

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2011

In the matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

General Capacity Investigation

RENEWABLE ENERGY
COALITION'S COMMENTS

I. INTRODUCTION

The Renewable Energy Coalition (the “Coalition”) provides these comments in response to three filings from Public Utility Commission of Oregon (“OPUC” or the “Commission”) Staff in this investigation: 1) a whitepaper performed by consultant Energy + Environmental Economics (“E3”) and filed by Staff on December 15, 2020 (the “E3 Report”); 2) Staff’s Opening Comments filed on January 14, 2021; and 3) the Staff Response to Administrative Law Judge Memorandum filed on January 21, 2021 (the “Staff Memorandum”). Overall, the Coalition appreciates Staff’s efforts to move this proceeding forward in a collaborative, analytical way. However, the Coalition is concerned that uncertainty surrounding the purpose and goals of this proceeding may undermine the effectiveness of any technical analysis, discourage robust stakeholder participation, and ultimately fail to produce any improvements to how capacity is valued. This would be a disappointing result, and the Coalition asks that Staff clarify its long-term vision for this docket, including how this docket may intersect with other ongoing efforts.

In regard to the E3 Report and Staff’s recommendations, the Coalition is most concerned that there does not appear to be appropriate recognition of existing resources.

The discussion has focused almost entirely on new resources, which leaves unclear whether existing resources are being valued accurately or being undervalued. One issue that harms both existing and new resources is the sufficiency-deficiency demarcation, which the Coalition recommends be eliminated. While both E3 and Staff appear to recognize that the demarcation needs improvement, the proposed approaches are not ultimately workable.

Assuming that there continues to be a sufficiency-deficiency demarcation, the Coalition recommends that existing resources be exempt. When existing PPAs are renewed, the resource should immediately receive capacity payments, rather than be subjected to a sufficiency period. For new resources, the Coalition needs additional information to assess Staff's proposal to change sufficiency valuation, which could have the result of drastically undervaluing capacity. Staff refers to *net* cost, but it is not clear what is being netted out, or whether it is appropriate to exclude that amount.

As the docket proceeds, the Coalition is optimistic that it can produce a clear and transparent model that will be applicable across the utilities. The Coalition strongly believes that clarity and consistency will best uphold the public interest in this regard.

II. COMMENTS

A. Staff Should Clarify its Vision for This Docket

Before proceeding in this docket, the Coalition urges Staff to clarify their vision for this docket. When this docket was opened almost two years ago, the third and final question that Staff framed was "How should capacity be valued?"¹ The answer depends

¹ Order No. 19-155, App. A at 2 (Apr. 26, 2019).
For purposes of these comments, the term capacity can be understood using Staff's proposed definition: "given the absence of any transmission or distribution constraint, the ability to reliably and predictably deliver energy of a

upon the question of value *to whom*. One logical answer is ratepayers, who pay for capacity. However, Staff’s comments suggest this docket is not concerned with the costs that ratepayers face when there is an *absence* of capacity (i.e., power outages).² A second, equally logical, answer, is the sellers of capacity, including both the utilities and independent power producers, such as qualifying facilities (“QFs”). Sellers cannot sell unless they receive compensation that aligns with the costs of developing capacity. However, Staff asserts that this docket is not concerned with the matter of compensating for capacity, contrary to the apparent understanding of the hired consultant.³ Instead of either of the above, Staff appears to be considering the value of capacity *to the system*, with little regard to the value to customers or to sellers.⁴ It is unclear what purpose such an abstract approach might serve.

certain amount to an identified load, delivered at a certain time, for a certain duration, allowing the Loss of Load Probability (LOLP) to remain below a specified threshold.” Staff’s Opening Comments at 1.

² Staff’s Opening Comments at 9 (“In prior workshops, parties have commented that the determination of the cost of the capacity resource should include the benefits that a resource can provide, such as the resilience value of distributed resources during natural disasters. . . . Staff believes the value of resource attributes other than generation capacity could be explored in a future docket.”). The difference between capacity value and resilience value is currently ill-defined, and the Coalition would appreciate an opportunity to further explore these concepts and their overlap with Staff and stakeholders.

³ Staff’s Opening Comments at 2 (“Staff recognizes E3’s recommendations on compensation frameworks are beyond the scope of this docket.”); Staff Memorandum at 3.

⁴ Staff does not state that it is analyzing value to the system, but this is the Coalition’s understanding from Staff’s Comments. Relatedly, Staff may be evaluating the value of capacity to the utility as a purchaser (not seller), which is perhaps more concerning, as such an analysis would not consider utility biases to build rather than buy from third parties. *See* Staff’s Opening Comments at 4 (“Accurately computing the capacity contribution of a new resource *allows the utility to value* additional capacity investments appropriately and send clear market signals.”) (emphasis added); *see generally In re Pub. Util. Comm’n of Or. Investigation Regarding Performance-based Ratemaking Mechanisms to Address*

To analogize, consider a railroad. A railroad company might be willing to construct a new line, if it thinks customers will pay for it. Customers may be willing to pay more for a new line, if the ride is comfortable and the destination attractive. However, neither the railroad company, nor the customers, would ask whether the existing railroad tracks benefit from the new construction. It is unclear what benefit, if any, answering that question might ultimately provide to either the customers or the railroad company.

Assuming that Staff intends other OPUC proceedings will appropriately translate the value of capacity to the utility system into the value (read: cost) to ratepayers or the value (read: payment) to sellers, it is unclear how that will occur. Therefore, the Coalition asks Staff to clarify, perhaps through a multi-docket workplan. The Coalition appreciates Staff's guidance on the relationship of dockets relevant to the Commission's implementation of the Public Utility Regulatory Policies Act ("PURPA"), including Staff's indication that this docket may feed into Dockets No. UM 2000 and UM 2038, which are PURPA-specific.

However, this docket is *not* PURPA-specific, leaving it unclear whether—if at all—this docket may influence other non-PURPA specific dockets. The value of capacity should impact and influence integrated resource planning ("IRP"), energy efficiency, resource procurement and requests for proposal ("RFPs"), etc. The Coalition's understanding had been that this docket would have wide-ranging importance and would likely influence "all applications where capacity is relevant."⁵ The Coalition expects that

⁵ *Potential Build-vs.-buy Bias*, Docket No. UM 1276, Order No. 11-001 at 5 (Jan. 3, 2011) (acknowledging that utility build bias exists).
Order No. 19-155, App. A at 2 (quoting the Commission's direction in dockets UM 1910, UM 1911, and UM 1912 to open a *general* capacity investigation).

is a long list of potential dockets but would appreciate any guidance Staff can provide on this question.

The Coalition does not ask that Staff take a definitive position at this time, but it would be helpful to understand what dockets—if any—this proceeding *might* ultimately affect as well as what dockets are presumed to provide inputs to the methodology developed in this docket. The Coalition believes clarity on purpose is the only way to ensure stakeholders are adequately informed as to the proceedings that may affect their interests.

B. Neither E3 Nor Staff Consider Existing Resources

Existing resources should not be evaluated as if they do not exist. E3 proposes, and Staff supports, to evaluate capacity contribution based on “each resource’s *marginal* contribution to reducing loss-of-load events.”⁶ This approach may make sense for new resources, as the market should encourage the development of resources that best serve the *unmet* needs of the system. However, existing resources should be valued for their actual contribution, rather than their marginal contribution.⁷

The Coalition proposes that existing resources—including non-utility owned resources, such as the small-scale hydroelectric QFs that have been serving Oregon ratepayers since at least the 1980s—should be evaluated on the basis of the actual

⁶ Staff’s Opening Comments at 3 (emphasis added).

⁷ The E3 Report appears to assume that the capacity being valued is new capacity. *See* E3 Report at 10-11 (“In periods of sufficiency, a common approach to valuing capacity is to use the fixed operations and maintenance cost of the net resource cost resource. This approach is based on the cost to maintain existing capacity resources such that they are available to ensure system reliability, while also recognizing that the full cost of *new* capacity resources is an excessive measure of capacity value in times where sufficient resources are available.” (emphasis added)).

capacity contribution they provide standing alone. E3 provided a first-in-ELCC model approach that *might* achieve this goal.⁸ Alternatively, they should be evaluated on the basis of the marginal contribution to meeting peak demand needs measured at the time they were built, and not at the time of contract renewal.

C. Both E3 and Staff Look at the Current System, But Capacity Should Be Valued Based on the Needs of a Future Decarbonized System

Another concern that the Coalition has is that both E3 and Staff appear to conduct their analyses as though the current system is unlikely to substantially change. Note, for example, that neither the E3 Report nor Staff’s Comments substantively discuss: 1) the need to decarbonize the system; 2) Governor Brown’s Executive Order 20-04⁹ calling for the Commission and other agencies to facilitate decarbonization; nor 3) significant planned retirements of existing fossil fuel resources.¹⁰ The result of *not* considering these factors is the significant under-valuation of clean resources, including existing renewable energy facilities. That is a serious flaw in a valuation methodology. It is not appropriate to examine the current *system’s* needs when the current system is not designed to meet the future needs of ratepayers and the public interest generally, as represented by existing public policy directives.

To be effective, a capacity valuation methodology ought to consider how capacity needs may change over the course of resource lifetimes. It should also recognize that

⁸ E3 Report at 3.

⁹ See generally *Executive Order 20-04*, Oregon Public Utility Commission, <https://www.oregon.gov/puc/utilities/Pages/ExecutiveOrder20-04.aspx> (discussing the Executive Order and Commission’s response).

¹⁰ See E3 Report at 1-23 (not discussing these issues); Staff’s Opening Comments at 1-21 (not discussing these issues); *but see* Staff’s Opening Comments at 5, 7 (passing references to decarbonization and retirements without incorporating those into the capacity valuation approach).

natural forces, like wind, water, and sun, will play an increasingly important role in a non-fossil-fuel powered future. Thus, the future system will need to be prepared to meet capacity needs without the present-day luxury of merely turning up the dial on a fossil fuel plant. Recognizing these factors will ensure that the market gets the appropriate signals it needs to drive investment in the resources that, paired with uncertain motive forces, are most likely to best meet those changing needs. Considering that many capacity resources are long-lived, these market signals need to be improved and made transparent as soon as possible.

This also raises issues relating to compensation. The Coalition understands that Staff believes questions of compensation are outside the scope of this docket. However, it is difficult to see how a more effective capacity valuation methodology will ultimately benefit ratepayers or the public interest if even the most “valuable” resources are not fairly and equitably compensated. So long as compensation frameworks continue to be biased in favor of utility-owned resources, a better valuation methodology will not produce the optimal outcomes for meeting capacity needs.

D. The Sufficiency/Deficiency Approach is Fundamentally Flawed, and Neither E3 Nor Staff’s Proposed Fixes Go Far Enough

The sufficiency-deficiency demarcation has been, and continues to be, fundamentally flawed. Both E3 and Staff appear to assume the demarcation is necessary and appropriate, but the Coalition disagrees. The demarcation is an arbitrary and flawed paradigm, because capacity is not only relevant on a yearly basis. Considering the actual use and relevance of capacity in meeting grid demands, capacity is relevant every time the utility dispatches the marginal generator unit to maintain grid balance and meet peak demand (or actively avoids such dispatch). The Coalition recommends: 1) eliminating

the demarcation; and 2) adopting instead a valuation methodology that appropriately recognizes the value of capacity at all times, including the value for maintaining ongoing supply and demand balance for grid stability.

1. The Sufficiency/Deficiency Approach is Fundamentally Flawed

One problem with the demarcation is that it is utility-controlled and therefore subject to utility gaming. Utilities set the demarcation during their IRP, and the chosen demarcation signals the market that acquisitions during a sufficiency period (rather than the deficiency period) are unnecessary and therefore not valuable. These signals are incorporated into the compensation frameworks for non-utility owned resources. One would expect that, if the demarcation was accurate, utilities would follow the same market signals and not acquire resources during the sufficiency period.

In practice, utilities *frequently* acquire resources during the sufficiency period and when they claimed not to need new resources. One perverse result of these acquisitions is that, in the utility's next IRP, the utility can set an even later start date for its deficiency period because they acquired resources in advance of when they planned to do so or in advance of actual need. This further discourages the market from meeting ratepayer needs. Ultimately, the demarcation allows utilities to de-value non-utility owned resources, even when the utility's own actions demonstrate that the actual market value is much higher.

Consider the following examples:

- In 2008, during their recently determined sufficiency periods, both PacifiCorp and PGE acquired significant new resources, specifically the 520 MW

Chehalis gas plant and 406 MW Port Westward combined cycle plant, respectively.¹¹

- In 2015 and 2016, PacifiCorp argued that it was renewable resource sufficient for the next 20-plus years, even though it had recently testified to the legislature that SB 1547 would require it to acquire several hundred megawatts of renewable resources in the near term. While arguing that there was no need for capacity, the utility was actively soliciting renewable capacity in an RFP.¹²
- In 2017, PGE proposed to reduce avoided cost payments based on a 2025 renewable deficiency date. Simultaneously, PGE was soliciting renewable capacity with an online date no later than December 31, 2020. This created a false sufficiency period of four years wherein PGE anticipated needing capacity but proposed not to pay for it.¹³
- In 2018, PacifiCorp revised its IRP from assuming no acquisitions for more than 20 years to anticipating acquiring over 1,300 MW of new capacity coming online in 2021. Despite this significant reversal, PacifiCorp did not propose to revise its demarcation or avoided cost pricing.¹⁴

¹¹ These examples are discussed further in Docket No. UM 1396, ICNU/100, Falkenberg/4.

¹² This example is discussed further in *In re PacifiCorp, Application to Update Schedule 37 QF Information*, Docket No. UM 1729, Comments of the Community Renewable Energy Association and the Coalition at 7-12 (July 1, 2016).

¹³ This example is discussed further in *In re PGE Application to Update Schedule 201 QF Information*, Docket No. UM 1728, Comments of the Community Renewable Energy Association and the Coalition at 8-14 (May 11, 2018).

¹⁴ This example is discussed further in Docket No. UM 1729, the Coalition, Community Renewable Energy Association, and Northwest & Intermountain Power Producers Coalition's Comments on Staff Report at 2-4 (Mar. 23, 2018).

Unsurprisingly, there has been significant stakeholder pushback against the utilities' demarcation selections for more than a decade. The Coalition has been advocating against the utility-controlled demarcation since at least 2010.¹⁵ Testimony from other non-utility stakeholders, including Oregon industrial customers, continues to ring true today:

Again, there should be no major distinction between the resource acquisition practices of utilities for the RFP and IRP process, or self build options and for payments to QFs. Inevitably, a "separate but equal" paradigm is not equal, and in recent years utilities have continued to acquire new baseload and peaking resources while claiming that they were capacity sufficient for QF purposes. This is likely little more than a manifestation of the problem of utilities traditional hostility toward non-company owned generation, and favoring the self build option over purchased power. This utility behavior should be discouraged, rather than encouraged, by the OPUC. QFs should not have payments based on different assumptions or methodologies than the utility uses for its IRP, or resource acquisition process. Utilities that are chronically short on capacity and are actively acquiring new capacity should not be considered to be capacity sufficient.¹⁶

Today, the Coalition continues to urge the Commission to rethink this harmful policy.

2. Neither E3 Nor Staff's Proposed Fixes Go Far Enough

E3 proposes an approach that does not avoid utility gaming. E3 proposes that the deficiency period begin when load exceed the mandated Planning Reserve Margin ("PRM").¹⁷ However, E3 recognizes that utilities "commonly hold reserves in excess of this level."¹⁸ Thus a utility could continue its status quo approach of holding and

¹⁵ *E.g., In re Investigation into Determination of Resource Sufficiency, Pursuant to Order No. 06-538, Docket No. UM 1396, Order No. 10-488 at 7 (Dec. 22, 2010) ("REC urges the Commission to consider measures to prevent the utilities from 'gaming' their major resource acquisitions...").*

¹⁶ *See generally* Docket No. UM 1396, ICNU/100, Falkenberg/8-9.

¹⁷ Staff's Opening Comments at 5.

¹⁸ E3 Report at 9.

acquiring excess reserves,¹⁹ and there might never be a deficiency period. The Coalition agrees with Staff insofar as Staff proposes to *not* adopt E3’s approach.

Instead, Staff proposes a different approach. Staff’s approach may reduce utility gaming, but it may make the end result even more unfair. Instead of looking at market conditions, Staff proposes a general three-year ramp for every resource acquisition. In the year one, the utility would be deemed sufficient; in year four, the utility would be deemed deficient. In years two and three, the resource would receive partial capacity payments.

If the Commission retains the resource sufficiency/deficiency approach, then the Coalition supports the use of partial capacity payments that increase as the deficiency date approaches. This question of a three-year ramp cannot be analyzed in isolation to how it will be used to compensate non-utility owned generation (utility owned generation is always fully compensated for its capacity value). However, it is unclear when “year one of a PPA” might be. The Coalition recommends it begin at contract execution.

Staff appears to propose “year one of a PPA” should begin at commercial operations, and Staff’s proposal could have a less fair result than the current status quo. For example, a QF signing a PPA with PGE in 2021 could expect to select a commercial

¹⁹ Notably, it is unclear the Commission would ever find such measures to be imprudent. As Staff notes, “additional resources will always increase reliability, even during the sufficiency period.” Staff’s Opening Comments at 8. The Coalition does not dispute Staff’s statement, which the Coalition notes was once Staff’s reasoning to pay QFs for capacity during sufficiency periods. *In re Investigation relating to Elec. Util. Purchases from QFs*, Docket No. UM 1129, Order No. 05-584 at 23 (May 13, 2005) (“Staff disagrees with the premise that a utility need not pay a QF for capacity during a resource surplus period, however. Staff maintains that QF capacity during a resource surplus period has value to the utility, as the utility can sell capacity into market or use the additional capacity to improve reliability.”).

operation date in three years, or 2024. PGE’s current deficiency period begins in 2025.²⁰ Thus, the QF could come online, have a single year of sufficiency period pricing in 2024, and then receive full deficiency period pricing in 2025. By contrast, under Staff’s proposal *if it begins at commercial operations*, the QF would not receive full deficiency pricing until 2027, two years later than the current status quo. The Coalition would oppose this approach, if it is what Staff is in fact proposing.

E. There Should Never be a Sufficiency Period for Existing Resources

A second, arguably worse, problem with the sufficiency-deficiency demarcation is how it devalues existing resources that are not owned by the utility. For example, existing QFs generally renew their contracts, as the Commission’s contract terms do not align with the expected economic life of QF resources.²¹ Existing QFs have limited opportunity to time their renewal contract with a time period that matches a utility determined deficiency date. When QFs renew their contracts, the utilities stop paying capacity payments and treat the QF as a new acquisition in a sufficiency period. This is inequitable, as between utility and non-utility-owned generation, and fails to compensate existing QFs for the capacity that they provide the utility and their cost of service ratepayers.

Stopping capacity payments to QFs after contract renewal is also harmful.

Existing QFs, such as small-scale hydroelectric resources, are already built and

²⁰ PGE, Schedule 201 at Sheet No. 201-24.

²¹ E3 appears to agree that the most fair policy would be to set contract length based on the economic life of the resource. E3 Report at 10 (“E3 contemplates that locking in capacity values over the economic life of the resource, and setting contract lengths equal to the economic life of the resource, offers opportunities to third-party resource developers that are comparable to the opportunities offered to the utilities”).

operational, and tend to have small carbon footprints. Overtime there will be a modest amount of small scale solar and wind facilities that will enter into renewal contracts. Stopping capacity payments could mean that some QF can no longer afford to operate and might have to shut down. As Oregon moves to decarbonize its utility system, it does not make sense to have a policy that increases the likelihood that existing renewable capacity to go off-line.

The Coalition strongly recommends eliminating the sufficiency-deficiency demarcation. At minimum, the Commission should eliminate the sufficiency-deficiency demarcation for existing resources.

F. Assuming there is a Sufficiency-Deficiency Demarcation, the Coalition Supports Staff's Proposal to Change How Capacity is Valued during the Sufficiency Period for New Resources

Staff proposes to value capacity during sufficiency periods based on the fixed operations and maintenance cost of the lowest net cost resource instead of market pricing.²² The Coalition understands that different utilities can have significantly differing calculations for the fixed operations and maintenance cost. Unless Staff is also proposing to clarify and make more transparent how these calculations are set, it is difficult to say whether Staff's proposed change will improve the process or create greater uncertainty and room for utility gaming. Further, as discussed in the prior section, the Coalition disagrees with viewing existing resources as being in a sufficiency period.

The Commission should also consider the recent approach adopted by the Washington Utilities and Transportation Commission (the "Washington Commission") in

²² Staff's Opening Comments at 3.

2019. The Washington Commission retained the sufficiency-deficiency demarcation but choose to value capacity based on the next capacity resource and not market purchases. The Washington Commission adopted a staff recommendation²³ that the value of avoided costs of capacity should not be based on market purchases but a more reasonable, simple to understand, and transparent methodology.²⁴ Staff recognized “that the emerging state policy may require utilities to move away from fossil-fueled plants in the future. However, it is reasonable to assume that a simple-cycle combustion turbine will remain a marginal capacity plant for the foreseeable future.”²⁵ Regardless of whether the next capacity resource is a peaking gas plant or storage, capacity payments should be based on an actual resource and not market purchases.

G. Assuming there is a Sufficiency-Deficiency Demarcation, the Coalition Does Not Support Staff’s Proposal to Undervalue Capacity During the Deficiency Period

Staff proposes to set the value of capacity during deficiency periods “equal to lowest net cost of capacity resource.”²⁶ The net cost is an appropriate metric for identifying the avoided *resource* but may not be appropriate for identifying the avoided *costs*. The Coalition would agree that capacity payments should not duplicate energy payments, but it is unclear from the E3 Report and Staff’s Comments what would and

²³ *In re Amending, Adopting, and Repealing Sections of WAC 480-106 and 480-107 Relating to PURPA*, Docket No. U-161024, General Order R-597, Order Amending, Adopting and Repealing Rules Permanently at 4 (June 12, 2019) (“The suggested changes and Staff’s recommendations for rejecting or accepting the suggested changes are included in Appendix A. We agree with Staff and adopt these recommendations.”).

²⁴ Docket No. U-161024, Staff Adoption Hearing Memorandum, Attachment C at 13 and 14 (Comment Summary and Staff’s Response) (April 25, 2019) (Staff rejected PacifiCorp’s and Puget Sound Energy’s recommendations to not use a simple-cycle combustion turbine for the capacity value of market purchases).

²⁵ *Id.* at 13.

²⁶ Staff’s Opening Comments at 3.

would not be included in the net cost for capacity. The Coalition hopes Staff will further clarify their proposal here, including how the proposal will differ from the current status quo.

H. The Coalition Supports Clear and Transparent Modeling Practices for All Utilities

The Coalition strongly recommends that this docket aim to establish a clear and transparent model. No model will be perfectly accurate. Accepting that reality, it makes sense to prioritize transparency over complexity.

In addition, the Coalition recommends that the same model be applied for all utilities. Requiring consistent use of the same model will reduce the opportunity for gaming as well as reduce the costs and difficult of Staff and stakeholders to review and understand the models.

Each utility may (and likely should) have different inputs and assumptions. However, the use of different inputs and assumptions does not necessarily mean the model itself needs to be different. The Coalition disagrees with Staff that distinct models are needed for at least Portland General Electric Company and PacifiCorp.

However, the Coalition would be willing to not oppose an exemption if a utility demonstrates good cause. Given Idaho Power's small footprint in Oregon, the Coalition would like to understand better whether it would be feasible for Idaho Power to use the same model.

I. The Coalition Supports Continuing in a Non-Contested Case Process

The Coalition believes the issue of proceeding as a contested or non-contested case was adequately resolved by the Administrative Law Judge's Ruling on January 29,

2021.²⁷ The Ruling states that “a continuation of the non-contested, Staff-led process will facilitate a more collaborative and inclusive approach to policy development, and will provide participants with further opportunities to reach consensus where possible prior to the Commission determining whether to open a rulemaking.”²⁸ Nonetheless, the Coalition finds it appropriate to reiterate that it strongly opposes the use of a contested case proceeding for generic investigations.

III. CONCLUSION

The Coalition appreciates this opportunity to provide comments and encourages Staff to clarify the importance of this docket to facilitate continued robust stakeholder engagement. The Coalition also recommends specific changes to existing Commission policy and Staff’s proposed capacity valuation methodologies, as discussed above.

Dated this 8th day of March 2021.

Respectfully submitted,



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²⁷ ALJ Ruling at 2 (Jan. 29, 2021).

²⁸ ALJ Ruling at 2 (Jan. 29, 2021).