

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UCB \_\_\_\_\_

THREEMILE CANYON WIND I, LLC,	)	
	)	
Complainant,	)	COMPLAINT
	)	
v.	)	
	)	
PACIFICORP, dba PACIFIC POWER,	)	
	)	
Defendant.	)	

1 Threemile Canyon Wind I, LLC (“Threemile Canyon”) hereby files with the Public  
2 Utility Commission of Oregon this Complaint against Pacific Power, a Division of  
3 PacifiCorp, pursuant to ORS 756.500 and OAR 860-013-0015, seeking an order to  
4 enforce the rights of Threemile Canyon pursuant to (a) Oregon Public Utility  
5 Commission Administrative Rules (OAR) and orders, which implement (i) Federal  
6 Energy Regulatory Commission (FERC) regulations under the Public Utility Regulatory  
7 Policies Act of 1978, 16 U.S.C. § 2601 *et seq.* (“PURPA”) as amended, as well as (ii)  
8 state laws implementing PURPA; and (b) Pacific Power’s Oregon Tariff Schedule 37,  
9 which is applicable to avoided cost purchases from qualifying facilities with nameplate  
10 capacity of 10,000 kilowatts (kW) or less.

11 **Summary.** Threemile Canyon will demonstrate in this Complaint:  
12 (1) Threemile Canyon is eligible to sell its entire net of station service output to Pacific  
13 Power in accordance with Pacific Power’s Oregon Tariff Schedule 37, without any  
14 adjustment of Schedule 37 prices or additional cost responsibility. Such sale by

Complaint of Threemile Canyon Wind I, LLC

1 Threemile Canyon to Pacific Power is just and reasonable and in the public interest as  
2 stated in OPUC and FERC regulations and orders.

3 (2) Equitable considerations also apply in favor of Threemile Canyon due to repeated  
4 PacifiCorp errors.

5 (3) Consequently, the Commission should grant Threemile Canyon's requested relief,  
6 namely

7 a. Requiring PacifiCorp to purchase the output of the Facility, including during any  
8 Excess Generation Event, on the terms and at the rate selected by Threemile  
9 Canyon under Schedule 37, without adjustments for incremental third-party  
10 transmission costs, or alternatively,

11 b. Requiring PacifiCorp to pay to Threemile Canyon any revenue reductions arising  
12 from PacifiCorp's failure to purchase the output of the Facility, including during  
13 any Excess Generation Event.

14 **Threemile Canyon Eligibility to Sell to Pacific Power Under Pacific Power's Oregon**  
15 **Tariff Schedule 37**

16 (1) Threemile Canyon Wind I, LLC is an Oregon limited liability company. Threemile  
17 Canyon was established to develop, own, maintain and otherwise operate a wind-  
18 powered generating facility located in Morrow County, Oregon, within PacifiCorp's  
19 service territory (the "Facility"). The Facility has six 1.65 MW Vestas V-82 wind-  
20 turbine generators installed; the total nameplate capacity of the Facility therefore is  
21 9,900 kW. The Facility is a Qualifying Facility (QF), as that term is defined by  
22 FERC, 18 C.F.R. § 292.101(b)(1), and Oregon, ORS 758.505(8) and OAR 860-029-

1 0010(22). The Facility was re-certified by Threemile Canyon as a QF on April 15,  
2 2011 in Docket No. QF09-142, in accordance with FERC rules, 18 C.F.R. §  
3 292.207(a). Threemile Canyon is a wholly owned subsidiary of Exelon Wind, LLC  
4 (formerly known as John Deere Renewables, LLC) which develops, builds, and  
5 operates renewable resource projects, including small (<10 MW nameplate) wind  
6 projects located in Oregon.

7 (2) Pacific Power, a Division of PacifiCorp, is an electric utility as defined in PURPA (16  
8 U.S.C. § 2602(4)) and ORS 758.505(4) and therefore is subject to Section 210 of  
9 PURPA (16 U.S.C. § 824a-3), and related FERC regulations and Oregon  
10 Administrative Rules that require PacifiCorp to interconnect with and purchase net  
11 output from a facility that is a QF under PURPA.

12 (3) PacifiCorp is a public utility as defined in ORS 757.005(1)(a)(A) and is subject to the  
13 Commission's jurisdiction and regulation.

14 (4) The Public Utility Commission has determined a "standard contract eligibility  
15 threshold [of] 10 MW to be reasonable." *In the Matter of Staff's Investigation*  
16 *Relating to Electric Utility Purchases from Qualifying Facilities*, Docket No. UM  
17 1129, Order No. 05-584 (2005) at 17 (hereafter, Order No. 05-584).

18 (5) The Commission has also determined, "Design capacity, as defined by the  
19 manufacturer's nameplate capacity for a QF project, will continue to be the measure  
20 of eligibility for standard contracts. In order to be eligible to receive standard contract  
21 terms and conditions, a QF must have a manufacturer's nameplate capacity at or  
22 under 10 MW." Order No. 05-584 at 40.

1 (6) Pacific Power was required to file and have approved the standard contract form now  
2 in its tariff, entitled "Schedule 37, AVOIDED COST PURCHASES FROM  
3 QUALIFYING FACILITIES OF 10,000 KW OR LESS." Order No. 05-584 at 59  
4 ("Within sixty days of the effective date of this order, each electric utility shall file by  
5 application ... one or more standard contract forms that set forth standard rates, terms  
6 and conditions that are consistent with the policy decisions made in this order").

7 Because Threemile Canyon is a QF with a total nameplate capacity less than 10,000 kW,  
8 and meets the other applicability requirements of Schedule 37, it is eligible to sell to  
9 Pacific Power under Schedule 37's terms and conditions.

10 **Eligibility to Sell Tariff Schedule 37 Without Adjustment of Prices or Additional**  
11 **Cost Responsibility**

12 Commission Order No. 05-584.

13 (1) The Commission's Order No. 05-584, which concluded the first phase of the  
14 Commission's Docket No. UM 1129 investigation into issues related to energy  
15 purchases from QFs by electric utilities, focused principally on issues related to  
16 standard contracts. Order No. 05-584 at 12. Among the issues addressed by the  
17 Commission in Order No. 05-584 was the issue of "Pricing Adjustments for Standard  
18 Contracts," which had been raised by PacifiCorp (and PGE). Order No. 05-584 at 38-  
19 39.

20 a. As described by the Commission, PacifiCorp recommended "that utilities be  
21 allowed to impose certain pricing adjustments in order to address issues that

1 might include integration costs, debt imputation, or commercial and operational  
2 costs associated with intermittent QF resources.” Order No. 05-584 at 38.

3 b. The Commission Staff opposed PacifiCorp’s recommendation, noting “that the  
4 characteristics of a specific QF may impose costs greater or lesser than costs  
5 captured by the standard contract rate, but notes that on balance, the standard  
6 contract rate is deemed to provide a fair rate to QFs eligible to receive it.” Order  
7 No. 05-584 at 38.

8 (2) The Commission **rejected** PacifiCorp’s recommendation, stating:

9 *In this order, we establish standard contract rates, terms and conditions that*  
10 *incorporate sufficient flexibility to address QF project-specific*  
11 *characteristics that we have deemed it appropriate to address. For example,*  
12 *the pricing structure we have adopted allows certain QFs to select a pricing*  
13 *option suitable to fuel and risk characteristics of the facility. As another*  
14 *example, QF pricing provides differentiation on a seasonal, as well as peak*  
15 *and off-peak basis. We believe further flexibility in negotiating the terms of a*  
16 *standard contract would fundamentally undermine the purposes and*  
17 *advantages of standard contracts and, therefore, deny the request by*  
18 *PacifiCorp and PGE for additional pricing flexibility.*

19 *Standard contracts are designed to minimize the need for parties to engage in*  
20 *contract negotiations. Consequently, any flexibility in the terms and*  
21 *conditions of a standard contract should be specifically delineated and*

1           ***bounded. To the extent that a party anticipated the need for flexibility with***  
2           ***regard to a particular standard contract term or condition, the specific issue***  
3           ***should have been raised and examined in this proceeding. It is***  
4           ***inappropriate to request that standard contracts be subject to potential***  
5           ***negotiation to address project-specific characteristics. In any case, we note***  
6           ***that certain issues, such as integration costs, will likely be taken up during the***  
7           ***second phase of this investigation when interconnection procedures and***  
8           ***agreements will be addressed.*** Order No. 05-584 at 39 (emphasis added).

9       (3) The Commission, as quoted, noted that if a “party anticipated the need for flexibility  
10       with regard to a particular standard contract term or condition, the specific issue  
11       should have been raised and examined in this proceeding.” Even if PacifiCorp  
12       anticipated the need for flexibility with regard to a particular contract term or  
13       condition, it did not raise it for examination in that proceeding. Nor, to Threemile  
14       Canyon’s knowledge, did PacifiCorp at any time prior to Threemile Canyon’s  
15       demand to sell to Pacific Power under Schedule 37, go back to the Commission and  
16       attempt to delineate, bound, and have examined any specific contract term or  
17       condition.

18       (4) As also quoted above, the Commission has declared, “It is inappropriate to request  
19       that standard contracts be subject to potential negotiation to address project-specific  
20       characteristics.” In the case of Threemile Canyon, PacifiCorp has done precisely that:  
21       it has attempted to force a QF eligible for a standard contract to negotiate to address

1 project-specific characteristics. Specifically, PacifiCorp has ignored the Commission  
2 prohibition against negotiating project specific characteristics with respect to a  
3 characteristic specific to the Facility, namely payment for third-party transmission  
4 service. Moreover, as Threemile Canyon discusses later in this Complaint,  
5 PacifiCorp did not attempt to commence negotiations until after Threemile Canyon  
6 had made its major financial commitments to build the Facility.

7 When Estimates of Avoided Costs Differ From Actual Costs at a Later Time

8 (1) FERC defines "Avoided Cost" as "the incremental costs to an electric utility of  
9 electric energy or capacity or both which, but for the purchase from the qualifying  
10 facility or qualifying facilities, such utility would generate itself or purchase from  
11 another source." 18 C.F.R. § 292.101(b)(6).

12 (2) The Commission defines "Avoided costs" in much the same manner, as "the electric  
13 utility's incremental costs of electric energy or capacity or both which, but for the  
14 purchase from the qualifying facility or qualifying facilities, the electric utility would  
15 generate itself or purchase from another source and shall include any costs of  
16 interconnection of such resource to the system." OAR 860-029-0010.

17 (3) Threemile Canyon and PacifiCorp executed a Distribution Generator Interconnection  
18 Agreement (DGIA) in July 2008. Threemile Canyon has paid all costs for which the  
19 DGIA held Threemile Canyon responsible. When such interconnection costs are  
20 subtracted from the description of Avoided Costs in OAR 860-029-0010, the

1 remaining "Avoided costs" as described in the Commissions rules are identical to  
2 those described in FERC's regulations.

3 (4) Rates for Purchases

4 a. FERC requires that Rates for Purchases be "just and reasonable to the electric  
5 consumer of the electric utility and in the public interest." 18 C.F.R. § 292.304.

6 b. Similarly, the Commission requires that Rates for Purchases be "just and  
7 reasonable to the public utility's customers and in the public interest." OAR 860-  
8 029-0040(1)(a).

9 c. FERC's regulations state, "In the case in which the rates for purchases are based  
10 upon estimates of avoided costs over the specific term of the contract or other  
11 legally enforceable obligation, the rates for such purchases do not violate this  
12 subpart if the rates for such purchases differ from avoided costs at the time of  
13 delivery." 18 C.F.R. § 292.304 (b)(5))

14 d. The Commission's rules make a virtually identical statement, "When the purchase  
15 rates are based upon estimates of avoided costs over a specific term of the  
16 contract or other legally enforceable obligation, the rates do not violate these rules  
17 if any payment under the obligation differs from avoided costs." OAR 860-029-  
18 0040(c).

19 e. As the Commission noted in the section of Order No. 05-584 dealing with  
20 Standard Avoided Costs, "the goal of calculating avoided costs is to accurately



1 estimate the costs a utility would incur to obtain an amount of power that it  
2 purchases from a QF ....” Order No. 05-584 at 20.

3 f. Rates in standard contracts, as estimates of avoided costs, do not violate the  
4 FERC and Commission rules requiring Rates for Purchases to be just and  
5 reasonable and in the public interest, if any payment under the obligation differs  
6 from avoided costs.

7 **Summary of Eligibility to Sell Under Tariff Schedule 37 Without Adjustment of**  
8 **Prices or Additional Cost Responsibility**

9 As earlier noted in this Complaint, PacifiCorp missed the opportunity in Docket No. UM  
10 1129 to bring specific issues to the Commission’s attention, so that such issues could be  
11 delineated, bounded, and examined. Moreover, PacifiCorp had years subsequent to the  
12 Commission’s issuance of Order No. 05-584 when it could have returned to the  
13 Commission with a specific issue to be delineated, bounded, and examined. PacifiCorp  
14 failed to do so. For PacifiCorp to now attempt to push the consequences of missed  
15 opportunities to Threemile Canyon -- especially where the justness and reasonableness  
16 and public interest standards of PURPA Rates for Purchases are not violated, the terms  
17 and conditions of Schedule 37 are clear, and the Commission has expressly rejected  
18 project-by-project negotiation of what are supposed to be “standard offer” contracts -- is  
19 both unfair and unjust to Threemile Canyon, and must not be allowed. Threemile  
20 Canyon is eligible to sell under Schedule 37 without adjustment in prices or additional  
21 cost responsibility.

1                                   **Equitable Considerations Favoring Threemile Canyon**

2           1. Under Oregon’s laws and regulations implementing PURPA, a QF located within  
3           PacifiCorp’s service territory wishing to sell its net output to PacifiCorp must first  
4           enter into: (1) a generation interconnection agreement with PacifiCorp  
5           transmission – the function at PacifiCorp responsible for PacifiCorp grid  
6           operations, including interconnections; and (2) a power purchase agreement with  
7           PacifiCorp merchant – the function at PacifiCorp responsible for contracting to  
8           purchase net output from QFs. PacifiCorp’s Oregon tariff Schedule 37 establishes  
9           the terms and conditions on which PacifiCorp must purchase the net output of a  
10          QF with a nameplate capacity of 10,000 kilowatts or less.

11          The Facility

12          2. Exelon Wind, LLC (f/k/a John Deere Renewables, LLC) and joint developer  
13          Momentum Renewable Energy, Inc. first approached PacifiCorp merchant about  
14          purchasing output from one 5 MW project and one 10 MW project, to be located  
15          at the Threemile Canyon site and interconnected to PacifiCorp’s Dalreed  
16          substation, in 2006.

17          3. Threemile Canyon received from PacifiCorp transmission a Feasibility Study  
18          Report regarding its proposed interconnection on July 31, 2006. PacifiCorp was  
19          identified in the report as the “Transmission Provider.” Section 7.0, located on  
20          page 11 of the report, is titled, “Participation by Affected Systems” and the one

1 sentence finding of that Section was “No Affected Systems were identified in  
2 relation to this Interconnection Request.”

3 4. Threemile Canyon received from PacifiCorp transmission a System Impact Study  
4 regarding its proposed interconnection on November 22, 2006. PacifiCorp was  
5 identified in the report as the “Transmission Provider.” Section 5.0, located on  
6 page 8 of the report, is titled, “Participation by Affected Systems” and the one  
7 sentence finding of that Section was “No Affected Systems were identified in  
8 relation to this Interconnection Request.”

9 5. Threemile Canyon received from PacifiCorp transmission a Facilities Study  
10 Report on February 20, 2007. PacifiCorp was identified in the report as the  
11 “Transmission Provider.” In addition, in the report’s Section 2.0, “Scope and  
12 Objectives of the Study,” the following statement was made with respect to such  
13 scope and objectives: “Specify and estimate the cost of the equipment,  
14 engineering, procurement, and construction work (including overheads) needed to  
15 implement the conclusions of the system impact study(s).”

16 6. In 2007, John Deere Renewables acquired 100 percent ownership of Threemile  
17 Canyon.

18 7. On July 15, 2008, Threemile Canyon entered into a *Distribution Generation*  
19 *Interconnection Agreement* with PacifiCorp transmission (“Interconnection  
20 Agreement”), permitting Threemile Canyon to interconnect to PacifiCorp’s utility

1 system ("System") at PacifiCorp's Dalreed Substation ("Point of  
2 Interconnection").

3 8. Between December 2008 and June 2009, Threemile Canyon constructed its  
4 Facility.

5 The Dalreed Locale of PacifiCorp's Service Territory

6 9. Threemile Canyon's Facility is located in PacifiCorp's service territory, in a  
7 locale which is served by PacifiCorp's Dalreed substation. As Threemile Canyon  
8 has come to understand, the Dalreed substation is served only from Bonneville  
9 Power Administration (BPA) owned transmission facilities, not by facilities  
10 owned by PacifiCorp. It is physically isolated from the rest of PacifiCorp's  
11 service territory. PacifiCorp describes this arrangement as a "load pocket."  
12 Under the circumstances of this specific generator interconnection process,  
13 PacifiCorp clearly erred in calling itself the Transmission Provider, as it did in the  
14 several instances noted above in this Complaint.

15 10. PacifiCorp's Dalreed load consists of a single farming operation that has a dairy  
16 farm and large irrigation system resulting in irrigation season loads up to 40 MW  
17 and non-irrigation loads of approximately 2-4 MW. Long after conclusion of the  
18 interconnection process, PacifiCorp represented to Threemile Canyon: (a) that  
19 PacifiCorp imports energy on a firm basis into the Dalreed substation across  
20 BPA-owned transmission pursuant to PacifiCorp's General Transmission  
21 Agreement (GTA) with BPA; (b) the GTA covers power flow into Dalreed

1 substation; (c) under the GTA, the Dalreed load is telemetered into PacifiCorp  
2 West control area such that dynamic scheduling is not required for import energy;  
3 and (d) the current GTA makes no provision for firm export of energy from the  
4 Dalreed substation across BPA transmission.

5 11. The Facility is currently the only generation source in the Dalreed load pocket.  
6 After conclusion of the interconnection process and after Threemile Canyon made  
7 its contractual commitments to build the Facility, PacifiCorp merchant determined  
8 that the generation from the Facility is likely to exceed total load at the Dalreed  
9 substation approximately 11 to 15 percent of total hours in any year during the  
10 months October through April with the majority of those hours concentrated in  
11 the months of November through March. PacifiCorp refers to the times when  
12 Threemile Canyon output exceeds total load in the locale served through the  
13 Dalreed Substation as "Excess Generation Events".

14 12. Because Excess Generation Events are expected to occur, PacifiCorp clearly erred  
15 in stating there is no "affected system," as it did in the several instances noted  
16 above in this Complaint.

17 13. Under FERC and Commission rules implementing PURPA, PacifiCorp is  
18 required to purchase any energy and capacity which is made available from  
19 Threemile Canyon, except when a system emergency exists. 18 C.F.R. §  
20 292.303(a); OAR 860-029-0030(1). The Commission defines "system  
21 emergency" as "a condition on a public utility's system which is likely to result in

1 imminent, significant disruption of service to customers, in imminent danger of  
2 life or property, or both.” OAR 860-029-0010(27).

3 14. PacifiCorp has represented to Threemile Canyon: (a) that during an Excess  
4 Generation Event, PacifiCorp merchant may use (if available) firm BPA Point-  
5 To-Point (“PTP”) Transmission Service (PTPTS) as defined in BPA’s Open  
6 Access Transmission Tariff (“OATT”) in order to move the excess generation  
7 from Dalreed substation to PacifiCorp’s greater system such that PacifiCorp can  
8 use the Facility’s excess generation to serve its retail customer load; (b) that  
9 PacifiCorp has made a formal request to BPA to purchase sufficient capacity to  
10 transmit 100 percent of Threemile Canyon’s generation in excess of Dalreed  
11 Service Area load (8 megawatts) to PacifiCorp’s other load across BPA-owned  
12 transmission for a one-year term with roll-over rights to renew on an on-going  
13 basis through the term of the Power Purchase Agreement (“PPA”); and (c) a  
14 customer-financed upgrade to BPA’s system may be necessary before BPA long-  
15 term FFTP transmission sufficient to export Threemile Canyon’s excess  
16 generation in all months is available.

17 15. PacifiCorp has represented to Threemile Canyon that in the event sufficient long-  
18 term firm transmission service (LTFPTPTS) is not available, PacifiCorp may  
19 attempt to obtain short-term firm transmission (STFPTPTS) on a month-to-month  
20 basis for the months when an Excess Generation Event is expected.

21 16. PacifiCorp has represented to Threemile Canyon that if PacifiCorp does not

1 purchase BPA PTPTS, then PacifiCorp would curtail excess Facility generation  
2 during Excess Generation Events so not to incur penalties from BPA for  
3 unscheduled deliveries under BPA's OATT. If PacifiCorp purposely puts itself in  
4 a position where it must cause such curtailments of Threemile Canyon output,  
5 PacifiCorp will be violating its PURPA responsibilities to purchase any energy  
6 and capacity which is made available from Threemile Canyon, except when a  
7 system emergency exists.

8 Schedule 37

- 9 1. In December 2008, Threemile Canyon applied to PacifiCorp merchant for a Long-  
10 Term Standard Contract PPA (Long-Term PPA) for Threemile Canyon's Facility  
11 pursuant to PacifiCorp's Tariff Schedule 37 ("Schedule 37"). Threemile Canyon  
12 has been, and remains, willing to enter into a Long-Term PPA with PacifiCorp on  
13 the terms and conditions set forth under Schedule 37.
- 14 2. PacifiCorp has refused for over two years, and continues to refuse, to enter into a  
15 Long-term PPA with Threemile Canyon on the terms provided under Schedule 37  
16 unless Threemile Canyon agrees to bear the cost to purchase BPA FFTP  
17 transmission to export excess generation (including administrative costs) or,  
18 alternatively, the cost to Threemile Canyon (in lost generation and associated  
19 benefits, e.g. production tax credits) to curtail excess Facility generation.
- 20 3. Schedule 37 includes no provision for requiring the QF to pay additional third-  
21 party transmission costs incurred by PacifiCorp or to bear the cost of curtailed

1 generation due to PacifiCorp's failure to secure adequate third-party transmission.  
2 On June 19, 2009, PacifiCorp and Threemile Canyon executed a Short-Term PPA  
3 with a four-month term. The Short-Term PPA, in its Addendum R (Clarification  
4 of Contract Price), memorialized and documented the Parties agreement on the  
5 Contract Prices that would be paid by PacifiCorp to Threemile Canyon. In  
6 executing the Short-Term PPA, the parties reserved their right to dispute who  
7 would pay incremental third-party transmission costs and incremental revenue  
8 reductions when the Interim PPA expires. PacifiCorp and Threemile Canyon later  
9 extended their Short-Term PPA's Termination Date in succession until: (a)  
10 October 31, 2009; (b) April 30, 2010, (c) October 31, 2010, (d) March 31, 2011,  
11 and (e) September 30, 2011. Threemile Canyon seeks a 20-year Long-term PPA  
12 for the Facility that will take effect when the Short-Term PPA expires.

13  
14 4. As the specific circumstances documented throughout this Complaint make clear,  
15 PacifiCorp must be the party that will pay third-party transmission costs in this  
16 specific case.

17 WHEREFORE, Threemile Canyon seeks an order from the Commission:

18 1. Requiring PacifiCorp to purchase the output of the Facility, including  
19 during any Excess Generation Event, on the terms and at the rate selected by Threemile  
20 Canyon under Schedule 37, without adjustments for incremental third-party transmission  
21 costs, or alternatively,



1 2. Requiring PacifiCorp to pay to Threemile Canyon any revenue reductions  
2 arising from PacifiCorp's failure to purchase the output of the Facility, including during  
3 any Excess Generation Event.

4 WHEREFORE, Threemile Canyon respectfully requests expedited review of this  
5 Complaint so that it may have the benefit of this Commission's decision prior to  
6 executing their Long-term PPA.

7 Party Addresses

8 **Complainant:**

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25 DATED this 1<sup>st</sup> day of July 2011.

26 BALL JANIK LLP

27

28 By: /s/  
29 Richard H. Allan, OSB #881477  
30 Of Attorneys for Complainant,  
31 Threemile Canyon Wind I, LLC  
32

1 **CERTIFICATE OF FILING**

2 I hereby certify that on July 1<sup>st</sup>, 2011, I filed the foregoing COMPLAINT with the  
3 Public Utility Commission; Att'n Filing Center, by electronic transmission and mailed the  
4 original and five copies to the Public Utility Commission, Att'n. Filing Center, 550 Capitol  
5 Street NE, No. 215, P.O. Box 2148, Salem, Oregon 97308 by first-class mail in a sealed  
6 envelope.  
7

8 **BALL JANIK LLP**

9 By: /s/  
10 Richard H. Allan, OSB #881477  
11 Of Attorneys for Complainant  
12 Threemile Canyon Wind I, LLC

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on July 1<sup>st</sup>, 2011, I served a true and correct copy of the  
15 foregoing COMPLAINT by electronic transmission and by first-class mail on the  
16 following individuals:

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Threemile Canyon Wind I, LLC

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1546

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THREEMILE CANYON WIND I, LLC,

Complainant,

vs.

PACIFICORP, dba PACIFIC POWER,

Defendant.

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A copy of a complaint filed against PacifiCorp, dba Pacific Power, is attached under ORS 756.512(1).

The Public Utility Commission must receive an Answer from the Defendant or its attorneys by July 15, 2011, under OAR 860-001-0400(4)(d). A copy must be served on the complainant.

After the filing of the answer, the matter will be set for hearing and you will be notified of the time and place.

PUBLIC UTILITY COMMISSION OF OREGON



Cheryl Walker  
Administrative Specialist 2  
Administrative Hearings Division

Attachments: Complaint  
Notice of Contested Case Rights and Procedures

Served electronically at Salem, Oregon, July 5, 2011 to:  
Jeffrey S. Lovinger at [lovinger@lklaw.com](mailto:lovinger@lklaw.com),  
Jordan A. White at [jordan.white@pacificorp.com](mailto:jordan.white@pacificorp.com), and  
PacifiCorp Oregon Dockets at [oregondockets@pacificorp.com](mailto:oregondockets@pacificorp.com).



# Oregon

John A. Kitzhaber, MD, Governor

## Public Utility Commission

550 Capitol St NE, Suite 215  
Mailing Address: PO Box 2148  
Salem, OR 97308-2148  
Consumer Services  
1-800-522-2404  
Local: 503-378-6600  
Administrative Services  
503-373-7394

July 5, 2011

ELECTRONIC SERVICE TO: [rallan@bjllp.com](mailto:rallan@bjllp.com)

Richard H. Allan  
Ball Janik LLP  
101 SW Main Street, Suite 1100  
Portland, Oregon 97204

Re: UM 1546, Threemile Canyon Wind I, LLC vs. PacifiCorp dba Pacific Power

The Commission has assigned Docket No. UM 1546 to the above-referenced complaint against PacifiCorp dba Pacific Power (Pacific Power). You should use this number whenever you refer to this case.

Pursuant to ORS 756.512(1), the Commission has served a copy of your client's Complaint on Pacific Power.

Pacific Power has until July 15, 2011, to file its Answer pursuant to OAR 860-001-0400(4)(d). After the filing of the answer, the matter will be set for hearing and you will be notified of the time and place.

PUBLIC UTILITY COMMISSION OF OREGON

Cheryl Walker  
Administrative Specialist 2  
Administrative Hearings Division  
(503) 378-2849

Attachment: Notice of Contested Case Rights and Procedures



## NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

**Hearing:** The time and place of any hearing held in this proceeding will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 to 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the website at [www.puc.state.or.us](http://www.puc.state.or.us). The Commission will hear issues as identified by the parties.

**Right to Attorney:** As a party to this hearing, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission staff, if participating in the case, will be represented by the Department of Justice. Once a hearing has begun, you will not generally be allowed to postpone the hearing to obtain counsel.

**Administrative Law Judge:** The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope an ALJ's authority is defined in OAR 860-001-0090. The ALJ make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

**Hearing Rights:** You have the right to respond to all issues identified, and present evidence and witnesses on those issues. *See* OAR 860-001-0450 to OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 to 860-001-0540.

**Evidence:** Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450(1)(b). Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Once a hearing is completed, the ALJ will not generally allow the introduction of additional evidence without good cause.

**Record:** The hearing will be recorded, either by a court reporter or by audio/digital tape, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request the Commission for a copy of the tape for a fee set forth in OAR 860-001-0060(3)(e)(B). The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

**Final Order and Appeal:** After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The ALJ's draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days. *See* ORS 756.610.