

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • jog@dvclaw.com
1750 SW Harbor Way, Suite 450
Portland, OR 97201

July 9, 2019

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PUBLIC UTILITY COMMISSION OF OREGON,
Investigation into PURPA Implementation.
Docket No. UM 2000

Dear Filing Center:

Please find enclosed the Comments of the Alliance of Western Energy Consumers in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2000

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	COMMENTS OF THE ALLIANCE OF
OREGON,)	WESTERN ENERGY CONSUMERS
)	
Investigation into PURPA Implementation.)	
_____)	

I. INTRODUCTION

In accordance with the email from Staff of the Oregon Public Utilities Commission (“Commission”), sent June 20, 2019, the Alliance of Western Energy Consumers (“AWEC”) submits these comments on the issues discussed during the June 11, 2019 Commission Workshop in Docket No. UM 2000. AWEC appreciates the opportunity to participate in the Commission’s process, and the opportunity to file these comments regarding the status of the Commission’s investigation into its implementation of the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

AWEC appreciates the efforts invested by Staff in developing the May 28, 2019 draft White Paper, as well as the updates provided by Staff on June 20, 2019. In general, AWEC is amenable to addressing the issues identified within the White Paper as recommended by Staff and/or as agreed to by the stakeholders. However, as discussed herein, AWEC provides comments on three distinct areas to facilitate efficiency and protect due process of all stakeholders. These comments are not intended to present an exhaustive discussion of AWEC’s position on all issues presented for discussion in this matter, and silence toward, or omission of,

an issue should not be seen as AWEC's acquiescence on, or ambivalence toward, any issue not discussed herein.

II. DISCUSSION

A. Exclusivity

AWEC generally supports the resolution framework presented in Staff's White Paper. Nonetheless, it is AWEC's position that, during the pendency of the resolution of processes proposed in the White Paper, issues identified by Staff and proposed for discussion should not be excluded from conversation in parallel proceedings.

Staff has categorized issues identified by stakeholders into four general categories: Avoided Cost, Contracts, Interconnection, and Planning. In seeking resolution of the perceived challenges related to the implementation of PURPA in Oregon originating from each of the categories, Staff has proposed to bifurcate issues within and among these categories, addressing certain issues in short order, and reserving others to be discussed over a longer-term scope. However, Staff acknowledges that the specific issues within each category are likely intertwined, and that some issues reserved for resolution over the long term will overlap with near-term considerations. Staff further notes that long-term subjects could be impacted by the Commission's actions in Docket No. UM 2011.

The intertwined nature of issues within and among the established categories forms the gravamen of AWEC's initial point of note and related recommendation. Protection of all stakeholders' due process interests requires that all relevant elements be open and available for discourse and argument in an active proceeding, notwithstanding the efforts of the Commission and stakeholders to seek resolution and a path forward in this docket. This is of

particular note in the current context, as Staff has proposed that the near-term and long-term processes occur in parallel. Accordingly, AWEC recommends that, in the event an issue identified for either short-term or long-term discussion in this proceeding is relevant for discussion in another parallel proceeding, such as an Integrated Resource Plan proceeding, the fact that it has been identified in the present docket should not preclude or otherwise restrict any party from fully and freely advocating any position on such an issue in any other parallel proceeding.

B. Avoided Cost Updates

As noted above, AWEC supports the resolution path proposed by Staff in the White Paper. Specifically, AWEC supports the proposed framework to develop a standardized template for inputs and outputs used in modeling avoided costs. Furthermore, AWEC agrees that a consistent framework of inputs and outputs will serve to reduce or eliminate confusion.

AWEC notes that PURPA requires payments to QFs to be no greater than the avoided cost of energy and capacity, and Oregon law requires that these same payments be no lower than the marginal cost.^{1/} Accordingly, compliance with the combination of state and federal law requires payments to QFs to precisely equal the marginal cost. While state and federal law contemplate that payments must also be predictable and, therefore, cannot be updated continuously to account for changes to avoided costs, accuracy and precision are nevertheless paramount. AWEC recommends that the Commission require frequent updates to the utilities' avoided costs to ensure they are accurate and fair to both the ratepayers and the utility, while

^{1/} 16 U.S.C. § 824a-3(b)(2); ORS 758.535(2).

maintaining sufficient predictability for QF developers to enable development of projects that will benefit customers. At this time, AWEC does not have a specific recommendation as to the interval of these updates, but urges the Commission to ensure information is received with a frequency that allows the Commission to accurately, to the best extent possible, determine the avoided cost.

C. Future Process

As noted above, Staff recommends bifurcated, parallel processes to address details and resolve issues around the five major identified issues. Specifically, with respect to the “Near-Term” issues, Staff proposes 1) a targeted investigation into near-term planning, and 2) one or more discrete rulemakings addressing avoided cost inputs/outputs, contracting, dispute resolution and network upgrades. For the “Longer-Term” issues, Staff proposes an investigatory process, potentially followed by a rulemaking. Staff acknowledges that issues assigned to one time-period category may overlap with issues assigned to the other, and specifies a desire that the near-term process will resolve many issues related to litigation.

While AWEC supports the framework proposed by Staff and will endeavor to engage as an active participant, AWEC does take this opportunity to express an observation regarding the processes proposed. Specifically, AWEC agrees that many of the issues are inherently intertwined. Furthermore, AWEC understands Idaho Power’s preference for a single-phase docket to address the identified issues. AWEC agrees that the bifurcated process, including rulemakings, investigations, and contested case proceedings, can be successful in improving the PURPA process in Oregon. Indeed, AWEC supports the proposed focus on investigations and rulemakings, to allow a wide range of information to be developed and

presented to the Commission in advance of resolution. However, AWEC recommends that the full suite of processes be available to address issues of concern. Specifically, to the extent that factual elements surrounding specific issues are contested, AWEC submits that the rulemaking process may not afford a full and fair resolution of the disparity. Accordingly, to the extent that relevant facts are not in dispute, AWEC supports a rulemaking process to develop a resolution to a specific issue. However, in the event that stakeholders are not in agreement as to the relevant and pertinent facts necessary for consideration, a contested case proceeding is most appropriate. AWEC seeks to ensure that the Commission retains the entire suite of processes available to fully and accurately develop facts to support any resolution.

Dated this 9th day of July, 2019.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple

1750 SW Harbor Way, Suite 450

Portland, Oregon 97201

(503) 241-7242 (phone)

(503) 241-8160 (facsimile)

tcp@dvclaw.com

Of Attorneys for the

Alliance of Western Energy Consumers