

DEPARTMENT OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM 38.5.1902 pertaining to)
qualifying facilities)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

COMMENTS OF THE MONTANA CONSUMER COUNSEL

In accordance with ¶ 4 of the Department's October 17, 2011, Notice of Public Hearing on Proposed Amendment, the Montana Consumer Counsel (MCC) submits these written comments. MCC fully supports the Commission's proposed amendment to ARM 38.5.1902 (5), pertaining to qualifying facilities.

The Commission proposes two changes to the rule, one that is substantive and one that clarifies Commission intent and policy. The substantive change reduces the maximum size of a QF eligible for a standard offer tariff without having to participate in a competitive solicitation from 10 MW to 2 MW. MCC has argued in the past against the 10 MW limit because large QFs are fully capable both of negotiating in their own interests and of responding to competitive pressure.

Further, competitive solicitations are always a useful and necessary check on efforts to estimate avoided cost by analytical modeling. Given the current environment where knowledge and understanding of the cost and availability of regulation service for wind generation is rapidly changing, competitive solicitations are preferable to modeling as a way of measuring avoided cost. MCC recognizes that the Commission may hold the opinion that small and unsophisticated QFs deserve the easier route to a utility power purchase agreement of a standard offer contract. We do not object to a standard offer tariff for such facilities as long as this route does not compromise the PURPA criterion of no harm to ratepayers. The proposed rule amendment placing the cap at 2 MW is far better than the old rule at ensuring QF power is paid no more than avoided cost. One MW might be a better cap still. While it may still be far from perfect, MCC supports the rule change.

The second proposed change clarifies that avoided costs for purpose of the standard offer contract are to be recalculated after the utility files its resource plan but that there is no restriction

on what information it may use in calculating avoided costs. It has previously been argued before the Commission, as recently as Docket No. D2010.7.70, that the utility may use only the information in the plan even though later information, such as bids or offers from resource providers, may provide better estimates. The Commission rejected this argument in Order No. 7108e, ¶ 57, and the amended rule language clarifies that. We fully support the proposed revised language.

Respectfully submitted November 25, 2011.

Mary Wright
Attorney
Montana Consumer Counsel
P.O. Box 201703
111 North Last Chance Gulch
Helena, Montana 59620