

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UM 1129

In the Matter of )  
 )  
 IDAHO POWER COMPANY )  
 PACIFIC POWER & LIGHT, and )  
 PORTLAND GENERAL ELECTRIC )  
 COMPANY )  
 )  
 Regarding Revised Tariffs Related to )  
 Purchases from Qualifying Facilities, a )  
 Standard Power Purchase Agreement, and )  
 Updated Avoided Costs in Compliance with )  
 Docket No. UM 1129, Order 05-584.

ORDER

**DISPOSITION: FILINGS ALLOWED TO GO INTO EFFECT,  
SUBJECT TO INVESTIGATION AND POSSIBLE  
REFUND; STAFF RECOMMENDATION AS  
MODIFIED ADOPTED**

In Docket No. UM 1129, the Public Utility Commission of Oregon (Commission) investigated electric utility purchases from Qualifying Facilities (QFs) and issued Order No. 05-584 on May 13, 2005, directing Idaho Power Company (Idaho Power), Pacific Power & Light (PacifiCorp), and Portland General Electric Company (PGE) to file standard contract forms and revised tariffs to implement the Commission’s decision.

After consultation with Staff, Idaho Power, PacifiCorp, and PGE (the companies) made rate filings under ORS 757.205 on July 12, 2005. The order provides that the tariffs will be effective thirty days from the filing date, unless suspended by the Commission. Idaho Power initially filed for an August 12 effective date but later filed to change the effective date to August 11, consistent with the thirty day requirement in the order. A description of the filing and its procedural history is contained in the Staff Report attached as Appendix A, and incorporated by reference.

The matter came before the Commission at its August 2, 2005, public meeting. While the filings generally implement the Commission's decision in Order No. 05-584, there is continued widespread interest of other parties in these issues and Staff does not recommend that the Commission allow the filings to go into effect without investigation. In addition, Staff recommended that the Commission direct the utilities to include a provision in the standard contract going into effect August 11, 2005, that states that the QF selling power to the Company pursuant to a QF agreement entered into during the investigation may amend the agreement to adopt revisions approved by the Commission. Staff's recommendations and the text of the provision are summarized in the Staff Report attached as Appendix A, and incorporated by reference.

At the August 2, 2005, Public Meeting, the Commission adopted Staff's recommendation with the following modifications. The Commission modified the text of Staff's recommended provision as follows:

“The seller and (enter electric company name) acknowledge that the rates, terms and conditions specified in this agreement and the related tariffs are being investigated by the Oregon Public Utility Commission. Upon a decision by the Oregon Public Utility Commission in the investigation, the (electric company name) will notify the seller within ten calendar days. If the rates resulting from the investigation are higher than the rates in effect during the initial period, the (electric company name), pursuant to the investigation, may be required to refund, with interest, the difference to the seller. The seller shall have thirty calendar days from the effective date of the revised standard contract and tariffs complying with the Commission's order to amend this agreement if the seller so chooses to adopt the revised standard contract and/or the revised rates, terms and conditions in the tariff approved by the Oregon Public Utility Commission as a result of the investigation.”

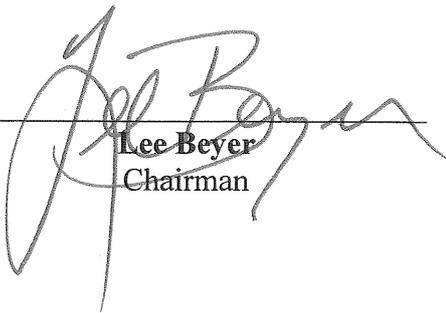
The Commission also allowed the filing to go into effect, with the clarification that the utilities may be required to provide a refund following the investigation requested by Staff. The Commission also concluded that the question as to whether these filings are subject to refund would be separately addressed at the outset of the investigation.

**ORDER**

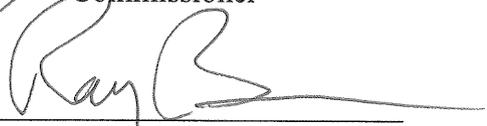
IT IS ORDERED that:

1. Idaho Power Company's Advice No. 05-06, Pacific Power & Light's Advice No. 05-006, and Portland General Electric Company's Advice No. 05-10 are allowed to go into effect on August 11, 2005, subject to investigation and possible refund pursuant to ORS 757.215(4).
2. Idaho Power Company, Pacific Power & Light, and Portland General Electric Company shall include the staff recommended provision in its standard contract during the course of the investigation, as modified above.

Made, entered and effective                     AUG 09 2005                    .

  
\_\_\_\_\_  
**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 party may appeal this order to a court pursuant to ORS 756.580.

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 2, 2005

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE  August 11, 2005

DATE: July 25, 2005

TO: Public Utility Commission

FROM: Jack Breen III *JBI*

THROUGH: *Li* Lee Sparling and *EB* Ed Busch

**SUBJECT:** IDAHO POWER COMPANY: (Docket No. UM 1129/Advice No. 05-06)  
Proposes revised tariffs related to purchases from qualifying facilities, a standard power purchase agreement, and updated avoided costs in compliance with Docket No. UM 1129, Order 05-584.

PACIFIC POWER & LIGHT: (Docket No. UM 1129/Advice No. 05-006)  
Proposes revised tariffs related to purchases from qualifying facilities, a standard power purchase agreement, and updated avoided costs in compliance with Docket No. UM 1129, Order 05-584.

PORTLAND GENERAL ELECTRIC: (Docket No. UM 1129/Advice 05-10)  
Proposes revised tariffs related to purchases from qualifying facilities, a standard power purchase agreement, and updated avoided costs in compliance with Docket No. UM 1129, Order 05-584.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission allow Idaho Power Company's Advice No. 05-06, Pacific Power & Light's Advice No. 05-006, and Portland General Electric's Advice No. 05-10 to go into effect on August 11, 2005, subject to investigation and refund pursuant to ORS 757.215(4). Staff recommends that the Commission direct Idaho Power Company, Pacific Power & Light and Portland General Electric to include the staff recommended provision in its standard contract during the course of the investigation.

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**DISCUSSION:**

In Docket No. UM 1129, the Commission investigated electric utility purchases from qualifying facilities (QFs) and issued Order No. 05-584 on May 13, 2005, directing Idaho Power Company (IPC), Pacific Power & Light (Pacific), and Portland General Electric (PGE) to file standard contract forms and revised tariffs to implement the Commission's decision.

After consultation with the staff, IPC, Pacific and PGE (the companies) made the filings on July 12, 2005. The companies filed the rates under ORS 757.205. The order provides that the tariffs will be effective thirty days from the filing date unless suspended by the Commission. Idaho Power initially filed for an August 12 effective date but later filed to change the effective date to August 11, consistent with the thirty day requirement in the order.

The filings generally implement the Commission's decision, but there are continued issues:

- Do the filings properly implement the Commission's decision (e.g., security provisions)?
- Why do inconsistencies exist between the companies (e.g., natural gas prices used to calculate avoided costs, contractual provisions, etc.)?

There is continued widespread interest of other parties in these issues and staff believes it is necessary to investigate the tariffs and standard contracts. Staff does not recommend that the Commission allow the filings to go into effect without investigation.

ORS 757.210 allows the Commission to conduct, on its own initiative, a hearing to determine the propriety and reasonableness of a rate or schedule. Given the number of unresolved issues and the desire of other parties to participate in the review, staff recommends that the Commission conduct hearings regarding these tariffs filings.

ORS 757.215(4) provides that if the Commission determines to conduct a hearing pursuant to ORS 757.210, but does not order a suspension thereof, then any increased revenue collected by the utility from such rate or rate schedule becoming effective shall be received subject to being refunded. For the current filings, if the Commission orders higher avoided cost rates at the end of the investigation, the QF would be paid the additional amount (with interest at the utility's authorized rate of return). In the case of a lower avoided cost rate, the QF would not be required to return amounts to the company.

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It is my understanding that parties view the proposed tariffs and standard contract as far superior to the existing rates and practices. For this reason, staff does not recommend a suspension that would require the parties that have sought the relief fostered by UM 1129 to continue to wait to avail themselves of the changes until the completion of the investigations.

The execution of a long term contract between the company and the QF during the interim period of the investigation complicates the situation. ORS 757.215(4) provides that customers should not be harmed by being forced to accept rates, terms and conditions that are later found to be unreasonable by the Commission. I recommend that the Commission direct the utilities to include a provision in the standard contract going into effect on August 11 that states that the QF selling power to the company pursuant to a QF agreement entered into during the investigation include the following language:

The seller and (enter electric company name) acknowledge that the rates, terms and conditions specified in this agreement and the related tariffs are being investigated by the Oregon Public Utility Commission. Upon a decision by the Oregon Public Utility Commission in the investigation, the (electric company name) will notify the seller within ten calendar days. If the rates resulting from the investigation are higher than the rates in effect during the initial period, the (electric company name) will refund, with interest, the difference to the seller. The seller shall have thirty calendar days from the effective date of the revised standard contract and tariffs complying with the Commission's order to amend this agreement if the seller so chooses to adopt the revised standard contract and/or the revised rates, terms, and conditions in the tariff approved by the Oregon Public Utility Commission as a result of the investigation.

I believe this provision allows a fair outcome during this interim period.

Questions do exist regarding the application of ORS 757.215(4) to the standard contracts and tariffs. This situation is somewhat different than a standard rate filing because the payments to QFs become a cost<sup>1</sup> to other ratepayers, versus the typical application of ORS 757.215(4) wherein the company bears the responsibility for lower revenues in the case of a refund. The asymmetrical nature of ORS 757.215(4) also raises issues. An alternative motion for the Commission to consider is:

Idaho Power Company's Advice No. 05-06, Pacific Power & Light's Advice No. 05-006, and Portland General Electric's Advice No. 05-10 be allowed

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<sup>1</sup> Assuming that a mechanism exists for recovery.

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to go into effect on August 11, 2005. Investigations be opened under ORS 756.515 to investigate the standard contracts and tariffs allowed under Idaho Power Company's Advice No. 05-06, Pacific Power & Light's Advice No. 05-006, and Portland General Electric's Advice No. 05-10.

Under this motion, the new contracts and rates would go into effect, but would not be subject to amendment at the conclusion of the investigation. In essence, if the QF found the interim standard contract and rates suitable, it could execute the agreement with the company and that agreement, rates, terms and conditions would stay in effect through the full term of the agreement.

**PROPOSED COMMISSION MOTION:**

Idaho Power Company's Advice No. 05-06, Pacific Power & Light's Advice No. 05-006, and Portland General Electric's Advice No. 05-10 be allowed to go into effect on August 11, 2005, subject to investigation and refund pursuant to ORS 757.215(4). The Commission directs Idaho Power Company, Pacific Power & Light and Portland General Electric to include the staff recommended provision in its standard contract during the course of the investigation.

UM 1129 compliance filings