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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Modification of Contract Term of PURPA Power Purchase Agreements with Qualifying Facilities	Docket No. 15-035-53 **TESTIMONY OF JOHN LOWE**

The Renewable Energy Coalition, (the "**Coalition**") hereby submits the attached Testimony of John Lowe on behalf of the Coalition.

Respectfully submitted this 16th day of September, 2015.

SMITH HARTVIGSEN, PLLC

/s/ Adam S. Long
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on this 16th day of September, 2015 upon the following as indicated below:

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TESTIMONY
OF
JOHN LOWE

FOR

RENEWABLE ENERGY COALITION

September 16, 2015
Docket No. 15-035-53

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is John R. Lowe. I am the director of the Renewable Energy Coalition (the "**Coalition**"). My business address is 12040 SW Tremont Street, Portland, Oregon 97225.

Q. Please describe your background and experience.

A. In 1975, I graduated from Oregon State with a B.S. I was employed by PacifiCorp for thirty-one years, most of which was spent implementing the Public Utility Regulatory Policies Act ("**PURPA**") regulations throughout the utility's multi-state service territory. My responsibilities included all contractual matters and supervision of others related to both power purchases and interconnections. Since 2009, I have been directing and managing the activities of the Coalition as well as providing consulting services to individual members related to both power purchases and interconnections.

Q. On behalf of who are you appearing in this proceeding?

A. I am testifying on behalf of the Coalition.

Q. Please describe the Coalition and its members.

A. The Coalition was established in 2009, and is comprised of thirty-two members who own and operate over fifty non-intermittent small renewable energy generation qualifying facilities ("**QFs**") in Oregon, Idaho, Montana, Washington, Utah, and Wyoming. Several types of entities are members of the Coalition, including irrigation districts, water districts, corporations, and individuals. Except two, all are small hydroelectric projects.

Q. What are the Coalition's interests in this proceeding?

A. The Coalition has a number of key interests in this proceeding. First, our goal is to ensure fair and reasonable contract terms and conditions, and avoided cost rates for small projects eligible for Schedule 37 prices. Second, the Coalition's members are primarily existing QFs, and our goal is to ensure that any final order in this proceeding recognizes and accounts for the unique circumstances and benefits of existing projects. Finally, the Coalition recognizes that PURPA must work to benefit all interested parties, including the utilities, ratepayers, and new and existing QFs of various sizes. The Coalition's goal is that PURPA policies account for all these interests, and the changes (if any) adopted by Utah Public Service Commission (the "Commission") are narrowly tailored to resolve specific problems. Any policy changes should not unduly harm anyone, especially parties not causing the problems that led to the Rocky Mountain Power's filing. The Coalition is concerned that the Commission may view Rocky Mountain Power's request to shorten the contract term in this proceeding in isolation from the proposal to eliminate capacity payments in Docket No. 15-035-T06. In combination, Rocky Mountain Power's proposals would permanently stop paying capacity to existing projects that have long provided (and will continue to provide) capacity.

Q. Please summarize Rocky Mountain Power's requests in this case.

A. Rocky Mountain Power has requested a reduction in the maximum term of its power purchase agreements ("PPAs") with QFs from 20 to three years.

Q. Please summarize your testimony.

A. The alleged problems facing Rocky Mountain Power are exaggerated. The problems (if any) are not caused by small baseload Schedule 37 eligible QFs especially existing ones. In addition, any policy changes (if any) that result from these proceedings should exempt these small baseload projects, such as one done recently by the Idaho Public Utility Commission in Docket GNR-E-15-01, in which a virtually identical utility request had brought the issue forward.

I also explain the unique reasons why that there should be no change in policy for existing projects. Existing projects also are not causing any problems, and in fact are providing significant benefits. Imposing a policy change like a shortened contract term on existing QFs could significant and unnecessary harm the utilities, ratepayers, and these projects. In addition, three year contract terms could place existing projects' continued operation in jeopardy.

Q. What are your specific responses to Rocky Mountain Power's filing?

A. First, the Commission should not lower the contract terms for any QFs. However, if the Commission lowers the size threshold or contract terms, then it should not apply to baseload Schedule 37 eligible QFs. Second, the Commission should include a capacity payment in the contracts for QFs that renew their contracts, especially if the Commission lowers the contract term to any period which may be shorter than a utility's then-current projected resource sufficiency period.

II. CONTRACT TERMS SHOULD NOT BE REDUCED

Q. Please describe the alleged problems facing the Rocky Mountain Power.

A. Rocky Mountain Power has supported its request to reduce the contract term with claims regarding the harm caused by new large wind and solar QFs. For example, Rocky Mountain Power states that they have a large amount of new wind and

solar projects under contract, and a large number of additional wind and solar QFs seeking new contracts. Application at 5. Rocky Mountain Power alleges significant customer rate and reliability concerns associated with this large amount of new large wind and solar QFs. Application at 6-10.

Q. Do you agree with Rocky Mountain Power that they are facing significant problems associated with new PURPA projects?

A. I agree that Rocky Mountain Power is facing a large number of new contract requests and recently executed contracts. This is a legitimate issue that warrants consideration. Managing this problem is a challenge, but does not warrant foreclosing opportunities for small baseload projects that for years have been the heart-and soul of local PURPA project development.

In my experience, not all of the QFs that request contracts, or that even those that enter into contracts, ever come on line. I worked at PacifiCorp after PURPA was passed and in the early years of the 1980s and there was a huge number of new requests for hydroelectric projects. Only a small fraction ever entered into contracts and an even lesser number were constructed. After over three decades at PacifiCorp and working for the Coalition, my experience is that few of the projects that express interest in selling power or even of those that sign contracts, eventually operated and sold electricity. There are the traditional forces related to project financing, ordinary risks of development, resource or project location and interconnection costs, utility processes and interests, and many other factors that ultimately reduce the number of proposed projects that are eventually constructed.

Utilities like Rocky Mountain Power traditionally and for many reasons over-estimate the costs and harms associated with QFs, and always underestimate their benefits. In any event, it is unlikely that small baseload QFs have created any significant problems that warrant correction by the Commission.

Q. How should the Commission address the alleged problems facing Rocky Mountain Power?

A. The Commission should reject Rocky Mountain Power's proposal to lower the standard contract term. Alternatively, if the Commission is inclined to adopt any relief, then it should not apply to small or existing baseload QFs. In GNR-E-15-01, which included similar proposals to lower the contract term, the Idaho Public Utilities Commission ("IPUC") rejected Rocky Mountain Power's proposal to reduce the contract term for all QFs, and only reduced the contract term and size threshold for wind and solar QFs, as proposed by Idaho Power Company ("IPCO"). The Oregon Public Utility Commission ("OPUC") is considering essentially the same request in the nearly identical dockets UM 1725 and UM 1735 involving IPCO and PacifiCorp respectively. In these proceedings, the OPUC granted temporary relief and reduced the size threshold for only solar QFs to three MWs. The OPUC's interim order did not lower the contract term for any other QFs.

Q. Please describe what you mean by projects under the standard contract rate threshold.

A. The standard contract rate eligibility threshold is the maximum size for a QF to be eligible to sell power at a utility's published avoided cost rates.

Q. Is the standard contract and rate threshold important?

A. Yes. It is much more difficult for QFs to negotiate contracts over the rate eligibility cap than those below the cap. All states that I work in allow smaller QFs to obtain published rates instead of negotiating rates or having their rates determined by a utility computer model. This also typically includes the application of a standard form contract minimizing the need to negotiate contract terms.

There are a number of important reasons for treating smaller projects differently, some which include developer sophistication, transaction costs, economies of scale, and the inability to economically access alternative markets. It is important to recognize the unique difficulties facing smaller projects, and allowing smaller projects to sell power at a published rate helps mitigate many of these difficulties.

Q. Please explain what you mean by existing QFs?

A. Existing QFs are those projects that are already operating and are generally selling power to the interconnected utility. Some of these projects have been operating since the mid 1980s.

Existing projects face some unique challenges. Existing projects must enter into a replacement contract when their current contract expires. First, this means there is no flexibility to the time at which such new contract would start. This means that a new contract always starts during a contract term that includes an initial period of utility resource sufficiency, and the new contract term may be shorter than the then-current resource sufficiency period. In other words, if a project is not allowed to replace its contract in advance of expiration, and the resource sufficiency is at least three years long, then the new contract will not

include a period of resource deficiency based prices. Historically, resource sufficiency is four or more years long, and today's resource sufficiency periods are more than twice that number of years. This is further explained below.

Most existing projects have been operating for years, and may require major replacement and/or upgrading of their equipment, conveyance structures and other facilities including interconnections. New interconnection agreements are often required. There can be significant time and costs involved in addressing these needs or requirements

Q. What are existing projects financing and planning horizon needs related to a new or replacement power purchase agreement?

A. Existing projects have financing and planning needs very similar to those of proposed projects. Since nearly all of the Coalition's 50-plus projects involve existing projects, this is matter of significance concern and experience. Many members' have already gone through a contract renewal. Often the expiration of a power purchase agreement is the appropriate time to revise and update a project. This could include additions and improvements as well as updating of equipment to then-current standards. These changes are often significant in terms of financial, process and timing considerations that must align with the contracting process and contract terms, including contract length and prices of a power purchase contract renewal. Short term contract renewals will impact the opportunity to make necessary and mutually desirable project improvements. In the case of hydroelectric projects, this usually means loss of efficiency and water conservation improvement opportunities.

Q. Are existing QFs treated differently than new QFs?

A. Yes. For example, existing QFs are included in the utilities' resource plans. Most baseload projects especially hydro are very long-term projects and have little locational flexibility. These QFs have been and will continue to contribute to the utilities' capacity needs, which justifies paying existing QFs a capacity payment. This will recognize the capacity value they provide when they renew their contracts regardless of the utilities' resource position. Idaho requires capacity payments to existing QFs during the resource sufficiency period to because they provide capacity value to the utilities during all years and are expected to continue to sell power to the utilities.

Q. Would changing PURPA policy to include a three-year or another short contract term harm these existing and small projects?

A. Yes. Currently, small QFs can enter into a twenty-year contract term. New projects certainly need the longer term in order to meet debt requirements. Even existing projects require long term agreements for system improvement projects, planning and financing. This is especially true for QFs that are part of large water conveyance systems, such as irrigation districts. There are other reasons why longer-term agreements are necessary, one of which is the avoidance of market based or lower energy prices during periods of resource sufficiency. A three-year (or other short) term limit on existing projects not only is problematic in terms of continuous renewal of contracts but exposes the QFs much lower prices (total value) than would result from a single long-term contract.

Renegotiating contracts can be time consuming and costly, especially for small and existing QFs, and could be expected to be very burdensome if required every three years. Small existing facilities rarely have the option of selling their power to other entities, and typically only have the choice of continuing to sell their power to their interconnected utility or shutting down. Also, since existing QFs, especially small hydro projects that are Federal Energy Regulatory Commission licensed or exempted are not going mobile, there is no need to place a significant burden and the cost of constantly entering into new short-term contracts. These projects were planned for and can be expected to continually operate and deliver power to their interconnected utility, provided the price warrants continued operation.

Slashing the contract term for small QFs is unnecessary, would also harm the utilities and ratepayers, and is unproven as the proper response. Requiring the utilities to renegotiate all small QF contracts every three years, for example, would be costly for the utilities. These unnecessary costs would be passed on to ratepayers.

Q. Would the practical result of Rocky Mountain Power's short contract terms result in QFs never or almost never being paid for capacity?

A. Yes. Rocky Mountain Power's proposal for short contract terms means that there will always be a period of resource sufficiency, which would likely result in QFs never being paid for their capacity.

Rocky Mountain Power has proposed to eliminate capacity payments in the resource sufficiency period in a separate docket. If the resource sufficiency period is short and the contract term is limited to a few years, then projects will no

longer receive capacity payments because the next capacity deficit will normally be more outside the period of the contract term.

Q. Can you provide an example?

A. Yes. Under Rocky Mountain Power's proposal in both cases, QFs will not be paid for capacity if they enter into a contract when the next thermal resource acquisition is in longer than the contract term. For example, assume that Rocky Mountain Power is planning its next thermal resource acquisition in four years (2019). Under Rocky Mountain Power's proposal, a QF that enters into a new three-year contract in 2015 will not be paid for capacity during the entire contract term. In 2019, Rocky Mountain Power will have a new IRP, which will likely not be planning on a new thermal resource for more than three years, and its new avoided costs will not have any capacity payments during this "sufficiency" period. And since a new thermal resource usually cannot be avoided in less than three years, resource sufficiency could be expected to be at least four to five years, as demonstrated by previous avoided cost filings. If the QF renews its contract and enters into a new three-year contract in 2019, then the QF will again not be paid for capacity. The QF could continue entering into renewing contracts for the rest of its useful life, but never be paid for capacity. The QF will have caused Rocky Mountain Power to reduce both its energy and capacity needs (including the capacity related to the next planned thermal resource), however, the QF will not be paid for capacity under the company's approach.

This example highlights the extreme unfairness of Rocky Mountain Power's proposed three-year contract term. If contract terms are shortened to five

or ten years, then similar problems could continue to exist. As long as the contract term is shorter than the resource sufficiency period and resource sufficiency period prices do not include capacity payments, then the QFs will not be paid for capacity.

Even when the contract term is a few years longer than the sufficiency period, QFs would not be fairly treated. For example, with a nine-year "sufficiency" period, and ten-year contract term, then the QF would be paid only one year of capacity in the last year of its contract. When the QF entered into its new contract, it would suddenly stop being paid capacity in at least then first years of its new contract. Assuming another nine-year sufficiency period and ten year contract, then the QF would only be paid only one year of capacity in this second contact, and only two years of capacity over a twenty year period.

Q. Are small and existing projects contributing to the utilities' alleged problems?

A. No. Assuming that all of Rocky Mountain Power's alleged problems are true, these problems are not being caused by existing and small QFs. Nearly all the new QF contracts are new wind and solar generation resources. The Commission's final order in this proceeding should be careful not to harm those QFs that are not contributing to the problems faced by Rocky Mountain Power.

III. EXISTING QFS SHOULD BE PAID CAPACITY IF THE CONTRACT TERMS ARE SHORTENED

Q. If the Commission shortens the contract term, do you have any recommendations?

A. Yes. All existing projects seeking a replacement of a firm contract should continue to receive capacity payments or value for capacity.

Q. Does Rocky Mountain Power rely upon renewing QFs capacity?

A. As part of the IRP process, Rocky Mountain Power assumes that small QFs renew their contracts, which provides capacity value to the company and its ratepayers. This assumption is reasonable because nearly all of these QFs do not have other alternatives to sell their power, and they reliably renew their contracts. Existing QFs help defer new capacity resources since the utilities plan on them selling power after the expiration of their contracts. Rocky Mountain Power agrees that existing QFs help defer its next capacity resource because the "capacity contribution of all signed QF contracts executed subsequent to the development of the IRP preferred portfolio reduce the deferrable capacity of the next avoidable resource . . . ." Re Investigation into QF Contracting and Pricing, Oregon PUC Docket No. UM 1610, PAC/100, Dickman/15.

If capacity payments are eliminated in the resource sufficiency period, then QFs are essentially providing this capacity, effectively for free, through their assumed contract renewals. Avoided cost rates should reflect that existing QFs provide capacity value by helping to defer the utilities' need to buy or build new capacity resources. Existing QFs have also not caused any projected short-term surplus and should not be penalized in the form of reduced capacity value in a subsequent follow-on contract.

The solution is that existing QFs entering into follow-on contract extensions should be provided full avoided cost pricing based on the avoided resource cost each and every year. To not provide full avoided resource cost payments to QFs in follow-on contracts would be inequitable as compared to the

treatment afforded utility-owned resources.

Q. Are you aware of how capacity payments are addressed in other jurisdictions?

A. Yes. The IPUC provides that renewing QFs are not subject to a sufficiency period. The decision states:

> By including a capacity payment only when the utility becomes capacity deficient, the utilities are paying rates that are a more accurate reflection of a true avoided cost for the QF power. However, we find merit in the argument made by the Canal Companies that contract extensions and/or renewals present an exception to the capacity deficit rule that we adopt today. It is logical that, if a QF project is being paid for capacity at the end of the contract term and the parties are seeking renewal/extension of the contract, the renewal/extension would include immediate payment of capacity. An existing QF's capacity would have already been included in the utility's load resource balance and could not be considered surplus power. Therefore, we find it reasonable to allow QFs entering into contract extensions or renewals to be paid capacity for the full term of the extension or renewal.

Order No. 32697 at 21-22.

The IPUC specifically reaffirmed that policy in its most recent order in Docket GNR-E-15-01 lowering the contract term. Order No. 33357 at 25-26. The IPUC explained that if it lowered the contract term without paying QFs for capacity during the sufficiency period, then QFs would never be paid for capacity due to the fact that the sufficiency period exceeds the contract term. Existing QFs that renew their contracts would continue to be paid capacity during the sufficiency period, and new QFs that signed contract would be paid capacity in most of the years for renewal contracts. The IPUC explained that:

> We recognize that a new two-year contract would be

> unlikely to reach a capacity deficiency date. Therefore, we find it reasonable for utilities to establish capacity deficiency at the time the initial IRP-based contract is signed. As long as the QF renews its contract and continuously sells power to the utility, the QF is entitled to capacity based on the capacity deficiency date established at the time of its initial contract. For example, if the QF comes on-line in 2017 and the utility is capacity deficient in 2020, the QF would be eligible for capacity payments in the second year of its second contract and thereafter if in continuous operation. This adjustment recognizes that in ensuing contract periods, the QF is considered part of the utility's resource stack and will be contributing to reducing the utility's need for capacity. This mitigates the concern that short-term contracts will not contribute to the avoidance of utility capacity/generation.

Id.

This Commission should make the same determination regarding capacity or fixed payments for renewing QF. Existing QFs entering into follow-on contracts should be provided avoided costs prices with no sufficiency period.

IV. CONCLUSION

Q. Does this conclude your testimony?

A. Yes