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May 20, 2013

Oregon Public Utility Commission
Attention: Filing Center
550 Capitol Street NE, #215
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Re: Docket UM 1610—Investigation into Qualifying Facility Contracting and Pricing

Attention Filing Center:

Enclosed for filing in UM 1610 are an original and one copy of:

Prehearing Memorandum of Small Business Utility Advocates

This document is being filed by electronic mail with the Filing Center. Hard copies will be sent via US Mail.

This document is being served upon the UM 1610 service list.

Sincerely,

Diane Henkels
Cleantech Law Partners PC
Counsel for SBUA

Enclosure

Cc: UM 1610 Service list (by e-mail)

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1610

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	
OREGON)	SMALL BUSINESS UTILITY ADVOCATES
)	
Staff Investigation Into Qualifying Facility)	PREHEARING MEMORANDUM
Contracting and Pricing.)	

Pursuant to the Prehearing Conference Memorandum dated May 13, 2013, Small Business Utility Advocates ("SBUA") submits this Prehearing Memorandum summarizing SBUA's legal positions and the factual support for those positions regarding implementing the federal and Oregon Public Utility Regulatory Policies Act ("PURPA").

Issue 1 A.

a. Legal position summary: SBUA advocates retaining the current methodology for calculating avoided costs for standard offer contracts, rather than adopting a model as proposed by PacifiCorp or Idaho Power Company, in order to maintain simplicity and transparency for small businesses in Oregon. This serves the twins goals underlying the Oregon PURPA statute, expressed in ORS 758.515(2), and the policy of the State of Oregon is to increase the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon's citizens, creating a settled and uniform institutional climate for the qualifying facilities in Oregon. ORS 758.515(3). Consistency policy at this time is still appropriate according to recent data acquired and where the Commission has supported accurate price signals and full information to developers, while ensuring that utilities pay no more than avoided costs. Order 05-584 pp 9, 11 (emphasis added).

b. Factual support for SBUA's position:

Fully recognizing the requirement that utilities pay no more than the avoided costs for electricity from qualifying facilities under PURPA, SBUA's testimony sets forth characteristics of small business impacted by the decisions of whether or not to develop PURPA projects. The Oregon Labor Market Information System reports that small business makes up more than 89 percent of all Oregon firms. SBUA/100/Price/3. Small firms play a crucial role in rural counties' economies throughout the State of Oregon. SBUA/100/Price/4. And, decisions in this docket will impact the ability of small businesses to participate in Oregon's clean energy economy, of which clean technologies and wood and forest products are key industry sectors identified as focus areas and pressing needs, and funding and regulatory issues were identified as barriers. SBUA/100/ Price/4. More specifically, the decisions impact SBUA members who currently do business in the renewable energy industry. Oregon Small Wind Energy Association and the Distributed Wind Energy Association, have included and presently include, respectively, small businesses working in the distributed renewable energy market sector and their related projects. SBUA/100/ Price/2. These businesses include members of the Distributed Wind Energy Association referred to in SBUA/200 Price/2-3.

Businesses desiring and suited to participate in clean energy economy must be able to assess whether or not to engage in a PURPA projects, whether as a developer, a contractor, supplier, let alone be able to participate in working with a project. SBUA has indicated the lack of time and financial resources small business have to absorb the risks and development costs, and participate in the regulatory processes impacting projects, such as selection of avoided cost methodology. SBUA/100/Price 6-7. Challenges faced by smaller projects are also described in the page 28 of the Oregon Department of Energy's 2005 Distributed Generation Report

(“ODOE’s 2005 DG Report”), referenced in SBUA/200/Price/4. Adding to these challenges changing the pricing methodology, let alone changing it to a sophisticated opaque model, would significantly complicate the difficulties small businesses must surmount and make the process of assessing engagement much less transparent.

In addition, SBUA’s testimony references National Renewable Energy Laboratory reports demonstrating that PURPA projects create more local value to the communities of Oregon where these projects are located than larger projects developed by outside companies. SBUA/100/Price/5; SBUA/200/Price/2.

Issue 4 C.

a. Legal position summary: SBUA supports taking into account the seven factors of 18 CFR §292.304 (e)(2), considering data provided pursuant to 18 CFR §292.304(e)(1), by including among avoided costs calculation payment or other terms for additional benefits conferred by smaller qualifying facilities. Federal rule requires, to the extent practicable, that factors be considered in determining avoided costs including the expected or demonstrated reliability of the QF, extent to which the QF’s outages can be coordinated with the utility’s outages, the individual and aggregate value of the QF on the utility’s system, the usefulness of the QF’s capacity and energy on the utility’s system during emergencies, the smaller capacity increments, among other factors. 18 CFR §292.304(e)(1) & (2)(ii)-(vii).

SBUA agrees with OneEnergy’s proposal to pay a 3.9% for line loss avoidance to projects of 3 MW or less connecting directly to distribution lines. SBUA also agrees with OneEnergy’s proposals to provide qualifying facilities with standard contracts the options of longer contracts and levelized rates. In its Order 05-584, the Commission considered compensating projects to account for costs avoided by utilities from benefits conferred by small

QF generation. See Order 05-584 at 30. The problem in that docket was that the Commission did not receive information on how the benefits conferred actually resulted in costs. *Id.*

If the Commission declines to adopt this position in these proceedings, SBUA supports the Commission's explicit review of this issue when the Commission Staff review avoided cost data at least every two years, as required by 18 CFR §292.302(b), particularly in conjunction with ODOE's updating the ODOE 2005 DG Report. SBUA/200 Price/4.

b. Factual support for SBUA's position:

In this docket testimony by OneEnergy provided such information in the form of specific data from PacifiCorp indicating a benefit of 3.9% line loss avoidance. *See OneEnergy/100 Eddie/37-39.* SBUA referred to benefits of distributed generation in its testimony more generally in pointing to information in ODOE's 2005 DG Report, and information in the National Wind Coordinating Committee's 2001 Distributed Wind Power Assessment, ("Assessment"), especially pp 29-46. SBUA/200 Price/4. Benefits provide for the factors of 18 CFR 292.304(e)(2) are supported by data provided in the ODOE 2005 DG Report at pages 7-11, particularly for qualifying facilities providing combined heat and power ("CHP"), and the ODOE 2005 DG Report also refers to likely customers for CHP (and other distributed generation) systems (emphasis added). The Assessment correlates potential reduction of 3% transmission line losses as a specific benefit of distributed wind energy, with OneEnergy's 3.9% savings in line loss. Assessment, p 36.

Levelization of contracts is also reflected in the ODOE 2005 DG Report, p. 31, to indicate where distributed generation should be evaluated to determine if it might be more cost-effective than traditional grid investments. Levelization facilitates a business' review of potential project payback for distributed generation projects in turn reducing time resources and

expertise required to review whether or not to engage in work on a PURPA project. SBUA/100 Price/6. and also longer terms for standard contracts, OneEnergy/100/Eddie/37-38; CREA/100/Hildebrand/30; CREA/100/Reading/35; REC/200/Schoenbeck/22, 25; RNP/200/Lindsay/9.

Issue 5 A.

Legal position summary: SBUA supports maintaining the 10 megawatt eligibility limit for standard offer contracts as consistent with federal and state PURPA law and policy. Oregon statute requires that the Commission set the minimum criteria for qualifying facilities and that these criteria be consistent with standards set out in Public Utility Regulatory Policies Act of 1978 (P.L. 95-617), that is, the federal PURPA statute. ORS 758.535(1), and (3)(b). Contrary to other parties' positions, Federal statute sets a ceiling of 80 megawatts on small power production projects coming under PURPA, 16 USC §824a-3(a), and federal law very clearly sets forth the federal parameters of the eligibility, requiring standard rates for qualifying facilities of 100 kilowatts or less capacity, and allowing standard rates for QFs of more than 100 kilowatts capacity. 18 CFR 292.304(c)(1) and (2). In the Commission's Order 05-584, after extensive review on this issue, the Commission opted for a 10 MW eligibility limit. The Commission twice stated: "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" (emphasis added).

Factual support for SBUA's position: SBUA noted in its Direct Testimony the significance of certainty to smaller projects which have a more difficult time finding financing and the danger of shutting out an entire market segment if the eligibility threshold is reduced. SBUA/100/Price/5-6. SBUA also relies on the position taken on this issue by ODOE which

supports maintaining a 10 MW eligibility threshold, the reliance placed the Commission previously on ODOE's position, and the continued consistency of ODOE's position based on empirical evidence gathered from ODOE's small energy loan program. SBUA/200 Price/2.

RESPECTFULLY SUBMITTED May 20, 2013.

A handwritten signature in blue ink, appearing to read "D. Henkels", is written above a horizontal line.

Diane Henkels
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CERTIFICATE OF FILING SERVICE

I hereby certify that on May 20, 2013, I served a copy of SBUA's Prehearing Memorandum upon the persons named in the UM 1610 Service list by electronic mail only as all parties have waived service.

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