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January 3, 2016

RE: Objections to "PGE Filings", as follows:

1) PGE's "Proposed Price Changes", via revisions to Schedule 201 for Qualifying Facilities 10 MW or Less, docketed as UM 1752, filed 12/3/2015, which are affected by:

2) PGE's "IRP Update", filed 12/2/2015; and,

3) PGE's "AR593 Rulemaking Comments", filed 12/18/2015, which includes to PGE assertions on QF contracting, which seek to influence this matter;

Dear PUC Commissioners and Staff:

I write this letter in protest of the above PGE Filings and to present comments. PGE's Proposed Price Changes therein attempts to radically and unilaterally slash (some by 70%+) the rates available to QFs and restructure them (by removing seasonal pricing) without sufficient (if any) appropriate scrutiny nor any meaningful public process. PGE does so based on incorrect, unscrutinized, hasty, insufficiently considered, selective, selectively omissive, and sometimes invented assumptions. Their requests should be rejected [with prejudice].

I submit these comments as a small power project developer. I own 100% of the interests in the QF projects my company develops. Contrary to PGE's claims that current QFs are *not* "Mom and Pop": I am not rich. I am not a multi-billion dollar nor multi-national company. Nor am I a lawyer or corporate big-shot. I'm just a young guy trying to start a business and pursue his dream.So I will do my best to explain here my view on these matters, as they are consequential, I believe, to me, and to the Oregon regulatory space, and the entire competitive electrical market in Oregon.

Indeed, much like me and my projects, most QF projects before PGE now are small, privately owned, not-yet-built, and already facing challenging economics at current pricing, and real development risks, including worst-in-nation level solar resource and the prospect of having to repeatedly sue PGE for performance on QF PPAs approved by the Commission, as other projects (such as PaTu) have had to do.

PGE's rate proposals and AR593 requests (each and collectively) would destroy QF development for PGE in Oregon.

Further, PGE's proposals, in both the specifics and in their method (and the precedent it would create), would harm economic development in Oregon ($10s of millions for construction jobs in high unemployment areas), harm competition in the Oregon electrical market, harm general investment in Oregon, harm options for future RPS compliance, harm me, harm my projects, and especially harm the ratepayer, due to the direct, indirect, short-term, and long-term consequences of these actions to market competition and the required regulatory reliability as a necessary back-drop for investment in Oregon.

MY COMMENTS AND OBSERVATIONS:

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1) **PGE's proposed changes are radical. As such, they merit extra scrutiny, not less.** For example:

    a. ***Rate reductions of over 70%*** are proposed for summer on-peak pricing in 2020 and beyond. All solar pricing categories in 2020 and beyond are cut by 35-73%. These economics were challenging (at best) before this proposal.

    b. ***Restructuring of rates to eliminate seasonal considerations:*** PGE unilaterally proposes to flatten prices across all months in certain categories, eliminating all seasonal performance incentive, without public discussion, and despite prior meticulously-constructed month- and year-specific pricing. Coincidentally, this also diminishes project returns for solar projects, paying them a slightly higher energy price in low production months (when PGE doesn't need the energy as much) and less in high production months (summer, when PGE needs the energy more).

    c. ***Pushing out PGE's physical renewables compliance by 4 years*** *undermines any non-PGE project development (QF or otherwise) for the next 5-8 years*, practically ensuring no options exist to benefit the ratepayer, except PGE's own internal projects. Because why would a developer invest in a developing a project with a PUC-approved non-market. (Meanwhile, can PGE still develop assets and be ready to bid, then act in contradiction of their IRP?) Does the Commission want PGE's own projects to become the only game in town?

    d. ***Complete change of PGE RPS compliance strategy for next 5-8 years***. See consequences in (c) above per effect on future competitive market options.

2) **PGE's attempt to avoid scrutiny of assumptions is a dangerous precedent.** In their IRP Update PGE states repeatedly that no action or approval is requested of the Commission. It was followed the next day with a radical request based on the same information. It is proposed for approval administratively, outside the extensive process designed explicitly to avoid questionable and/or self-interested actions and assumptions resulting in insufficiently scrutinized, consequential policy changes.

3) **PGE's attempts to make changes out-of-cycle, out of process frighten me, and undermine my willingness to invest in Oregon,** particularly given #2 and #1, especially in energy development, QF or otherwise. I'm scared I won't be able to fight the utility's unsubstantiated claims, due to their superior financial resources and disregard for the rules and process, and therefore any investment could be at risk of total arbitrary loss.

4) **Unpredictable electrical regulatory framework threatens all electric competition in Oregon:** This type of utility behavior (history and precedent), threatens not just QF development, but any development and investment in the state by those seeking bring competitive projects into the market. How can a small or large developer, deal with these costs and risks, justify investment against this backdrop in Oregon? …if at any moment the utility just changes the rules, changes their IRP radically, pushes out the need for physical resources by 4 years with no proper scrutiny

of assumptions (while maintaining their own ability to participate and conduct development they would buy from themselves). Projects take *years* of work and capital and risk to be developed. How would any company justify material expense in the context of radical regulatory change risk?

5) **PGE's action should undermine OPUC faith in PGE's future representations** of assumptions and consequences therefrom, factually, analytically, and in terms of self-dealing conflicts of interest.

6) Current efforts by utilities to squelch PURPA QF contracting are antithetical to PURPA's express intent, Oregon law, and OPUC policy.

7) QFs are a powerful and efficient means of market participation to create competition and alternate solutions. Self-motivated sellers which can creatively seek to perform at current avoided costs is a ratepayer-favorable mechanism, which reduces the need for utilities to invest as much time in running RFPs and other costly, time-consuming, ratepayer-billed efforts.

8) **Threats to competition are a threat to Oregon ratepayers.**

9) **False/Invented Assumptions by PGE in IRP Update.** PGE somehow *invented* the extension of the PTC and ITC, taking it upon themselves to *predict an act of Congress* in a period of extreme partisanship and gridlock. PGE thought this was an appropriate state policymaking backdrop for radical, unscrutinized changes. Their assumptions are now known to be incorrect.

10) **PGE PTC/ITC Extensions are materially different than PGE's IRP Update assumption:** When federal tax credit extension did occur, it was driven by a rare budget deal, and under materially different terms than PGE assumed. The tax credits are now designed to phase out quickly. (I.e. not be extended indefinitely, per PGE assumptions.) They will not exist for wind by 2020, having tapered in prior years, and will be almost gone for solar. This materially changes the economic analysis and imperative surrounding consideration and timing of physical renewable resources. Indeed, their permanent expiration coincides substantially with (and/or precedes) PGE's current resource and renewable insufficiency periods, suggesting that more procurement prior to 2020 is needed, rather than delaying it to 2024 when these material incentives won't exist.

11) **PGE Assumptions are Selective and Omissive,** leaving out, disregarding, or treating casually factors which would push pricing up instead of down, such as solar's favorable energy production alignment with system needs (PGE wrongly credits only 5% capacity, not updated in the Update), and anti-competitive impacts. It also ignores immediately surrounding events, which could counter the wisdom of a submission at that point in time, including: 1) Unresolved federal ITC/PTC outcomes, 2) the Paris Climate accord, and 3) the simultaneous bankruptcy of their contractor at Carty, which resulted in (a few days later) stop of construction of PGE's most critical new resource (a good time to squash options which might address resource insufficiencies?).

12) **PGE's proposals will impair economic development.** Projects my companies are developing would have tens of millions of dollars of economic impact in multiple rural Oregon communities, including areas with high unemployment (>11%). Construction labor for solar projects would be primarily, perhaps entirely, local, comprising hundreds of jobs across only a few projects.

Additional QFs will distribute these affects more fully around the state of Oregon, mostly in rural areas, with the potential for hundreds of millions of economic benefit over 5-10 years. Whether this should be encouraged or discouraged is a question for the PUC.

13) **PGE's hostile, unilateral actions are *exactly* why PURPA was passed. PGE is effectively arguing for *stronger* PURPA policies in Oregon** by demonstrating how utilities still strongly have, and indiscriminately wield, the power to squelch competition and small project development, despite even Oregon's relatively mature PURPA policy framework. The same observation applies to the actions of the other Oregon IOUs.

14) **PGE's proposal will harm me, my company, and my projects,** and my surrounding investment in Oregon. Their proposed pricing would destroy the viability of my proposed projects, causing a total loss of investment, months of work, and reputational damage. Despite stating clearly in its IRP Update cover letter that avoided cost changes could harm QF developers, PGE made no effort to ask me if any impact to my projects would occur; PGE didn't even notify me of its planned filings, despite same-day and surrounding-day contact, at lawyer and contracting levels (both), much less seek to assure me that projects in negotiation would be seen through completion.

15) **I fear this is an effort by PGE to avoid its Legally Enforceable Obligation to purchase power from projects** for which I'm currently in contracting with PGE and for all of which I have confirmed the commitment to sell all output to PGE under their standard contract and current pricing.

16) **The costs to me, personally, and as a small project developer, of dealing with PGE's hostile filings are disproportionately huge, stressful, expensive, risk-creating, and distracting**. Since December 3, the substantial threat of of PGE's actions has resulted *in multiple days of lost productivity* to response strategy, planning, analysis, and implementation, not to mention thousands in legal costs, opportunity costs, and pressure to make hasty actions and decisions against the context of total loss if these changes are approved. If I then need outside capital to support development and deal with PGE's challenges, can you imagine explaining to investors PGE's hostility and how that affects project risk? (I.e. the likelihood of a successful return realization?)

17) **PGE makes incorrect and exaggerated claims about QFs** in their AR593 Rulemaking Comments, **the intention of which appears to be scare the Commission into hasty action**. *Mom & Pops or multi-nationals?* PGE strongly and falsely states that these QFs are "not Mom and Pops", but rather multi-national, multi-billion dollar companies are dominating the process, and that seven 10 MW solar QFs is a threat.

In reality: PGE is crying wolf, for self-interest. I'm just a young American entrepreneur, trying to start a business, who owns 100% of four of the seven 10 MW projects they exclaim concern about. I guess that makes me "Mom and Pop". I'm certainly not a multi-national.

(Further, my company's projects are strategically dispersed around the state, in multiple counties, thus benefiting many areas and creating improved generation resource diversity.)

They also incorrectly assert that this "flood" of QFs occurred as a result of developers switching to the only game in town. In reality, I've never developed in Pacific Power or IPC

territories (whose regulatory antagonism clearly squelched any potential interest in doing so). PGE also never asked me this question before asserting this "fact" to the Commission. And nearly all of the QF PPAs actually signed by PGE in 2015 *are from before* those two utilities upended their PURPA obligations, shutting down new development, which is what PGE hopes to emulate.

The other project PGE references on 12/3/2015 were basically inquiry phone calls, not sufficient basis for a huge policy shift, and likely also not if all those projects were contracted (which wouldn't all get built).

The overwhelming majority of their QF projects, past and current, are: 1) Very Small (under 3 MW); **2) Owned and developed by small companies** or individuals (4 of the 7 10MW projects referenced definitely are); and/or **3) Not yet built,** due to challenging economics (many never will be).

PGE claims it is actually in testing of a QF project, but omits relevant details about its size and attributes, which could be collocated with load and/or a net-metering type alternative, and is certainly less than 2.5 MW, because it isn't a 10 MW.

Some scale context is also merited here. Oregon has functionally *zero* utility-scale solar. The largest projects in PGE territory a basically a couple sub-3 MW projects. Further, these 10 MW projects aren't even at the rounding error level of PGE's system management. Other states are installing hundreds of MW of solar. 10 MW is *small-scale* utility-scale solar.

- 10 of the 12 QF PPAs signed in 2015 are 2.5 MW or less (one is 0.5 MW). This is the "triple" which PGE fearmongers about. Three times four. Triple of almost nothing.
- I know for a fact that at least four or more of the seven 10 MW solar projects PGE claims are a problem are owned by small companies or individuals.
- Nevermind that 10 MW is a small project too, and is already burdened with disproportionate development, legal, and financing costs.
- Nevermind that solar projects actually offer a solution to Pacific Northwest utilities' complaints about wind projects' delivery profiles, in that solar project performance largely lines up with system demand, and thus a superior and portfolio diversifying renewable resource.
- Nevermind the almost non-existent history of operational QF solar projects selling to PGE.
- Nevermind PGE's currently projected renewable and energy insufficiencies.
- Meanwhile, larger companies doing business bring benefits too, including the financial resources to weather certain development challenges. And to deal with hostile utilities and the legal bills and stresses and additional project costs which result – and either cause project failures or unnecessary ratepayer expense. And which aren't excluded under PURPA.

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And what exactly is the history of viable, currently operational new QFs with PGE? What percentage of PGE power is produced by them?

Does the lack of meaningful solar in Oregon (and related economic development and resource diversity) have anything to do with the hostile utility environment? What is the impact of this on ratepayers?

18) **Substantial Risks and Challenges to QF Development:** Solar resources in PGE's service territory are *worst-in-nation*, approximately 2/3rds of that east of the Cascades, and lower than Maine. Off System projects would face serious wheeling costs, interconnection study timelines and delays, and upgrade cost risks for interconnection on congested paths.

Any off-system QFs also would face PGE-specific counterparty risk, given a) PGE's history of their QFs having to sue them at FERC and in courts to get performance (PaTu), and b) 1 MW increment scheduling with BPA and PGE's refusal to include typical PPA language (which Pac and IPC have) to reconcile imbalance energy, which puts 10% of a 10 MW off-system project output at risk of payment by PGE, even if PGE gets the energy. Meanwhile, in contracting, PGE refuses to provide the extra time for COD based on transmission provider timelines, despite the *explicit* language right there in their own contract which says they will.

PGE ACTIONS DEMONSTRATE CLEAR NEED FOR STANDARD QF CONTRACTS – AND LARGER NOT SMALLER STANDARD CONTRACTS. PGE's all-out assault on QFs, based on misrepresentations, scrutiny-avoidance, regulatory process circumvention *clearly demonstrates why standard QF contracts are necessary*. Permit me to address this item here, because these PGE filings demonstrate an extremely important point, currently in front of the commission in multiple proceedings.

Please consider my own experience negotiating STANDARD Schedule 201 PPAs with PGE, in which:

I have been denied basic explicit provisions in the contract (extra COD time in 2.1), denied terms previously provided to other QFs in Commission approved contracts (denied contract length within Commission guidance; i.e. discriminatory treatment), forced to accept unpreferred PPA entries which are completely unaffecting to the contract intent and language which affect development options (eg, GIA counterparty), told that explicit COD timeline information provided by a transmission owner isn't sufficient (despite the fact them being the only relevant authority) and forced into additional project risk (despite explicit standard contract language that upon reasonable demonstration such additional time would be granted), and prevented from considering proper challenges to PGE's position due to **this proceeding's** implications, the timeline imperatives to complete contracting before threatened project-destroying price changes, and resulting existential threats to my projects if PGE's request is approved, and being told "We will fight you on that".

Meanwhile I am forced to incur delays, stress, project risk, and legal costs in order to debate how to address just simple basic reasonable issues, while simultaneously PGE attempts to pull the pricing out from under me, without telling me, and then cancels meetings for unrelated matters (effect on market competition?) because I had my lawyer send them a letter on a QF contract question (to discuss their odd interpretation of PPA "term", which subverts an industry-wide interpretation of "term" for PPAs).

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Meanwhile, PGE takes 15 business days to respond to minor items as a delay tactic (other utilities do too), despite clear human resource availability. And then I learn that other QFs have had to sue PGE at FERC just to get paid, and then even upon winning at FERC look forward to suing again in Oregon courts to get performance.

**** PGE may also want to consider whether their own actions – in filing this radical change – actually precipitated the supposed rush of filings they claim in their complaint to the Commission. **** There didn't seem to be (m)any in the hopper until their 12/4/2015 filing. The Commission shouldn't reward their cry of wolf if PGE is causing the problem they claim, when they create stresses which accelerate market participant actions which might be planned over longer times in a stable environment (or never occur).

This is exactly why the standard QF contract is needed. Can Staff or Commissioners imagine how much more challenging and risky this process would be for a non-standard contract? If PGE could theoretically negotiate any item in a NON-standard PPA – and refuses to accommodate items in the STANDARD contract, even which are explicitly permitted in the very language in the contract paragraph (2.1, outside COD) – *what level of obstruction is to be expected in a non-standard contracting process?*

The current situation is what the utilities want: That all QF projects face the full force of their obstructive power and superior financial resources (billable to the ratepayer) to deter QF participation in the market. *And this is exactly what these PGE Filings clearly, clearly demonstrates the means and willingness to do.*

And, thus PGE is also demonstrating why a LARGER (i.e. 20 MW), *not smaller*, standard QF contract size is merited, due increased $-per-KW build costs at smaller scales, and disproportionate to size transactional costs (including regulatory risk and legal), because small projects have nearly identical such costs to larger projects, but fewer MWH to spread them over. Have no doubt, the proposal to cut the standard contract to 2 MW or 100 KW is intended to kill PURPA projects.

Smaller projects have:

1) Unbearable per-project transactional, legal, development, regulatory, and financing costs: The financing costs on a few million dollar 2 MW project could be $500,000; the development expenses might be exactly the same as a 10 or 20 MW project, hundreds of thousands; the legal costs of PPA negotiation alone could be $50-$100k without a standard contract, plus regulatory fights. These costs are perhaps bearable for $25-$50MM projects (without regulatory fight risk). *But these transactional costs will crush small projects,* potentially becoming 10-25% of total costs for 2-3 MW sizes, *and potentially costing more than the entire cost of a non-load-sited 100-200KW project*.

2) Increased $-per-KW unit costs at smaller scale. Further, for solar, construction costs probably TRIPLE on a $/KW basis from 10 MW to 100 kW, and are perhaps double at 2MW vs 10 MW. Per-unit EPC costs taper down to a reasonable economy of scale by 20 MW – *which is what the standard contract size should be, 20 MW* – so ratepayers and developers aren't bearing pointless transactional expense on more projects for the same MW outcome, projects and competitive options are pointlessly killed, and that economies of scale can be realized in costs, and future price setting. Wind projects also are basically killed

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by the utilities proposals for smaller contracts, with *utility-proposed thresholds being less than the size of a SINGLE MODERN TURBINE,* when in reality, proper project development – and competing with avoided cost pricing levels set by large-scale, mature technology, fossil and hydro – requires full-scale project development. If Oregon ever wants solar or wind that can compete with hydro and natural gas, it should be thinking about facilitating 80 MW QF projects and 200+ MW non-QF projects.

THUS, I URGE THE COMMISSION TO:

1) Reject PGE's Proposed Avoided Cost Price Changes.

2) Reject PGE's IRP Update which it out of cycle, contrary to OPUC process and intentions, and includes false, speculative, invented, and insufficiently scrutinized assumptions and consequences.

3) Reject PGE's requests in its AR593 Rulemaking Comments to impede and undermine the PURPA contracting process through changes to the rules, standard project sizes, pricing, and contract, particularly where based on unexamined information.

4) Consider not only the direct harm and incorrectness of PGE's proposals, but to also address the broader harm to the regulated process itself, if such changes can occur at all through these administrative means, much less such draconian and indefensible changes occur. It threatens competition, stability of markets, and thus, ultimately, the ratepayer in real, consequential, long-term ways.

5) Reject PGE's proposed changes of the Renewable Sufficiency Period in the IRP Update. It is based on insufficiently considered, omitted, and incorrect information.

6) Reject PGE's proposed reshaping of renewable avoided costs, which has stripped seasonality from pricing structures and is a radical change, and removes or diminishes incentives for projects to provide energy at times aligned with ratepayer needs.

7) Increase the standard contract maximum eligible project size to 20 MW to counteract the clearly-demonstrated threats from utilities to challenge QFs through all available means, including (but not limited to) regulatory circumvention, crying wolf, misrepresenting QF participants characteristics to the Commission, exaggerating QF project impacts, outright refusal to cooperate, delays, regulatory risk, burdensome costs and delays, superior financial means, ability to bill the ratepayer, ignoring QF benefits (even when already quantified), forcing QFs to seek due performance at FERC and in the courts, provision of incorrect and selective information to regulators, among others.

Such an action would also send a clear message to the utilities that their misuse and circumvention of the regulatory process to attack QFs and impede competition to the detriment of ratepayer benefiting healthy markets is unequivocally unacceptable.

8) If any PGE pricing change is approved by the Commission, it should explicitly grandfather currently under-negotiation projects. PGE should not be allowed to evade its obligations by pulling the rug. All of the projects which I have presented, including specifically those submitted with Seller-signed contracts, to PGE should be granted the pricing then in effect at the time of their presentation.

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CONCLUSION

Ironically, PURPA was passed with the explicit purpose of leveling the playing field for not only small guys like me, but so that anyone could participate, small, medium, or large. Because competition is good for the ratepayer. PURPA also explicitly sought to facilitate renewables.

These, and other actions in Oregon right now, seem targeted to stomp out the small guy, by burdening him once again with unbearable financial risk, unbearable transactional costs, unbearable legal expenses to enforce his rights, unceasing legal challenges to enforce language blatantly in contracts, unacceptable challenges and denials, and the long list of issues already described here.

It is valuable that PGE and other Oregon utilities are demonstrating so clearly the importance and relevance still today of PURPA's QF provisions, mandatory avoided cost purchase obligation, and competition-protecting provisions, in ensuring market access for small power producers, renewable generation, and for preserving competition in the market place.

The Staff and Commission should send a clear signal to the utilities, including PGE here, by rejecting these requests and increasing its scrutiny of the utility. Ratepayers' money shouldn't be wasted on these matters. Staff time should be respected by utilities not filing contentious, clearly inappropriate dockets. Competition should not be squelched for the IOU shareholders' interests over the ratepayers.

Thank you for your time and the opportunity to make comments. I expect I will fly to Oregon to make additional comments at the open meeting regarding PGE's filing, given the importance of these matters. I'm hoping I still get the opportunity to continue doing business and investing in your beautiful state.

Jake Stephens
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