

June 4, 2015

Via Email

Commission Chair Susan Ackerman
Commissioner John Savage
Commissioner Steve Bloom
Oregon Public Utility Commission
3930 Fairview Industrial Dr SE
Salem, Oregon 97302-1166

RE: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY Application to Update Schedule 201 Qualifying Facility Information;
In the Matter of PACIFICORP, dba PACIFIC POWER, Application to Update Schedule 37 Avoided Cost Purchases from Qualifying Facilities of 10,000 KW or Less; and
In the Matter of IDAHO POWER COMPANY, Application for Approval of Annual Update of Avoided Cost Rates
Docket Nos. UM 1728, UM 1729, and UM 1730

Dear Commissioners:

The Renewable Energy Coalition (the “Coalition”) submits these comments regarding the May 1, 2015 avoided cost rate update filings made by Portland General Electric Company (“PGE”), PacifiCorp, and Idaho Power Company (“Idaho Power”). The Coalition does not oppose the avoided cost rate reductions for PacifiCorp and Idaho Power; however, the Oregon Public Utility Commission (the “Commission” or “OPUC”) should modify PGE’s filing because it goes beyond the scope of allowable changes. In addition, the Coalition urges the Commission to affirmatively conclude that these updates and all future May 1 avoided cost rate updates will become effective 60 days after filing.

The Commission recently revised its policies under the Public Utility Regulatory Policies Act (“PURPA”), including the time and content of utility avoided cost rate updates. Re Staff Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 (Feb. 24, 2014). For a number of years, the Commission faced disputes regarding the appropriate time that avoided cost rates should be updated, and the Commission recently concluded that rates should be revised at least once a year. Id. at 25. The Commission specifically directed “electric utilities to update their avoided cost rates 30 days after IRP acknowledgement, and on May 1 every year.”¹ Id.

¹ The Commission may waive the 30-day post IRP update when an integrated resource plan (“IRP”) is acknowledged within 60 days of a May 1 filing. Id.

The Commission also adopted, and the Coalition and many parties supported, annual updates to have a streamlined process that allowed more frequent avoided cost updates. This was intended to reduce disputes, provide qualifying facilities (“QFs”) with predictable rate changes, and ensure more accurate pricing. The Commission set the date for these annual filings on May 1, and directed that they would become effective after a public meeting and 60 days after filing. PGE’s and PacifiCorp’s filings are inconsistent with the letter and intent of the Commission’s order because they both sought to be effective 30 days after filing. PGE’s also is inappropriate because it is requesting to update for impermissible items. Failing to correct these errors will result in unnecessarily controversial avoided cost rate updates in the future.

1. Avoided Cost Rates Should Become Effective Sixty Days From the May 1 Update

The Commission should make it unmistakably clear that avoided cost rates will become effective 60 days after a May 1 update. Idaho Power requested that its avoided cost rates become effective on July 1, 2015; however, PGE and PacifiCorp proposed that they become effective in 30 days. This is inconsistent with Order No. 14-058, will harm to QF development, and will unnecessarily increase QF-related litigation. Therefore, the Commission should not allow the avoided cost rate changes to occur until 60 days after filing.

The Commission concluded that the “utilities’ annual updates will be presented at a public meeting, with a rate effective date within 60 days of the May 1 filing.” Order No. 14-058 at 26. QF organizations and individual projects, including the Coalition, read this as stating that the avoided cost rate updates would become effective 60 days from May 1. In contrast, PGE and PacifiCorp apparently believe that they have the unilateral discretion to request an effective date less than 60 days, which could be anything from a couple weeks to 59 days.

On a future basis, the most important issue for QFs is not the exact date that the Commission selects for avoided cost rates to become effective, but that the Commission set **a specific date** that allows sufficient time for staff and interested parties to review the filing, and QFs to plan their contract negotiation process to finish before rates change. Sixty days provides staff and interested parties enough time to review the limited avoided cost rate update allowed on May 1.

Setting an exact date upon which avoided cost rates will become effective is critical to ensuring that there is “a settled and uniform institutional climate for the qualifying facilities in Oregon.” See ORS § 758.515(3)(b). The utilities’ avoided cost rate schedules have specific timelines and dates for completing a contract. QFs often start negotiations based upon the timelines in the utilities’ rate schedules so that they can obtain a contract before the new avoided cost rates become effective. Knowing that

avoided cost rates will become effective in a specific number of days provides invaluable assistance to the QFs in the contract completion process. Providing this clarity will also help reduce potential disputes about whether a contract or legally enforceable obligation was entered into and whether a QF's reasonable expectations were disrupted.

In support of a fixed annual schedule, PacifiCorp witness Brian Dickman explained in Phase I of UM 1610: "A fixed schedule is a transparent trigger and alleviates any concern for gamesmanship." PAC/300, Dickman/22. The Coalition agrees that a fixed and transparent date for both filing and effective date will help create clear rules of the game, and better prevent against gamesmanship by either the utilities or QFs.

In summary, the exact date for when future avoided cost rates filings become effective is less critical than setting a specific date (as long as there is time to review the update). In the future, the Commission could set the date as 50, 60 or 70 days from the May 1 filing. QFs, however, should have certainty that, absent the significant change to warrant an out of cycle update, the May 1 rates will become effective a specific number of days after the filing. To ensure consistency with Order No. 14-058 and to provide the parties an adequate opportunity to review the rates, the Coalition recommends that the Commission clarify that avoided cost rates will be come effective 60 days from May 1.

Regardless of the specific date for future updates, this year the Commission should ensure that PacifiCorp, PGE and Idaho Power's rates go into effect 60 days from May 1, 2015. QFs that relied upon the Commission's Order No. 14-015 reasonably expected that the annual updates would not go into effect 60 days from their filing. The Commission should not upset the expectations of these parties, and should ensure that they have the proper amount of time to finalize any power purchase agreements.

2. PGE Should Be Required to Re-file Its Avoided Cost Update without Updated Capital Costs

The Commission should reject PGE's efforts to include an adjusted cost of equity and debt in its updated avoided cost rates because it is beyond the scope of allowed items to change in a May 1 update. The Commission specifically limited the scope of items that could be updated in the annual update, which was intended to allow quick and non-controversial avoided cost rate changes. The Commission should reaffirm its conclusion that neither QFs nor utilities to can expand the scope of the May 1 updates.

The Commission established that the May 1 updates should include only a limited set of allowable changes. Order No. 14-058 at 25-26. In UM 1610, the parties could not agree upon what should and should not be allowed to be included in the annual updates. E.g., id. at 24-25; Staff/200, Bless/20-23; PGE/200, Macfarlane-Bettis/16; Coalition/200, Schoenbeck/14-18. Ultimately, the Commission concluded that the annual updates:

will include the following four factors: (1) Updated natural gas prices; (2) On- and off-peak forward-looking electricity market prices; (3) Changes to the status of the Production Tax Credit; and (4) Any other action or change in an acknowledged IRP update relevant to the calculation of avoided costs.

Id. There is no indication in the Commission order that parties could add or subtract any items from the enumerated list of updates.

The Commission's conclusion was contrary to PGE's initial recommendation. PGE originally requested that it be allowed to annually update a number of items that the Commission ultimately excluded from its annual update, including fixed and variable O&M per an unacknowledged IRP or updated action plan, and the timing of the demarcation between the resource sufficiency and deficiency periods. PGE/200, Macfarlane-Morton/16. PGE also asked for the ability to update "all inputs . . . at least every two years . . ." Id. Notably, PGE did not ask to specifically update costs of capital during the annual update.

Throughout Docket No. UM 1610, PGE appeared to narrow its first recommendation stating "it is important that utilities be able to capture the most recent gas and electricity prices, plus any changes that occur in a Commission-acknowledged IRP or IRP update." PGE/300, Macfarlane-Morton/12. PGE stopped requesting that it be allowed to update for other facts. If PGE had made such a recommendation, then the parties could have responded, and the Commission could have address it in its final order.

Regardless of PGE's position in UM 1610, the Commission adopted more narrow updates generally in line with the recommendations of staff, the Oregon Department of Energy, and QF advocates. E.g., Order No. 14-058 at 25-26; Staff/200, Bless/20-23; Coalition/200, Schoenbeck/14-18. The Commission did not allow the utilities to update all inputs every two years, resource deficiency periods, O&M costs, or cost of capital. Instead, the Commission specifically delineated the items that could be updated and did not indicate that the utilities could update for other items.

PacifiCorp and Idaho Power took this approach, and did not update for other factors. Idaho Power in fact has filed a separate request to modify its resource sufficiency and deficiency period. Idaho Power has not asserted that this request is permissible as part of the annual update, but has sought to make the change separately as an "out of cycle" update allowed under Order No. 14-058. Docket No. UM 1725, Idaho Power Application to Change its Resource Sufficiency Determination at 4. While the Coalition disagrees with the merits of Idaho Power's request, the Coalition strongly agrees that Idaho Power has taken the correct procedural approach.

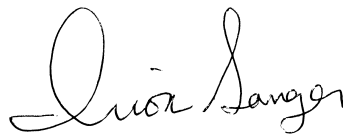
PGE did not seek reconsideration or modification of Order No. 14-058 or seek an out of cycle update, but has instead chosen to ignore the Commission's direction. The

Coalition understands that PGE's position is that the Commission's order only provides the minimum items that must be updated, and that PGE can include different changes in any particular annual update if there are other items that it believes should be changed. PGE's approach completely upsets the goal having an understood and streamlined process that would allow quick updates with limited controversy and disputes. Allowing PGE or any other party to add or subtract issues will result in parties expending considerable resources in identifying additional items to include, and waste the Commission's time resolving unnecessary disputes.

3. The Commission Should Allow the Remaining Portions of the Avoided Cost Rates to Become Effective

Consistent with the Commission's previous direction for limited and expedited annual updates, the Coalition is not raising any concerns regarding the utilities' avoided cost rates. For example, the Coalition has concerns about the gas price forecasts selected by the utilities, and legality of the resource sufficiency prices. While the Coalition is concerned that the avoided cost rates are lower than the utilities' actual and expected cost of acquiring alternative resources, these issues should not be raised at this time. Instead, they should be raised in different proceedings, or during a more complete update following an integrated resource plan acknowledgement.

Sincerely,

A handwritten signature in cursive script that reads "Irion A. Sanger". The signature is written in black ink and is positioned centrally below the word "Sincerely,".

Irion A. Sanger