



February 25, 2019

Via Email

Chair Megan Decker
Commissioner Steve Bloom
Commissioner Letha Tawney
Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, Oregon 97301

RE: Investigation into Interim PURPA Action - UM 2001
February 26, 2019 Public Meeting Agenda Item #5

Dear Commissioners:

Thank you for the opportunity to submit written comments on the Oregon Public Utility Commission's ("Commission's") investigation into interim action under the Public Utility Regulatory Policies Act ("PURPA"). Our letter reflects the strongly held perspective of Oregon's renewable energy development community. The interim actions proposed by Staff impact Oregon's ability to meet its goals of expanding renewable energy capacity and reducing carbon emissions.

First, the utilities' stated concern that avoided cost prices are too high deserves further scrutiny. PacifiCorp's prices are already low and contracting in its territory is practically non-existent. Meanwhile, Portland General Electric Company ("PGE") notes in its comments that "despite Staff's efforts, its recommended enhanced . . . methodology produces prices *that are essentially unchanged from PGE's current avoided cost prices* and remain above market."¹ Contrary to these results-driven assertions, avoided cost prices do not always go down and the benchmark for setting them is not market prices.² Rather, they should accurately reflect the cost a utility avoids if it generates or purchases its own power and a variety of factors would tend toward higher prices, including a rise in both steel and natural gas prices and the phase out of both the wind PTC and solar ITC.³

If the Commission feels that the current avoided cost prices are not accurate, it should take a careful and considered look at the current methodology and other methodologies used in other states across the country. This would help reveal whether there is a problem and is more likely to lead to an accurate calculation. Therefore, the Commission should change the avoided cost methodology only after reviewing the current methodology and if there are problems, what possible solutions exist.

¹ Public Utility Commission of Oregon, Public Meeting Feb. 14, 2019, Portland General Electric Company Comments re: Regular Agenda Item No. 4 (emphasis added).

² PPA prices have indeed set record lows in recent years, but those deals are set against a backdrop of concern about whether certain financing assumptions, including the value of post-PPA revenues, were perhaps overly optimistic and might cause projects to ultimately fail to be able to service their debt. See <https://www.greentechmedia.com/articles/read/is-the-utility-scale-solar-industry-in-a-finance-bubble#gs.UvKzemuM>

³ The Commission may recall that PGE relied extensively on PTC concerns during its recent RFP process as justification for acknowledgement of its planned resource acquisition

Second, PGE's "boom" of a little over 40 MW Schedule 201 PURPA applications is actually a symptom of a greater problem in Oregon: that independent power producers have no other market in which to sell their power. The utilities' RFPs (that the utilities always seem to win) are anti-competitive. Direct access programs inhibit customer choice due to onerous exit fees, except for a small amount related to new loads. The community solar program is stalled. There are discriminatory and unjust interconnection practices and a lack of meaningful access to transmission due to the hoarding of transmission rights. And PacifiCorp's PURPA market is closed for business due to low prices despite being in a near-continuous state of resource procurement. (For all the talk of "boom and bust cycles," there is no boom at all in PacifiCorp territory – only a bust.) This lack of competitive alternatives means that the only option left is to contract with PGE as a QF.

Third, Staff's proposed interim solution is far more complex than it is made out to be, and will inevitably have broad, far-reaching impacts on the market for competitive generation in Oregon. The size threshold for standard prices and the variables that go into the methodology for calculating those standard prices do not operate within a vacuum. There are many interrelated factors within the broader PURPA implementation framework that affect the functioning of PURPA markets and the ability of QFs to obtain financing, including contract length, other contracting terms, interconnection issues, and various aspects of the avoided cost methodology, to name a few. We urge the Commission to only act on any one of these factors after deliberate consideration of how each factor impacts PURPA implementation more broadly.

Fourth, Oregon's PURPA policy has gone through multiple iterations and refinements over the years, and we urge the Commission to maintain the current institutional climate. That climate is easily undermined by actions (like an interim change of unknown length) that upset regulatory certainty required by developers when making significant investments necessary to develop QF projects. Not only is there no certainty as to how long the broader investigation would take, any interim change would immediately create uncertainty as to whether such interim change would ultimately remain in effect even after another potentially years-long PURPA investigation. And, even then, once that broader PURPA investigation has concluded, there will still be no settled institutional climate in Oregon, because the Commission would have already sent the message to the market that it is willing to set aside settled policy in favor of interim change when it's convenient to do so, thus, destabilizing the framework forever.

Fifth, a healthy PURPA environment in which QF developers can reliably invest is vital to the health of the competitive energy market in Oregon and protecting ratepayers from cost-bloating effects of utility monopolies. This environment includes the entire suite of interrelated policies spanning the interconnection, contracting, and regulatory frameworks. Recent issues with the utilities' "competitive" solicitations, have effectively precluded the Commission from ever seeing what other options exist and at what price. PURPA becomes the only remaining vehicle through which to scrutinize and exert downward pressure on utilities' costs. Thus, the Commission has the obligation to implement and enforce a healthy PURPA environment that promotes the development of a low-cost generation resources for the benefit of the ratepayers.

Sixth, the interconnection problem is far worse than what has previously been discussed. PGE goes to great lengths to avoid its PURPA obligations by way of delay tactics in both the contracting process and the interconnection processes, as well as by commonly taking a variety of unreasonable and highly litigious positions. Meanwhile, PacifiCorp simply refuses to process many of its

interconnection requests, abuses jurisdictional seams, and, when it does process a request, it foists massive, unnecessary network upgrade costs projects on projects big and small alike. QFs are forced to either defend their rights and litigate against near-limitless ratepayer dollars or pack up their bags and go home. Many choose to simply abandon their projects – as evidenced by the over 3,000 MW of potential QFs in Oregon alone that have dropped out of PacifiCorp’s interconnection queue since 2010.⁴ That the utilities go to such lengths to avoid their must-purchase obligations is not because doing so is in the best interest of their ratepayers, but because it’s in the best interests of their shareholders.⁵ The Commission would be wise to scrutinize every time the utilities cry “but ratepayers!” because the utilities ultimately answer to their shareholders. As such, the Commission should look behind the curtain and increase the transparency into the interconnection processes.

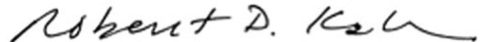
While Oregon’s PURPA implementation may not be perfect, we encourage the Commission not to take action without identifying the pressing need that justifies such action, particularly before it carefully considers the variety of implications that such action will have on Oregon’s already circumscribed market for competitive, non-utility owned generation, as well as the state’s energy and carbon reduction goals. The proposed actions to abruptly change rates and reduce the standard contract rates size down to 100 kW is hostile to ratepayer interests that are well-served by a healthy PURPA market and contrary to Oregon’s legislative mandate to encourage renewable energy development. If the Commission does review the available evidence and concludes that action on avoided costs is required, it should take a careful and considered look at the current avoided cost methodology through a transparent, evidence-based process. Nonetheless, should the Commission ultimately elect to adopt the proposed interim changes, it should exempt QFs that are already in the queue so they can benefit from the settled institutional climate in existence at the time they requested a power purchase agreement.



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⁴ Member analysis of PacifiCorp’s Generation Interconnection Queue posted on OASIS, using data from 2010 through the end of 2018.

⁵ For example, one of our groups’ members undertook an analysis of data from utility filings in Florida and found that the utilities were overcharging ratepayers to the tune of \$118 million per GW of utility-owned solar, compared to an equivalent amount of PURPA solar.