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August 7, 2015

***Via Electronic Filing***

OREGON PUBLIC UTILITY COMMISSION
ATTENTION: FILING CENTER
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**RE: Docket No. UM 1610 PH II – In the Matter of**
**PUBLIC UTILITY COMMISSION OF OREGON**
**Staff Investigation Into Qualifying Facility Contracting and Pricing.**

Enclosed for electronic filing is Public Utility Commission Staff's Reply Testimony.

/s/ Kay Barnes

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CASE: UM 1610 PH II
WITNESS: BRITTANY ANDRUS

# PUBLIC UTILITY COMMISSION
# OF
# OREGON

# STAFF EXHIBIT 700

# Reply Testimony

# August 7, 2015

**Q. Please state your name, occupation, and business address.**

A. My name is Brittany Andrus. My business address is 201 High Street SE Suite 100, Salem, Oregon 97301-3612.

**Q. Please describe your educational background and work experience.**

A. My Witness Qualification Statement is found in Exhibit Staff/301 and Staff/501.

**Q. What is the purpose of your testimony and how is it organized?**

A. I have previously filed opening and response testimony in Phase II of this docket addressing nine issues relating to the Commission's implementation of the Public Utility Regulatory Policy Act (PURPA). In this testimony, I reply to some of the response testimony offered by other parties.

**Issue No. 1: Who owns the Green Tags during the last five years of a 20-year fixed price PPA during which prices paid to the qualifying facility (QF) are at market?**

**Q. Does any party offer a persuasive reason as to why QFs should cede Renewable Energy Credits (RECs) to the utilities during a deficiency period in the last five years of a standard contract when the QF is receiving sufficiency-period prices?**

A. No. PacifiCorp opposes testimony by Staff and other parties on this issue, asserting these parties "equat[e] being paid market-based avoided costs during the resource deficiency period to the Company returning to a resource sufficiency period and therefore the RECs should be retained by the QF."[1] PacifiCorp's characterization of Staff's argument is incorrect.

[1] PAC/1300, Griswold/5.

Staff does not believe that the QFs' receipt of market-based prices in the last five years of a standard contract signifies the utility is resource sufficient. The point of Staff's testimony is that QFs are not compensated for RECs when they receive market-based prices in the last five years of a standard contract. If QFs are not compensated for the RECs, they should not be required to transfer ownership of RECs to utilities, even if the utilities are resource deficient.

**Issue No. 2: Should avoided transmission costs for non-renewable and renewable proxy resources be included in the calculation of avoided cost prices?**

**Q. Is Staff persuaded by PacifiCorp's arguments that the Company can never avoid transmission costs in connection with a proxy resource that is on system?**

A. No. With respect to third-party transmission costs, PacifiCorp testifies:

> Avoided costs should not include assumed reductions in transmission service costs or third-party wheeling expenses due to the addition of a QF on PacifiCorp's system. Planned resource acquisitions included in the Company's IRP are sited within PacifiCorp's service territory and do not require third-party transmission to reach the Company's system.[2]

PacifiCorp's assertion that planned resource acquisitions "are sited within PacifiCorp's service territory and do not require third-party transmission to reach the Company's system" is inconsistent with its assertion that certain QFs sited within its service territory will cause it to incur third-party transmission

[2] PAC/1100, Dickman/5.

costs.[3] While PacifiCorp acknowledges that the Community Renewable Energy Association (CREA) points out this inconsistency in CREA's response testimony, PacifiCorp does not satisfactorily explain why a QF in a load pocket on PacifiCorp's system may need third-party transmission but a proxy resource in the same circumstance will not.[4]

PacifiCorp also does not satisfactorily explain why there will never be avoided costs for upgraded or new transmission facilities associated with an avoided proxy resource. Accordingly, Staff recommends that the Commission clarify that avoided transmission costs will be included in the calculation of avoided cost prices whether the proxy resource is off-system or on-system, provided that it is shown that such costs would be avoided.

**Issue No. 3: Should the Commission revise the methodology approved in Order No. 14-058 for determining the capacity contribution adder for solar QFs selecting standard renewable avoided cost prices? If so, how?**

**And**

**Issue No. 4: Should the capacity contribution calculation for standard non-renewable avoided cost prices be modified to mirror any change to the solar capacity contribution calculation used to calculate the standard renewable avoided cost price?**

**Q. There have been several rounds of testimony on the calculation of the capacity contribution adjustment for Standard Renewable Avoided Cost Prices. Does Staff have anything to add to its previous testimony?**

[3] PAC/ 1300, Griswold/11-13.
[4] PAC/1100, Griswold/12.

A. PacifiCorp and Idaho Power continue to misunderstand Staff's proposed change to the capacity contribution adjustment. PacifiCorp testifies that Staff's position "boils down to a proposal that the solar capacity adder should be determined as a fixed dollar amount equal to the cost of an avoided thermal resource and that each QF should receive the entire amount regardless of its actual output during on peak hours."[5] Idaho Power testifies that "[t]he parties discuss an outdated concept that a QF is entitled to a fixed amount capacity payment, regardless of when it generates."[6]

**Q. Does Staff recommend that QFs receive a fixed amount no matter when or how much they generate?**

A. No. QFs would continue to receive capacity payments only for the on-peak hours in which they generate. The value of the QF's contribution to the utility's peak would be calculated as an annual dollar value, which would be converted to a rate to be paid **only** for the on-peak megawatt-hours the QF actually delivers. QFs would not be "entitled" to a fixed or target amount.

**Issue No. 5: What is the appropriate forum to resolve litigated issues and assumptions?**

**Q. What is Staff's position on this issue?**

A. Staff recommends that the Commission maintain the status quo, but confirm that the resource sufficiency/deficiency demarcation in the utility's Integrated Resource Plan (IRP) is subject to challenge in the review of the utility's avoided

[5] PAC/1100, Dickman/7.
[6] Idaho Power/1000, Youngblood/6.

cost filings like any input into avoided cost prices taken from the IRP, and also, require the utilities to comply with minimum filing requirements (MFRs).

**Q. What is the status quo?**

A. Each utility is required to file updated avoided cost prices within 30 days of acknowledgment of the utility's IRP. "Avoided cost filings are subject to suspension and the same investigatory process that any tariff filing may undergo."[7]

**Q. What is the issue regarding the MFRs?**

A. Staff recommends that the Commission require the utilities to comply with MFRs so that utilities will very clearly identify the inputs used to calculate the avoided cost prices.[8] The utilities object to Staff's proposal because it will mean more work for the utilities and because the inputs are already included in the IRP.[9]

**Q. What is Staff's response to these assertions?**

A. The utilities are correct, that Staff's proposed MFRs will mean additional work for them. However, the burden is not an unreasonable one. The utilities are already required to use the inputs to prepare their avoided cost filings. Staff's proposed MFRs would require the utilities to do a modest amount of additional work to provide Staff and stakeholders information as to how the utilities calculated the avoided cost prices.

[7] Order No. 05-584 at 36-37. See also OAR 860-029-0080(6) ("Any standard rates filed under OAR 860-029-0040 shall be subject to suspension and modification by the Commission.").
[8] See Staff Exhibit 530 for list of MFRs.
[9] PAC/1200, Drennan/12-13.

Second, the fact that the information is already in the IRP misses the point of Staff's recommendation. Currently, Staff and parties often have to search the IRPs to find the inputs that match those used in the avoided cost prices to verify their accuracy. This can be a time-consuming task. Having a utility point Staff and parties to where in the utility's IRP they may find the inputs used to determine avoided cost prices will expedite any process needed to review the utilities' avoided cost filings and likely reduce the need for discovery.

**Q. Why is it necessary to confirm that resource sufficiency/deficiency demarcation is subject to challenge in the review of utilities' avoided cost price filings?**

A. In Order No. 10-488, the Commission stated that the IRP process is the appropriate venue to determine resource sufficiency and deficiency.[10] Some parties assert that the determination of resource sufficiency/deficiency taken from the IRP is not subject to challenge in connection with review of the utilities' avoided cost filings.

**Q. Should the resource sufficiency/deficiency demarcation taken from the IRP be treated as any other avoided cost price input?**

A. Yes. Staff does not think that the Commission's order specifying that the resource deficiency/sufficiency period is determined in the IRP process and is based on when the utility plans to acquire its next major or renewable resource meant that this input is not subject to challenge like any other input into avoided cost prices. In fact, treating the resource sufficiency/deficiency

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[10] Order No. 10-488 at 8.

demarcation like any other input can be beneficial to the utility. On April 24, 2015, Idaho Power asked the Commission for approval to change its avoided cost prices to reflect a changed resource deficiency period start date. If the resource sufficiency/deficiency demarcation is an input that can only be changed in the IRP, Idaho Power's application to update its avoided cost prices for a different resource deficiency period start date must fail.

**Q. Will allowing parties to challenge the resource sufficiency/deficiency demarcation in the process following an avoided cost filing encourage litigation?**

A. Staff does not think so. As noted above, Staff recommends maintaining the status quo, with two caveats: 1) the utilities will file MFRs with post-IRP avoided cost updates; and 2) the resource sufficiency/deficiency demarcation will be treated like any other input in the avoided cost compliance filings. The status quo has been in effect since at least 2005. The Commission can look to history to determine whether allowing stakeholders to challenge avoided cost price inputs taken from the IRP leads inexorably to litigation. It does not.

**Q. What is your response to Idaho Power's assertion that the "compliance process" after the utility makes an avoided cost filing should be limited to verifying that the utility used the correct inputs from the IRP?[11]**

A. Staff agrees with Idaho Power to the extent it argues that the avoided cost price review process is not the appropriate venue to resolve policy issues.

[11] Idaho Power/100, Allphin/4-5.

For example, although the resource sufficiency/deficiency demarcation should be subject to challenge, the method the Commission uses to determine the demarcation—the acquisition date of next major resource—should not.

Staff does not agree with Idaho Power, however, that the avoided cost price review process is limited to verifying that the utilities have used the inputs they have been directed to use. Staff recognizes that there may be few well-founded challenges to inputs taken from the IRP. This is because the utility's avoided cost prices are based on the utility's avoided costs, and the utility's resource acquisition plan is the best source of information for what costs the utility may avoid. However, there may be circumstances in which it is clear the utility's actions will not match the utility's plan or in which the utility's reliance on a particular input from the IRP is so unreasonable that correction is necessary. A review process to capture these circumstances is necessary.

**Issue No. 6: Do market prices used during the Resource Sufficiency Period sufficiently compensate for capacity?**

**Q. Has any party offered a persuasive reason to change the Commission's policies regarding avoided cost prices during the utilities' sufficiency periods?**

A. No. Staff finds the QFs' testimony on this issue to be confusing because they offer different arguments as to why market-based prices are not sufficient to compensate QFs for capacity during sufficiency periods and offer a joint proposal for how to compensate QFs for capacity during sufficiency periods that is difficult to reconcile with the Commission's current avoided cost price framework.

The Renewable Energy Coalition (REC) testifies that market-based prices do not adequately compensate during sufficiency periods because utilities are actually making significant short-term market purchases and investing in thermal resources.[12]

CREA testifies "the differentiation of on-peak and off-peak prices found in the wholesale power market does not in any meaningful analytical way reflect the value of capacity, as that term has been traditionally used in the utility industry. Rather, it is a reflection of simply supply and demand."[13]

The Joint QF Parties assert that market-based prices do not adequately compensate QFs for capacity during sufficiency periods given the current risk associated with coal resources and PacifiCorp's investments to retain its coal resources.[14]

**Q. What remedy do the QFs recommend to resolve these alleged flaws in the Commission's methodology?**

A. CREA and the Joint QF Parties recommend the Commission implement an "interim capacity pricing mechanism" based on the net present value of PacifiCorp's planned investment in coal resources during the sufficiency period to attribute some value to the capacity of renewable and zero-emission

[12] Coalition/400, Lowe/18-19.
[13] CREA/600, Skeahan/11-12.
[14] Joint QF Parties/100, Higgins/5-6.

resources during PacifiCorp's sufficiency period until the uncertainty regarding implementation of 111(d) is resolved.[15]

**Q. What concerns does Staff have with the QF testimony on this subject and the Joint QF Proposal?**

A. The flaw in the QFs' arguments is that they do not address or reconcile to Commission's current policies on market-based prices and demarcation of resource deficiency periods when QFs are compensated for their capacity based on the fixed costs of the next renewable resource. For example, CREA disagrees with the Commission's conclusion that on-peak forward market prices include a capacity component.[16] But, CREA's recommended solution does not address this alleged flaw in the Commission's avoided cost methodology. Instead, the recommended solution is an ad hoc mechanism to capture the value of avoided risk related to coal regulations. Similarly, REC's argument that market-based prices do not adequately compensate QFs for avoided capacity when utilities are making significant market purchases during the sufficiency period and investing in existing thermal resources[17] is essentially an attack on the Commission's policy that acquisition of a major resource (at least five years in duration and 100 MW) signals the start of a deficiency period. But, rather than proposing to modify how the Commission determines when a deficiency period starts, REC recommends that the Commission adopt the interim capacity mechanism.

[15] Joint QF Parties/100, Higgins/12-14.
[16] CREA/600, Skeahan/12.
[17] Coalition/100, Lowe/18-19, Coalition/500, Lowe/7.

**Q. Does Staff have concerns with the interim capacity mechanism?**

A. Yes. As explained in Staff's response testimony, Staff does not think the Commission has authority to include an adder to avoided costs that is not based on real costs the utility will avoid.[18]

**Issue No. 7: What is the most appropriate methodology for calculating non-standard avoided cost prices? Should the methodology be the same for all three electric utilities operating in Oregon?**

**Q. The Oregon Department of Energy (ODOE) recommends that if the Commission allows utilities to use a model-based approach to calculate non-standard avoided cost prices, the Commission should require that wholesale prices should serve as the floor for avoided cost prices. Does Staff agree with this recommendation?**

A. Yes. As ODOE notes,[19] utilities used to utilize decremental generating costs to determine standard avoided cost prices during sufficiency periods.[20] In Order No. 05-584, the Commission decided that such prices did not sufficiently compensate QFs for avoided capacity and ordered utilities to value "avoided costs when a utility is in a resource sufficient position at monthly on- and off-peak forward market prices as of the utility's avoided cost filing."[21] Although that order applied to the calculation of standard avoided cost prices, the same

[18] Staff/600, Andrus/19.
[19] ODOE/900, Carver/10 ("Previously, decremental generating costs were used during periods of sufficiency.").
[20] See Order No. 05-584 at 27 ("When in a period of resource sufficiency, PGE and PacifiCorp have historically calculated avoided costs based only on the variable costs of operating existing generating resources.").
[21] Order No. 05-584 at 28.

reasoning supports the use of wholesale prices as a floor in the calculation of non-standard rates.

**Issue No. 8: When is there a legally enforceable obligation?**

**Q. Gardner Solar recommends that if the Commission adopts Staff's position regarding when a QF can show a legally enforceable obligation (LEO), the Commission should adopt a mechanism by which the QF can make this showing.[22] Does Staff agree that such a mechanism is necessary?**

A. It is not necessary. Staff suspects that Gardner Solar is not aware that the Commission approved the use of a dispute resolution process for standard contract negotiations in Order No. 15-130. Staff believes the dispute resolution mechanism should be sufficient to allow a QF to make the necessary showing without going through the process of filing a formal complaint.

**ISSUE NO. 9: HOW SHOULD THIRD-PARTY TRANSMISSION COSTS TO MOVE QF OUTPUT IN A LOAD POCKET BE CALCULATED AND ACCOUNTED FOR IN THE STANDARD CONTRACT? Q. What is Staff's position regarding PacifiCorp's proposal to allocate third-party transmission costs to move QF output from a load pocket?**

A. PacifiCorp proposes that when a QF is located in what PacifiCorp determines to be a load pocket, PacifiCorp will secure enough firm long-term transmission to export excess generation from the load pocket for the term of the contract and include the costs of this transmission in an addendum to the standard

[22] Gardner Solar/200, Benga/3.

contract.[23] Staff is not prepared to support this expensive and inflexible method for allocating costs to the QF in every load pocket situation under the standard contract.

**Q. Please explain the factors Staff evaluated in arriving at this position?**

A. Order 14-058 requires the utilities to assign to the QF any third-party transmission costs incurred to move QF output from the point of delivery to load. Meeting the objective of assigning costs to a 20-year contract while reasonably accounting for future transmission rate changes, load pattern changes, and potential incremental generation, combined with multiple transmission products, is inherently complex,

**Q. What does Staff recommend?**

A. Given the difficulty of analysis, Staff believes that all the parties need sufficient time to investigate PacifiCorp's proposed transmission cost allocation methodology and to evaluate the feasibility of other options proposed in this case. Staff recommends the Commission defer this issue to Phase III of this investigation for further review.

**Q. Does this conclude your testimony?**

A. Yes.

[23] PAC/1300, Griswold/18.