

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1854

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application to Lower the Standard Price
and Standard Contract Eligibility Cap for
Solar Qualifying Facilities.

ORDER

DISPOSITION: STIPULATION ADOPTED; COMPLIANCE FILING REQUIRED

I. SUMMARY

Portland General Electric Company (PGE) initiated this docket with its application in June 2017 to reduce the size of solar qualifying facilities (QFs) that are eligible for standard contracts with avoided cost prices from PGE. PGE sought both immediate interim and permanent relief. In Order No. 17-310, we granted in part PGE's motion for interim relief by reducing the eligibility cap for avoided cost prices in standard contracts to 3 megawatts (MW) for solar QFs effective July 14, 2017.

To address PGE's request for permanent relief, six parties to this proceeding entered into a stipulation that continues our interim relief by setting the eligibility cap to 3 MW for solar QFs seeking standard prices. The settling parties are PGE, Staff of the Public Utility Commission, Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Community Renewable Energy Association, Renewable Northwest, and Obsidian Renewables (settling parties). In this order, we adopt the stipulation, attached as Appendix A, and require a compliance filing.

II. BACKGROUND

PGE's June 2017 application sought to modify the terms and conditions under which the company enters into power purchase agreements (PPA) with QFs. The company's primary request contained two parts: (1) that we lower the eligibility cap for a solar QF to obtain standard avoided cost prices from PGE from 10 MW to 3 MW; and (2) that we

declare a solar QF project with capacity above 100 kilowatts (kW) not eligible for a standard contract or standard avoided cost prices if any owner of the solar QF project has requested or obtained standard prices from PGE for more than 10 MW of solar capacity. In the alternative, PGE requested that we lower the eligibility cap for solar QF standard contracts and standard avoided cost prices to 2 MW.

In Order No. 17-310, we explained in detail PGE's initial application, PGE's motion for interim relief, and the parties' comments on interim relief. We described PGE's testimony detailing its spike in QF activity and potential financial consequences for its ratepayers. We also discussed similar circumstances and relief we granted for Idaho Power Company and PacifiCorp.¹ We resolved PGE's motion for interim relief by lowering the eligibility cap for a solar QF to obtain standard avoided cost prices to 3 MW on an interim basis, effective July 14, 2017. We also required PGE to provide monthly reports on the progress of the contracting process with solar QFs to allow us to have additional insight into the status of the QF activity that PGE is experiencing. We required these monthly reports until we resolve PGE's underlying request for permanent relief.

Since we issued Order No. 17-310, PGE has filed 15 monthly compliance reports. The parties engaged in two settlement conferences in February 2018. Prior to filing any additional comments or testimony, the settling parties submitted a stipulation on October 19, 2018, followed by an explanatory brief. The stipulation, which is not opposed by any party, is admitted into the record.

III. STIPULATION

The stipulating parties agree to five key terms:

- (1) Order Nos. 05-584 and 14-058 should be amended to reduce from 10 MW to 3 MW the eligibility cap for solar QFs to obtain standard prices from PGE;

¹ *In the Matter of Idaho Power Company, Applications to Lower Standard Contract Eligibility Cap and to Reduce the Standard Contract Term, for Approval of Solar Integration Change, and for Change in Resource Sufficiency Determination*, Docket No. 1725, Order No. 15-199 (Jun 23, 2015); and *In the Matter of PacifiCorp, dba Pacific Power, Application to Reduce the Qualifying Facility Contract Term and Lower the Qualifying Facility Standard Contract Eligibility Cap*, Docket No. UM 1734, Order No. 15-241 (Aug 14, 2015) (granting interim relief to Idaho Power and PacifiCorp, respectively). We granted permanent relief to both companies in early 2016. See Order Nos. 16-129 (Mar 29, 2016) and 16-130 (Mar 29, 2016).

- (2) PGE's Schedule 201 and standard contract forms proposed in Exhibit A to the stipulation should be approved effective on the date of this order approving the stipulation;
- (3) PGE will continue to make compliance filings as required by Order No. 17-310 for twelve months following the effective date of this order;
- (4) PGE will submit work papers as part of its May 1 annual avoided cost price updates; and
- (5) Upon issuance of this order, PGE will be deemed to have withdrawn its June 30, 2017 request for a 2 MW eligibility cap and the proposed 10 MW aggregate eligibility cap.

With the revisions to PGE's Schedule 201, solar QF projects with nameplate capacity of 3 MW or less would remain eligible for PGE's standard contract at PGE's standard prices; solar QF projects with capacity above 3 MW but not exceeding 10 MW would be eligible for PGE's standard contract but would not be eligible for PGE's standard prices and would need to negotiate the prices to be paid under the contract; and solar QF projects with capacity above 10 MW would not be eligible for either PGE's standard contract or PGE's standard prices.

The settling parties believe the proposed terms of settlement are a fair, just, and reasonable compromise, that they make permanent the eligibility cap relief which we have already approved on a temporary basis in Order No. 17-310, and that they bring the solar QF eligibility cap for PGE's standard prices into alignment with the solar QF eligibility cap applicable to standard prices offered by PacifiCorp and Idaho Power. For these reasons, the stipulating parties request that we approve the settlement.

IV. DISCUSSION

As we observed in our previous two orders in this proceeding, our role in implementing the Public Utility Regulatory Policies Act (PURPA) requires a balancing of interests to create a predictable regulatory structure for QFs while ensuring that electric utilities' power purchases from QFs do not exceed the utilities' avoided costs. Adopting the stipulation here furthers our PURPA implementation goals by giving effect to the parties' agreement, making permanent the current interim relief, and aligning the solar QF eligibility rules for Oregon's three investor-owned electric utilities.

We make two findings on the specific terms of the stipulation. First, the settling parties agreed to amend Order Nos. 05-584 and 14-058 to reduce from 10 MW to 3 MW the eligibility cap for solar QFs to obtain standard prices from PGE, and we amend those orders only as necessary to implement the change in eligibility cap for standard avoided costs.

Second, the stipulation states that the revisions to PGE's Schedule 201 and standard contract forms (attached to the stipulation) are in the nature of a compliance filing to implement both the temporary change in eligibility approved by Order No. 17-310 and the permanent change in eligibility in the stipulation. However, the revised Schedule 201 submitted with the stipulation does not reflect the revision to PGE's effective avoided cost prices that occurred during the pendency of this proceeding. We approved new avoided cost prices, effective May 23, 2018, in Order No. 18-189.²

To correct this error and implement the terms of the adopted stipulation, PGE is directed to make a compliance filing that corrects Schedule 201. PGE shall make the compliance filing in docket UM 1728, which we have used to address PGE's other recent Schedule 201 filings. PGE's compliance filing should be made by January 28, 2019, to be effective February 1, 2019. Staff will review the filing and issue a letter prior to February 1, 2019, indicating whether the revised Schedule 201 reflects the stipulation terms and current avoided cost prices. Because the compliance filing will simply memorialize eligibility criteria that have already been in place since Order No. 17-310 issued in August 2017, the compliance filing will not affect any QFs currently seeking a contract.

We find the stipulation is reasonable, in the public interest, and should be adopted.

V. ORDER

IT IS ORDERED that

1. The stipulation between Portland General Electric Company, Staff of the Public Utility Commission of Oregon, Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Community Renewable Energy Association, Renewable Northwest, and Obsidian Renewables is adopted.

² *In the Matter of Portland General Electric Co. Application to Update Schedule 201 Qualifying Facility Information*, Docket No. UM 1728, Order No. 18-189 (May 23, 2018) (approving PGE's May 1 avoided cost update, effective May 23, 2018).

2. Portland General Electric Company shall make a compliance filing consistent with the terms of this order in docket UM 1728 by January 28, 2019, to be effective February 1, 2019.

Made, entered, and effective Jan 18 2019.



Megan W. Decker
Chair



Stephen M. Bloom
Commissioner



Letha Tawney
Commissioner



A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

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PORTLAND GENERAL ELECTRIC
COMPANY

Application to Lower the Standard Price and
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Qualifying Facilities.

STIPULATION

This Stipulation is entered into for the purpose of resolving all issues remaining in the above-captioned docket.

PARTIES

1. The initial parties to this Stipulation are Portland General Electric Company (“PGE”), the Staff of the Public Utility Commission of Oregon (“Staff”), Northwest and Intermountain Power Producers Coalition (“NIPPC”), Renewable Energy Coalition (“REC”), Community Renewable Energy Coalition (“CREA”), Renewable Northwest (“RNW”), and Obsidian Renewables (collectively the “Parties” and individually a “Party”). This Stipulation will be made available to the other parties to this docket, who may participate by signing and filing a copy of this Stipulation.

BACKGROUND

2. On June 20, 2017, PGE filed an application asking the Commission: (A) to lower from 10 megawatts (“MW”) to 3 MW the eligibility cap for a solar qualifying facility (“QF”) to obtain standard avoided cost prices (“standard prices”) from PGE; and (B) to declare that a solar QF project with capacity above 100 kilowatts is not eligible for a standard contract or standard prices from PGE if any owner of the solar QF project has requested or obtained standard prices

from PGE for more than 10 MW of solar QF capacity. In the alternative, PGE asked the Commission to lower to 2 MW the eligibility cap for a solar QF project to obtain standard prices from PGE. PGE asked the Commission to grant these forms of relief on a permanent basis.

3. At the same time that PGE applied for permanent relief, PGE filed a motion for interim relief asking the Commission to immediately and temporarily approve the forms of relief requested in the application for permanent relief. On August 18, 2017, in Order No. 17-310, the Commission granted interim relief by lowering the eligibility cap for standard prices for solar QF projects from 10 MW to 3 MW effective July 14, 2017. As part of Order No. 17-310, the Commission also ordered PGE to file a monthly report regarding the contracting process with solar QFs.

4. The Commission is now considering PGE's request for permanent relief including its request for a 10 MW aggregate eligibility cap or a 2 MW eligibility cap.

5. Pursuant to Administrative Law Judge Michael Grant's Ruling of January 18, 2018, regarding the schedule in this proceeding, a settlement conference on the issues raised in this proceeding was held on the February 1, 2018, and an additional settlement conference was held on February 15, 2018. The settlement conferences were open to all parties.

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

AGREEMENT

7. The Parties agree that the terms set forth in this Stipulation and in Exhibit A, attached hereto and incorporated herein, are fair and reasonable and should be adopted by the Commission in resolution of all issues raised in Docket No. UM 1854.

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

9. This Stipulation will be offered into the record of this proceeding as evidence pursuant to OAR 860-001-0350. The Parties agree to support this Stipulation and explanatory brief or written testimony, as applicable, throughout this proceeding and any appeal, provide witnesses to sponsor this Stipulation at the hearing in this proceeding, if any, and recommend that the Commission issue an order adopting the settlement contained herein.

10. The Parties agree that they will continue to support the Commission's adoption of the terms of this Stipulation. If this Stipulation and explanatory brief or written testimony, as applicable, is challenged by any other party to this proceeding, the Parties agree to cooperate in providing any response filing, testimony or cross-examination and to put on such a case at a hearing or otherwise as they deem appropriate to respond fully to the issues presented and to defend and support the Stipulation and explanatory brief or written testimony, as applicable, which may include raising issues that are incorporated in the settlement embodied in this Stipulation.

11. The Parties have negotiated this Stipulation as an integrated document. If the Commission rejects all or any material portion of this Stipulation or imposes additional material conditions in approving this Stipulation, any Party disadvantaged by such action shall have the

rights provided in OAR 860-001-0350 and shall be entitled to seek reconsideration or appeal of the Commission's Order.

12. The Parties to this Stipulation agree that the Commission should enter an order granting in part the application for permanent relief filed on June 30, 2017, by PGE and order the following:

(A) amend Order Nos. 05-584 and 14-058 to reduce from 10 MW to 3 MW the eligibility cap for solar qualifying facilities to obtain standard prices from PGE;

(B) approve the revisions to PGE's Schedule 201 and standard contract forms proposed in Exhibit A to this Stipulation effective on the date of the Commission Order approving this Stipulation;

(C) require PGE to continue to make compliance filings as required by Order No. 17-310 for twelve months following the effective date of the Commission Order approving this Stipulation;

(D) require PGE to submit work papers as part of its May 1 annual avoided cost price updates; and

Upon issuance of a Commission Order approving this Stipulation in full, PGE will be deemed to have withdrawn its June 30, 2017 request for a 2 MW eligibility cap and the proposed 10 MW aggregate eligibility cap.

13. The Parties acknowledge that PGE has made it clear that the resolution of this proceeding as provided for in this Stipulation does not address all of PGE's concerns with the Commission's implementation of the Public Utility Regulatory Policies Act of 1978 ("PURPA"). The Parties acknowledge that CREA, REC, NIPPC, and RNW have made it clear that the resolution of this proceeding as provided for in this Stipulation does not address all of CREA,

REC, NIPPC and RNW's concerns with the Commission's implementation of PURPA, and PGE's compliance with PURPA and FERC and the Commission rules, policies and orders.

14. The Parties further acknowledge that by agreeing to settle this proceeding on the terms contained in this Stipulation, no Party is agreeing to forebear from initiating or responding to any future application, petition or complaint related to PGE's or any other Oregon utility's standard avoided cost rates, standard power purchase agreements, negotiated power purchase agreements, rate schedules, negotiated avoided cost rates, or any other matter related to the Commission's implementation of, or PGE's actions related to, PURPA or ORS 758.505 through ORS 758.555. Each Party hereto reserves its right to initiate or respond to a proceeding regarding any of the above issues at any time.

15. The Parties further acknowledge and agree that this Stipulation does not address or resolve the question of whether a solar qualifying facility may use battery storage or any other technology to qualify for a non-variable power purchase agreement; all Parties reserve their right to argue any position on this question and to initiate or respond to a Commission proceeding on this issue. The fact that Exhibit A to this stipulation includes revisions to the variable power purchase agreement forms, but not to the non-variable power purchase agreement forms, should not be construed as agreement by any Party that a solar qualifying facility is prohibited from using, or is allowed to use, battery storage or any other technology to qualify for a non-variable power purchase agreement.

16. By entering into this 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 the Stipulation, other than those specifically identified in the body of this Stipulation, including Exhibit A.

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

This Stipulation is entered into by each Party on the date entered below each Party's signature.

Signatures follow on the next page

PORTLAND GENERAL ELECTRIC COMPANY

By: Dan White

Date: October 18, 2018

RENEWABLE NORTHWEST

By: _____

Date: _____

STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON

By: _____

Date: _____

COMMUNITY RENEWABLE ENERGY ASSOCIATION

By: _____

Date: _____

NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION

By: _____

Date: _____

OBSIDIAN RENEWABLES

By: _____

Date: _____

RENEWABLE ENERGY COALITION

By: _____

Date: _____

PORTLAND GENERAL ELECTRIC COMPANY

By: _____

Date: _____

RENEWABLE NORTHWEST

By: _____

Date: _____

STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON

By: [Signature]

Date: October 18, 2018

COMMUNITY RENEWABLE ENERGY ASSOCIATION

By: _____

Date: _____

NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION

By: _____

Date: _____

OBSIDIAN RENEWABLES

By: _____

Date: _____

RENEWABLE ENERGY COALITION

By: _____

Date: _____

PORTLAND GENERAL ELECTRIC COMPANY

By: _____

Date: _____

RENEWABLE NORTHWEST

By: _____

Date: _____

STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON

By: _____

Date: _____

COMMUNITY RENEWABLE ENERGY ASSOCIATION

By:  _____

Date: October 12, 2018

NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION

By: _____

Date: _____

OBSIDIAN RENEWABLES

By: _____

Date: _____

RENEWABLE ENERGY COALITION

By: _____

Date: _____

PORTLAND GENERAL ELECTRIC COMPANY

By: _____

Date: _____

RENEWABLE NORTHWEST

By: _____

Date: _____

STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON

By: _____

Date: _____

COMMUNITY RENEWABLE ENERGY ASSOCIATION

By: _____

Date: _____

NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION

By: Robert D. Kell

Date: 10/16/2018

OBSIDIAN RENEWABLES

By: _____

Date: _____

RENEWABLE ENERGY COALITION

By: _____

Date: _____

PORTLAND GENERAL ELECTRIC COMPANY

By: _____

Date: _____

RENEWABLE NORTHWEST

By: _____

Date: _____

STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON

By: _____

Date: _____

COMMUNITY RENEWABLE ENERGY ASSOCIATION

By: _____

Date: _____

NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION

By: _____

Date: _____

OBSIDIAN RENEWABLES

By: David W. Form, Manager

Date: October 12, 2018

RENEWABLE ENERGY COALITION

By: _____

Date: _____

PORTLAND GENERAL ELECTRIC COMPANY

By: _____

Date: _____

RENEWABLE NORTHWEST

By: _____

Date: _____

STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON

By: _____

Date: _____

COMMUNITY RENEWABLE ENERGY ASSOCIATION

By: _____

Date: _____

NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION

By: _____

Date: _____

OBSIDIAN RENEWABLES

By: _____

Date: _____

RENEWABLE ENERGY COALITION

By: 

Date: OCTOBER 13, 2018

PORTLAND GENERAL ELECTRIC COMPANY

By: _____

Date: _____

RENEWABLE NORTHWEST

By: Shirley Tanner

Date: 10/16/2018

STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON

By: _____

Date: _____

COMMUNITY RENEWABLE ENERGY ASSOCIATION

By: _____

Date: _____

NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION

By: _____

Date: _____

OBSIDIAN RENEWABLES

By: _____

Date: _____

RENEWABLE ENERGY COALITION

By: _____

Date: _____