

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 2011

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON

General Capacity Investigation.

COMMUNITY RENEWABLE ENERGY  
ASSOCIATION'S COMMENTS ON  
STAFF'S INVESTIGATION FINDINGS

**INTRODUCTION AND SUMMARY**

The Community Renewable Energy Association (“CREA”) hereby respectfully submits its comments to the Public Utility Commission of Oregon (“OPUC” or “Commission”) on Staff’s investigation findings. CREA appreciates the opportunity to submit its comments in this matter and looks forward to reviewing comments of other parties.

CREA limits its comments to a discrete, but very important issue of significant concern, related to calculation of the capacity contribution values—the resource portfolio used for calculation of a resource type’s contribution to peak capacity. For the reasons explained below, CREA strongly recommends that the Commission require that calculation of a resource’s (e.g. solar) contribution to peak capacity be calculated based on the committed resource portfolio, *not* the hypothetical and uncommitted resources that the utility states it may add to the portfolio in the future. Including uncommitted future resources in the calculation will arbitrarily reduce the capacity contribution value of the next generator—and illegally undervalue the avoided costs offered qualifying facilities (“QFs”) under the Public Utility Regulatory Policies Act (“PURPA”)—because the capacity contribution value of a resource decreases as more generators of that resource type are added to the studied portfolio.

## COMMENTS

The capacity contribution calculation for each resource type is a critically important element of the overall value of that resource type. Thus, assuming that the results of this investigation are used across Commission dockets, the investigation guidelines will have a significant impact on the value attributed to renewable resources the utilities may add to their portfolios. Further, to the extent that the guidelines developed here are used to calculate avoided cost rates offered to QFs under PURPA, the guidelines must take the legal requirements of calculating avoided cost rates into account.

Staff's current proposal does not comply with PURPA's requirements for calculating avoided cost rates under PURPA. Under PURPA, the utility must pay the QF the full avoided costs of utility, which PURPA defines as the "*incremental* cost of alternative electric energy."<sup>1</sup> Thus, FERC has explained: "The utility's avoided incremental costs (and not average system costs) should be used to calculate avoided costs."<sup>2</sup> "[I]f a purchase from a qualifying facility permits the utility to avoid the addition of new capacity, then the avoided cost of the new capacity and not the average embedded system cost of capacity should be used."<sup>3</sup> Critically, "[i]f a qualifying facility offers energy of sufficient reliability and with sufficient legally enforceable guarantees of deliverability to permit the purchasing electric utility to avoid the need to construct a generating unit, to build a smaller, less expensive plant, or to reduce firm power purchases from another utility, then the rates for such a purchase will be based on the avoided capacity and energy costs."<sup>4</sup> Importantly, "[t]he aggregate capacity value of such facilities must

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<sup>1</sup> 16 USC § 824a-3(d) (emphasis added); *see also* ORS 758.525(2) (stating, "the price for such purchase shall not be less than the utility's avoided cost").

<sup>2</sup> Order No. 69, 45 Fed Reg 12,214, 12,216 (Feb. 25, 1980).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

be considered in the calculation of rates for purchases, and the payment distributed to the class providing the capacity.”<sup>5</sup>

These requirements to pay for incremental capacity value are juxtaposed against the converse rule that “when the demand for capacity is zero, the cost for capacity may also be zero.”<sup>6</sup> That often results in near-term resource sufficiency periods where no capacity payments are made to the QF. But FERC has made clear that the QF may lock in the forecasted avoided capacity costs calculated as of the time it commits to sell to the utility through a long-term contract or other “legally enforceable obligation.”<sup>7</sup> Given that utilities are typically surplus in the near term, the right to long-term contracts “is intended to prevent a utility from circumventing the requirement that provides capacity credit for an eligible qualifying facility merely by refusing to enter into a contract with the qualifying facility.”<sup>8</sup>

In essence, therefore, the QF must be paid the avoided capacity costs based on the capacity position of the utility at the time it commits to sell to the utility. Relying on the utility’s future resource acquisitions to inform the avoided costs of capacity is entirely antithetical to this framework of forecasted avoided costs calculated at the time the QF incurs the obligation to sell. If the utility could rely on hypothetical, uncommitted, future resource acquisitions in calculating the avoided capacity costs paid to the QF, the utility could entirely deny the QF’s right to be paid for the QF’s capacity. Carried to its logical extreme, relying on future capacity acquisitions to

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<sup>5</sup> 45 Fed Reg at 12,225.

<sup>6</sup> *Hydrodynamics Inc.*, 146 FERC ¶ 61,193, P 35 (March 20, 2014); *see also* 45 Fed Reg at 12,225 (“capacity payments can only be required when the availability of capacity from a qualifying facility or facilities actually permits the purchasing utility to reduce its need to provide capacity by deferring the construction of new plant or commitments to firm power purchase contracts.”).

<sup>7</sup> 18 CFR § 292.304(d).

<sup>8</sup> 45 Fed Reg at 12,224.

calculate the current avoided costs of capacity would allow the utility to assert that its capacity needs will be met with the acquisitions it plans in its integrated resource plan (“IRP”)—thus entirely defeating the QF’s ability to displace the utility’s next planned increment of capacity, in whole or in part, and to receive appropriate compensation for value of the capacity it displaced.

Staff’s prior position in this docket correctly took these basic principles of avoided cost ratemaking into account. For example, in Staff’s Capacity Value Best Practices document dated September 30, 2021, Staff unambiguously required that the effective load carrying capability (“ELCC”) calculations model the resource based on the *existing, committed* resource portfolio, as follows:

f. The ELCC computations should reflect best estimates of resource retirements as of the time of the study.

g. Resource additions should not be included in the utility’s supply-side resources unless they are:

i. Non-PURPA resources that are contractually committed, including voluntary customer supported supply-side resources;

ii. PURPA projects that are contractually committed to come on-line and reasonably expected to produce power; and,

iii. Customer owned or supported resources, outside the direct control of the utility with respect to timing of installation, that are reasonably expected to result in either reduced loads or an increase in total supply dedicated to meet loads.<sup>9</sup>

However, Staff’s more recent proposal changes course and proposes to calculate capacity contributions based on the utility’s preferred portfolio, even though that could include hundreds or thousands of megawatts of capacity that will necessarily result in a lower capacity value for

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<sup>9</sup> Staff’s Letter to Stakeholders, Docket No. UM 2011, at Attachment, p. 2 (Sept. 30, 2021).

the next incremental generator than a calculation based on the currently committed portfolio would. Specifically, Staff now proposes as follows:

c. The ELCC computations should reflect best estimates of resource additions and retirements at of the time of the study.

d. Resource additions should be made to the utility’s supply-side resources to reflect the utilities most recently acknowledged preferred portfolio updated to reflect any actual RFP procurement which operates under the required statutory constraints in a safe and reliable manner while limiting excess costs and unwarranted investment. Further additions outside of the preferred portfolio should include:

i. Non-PURPA resources that are contractually committed, including voluntary customer supported supply-side resources;

ii. PURPA projects that are contractually committed to come on-line and reasonably expected to produce power; and,

iii. Customer owned or supported resources, outside the direct control of the utility with respect to timing of installation, that are reasonably expected to result in either reduced loads or an increase in total supply dedicated to meet loads.<sup>10</sup>

Staff explains that it now believes that relying on uncommitted resources is a “realistic assumption for capturing the incremental contribution of a specified resource.”<sup>11</sup> But assuming the existence of extensive future resource acquisitions that are not actually committed will serve to reduce the capacity value of the resources the IRP forecasts the utility will acquire—detering acquisition of those resources in the first place and, if used to set avoided costs offered to QFs, unlawfully undervaluing the avoided costs of capacity for such resources. Staff appears to recognize this effect and even provides an example, stating: “For example, excluding expected future solar from the portfolio would diminish the future ELCC of battery storage (missing positive synergy with solar) while simultaneously increasing future ELCC of solar (missing

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<sup>10</sup> Staff’s Announcement, Docket No. UM 2011, at Attachment A, pp. 8-9 (Sept. 23, 2022).

<sup>11</sup> Staff’s Announcement, Docket No. UM 2011, at p. 3 (Sept. 23, 2022).

antagonistic saturation effect).”<sup>12</sup> But the point Staff’s analysis misses is that this method will deter the acquisition of the very resources identified in the IRP as the preferred resources, in this example solar. And it will unlawfully preclude the solar QF from being paid for displacing the solar capacity identified in the IRP by presuming that the IRP’s uncommitted solar resources are already online.

In fact, this is exactly what happened in PacifiCorp’s latest avoided cost rate proceeding based on its most recent IRP. As CREA and other parties pointed out earlier this year in Docket No. UM 1729, PacifiCorp’s 2021 IRP stated that its capacity factor (“CF”) calculations provide a “marginal capacity contribution values . . . applicable to small incremental or decremental changes *relative to the composition of the IRP preferred portfolio in 2030*,”<sup>13</sup> not the existing, committed resources. PacifiCorp’s IRP further acknowledged that “wind, solar, and energy storage have declining marginal capacity contribution values as the quantity of a given resource type increases.”<sup>14</sup> Its IRP also explained that the 2030 preferred portfolio will include 1,902 MW of incremental solar not online at this time.<sup>15</sup> As PacifiCorp’s own IRP suggested, the incremental addition of 1,902 MW of solar drove down the solar CF value that was used to set the avoided cost rates being offered to QFs today, and it was almost certainly responsible in significant part for the low capacity contribution values for solar resources in PacifiCorp’s proposed avoided cost rates. As the Commission may recall, PacifiCorp’s capacity credits were extremely low and even included a proposal for a *negative* capacity credit for renewable solar QFs during on-peak hours.<sup>16</sup> The Commission should not now endorse this unreasonable

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<sup>12</sup> *Id.*

<sup>13</sup> Attachment B, PacifiCorp’s 2021 IRP, Vol. II, App. K at 219-220 (emphasis added).

<sup>14</sup> Attachment B, PacifiCorp’s 2021 IRP, Vol. II, App. K at 219-220.

<sup>15</sup> Attachment C, PacifiCorp’s 2021 IRP, Vol. I at 10.

<sup>16</sup> *See Comments of Community Renewable Energy Association, the Oregon Solar + COMMUNITY RENEWABLE ENERGY ASSOCIATION’S COMMENTS ON STAFF’S INVESTIGATION FINDINGS*

capacity calculation method through guidelines applicable more widely.

### CONCLUSION

In sum, CREA strongly urges the Commission to revise the guidelines to require that the capacity contribution calculation must rely on the existing portfolio of committed resources and not the uncommitted portfolio of resource identified by the utility.

RESPECTFULLY SUBMITTED this 24th day of October, 2022.

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Of Attorneys for the Community Renewable  
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*Storage Industries Association, and the Renewable Energy Coalition*, Docket No. UM 1729, pp. 7-14 & 16-19 (June 22, 2022).