

BEFORE THE PUBLIC UTILITY COMMISSION OF

OREGON

AR 593

In the Matter of

OBSIDIAN RENEWABLES, LLC

Petition to Amend OAR 860-029-0040,
Relating to Power Purchases by Public
Utilities From Small Qualifying Facilities

SIERRA CLUB COMMENTS

In accordance with the Invitation to Comment issued in this proceeding on November 17, 2015, Sierra Club hereby submits these comments in support of the Petition for Rulemaking submitted by Obsidian Renewables. Sierra Club agrees with Obsidian that issues related to the standard contract terms, conditions, and policies for power purchases under PURPA are best addressed as part of a comprehensive process that allows for full stakeholder engagement. Sierra Club believes the rulemaking proposed by Obsidian would accomplish such a comprehensive review.

Sierra Club is a party to docket UM 1734 and submitted written pre-filed testimony regarding PacifiCorp’s application to reduce the standard contract term offered to Qualified Facilities (“QFs”) under PURPA. Idaho Power has filed a similar application in docket UM 1725, but due to time and resource constraints, Sierra Club is not a party to that proceeding. PacifiCorp’s application in UM 1734, Idaho Power’s application in UM 1725, and the proposed rulemaking in this docket AR 593 all address the same fundamental questions regarding PURPA contract terms and the eligibility cap for small QFs.

Obsidian's petition for rulemaking highlights important concerns that Sierra Club has with the pending UM 1734 and UM 1725 dockets. Sierra Club notes that PacifiCorp filed nearly identical applications in Idaho, Utah and Wyoming, and each of those dockets are proceeding on different schedules. Sierra Club was a party in the docket before the Idaho Public Service Commission and is currently a party in the ongoing Utah docket that completed evidentiary hearings on November 12, 2015 in Salt Lake City. Sierra Club has expended substantial resources in the Idaho, Utah and Oregon dockets that are all addressing a concerted campaign by PacifiCorp (and Idaho Power) to essentially eliminate the must-purchase obligation under PURPA, which if successful would severely impede, if not completely stop, the development of renewable QF projects throughout its service territory. PacifiCorp's parent company, Berkshire Hathaway Energy, has also engaged heavily in lobbying Congress to amend PURPA in an attempt to make an end-run around its state regulators while accomplishing the same result of eliminating the must-purchase obligation.

In short, PacifiCorp and Idaho Power are engaged in a national and region-wide effort to fundamentally change the implementation of PURPA throughout their service territories. The ultimate purpose of the applications in UM 1734 and UM 1725 is not utility-specific, or even state-specific. The goal is to force changes to laws and policies that PacifiCorp and Idaho Power view as a threat to their business and profitability. To that end, Sierra Club agrees that the Oregon Commission should coordinate its review and final decisions in each of the forums that address the same questions of law and policy.

On December 9, 2015, ALJ Allan Arlow issued a ruling deferring Obsidian's motion in that docket to hold the proceedings in abeyance pending action in this proposed rulemaking proceeding. ALJ Arlow did not dismiss the possibility that the Commission may later decide to

review the various dockets in a consolidated manner, but he determined that the procedural scheduling in UM 1734 should continue through hearings. The Commission's decision to continue with the schedule in UM 1734 means that Sierra Club will focus on that docket for the time being.

Sierra Club would have preferred to see the PURPA issues addressed in a single comprehensive proceeding, either through a consolidated docket or through the rulemaking proposed by Obsidian. However, Sierra Club, like other parties, is now faced with the prospect of choosing where and how to engage its limited resources across the various proceedings that deal with essentially the same issue. Sierra Club does believe that the record in UM 1734 has been well-developed, and the Commission will have a substantial amount of evidence to consider in making its determination related to PacifiCorp's attempt to side-step the must-purchase obligation for QFs in its Oregon service territory. If the Commission continues to consider the UM 1734, UM 1725 and this rulemaking docket separately, Sierra Club recommends that at a minimum the Commission incorporate the records of the various dockets into each other so that parties' efforts in one proceeding are not lost in another.

Given our commitment of resources thus far to UM 1734 and the ALJ's ruling to continue that proceeding, Sierra Club will continue to focus its attention on PacifiCorp's application. However, we hope that the Commission will incorporate Sierra Club arguments and testimony in that proceeding into whatever decisions it makes in UM 1725 and this proceeding AR 593.

Dated: December 18, 2015

Respectfully submitted,

/s/Travis Ritchie

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