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September 2, 2015

Via Electronic Mail

Public Utility Commission of Oregon
Attn: Filing Center
PO Box 1088
Salem, OR 97308-1088
puc.filingcenter@state.or.us

Re: OPUC Docket No. UM 1610

Attention Filing Center:

Attached for filing in the above-captioned docket is an electronic version of
OneEnergy, Inc.'s Pre-Hearing Brief (Phase II).

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Kaufmann", with a long horizontal line extending to the right.

Ken Kaufmann
Attorney for OneEnergy, Inc.

Attachment

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
PRE-HEARING BRIEF (Phase II)**

Pursuant to ALJ scheduling order issued August 28, 2015, OneEnergy, Inc.¹ hereby submits this Phase II Pre-Hearing Brief. OneEnergy's comments are confined solely to Issue 2:²

Issue 2: Should avoided transmission costs for non-renewable and renewable proxy resources be included in the calculation of avoided cost prices?³

OneEnergy suggests the answer to the above question is “yes” for the reasons stated herein, and suggests the Commission provide guidance on when transmission costs are avoided.

PROCEDURAL HISTORY

In Phase I of this docket, the Commission made the following findings about transmission costs included in calculating the cost of energy from a proxy resource:

We affirm the existing policy that if the proxy resource used to calculate a utility's avoided costs is an off-system resource, the costs of the third-party transmission are avoided, and are therefore included in the calculation of avoided cost prices. This is the situation for PGE, and it was not contested in these proceedings.

If the proxy resource used to calculate a utility's avoided costs is an on-system resource, there are no avoided transmission costs, and thus the costs of third-party transmission are not included in the calculation of avoided cost prices. This is the situation for Pacific Power.

¹ 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.

² OneEnergy also joined the Renewable Energy Coalition, the Community Renewable Energy Association (CREA), and Obsidian Renewables in a separate brief on several other Phase II issues.

³ Ruling of Chief ALJ Michael Grant (March 26, 2015).

Order No. 14-058 at 17. OneEnergy and CREA sought reconsideration/clarification of the above passage out of concern that some will interpret the second paragraph to mean that transmission costs *cannot* be included in the calculation of Pacific Power’s avoided cost prices *even if* it can be shown that Pacific Power would avoid them with a QF purchase. *Motion for Clarification and Application for Reconsideration by OneEnergy, Inc. and the Community Renewable Energy Association* (April 24, 2014) (Application for Reconsideration). Staff opposed the Application for Reconsideration and asserted that CREA and OneEnergy—in asking the Commission to rule “that avoided transmission upgrades for in-system proxy resources are includable in avoided cost prices” —were raising a new issue which was beyond the scope of the issue the Commission’s findings, above, were intended to address.⁴ Staff’s Response, at 4 (May 9, 2014). Staff suggested that the Commission had not addressed the question of whether on-system transmission upgrades should be included in avoided cost prices, and that that issue could be raised in Phase II. The Commission adopted Staff’s analysis, denied the Application for Reconsideration, and invited OneEnergy and CREA to raise the issue in Phase II of this docket. Order No. 14-229 at 3-4 (June 20, 2014). Issue 2 in Phase II of UM 1610 closely resembles the question posed by CREA and OneEnergy in their Application for Reconsideration.

DISCUSSION

A. **The Parties agree that avoided transmission costs should be included in the Avoided Cost but disagree when transmission costs are avoided.**

Staff recommends in its testimony that the Commission address Issue 2 now because avoided transmission costs (third-party or otherwise) will be reviewed in connection with the

⁴ The Commission’s findings at issue were specifically related to Phase I, Issue 4B, which asked:

Should the costs or benefits associated with third party transmission be included in the calculation of avoided cost prices or otherwise accounted for in the standard contract?

utilities' future avoided cost filings and whether and when those costs should be included in its Avoided Costs currently is in dispute. Staff/500, Andrus 9-10.

Staff recommends, further, "that the Commission clarify that [3rd-party transmission costs and costs of transmission system upgrades] should be included in the calculation of avoided cost prices if the utility's IRP indicates the utility's purchase from the QF allows the utility to avoid them, or if this fact is established in the review process following the utility's avoided cost filing." (See Staff/500, Andrus/10). Staff's position is consistent with FERC's ruling in the *Cal. CPUC* case, which held that real transmission costs incurred by a utility which a QF purchase will permit the utility to avoid are proper to include in the utility's Avoided Cost under PURPA⁵:

the Commission has previously found that an avoided cost rate may not include a "bonus" or "addor" above the calculated full [*61,268] avoided cost of the purchasing utility, to provide additional compensation for, for example, environmental externalities above avoided costs. But, if the environmental costs "are real costs that would be incurred by utilities," then they "may be accounted for in a determination of avoided cost rates." *Accordingly, if the CPUC bases the avoided cost "addor" or "bonus" on an actual determination of the expected costs of upgrades to the distribution or transmission system that the QFs will permit the purchasing utility to avoid, such an "addor" or "bonus" would constitute an actual avoided cost determination and would be consistent with PURPA and our regulations.*

133 F.E.R.C. P61,059, 60-61 (F.E.R.C. 2010) (emphasis added; citations omitted).

The parties appear to all agree that avoided transmission costs should be included in the Avoided Cost prices *so long as a QF purchase allows the utility to avoid them.* See OneEnergy (OneEnergy/400, Eddie/2); CREA (CREA/500, Skeahan/12); REC (Coalition/400, Lowe/34); Idaho Power (Idaho Power/1100, Allphin/4); PGE (PGE/500 Macfarlane – Morton/6); Pacific Power (PAC/1100, Dickman/6).

QF parties disagree with Pacific Power, however, over when a QF purchase allows a utility to avoid transmission costs. Pacific Power would include *zero* avoided transmission costs

⁵ Pub. L. No. 95-617, 92 Stat. 3117 (codified in scattered sections of 15, 16, and 30 U.S.C.).

in its renewable avoided cost proxy, even though that proxy (a Wyoming Wind facility located in the Aeolus wind bubble) cannot serve Pacific Power load without transmission upgrades.

PAC/1400, Dickman/2. The QFs argue that transmission upgrades necessary to transmit output from Pacific Power wind proxy resource to system load can be avoided and therefore belong in Pacific Power's renewable avoided cost. More generally, QFs seek clarification that all avoided transmission costs should be included in the Avoided Cost.

B. Third-party transmission costs necessary to deliver proxy output to system load should be included in the Avoided Cost.

In Phase I, the Commission stated that Pacific Power's proxy resource has no 3rd-party transmission costs and, therefore, such costs should not be part of its Avoided Cost. Order No. 14-058 at 17. It is unclear whether this statement means that: (1) no party demonstrated that Pacific Power would avoid 3rd-party transmission costs when its proxy resource is located on its system, and therefore inclusion of 3rd party transmission costs is not appropriate; or (2) even if Pacific Power would avoid 3rd-party transmission costs associated with an on-system proxy resource by purchasing QF energy, it is not appropriate to include such costs in the calculation of avoided cost prices when the proxy resource is an on-system resource. *Accord*, Staff/500, Andrus/8.

The first possible meaning, above, is the only meaning that is consistent with PURPA. The second meaning, if adopted, would wrongfully exclude from the Avoided Cost transmission expenses which a QF would permit the utility to avoid, in violation of FERC's holding, in *Cal. PUC, supra*. Furthermore, because the Commission (in Phase I) required that QFs must pay 3rd-party transmission costs necessary to move output from its on-system QF to system load⁷, it would discriminate unreasonably against QFs to not also require utilities to include 3rd-party

⁷ Order No. 14-058 at 21.

transmission costs, if any, in their Avoided Cost. Commission clarification--that 3rd-party transmission costs that a QF would permit the utility to avoid should be included in the Avoided Cost--is necessary to comply with PURPA. Whether Pacific Power, or any other utility, actually has 3rd-party transmission costs arising from its proxy resource is a fact-specific question that is beyond the scope of this docket. *Accord*, Staff/500, Andrus/10.

C. A proxy resource has associated transmission upgrade costs if its full capacity cannot serve system load without upgrading the existing transmission system.

In Oregon, QFs are responsible for all costs of interconnection to the utility's system, including transmission upgrades necessary to deliver its full output to the utility's load. Order No. 07-360 at 17. Whether transmission upgrades are necessary is determined by the transmission system operator (e.g. PacifiCorp's Transmission Services business) in accordance with its Open Access Transmission Tariff (OATT) and related business practices. Sometimes a new QF requires no transmission upgrades in order to deliver its output to load. Other times, there will not be sufficient unallocated capacity available to deliver output to load, and the transmission operator will require the QF to pay for upgrades necessary to ensure that its output can reach system load. Either way, neither the utility nor its customers pays for transmission upgrades when a QF interconnects directly to the utility's system. Because a QF imposes no transmission upgrade cost burden on utilities or their customers, building a QF in lieu of a proxy resource which requires transmission system upgrades will avoid the cost of those transmission system upgrades.

In Docket No. UM 1396, the Commission recognized the importance of accounting for site-specific characteristics of renewable proxy resources in order to accurately measure a utility's true avoided cost:

Differences in capacity, capacity factors and transmission costs—due primarily to differences in locations—would not be captured in a proxy model, so that the proxy would not provide an accurate measure of a utility’s true avoided cost.

Order No. 11-505 at 5. While Pacific Power’s choice of renewable proxy takes into account site-specific differences in buildable capacity and capacity factors, it ignores differences in transmission costs. Order No. 11-505 requires a utility to consider site-specific transmission costs for a renewable proxy resource and, when a proxy resource at a known location cannot be interconnected without transmission system upgrades, account for those costs in the Avoided Cost.

D. QFs avoid the costs of transmission needed to deliver proxy resource generation to load.

Although fact-specific determinations are beyond the scope of this docket, Pacific Power provided testimony that QFs do not avoid any transmission costs associated with its renewable proxy resource. *See*, OneEnergy/401, Eddie/3; PAC/800, Dickman/5; PAC/1100, Dickman/4. Pacific Power reasons that, because completion of its planned Gateway West transmission project is not directly tied to the proxy renewable resource, it will not be avoided by the addition of an Oregon QF. It claims that there are no incremental transmission costs associated with its Wyoming Wind proxy resource. *Id.*

Pacific Power’s testimony in this docket is inconsistent with its 2011 IRP, in which Pacific Power acknowledged incremental transmission costs associated with its proposed Wyoming Wind resource additions. (OneEnergy/202, Eddie/2). In its 2013 IRP, Pacific Power recharacterized incremental transmission costs, as explained in the following passage:

In the previous [2011] IRP, incremental transmission costs were expressed as dollars-per-kW values that were applied to costs of wind resources added in wind-generation-only bubbles. In the present IRP, the availability of certain wind resources is contingent upon the different Energy Gateway transmission scenarios.

2013 IRP, Volume 1, at 131. The 2013 IRP goes on to state that Pacific Power modeled five different Energy Gateway scenarios, and that the amount of Wyoming Wind resource available, and the year it is available, varies with each scenario. Under Energy Gateway Scenario 1 (EG-1), the Wyoming Wind resource is not available at all. Under Scenarios 2-5, the Wyoming Wind resource is available but at various in-service dates and in varying amounts of buildable capacity. *Id.* at 132. At this juncture, the Commission must not assume that Pacific Power's ultimate choice of an Energy Gateway preferred scenario will be independent of whether and how much Wyoming Wind it builds. Rather, it appears clear from the IRP documents that the utility's final determination of the Energy Gateway scenario will be linked to whether and how much Wyoming Wind it will pursue. Therefore, Oregon renewable QFs (which reduce the amount of Wyoming Wind needed) can also reduce the size of the Energy Gateway transmission upgrades.⁸

In Docket No. UM 1396, the Commission required utilities to account for site-specific transmission costs associated with renewable proxy resources. Order No. 11-505 at 5. Any claim that a new large renewable resource will have zero incremental transmission costs--even though it is dependent on transmission upgrades that have not yet been acknowledged by the Commission--deserves skeptical and thorough review from the QFs and the Commission. Any ruling in this docket that would exempt utilities from such a review would be bad policy and would be contrary to PURPA's requirement that utilities pay QFs their full avoided cost.

E. The cost of transmission upgrades needed to enable a proxy resource to deliver its full output to system load is avoidable until the utility makes an irreversible commitment to build the transmission upgrades.

⁸ In its 2015 IRP, Pacific Power resumed calculating incremental transmission costs for its energy resources, and calculated zero incremental transmission costs for Wyoming Wind. PAC/1100, Dickman/5. The bases for such a significant change in successive IRPs should be subject to scrutiny by QFs and staff when Pacific Power proposes updated avoided cost rates, and are not ripe for consideration in this docket.

The parties currently lack guidance from the Commission on what transmission upgrades can be avoided by the addition of an Oregon QF. Pacific Power makes two large assumptions about its planned Energy Gateway transmission upgrades: (1) that they are independent of the development of Wyoming Wind resources; and (2) that they are not avoidable (e.g. they certainly will be built). PAC/1100, Dickman/6. The first assumption is wrong, for the reasons described in Section (D), above. The second premise is highly speculative and, if adopted, would not amount to good policy because large transmission projects in general, and the Energy Gateway project in particular, are risky ventures that are often delayed, revised, or cancelled prior to completion. Since it was announced in 2007, the Energy Gateway project has been revised several times. Third-party interests subscribed for 6,000 MW of transmission on the proposed project in 2007-08 and later let their subscriptions lapse due to unfavorable project economics. OneEnergy/402, Eddie/9. Between May 2007 and 2012, the Company's need for Energy Gateway transmission declined as well, as it scaled back its planned wind portfolio, from 1,600 MW down to just over 400 MW. OneEnergy/402, Eddie/6. Currently, Pacific Power is moving forward with permitting Energy Gateway but (with at least five different timing and size scenarios) keeping its options open. Pacific Power's 2015 IRP does not seek acknowledgement of the Gateway West portion of the Energy Gateway project and its planned online date remains indefinite.

The evolution of the Energy Gateway project, as described in Pacific Power's 2011, 2013, and 2015 IRPs, illustrates the hazard of assuming that a large transmission project will be built and available at a specified capacity and in a specified timeframe. To avoid lengthy disputes over Avoided Cost determination, a clear line is needed to demarcate when the planned construction of new transmission necessary to permit a proxy resource to serve load is sufficiently certain to be deemed un-avoidable. In Docket No. UM 1396, the Commission

considered this issue with respect to planned generation resources and determined that a proxy generation project is avoidable until a utility makes an irreversible commitment to acquire it, e.g. after the completion of the RFP process and the execution of contracts or awarding of the project to the utility to build for itself. Order No. 11-505 at 11. This decision was consistent with the wishes of Pacific Power (who argued that a commitment is irreversible when the Company enters into a binding contract to acquire a resource) and PGE (who argued that an irreversible commitment for a specific project is when the Request for Proposal process is completed and contracts are signed). *Id.* at 10. It would be strange if the Commission were to use one test for determining when a planned generating resource is avoidable and a radically different test for when a planned transmission resource is avoidable. The Commission's test for determining if a planned generating resource is avoidable would serve the same salutary purpose of reducing unnecessary work and conflict if applied to avoided transmission system upgrades necessary to enable proxy resources to serve system load.

SUMMATION OF ONEENERGY'S POSITION REGARDING ISSUE 2

Transmission costs can represent a significant component of the total cost of a proxy resource. Where those costs can be quantified and can be avoided by a QF, such costs should be included in the Avoided Cost. Utilities should include in the Avoided Cost the cost of transmission system upgrades, or 3rd-party transmission costs, if any, necessary to deliver all output from a proxy resource to system load. The cost of transmission system upgrades specified by the transmission provider as a condition of granting a Network Resource request can provide a reasonable basis for quantifying avoided transmission costs of a proposed new resource. Utilities claiming that a proxy resource has no incremental transmission system upgrade costs when existing transmission is inadequate to serve the proxy resource should be prepared to rigorously support their claims in a contested proceeding. A utility should assume that a planned

new transmission system upgrade is avoidable until it has made an irreversible commitment to build the upgrade, consistent with the Commission's reasoning in Order No. 11-505.

Dated this 2nd day of September 2015.

Respectfully submitted,

By 

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