

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1129**

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON

Staff's Investigation Relating to Electric  
Utility Purchases from Qualifying  
Facilities.

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ERRATA ORDER

**DISPOSITION: REFERENCES TO APPENDICES TO ORDER NO. 06-530  
CLARIFIED; APPENDICES A AND B ATTACHED**

On January 20, 2004, the Public Utility Commission of Oregon (Commission) opened an investigation related to electric utility purchases from qualifying facilities (QFs). On May 13, 2005, the Commission issued Order No. 05-584, resolving issues regarding the continued implementation of the Public Utilities Regulatory Policies Act (PURPA). In that order, the Commission directed Oregon's electric public utilities ("electric utilities" or "electric companies") to file updated tariffs and new standard contract forms with the Commission.

On July 12, 2005, the electric companies each filed avoided costs, revised tariffs and new standard QF power purchase contract forms. At a public meeting on August 2, 2005, although the Commission allowed the filings to take effect, an investigation of the compliance of the filings was also undertaken.

On September 20, 2006, the Commission entered Order No. 06-538, addressing each question of compliance raised. At page seven, the order indicated that the full list of issues addressed was attached as Appendix A. At page eleven, however, the order indicated that a Partial Stipulation was attached as Appendix A. Neither of the appendices was actually attached.

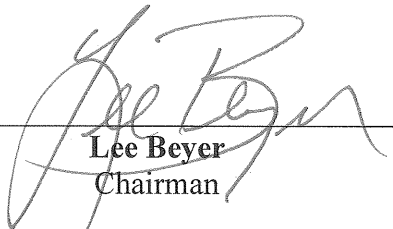
Both the Partial Stipulation and the full issues list should have been attached. For purposes of correcting Order No. 06-538, the full issues list will be designated as Appendix A and the Partial Stipulation will be designated as Appendix B. Both are attached to this order.


**ORDER**

IT IS ORDERED that:

- 1) The full issues list referred to as Appendix A at page 7 of Order No. 06-538 is attached to this order.
- 2) The Partial Stipulation referred to as Appendix A at page 11 of Order No. 06-538 is renamed Appendix B, and is attached to this order.
- 3) The remainder of Order No. 06-538 is unchanged.

Made, entered, and effective OCT 19 2006.

  
\_\_\_\_\_  
**Lee Beyer**  
Chairman

  
\_\_\_\_\_  
**John Savage**  
Commissioner

  
\_\_\_\_\_  
**Ray Baum**  
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

## UM 1129 PHASE I COMPLIANCE ISSUES LIST

Issues Related to All Electric Companies

1. Are the compliance filings consistent with Order No. 05-584?
2. Are the compliance filings consistent with the assumptions used in the utilities' resource acquisition or certification proceedings?
3. Are the standard terms and conditions in the compliance filings reasonable?
4. Should the Commission adopt criteria for determining whether multiple energy projects are in fact a single Qualifying Facility to protect the intent of Order No. 05-584, which directs that only projects 10 MW and smaller are eligible for standard avoided cost rates and a standard contract? For example, if a 60 MW wind farm is divided into six 10 MW installments in close proximity to one another, all built in the same calendar year, and with underlying ownership structures containing similar persons or entities, should each installment be eligible for standard rates and standard contracts? What criteria determine when a Qualifying Facility is 10 MW or less and eligible for the standard contract when the project/site has multiple generating units?
5. Do provisions in the standard contracts related to creditworthiness, security, damages and termination reasonably comply with the letter and intent of Order No. 05-584, including:
  - a. Are the security provisions reasonable? For example:
    - i. Is it consistent with Order No. 05-584 that the security requirements in § 4.1.6 of Idaho Power's contract are "at a minimum," allowing for unspecified conditions at the sole discretion of Idaho Power?
    - ii. Is it reasonable to require a letter of credit for potential environmental remediation, and for what amount, in cases where a Qualifying Facility selects the senior lien or step-in rights security option, as in PacifiCorp's standard contract?
    - iii. Should PGE § 7 and Idaho Power § 4.1 define the security options of cash escrow, senior lien, step-in-rights and letter of credit?
    - iv. Is the definition of Default Security in § 1.9 of PacifiCorp's contract consistent with Order No. 05-584 at 45?

- v. Is the definition of Letter of Credit in § 1.17 of PacifiCorp's contract consistent with Order No. 05-584 at 45.
- b. Are the default and termination provisions reasonable? For example:
- i. How should the "contracted for" amount of energy be determined, and should it be consistent in all standard contracts?
  - ii. Do net delivery requirements of standard contracts comply with Order No. 05-584 that requires firm and intermittent resources to be valued equally?
  - iii. Should reduced resource availability due to weather-related events trigger default provisions for renewable resource projects that rely on natural motive force?
  - iv. Does a requirement to specify monthly and annual minimum generating output—below which the Qualifying Facility would be in default—reasonably comply with the Commission's order, even if output levels are based on projections under adverse natural motive force conditions? Should the Commission instead set a minimum annual delivery requirement, in percent, to be applied to the Qualifying Facility's expected generating output?
  - v. Is it reasonable for the utility to terminate the contract for "under-deliveries" due to weather, or for delays in producing power?
  - vi. Is it consistent with the order to establish that the Qualifying Facility has breached the agreement if the facility does not meet the specified commercial operation milestones, with no exception during the utility's resource sufficiency period, as in PGE's standard contract?
  - vii. Should § 11.3.3 of PacifiCorp's contract be limited in applicability only to those situations where the utility is in deficit situation per its Integrated Resource Plan?
  - viii. **WITHDRAWN**
  - ix. Is it reasonable that § 11.4.1 of PacifiCorp's contract imposes damages for under-delivery of production delays during the utility's resource sufficiency period?
  - x. Should PGE's and Idaho Power's default provisions take into account sufficient monies to provide for continued facility operations and debt payment in the event future payments are

temporarily reduced as a penalty for under-delivery, as in PacifiCorp's contract (§ 11.4.2)?

- xi. Is it reasonable for PacifiCorp to limit the opportunity to cure period to a time certain after the default (§ 11.2.2)? Should the company instead use the phrase "commercially reasonable time" as in Idaho Power's contract (§ 18.2.1)? Should the opportunity to cure provisions in PacifiCorp's contract apply to all events of default and not be limited to just § 11.1.1 and § 11.1.5? Should PGE's contract provide the opportunity to cure in § 10? Should PGE's contract provide for reciprocal default terms as in PacifiCorp's and Idaho Power's contracts?
- xii. Is it consistent with PURPA that § 11.3.2 of PacifiCorp's contract disqualifies a QF that has been terminated, due to the QF's default, from selling to the utility until after the expiration in the contract? Does this provision extend to a lender that forecloses on the facility and becomes the new Seller? Is it reasonable for PGE to restrict a Qualifying Facility, once terminated, from selling under any other terms than the terminated agreement, as specified in § 10.4?
- xiii. Is it reasonable for Idaho Power to terminate the contract for failure to deliver a certain level of Net Energy in any contract year (§ 6.3), given that Order No. 05-584 states that the utilities are to purchase all of the output from Qualifying Facilities, and the Shortfall Energy provisions of the contract keep the company whole in such a situation?
- xiv. **WITHDRAWN**
- c. Is the basis for calculating damages sound, and is the proposed level of damages reasonable both for an event of default and termination resulting from default? For example:
  - i. Is the definition of Net Replacement Power Costs in § 1.25 of PacifiCorp's contract consistent with Order No. 05-584 at 45?
  - ii. Should the Shortfall Energy Repayment Price be zero in § 7.3 of Idaho Power's contract if the utility is energy surplus as defined in its Integrated Resource Plan?
  - iii. Is it reasonable for Idaho Power to impose on the Qualifying Facility interest expenses on recoupment power costs (§ 7.5)?

- iv. Is the use of Net Energy Amount in Idaho Power's contract (§ 1.12 and 6.2) reasonable for determining the Shortfall Energy and damages (Article VII)?
- d. Are the creditworthiness terms reasonable? For example:
  - i. Is it reasonable for PacifiCorp and Idaho Power to impose security and creditworthiness requirements in addition to representations that the Qualifying Facility has good credit, is current on existing debt obligations and has not been a debtor in the last two years?
  - ii. Is it reasonable for PacifiCorp to require Qualifying Facilities larger than 3 MW to have a long-term debt credit rating by a credit agency in order to meet credit requirements?
  - iii. Is it reasonable that PGE requires a Qualifying Facility to warrant that it will remain current on financial obligations to others throughout the contract term, or post default security?
  - iv. Is it clear in the utilities' contracts that security measures only come into play if a Qualifying Facility is unable to make these creditworthiness representations?
  - v. Is the definition of Credit Requirements in § 1.8 of PacifiCorp's contract consistent with Order No. 05-584 at 45?
- e. Should the indemnity provisions in § 12.1 of PacifiCorp's contract be consistent for PacifiCorp and the seller? Specifically, should PacifiCorp be required to indemnify the Seller "at the Point of Delivery" rather than "after the Point of Delivery"?
- 6. Should tariffs for Qualifying Facilities include a detailed list of procedures, including timelines, to comply with the Commission's directive that such tariffs contain "full details about the process to enter into a standard contract or a negotiated contract," per Order No. 05-584 at 59? If yes, which procedures and timelines should be included at a minimum, and what timelines are appropriate?
- 7. Do the administrative and technical requirements in the standard contracts reasonably comply with the intent of Order No. 05-584? For example, should all Qualifying Facilities be required to hire a licensed professional engineer to verify that the facility operates as specified? Is it reasonable to require that the licensed engineer be unaffiliated with the project as in § 1.18 of PacifiCorp's contract and § 1.10 of PGE's contract?
- 8. Should increased Qualifying Facility output resulting from changes in operation of generating equipment—for example, improving its efficiency or operating at a

higher power factor—qualify for the full avoided cost prices in the tariff as of the effective date of the agreement? Should increased generation resulting from efficiency improvements that increase the project's output above the nameplate rating specified in the contract be entitled to full avoided cost prices, so long as the project's nameplate rating remains at or below 10 MW? If so, should the increased generation be priced at the full avoided cost in the tariff as of the effective date of the agreement or as of the date of the improvement? Can Seller change the generator nameplate rating if equipment replacement is necessary?

9. Are PacifiCorp's, Idaho Power's and PGE's insurance requirements reasonable and appropriate? For example:
  - a. Is it reasonable and appropriate for PacifiCorp and Idaho Power to require the Qualifying Facility to carry insurance only with companies rated not lower than "A-" by the A.M. Best Company? Is it reasonable and appropriate for PGE to require the Qualifying Facility to carry insurance only with companies rated no less than "A" by the A.M. Best Company?
  - b. Should the utilities instead require Qualifying Facilities to use insurance companies "that are typically and reasonably used for the type of generating equipment used by the Facility"?
  - c. **WITHDRAWN**
10. **EXCLUDED**
11. Should lack of water and lack of wind be included as events of Force Majeure for wind and run-of-river hydro projects?
12. Should the utilities file standard form contracts for the purchase of QF power that is wheeled to their systems over a third-party transmission system? Should any such agreements address issues such as where title to the power changes hands and explicitly state that the purchasing utility purchases the QF's schedule off of the transmitting utility's system?
13. Can Seller choose to service some or all of its own load that is not plant parasitic load to determine Net Output? Is it reasonable and appropriate for the Seller to deduct load other than station use from Net Output, as in § 1.24 of PacifiCorp's contract and § 1.14 in PGE's contract?
14. If a utility and a Qualifying Facility Seller under 10 MW mutually agree to change a few terms of the standard contract for a facility but still use the applicable standard tariff, is this arrangement considered a PURPA contract in future ratemaking proceedings?

Issues Related to Portland General Electric and PacifiCorp Only

15. Are the natural gas price forecasts that Portland General Electric and PacifiCorp used for determining avoided costs reasonable?
16. What are the appropriate natural gas hubs?
17. Are the forward price projections that Portland General Electric and PacifiCorp used to determine the on-peak and off-peak avoided costs during their projected resource sufficiency periods reasonable?
18. Issues related to the resource sufficiency/deficiency period, including but not limited to the following:
  - a. How are the periods defined?
  - b. What loads were used to compute the period?
  - c. Are the load forecasts recent and accurate?
  - d. Can a utility that is chronically short on capacity and continuously building capacity be considered sufficient?
  - e. Should capacity forecasts impact the sufficiency/deficiency periods?
  - f. **WITHDRAWN**
  - g. Is it appropriate to include short-term firm purchases in baseload capacity when calculating resource sufficiency?
  - h. Is it appropriate that PacifiCorp determines the resource sufficiency period for its avoided costs filing in a different manner than its resource needs in the Integrated Resource Planning process?
  - i. Is it appropriate that PacifiCorp's compliance filing uses CY 2010 as its deficit year for determining avoided costs when the filing shows a deficit of 561 MW in August 2005, growing to a 1,804 MW deficit in July 2009?
  - j. Issues related to how the utilities should forecast Qualifying Facility capacity in determining when the utility will be resource sufficient or resource deficient for the purposes of avoided cost calculations.



19. Issues related to the utilities' proxy units in the avoided cost calculation. For example:
  - a. Are the assumptions regarding the capacity factors for combined cycle combustion turbines (CCCTs) reasonable?
  - b. Are the assumptions for the costs of CCCTs reasonable and consistent with other planning assumptions?
  - c. Should altitude of new resource locations be considered in developing avoided costs?
  - d. Are the interconnection costs assigned to the proxy plant that the utilities use to calculate their avoided costs reasonable?
20. Are the utilities' elements, conditions, computer model assumptions, and inputs underlying the avoided cost calculations reasonable?
21. If the Commission's decision in AR 495 allows, should standard contracts contain a waiver of claim to ownership of environmental attributes of delivered power as provided in § 8.1 of Idaho Power's contract?
22. Is it reasonable for PacifiCorp to correct for meter reading errors "either fast or slow" as specified in § 8.3 of the contract, instead of only "slow," given that PacifiCorp designs, furnishes, installs, owns, inspects, tests, maintains, and replaces all metering equipment as described in § 8.1? Should § 8.3 of PGE's contract be similarly modified?

Issues Related to PacifiCorp Only

23. **WITHDRAWN**
24. Is PacifiCorp's avoided cost filing consistent with its avoided cost filings in other jurisdictions?
25. Issues related to the application of the Revised Protocol.

26. **WITHDRAWN**

27. **WITHDRAWN**

Issues Related to PGE Only

28. **WITHDRAWN**

29. **WITHDRAWN**

30. Are prohibitions against any liens or encumbrances on the project other than for third party financing in § 3.1.5 of PGE's contract too restrictive?
31. Is it appropriate to provide flexibility in the Seller's notice requirements for maintenance in § 6.2 of PGE's contract by adding the words "when practicable" after "Off-Peak Hours"?
32. Is the blanket release in PGE's contract (§ 20.2) for claims related to the facility, whether known or unknown, reasonable?

Issues Related to Idaho Power Only

33. Is it reasonable for Idaho Power to require in § 3.3 that a hydroelectric Qualifying Facility warrant that it has a FERC license at the time of execution of the agreement, rather than warrant it will have a FERC license prior to the first operation date?
34. Is it reasonable for Idaho Power to seek to acquire rights of way and access to the Seller's facility for utility lines and easements totally unrelated to the facility (§ 13.2 through § 13.4)?

Track II Issues As They Relate to Standard Contracts

35. In the event of the inability of a QF to establish creditworthiness, determination of an appropriate amount of default security to be required.
36. Cap on amount of default losses that can be recouped, pursuant to future QF contract payment reductions.

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1129

In the Matter of Public Utility Commission  
of Oregon Staff's Investigation Relating to  
Electric Utility Purchases from Qualifying  
Facilities.

**PARTIAL STIPULATION**

This Partial Stipulation is entered into for the purpose of resolving a specific issue identified in this docket and does not address issues other than the specifically identified issue.

**PARTIES**

1. The initial parties to this Partial Stipulation are Idaho Power Company ("Idaho Power"), PacifiCorp, Portland General Electric Company ("PGE"), the Staff of the Public Utility Commission of Oregon ("Staff"), Sherman County Court/J.R. Simplot ("Sherman County/Simplot"), and the Oregon Department of Energy ("ODOE") (together "the Parties"). This Partial Stipulation will be made available to the other parties to this docket, who may participate by signing and filing a copy of this Partial Stipulation.

**BACKGROUND**

2. On May 13, 2005, the Commission issued Order No. 05-584 in this Docket which specified terms and conditions to be included in standard QF contracts. The order also indicated that a second phase of Docket No. UM 1129 would be opened to address issues that required further evidentiary development.

3. Each of the electric utilities filed avoided costs, revised tariffs and new standard QF contracts on July 12, 2005. On August 2, 2005, the Commission allowed the filings to go into effect, but ordered that an investigation of the filings be undertaken.

4. Phase II of this Docket was divided into tracks, with one track addressing compliance issues and another addressing the issues the Commission identified in Order No. 05-584 to be further investigated. Following the parties' development of proposed issues lists and the filing of comments, a Corrected Ruling was issued November 29, 2005, adopting an Issues List for Track I, as set forth in Appendix A of the Corrected Ruling, and an Issues List for Track II, as set forth in Appendix B of the Corrected Ruling.

5. Issue number 4 in Appendix A ("Issue 4") states:

"Should the Commission adopt criteria for determining whether multiple energy projects are in fact a single Qualifying Facility to protect the intent of Order No. 05-584, which directs that only projects 10 MW and smaller are eligible for standard avoided cost rates and a standard contract? For example, if a 60 MW wind farm is divided into six 10 MW installments in close proximity to one another, all built in the same calendar year, and with underlying ownership structures containing similar persons or entities, should each installment be eligible for standard rates and standard contracts? What criteria determine when a Qualifying Facility is 10 MW or less and eligible for the standard contract when the project/site has multiple generating units?"

6. Pursuant to Administrative Law Judge Kirkpatrick's August 23, 2005 Prehearing Conference Memorandum, a settlement conference on UM 1129 issues was held on November 1, and an additional settlement conference was held on December 13, 2005. The settlement conferences were open to all parties.

7. As a result of the settlement conferences, the Parties have reached agreement on the matters set forth below. The Parties submit this Partial Stipulation to the Commission and request that the Commission approve the settlement as presented.

AGREEMENT

8. The Parties agree that the definitions and terms set forth in Exhibit A, attached hereto and incorporated herein, are fair and reasonable and should be adopted by the Commission as a resolution to Issue 4.

9. The Parties agree that this Partial Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation of this Partial Stipulation shall not be admissible as evidence in this or any other proceeding.

10. This Partial Stipulation will be offered into the record of this proceeding as evidence pursuant to OAR 860-14-0085. The Parties agree to support this Partial Stipulation throughout this proceeding and any appeal, provide witnesses to sponsor this Partial Stipulation at the hearing and recommend that the Commission issue an order adopting the settlements contained herein.

11. The Parties agree that they will continue to support the Commission's adoption of the terms of this Partial Stipulation. If this Partial Stipulation is challenged by any other party to this proceeding, the Parties agree to cooperate in cross-examination and put on such a case as they deem appropriate to respond fully to the issues presented, which may include raising issues that are incorporated in the settlements embodied in this Partial Stipulation.

12. The Parties have negotiated this Partial Stipulation as an integrated document. If the Commission rejects all or any material portion of this Partial Stipulation or imposes additional material conditions in approving this Partial Stipulation, any party disadvantaged by such action shall have the rights provided in OAR 860-014-0085 and shall be entitled to seek reconsideration or appeal of the Commission's Order.

13. By entering into this Partial Stipulation, no party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed by any other party in arriving at the terms of this Partial Stipulation, other than those specifically identified in the body of this Partial Stipulation, including Exhibit A. No party shall be deemed to have agreed that any provision of this Partial Stipulation is appropriate for resolving issues in any other proceeding, except as previously identified in Paragraph 8 of the Partial Stipulation.

14. This Partial Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Partial Stipulation is entered into by each party on the date entered below such party's signature.

*Signatures follow on next page*

IDAHO POWER COMPANY

STAFF

By: BT/Ch

By: \_\_\_\_\_

Date: January 19, 2006

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

IDAHO POWER COMPANY

STAFF

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: *[Signature]*

By: \_\_\_\_\_

Date: 1-18-06

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



IDAHO POWER COMPANY

STAFF

By: *[Signature]*

By: \_\_\_\_\_

Date: January 19, 2006

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: \_\_\_\_\_

By: *Jamie L. Hewitt*

Date: \_\_\_\_\_

Date: January 31, 2006

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

IDAHO POWER COMPANY

By: [Signature]  
Date: January 19, 2006

STAFF

By: [Signature]  
Date: 1/26/06

PACIFICORP

By: \_\_\_\_\_  
Date: \_\_\_\_\_

ODOE

By: \_\_\_\_\_  
Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

By: \_\_\_\_\_  
Date: \_\_\_\_\_

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_  
Date: \_\_\_\_\_

IDAHO POWER COMPANY

STAFF

By: [Signature]

By: \_\_\_\_\_

Date: January 19, 2006

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: [Signature]

By: \_\_\_\_\_

Date: 1/31/06

Date: \_\_\_\_\_

IDAHO POWER COMPANY

STAFF

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PACIFICORP

ODOE

By: *[Signature]*

By: \_\_\_\_\_

Date: 1-18-06

Date: \_\_\_\_\_

PORTLAND GENERAL ELECTRIC

SHERMAN COUNTY/SIMPLOT

By: \_\_\_\_\_

By: *Pete Dehaer*

Date: \_\_\_\_\_

Date: 2/2/05

**EXHIBIT "A"**  
**TO PARTIAL STIPULATION**

**Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Rates and Standard Contract:**

A Qualifying Facility (either a small power production facility or a cogeneration facility) ("QF") will be eligible to receive the standard rates and standard contract if the nameplate capacity of the QF, together with any other electric generating facility using the same motive force, owned or controlled by the same person(s) or affiliated person(s), and located at the same site, does not exceed 10 MW.

**Definition of Person(s) or Affiliated Person(s):**

As used above, the term "same person(s)" or "affiliated person(s)" means a natural person or persons or any legal entity or entities sharing common ownership, management or acting jointly or in concert with or exercising influence over the policies or actions of another person or entity. However, two facilities will not be held to be owned or controlled by the same person(s) or affiliated person(s) solely because they are developed by a single entity. Furthermore, two facilities will not be held to be owned or controlled by the same person(s) or affiliated person(s) if such common person or persons is a "passive investor" whose ownership interest in the QF is primarily related to utilizing production tax credits, green tag values and MACRS depreciation as the primary ownership benefit. A unit of Oregon local government may also be a "passive investor" if the local governmental unit demonstrates that it will not have an equity ownership interest in or exercise any control over the management of the QF and that its only interest is a share of the cash flow from the QF, which share will not exceed 20%. The 20% cash flow share limit may only be exceeded for good cause shown and only with the prior approval of the Commission.

**Definition of Same Site:**

For purposes of the foregoing, generating facilities are considered to be located at the same site as the QF for which qualification for the standard rates and standard contract is sought if they are located within a five-mile radius of any generating facilities or equipment providing fuel or motive force associated with the QF for which qualification for the standard rates and standard contract is sought.

**Shared Interconnection and Infrastructure:**

QFs otherwise meeting the above-described separate ownership test and thereby qualified for entitlement to the standard rates and standard contract will not be disqualified by utilizing an interconnection or other infrastructure not providing motive force or fuel that is shared with other QFs qualifying for the standard rates and standard

**EXHIBIT "A"**  
**TO PARTIAL STIPULATION**

contract so long as the use of the shared interconnection complies with the interconnecting utility's safety and reliability standards, interconnection contract requirements and Prudent Electrical Practices as that term is defined in the interconnecting utility's approved standard contract.

**Dispute Resolution:**

Upon request, the QF will provide the purchasing utility with documentation verifying the ownership, management and financial structure of the QF in reasonably sufficient detail to allow the utility to make an initial determination of whether or not the QF meets the above-described criteria for entitlement to the standard rates and standard contract. Any dispute concerning a QF's entitlement to the standard rates and standard contract shall be presented to the Commission for resolution.

**Standard Contract Provision**

To insure continued compliance with the requirements stated above, the standard contracts shall contain a representation in substantially the following form: "Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the *Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Rates and Standard Contract* approved by the Commission at the time this Agreement is executed. Seller will provide, upon request by Buyer not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller's continued compliance with such Definition. Buyer agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except Buyer will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission's request."