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**VIA ELECTRONIC MAIL (puc.filingcenter@state.or.us)**

Commission Chair Susan Ackerman  
Commissioner John Savage  
Commissioner Steve Bloom  
Oregon Public Utility Commission  
3930 Fairview Industrial Dr SE  
Salem, Oregon 97302-1166

Subject: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY (PGE)  
Application to Update Schedule 201 Qualifying Facility Information  
Docket No. UM 1728

Dear Commissioners:

Wellons, Inc. submits these comments regarding the Commission's May 25 announcement that the previously scheduled June 21 public meeting on the above matter has been moved to the June 7 consent agenda. Wellons would be harmed by this change and objects for the reasons herein. Wellons requests that the meeting be rescheduled at a time no earlier than June 22, 2016.

**About the Seller.** Wellons, Inc. is an Oregon corporation headquartered in Vancouver, Washington with manufacturing facilities in Sherwood, Oregon. Wellons is a leader in providing wood-fired energy systems, lumber dry kilns, and related products and services to the forest products industry, and employs approximately 200 persons. Recently Wellons created two subsidiary companies, Energy Partners I, LLC, and Energy Partners II, LLC ("EP I" and "EP II" respectively, or "Sellers", collectively) to develop 10,000 kW wood-fired cogeneration at two rural Oregon lumber mill sites and sell their output to PGE as qualifying facilities (QFs).

**Relevant Facts.** On April 29, 2016, EP I and EP II each requested standard renewable power purchase agreements (PPAs) from PGE. On May 23: (1) PGE provided each Seller with a draft PPA; (2) Sellers made no changes and requested final drafts for execution as soon as possible; and (3) PGE sent Seller a data request for nineteen additional items of information. Without waiving objections to PGE's right to request such information, Seller fully provided the information requested of both EP I and EP II on May 26. Under the timelines established in Order No. 06-538, and applicable to PGE Schedule 201, PGE must offer Sellers final executable PPAs no later than June 14—fifteen business days after Sellers and PGE agreed to all terms and conditions on May 23, 2016.

**Wellons' injuries.** If the Commission declares rates effective on June 8--the day after the rescheduled meeting-- then EP I and EP II likely will be prevented from obtaining PPAs at the avoided cost rates in affect just prior to PGE's April 29 application. Conversely, if the

Commission retains an effective date of 60 days (such as staff previously recommended) or 52 days (as requested by PGE in its application), then Sellers and PGE will have abundant time to execute PPAs prior to the rate change. Moving the meeting to June 7 also would effectively prevent Wellons from challenging the reasonableness of PGE's requested changes to its Schedule 201. Wellons did not intervene in Docket No. UM 1728 because, based on past orders and practice, it had ample time to contract for a standard QF PPA prior to PGE's rate change request taking effect. Moving the effective date forward to June 8 would make Wellons' QFs subject to the new rates AND, because the change was made on very short notice, also deprive Sellers of a meaningful notice and opportunity to review and contest PGE's proposed Schedule 201 revisions. Eight business days (May 26-June 7) is not enough time for Sellers to investigate and contest the April 29 application. In summation, accelerating the rate change effective date to June 8 may block Sellers' ability to contract at the existing rates; accelerating the meeting to June 7 (with a May 27 comment deadline) on May 25 would deprive Sellers of a meaningful opportunity to challenge PGE's proposed changes.

**PURPA standards.** Sellers anticipate the Commission's careful consideration of the potential negative impact of utilities contracting to buy QF power at rates that do not reflect the most up to date information on avoided costs. This issue is as old as PURPA itself, and was addressed by FERC in its Order adopting regulations implementing PURPA, in 1980:

Some of the comments received regarding this section stated that, if the avoided cost of energy at the time it is supplied is less than the price provided in the contract or obligation, the purchasing utility would be required to pay a rate for purchases that would subsidize the qualifying facility at the expense of the utility's other ratepayers. The Commission recognizes this possibility, but is cognizant that in other cases, the required rate will turn out to be lower than the avoided cost at the time of purchase. **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 Commission agrees with these latter arguments, and believes that, in the long run, "overestimations" and "underestimations" of avoided costs will balance out.**


Order No. 69, Fed Reg. Vol. 45 No. 38 at 12224 (February 25, 1980)(emphasis added). FERC concluded, in Order No. 69, that differences between calculated incremental costs and a utility's "true" avoided cost fluctuated between positive and negative and evened out over time. FERC therefore opted for rules that provide predictability in avoided costs to facilitate QF development over the need for minute-by-minute evaluations of avoided costs. This Commission has long echoed FERC's language above, and recently reaffirmed its policy, in Docket No. UM 1610:

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 requirements.**

Order No. 14-058, slip op. at 3-4. (citing Order No 05-584)(emphasis added).

**Conclusion.** QFs, including Sellers, have expended great effort and resources in reliance upon requirements set forth by the Commission and embodied in PGE Schedule 201. The Commission's proposed change could be detrimental to all those that have relied on the rules, (unless the Commission fashions a remedy for those who would be harmed). The proposed change will be inconsistent with this Commission's longstanding goals of stable and predictable actions, and accurate price signals. The proposed change would also violate well-settled principles of notice and procedural due process.

Sincerely,

A handwritten signature in black ink that reads "Ken Kaufman". The signature is written in a cursive style and is followed by a horizontal line.

Ken Kaufman, Attorney at Law

Attorney for Energy Partners I, LLC and Energy Partners II, LLC