

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

**IN THE MATTER THE PUBLIC UTILITY)
COMMISSION OF OREGON) CASE NO. UM 1610
)
Investigation Into Qualifying Facility)
Contracting and Pricing)
)
)
)
_____)**

Community Renewable Energy Association

Exhibit 700

Reply Testimony of Brian Skeahan

August 7, 2015

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1 **I. Introduction**

2
3 **Q. Are you the same Brian Skeahan who provided opening testimony and response**
4 **testimony on behalf of the Community Renewable Energy Association (“CREA”) in Phase**
5 **II of the Public Utility Commission of Oregon’s (“Commission” or “OPUC”) docket UM**
6 **1610?**

7 **A. Yes.**

8 **Q. Have you reviewed the opening and response testimony of the other parties to this**
9 **proceeding in Phase II?**

10 **A. Yes.**

11 **Q. Please describe the scope of your reply testimony.**

12 **A. Generally speaking, I do not see a need to provide further testimony on the majority of**
13 **the issues, and I refer the Commission to my opening and response testimony for CREA’s**
14 **position, which has not materially changed from the position set forth in my opening testimony.**
15 **CREA has jointly sponsored the testimony of Kevin C. Higgins with other parties, and Mr.**
16 **Higgins will provide reply testimony on Issue 6, related to whether the market prices provided**
17 **during the sufficiency period adequately compensate QFs for energy and capacity. I will provide**
18 **a brief reply to certain statements made in response testimony on Issue 9 regarding the costs of**
19 **transmission to move QF output out of load pockets.**

20 **II. Reply to Phase II Response Testimony**

21
22 **A. Issue 9: How should third party transmission costs to move QF output in a**
23 **load pocket to load be calculated and accounted for in the standard contract?**

24
25 **Q. Did PacifiCorp provide a meaningful proposal to implement the Commission’s**
26 **directive in Order No. 14-058 at pages 22-23, “asking parties to recommend how third-**

1 **party transmission costs to transport QF output from receipt in a load pocket to load**
2 **should be accounted for in standard contracts”?**

3 **A.** No. PacifiCorp has not provided a meaningful proposal other than to suggest that it
4 should just assign to the QF the actual costs of procuring a year-round, long-term firm point-to-
5 point (“LTF PTP”) transmission right for the duration of the contract, even if the QF causes a
6 load pocket problem only for a few hours per year. PacifiCorp completely fails to address the
7 fact that there are options for PacifiCorp to reduce its costs to move such QF output to load,
8 including the ability to re-direct other under-utilized transmission rights to deliver QF output to
9 load and the ability to re-direct transmission acquired for QFs at times when it is not needed to
10 move the QF output to load.¹ Assigning the full cost of a full, year-round LTF PTP right to QFs
11 as the only option is completely unreasonable.

12 **Q. Does the record contain any reasonable proposals?**

13 **A.** Yes. In contrast to PacifiCorp, CREA provided a concrete proposal that, if the
14 Commission determines to assign any transmission costs to the QF, the QF should be provided
15 with several options. To reiterate, CREA stands by its proposal that the QF should be provided
16 the following options:

17 (1) Offer the QF a fixed avoided cost rate reduction based on the reasonably projected
18 costs of securing LTF PTP transmission, with a reasonable offset for the value PacifiCorp
19 should be able to recoup for its ability to re-direct the transmission procured for the QF to
20 other uses at times when the QF’s generation does not cause generation to exceed load.
21 This option should be available to all QFs to ensure compliance with PURPA’s fixed-
22 price option. PacifiCorp has exhibited the ability to offer this option because it entered

¹ See CREA/400, Skeahan/23.

1 into a contract with TMF Biofuels with a fixed cost projection for LTF PTP transmission,
2 as explained in response to CREA data request 9.2 and included in Exhibit CREA 502.

3 (2) Allow the QF to elect to enter into a contract term or addendum requiring the QF to
4 pay PacifiCorp's incremental third-party transmission costs that are directly tied to
5 moving its output to load. This option would require a contract term or addendum that
6 also requires PacifiCorp to provide a monthly accounting of its actual costs that are
7 assigned to the QF, including all instances where QF generation exceeded load, the third-
8 party transmission that was purchased and used, an offset for any other uses PacifiCorp
9 was able to make of the QF-allocated transmission during times when the QF generation
10 did not cause generation to exceed load, and an explanation of why any unused
11 transmission could not be re-directed for other uses during other times.

12 (3) Allow the QF to elect to enter into a contract term or addendum providing PacifiCorp
13 with a narrowly limited curtailment right to address the load pocket problem. The
14 curtailment right should be limited solely to instances where the QF output causes
15 generation in the load pocket to exceed load, and where PacifiCorp is unable to re-direct
16 its existing LTF PTP transmission rights to deliver the QF output to load. This option
17 would require a contract term or addendum that also requires PacifiCorp to provide a
18 monthly accounting of instances where QF generation exceeded load, and an attestation
19 by PacifiCorp describing why it was unable to re-direct other LTF PTP transmission
20 rights to alleviate the problem each time a curtailment occurred. If PacifiCorp cannot
21 demonstrate it was unable to solve the problem by re-directing its other transmission
22 rights, the contract clause would require PacifiCorp to compensate the QF for lost
23 revenue during the curtailment. This option should be available because in some, if not

1 most, cases it may be more economic for a QF to curtail its output rather than pay for
2 year-round LTF PTP transmission it only uses for a relatively small number of hours per
3 year.²

4 **Q. PacifiCorp’s witness, Mr. Bruce Griswold, testifies that it is not possible to provide a**
5 **fixed price because the OATT rates will increase during the term of the QF contract. Do**
6 **you have any response?**

7 **A.** I have two responses to this argument.

8 First, CREA intends to provide legal briefing that a fixed price must be offered to the QF
9 as one option under PURPA and the Federal Energy Regulatory Commission’s (“FERC”) orders
10 on this topic. Since I am not an attorney or otherwise qualified to provide opinions as to the law,
11 I direct the Commission to soon-to-be-filed legal briefing on that point. As a policy matter,
12 providing a fixed-rate option to the QF provides the certainty that many QFs require in order
13 obtain financing to complete and operate the QF project.

14 Second, Mr. Griswold’s position is belied by the fact that PacifiCorp *did in fact* enter into
15 a long-term PURPA contract with the TMF Biofuels QF with a fixed cost projection for LTF
16 PTP transmission, as explained in response to CREA data request 9.2 and included in Exhibit
17 CREA 502.³ The fixed cost projection for the transmission to move the QF power to load was
18 used as a reduction to the fixed avoided cost rates provided to the QF. PacifiCorp acknowledges
19 that it did so but PacifiCorp fails to explain why it cannot implement this option for other QFs.

20 **Q. Mr. Griswold also suggests that including a contract addendum under CREA’s**
21 **options (2) and (3) above could lead to disputes and litigation. Do you have any response?**

² CREA/500, Skeahan/24-26. This proposal is unchanged from my opening testimony.

³ CREA/500, Skeahan/24-25.

1 **A.** Yes. The fact that PacifiCorp may choose to violate a PURPA contract or abuse its
2 reasonable rights therein does not provide a basis to deprive the QF of its right to a reasonable
3 contract. The QF is entitled to a legally enforceable obligation or other reasonable contractual
4 arrangement to sell its output to PacifiCorp. If PacifiCorp is not willing to be contractually
5 bound to act reasonably in assigning to QFs the costs of load pocket transmission, then
6 PacifiCorp should not be allowed to assign any such costs to the QF.

7 **Q. Mr. Griswold further suggests that CREA's proposal (3) that the QF has the right**
8 **to agree to a limited curtailment right is illegal under PURPA. Do you have any response?**

9 **A.** I am not a lawyer and will not opine in response to Mr. Griswold's legal conclusions.
10 However, I would like to clarify that CREA's proposal for a curtailment option is *only an option*
11 to the QF. While this was very clear in my opening testimony, Mr. Griswold appears to be
12 confused. The QF will only be subjected to the curtailment rights of PacifiCorp if the QF elects
13 not to agree to the fixed price reduction in CREA's proposed option (1). CREA's legal counsel
14 will respond to Mr. Griswold in legal briefing.

15 **Q. Mr. Griswold further suggests that a limited curtailment option turns the QF power**
16 **into a non-firm product. Do you have a response?**

17 **A.** The QF power is a firm product if PacifiCorp has the right to curtail only when the loads
18 in the interconnected load pocket do not need the QF power. PacifiCorp regularly complains that
19 the QF power cannot be dispatched like a PacifiCorp-owned facility, and now contradicts itself
20 by indicating that providing PacifiCorp with the right to curtail a QF when its output is not
21 needed turns the QF power to a non-firm product.

22 **Q. Do any other parties agree with CREA's proposal?**

1 **A.** Yes. The Commission Staff witness, Ms. Brittany Andrus, largely agrees that CREA’s
2 proposed alternatives are reasonable. Ms. Andrus specifically recommends the Commission
3 direct PacifiCorp to implement the three options outlined by CREA and make them available in a
4 compliance filing.⁴ Although Ms. Andrus disagrees due to administrative burden regarding
5 CREA’s proposal that PacifiCorp provide a detailed map of its load pockets in its Schedule 37,
6 she agrees similar information should be provided to the QF upon request.⁵ The Oregon
7 Department of Energy’s witness, Ms. Diane Broad, also provided testimony that is largely
8 consistent with CREA’s basic proposal. The other QF parties also appear to largely agree with
9 CREA’s proposal. The support of CREA’s proposal on the load pocket issue, and PacifiCorp’s
10 lack of any reasonable proposal, should make resolution of this issue fairly simple for the
11 Commission.

12 **III. Conclusion**

13 **Q.** **Does that conclude your testimony?**

14 **A.** Yes.

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⁴ Staff/600, Andrus/29-30.

⁵ Staff/600, Andrus/29.