

DOCKET AR 631 – JOINT UTILITIES’ ISSUES LIST

Portland General Electric Company (PGE), PacifiCorp, and Idaho Power Company (Idaho Power) (together, the Joint Utilities) provide the following list of issues for consideration in docket AR 631. The purpose of this list is to identify the issue and provide a high-level description of the proposed standard contract revision and explanation. The Joint Utilities have not proposed specific contract language here. This issues list supplements the issues previously submitted for consideration by any of the Joint Utilities in this informal phase of the AR 631.

The Joint Utilities also note that there are several substantive issues that will be addressed in other dockets (e.g., dockets UM 2000 and UM 2032) that may require further changes to the terms of each utility’s standard contract following completion of the rulemaking contemplated in this docket. Therefore, the Joint Utilities reserve the right to request additional modifications to their standard contract terms and conditions to the extent necessary to effectuate the Commission’s decision in other PURPA dockets.

PGE is proposing to update its form power purchase agreement and applicable schedule in docket UM 1987. A motion to stay that proceeding is currently pending before the presiding ALJ. PGE reserves the right to propose additional issues in this docket if the pending motion to stay docket UM 1987 is granted.

<i>Issue</i>	<i>Current Contract Provision (if applicable)</i>	<i>Proposed Revision</i>	<i>Explanation</i>
Renewable PPA Damages	See damage provisions in Standard PPA for events of default by Seller	Include cost of replacement renewable energy certificates (REC) in damages calculation for renewable PPA	Ensures that retail customers are made whole for damages from breach of renewable PPA by Sellers.

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Calculation of Damages	See damage provisions in Standard PPA for events of default by Seller	Clarify that damages for lost energy (due to breach of PPA by Seller) should be calculated on monthly basis for failure to meet COD and that damages associated with termination of the PPA due to a seller event of default should be for 24-month period looking forward.	Clarifies current status quo.
Damages -- Cap on Replacement Price	Lost energy damages for failure to meet scheduled COD and failure to meet MAG/minimum delivery includes a cap for the replacement price (no more than 2x Contract Price)	Damages owed by Seller for breach of PPA should be based on comparison of market index price to contract price without any artificially imposed cap on the market index price	Ensures that retail customers are made whole for full damages incurred due to Seller breach of PPA.
Fixed Price Period	15 years from COD	Fixed Price Period should be reduced to less than 15 years Fixed price period begins at the earlier of Scheduled Commercial Operation Date or actual COD (which can be no earlier than 90 days prior to Scheduled Commercial Operation Date as stated below).	Declining construction costs and more efficient technology and actual experience in the market have shown that projects today can be financed with less than 15 years of fixed pricing. As the Commission has recognized, customers are exposed to pricing risk associated with long term fixed price periods, and the experience since the Commission order on this topic shows that a significantly shorter term is sufficient to finance projects.

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Off-system payment structure	Each utility does this differently. PAC uses monthly balancing with excess energy not paid for; PGE uses daily balancing period with excess deliveries above net output paid at market price	PAC approach should be adopted	Monthly netting gives projects more flexibility to balance under and over generation. No compensation for surplus energy sends appropriate signal to schedule accurately.
Cure Period for Missing COD	Current PPA provides a blanket 1-year cure period for default associated with missed COD	The one-year cure period should be six-month cure period for missed COD	This proposal provides projects with up to 42 months to become commercially operable. Any project that requires more time is unnecessarily speculative and puts customers at undue risk of paying prices that are not reflective of actual avoided costs (i.e., prices that are stale)
Eligibility for standard contract and standard prices	Schedule outlines eligibility requirements	Standard PPA and standard prices available only for (i) hydro facilities under 10 MW; and (ii) under 100 kw for solar and all other generators.	QF developers are sophisticated, regional, national and multi-national developers who have the resources to negotiate commercially reasonable PPAs that contain detailed terms and conditions typically used in wholesale power purchase transactions. There are very few truly small, independent QF projects at this point. These smaller projects are adequately captured by the thresholds we propose.
Purchaser Transmission Arrangements; Early COD	Current PPAs contemplate early deliveries of Net Output, prior to the Scheduled COD, but does not provide a QF notice requirement or minimum amount of	<u>Proposed Language:</u> Beginning no earlier than 90 days before the Scheduled COD, the utility will pay the QF for Net Output delivered at the Point of Delivery before the COD, at a discounted rate [as established in each Utility's PPA] that is offset by payment by the QF of any damages or other costs owed to the utility.	On occasion, a QF will request to commence energy deliveries prior to its Scheduled COD. While the PPA purchaser will accommodate test energy deliveries consistent with the facility's GIA, and can reasonably accommodate an early requested COD, the PPA purchaser must have arranged transmission to accommodate the requested energy deliveries, both to ensure compliance with federal requirements and to

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	time necessary to allow for any revision to existing transmission arrangements.		maintain system reliability. While the Standard PPA allows for early deliveries, it does not provide a QF notice requirement or minimum amount of time necessary to allow for any revision to existing transmission arrangements. The new proposed language provides a specific window for early deliveries by a QF (i.e., 90 days prior to the scheduled COD), and this stated date allows the utility’s supply-side function to arrange transmission service based on that specific earlier date (i.e., the date that is 90 days before the stated “Scheduled COD” in the PPA).
Planned and Unplanned Outages	Current PPA generally address outages with varying terms and requirements.	<p>Include terms providing greater clarity around scheduled, maintenance, and forced outages tied to industry-established NERC Event Types, including requiring QF to provide forecast of planned and maintenance outages with sufficient notice, applying reasonable limitations on planned and maintenance outage schedules, and requiring ongoing updates regarding planned and maintenance outages.</p> <p>Clearly describe the notice requirements, including both oral and written for all outages, and specifically require prompt notice of all forced outages. The PPA should also clarify how outages are accounted for in the QF’s expected deliveries.</p>	<p>Participation in the Western Energy Imbalance Market (EIM) as well as updated electric utility practices related to forecasting dictates these updates in the PPA.</p> <p>Use NERC Event Types which are uniform across industry. Include an exhibit to PPA that identifies and defines the NERC Event Types.</p>

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Forecasting	None	<p>Wind and solar resources should be obligated to provide long and short-term generation forecasts consistent with common industry practice. Each utility will provide forecasting services paid for by the QF.</p> <p>For any baseload renewable Seller, this provision would be replaced with a provision requiring Seller to provide a monthly delivery schedule that sets forth the expected hourly delivery rate for each day of such month.</p>	Participation in EIM as well as updated electric utility practices related to forecasting dictates these updates in the PPA.
Solar Performance Guarantee	None	Replace existing availability guarantee with performance requirements for solar resources consistent with common industry practice.	The Joint Utilities do not have a performance guarantee specific to solar resources in their Standard PPAs. Given the substantial influx of solar resource PPAs, having such a resource-specific performance guarantee is appropriate and is common in the industry. Such performance guarantee would be included as exhibit to PPA.
Insurance	Update insurance to current standards	Reference insurance requirements as an exhibit to PPA	This would allow often non-controversial technical insurance terms to be updated as market trends evolve, without the need to revise and refile with the Commission a Standard PPA. For the sake of clarity, once a PPA is executed, the agreed insurance provisions are set in such PPA. But in the negotiation of PPAs over time, it would be more efficient to update insurance terms for each PPA rather than be forced to revise and refile with the Commission the form of Standard PPA simply to update non-controversial insurance provisions all parties agree to.

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Notice	Notice section	Revise the Standard PPA so that the notice section is included as an exhibit to the PPA	Utility desires ability to update notice information through exhibit to PPA without having to revise and amend body of Standard PPA. Use of a separate exhibit that is incorporated into the PPA by reference smoothens long term contract administration over time as notice information changes.
First Energy Deliveries	PPAs describe requirements that must be met prior to first delivery (e.g., proof of receipt of applicable licenses/permits, nameplate capacity determination, engineers' certification, insurance, security, and written acceptance from the utility.	Update language to require an opinion of counsel, more detailed information in support of initial capacity determination, and completion certificate.	Largely administrative changes.

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Security	PPAs include security requirements	The financial assurance provisions of the standard PPA should be updated to reflect market commercial risk mitigation tools. "Step-in rights" should be removed as an acceptable means of financial assurance. Acceptable financial assurance in the market is almost exclusively letters of credit and parent guarantees from a "creditworthy entity" as determined by each utility's standard credit metrics.	<p>The requirement of a PPA Seller to provide and maintain adequate financial assurance ensures that executing a standard PPA is not simply a free option for QFs and ensures that QFs are able to pay damages and make customers whole in the event of default. Financial assurance is an essential term in market PPAs, and there is no reasonable justification for exempting QFs from this essential obligation at the expense of a Utility that would otherwise have no reasonable means of collect on an event of default by what is often a bankruptcy remote special purpose project entity.</p> <p>Several of the security options, such as using cash escrow accounts, are unduly burdensome and should be eliminated.</p>

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