



# RENEWABLE ENERGY COALITION

November 16, 2018

Commission Chair Megan Decker  
Commissioner Stephen Bloom  
Commissioner Letha Tawney  
Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, Oregon 97301-3398

RE: Transmission Workshops

Dear Chair Decker and Commissioners Bloom and Tawney:

The Renewable Energy Coalition (“REC”) provides these limited comments regarding the Oregon Public Utility Commission’s (the “Commission’s”) proposed transmission workshops. REC appreciates the opportunity to provide this limited feedback, and supports the comments being filed today on behalf of the Community Renewable Energy Association and the Northwest and Intermountain Power Producers Coalition. REC is disappointed that the Commission initially did not reach out to non-utility generation owners that have been actively litigating transmission related issues before the Commission for years. However, REC is encouraged that the Commission it is taking up this difficult to understand issue, and hopes that the Commission recognize that the utilities have weaponized transmission as an effective tool to refuse to purchase power from independent power producers, particularly qualifying facilities (“QFs”) selling power under the Public Utility Regulatory Policies Act. REC strongly recommends that the Commission seek outside assistance from the Federal Energy Regulatory Commission (“FERC”) and non-utility transmission experts.

REC provides the following examples of recent QF proceedings in which PacifiCorp, Portland General Electric Company (“PGE”) and Idaho Power Company (“Idaho Power”) have, or are currently, using transmission to put their competitors out of business. This list is only partial and does not include dozens of projects that have not been constructed due to transmission and/or interconnection issues.<sup>1</sup>

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<sup>1</sup> See Docket No. UM 1729, Natel Energy’s Comments at 1 (June 1, 2018) (“we received interconnection study results from PacifiCorp for the largest project in the portfolio, which was only 900 kW, ... the System Impact Study stated it would require an estimated cost of \$27,837,999 for the complete interconnection package”); Houtama

## 1. **PáTu Wind Farm v. PGE.**

Starting in at least September 2010, PGE and PáTu litigated over whether PáTu could deliver electricity and whether PáTu should be paid for all, or only part, of its net output. PáTu first brought a complaint against PGE at the Commission, which denied the complaint in two orders in May 2012 and August 2014. The Commission, however, did not rule on a key aspect of PáTu's complaint concluding that the transmission issues should be resolved by FERC.

Ultimately, FERC ruled in PáTu's favor concluding that PGE must purchase all PáTu's electric output from its wind facility. FERC concluded that PGE must use reasonable scheduling practices to accept and pay for all energy delivered. This could include dynamic scheduling. FERC explained that PGE cannot impose overly restrictive scheduling requirements that have the practical result of allowing PGE to avoid paying for all PáTu's net output. FERC, however, did not order PGE allow to PáTu dynamically schedule the net electric output from its wind facility even though PGE dynamically schedules the net output from its own wind generation.

The PáTu case illustrates how the utilities treat their generation resources different than QFs, and how utilities can raise obstacles in an effort to refuse to purchase power from variable resources. Resolving transmission issues like PáTu's may allow QFs in wind, solar and hydro rich parts of the state to sell power to PGE.

## 2. **Kootenai Electric Cooperative v. Idaho Power**

Kootenai Electric Cooperative owns the Fighting Creek Landfill Gas Station in Bellgrove, Idaho that uses methane gas from decomposition of waste interned at the landfill to generate renewable 3.2 megawatts ("MW") electricity. Kootenai Electric Cooperative sought to sell its net output to Idaho Power in Oregon, but the Commission ruled that is was not permitted to. The Commission, however, misunderstood basic FERC transmission issues and multiple orders. Ultimately, "FERC found that the transaction proposed by Kootenai resulted in a delivery of power to Idaho Power in the State of Oregon, and that under the proposed transaction, Idaho Power was required to purchase Kootenai's output at Oregon PURPA rates."<sup>2</sup> After reviewing FERC's order, the Commission found that its order "contravenes FERC's finding regarding the point of delivery of Kootenai's proposed transaction."<sup>3</sup> Accordingly, the Commission withdrew its Order 13-062 and granted Kootenai's complaint. If the Commission had sufficient transmission expertise, then it would not have ruled against Kootenai Electric Cooperative in the first place.

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Hydropower's Comments at 2 (July 9, 2019) ("PacifiCorp's 2016 feasibility study of the project also was its obituary").

<sup>2</sup> Docket No. UM 1572, Order No. 14-013 at 1.

<sup>3</sup> *Id.* at 2.

### **3. Surprise Valley Electrification Corp. v. PacifiCorp**

PacifiCorp refused to purchase Surprise Valley Electrification Corp.'s ("Surprise Valley") 3.6 megawatt ("MW") Paisley geothermal project in southwestern Oregon based on vague and repeatedly changing claims that Surprise Valley did not provide sufficient transmission arrangements. Many of PacifiCorp's alleged concerns were not raised until after Surprise Valley filed a complaint at the Commission. The Paisley Project was located in Surprise Valley's service territory and Surprise Valley itself was directly interconnected to PacifiCorp. Ultimately, the case was resolved through a settlement.

### **4. Load Pockets**

The Commission has had litigation regarding load pockets before it since June 2011, starting with Docket No. UE 235 and continuing into Docket No. UM 1610. The issue is still being litigated in UM 1610, but the Commission issued an order that prevented REC and other QF advocates from litigating key issues. As the Commission decided not to resolve all load pocket issues in UM 1610, there will likely be additional litigation even when and if the Commission issues a final order in UM 1610. During the past seven plus years, PacifiCorp used load pocket issues to refuse to enter into numerous contracts and load pockets have been a key tool in its successful efforts to essentially stop entering into PPAs with Oregon QFs.

The Commission described Pacific Power's Oregon service territory as "non-contiguous, and interconnected in places by third-party transmission."<sup>4</sup> The Commission noted that "Pacific Power calls these areas that are reliant on third-party transmission 'load pockets,' and .... To import to, or export from, these load pockets, third-party transmission must be used."<sup>5</sup> The Commission determined that QFs are responsible for these costs.<sup>6</sup>

The Commission, however, has never required PacifiCorp to show that it actually incurs costs associated with QFs in load pockets. PacifiCorp may have sufficient contracts with third parties to be able to wheel the power out of the load pockets at low or reduced cost but will only use those wheeling contracts for its own generation and not QF power.

In addition, the Commission declined to review in the generic UM 1610 proceeding the fact that PacifiCorp is now refusing to even execute or allow QFs to pay for third party transmission, but is instead using the interconnection process to charge

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<sup>4</sup> Docket No. UM 1610, Order No. 14-058 at 21.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 22-23.

small QFs tens of millions of dollars in network transmission construction.<sup>7</sup> PacifiCorp is effectively preventing these QFs from buying available third party transmission and, as they are unable to pay for expensive network transmission upgrades, are unable to be built.

REC does not propose that the Commission resolve load pocket issues with the transmission workshops. Instead, REC points out that these are likely to come before the Commission, potentially in QF specific complaints, and the Commission and utility ratepayers would be better served if the Commission could understand transmission issues.

## 5. Conclusion

REC appreciates the Commission's willingness to become better educated on transmission issues. REC, however, hopes that the Commission will reach out to non-investor owned utility transmission experts. Relying upon PacifiCorp and PGE to educate the Commission will be akin to allowing the foxes to better design the henhouse.

Respectfully,

A handwritten signature in black ink, appearing to read "John Lowe", written in a cursive style.

John Lowe

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<sup>7</sup> Docket No. UM 1610, Order No. 18-181 at 3-4 (PacifiCorp stating that it will no longer allow QFs to choose to pay for third party transmission); Docket No. UM 1610 REC and CREA Response to PacifiCorp's Motion to Close Docket at 8-9 (March 30, 2017) (PacifiCorp requiring a 2 MW solar and a 2 MW hydro QFs in separate load pockets to construct 80-90 mile transmission lines).