

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 518 – Phase III

In the Matter of a Rulemaking to
Implement SB 838 Relating to
Renewable Portfolio Standard

**REPLY COMMENTS OF
PORTLAND GENERAL ELECTRIC
COMPANY**

Portland General Electric Company ("PGE") submits these reply comments supplementing PGE's written comments submitted on May 14 and comments provided at the hearing on May 18.

We appreciate Staff's reply comments, which help to clarify some important issues concerning incremental cost. We would first like to dispel a few apparent misunderstandings that our comments may have caused. We are not proposing to "exclude incremental costs" for some renewable projects. The incremental cost of compliance should be calculated for each renewable project and each REC issued and used to comply with the RPS. Moreover, the notion of opportunity cost is not the issue.

Our point is more focused and concerns the flexibility the Commission has in selecting an appropriate proxy plant to calculate the incremental cost of qualifying electricity. In particular, the issue we addressed is what proxy plants might the Commission consider when it appears that the cost of a gas-fired combustion combined cycle generating facility ("CCCT") is more expensive than the cost of qualifying electricity (i.e., electricity from eligible renewable sources). In those circumstances, we believe the Commission should have the flexibility to use proxy plants other than a CCCT or fossil fuel generating facilities. Such alternative generating facilities reflect the resources the electric companies would have pursued absent the renewable portfolio standard and therefore accurately measure the cost of compliance.

We believe this issue can be resolved as the parties implement the proposed rules. The current proposed definition of "proxy plant" offers sufficient flexibility by permitting the Commission to approve the use of proxy plants other than a CCCT, if appropriate.

Staff's reply comments expressed concern about whether the statute permits the use of a renewable resource as the proxy plant. We do not read the statute so narrowly. The words of the statute suggest that the Legislature was interested in capturing the incremental cost of compliance in order to protect customers in the event the cost of compliance became too high. Nothing suggests the Legislature had any specific restrictions in mind when calculating the cost of compliance other than the cost of qualifying electricity compared with the cost of the resource choices the electric company would have made absent RPS. In other words, the cost of qualifying electricity should be compared with the cost of electricity if there were no RPS statute and therefore no such thing as "qualifying electricity" existed.¹ Under this construct, which is consistent with the common sense notion of incremental cost and the language of the statute, the Commission should use as a proxy plant the resource that best reflects least cost planning principles, whether that is another renewable resource or a fossil fuel plant.

The suggestion that a proxy plant must be a fossil fuel plant finds little support in the language of the statute. Staff appears to base its concern on the premise that the proxy plants must generate "non-qualifying" electricity. As noted above, we disagree with that premise. The Commission should consider any generating resource that offers the least cost alternative. Only such an alternative measures the true cost of compliance.

¹ "The incremental cost of compliance with a renewable portfolio standard is the difference between the levelized annual delivered cost of the qualifying electricity and the levelized annual delivered cost of an equivalent amount of reasonably available electricity that is not qualifying electricity." ORS 469A.100(4).

Nevertheless, even granting this assumption, it does not follow that fossil fuel generating plants are the only proxy plant alternatives. As an initial matter, electricity from renewable resources is not qualifying electricity if the RECs have been sold or traded. Second, by statute there are a number of examples of non-eligible renewable resources, such as hydro power from BPA, hydro power from facilities that became operational before 1995, or electricity from low-impact hydro facilities over 50 MW per year, and the power from such resource is "non-qualifying electricity." If as Staff contends the proxy plant must generate "non-qualifying electricity," then such non-eligible resources may also serve as proxy plants.

We ask that the Commission retain the flexibility to use alternative proxy plants which the current proposed rules afford it. There is no need to rush to a judgment at this time. Issues concerning the appropriate selection of proxy plants should be decided as implementation plans and compliance reports are submitted to the Commission and issues are presented to Commission with a fully developed factual record.

PGE appreciates the opportunity to provide these reply comments.

DATED this 21st day of May, 2009.

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CERTIFICATE OF SERVICE

I hereby certify that on this day I served the foregoing **REPLY COMMENTS OF PORTLAND GENERAL ELECTRIC COMPANY** by e-mail and/or mailing a copy thereof, to each party that has not waived paper service, in a sealed, first-class postage prepaid envelope, addressed to each party listed below and depositing in the US mail at Portland, Oregon.

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