BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1505

In the Matter of Public Utility Commission of Oregon Solar Photovoltaic Program	STAFF REPLY COMMENTS AND RECOMMENDATIONS

The Commission opened docket UM 1505 in order to obtain stakeholder input on the statutorily-required report to the legislature regarding the Solar Photovoltaic Pilot Programs ("Pilots"). During the initial UM 1505 proceedings, stakeholders presented concerns regarding the Pilots as well as recommended changes. The Commission initiated a second phase of Docket UM 1505 to provide opportunity for parties to raise issues related to the Pilots and to recommend changes.

On February 11, 2011 the following parties submitted opening comments:

- Oregon Department of Energy (ODOE) and Energy Trust of Oregon (ETO)
- Idaho Power
- Oregonians for Renewable Energy Policy (OREP)
- Renewable Northwest Project (RNP), Citizens' Utility Board of Oregon (CUB), Oregon Solar Energy Industries Association (OSEIA), Solar City, and Tanner Creek Energy
- Portland General Electric (PGE) and PacifiCorp
- RNP, CUB, and Tanner Creek Energy
- David Sullivan
- Industrial Customers of Northwest Utilities (ICNU)

Some of the issues discussed in these comments and at a February 17, 2011 workshop attended by the Commission are whether the Commission should (1) delay the next enrollment window to implement a lottery selection process; (2) continue to use the "first-come first-serve" capacity application process or allocate capacity by lottery; (3) require research on non-winning applicants; (4) make the bidding option available to participants with medium-sized systems; and, (5) disclose bid prices submitted in the bidding option pilots. Staff will briefly discuss the remaining issues raised by the parties.

<u>Summary</u>

Given the technical concerns cited by PacifiCorp and PGE in changing from first-come first-served to a lottery to allocate capacity, Staff no longer recommends that the Commission implement this change for PGE's and PacifiCorp's next enrollment window on April 1, 2011. Staff also does not recommend that the

Commission delay the April 1st enrollment window for these companies to May 1st for the purpose of changing the capacity allocation process to a lottery.

With regard to Idaho Power, Staff recommends that the Commission delay Idaho Power's last enrollment window, currently scheduled for April 1st, to October 1st, in order to incorporate any changes to the capacity allocation process for Idaho Power customers.

Staff continues to support implementation of allocation by lottery and recommends that the Commission implement this change for the October 1st enrollment window. Staff provides detail as to the length of the application period, random selection process, and other issues below.

Parties have raised a concern as to what the appropriate notification time is for a rate change that is different from what is presumed under the automatic adjustment mechanism. Taking these concerns into consideration, Staff recommends that for the upcoming April 1st enrollment window the Commission require PGE and PacifiCorp to reduce their available capacity to one-quarter of the currently scheduled amount and approve the presumed 10 percent reduction in the VIR. Along with this proposal, Staff recommends a procedural change in the timing of the VIR decision and commits to presenting its recommendation regarding VIR at a public meeting at least two months prior to each enrollment window. Staff believes its proposal will provide an appropriate transition from the current procedure without causing undue harm to ratepayers, participants or the utilities.

Staff continues to recommend the Commission implement the competitive bid option for half the allotted capacity of medium-scale systems and that the Commission require utilities to disclose all bid prices.

<u>April 1st Enrollment Window</u>

In opening comments, Staff recommended that the Commission substitute a lottery for the first-come first-serve capacity allocation process. Staff's recommendation was in response to parties' complaints at the January 20th workshop that some entities were "gaming" the on-line application process. To address the utilities' concerns about the feasibility of implementing a lottery by the April 1st window, Staff recommended that the Commission delay the April 1st enrollment window by one month to May 1st.

The majority of the parties object to delaying the April 1st enrollment window. Parties assert that a delay of the window would not give stakeholders an opportunity to clearly understand and prepare for the changed application process, would not give the utilities the necessary time to implement the modifications to the program, would undermine the stability of the program, create confusion in the marketplace, and would disrupt business planning for solar contractors.

Idaho Power commented that it would not object to a delay in the April 1st enrollment window, but stressed that implementation of a lottery system should only occur after it has been "rigorously reviewed, analyzed, and approved by the Commission."[1]

At the Commission public workshop on February 18th, PacifiCorp and PGE stated that they could "slow" the application process to address potential gaming. To gather information regarding the pool of potential applicants, these utilities have committed to provide a survey link for those participants that are not able to obtain capacity in the April 1st enrollment window. The latter offer is intended to address parties' interest in improved collection of demand and market data.

Staff is skeptical that a one month delay would cause a significant disruption or create confusion in the solar marketplace. However, the utilities should be allowed enough time to implement a new application process that has been fully tested and rigorously reviewed. According to PacifiCorp and PGE, a one month delay may not be enough time to make this change with guaranteed success. Also, PGE and PacifiCorp have committed to changes in the application process that discourage some of the current application gaming practices and at the same time collect more participant information. Therefore, Staff does not recommend a delay in the April 1st enrollment period in order to change to a lottery system for PacifiCorp and PGE.

Idaho Power is situated differently than PGE and PacifiCorp. More specifically, it has only 200 kW left to allocate for the entire program and April 1st is its last scheduled enrollment window. Due to the small amount of capacity, and anticipation that only 20 to 25 systems will be enrolled at the next window, Staff does not believe that postponing Idaho Power's last enrollment window will have a significant impact on the solar market place. Therefore, in order to give Idaho Power customers the opportunity to take advantage of any changes to the Pilots implemented prior to the October 1st enrollment window, Staff recommends that Idaho Power cancel its April 1st open enrollment window, and instead, open an enrollment window on October 1st consistent with PGE and PacifiCorp.

<u>Lottery versus First-come First-serve</u>

In response to parties' concerns of unfairness and gaming in the Pilots' application process, Staff proposed changing to a lottery system. In its recommendation Staff also cited the need to take a more serious look at the VIR, and the fact that it is the rate level that is causing the significant demand at the time of enrollment. None of the parties object to a lottery system, as long as it is not implemented prior to the October 1st enrollment window.

[1] *See* Comments of Idaho Power Company, Pages 2-3.

Staff agrees with PGE and PacifiCorp that a lottery system is not a panacea for the issues that are being raised and there may still be questions of fairness once a random draw is implemented. However, Staff believes that the ability of potential participants to use complex programs that automatically fill in an application, fast typists, and faster data connections, will be negated with the lottery approach. Also, without the incentive to fill out an application as quickly as possible, applicants will be able to review their applications for errors or contact the utility with any questions. We will continue to monitor any other types of creative application methodologies that place any participant at an unfair advantage.

Staff recommends that the Commission require PGE, PacifiCorp and Idaho Power to transition to a lottery system for the October 1st enrollment window. Staff recommends the following methodology for the lottery system:

- 24 hour application window;
- 24 hour period for determining if the application is complete and working with applicants within this time period to correct any errors or incomplete applications;
- Use of a random selection process (Excel random selection function or other software package analytical tool); and,
- Internal audit or review of the results, with information made available to Staff.

One of the technical issues raised by PGE and PacifiCorp concerns the deposit that is currently required at the time of capacity reservation.[2] According to PacifiCorp, its current application vendor cannot accommodate a "hold" on a credit card that would allow a payment to be made only if the participant is awarded capacity. Staff will continue to work with the utilities to arrive at a solution to this issue that does not discourage participation or be administratively burdensome on the utility.

<u>Timing of the VIR decision meeting</u>

RNP, CUB, OSEIA, SolarCity and Tanner Creek Energy recommend that "any consideration of changes to the VIR that differ from the methodology outlined on page 16 of Order No. 10-198 be undertaken well in advance of the enrollment window for which the change is being considered."[3] More simply, these joint commenters oppose any reduction in the VIR other than the automatic adjustment mechanism's prescribed 10 percent reduction for the April 1st enrollment window.

Some of the concerns cited in the RNP, et al., comments relate to the fact that the Commission makes a determination regarding changes to VIR immediately before the open enrollment window. They believe that it is "not feasible for the industry to respond in one week to a VIR different from that obtained applying the

[2] OAR 860-084-0195(3).
[3] *See* UM 1505 Opening Comments of RNP, et al, Page 3.

rebuttable presumption discussed in Order No. 10-198."[4] While RNP is not opposed to a rate change that is "better calibrated to current system costs," it believes that the process for setting that rate should give participants adequate time to plan.

The automatic rate adjustment mechanism proposed by Staff and adopted by the Commission contemplates an enrollment process that would potentially require a full five-month period in order to fully subscribe the available capacity. Given this underlying premise, utilities are to notify the Commission of their subscription levels for small-and medium-scale systems no later than five business days after the end of the fifth month of every six-month rate period.

In order to address parties' concerns, Staff proposes a procedural change with regard to the timing of the Commission's decision on the VIR. Staff proposes that each utility notify the Commission in a written report of its subscription levels for the net metered systems no later than five business days after the capacity is fully subscribed, or if the capacity is not fully subscribed, no later than three months after the enrollment window. Within this filed report, the utility will provide information on the time it took to achieve full subscription of its allotted capacity, the number of enrolled systems, and the presumed rate for the upcoming enrollment period based on the automatic adjustment mechanism's prescribed methodology. Staff and interested parties will review the information and Staff will make a recommendation on the new rate at a public meeting at least two months prior to the next enrollment window.

There is a general consensus that the high level of demand at the time of enrollment is due to an inappropriately high VIR. Most of the parties, including RNP, CUB and Tanner Creek Energy, have advocated for a thorough review of the forthcoming VIRs. PacifiCorp and PGE provided participant information of installed cost data which showed that with expected generation these customers would likely be paid back in as little as four years based on their incentive payments.

Staff agrees with the majority of the parties that a thorough review of the VIR is necessary. However, Staff believes that RNP, et al., makes a legitimate point with regard to a lack of time for the industry to respond to any change in the VIR that is greater than the prescribed 10 percent. Staff's proposed procedural change should alleviate those concerns for the October 1st enrollment window, but it does not address those concerns for the upcoming April 1st enrollment window.

At the Commission public workshop Commissioner Savage asked RNP whether or not they had considered how the Commission might transition to a new process that allowed for greater notice of the change in the VIR. RNP did not have a solution at that time. Taking into consideration the need for Staff and the Commission to thoroughly review the VIR, and yet allow participants enough

[4] *Id* at Page 4.

time to respond appropriately to a price signal that may differ from the mechanisms prescribed rate, Staff proposes the following change to the Pilots for the upcoming April 1st enrollment window; reduce the allotted capacity for small- and medium-scale systems to one-quarter of what is currently scheduled to be awarded and reduce the VIR rate by the currently prescribed 10 percent.[5]

At the upcoming public meeting, March 17th, 2011, Staff intends to recommend that PGE and PacifiCorp's tariff rates be allowed to go into effect with a 10 percent reduction from the previous enrollment period. Concerns regarding the cost of allowing the VIR to go forward with only a 10 percent reduction should be mitigated by Staff's secondary proposal; to reduce the available capacity at this window to one-quarter of what is currently scheduled.

Bidding and Bid Price Disclosure

Staff continues to recommend that half of the allotted capacity for the medium-scale systems be awarded using a competitive bidding process. At the Commission workshop on February 18th, no party raised any significant concerns regarding this proposal.

Staff believes that there is general consensus among the parties that disclosure of bid prices will not harm any future auction, and will provide additional information for analysis. Therefore, Staff continues to recommend disclosure of all bid prices for any future auction mechanism.

Other issues

Other issues raised in opening comments include whether the Commission should:

- require additional research on non-winning applicants;
- increase by re-allocation the capacity -for medium-scale systems;
- compress the Pilots from four year to three years;
- limit the program so that the rate impact does not exceed .25 percent of any customer's electric bill;
- implement quarterly enrollment periods;
- not allow additional Idaho Power customers to enroll in the Pilots;
- establish a resource value;
- collect and provide information on financial support via a public website;
- acquire data on the development of the solar industry in Oregon;
- design survey instruments;

[5] For example, PGE's scheduled available capacity for the April 1st enrollment window is 1.327 MW for small-scale and .738 MW for medium-scale systems. Staff's proposal would reduce the available capacity to .33 MW and .19 MW respectively for the April 1st enrollment window. The remaining scheduled capacity would be moved to the October 1st enrollment window.

- eliminate or reduce the liability insurance requirement;
- eliminate the meter charge;
- accumulate statistics on the solar industry in general;
- report annually to the legislature; and,
- substitute Qualifying Facility QF rates for the current VIR

Staff believes that its proposal to open a 24 hour application window and allocate capacity by lottery will provide the requested information on non-winning applicants. With regard to the April 1st enrollment window, PGE and PacifiCorp have committed to providing a link to a survey for non-winning applicants to glean additional information until the lottery system is implemented for the October 1st enrollment window.

At this time, Staff does not support a reallocation of capacity to the medium-scale systems. The level of demand for both small- and medium-scale systems has been significant, therefore, there does not seem to be a compelling reason to shift demand to the medium-scale systems. Staff will continue to monitor the subscription rates for both sizes and make any future reallocation recommendations if necessary.

Staff does not recommend compressing the Pilots from four years to three years. Staff continues to believe that allocating the capacity of the program over a longer period of time is consistent with the Commission's goal of minimizing program costs and provides additional opportunities, such as this one, to adjust the pilots as needed.

Staff believes that the decision to limit the rate impact of the Pilots to .25 percent is premature at this time. All assumptions associated with the rate impact estimate are predicated on presumed system output and a future VIR that has not yet been determined. Staff proposes that the Commission defer any decision on capping or limiting the program until such time that it can make a more informed decision as to when or if that will occur.

David Sullivan proposes that the Commission consider substituting a quarterly enrollment process for the current semi-annual process. He believes this will further the Commission's goal of minimizing program costs through more rate adjustment opportunities. In Order No. 10-198, the Commission stated that a quarterly review process would be administratively burdensome and difficult given the complexities associated with adjusting rates. It further pointed out that any benefits to ratepayers by reducing the VIRs would be offset by the administrative costs of the program. Staff does not believe that circumstances have changed with regard to the program and continues to support the Commission's decision for semi-annual enrollment windows.

Staff does not support the recommendation to suspend Idaho Power's continued participation in the Pilots and awarding of future capacity in order to limit the cost of the pilot.

Staff will continue to work with the utilities to calculate the resource value of the energy produced by the PV system. The upcoming legislative report is not due to be filed until January 1, 2013, wherein Staff will provide the resource value associated with the avoided costs or benefits of the program in its overall cost calculation.

ORS 757.365(11) requires the Commission to provide information to potential owners of "qualifying systems" associated with financing, grants, and other financial instruments. Currently, Staff has established a link on the Commission's website that directs consumers to all of the information associated with our Pilots. This includes direct links to ETO, the utilities, our rules, frequently asked questions and contact information. ETO's website provides current information on available grants, incentives, federal funding, and contractor information. Staff will continue to work with the ETO, ODOE, and the utilities to collect and provide the most up to date information for any interested owners in a qualifying system.

OREP has asked the Commission to acquire data on the development of the solar industry outside of the Pilots, including; the number and size of solar companies that installed projects, geographical distribution of work, the number of person hours worked per quarter and the source of equipment that is installed. Staff does not believe that this recommendation fits within the scope or expertise of the Commission.

Parties have made specific recommendations associated with the utility survey instruments. Staff has worked with the utilities to provide these survey instruments to all participants of UM 1505 and for those parties to work directly with the utility on any suggested questions or changes. At this time Staff is not aware of a party contacting the utility with suggestions. Staff asks that any suggestions be provided to the utility. If the utility does not believe that the change is necessary or it cannot accommodate the request this issue can be taken up further in a subsequent proceeding.

ICNU has proposed that the survey instruments be uniform, in order to promote a better comparison of the answers across the program. Staff believes this is a reasonable recommendation and proposes that the utilities work together to achieve as much uniformity as possible in order to provide for a better aggregation of the answers across the Pilots.

Staff continues to support the meter charge for program participants. The $10 meter charge is consistent with the current net metering and qualifying facility arrangements, and Staff does not believe that the Pilots participants should be exempt from this charge.

Staff does not support annual reports to the legislature. According to House Bill 3039 and 3690, the Commission is required to provide reports to the legislature in each odd-numbered year beginning in 2011. It is not within the Commission's authority to change this legislative mandate to an annual reporting.

Staff does not recommend that the Commission substitute QF rates for the current VIR. The Commission considered this option in Docket No. UM 1452, but did not adopt it. Although FERC has since issued an opinion clarifying its view on states' authority to set resource-specific avoided cost rates, FERC has not materially changed its opinion.[6] Accordingly, Staff is not aware of circumstances that would warrant the Commission reversing its decision rejecting VIR based on avoided costs.

This concludes Staff's comments.

Dated at Salem, Oregon, this 28th day of February, 2011.

Kelcey Brown
Senior Economist
Electric Rates & Planning

[6] *See California Public Utilities Commission*, 133 FERC ¶ 61,059 (2010) (Clarification Order).

CERTIFICATE OF SERVICE

UM 1505
CLOSING COMMENTS

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuantto OAR 860-001-0180, to the following parties or attorneys of parties.

Dated this 28th day of February, 2011 at Salem, Oregon.

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UM 1505
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