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May 20, 2013

*Via Electronic and First Class Mail*

Public Utility Commission of Oregon  
Attn: Filing Center  
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**Re: OPUC Docket No. UM 1610**

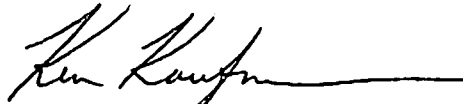
Attention Filing Center:

Enclosed for filing in the above-captioned docket are an original and five copies of *OneEnergy, Inc.'s Prehearing Issues Brief*.

An extra copy of this letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,



Ken Kaufmann  
Attorney for OneEnergy, Inc.

cc: UM 1610 Service List

Enclosures

**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.**

**ONEENERGY, INC.'S  
PREHEARING ISSUES BRIEF  
(Phase I)**

Pursuant to ALJ scheduling order issued May 13, 2013, OneEnergy, Inc.<sup>1</sup> hereby submits this brief summarizing its positions and testimony on the issues in Phase I of this docket.

**I. INTRODUCTION**

The Commission convened this investigation to address seven separate dockets concerning Oregon's implementation of Public Utility Regulatory Policies Act of 1978 ("PURPA").<sup>2</sup> ALJ Ruling, Docket No. UM 1610, at p. 2 (December 21, 2012). These dockets implicate broad policy issues that together will chart the future of PURPA in Oregon for the next decade. Portland General Electric ("PGE") and Idaho Power Company assert that the current PURPA framework adopted by the Commission in Docket No. UM 1129 incorrectly implements PURPA and threatens significant harm to utility customers. However the recent history of development of qualifying facilities ("QFs") in Oregon does not support these assertions. The end of the Business Energy Tax Credit, coupled with a severe correction of natural gas market prices starting in 2009, have reduced the development of new small QFs in Oregon to a trickle. Utilities increasingly rely upon natural gas-fired generation to meet load, increasing customers' exposure to gas price volatility, future carbon emissions-related costs, and reliability risks due to

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<sup>1</sup> OneEnergy Inc. is a Washington corporation headquartered in Seattle with an office in Portland, that develops renewable energy projects and plans to develop solar photovoltaic projects under 5 MW in Oregon.

<sup>2</sup> Pub. L. No. 95-617, 92 Stat. 3117 (codified in scattered sections of 15, 16, and 30 U.S.C.).

a regional shortage of firm gas supply capacity during peak demand periods. The utilities' proposed changes would exacerbate these risks. Rather than implementing foundational changes to the UM 1129 framework, what is needed now is improved implementation of the existing framework and incremental changes necessary to facilitate development of community-scale renewable generation without increasing customers' rates. OneEnergy's positions on UM 1610 issues, in the order established by the Commission, are provided in Section III, below.

## II. RELEVANT LAW: "FULL AVOIDED COST" UNDER PURPA

With exceptions not relevant to this docket, PURPA requires that utilities purchase QF net output at the utility's full avoided cost.<sup>3</sup> Within this constraint, PURPA delegates to state utility commissions (PUCs) wide latitude in setting avoided cost rates for investor owned utilities.<sup>4</sup> Setting purchase rates above or below avoided cost violates PURPA.<sup>5</sup> PUCs necessarily can and must make approximations in the interest of administrative efficiency.<sup>6</sup> Approximations to avoided cost that provide certainty with respect to the QF developer's return on investment are consistent with PURPA if the overestimations and underestimations of avoided cost balance out.<sup>7</sup>

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<sup>3</sup> *Am. Paper Inst. v. Am. Elec. Power Serv. Corp.*, 461 U.S. 402, 417 (1983) (upholding FERC's rule in 18 C.F.R. § 292.304(b)(2) that utilities purchase QF net output at the utilities' full avoided cost); see also *Indep. Energy Producers Ass'n v. California Pub. Utils. Comm'n*, 36 F.3d 848, 851 (9th Cir. 1994) ("[FERC rules] require that utilities purchase electric energy from and sell electric energy to QFs at the Utility's full 'avoided cost' rate. 18 C.F.R. § 292.304(d)").

<sup>4</sup> States have "a great deal of flexibility ... in the manner in which avoided costs are estimated...". *Indep. Energy Producers Ass'n*, 36 F.3d at 856 (quoting *Administrative Determination of Full Avoided Costs Sales of Power to Qualifying Facilities, and Interconnection Facilities*, IV Federal Energy Reg. Comm'n Rep. (CCH) Par. 32,457, at 32,173 (Mar. 16, 1988)).

<sup>5</sup> *Connecticut Light & Power Co.*, 70 FERC ¶ 61,012, 61,029-030 (1995).

<sup>6</sup> 18 C.F.R. § 292.304(b)(5) (2012) ("In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or..., the rates for such purchases do not violate this subpart if the rates for such purchases differ from avoided costs at the time of delivery.").

<sup>7</sup> See FERC Statutes and Regulations, Regulations Preambles 1977-1981, P30,128, at p. 30,881. 45 Fed. Reg. 12,214 (Feb. 25, 1980) ("FERC Order No. 69") ("The Commission does not believe that the reference in the statute to the incremental cost of alternative energy was intended to require a minute-by-minute evaluation of costs which would be checked against rates established in long term contracts between qualifying facilities and electric utilities. Many commenters have stressed the need for certainty with regard to return on investment in new technologies. The

### III. SUMMARY OF POSITIONS<sup>8</sup>

#### 1. Avoided Cost Price Calculation

***1.A.i. Should the Commission retain the current method based on the cost of the next avoidable resource identified in the company's current IRP, allow an "IRP" method-based on computerized grid modeling, or allow some other method?***

Keep the Current Methodology. The changes proposed by utilities would increase opacity and complexity without necessarily providing more accurate results. Staff/100, Bless/9, lines/5-12. The utilities' proposed changes (including: (a) abandonment of the Oregon avoided cost method; (b) adoption of resource-specific capacity values; (c) deducting resource specific integration charges from the standard offer; and (d) lowering the standard rate cap) would create a level of particularity which the Commission rejected in UM 1129 in favor of simplicity.<sup>9</sup> Utilities' proposed changes would sharply lower existing QF prices and increase QF development costs<sup>10</sup> at a time when QF prices are supporting very little new project development—signaling a significant change to state energy policy. Furthermore, the utilities' proposed foundational changes are unbalanced because they propose only refinements that *diminish* value ascribed to QF output while ignoring other refinements to the UM 1129 methodology that would *enhance* the value ascribed to QF output.

The current methodology does not capture the utility's avoided transmission and distribution costs, avoided integration costs, avoided fuel price volatility, and avoided CO<sub>2</sub>

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Commission agrees with these latter arguments, and believes that, in the long run, "overestimations" and "underestimations" of avoided costs will balance out.").

<sup>8</sup> Regarding Phase I issues omitted from this summary, OneEnergy is currently taking no position.

<sup>9</sup> See, e.g., *Investigation Related to Electric Utility Purchases from Qualifying Facilities*, OPUC Docket No. UM 1129, Order No. 05-584, 39 (2005) ("In this order, we establish standard contract rates, terms and conditions that incorporate sufficient flexibility to address QF project-specific characteristics that we have deemed it appropriate to address. \*\*\* We believe further flexibility in negotiating the terms of a standard contract would fundamentally undermine the purposes and advantages of standard contracts and, therefore, deny the request by PacifiCorp and PGE for additional pricing flexibility.").

<sup>10</sup> ODOE/500, Elliot/2; ODOE/200, Elliot/2-6 (explaining how increased transactional costs resulting from a lower eligibility cap might be "the proverbial last straw" for some QFs).

costs—all of which the Commission found to be legitimate *savings* associated with QFs in the context of the Solar PV Pilot Program. Order No. 12-396, at 5. Nor does it capture the utility's avoided cost from deferral of large investments in new generation attributable to purchases of small increments of power from QFs with shorter procurement lead times (a/k/a “lumpiness”). OneEnergy/100, Eddie/10-15. These omissions in the current methodology (those raised by the utilities and those raised in response by the QFs) tend to balance each other out and achieve an overall fairness. Foundational changes, undertaken piecemeal as the utilities propose, would upset the fairness of the existing UM 1129 framework and would unduly discriminate against QFs. See note 9, *supra*. The utilities' requested refinements to the framework should be implemented, if at all, simultaneously with implementation of the refinements raised by the QFs. Until then, the current framework should be retained.

Reaffirm that Current Methodology Requires Full Avoided Cost. Commission guidance is needed to reaffirm that the cost to procure firm fuel capacity rights on gas pipelines is part of the full avoided cost of the proxy CCCT. PGE alone of the three utilities accounts for any gas firming costs in its avoided cost rates. Furthermore, utilities must use incremental, not average, fixed gas transportation costs. FERC Order No. 69, ¶ 30,128 at 30,865-66, 45 Fed. Reg. 12,214, 12,216. Currently the utilities' avoided cost calculations fail to account for significant gas transportation costs associated with building a CCCT resource; they fail to account for significant trunk upgrades anticipated by Bonneville Power Administration and Northwest Gas Association and they fail to adequately account for branch upgrades. OneEnergy/100, Eddie/22-32; OneEnergy/200, Eddie/10-15.

Specify location of Proxy CCCT. The utilities should specify the location of the proxy CCCT in order to facilitate examination of the reasonableness of their assumptions. One can no

longer reasonably assume the accuracy of generic assumptions regarding availability of transmission capacity, water rights, gas transmission, and other site-specific inputs affecting the cost of a CCCT. OneEnergy/200, Eddie/15.

***1.A.ii. Should the methodology be the same for all three electric utilities?***

QFs delivering to PacifiCorp in southern Oregon should receive California-Oregon Border (“COB”) forward prices during the sufficiency period. Price differences in trading hubs exist because of transmission constraints. ODOE/400, Carver/8. OneEnergy agrees with ODOE that Mid-Columbia (“Mid-C”) should be used unless a QF is delivering to PacifiCorp “south of either the Alvey transmission substation near Eugene or the Grizzly substation near Redmond receive prices based on the COB hub price.” ODOE/400, Carver/9. In 2012, On-Peak prices at Mid-C averaged \$4.25/MWh less than On-Peak prices at COB. OneEnergy/200, Eddie/6-7. The COB index more closely approximates PacifiCorp’s avoided cost in its southern Oregon territory and may be implemented with inconsequential administrative burden.

***1.B. Should QFs have the option to elect avoided cost prices that are levelized or partially levelized?***

FERC expressly permitted states to adopt levelized rates for long-term contracts.<sup>11</sup> The Commission did not address levelized rates in Docket No. UM 1129. Order No. 05-584, at 28 n.46. In 2007, the legislature enacted SB 838 which, among other things, declared that all

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<sup>11</sup> FERC explained that levelization of QF rates is a permissible means of aligning payments with QF debt service obligations:

*[A] level payment schedule from the utility to the qualifying facility may be used to match more closely the schedule of debt service of the facility. So long as the total payment over the duration of the contract term does not exceed the estimated avoided costs, nothing in these rules would prohibit a State regulatory authority or non-regulated electric utility from approving such an arrangement.*

*American REF-FUEL Company of Lehigh Valley*, 47 FERC ¶ 61,208, 61,718 (1989) (quoting FERC Statutes and Regulations, Regulations Preambles 1977-1981, P30,128, at p. 30,881. 45 Fed. Reg. 12,224 (Feb. 25, 1980)) (emphasis added in *American REF-FUEL*).

agencies of the executive department, including the Commission, “shall establish policies and procedures promoting” SB 838’s 8% community renewable energy goal. ORS 469A.210.

Partially levelized (a/k/a “tilted”)<sup>12</sup> rates would help Oregon achieve its community renewable energy goal and policy to enable QF development. ORS 469A.210; ORS 758.515(3). Low prices in one or more early years of a power purchase agreement sharply reduces the debt service coverage ratio—and hence the amount a developer may borrow to finance a project. OneEnergy/200, Eddie/19, lines 5-17. Since 2005, PacifiCorp and PGE have always maintained sufficiency periods of over one year, and an average of close to three years, in their published rates. OneEnergy/212-13. Tilted rates will make small QF projects more financeable by increasing project revenue during the sufficiency period. OneEnergy/200, Eddie/19, lines 5-17. Tilted rates do not increase the net present value of a contract and do not put ratepayers at risk if they are adequately securitized. OneEnergy/100, Eddie/39-40; OneEnergy/200, Eddie/19-21. Creditworthy QFs should have the option to receive 2% tilted (escalating) payments, with a net present value equal to the present value of the published rates over the same term.

## **2. Renewable Avoided Cost Price Calculation**

### ***2.A. Should there be different avoided cost prices for different generation sources?***

The renewable avoided cost should not be decremented for integration during the sufficiency period. PGE/200, Morton-MacFarlane/16. The Commission already determined, in Order No. 11-505, that QFs should be paid the market price during the sufficiency period.<sup>13</sup>

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<sup>12</sup> In UM 1610, the parties have used “levelized rates” to refer to equal rates for each year of a contract and “partially levelized rates” to refer to rates that escalate at a constant rate each year, although that term was used differently in past Commission proceedings. OneEnergy adopts the term “tilted rates”, to mean rates that escalate at a constant rate each year. A “2% tilted rate” means rates that escalate 2% per year.

<sup>13</sup> *Investigation into Resource Sufficiency Pursuant to Order No. 06-538*, OPUC Docket No. 1396, Order No. 11-505, 9 (2011).

Commission guidance is needed to remind the utilities that “full avoided cost” must account for *all* costs the utility avoids by purchasing QF output instead of building the avoided renewable resource. This includes expected lost generation due to Balancing Authority curtailments of the renewable resource; expected lost generation due to degradation in performance of the renewable resource over its lifetime; and state and local taxes paid by the renewable resource over its lifetime. OneEnergy/200, Eddie/9-10.

PacifiCorp’s renewable avoided cost, filed February 13, 2012 in its Docket No. UM 1396 compliance filing, wrongly excluded the incremental transmission cost to move output from its renewable resource to load. OneEnergy/200, Eddie/7-9. The wind project that PacifiCorp uses as its renewable proxy has incremental transmission costs due to its location in a “wind-generation only bubble.” PacifiCorp 2011 IRP, Vol. 1 pp. 128-130 (OneEnergy/202). According to the IRP, those transmission costs “could have been added directly to the wind capital costs.” *Id.* However, PacifiCorp did not factor those incremental transmission costs into its proposed renewable avoided cost rates. OneEnergy/200, Eddie/8, lines 2-16. Unless the cost of transmission upgrades needed to export energy out of the Wyoming wind bubble is included, the resultant rates will not be “full avoided cost” as required under PURPA.<sup>14</sup>

***2.B. How should environmental attributes be defined in PURPA transactions?***

“Green Tags”, as defined in the standard renewable avoided cost power purchase agreement, should not include (1) environmental attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity, and (2) any other environmental attributes that are not required in order to provide the purchasing utility with a

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<sup>14</sup> OneEnergy intends to introduce additional information about the PacifiCorp incremental transmission costs at the hearing pending ongoing discovery.



renewable energy certificate for “qualifying electricity,” as that term is defined in Oregon’s Renewable Portfolio Standard Act, ORS 469A.010 *et seq.*, in effect at the time of execution of the PPA. OneEnergy/200, Eddie/7, lines/4-15.

### **3. Schedule for Avoided Cost Price Updates**

#### ***3.A. Should the Commission revise the current schedule of updates at least every two years and within 30 days of each IRP acknowledgment?***

Annual ministerial updates at the same time each year would result in more accurate avoided costs than the current, two-year update frequency. “Ministerial updates” are those updates that can be accomplished transparently without the exercise of independent judgment. OneEnergy/200, Eddie/5. Ministerial updates include updates to gas price and electricity price forecasts, and changes to the Production Tax Credit (which translate dollar-for-dollar to changes in the renewable avoided cost).<sup>15</sup> Changes to the sufficiency period, which depend on subjective estimates by PacifiCorp of load growth and contracted resources, are not ministerial and should not be part of the annual update.

#### ***3.C. Should the Commission specify what factors can be updated in mid-cycle?***

See Issue 3(A), above.

#### ***3.D. To what extent (if any) can data from IRPs in late stages of review and whose acknowledgement is pending be factored into the calculation of avoided cost prices?***

Utilities should not be permitted to make non-ministerial updates to avoided costs without notice and opportunity for examination of the proposed changes by interested parties. All avoided cost data submitted to the Commission is subject to review by the Commission and the utilities have the burden of justifying such data. 18 C.F.R. § 292.302(e). Use of data from unexamined reports does not satisfy PURPA.

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<sup>15</sup> PacifiCorp’s choice of Wyoming Wind as its avoided renewable resource appears to be insensitive to the expiration of the federal PTC. See PacifiCorp 2011 IRP Vol. 1, p. 117, Table 6.3 (OneEnergy/202) (showing that PacifiCorp’s solar resource options cost more than \$192/MWh compared to \$82.52/MWh for Wyoming wind).

***3.E. Are there circumstances under which the Renewable Portfolio Implementation Plan should be used in lieu of the acknowledged IRP for purposes of determining renewable resource sufficiency?***

The Commission already decided this matter on page 8 of Order No. 10-488: “The IRP process [is] the appropriate venue for determining when a utility is resource sufficient or deficient.” OneEnergy recommends the Commission sustain its decision in Order No. 10-488.

**4. Price Adjustments for Specific OF Characteristics**

***4.A. Should the costs associated with integration of intermittent resources (both avoided and incurred) be included in the calculation of avoided cost prices or otherwise be accounted for in the standard contract? If so, what is the appropriate methodology?***

Integration charges should apply to wind only until utilities quantify non-wind integration costs and such costs are vetted through a public process. Solar integration costs are unstudied and likely insignificant due to the very low level of solar penetration. Utilities have the burden to justify their avoided costs and have, to date, provided no evidence of integration costs from solar generation. OneEnergy/100, Eddie/32-33.<sup>16</sup>

***4.C. How should the seven factors of 18 C.F.R. § 292.304(e)(2) be taken into account?***

The seven factors must be taken into account “to the extent practicable”.<sup>17</sup> In Docket No. UM-1129, the Commission held that standard rates would not be subject to negotiation, *and* that certain project-specific adjustments were appropriate to include in the standard rates:

In this order, we establish standard contract rates, terms and conditions that incorporate sufficient flexibility to address QF project-specific characteristics that we have deemed it appropriate to address. For example, the pricing structure we have adopted allows certain QFs to select a pricing option suitable to fuel and risk characteristics of the facility. As another example, QF pricing provides differentiation on a seasonal, as well as peak and off-peak basis. We believe further flexibility in negotiating the terms of a standard contract would fundamentally undermine the purposes and advantages of standard

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<sup>16</sup> OneEnergy notes that PacifiCorp, on April 1, 2013, filed proposed revisions to its OATT that would impose new charges on variable energy resources, including wind and solar resources. FERC Docket No. ER13-1206. OneEnergy intends to address the potential ramifications of this filing on QF integration costs in its post-hearing legal brief.

<sup>17</sup> 18 C.F.R. § 292.304(e).

contracts.

Order No. 05-584, at 39. The following adjustments may be addressed without negotiation and therefore should be incorporated into the standard rate:

● **304(e)(2)(vii) (smaller capacity increments and shorter lead times, a/k/a “lumpiness”)**.

This factor should be modeled using the PacifiCorp’s approach used to model resource deferral benefits from Class 2 DSM in its 2011 IRP, or one of several other methodologies published in peer reviewed literature. OneEnergy/200, Eddie/6.

● **304(e)(2)(i) (dispatchability)**. QFs should have the option to select an adder to their avoided cost in exchange for agreeing to be curtailable. OneEnergy/200, Eddie/4.

● **304(e)(4) (line loss)**.<sup>18</sup> Distributed generators 3 MW or less should receive a 3.9% avoided line loss unless the utilities can justify a lower figure. OneEnergy/100, Eddie/35-37; OneEnergy/200, Eddie/18. Distributed generators, meaning generators connected directly to distribution voltages, as a class, avoid transmission line losses because their output is used on the local distribution circuit, thus avoiding transformation and transmission losses. The Commission considered line losses in general in Docket No. UM 1129, but did not consider the unique line loss savings associated with small distributed generation. Recognizing this additional avoided line loss benefit from distributed QFs by adjusting their avoided cost rates upwards by 3.9% would induce efficient siting of QFs.<sup>19</sup> Limiting this adjustment to QFs of 3 MW or less is appropriate because

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<sup>18</sup> 304(e)(4): “The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.” *See California Pub. Util. Comm’n*, 133 FERC ¶ 61,059, P 31 (2010) (an “adder” or “bonus” based on *expected* transmission and distribution costs avoided by the addition of QFs “would be consistent with PURPA and our regulations”); *see also Order Instituting Rulemaking on the Commission’s Own Motion into Combined Heat and Power Pursuant to Assembly Bill 1613*, Cal. PUC Decision D.11-04-033, R.08-06-024, 2011 Cal. PUC LEXIS 250, \*58-59 (2011) (explaining that a 10% adjustment is a “conservative” estimate of transmission and distribution benefits created by certain QFs).

<sup>19</sup> PURPA allows states to recognize the benefits of classes of QFs through standardized contract adjustments. *See Order Instituting Rulemaking on the Commission’s Own Motion into Combined Heat and Power Pursuant to Assembly Bill 1613*, Cal. PUC Decision D.11-04-033, 2011 Cal. PUC LEXIS 250, \*28-29 (“FERC has routinely

larger QFs are more likely to export energy from their distribution circuits onto the transmission system. A credit for avoided line losses may easily be added as a “check-the-box” option in the utilities’ standard power purchase agreements.

## **5. Eligibility Issues**

### ***5.A. Should the Commission change the 10-MW cap for the standard contract?***

No, however, a subclass of QFs (those 3 MW or less directly interconnected to the purchasing utility’s distribution system) should have additional options in the standard contract (tilted prices, 25-year fixed term, 3.9% line loss adder) in recognition of special benefits they provide. OneEnergy/100, Eddie/4-6, 18, 33-41; OneEnergy/200, Eddie/3, 16.

The Commission should clarify that the eligibility cap applies to alternating current AC (as opposed to DC) capacity of PV solar QFs. In recognition of the energy lost by converting direct current photovoltaic output to alternating current, for purposes of eligibility, the “nameplate capacity” of photovoltaic QFs should be 0.85 times the maximum DC output (kWdc) from the project. OneEnergy/200, Eddie/3. This ratio is consistent with the ratio set by the Commission in Oregon’s Solar PV Pilot Program. OAR 860-084-0040(2).

### ***5.B. What should be the criteria to determine whether a QF is a “single QF” for purposes of eligibility for the standard contract?***

OneEnergy supports strong rules preventing disaggregation and believes modifications to, and clarification of, the passive investor exception could eliminate any perceived loophole in the current rules. OneEnergy/100, Eddie/7-8. OneEnergy also notes that the utilities have the right, under the Partial Stipulation adopted in Docket No. UM 1129, to refer a dispute regarding disaggregation to the Commission rather than offer contracts to disaggregated QFs. *Id.*

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engaged in differentiation among generators in its implementation of PURPA.... Thus, FERC itself acknowledged that differing treatment among units with ‘identical relevant characteristics,’ including development ‘incentives,’ were appropriate in the context of an avoided cost.”).

OneEnergy disagrees with Staff's position that the Commission should not recognize the benefits of QFs 3 MW or less due to risks of disaggregation. Staff/200, Bless/25. Disaggregation can be prevented more accurately and appropriately through changes to the Partial Stipulation.

OneEnergy supports PacifiCorp's proposal to eliminate the passive investor exception to the Partial Stipulation. OneEnergy/100, Eddie/8; PAC/200, Griswold/25).

***5.C. Should the resource technology affect the size of the cap for the standard contract cap or the criteria for determining whether a QF is a "single QF"?***

No. This is an overly broad approach to preventing abuse of standard rates by disaggregators. The Partial Stipulation, with PacifiCorp's proposed modification to the passive investor exception, can prevent disaggregation without discriminating against solar and wind projects. OneEnergy/100, Eddie/7-8.

**6. Contracting Issues**

***6.B. When is there a legally enforceable obligation?***

PGE's proposal (PGE/100, MacFarlane-Morton/23) that QFs be online within one year of executing a power purchase agreement should be rejected as unduly discriminatory.

***6.I. What is the appropriate contract term? What is the appropriate duration for fixed prices?***

QFs 3 MW or less directly connected to the purchasing utility's distribution system should have the option to elect up to a 25-year, fixed-price term, provided that the QF has site control for a term equal to or greater than the term of the PPA. OneEnergy/200, Eddie/3, lines/5-11; OneEnergy/200, Eddie/16, 18.<sup>20</sup> On page 19 of Order No. 05-584, the Commission found that "our fundamental objective is to establish a maximum standard contract term that enables eligible QFs to obtain adequate financing, but limits the possible divergence of standard contract

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<sup>20</sup> Limiting this option to QFs interconnected to the distribution system of the purchasing utility limits its availability to QFs located within Oregon.

rates from actual avoided costs.” OneEnergy’s analysis of fixed rate terms of 15 years and 25 years for a hypothetical 1-MW solar QF in Oregon shows that such QFs will have difficulty financing their projects with only a 15-year PPA. OneEnergy/200, Eddie/21-23. Increasing the term of the PPA would not increase the PPA purchase prices above avoided costs but *would* further the Commission’s objectives, above, as well as the state’s policy of promoting community renewable generation in ORS 469A.210.

#### IV. CONCLUSION

Taken together, the number of issues raised by the parties is daunting. One group of issues regards implementation of the Renewable Avoided Cost. Another group of issues would make incremental changes to existing rules. These issues either fill in a gap in the original UM 1129 framework or adapt the UM 1129 framework to function as intended in light of conditions that have evolved since the Commission implemented the framework. A third group of issues implicates significant policy changes by the Commission. Changes in the third group are foundational because they add a level of particularity that the Commission already considered and rejected in UM 1129. OneEnergy believes that all of these issues are important but not all issues are ripe for resolution at this time.

**A. Issues re implementation of the Renewable Avoided Cost.** In Order No. 11-505 the Commission found that implementation of the renewable avoided cost required an evidentiary record to derive utility-specific avoided cost rates for renewable resources. UM 1610 has provided parties such an opportunity to conduct discovery and propose changes to PGE’s and PacifiCorp’s compliance filings. Renewable Avoided Cost issues ripe for decision include: (a) the scope of costs comprising the “full avoided cost” of the renewable resource (e.g., incremental transmission costs of PacifiCorp’s Wyoming wind resource); (b) applicability of capacity adjustment factors; (c) applicability of integration charges; (d) the definition of which

environmental attributes transferred to the utility during the deficiency period; and (e) whether OAR 860-022-0075 needs revision. OneEnergy urges the Commission to implement the renewable avoided cost rates for PacifiCorp and PGE as soon as possible.

**B. Issues re the Existing UM 1129 Framework.** OneEnergy also supports resolution of issues that update or fill gaps in the existing framework. Gap filling issues include: (f) the scope of costs comprising the “full avoided cost” of the CCCT resource (e.g., gas firming costs); (g) the definition of “nameplate capacity” as applied to solar QFs; (h) crediting small QFs connected to the distribution system with avoided line losses; (i) clarification of when a QF may unilaterally create a legally enforceable obligation; and (j) the availability of tilted or leveled prices. Changes proposed due to evolving conditions include: (k) changes to the frequency of updates to the avoided cost in light of experienced volatility in market prices; (l) changes to the “passive investor exception” rule in order to close a perceived loophole; (m) and changes to the maximum length of standard contract for QFs 3 MW and under in light of changed economic realities. These policy decisions can be based on the evidence in the record and can be implemented with minimal process within the existing framework. These changes are timely right now while small developers can use the federal business energy investment tax credit, which is scheduled to shrink from 30% to 10% in 2017 (with respect to solar PV).

**C. Foundational changes to the UM 1129 Framework.** OneEnergy opposes foundational changes proposed by the utilities because the need for such changes has not been established. Alternatively, foundational changes should be implemented, if at all, after the utilities’ and the QFs’ proposals are more fully developed and can be considered simultaneously. Foundational issues include the utilities’ proposals to: (n) abandon the Oregon avoided cost method; (o) adopt resource-specific capacity values; (p) deduct resource specific integration

charges from the standard offer; and (q) lower the standard rate cap; and the QFs' counterproposals to: (r) add avoided transmission and distribution costs; (s) add avoided integration costs (t) add avoided fuel price volatility; (u) add avoided CO2 costs; and (v) add lumpiness benefits. The utilities have not met their burden of justifying why the Commission should abandon the Oregon avoided cost method, adopt resource specific capacity values, add integration charges, or reduce the eligibility cap. Likewise, the cost impacts of the foundational changes the QFs propose have not been adequately studied (in part because they require cooperation between the QFs and the utilities). Rather than risk breaking a system that has worked well by making piecemeal changes, it would be safer to set over these issues until they have been studied together and then implemented, if at all, in a balanced fashion.

Dated this 20th day of May 2013.

Respectfully submitted,

By 

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 20<sup>th</sup> day of May 2013, I served a true and correct copy of the foregoing *OneEnergy, Inc.'s Prehearing Issues Brief* in OPUC Docket No. UM 1610 on the following named persons/entities by electronic mail.

DATED this 20<sup>th</sup> day of May 2013.

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