

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1794

In the Matter of

PACIFICORP, dba PACIFIC POWER

Investigation into Schedule 37 - Avoided
Cost Purchases from Qualifying Facilities
of 10,000 kW or Less.

RULING

DISPOSITION: REQUEST FOR EXPEDITED CONSIDERATION OF MOTION
 TO COMPEL DENIED; DATE FOR RESPONSE
 ESTABLISHED

On October 4, 2016, the Community Renewable Energy Association (CREA) requested a telephone conference for the purpose of seeking an informal resolution of a discovery dispute between CREA and PacifiCorp. The teleconference was held on October 6, 2016 with the Renewable Energy Coalition (the Coalition) and the Commission Staff also in attendance and focused on the relevancy of the RFP bid information.

PacifiCorp argued that CREA represents entities that could be competitors in potential future RFPs and that disclosing the information would undermine the competitive process. PacifiCorp noted that information provided in its TAM proceeding was not made available to an expert witness because of his association with potential bidders. The Coalition and Staff as well as CREA argued that the information was relevant to the preparation of their testimony and should be produced.

At the conference, I ruled that the information should be provided to CREA, but that it should only be done under such terms as had been agreed to by the parties with respect to modifying the existing protective order, in order to mitigate PacifiCorp's concerns about the disclosure's impact on future RFP processes.

On October 12, 2016, PacifiCorp filed a motion for clarification or, alternatively, certification, addressing my oral ruling at the informal conference, referencing the differences between the Commission rules relative to informal dispute resolution and motions to compel. PacifiCorp filed its opening testimony on October 14, 2016. On October 19, 2016, CREA filed a response to the PacifiCorp motion and request along with a motion to compel and a request for expedited processing. On October 20, 2016, counsel for PacifiCorp sent an email to the administrative law judge with copies to all

parties asking that the request for expedited consideration be denied and whether a formal motion from PacifiCorp objecting to the request for expedited consideration was necessary.


DISCUSSION

Intervenor and Staff testimony in this docket is currently due to be filed on November 18, 2016, almost a full month from the date of CREA's request. CREA's request that PacifiCorp respond within a two day period imposes an unreasonable burden in light of the pending request of PacifiCorp for clarification or certification the ruling of the administrative law judge. However, the normal 15-day response period provided under OAR 860-001-0040(4) is not justified under the circumstances.

RULING

The request for expedited processing of the motion to compel discovery by the Community Renewable Energy Association, is denied. PacifiCorp shall file a response to the motion on or before October 26, 2016.

Dated this 20th day of October, 2016 at Salem, Oregon.



Allan J. Arlow
Administrative Law Judge