the last three weeks of the negotiation process in which the company prepares the final contract. Id.; Coalition/102, Lowe/23; Coalition Exhibit 403 at 9-10. While this change is helpful in that it reduces an arbitrary and unnecessary waiting period at the end of the negotiation process, "it does not reduce or eliminate the utility's ability to delay the process before the final PPA is presented to the QF." Coalition/100, Lowe/14.

PacifiCorp's approach would be inconsistent with FERC's policy that the purpose of allowing a QF to sell power to a utility pursuant to a non-contractual legally enforceable obligation is to ensure that a utility cannot impose unreasonable barriers to a QF selling power. Rainbow Ranch LLC, 139 FERC ¶ 61,077 at PP. 24-27 (2012); Cedar Creek Wind, LLC, 137 FERC ¶ 61,006 at P. 36. In rejecting the position of the Idaho Commission and PacifiCorp that a

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5/ PGE supports PacifiCorp's proposal. PGE/300, Macfarlane-Morton/22. PGE did not provide a position in its direct testimony, and refused to answer Coalition interrogatories on this issue. Coalition/102, Lowe/39-40. When specifically asked about whether PGE supported PacifiCorp's approach, PGE objected to the question as calling for a legal opinion, although PGE's witnesses later supported PacifiCorp's proposal in reply testimony and provided detailed testimony regarding how PacifiCorp's approach would apply to PGE's tariffs. Id.; Coalition/100, Lowe/15-16; PGE/300, Macfarlane-Morton/22. The Commission should either provide no weight to PGE's testimony, or defer this issue to Phase II to allow parties an opportunity to submit testimony on this issue that PGE repeatedly refused to address until the last round of testimony.

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legally enforceable obligation had not been found, FERC explained that the phrase legally enforceable obligation is used to prevent an electric utility from avoiding its PURPA obligations. Cedar Creek Wind, LLC, 137 FERC ¶ 61,006 at P. 36. PacifiCorp's proposal would still allow a utility to inappropriately delay the process before it provides a final draft contract in violation of FERC policy. Id.; Coalition/100, Lowe/13-14.

The Commission should also reject Idaho Power's proposal that a QF must sign a contract, and that a QF should not be allowed to create a legally enforceable obligation unless there is some evidence of a utility's refusal to contract. Idaho Power/200, Stokes/80. It would be inappropriate for a QF to be "required to sign a draft contract that may have numerous harmful or unfavorable provisions in order to obtain a legally enforceable obligation." Coalition/100, Lowe/15. In addition, "a QF should not be required to demonstrate evidence of a utility's refusal to contract before a legally enforceable obligation in created without a signed contract." Id. Utilities have numerous ways to slow or impose roadblocks in the negotiation process, and the Commission should not require an unsophisticated QF with limited resources to demonstrate a refusal of the utility to contract before the formation of a legally enforceable obligation. Instead, "[a] legally enforceable obligation should exist once the QF is ready to obligate itself to sell power to the utility based on reasonable terms and conditions, even if it is unwilling to sign a contract." Id.

The Commission should also reject PGE's proposal that a legally enforceable obligation cannot occur greater than one year before power deliveries. PGE/100, Macfarlane-Morton/23. PGE either does not understand how the QF contracting process works or is attempting to impose a significant new burden on QF development. All QFs typically need more

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than one year between the time of a contract formation or other legal obligation and power deliveries because they must first obtain financing and complete their interconnections. Coalition/100, Lowe/16-18. Before obtaining financing and completing their interconnections, a QF must typically establish to a lender that they have a valid contract or other legally enforceable obligation. Id.; CREA/100, Hillderbrand/12-13. The interconnection process, however, typically takes longer than one year, and is often longer than two years. Coalition/102, Lowe/16-17. Therefore, the maximum duration between power deliveries and a legally enforceable obligation should provide a QF time to complete the interconnection processes, which typically need to come after the QF's legal obligation is created.

The Coalition recommends that all issues related to legally enforceable obligations be deferred to Phase II of this proceeding. The Coalition originally supported addressing generic legally enforceable obligation issues in Phase I, but now believes that these issues should be addressed in Phase II because all three utilities have discussed this issue in the context of their current contracting and negotiation process. The Commission will later address contracting and interconnection agreement process issues, including whether the contracting process in the utilities' tariffs should be changed. In addition, the Commission will also address the issue of the maximum time allowed between contact formation and power delivery, which is the same substantive policy issue raised by PGE (the maximum time between a legally enforceable obligation and power delivery). Coalition/102, Lowe/42.

16. The Commission Should Keep Its Current Contract Term Policy (Issue 6I)

The Commission should maintain its existing policy that allows QFs to enter into 20 year contracts with fixed prices for the first 15 years. The fixed price component should not

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be reduced to 10 years for new QFs or 5 years for existing QFs. The Commission rejected similar proposals for shorter terms in UM 1129, and concluded that the 15 year fixed price term was a reasonable balance between the interests of ratepayers and QFs. Order No. 05-584 at 19-20. The Commission explained that the length of the contract should take into account the needs of QFs, including the need to obtain financing for their projects. Id.

PacifiCorp, Idaho Power and PGE have all proposed changes that would shorten the terms and harm QFs. PacifiCorp and Idaho Power propose that the fixed price component of the contract be shortened from 15 to 10 years. PAC/200, Griswold/31-32; Idaho Power/200, Stokes/73-74. PGE supports continuation of the current policy for new QFs, but recommends a five year term for existing QFs. PGE/100, Macfarlane-Morton/23-24. The utilities are simply rehashing arguments the Commission previously rejected. Staff/100, Bless/40.

Long term agreements with fixed prices are critical for QFs to meet financing and long-term planning needs. New projects need the longer term in order to meet financing requirements, existing projects often require long term agreements for system improvement projects and planning, and all QFs may need long term fixed price contracts to avoid market based energy only prices. Coalition/100, Lowe/18-20; Coalition/200, Schoenbeck/21-26; Coalition/300, Camarata-Pugh/8-9. Unlike utility resources that are included in rates for their useful lives, QFs cannot enter into contracts for their entire economic lives, and longer contract terms are appropriate to ensure that QFs are comparably treated with utility resources. Coalition/200, Schoenbeck/25-26. The importance of the 15-year fixed price term is demonstrated by the fact that most QFs request contract terms as long as possible to meet

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financing requirements and make long term plans. Coalition/100, Lowe/20; Coalition/200, Schoenbeck/21-26; Coalition/300, Camarata-Pugh/8-9.

PGE's proposal to adopt a shorter five year fixed price component for existing QFs is particularly harmful. Contrary to PGE's assertions, existing QFs have financing and planning needs that warrant longer fixed price contracts. Coalition/300, Camarata-Pugh/8-9. PGE's proposal would result in most existing QFs selling power at low, short-term market rates for the majority or all of their contract terms. Coalition/200, Schoenbeck/24. This is because the resource sufficiency/deficiency pricing means that several years of the five year period would be at lower prices and not include capacity payments. Id.

The utilities' recommendation should be considered in light of the impact on QFs. PacifiCorp's avoided cost rates have traditionally included a three to five year resource sufficiency period. Coalition/102, Lowe/18. PacifiCorp, however, is now proposing a more than 10-year resource sufficiency period. Coalition/405. If PacifiCorp's 10-year fixed price component was adopted, then no QF would receive any higher resource deficiency period based prices. Similarly, if PGE's five year fixed price limit for existing QFs was adopted, then the existing QF would never receive any compensation for the capacity it provides to the utility during times in which a utility's resource sufficiency period is five years or more.

V. CONCLUSION

The Commission should not significantly modify its existing PURPA policies, but should reaffirm the fundamental framework that it has built up since the first orders in UM 1129 were issued in 2005. The Coalition recommends that only minor changes be made to improve the process for updating avoided costs, conform to federal policy regarding legally enforceable

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obligations, and ensure that QFs are compensated for their full avoided costs, including appropriately accounting for the benefits provided by existing and baseload QFs.

Dated this 17th day of June, 2013.

Respectfully submitted,

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