

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1396

<b>In the Matter of the PUBLIC UTILITY</b>	<b>)</b>	<b>INITIAL COMMENTS OF</b>
<b>COMMISSION OF OREGON Investigation</b>	<b>)</b>	<b>RENEWABLE ENERGY COALITION</b>
<b>into the Determination of Resource</b>	<b>)</b>	
<b>Sufficiency, Pursuant to Order No. 06-538</b>	<b>)</b>	

**I. Introduction**

The Renewable Energy Coalition (“REC”) submits these initial comments to the Administrative Law Judge Patrick Power’s Appendix to the Decision Outline in his September 29, 2009 Ruling in the matter of UM-1396. This Decision Outline proposes the establishment of a new framework for the determination of resource sufficiency for the purposes of calculating avoided cost payments to Qualifying Facilities (“QFs”).

Although REC was not an original party to UM-1396, it has remained current with the proceedings over the past several months. REC appreciates this new opportunity to participate in the proceeding occasioned by reopening the matter to a broader participation of interests, especially those representing QFs. REC is encouraged that the Oregon Public Utility Commission (“OPUC”) apparently recognizes the need to revise portions of the framework that contribute to the determination of avoided-cost prices for QFs.

While the proposed new framework might produce more current and/or accurate avoided-cost price calculations and filings and thus serve the purpose of maintain-

ing ratepayer neutrality, unfortunately the new framework could seriously erode the certainty that is so vital to the QF industry. Moreover, it is unclear whether the proposed methodological changes will result in additional degradation to the actual avoided cost prices available to QFs and under what circumstances or conditions such prices can be applied. The predictability of avoided cost prices changes both in terms filings and effectiveness are important practical matters making the apparent intent of OAR 860-029-0080(3) highly desirable. While it may be desirable to establish multiple mechanisms to trigger changes in avoided-cost prices, too-frequent changes (particularly unanticipated changes) can disrupt the planning required by the QF industry. REC encourages that a fair balance be struck between the competing interests of accuracy and certainty.

## **II. Discussion**

### **A. Procedural History and Scope of UM-1396**

Although REC was not established until recently, it is following in the footsteps of Sorenson Engineering, which represented the interests of many QFs in a number of regulatory proceedings. When Docket UM-1396 was initially opened, it seemed that the issues were quite narrowly defined by outline contained in Order 06-438, Issue Number 18: Determination of Resource Position. The recent Decision Outline, however, appears to expand the original scope without adequate explanation. REC is particularly interested in the issue of whether related regulatory activities (e.g., PacifiCorp's Advice Filing 09-012, Docket UM-1442 (PacifiCorp), and REC's an-

nounced intention to request the opening of an investigation into QF regulatory practices) can or should be addressed in the expanded context of UM-1396. The Community Resource Energy Association (“CREA”) noted in its August 25, 2009 letter to the Commissioner on the topic of Advice Filing 09-012 that it was concerned by the disaggregation of important QFs issues among several dockets; REC shares that concern. The Decision Outline is not clear regarding how these matters will proceed, and accordingly REC suggests that consideration be given to the reopening of Docket UM-1129.

**B. Avoided Cost Prices for QFs**

The Decision Outline provides the basis for moving toward the determination and application of a variety of avoided cost prices dependent upon the actual characteristics of, or conditions facing, a QF. While this is a significant departure from the one-price-fits-all approach, at least as applicable to the standard contracts and notwithstanding the actual pricing options, it does present some interesting opportunities. This approach may be especially valuable for those projects which meet current RPS requirements and are able to transfer Renewable Energy Credits directly to the utility for appropriate consideration. Basing avoided-cost prices on the utilities’ acquisition or development of similar projects merits pursuit but should occur slowly, carefully, and outside the bookends of UM-1396. The Commission should be very careful in implementing changes to the existing approach which treats all QFs equally.

**C. Gaming the System**

In order to fairly implement the new framework of the Decision Outline, it will be highly desirable to minimize opportunities for “gaming” of the resource acquisition processes. Two examples of essential components of fair practices are resource acquisitions compliant with an acknowledged Integrated Resource Plan (“IRP”) and reducing the threshold for renewable acquisitions that might trigger an updating of avoided cost prices. These types of improvements on the resource-acquisition side must, of course, be accompanied by the types of improvements REC previously presented in Advice Filing 09-012 involving the power-purchase process.

**D. Appropriate Application of Sufficiency or Deficiency Periods**

The Decision Outline states: “The start date for the resource deficiency period shall not be updated unless the utilities receives acknowledgement of an updated action plan.” While REC strongly endorses this statement, the recent Commission action approving PacifiCorp’s Advice Filing 09-012 on September 8, 2009 appears inconsistent with the statement. In addition, there should be more clarity regarding the distinction between an updated action plan on the one hand and an acknowledgement of an IRP on the other. To the extent that an updated action plan can occur at a time other than acknowledgment of an IRP, then the process for such updated plan should be better explained and be predictable. In order to retain some reasonable certainty regarding potential changes to avoided cost prices, any potential trigger or threshold event for updating avoided cost prices must be well-defined and clear.

**E. “Pancaked” or Multiple Avoided-Cost Price Filings**

Decision Outline contemplates additional triggers or thresholds for updating avoided-cost prices. While it is desirable to keep avoided-cost prices current, multiple price filings within the standard two-year IRP cycle as envisioned in OAR 860-029-0080 and Order 05-584 are inherently disruptive to the QF industry and thus discourage renewable energy development. Multiple filings should therefore generally be avoided; if they are allowed, significant advance notice should be required. The importance of such advance notice was driven home by PacifiCorp’s recent abrupt revisions to its avoided-cost prices and the consequent disruption to the QF industry in general and individual projects in particular. The Commission should prevent such abrupt changes in avoided-cost prices in the future; indeed, as the number of possible triggers for changes in avoided-cost increases the more important it becomes to improve the process whereby such prices are integrated into power-purchase agreements.

**III. Conclusions**

While the new ideas in the Decision Outline regarding the timing and filing of avoided-cost prices may lead to an improvement in the overall process, REC suggests that the Commission consider whether it might be more appropriate to raise, discuss, and evaluate such matters in a separate proceeding. Given the concerns raised in the other dockets referred to above and the changes in scope of UM-1396, REC is concerned that limiting the reopening of UM-1396 to initial and reply comments will not

provide for an adequate opportunity to consider the complex nature and implementing details of these matters.

DATED at Seattle, Washington, this 15<sup>th</sup> day of October, 2009.

A handwritten signature in black ink that reads "Thomas Nelson". The signature is written in a cursive style with a large, stylized initial 'T'.

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CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing RENEWABLE ENERGY COALITION'S PETITION TO INTERVENE on all parties of record as set forth on the Commission's website by electronic filing. I further certify that I have caused the following to be served by U.S. Mail who have not waived paper service:

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