

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1452

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation into Pilot Programs to
Demonstrate the use and effectiveness of
Volumetric Incentive Rates for Solar
Photovoltaic Energy Systems.

ORDER

**DISPOSITION: ORDER NO. 10-198 AMENDED; PRICE CAP FOR
SOLAR PHOTOVOLTAIC PILOT PROGRAM
COMPETITIVE BID OPTION RESCINDED**

This matter comes before the Commission on its own motion under ORS 756.515. We have investigated an issue arising from Order No. 10-198 in this docket. In that order, we established pilot programs for solar photovoltaic energy (SPV) systems as required by ORS 757.300.¹ Specifically, we investigated whether it is within our authority to impose a price cap on bids submitted by participants in the Volumetric Incentive Rate (VIR) competitive bid option. After investigating the matter, we conclude that the price cap likely infringes on the Federal Energy Regulatory Commission's (FERC's) exclusive authority over wholesale sales of energy by public utilities in interstate commerce. Accordingly, we conclude that the price cap should be removed from the SPV Pilot VIR competitive bid option.

In Order No. 10-198, we discussed jurisdictional limitations on our ability to set prices for wholesale sales in interstate commerce. We chose the VIR competitive bid option in part because this option does not infringe on FERC's jurisdiction.² Instead, the bid option provides that the market will set the price for energy sold to utilities by pilot program participants, and that the prices are subject to FERC's regulation.

¹ Order No. 10-198.

² See Order No. 10-198 at 11.

To guard against the possibility that consumers may pay exorbitant prices for the competitive bid option, we included a price cap equal to the VIR for medium-scale systems (55 cents/kWh).³ Because FERC has exclusive jurisdiction to regulate the rates, terms, and conditions for resale of electric energy in interstate commerce by public utilities, we conclude that it is likely not within our authority to cap the bid prices in the VIR competitive bid option.⁴ We therefore rescind the price cap.

PacifiCorp dba Pacific Power and Portland General Electric Company, have already issued requests for proposals (RFPs) for competitive bids under the competitive bid option. The bidding period for these RFPs ends August 12, 2010. It is possible that the price cap will influence the bid prices for these RFPs. Because of this possibility, we believe it is necessary to require that the electric companies re-issue the RFPs without the price cap, extending the period for new bids and for persons that have already bid to refresh their bids. The utilities must extend the bidding period for the re-issued RFPs to August 19, 2010, and give those who have already submitted bids the opportunity to refresh their bids.

ORDER

IT IS ORDERED that:

1. Order No. 10-198 is amended to rescind the price cap for the volumetric incentive rate competitive bid option.
2. PacifiCorp dba Pacific Power and Portland General Electric Company must file revised tariffs, as necessary, to remove reference to the price cap.


³ Order No. 10-018 at 18.

⁴ See 16 U.S.C. §§ 824, 824d, 824e (2006). See also *Mississippi Power & Light Co. v. Mississippi ex rel. Moore*, 487 U.S. 354 (1988); *California Public Utilities Commission, et al.*, 132 FERC 61,047 (July 15, 2010).

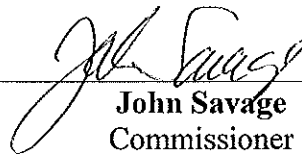
3. PacifiCorp dba Pacific Power and Portland General Electric Company must re-issue the requests for proposals for competitive bids to remove the price cap, extend the deadline for submitting bids to August 19, 2010, and give those who have already submitted bids the opportunity to submit refreshed bids.

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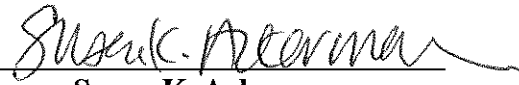
Made, entered, and effective _____.



Ray Baum
Chairman



John Savage
Commissioner



Susan K. Ackerman
Commissioner



Any party aggrieved by this order may request a hearing to determine whether this order should continue in effect under ORS 756.515(5). The request for hearing must be filed with the Commission no later than 15 days after the date of service of this order. 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.