TO: **Interested Parties**

FR: **Renewable Energy Coalition**
Community Renewable Energy Association

John Lowe, REC Executive Director
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RE: **Update on OPUC Proceedings Impacting Renewable and Other Energy Uses**

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INTRODUCTION:

The Oregon Public Utility Commission (OPUC or Commission) is the state administrative agency that is charged with regulating Oregon's investor owned electric utilities, and is the most important state agency that establishes and implements energy policy. The OPUC essentially determines the types and ownership of electric generation resources serving customers in Oregon.

The OPUC's primary responsibilities are to represent utility customers from unjust and unreasonable exactions and practices and obtain for them adequate service at fair and reasonable rates while maintaining consistency and balance with legislative intent or statutory mandates related to energy development and uses The Commission has been charged by the Oregon legislature to ensure that there is a robust competitive electric generation market and to protect the interests of independent power producers that build, own and operate non-utility electric generation resources. The OPUC's mission statement previously stated that it was to: "Ensure that safe and reliable utility services are provided to consumers at just and reasonable rates while fostering the use of competitive markets to achieve these objectives." The OPUC's current mission statement has been changed, reflecting that it no longer considers competitive markets as key to its purpose: "To ensure Oregon utility customers have access to safe, reliable, and high-quality utility services at just and reasonable rates."

The OPUC's more limited mission statement is inconsistent with the Commission's larger statutory responsibility to protect competitive markets and diversity of generation ownership. The Legislature has also given the OPUC the responsibility "to mitigate the vertical and

horizontal market power", "eliminate barriers to the development of a competitive retail market structure", and adopt rules that promote competition in generation markets allowing for "diverse ownership of renewable energy sources that generate qualifying electricity." Unfortunately, due to many factors including the influence of the investor owned utilities and lack of adequate resources, the Commission has often failed to protect interests other than those of the investor owned utilities.

The federal Public Utility Regulatory Policies Act ("PURPA") and related Oregon mini-PURPA law (ORS 758.505- .555) require the utilities to purchase the output of small renewable energy facilities at the cost the utility would otherwise expend to acquire a similar amount of electrical output elsewhere (known as the "avoided cost"). The Commission sets essential contract terms and rates available to these small renewable energy facilities (known as "qualifying facilities"), and approves processes leading to completion of power purchase and interconnection agreements The law is intended to provide a market for the sale of energy from small renewable energy facilities, but since its enactment in 1978 utilities have continually undermined or even in some cases ignored the law, which effectively requires them to purchase energy from their direct competitors in the wholesale supply of electric generation. PURPA is currently the only meaningful opportunity for small renewable energy generators to sell their output to Oregon's electric monopolies. Oregon's PURPA goes beyond the federal law, and specifically requires the OPUC to represent the interests of QFs. Specifically, Oregon's mini-PURPA makes it clear that Oregon's goal is to "promote the development of a diverse array of permanently sustainable energy resources using the public and private sectors to the highest degree possible" and to achieve this goal by increasing "the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon's citizens" and "creat[ing] a settled and uniform institutional climate for the qualifying facilities in Oregon." These objectives appear to be ignored in most OPUC proceedings in favor of the interests of the investor owned utilities' anti-competition agenda and the need for utilities to increase their own rate-baseable investments.

Finally, Oregon energy policy explicitly supports and favors small, non-utility owned renewable energy generators. The Legislature has found "that community-based renewable energy projects … are an essential element of this state's energy future." To further this goal, at least eight percent of PacifiCorp and Portland General Electric Company's aggregate electrical capacity must be from small-scale renewable energy projects under 20 megawatts ("MW") or biomass. A version of this law had been on the books since 2007, but the PUC has not taken any action to implement this policy over the last decade.

Large non-utility owned generators which pursue the development of generating resources as non-PURPA opportunities for wholesale sales of energy to the utilities have fared even worse. The OPUC's competitive bidding guidelines require electric utilities to conduct a formal request for proposal before acquiring major generation resources have resulted in almost 95-percent utility-owned generation "winning" the utility-run Requests for Proposals ("RFPs"). Similarly, at least in the case of PacifiCorp's service territory, non-utility electricity marketers with the statutory right to sell power directly at the retail level to large industrial and commercial customers under Oregon's retail access statute that was passed in 1999 have been all but

barred from directly selling power to end use consumers. Only 16% of PGE's and 3.5% of PacifiCorp's eligible non-residential customers currently participate in retail access. The OPUC has facilitated these lopsided results by implementing the statutory requirement not to allow any "unwarranted shifting of costs" to non-participating customers as means to defer to PacifiCorp's estimates of large exit fees customers must pay to participate in these direct access programs while holding other customers harmless. Notably, other losses of load regularly occur with no protection for remaining ratepayers (through energy efficiency programs, self-generation, and other mechanisms), and the assessment of 100 percent of cost shifts to customers causing losses of load through direct access is unique. The OPUC should read the direct access law harmoniously to protect non-participating customers from costs shifts associated with a major loss of load to the direct access program, but also exercise its discretion under the law to allow real opportunities for customers to purchase power from non-utilities.

As can be seen from the summary below, the OPUC's actions have thwarted rather than promoted wholesale and retail electric competition, and prevented the development of diverse energy resources, diminished the marketability of QFs, and completely upset the institutional climate for QFs in Oregon. The climate for QFs and other forms of utility-competing generation, which has contributed significantly to lower electrical energy costs, is anything but "stable and uniform".

OPUC DOCKETS INVOLVING REC AND CREA

UM 1729/1794 - PacifiCorp New Avoided Cost Rates under PURPA

In its biannual PURPA avoided cost rate update filed in the spring of 2016, PacifiCorp successfully convinced the Commission that it has no need to acquire any new generation resources (renewable or non-renewable) until 2028, which drastically reduces the rates PacifiCorp must offer to small PURPA qualifying facilities under the Commission's policies. PacifiCorp has relied on complex modeling conducted in its Integrated Resource Plan (IRP). The Commission set temporary rates effective in August 2016, but due to the lack of an evidentiary record supporting the rates, the Commission also ruled that renewable energy advocates should be allowed to attempt to overturn PacifiCorp's complex modeling and the Commission's prior decision in a contested case commenced in the fall of 2016. Under the agreed-to schedule, the final order was initially expected in April 2017, but the OPUC has delayed the case. This proceeding was intended and expected to be the first EVER opportunity to question the basis of key fundamentals used to establish avoided cost prices. The most significant fundamental is when a utility is expected to need more resources. The IRP process, effectively a utility planning process, does not allow for adequate stakeholder or Commission vetting of plans beyond the IRP's immediate action period. This results in a utility being able to set artificially low avoided cost prices for QFs by claiming extensive resource sufficiency, despite contrary evidence or utility resource acquisition actions.

Status: As the QF advocates predicted last summer, PacifiCorp has now publicly admitted that needs to acquire renewable generation in the near term, has stated as such in its draft

2017 IRP, and has even issued an RFP to acquire renewable resources. Yet the Commission closed this based on the assumption that PacifiCorp will not acquire any new renewable resources until 2028. The Commission first allowed PacifiCorp to refuse to provide basic discovery to the QF advocates and to disputes over the scope of the rate inputs that the QF advocates could propose to be changed. Since the Administrative Law Judge and the Commission took months to resolve these basic procedural issues, and the Commission closed the case because it had gone on too long, which has left the low rates in effect until after PacifiCorp is expected to acquire over 1,100 of Wyoming wind. During pendency of this case, PacifiCorp's avoided cost rates have been too low for most new generation and too low for most existing facilities to rely upon in the event that a current contract expires in this time frame.

Worse still, if PacifiCorp acquires new renewable resources, then PacifiCorp is likely claim that it should not be required to purchase power from QFs again because it is concurrently acquiring major renewable resources located out of state and proposed for its Oregon rate base in the RFP. This case has directly resulted in no new small Oregon QFs being able to sell their power to PacifiCorp while the utility plans to build over 1,100 MW of its own generation in Wyoming. Hundreds of MWs of power may be built and owned by PacifiCorp without a single MW being built in Oregon or owned by a non-utility generation owner. Also, existing and operating QF projects may shut down because PacifiCorp's prices are artificially low. This docket is an egregious example of how form can supplant substance and how a regulated monopoly can game the system to its advantage without adequate or reasonable intervention by the OPUC.

<u>UM 1610: Generic PURPA Investigation</u>

The Commission has held an ongoing generic investigation into PURPA contracting and rate-setting policies, in docket UM 1610, since 2012. Collectively, the Commission's orders in this five year long proceeding have resulted in rate calculation methods that have reduced the rates available to most PURPA qualifying facilities, and have introduced several complex contracting problems that make it difficult for some small PURPA qualifying facilities to contract with utilities.

The only current important issues being considered is whether certain facilities should be required to pay for expensive and unnecessary transmission costs; however, PacifiCorp filed a request to close the docket without any binding resolution of the issue, potentially allowing PacifiCorp to again assess these unreasonable transmission charges on certain QFs.

Status: The decisions in UM 1610 and the related PURPA dockets described below have substantially reduced (and perhaps almost eliminated) PURPA development in PacifiCorp and Idaho Power service territories. Berkshire Hathaway has significantly undermined the ability to sell renewable energy from small facilities in its war on PURPA in Oregon. Closure of this docket without binding resolution could allow PacifiCorp to exploit regulatory ambiguities to undermine certain types of QFs by unilaterally forcing them to pay for expensive and unnecessary transmission. However, the renewable rates put in place in part due to the

advocacy of CREA and REC have proven to be a viable mechanism for continued development through sales to PGE in recent years, even with record low natural gas and wholesale electricity prices. CREA and REC's legislative efforts in 2017 were aimed at expanding on this success through clarification of the RPS law that provides the basis for these renewable rates.

UM 1802: Investigation of PacifiCorp's Non-Standard Avoided Cost Pricing.

While this case was opened in 2016, controversial issues related to the calculation of large QF rates, projects not eligible for the standard contract and published avoided cost prices, have been before the OPUC since 2012, and during that time only two large QFs have been able to enter into power purchase agreements with PacifiCorp, PGE and Idaho Power. In 2016, the Commission approved PacifiCorp's avoided cost rate filing that eliminated a renewable price stream for large QFs, over Staff and parties' objections, and opened this investigation to determine whether PacifiCorp's large avoided cost pricing should include a renewable price option, and if so, how it should be calculated. The Commission admitted that it did not intend to remove the large renewable rate option, but it had inadvertently done so when it approved PacifiCorp's use of a complex computer model to establish prices. Instead of admonishing PacifiCorp for failing to explain how its computer model would impact large renewable rates, the Commission rewarded PacifiCorp for tricking Staff and parties by proposing a fundamental change in regulatory policy without notice or due process. Currently, biomass, geothermal and wind QFs above 10 MW and solar QFs selling to PacifiCorp above 3 MW cannot be paid for the renewable characteristics of their power. PGE still offers to pay all QFs for their renewable attributes.

Status: Testimony has been submitted, and briefs are being submitted with an expected order before the end of the year. The Commission's decision (and actions in other proceedings) has completely stopped larger QFs from being able to sell renewable power to PacifiCorp, despite the fact that PacifiCorp is planning on building and owning over 1,100 MW of renewable resources in the next few years.

UM 1805: NIPPC, CREA, and REC v. PGE.

This particular proceeding regarding contract length was opened in 2016; however, QF advocates have been litigating contract length cases before the PUC in three previous proceedings over the last five years (UM 1610 [generic proceeding considering reducing contract lengths], UM 1725 [Idaho Power proposal to reduce contract lengths to two years], and UM 1734 [PacifiCorp proposal to reduce contract lengths to three years]). The issue was also litigated in 2005. This is a classic example of the utilities using their nearly unlimited ratepayer-funded efforts to repeatedly attempt to overturn one of the few issues in which the OPUC has adopted a policy that benefits small renewable energy developers (the OPUC's adoption of 15-year contract terms).

PGE has taken the position that the Commission's policy on standard avoided cost prices provides 15 years of fixed-price payments, but does not specify when that 15-year period must start. The Commission has previously determined that most QFs need 15-year contracts with

15 years of actual payments in order to obtain financing because banks and other capital investors will not invest in new project development without being able to forecast the likely revenue of the project over a 15-year period. PGE recently began taking the position that its 15-year fixed-price period begins upon contract execution rather than upon commercial operation as the standard contracts for both PacifiCorp and Idaho Power do. As many projects need up to three years to be constructed from the point of contract execution, PGE's interpretation means that most projects would receive less than 15 years of payments, and correspondingly be able to forecast the likely revenue for less than 15 years, which is fewer years than previously found necessary by the OPUC to obtain financing.

Status: After several highly-technical procedural challenges by PGE, and voluminous pleadings to date, the Commission issued an order on July 13, 2017 concluding that its policy is to require the utilities to offer fixed prices for 15 years following power deliveries, but that it inadvertently allowed PGE to submit and gain approval of a contract that was inconsistent with that policy. Instead of interpreting the contract to be consistent with its policy or admonishing PGE for circumventing the law, the Commission merely directly PGE to file a new contract consistent with its policy. PGE has filed a new contract, but it would base payments on the scheduled commercial operation date rather than the actual date of power deliveries, and the issue is still being litigated. The case is typical in that even when non-utility renewable energy generations win a case, they must continue to litigate the case to obtain an actual victory. Utilities like PGE can use their nearly inexhaustible supply of ratepayer funded attorneys to continue to litigate issues over and over.

<u>UM 1728: PGE's annual avoided cost update.</u>

PGE's May 1 update reduced its avoided cost rates, and also requested "prompt action" because its avoided cost rates were too high. More specifically, PGE had a surprise request for its rates to go into effect on May 17 rather than June 22 due to a large number of QFs requesting pricing and entering into contracts. QFs negotiating their contracts had been expecting the later date.

Status: The Commissioners discussed whether QFs were relying on an expectation that they would have until the day after the last June OPUC public meeting to establish contracts with PGE before PGE's rates dropped. The OPUC decided to allow the rates to go into effect on June 1 (rather than May 17 as PGE requested) and instructed PGE that if this were to happen again, that they should provide notice to the QFs they are negotiating with to alert them to the possibility of a shortened deadline. Many QFs that were planning on a June 22 date were unable to obtain the higher prices, and some of those renewable projects will now not be developed. The decision upsets the contract negotiation process, and is inconsistent with the PUC's statutory mandate in ORS 758.515(3)(b) to "Create a settled and uniform institutional climate for the qualifying facilities in Oregon." While the magnitude of price changes is always important, the process and timing by which such changes occur is also critical. Annual avoided cost updates were a result of UM 1610 and agreed to by QF advocates in return for certainty of process and timing. Now after the fact, certainty has been "thrown under the bus".

UM 1728: PGE's IRP avoided cost update.

PGE also files an avoided cost rate update after acknowledgment of its integrated resource plan, which occurred on August 8, 2017. The avoided cost rate update should be filed 30 days after IRP acknowledgment, and be effective 30 days later. QFs were expecting an avoided cost rate update in October or November, because PGE's IRP was planned to be acknowledged at the end of August. PGE proposed a 40% reduction in avoided cost rates based on an assumption that PGE would not acquire new renewable resources until 2029 or any capacity resources until 2025. PGE requested that the Commission take the unprecedented step of either suspending PURPA until its new avoided cost rates became effective, or having them become effective on August 8 rather than months later as expected.

Status: The Commission approved new avoided cost rates, effective September 18, 2017. While earlier than expected, the Commission rejected PGE's proposal. The Commission also agreed with QF parties that PGE would acquire new renewable resources earlier than 2029, and set a date of 2025 for the next renewable resource acquisition and 2021 for the next non-renewable resource acquisition. The Commission also agreed with the QF parties that PGE had incorrectly calculated its rates, including attempting to charge solar generation with too high of an integration charge.

This case represents a significant victory for QF advocates, but a completely different result than what PacifiCorp obtained. PacifiCorp, which is actually issuing an RFP, has rates set on an assumption that it will not acquire new renewables until 2028.

LC 66: PGE 2016 Integrated Resource Plan and UM 1834: PGE Request for Proposal

Portland General Electric Company's ("PGE") long-term resource plan ("IRP") is considering a replacement resource for its Boardman Coal Plant which is scheduled to close in 2020 due to environmental regulations, and addressing increased Renewable Portfolio Standard ("RPS") requirements put in place by SB 1547. PGE's Action Plan includes early acquisition of a new large (515 MW) wind plant, which can be on line by 2020 so it can utilize 100% of the federal production tax credits ("PTC"), and an additional large (375-550 MW) capacity resource to follow. PGE originally was planning on building its own gas fired generation plant at the site of its current Carty generation plant which is about $150 million over budget and the result of a utility-biased request for proposals ("RFPs") conducted under the OPUC's bidding guidelines. PGE is now also considering other capacity options. PGE has not issued its RFP for new resources yet, but has opened a proceeding at the OPUC to start the process of reviewing the RFPs.

Status: The Commission issued its oral order August 8, 2017 concluding that PGE had not demonstrated a renewable resource need, but suggesting that PGE return with a proposal for a smaller amount of renewable resource acquisitions. The Commission also acknowledged a capacity need, but requested that PGE first investigate bi-lateral contract negotiations rather

than issue a request for proposal to acquire a major gas plant.

LC 67: PacifiCorp 2017 Integrated Resource Plan and UM 1845: PacifiCorp Renewable Request for Proposal

PacifiCorp's long-term resource planning or IRP addresses increased RPS requirements put in place by SB 1547. PacifiCorp's Preferred Portfolio (which includes plans for the next twenty years) includes 1,959 MW of new wind resources and 1,040 MW of new solar resources by 2036. PacifiCorp's Action Plan (over the next five years) includes early acquisition of new large (at least 1,100 MW) Wyoming wind resources, which must be on line by 2020 to utilize 100% of the federal PTC, as well as a new 140-mile 500 kV transmission line in Wyoming to access the new resources. PacifiCorp is designing the RFP to prevent Oregon projects from competing and so that most or all the projects will be owned by PacifiCorp. The proposed RFP includes as an explicit bidding requirement that the bidder *deliver the power to PacifiCorp's system in Wyoming*; in other words, Oregon projects need not apply. This is because PacifiCorp has linked the need for the new wind resource to the need for a new transmission line it proposes to build (and rate base) in Wyoming. PacifiCorp is limiting its RFP to only Wyoming wind so that it can build a new and expensive transmission line, which will be completely unnecessary once the company starts shutting down its Wyoming coal plants.

Status: PacifiCorp has chosen to issue concurrent RFPs (UM 1845) rather than waiting for IRP acknowledgement. The IRP is scheduled to conclude with a public meeting on December 5, 2017 and the RFP bids are scheduled to be due early next year. This proposal will be controversial because the Commission's policies require the RFP process begin *after* the Commission approves the course of action developed in the IRP. The OPUC is proceeding with this case in a timely manner because PacifiCorp, rather than other stakeholders, would like an expedited ruling in order to acquire and own new generation immediately following the completion of the IRP. These proceedings have implications for the potential resolution of UM 1794 discussed above and the continued application of artificially low avoided cost prices.

AR 600/ UM 1776: Investigation and Rulemaking for Competitive Bidding Guidelines

Oregon law allows the utilities to earn a profit on their own capital investments, including power plants that they own, but under current rules the utilities do not earn any profit when they contract to purchase power from independent power producers (including QFs). There has been ongoing recognition of the need to develop strict rules regarding acquisition of generation resources in order to overcome the utilities' inherent "self-build bias" and to ensure that ratepayers are protected from uneconomic self-dealing of Oregon's monopoly utilities. Most recently, the Commission opened a permanent rulemaking for the purpose of implementing provisions of SB 1547 that required the Commission to adopt rules "providing for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity." ORS 469A.075(4)(d). In addition, the Commission opened a concurrent investigation to update its competitive bidding guidelines as necessary, in the event that certain of the current guidelines cannot be converted to rules.

The Commission's current competitive bidding guidelines have completely failed to achieve diversity, with only about 5% of the capacity of new generation acquired through the guidelines being non-utility owned.

This case was opened in May 2016 after a challenge by independent power producers to PacifiCorp's decision to move forward with a renewable RFP outside of the OPUC's competitive bidding policies. Despite over a year of investigation, the utilities are attempting to prevent the OPUC completing this investigation and rulemaking before PGE and PacifiCorp's next round of RFPs, which would mean that the OPUC's flawed and ineffective competitive bidding guidelines would not be updated before the utilities complete their processes to acquire a couple thousand MWs of new generation. PacifiCorp will have completed two RFPs, while the PUC delays implementing changes that would adopt rules that allow for diverse generation ownership.

Status: On May 16, 2017, the Commission held a public hearing to resolve the scope of the changes that will be allowed to the existing guidelines that are imported into the new bidding rules. The utilities strongly opposed efforts to complete this case in a timely manner, and OPUC agreed with them and rejected calls to complete the investigation prior to the next round of utility RFPs. The Commission agreed to include in the process a handful of significant proposals to improve the bidding process and to mitigate the utility's self-build bias, including provisions to accurately compare shorter term PPA bids to longer term utility rate-base proposals, and the use of highly qualified consultant to conduct a more thorough vetting of utility-owned resource proposals than has occurred in the past. The PUC Staff has drafted proposed rules, which will be commented on by interested parties.

<u>UM 1020: Comingling of Voluntary Funds and Resource Planning</u>

Voluntary renewable funds are the monies that utilities obtain from ratepayers electing to pay more for green power. These include PacifiCorp's Blue Sky Program, and PGE's Green Source, Green Future Solar and Clean Wind. These funds are then invested in renewable energy projects, which may be owned by the utilities or independent power producers. The Commission considered barring qualifying facilities that sell power under the Public Utility Regulatory Policies Act from receiving voluntary renewable funds.

Status: Staff circulated a memo recommending the Commission expand the definition of non-profits, and modifying the Commission's existing review process to include additional criteria for awarding grants to for-profit entities in advance of the September 26 public meeting. Staff's new definition for non-profits includes any mutual benefit corporation, public benefit corporation, religious corporation, municipal corporation, or Indian Tribe as defined by Oregon Law. For-profit entities will be eligible for voluntary funds, subject to the Commission's existing review process (which is only used for non-profits above $400,000) plus their ability to demonstrate three additional criteria: 1) the project must meet the utilities eligibility criteria and any other minimum requirements for funding; 2) the project must reflect the utilities' preference for certain types of projects, as captured in their existing

application forms; and 3) the utilities will submit a letter documenting why they support granting funds to a for-profit entity.

UM 1857

On June 30, 2017, PGE made a surprise filing proposing to lower the eligibility level for standard contracts and published rates for solar QFs from 10 MW to 2-3 MW, and impose a permanent lifetime cap on any one owner requesting 10 MW or more of standard contracts and published rates. PGE did not provide notice to any parties, and sought to obtain Commission approval before anyone was even aware of the filing. PGE requested and the Commission agreed to significantly limit any discovery, which prevented interested parties from adequately responding to PGE's factual claims and arguments. The Commission issued an interim order that adopted in part PGE's request lowering the eligibility level for standard prices to 3 MW, but maintaining the 10 MW eligibility cap for standard contracts and declining to impose a permanent lifetime cap on any one owner. The Commission allowed PGE's filing to go into effect on July 14, 2017, two weeks after PGE filed. The Commission effectively rewarded PGE by not providing notice to impacted QFs, which could result in over a 100 MW of solar projects that have invested significant resources into Oregon based on then existing rules being unable to develop. Surprise filings and rulings of this kind dramatically harm the institutional climate for renewable energy.

Status: The Commission will conduct an investigation into whether to adopt PGE's proposal on a long-term basis. The practical impact of PGE's filing has resulted in many promising projects failing and numerous complaints against PGE.

AR 610: RPS Rulemaking

SB 1547 made several changes to Oregon's RPS that require new and modified OPUC rules. This rulemaking is expected to cover: 1) methodology for calculating incremental costs associated with RPS compliance; 2) definition of "associated storage"; 3) implementation plan components (timeframe, etc.); interaction between implementation plans and renewable portfolio plans; 4) multi-state renewable energy certificate allocation; and 5) additional concepts raised by parties.

Status: The Commission is working to schedule an initial workshop in August. A July workshop was cancelled due to other currently docketed issues, which will delay eventual resolution of this case.

Other Important Renewable Energy and Electric Competition Cases

UM 1837: Investigation into the Treatment of New Facility Direct Access Loads.

SB 979 proposed a number of changes related to direct access, one of which has been taken up voluntarily by the Commission, namely whether new commercial load (at new sites) should continue to be eligible for fixed transition charges applied to direct access load. Direct access is when a retail customer can choose to purchase power at retail from a third party that is not

their utility. Direct access can allow a retail customer to choose lower cost and more renewable power than is available from PacifiCorp or PGE. The current direct access program includes transition charges that are intended to offset possible rate increases to other cost-of-service customers could occur due to significant amounts of load switching to direct access. Since SB 1149 was passed in 1999, the Commission has implemented direct access that has prevented most customers from being able purchase power from third parties and increase their purchases of renewable power. Only large non-residential customers are eligible for direct access, and only 16% of eligible PGE non-residential customers and only 3.5% of eligible non-residential customers are participating in direct access. This case will review whether customers that have never been served by PacifiCorp or PGE should be required to pay exit fees to "leave" cost of service.

Status: This investigation was recently initiated pursuant to an informal request from Senator Lee Beyer after the Northwest and Intermountain Power Producers Coalition's renewable direct access bill (SB 979) did not pass. Senator Beyer requested the Commission address at least this limited issue before the next legislative session. Parties are submitting briefs and comments, and an order is expected before the end of the year.

UM 1811/1812: PGE and PacifiCorp Transportation Electrification

The 2016 Oregon Legislature passed Senate Bill 1547, which include a requirement that PacifiCorp and PGE propose transportation electrification programs. SB 1547 established six criteria for determining utility cost recovery for a transportation electrification program including whether the investments are: 1) within the service territory of the electric company; 2) prudent as determined by the commission; 3) reasonably expected to be used and useful as determined by the commission; 4) reasonably expected to enable the electric company to support the electric company's electrical system; 5) reasonably expected to improve the electric company's electrical system efficiency and operational flexibility, including the ability of the electric company to integrate variable generating resources; and 6) reasonably expected to stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services. A key issue in the case will be whether there will be competition for providing these new services, or if the utilities shall own and rate base all the major investments.

Status: The Commission Staff has essentially decided that it is not possible to adopt a program at this time that is consistent with the statutory requirements, and is instead pursuing an approach of adopting a "pilot" program, which (in Staff's view) would not need to comply with the legislature's specific direction. The parties have reached a settlement in principle regarding PGE's program, which (if ultimately agreed to) will likely be used for PacifiCorp's program. The settlement does not adequately ensure competition by non-utilities to own transportation electrification infrastructure.

Docket No. 1826: Investigation into Electric Utility Participation in Clean Fuel Programs

DEQ has adopted rules to reduce average carbon intensity transportation fuels that allow

electric utilities to generate Clean Fuel Program credits from EV charging stations in their service territory. OPUC staff is uncertain as to whether utility participation is in the public interest, and if so, what role the Commission should have in oversight.

Status: This docket is just beginning. OPUC set a schedule that regarding the question of the public interest of utility participation in the Clean Fuels Programs in July, and the remainder of Phase I issues in August.

UM 1716: Resource Value of Solar

The 2013 Oregon Legislature passed House Bill 2893 directing the Commission to study the effectiveness of the state's solar energy incentive programs and report to the Legislature on its findings, including to investigate the resource value of solar energy. The Commission issued preliminary findings, and opened a formal proceeding to determine the resource value of solar and the extent of cost-shifting, if any, from net metering. As part of this docket, the Commission is evaluating the reliability and operational impacts of increasing levels of solar generation. The Commission concluded that such an investigation is necessary before offering specific recommendations on programs.

This is viewed as potentially a very significant docket for renewable energy development in Oregon. Staff has proposed a methodology that the utilities support, but that renewable advocates are proposing to be modified to more accurately estimate the benefits of solar, including: security, reliability, resiliency and ancillary benefits.

Status: After about four years, the Commission has not yet completed its investigation. Since our last update, the Commission submitted a straw proposal and requested two additional rounds of testimony, followed by an opportunity for hearing and briefing to address new issues raised in its unusual evidentiary hearing in which only the Commissioners and administrative law judge could ask questions. Both rounds of testimony have been filed, and the parties are awaiting Commission action.

AR 603: Community Solar

SB 1547 directed the Commission to adopt rules and policies regarding a community solar program. Community solar means one or more solar photovoltaic energy systems that provide owners and subscribers the opportunity to share the costs and benefits associated with the generation of electricity by the solar photovoltaic energy systems. The owners can be utilities or independent power producers, and they can directly sell the power to end use consumers. The proposed rules are viewed by many observers as significantly limiting market participation and customer demand for community solar.

Status: The Commission issued proposed rules and held a public hearing in May. Extensive comments were filed, and the Commission even extended the deadline for public comment to address concerns raised at the hearing and allow participants more time to respond to other parties' filings. The Commission scheduled a special public meeting to allow the

Commissioners to discuss the rules and comments with the ALJ and Staff, without the opportunity for oral comments from the public.

UM 1751: Energy Storage

In 2015, the Oregon Legislature passed House Bill 2193 requiring the OPUC to develop energy storage guidelines by January 1, 2017, consider utility energy storage project proposals submitted by January 1, 2018, and implement an energy storage procurement program by January 1, 2020. The Commission has encouraged companies to submit multiple projects with an aggregate capacity close to the full one percent of 2014 peak load allowed by HB 2193, and to submit a range of different projects that can serve multiple applications, balance different technologies, defer or eliminate the need for system upgrades, etc.

Status: The OPUC adopted final energy storage guidelines in Order 16-504 that help utilities design and select projects, submit formal proposals, evaluate storage potential, and established minimum competitive bidding requirements. The Commission directed Staff to conduct workshops to address storage potential, and Staff recently recommended a framework to evaluate utility storage project proposals. The Commission has also directed utilities to submit draft Storage Potential Evaluations by June 1, 2017 (which was extended to July 15, 2017) to assist the Commission in evaluating the utilities' energy storage proposals, which are due to the Commission by January 1, 2018 pursuant to HB 2193.

AR 599: SB 1547 Transportation Electrification Program Application

SB 1547 required the OPUC to direct electric companies to file applications for programs to accelerate electrification and prescribe the form and manner of these applications.

Status: OPUC adopted new rules concerning applications for programs, and the evaluation of and reporting on approved utility programs. Rather than adopt the Staff's initially proposed rules regarding long-term plans, the Commission established a separate process to develop those requirements, which included a hearing, comments, and a public meeting. Parties are currently awaiting additional rules.

UM 1793 – Idaho Power Solar Integration Charge

The Commission approved Idaho Power's request to reduce the avoided cost rates that it pays to PURPA qualifying facilities that utilize solar power in order to account for the costs of "solar integration," which Idaho Power describes as the costs to integrate the intermittent solar output with its other generation resources. Idaho Power is the first Oregon utility to complete a detailed solar integration study to support such an application, but all three Oregon investor-owned utilities already incorporate analogous rate reductions for wind generators for the costs of wind integration.

Status: The case has completed, and the prices paid to QFs will decrease as the amount of solar resources selling to Idaho Power increases.

QF Complaints

There are a number of complaints against PGE and PacifiCorp related to those utilities refusal to purchase the net output from QFs under PURPA.

UM 1799: Cypress Creek Renewables complaint against PacifiCorp for refusing to even begin negotiating to purchase the net output and renewable attributes of its power.

UM 1829, UM 1830, UM 1831, UM 1832, & UM 1833: PGE is refusing to purchase the net output of five QF projects, Blue Marmot V, VI, VII, VIII, and IX despite previously sending final executable power purchase agreements. PGE claims that it cannot accept the power, despite the QFs purchasing transmission to wheel the power to PGE.

UM 1844: Evergreen Biopower's complaint against PGE for refusing to purchase the full net output of its biomass facility on the grounds that PGE claims the project does not qualify for Commission standard rates. Evergreen Biopower previously sold its net output to PacifiCorp, which did not claim that the project did not qualify.

UM 1859: Falls Creek Hydro complaint against PGE for delaying the contract negotiation process and committing regulatory fraud in an effort to prevent Falls Creek from completing a contract.

UM 1860 and UM 1861: Two small QFs (Red Prairie Solar, 2.2 MW and Volcano Solar, 0.75 MW) have filed complaints against PGE for refusing to negotiate a contract because PGE refused to accept information regarding the projects generation profiles that PGE accepted for over a dozen prior projects. PGE failed to inform Red Prairie Solar and Volcano Solar of what new information it wanted and is now refusing to execute or finalize contracts with these projects.

UM 1863, UM 1864, UM 1865, UM 1866, UM 1867, UM 1868, UM 1869, UM 1870, UM 1871, UM 1872, UM 1873, UM 1874, and UM 1883: Thirteen small QFs (between 2 and 4 MW) filed complaints against PGE for refusing to timely process their contract requests, changing the rules, and raising numerous illegal obstacles in an effort to prevent them from being able to sell their power at current prices.

UM 1875 and UM 1876: Two 10 MW Solar QFs (Klondike Solar and Saddle Butte Solar) have filed complaints against PGE for not providing them with contracts.

UM 1877, UM 1878, UM 1879, UM 1880, UM 1881, and UM 1882: Six QFs (Bottlenose Solar, Valhalla Solar, Whipsnake Solar, Skyward Solar, Leatherback Solar and Pika Solar) have filed complaints against PGE for failing to execute contracts.

UM 1690: Voluntary Renewable Energy Tariffs for Non-Residential Customers

HB 4126 directed the PUC to conduct a study to consider the impact of allowing electric companies to offer Voluntary Renewable Energy Tariffs (VRETs) to their nonresidential customers. A VRET is an optional program under which a retail customer may purchase green energy instead of the conventional energy supply provided by the customer's utility.

HB 4126 directed the Commission to consider whether, and under what conditions, it is reasonable and in the public interest to allow electric companies to provide VRETs to nonresidential customers. The utilities made VRET proposals that would have exposed other customers to the risks of cost shifts that are strictly prohibited under direct access programs and would have effectively prevented non-utility ownership. The PUC rejected the utilities' proposals, adopted a VRET structure that protected customers and competition, and the utilities elected not to file actual VRETs.

Since our last update, PacifiCorp's pseudo-VRET "Renewable Energy Rider Optional Bulk Purchase Option" filing was accepted, after input and revisions by NIPPC. Although the tariff allows the utility to offer renewable energy to large customers without complying with the Commission-approved requirements in the VRET, it has limited commercial viability.

Status: The Commission approved PacifiCorp's pseudo-VRET and UM 1690 remains closed.

UM 1788 and UM 1790: PacifiCorp and PGE Renewable Portfolio Standard Implementation Plans

PGE and PacifiCorp file plans to show how they will comply with the renewable portfolio standards. PGE chose to address its plans to comply with RPS through 2049 rather than the five-year RPS compliance analysis required by the Commission's rules. PacifiCorp informed the OPUC that it was not planning to acquire significant new renewable resources during the 2017-2021 planning period despite its issuance of a renewable RFP in 2016.

Status: The Commission acknowledged both RPIPs with conditions, including that the utilities would calculate new incremental costs if they commence a resource procurement action that materially deviates from its most recently filed IRP or RPIP. The Commission also directed PGE to provide additional analysis, including the forecasted benefit to ratepayers for resource acquisition that do not immediately satisfy a system capacity or RPS need.

UM 1758: Solar Incentives Report

In 2015, the Oregon Legislature passed House Bill (HB) 2941 requiring the Public Utility Commission of Oregon (Commission) to evaluate Oregon programs that incentivize the development and use of solar photovoltaic (PV) energy systems and recommend the most

effective, efficient and equitable approach to incentivizing the development and use of solar PV energy systems in this state. The final report concludes that solar energy is now a well-supported and a relatively robust industry in Oregon. Many of the solar incentive programs were introduced in a paradigm that has since changed. According to the report, solar, along with wind, has become less expensive and therefore has a reduced need for additional financial incentives.

View the final Report: http://edocs.puc.state.or.us/efdocs/HAH/um1758hah133933.pdf
Read stakeholders initial comments:
http://apps.puc.state.or.us/edockets/docket.asp?DocketID=19942

Status: This docket was closed without order on November 1, 2016 when Staff sent its Final Report to the Legislature. The final report briefly covers PURPA, stating it has been responsible for three solar projects providing 2.6 MW of nameplate capacity in Oregon-- and that 59 additional projects, which have not yet been built, are currently under contract and could potentially offer another 430 MW.