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DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

IN THE MATTER of Application for  
Approval of Avoided Cost Tariff Schedule  
QF-1

UTILITY DIVISION  
DOCKET NO. D2016.5.39

**POST-HEARING BRIEF OF INTERVENORS FLS ENERGY  
AND CYPRESS CREEK RENEWABLES**

Intervenors FLS Energy (“FLS”) and Cypress Creek Renewables (“Cypress”) hereby submit their post-hearing brief in this matter. At the outset, FLS and Cypress identify the following issues: (1) NorthWestern Energy’s (“NWE”) avoided energy cost is flawed in that it makes inappropriate subtractions from avoided cost which, if properly calculated, lead to an avoided cost rate of approximately \$52.31/MWh per megawatt hour (“MWh”); (2) NWE’s arguments about its use of PowerSimm are, at best, misleading, and its use results in “black box” avoided cost rate making; (3) NWE’s adjustments to its forecasts are discriminatory and thus violate the Public

Utility Regulatory Policies Act of 1978 (“PURPA”), 16 U.S.C. § 824-a3 *et seq.*, and the implementing regulations of the Federal Energy Regulatory Commission (“FERC”), specifically 18 C.F.R. § 292.304(a)(1)(ii); (4) NWE’s inappropriate and unlawful use of its resource stack inside PowerSimm creates the very long situations it uses to reduce avoided cost rates by including resources that are merely proposed by its 2015 Electricity Supply Resource Procurement Plan and thus are, by their very nature, as yet avoidable resources; (5) NWE’s location adjustment is grossly inflated based on actual evidence in the record regarding the actual price that NWE paid for energy purchases and sales in Montana with transmission adjustments included; (6) NWE greatly underestimates capacity contributions of solar, attributing only a 9.6 percent capacity contribution to solar in a region where typical solar capacity contributions are set by state commissions in the range of approximately 30 to 50 percent; (7) NWE’s arguments on contract length are not persuasive, and if adopted by the Montana Public Service Commission (“Commission”) would violate PURPA’s directives as well as FERC’s implementing regulations. The Commission should not adopt any of NWE’s inappropriate, discriminatory adjustments to NWE’s energy avoided cost; should set the avoided cost consistent with market under both short and long conditions, eliminate the use of PowerSimm; should maintain the capacity contribution for solar in Montana at 38 percent of nameplate capacity; and should decline to adopt any change to long-term contract lengths in this proceeding.

## **I. OVERVIEW OF NWE’S AVOIDED COST PROPOSAL**

NWE’s proposed avoided cost in this proceeding consists of forecast energy prices at the Mid-Columbia energy trading hub (“Mid-C”), using forward prices published by the InterContinental Exchange (“ICE”), which are then escalated based on nominal price escalation for Henry Hub natural gas prices, as published in the U.S. Department of Energy, 2016 Annual

Energy Outlook. NWE then uses those values to forecast long-term energy prices, and thereafter applies the energy prices as the avoided cost energy value when it is in a net purchase position. When NWE is in a net sales position, it applies either zero value when its estimate of the variable operating cost of a marginal resource in its portfolio is *higher* than its estimated market price forecast (Long 2 adjustment) or, when its estimated market price forecast is *higher* than its estimate of the variable operating cost of a marginal resource, it assigns the lower variable operating cost of the marginal resource in its portfolio to the QF purchase price (Long 1 adjustment).

Not satisfied with these already unlawful adjustments, NWE also proposes additional downward adjustments to avoided cost to reflect its view of locational differences between energy prices at Mid-C and what it pays or sells energy for in Montana and for renewable integration. As explained in more detail below, NWE further proposes upward adjustments to avoided cost to reflect the value of capacity, but at levels that substantially understate the actual capacity contribution of the QF-1 resources, particularly solar resources. When the methodology and avoided cost adjustments proposed by NWE are properly calculated, the full avoided energy cost exceeds \$52/MWh. The avoided capacity cost is additive to that amount. The Commission must carefully review NWE's avoided cost estimates, and must reject the company's attempt to adopt "analytic adjustments" that effectively discriminate against QF-1 resources, and violate PURPA requirements.

## **II. NWE'S ARGUMENTS REGARDING ITS CALCULATION OF AVOIDED ENERGY COST ARE MISLEADING AND PROMOTE DISCRIMINATION AGAINST QFS IN VIOLATION OF PURPA**

In its opening brief, NWE offers a series of misleading arguments related to its calculation of avoided energy cost. NWE opens its brief by arguing that its use of PowerSimm, and

“production cost modeling” results in a more accurate and non-discriminatory calculation of avoided cost. NWE Brief at p. 5. NWE argues that the Commission has accepted its approach in recent cases, and that its use of PowerSimm in both resource planning and in avoided cost calculations treats QF resources the same way it treats its owned resources. NWE argues that its avoided cost approach is not discriminatory against QFs. *Id.* at p. 5, 6. NWE even implausibly claims that “PowerSimm specifically values energy from each type of QF resource.” *Id.* at p. 7. NWE further argues that other parties in the proceeding, including FLS/Cypress Creek failed to learn PowerSimm and view the model as “too complex.” *Id.* NWE claims its approach, using PowerSimm and “production cost modeling,” is the best way to calculate its avoided cost.

Each of these arguments related to its use of PowerSimm is misleading and incorrect. First, contrary to its claims, NWE’s use of PowerSimm in its avoided cost calculations is limited to only estimating its wholesale market net purchase/sales position (Tr. at p. 252-256). NWE does *not* actually use any production cost estimates from its PowerSimm modeling to calculate the avoidable cost of producing energy. Instead, NWE only uses PowerSimm to estimate when NWE is in a net sales or net purchase position in the wholesale market, and that information is then used by NWE to identify and apply its proposed Long-1 and Long-2 adjustments (Tr. at p. 252-256). Those adjustments are done on a monthly basis, and either the forecast monthly price of energy is applied (when in net purchase position), or the operating cost of the “marginal unit” is applied (Long-1 condition), or a value of zero is applied (Long-2 condition). NWE does not use a calculation of production cost from PowerSimm in developing its avoided energy cost projections. It is for that reason that FLS/Cypress witness Mr. Schiffman stated that if the Commission forgoes the discriminatory Long-1 and Long-2 adjustments proposed by NWE, then its avoided cost methodology collapses to just the forecast of prices at Mid-C, and perhaps a location adjustment,

and the PowerSimm model is not even useful for calculating avoided cost (Tr. at p. 255). Absent the Long-1 and Long-2 adjustments, NWE does not need PowerSimm to develop avoided cost, given the methodology it has adopted and proposed.

NWE is also incorrect in stating that its avoided cost proposal is nondiscriminatory against QF resources. The Long-1 and Long-2 adjustments proposed by NWE are both discriminatory and in violation of PURPA.<sup>1</sup> In *Crazy Mountain Wind*, Docket No. D2016.7.56, the Commission rejected the Long-2 adjustment used by NWE, just as it had in *Greycliff Wind Prime*, Docket No. D2015.8.64. The Commission accepted the proposed Long-1 adjustment in *Crazy Mountain Wind*, apparently based entirely on a representation made by NWE that it uses this same approach in evaluating new supply resource additions for its system planning needs.

Although NWE may use a similar analytic approach in evaluating resource planning options, when it comes to using that approach to make adjustments to avoided cost, the approach is discriminatory against QF resources (Tr. at p. 240-241, 256). NWE's Long-1 and Long-2 adjustments are discriminatory because NWE admits in both cases it will actually sell surplus energy into the wholesale market, and receive market pricing (Tr. at p. 112). At the same time, under its adjustment NWE is effectively paying QF resources for energy at a rate of zero (Long-2), or the variable operating cost of the "marginal" resource (Long-1). With the Long-1 and Long-2 adjustments, NWE and its ratepayers would thus be credited with the difference between either market price and zero (Long-2), or the difference between market price and the variable cost of the marginal resource (Long-1) as profit, for every MWh of energy delivered by the QF resources

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<sup>1</sup> NWE claims that FERC Order 69 requires the Long-2 adjustment, and promises to seek relief from FERC regarding the appropriateness of this adjustment. This position stands in stark contrast to NWE's position in its response to the Joint Motion of FLS/Cypress for Relief from QF-1 Suspension, p. 5, wherein NWE states that FERC declaratory orders is "more akin to a staff legal memo than to a declaratory judgment issued by a court."

during periods when the NWE system is long on energy. That profit margin comes directly out of the payment made to the QF, and thus represents a direct subsidy from QF resources to NWE and its customers. This is clearly discriminatory because absent a QF resource on the NWE system, when NWE is long on energy it continues to collect full all-in embedded fixed and variable costs for its own resources (capital recovery, O&M, fuel, etc.). NWE does not forego cost recovery for its resources during periods when the system is long on energy, and as such, the proposed Long-1 and Long-2 adjustments treat QF resources differently from NWE's owned resources. Put simply, NWE gets paid fully for its owned supply resources, regardless of whether it is in a net purchase or sale condition, whereas under its proposal QFs would not get paid full avoided cost almost half of the time the resources are producing energy.

In addition, as highlighted by Commissioner Kavulla through cross-examination, NWE has constructed an avoided cost dataset and methodology that creates the very surplus energy conditions it complains about. (Tr. at p. 90, *et seq.*) NWE witness Mr. Hansen testified that he used the NWE Economically Optimal Portfolio in his PowerSimm modeling, including the addition of a new natural gas fueled combined cycle resource beginning in 2025. That resource is not currently on the NWE system, is not in active planning or procurement, and is not under construction. It has only been *proposed* in NWE's 2015 Electricity Supply Resource Procurement. When asked whether he had included merely proposed resources in the resource stack used to determine the marginal resource, Mr. Hanson testified that is in fact what he did: "And in that resource plan, in 2025, we have a combined cycle that enters the portfolio. In the combined cycle, generally it's at a 6.5 rate [sic heat rate], thus generates a lot of energy and puts us in a longer position more often than in the previous years." (Tr. at p. 98):

Thus, Mr. Hansen admits that NWE “assumed” the addition of a large new energy resource onto its system, and that assumption is the key influence driving the forecast surplus energy volumes that NWE is seeking to “address” through its Long-1 and Long-2 adjustments. NWE’s assumption that it should use a proposed large new resource addition in its calculation of its long position demonstrates the discriminatory nature of those adjustments.

The Commission is precluded by PURPA and FERC’s regulations, specifically 18 C.F.R. § 292.304(a)(1)(ii), from adopting NWE’s punitive and discriminatory treatment of QF resources in the form of NWE’s Long-1 and Long-2 adjustments. Once the Commission properly rejects the Long-1 and Long-2 adjustments (as it should), removing these adjustments increases NWE’s avoided energy cost projections by approximately \$5 to \$6 per MWh, depending on the underlying QF-1 technology (FLS/CCR Exhibit 2, p. 16).

NWE’s claim that FLS/Cypress and other parties in the case “failed” to learn PowerSimm, and view the model as “too complex” is belied by NWE’s continuing obfuscation and refusal to disclose modeling parameters, data inputs, and key aspects of its avoided cost approach. While FLS/Cypress and others have asked NWE for *all* of the modeling parameters contained in PowerSimm – in this and previous cases – NWE has steadfastly refused to provide those parameters to intervenors. When asked to access the PowerSimm model, NWE proposes a paid session where no data are made available outside of the session (Tr. at p. 252-255). This does not provide intervenors a sufficient opportunity to adequately respond to NWE’s arguments based on its PowerSimm runs.

More importantly, given NWE’s limited use of actual PowerSimm output, there is nothing “complex” about its use. In fact, the whole PowerSimm exercise is more a waste of time and a waste of Commission attention and resources, because the model’s use is limited only to

estimating, on a monthly basis, net long and short positions and to rationalizing NWE'S discriminatory Long-1 and Long-2 adjustments.

### **III. NWE'S MID-C LOCATION ADJUSTMENT IS GREATLY OVERSTATED AND IS AGAIN USED TO REDUCE AVOIDED COST**

NWE also proposed a Mid-C to Montana location adjustment that reduces its avoided cost by almost \$7/MWh (FLS/CCR Exhibit 2, p. 17-18, Tr. 366-367). In calculating this adjustment, NWE applied a weighted average of firm transmission tariffs (i.e., pancaked on top of each other), plus assumed losses, and escalated the adjustment by inflation for the tariff amount, and by the EIA natural gas price escalation for the losses component. In contrast, in response to a data request (Exhibit FLS/CCR3), NWE provided its actual wholesale transaction history. As part of that history, NWE calculated the difference between delivered prices in Montana, and indexed prices at Mid-C. *Id.* Based on those data, which NWE represented as its wholesale market purchase and sales transaction history, when the utility is in a purchase position, the difference between the wholesale price it has paid for energy delivered in Montana, and the market price at Mid-C, has averaged \$1.19/MWh on a volume-weighted basis. (Tr. at p. 242-245). When NWE has been in a sales position, the difference between the wholesale price it has received and the market price at Mid-C has averaged \$2.94/MWh, again on a volume-weighted basis. *Id.* The values set forth in Exhibit FLS/CCR 3 are more representative of the actual differential in the market between Mid-C and Montana, and if the Commission adopts a location adjustment that differs from the current level of \$1/MWh listed for the QF-1 tariff, then the volume weighted averages of historical transactions should be used.

NWE's proposed location adjustment substantially overstates its actual cost because it ignores the ability of NWE to avoid transmission costs and losses when purchasing QF-1 energy in Montana (FLS/CCR Exhibit 2, p. 17-18). Moreover, the values proposed by NWE are not



supported by its actual historical market purchase and sale activity. QFs are entitled to full avoided cost, not avoided cost reduced by an ersatz adjustment based on non-existent location adjustments. The first regulation at issue in this case, 18 CFR § 292.304(b)(2) (1982), requires a utility to purchase electricity from a qualifying facility at a rate equal to the utility's *full* avoided cost. *See Am. Paper Inst. v. Am. Elec. Power Serv. Corp.*, 461 U.S. 402, 406 (1983) (“The first regulation at issue in this case, 18 CFR § 292.304(b)(2) (1982), *requires* a utility to purchase electricity from a qualifying facility at a rate equal to the utility's full avoided cost.”) (Emphasis added, citation omitted). NWE’s proposed calculation violates this requirement.

#### **IV. NWE’S CALCULATION OF CAPACITY VALUE IS INACCURATE AND ARTIFICIALLY REDUCED**

The evidence presented at hearing clearly demonstrates that solar generation offers a capacity value greater than NWE’s proposed 9.6 percent calculation of the value of solar capacity contribution to NWE’s system. In fact, FLS/Cypress Creek would argue the Commission must adopt the 38 percent of name plate capacity proposed by Mr. Thomas Beach, and the similar capacity values used by other regional utility providers.

NWE has significantly underestimated the capacity contribution that solar generation could make to NWE’s system. Vote Solar Exhibit 1, at p. 9, lines 4-6. NWE has proposed a 9.6 percent capacity value for solar QFs, which is substantially lower and out of step with other regional utilities. *Id.* at p. 9, lines 6-9. For example, Table 2 in Vote Solar Exhibit 1 lists Idaho Power’s solar capacity value as between 28 percent and 51 percent, PacifiCorp-East’s as 34 percent to 39 percent, the Public Service Company of Colorado at 40 percent, and Avista as 37 percent to 45 percent. Mr. Beach has calculated the capacity value for a solar QF in Montana to be at or near the 38 percent capacity factor figure used by the current QF-1(a) rate, depending on calculation methodology. *Id.* at 22, lines 5-9. Mr. Beach also testified that “[b]ased on the on the exemplary

solar projects that NWE has modeled, as extended by my analysis to include more years of data, the average capacity factor for a solar QF over the utility's on-peak hours is 38 percent. Thus, the present QF-1(a) rate structure assumes that a solar QF has a capacity value equal to 38 percent of its nameplate capacity." *Id.* at 21, lines 14-23.

When Mr. Beach was asked by Commissioner Kavulla to explain the differences between the way NWE witness Mr. Bushnell calculated the capacity value of solar utilizing the Southwestern Power Pool ("SPP") method for calculating the capacity value of solar and the way Mr. Beach calculated the same value, Mr. Beach explained that Mr. Bushnell had selectively applied that methodology. Specifically, Mr. Bushnell "only looked at the peak month, one month in each of those 10 years. And then he looked only at the top 3 percent of the hours in those peak months. So 3 percent of the hours in each 18 month[s] is about 20 hours. 20 hours for 10 years is about 200 hours." Tr. at p. 185, lines 14-18. Mr. Beach then explained that Mr. Bushnell then "took an 85 percent exceedance of the solar output in those 200 hours. That's looking at a very small number of hours to set the capacity value of solar." Tr. at p. 185, lines 18-22.

Mr. Beach disagreed with the way in which Mr. Bushnell applied the SPP methodology for calculating the capacity value of solar, stating:

The way I read the SPP method is it says right up front the calculation is done on a monthly basis, and their little worksheet *even has a summary table that shows 12 months*, what the capacity value is in each month. So the way we did it is we looked at the top three percent of hours in each month over 10 years, so we looked at 200 hours in each month, not in each year. And then we looked at the five peak months, we did it two ways, we looked either at 12 months, all 12 months or we looked at just the five peak months on the NorthWestern system, which are December, January, February, July and August. And either way, you come up with something in the range of 35 percent for the nameplate value of solar.

Tr. at p. 185, line 23, through 186, line 12.

Certain other utilities do use an exceedance value in the same way that NWE has proposed, but none use such a high exceedance percentage. Vote Solar Exhibit 1, p. 23, line 10. Furthermore, the exceedance value applied by the utilities that do use such a value is calculated over a much larger set of on-peak hours than the 200 hours used by NWE. *Id.*, at 23, lines 10-12. For example, California uses a 70 percent exceedance rate over 1,825 peak hours per year to calculate the capacity factor for its resource adequacy program. *Id.* at 23, lines 12-14.

Other flaws in NWE's calculation of the 9.6 percent capacity contribution include NWE's failure to use current data. NWE relied on load and solar output data from 2006 through 2009. Mr. Beach, in his analysis, included load and solar output data from 2010 through 2015, for a full ten years of data. *Id.* at 24, lines 7-10. Given NWE's "dual-peaking" system, this inclusion is relevant because in recent years the on-peak hours with the highest 10 percent of loads have been shifting to the summer months of July and August when solar output is high. *Id.* at 23, lines 11-13. A calculation that fails to capture this trend will necessarily undervalue the capacity contribution of solar because solar capacity contribution peaks in the summer months. Put another way, the recent data shows that solar works best when it is needed most, a fact that NWE ignores in its proposal.

For these reasons, FLS/Cypress Creek ask the Commission to find a solar capacity value commensurate with the more accurate and responsible calculation methodologies explored in this docket. Although FLS/Cypress Creek believe that the current 38 percent capacity factor is probably lower than the data support, it is certainly within the band of reasonably calculated capacity values for solar generation facilities and that there is no reason to change it.

#### **V. THE COMMISSION SHOULD NOT ADOPT ANY CONTRACT LENGTH LIMITATION**

The Commission should not set a contract length limitation on QF contracts in this Docket, and, indeed, should not do so at all. There are several reasons for this. First, in FERC Order 69

the FERC recognized that QFs need long-term contracts in order to secure financing, and that forecast risk evens out over the length of long-term agreements:

Paragraphs (b)(5) and (d) are intended to reconcile the requirement that the rates for purchases equal the utilities' avoided cost with the need for qualifying facilities to be able to enter into contractual commitments based, by necessity, on estimates of future avoided costs. Some of the comments received regarding the section stated that if the avoided cost of energy at the time it is supplied is less than the price provided in the contract or obligation, the purchasing utility would be required to pay a rate for purchases that would subsidize the qualifying facility at the expense of the utility's other ratepayers. **The Commission recognizes this possibility, but is cognizant that in other cases, the required rate will turn out to be lower than the avoided cost at the time of purchase.** The Commission does not believe the reference in the statute to the incremental cost of alternative energy was intended require a minute-by-minute evaluation of costs which would be checked against rates established in long term contracts between qualifying facilities and electric utilities. Many commenters have expressed the need for certainty with regard to return on investment in new technologies. **The Commission agrees with these latter arguments, and believes that in the long run, "overestimations" and "underestimations" of avoided costs will balance out.**

45 Fed. Reg. 12214, 12224 (1980) (emphasis added).

In short, FERC did not believe that setting long-term contracts would result in ratepayers taking on unnecessary risk or that QFs would be subsidized by these deals. And there has been no evidence offered in this Docket that ratepayers are unduly exposed to risk by QF contracts or that there has been (or will be) a wealth transfer from ratepayers to QFs.

Furthermore, FERC recently reinforced its position that QFs are entitled to legally enforceable obligations of sufficient length to permit QFs to reasonably attract financing and investment in their financing:

[T]he Commission has long held that its regulations pertaining to legally enforceable obligations "are intended to reconcile the requirement that the rates for purchases equal to the utilities' avoided cost with the need for qualifying facilities to be able to enter into contractual commitments, by necessity, on estimates of future avoided costs" and has explicitly agreed with previous commenters that "stressed the need for certainty with regard to return on investment in new technologies." Given this "need for certainty with regard to return on investment," coupled with Congress' directive that the Commission "encourage" QFs, a legally

enforceable obligation should be long enough to allow QFs reasonable opportunities to attract capital from potential investors.

*Windham Solar*, 157 FERC ¶ 61,134, P. 8 (2016).

In its opening brief, NWE claims QF-1 contract length should be reduced to reduce forecast error. However, this concern has already been addressed by FERC, which clarified in its *Windham Solar* order that longer term contracts do not expose ratepayers to undue risk and long-term contracts are necessary for QFs to attract capital investment. Furthermore, NWE did not make a case for forecast error imposing costs on ratepayers at hearing, but relied in its brief solely upon testimony filed by the Montana Consumer Council (Exhibit MCC-2, p. 4, lines 19-21).

Put simply, there is no substantive evidence in the record showing that forecast error has burdened NWE and its ratepayers. NWE's testimony and arguments on the issue have been wholly speculative. At the hearing, MCC witness Mr. Stamatson was unable to offer specific information about contract length in other jurisdictions, or the effect of contract length on QF financeability (Tr. at p. 294). NWE's argument concerning forecast risk is even more dubious because it is an argument that cuts both ways – NWE regularly rate-bases projects on a very long term basis in order to ensure that the project is adequately financed to yield a reasonable rate of return while attempting to keep consumer rates low. Yet the rates at which NWE earns a return on those projects is determined decades into the future. The same risk exists for those projects as might exist for QF development projects. This argument suggests a risk equivalency, but in truth, as noted in the additional issues testimony of VS/MEIC witness Beach, and later by FLS/Cypress Creek witness Schiffman (Tr. at p. 248-252), longer contract lengths for QF-1 resources, established during a time of low natural gas and energy prices, are more likely to provide a hedge against higher natural gas prices long term, particularly given typical natural gas price volatility. Rather than representing unnecessary risk, long term QF contracts represent a conservative addition to an energy portfolio.

Furthermore, FLS/Cypress Creek Witness Patrick McConnell pointed out that contract term length is among the most critical components to the financing of a QF project. FLS/Cypress Exhibit 1, p. 3. And because capacity costs and other measures used to determine avoided cost are amortized over longer time periods based on estimates in the record, there are additional fairness and equity considerations associated with shortening QF-1 contract length. For example, if the Commission were to adopt a 15-year or 20-year contract length, then avoided capacity costs for a new peaking resource should (to avoid discriminatory treatment of QFs) be amortized over the same period, rather than over 25 years.

In any event, it would be inappropriate for the Commission to determine contract length in this proceeding, given that the intervention deadline had long since passed when the Commission requested testimony on this additional issue. This Commission's procedural rules provide for intervention in matters before the Commission by "[a]ny person interested in and directly affected by the subject matter of any hearing or investigation pending before the commission." Mont. Admin. R. § 38.2.2401. NWE's application for a new QF-1 tariff did not address the issue of contract length at all. Neither did the Notice of Application and Intervention Deadline filed on May 13, 2016 in this matter. Thus, no one, including potentially interested parties, was on notice that a potential reduction of QF contract lengths would be at issue in this matter until it was discussed in the Commission's request for additional issues testimony, issued October 26, 2016. The intervention deadline, as set by the Notice filed May 13, 2016, was June 10, 2016. The issue of contract lengths was therefore introduced some four months *after* interested parties could have intervened in the matter. It would therefore be unfair and improper for the Commission to rule on the issue of contract lengths in this proceeding.

Coupled with the lack of direct evidence regarding forecast error risk, and the fact that the Commission's exploration of this issue should include a comparison of utility investment risk to ratepayers in conjunction with the Commission's consideration of QF contract risk to ratepayers, the Commission simply does not have a complete record upon which to base a fair determination of the appropriate length of QF contracts. In conclusion, the Commission should not entertain this additional issue in this proceeding. To do so would violate PURPA, and would be unfair to the affected QF community and the public.

**VI. FLS/CYPRESS CREEK TABLE OF LAWFUL AVOIDED COST ADJUSTMENTS**

The following table is a summary of proposed avoided cost rates, with NWE’s factually unsupported, discriminatory and unlawful adjustments removed.

**QF-1 Avoided Cost Adjustments**

<b>Resource</b>	<b>Hydro &amp; Other</b>	<b>Wind</b>	<b>Solar</b>
Capacity (MW)	3	3	3
Capacity Factor (%)	57.44%	38.00%	27.13%
NWE without Carbon (\$/kWh)	0.03445	0.02909	0.03276
NWE with Carbon (\$/kWh)	0.04559	0.04079	0.04398
Reverse Long-1 and Long-2 Adjustments	0.00641	0.00619	0.00386
Revise Location Adjustment to \$2/MWh	0.00447	0.00447	0.00447
Full Avoided Energy Cost without Carbon (\$/kWh)	0.04533	0.03975	0.04109
Full Avoided Energy Cost with Carbon (\$/kWh)	0.05647	0.05145	0.05231
Adjusted Capacity Contribution (%)	39.6%	5.0%	38.0%
Peaking Unit Levelized Capacity Cost (\$/kW/Year)	\$ 116.73	\$ 116.73	\$ 116.73
Capacity Avoided Cost (\$/kWh)	0.00919	0.00175	0.01866
Full Avoided Energy & Capacity Cost without Carbon (\$/kWh)	0.05452	0.04150	0.05975
Full Avoided Energy & Capacity Cost with Carbon (\$/kWh)	0.06566	0.05320	0.07097

**VII. CONCLUSION**



For the reasons discussed above, FLS/Cypress Creek strenuously advocate for the following determinations in this matter. The Commission should reject the use of PowerSimm. It is not transparent, and it is only really used to determine when NWE is long or short. The Commission should also reject the Long 1 and Long 2 adjustments as unlawful and discriminatory. The Commission should also adjust NWE's location adjustment to reflect NWE's actual costs, which are approximately \$2.00/MWh, or should maintain the \$1.00/MWh location adjustment from the current tariff. The Commission should also keep the capacity contribution of solar at 38 percent. Stripped of the adjustments, using the current Commission-approved QF methodology, the avoided energy cost would be estimated at \$52.31/MWh, and that should be the approximate QF energy rate, plus capacity value. Finally, the Commission does not have the parties or the record to adjust QF-1 contract length, and to do so would violate FERC directives and PURPA.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of March, 2017.

Uda Law Firm, P.C.

By:   
Dylan Wright

*Attorney for Intervenors FLS Energy and Cypress  
Creek Renewables*

## CERTIFICATE OF SERVICE

I hereby certify that on the 10<sup>th</sup> day of March, 2017, I served the foregoing by first-class mail, postage prepaid mail on the following:

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By: \_\_\_\_\_

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