

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
AR 555**

In the Matter of

Rulemaking to Update Certain Division 038
rules. (Portfolio Options/Labeling)

STAFF'S COMMENTS

Following are Staff's comments and recommendations related to the proposed Rule updates regarding portfolio options as addressed in OAR 860-038-0220 and labeling as addressed in OAR 860-038-0300. A public hearing was held December 11, 2013, to receive public comment regarding the proposed Rule updates. Written comments were to be received through December 18, 2013.

The December 10, 2013, written joint comments of Renewable Northwest Project (RNP) and the Citizens' Utility Board of Oregon (CUB) note that the proposed updates to the Portfolio Options Rules leave one significant issue unresolved – there remains no clear guidance from the Commission on how utilities are to report energy from renewable resources for which the utilities do not own the environmental attributes. This is generally referred to as null power. RNP and CUB mention that this issue was removed from consideration in this rulemaking because gaining consensus was too difficult for the planned rulemaking scope. While RNP and CUB are correct that the null power issue was not included in the rulemaking scope, their recollection of why it was not included is not complete. The purpose of this rulemaking is to update the Rules regarding portfolio options as addressed in OAR 860-038-0220 and labeling as addressed in OAR 860-038-0300. The subject of null power is not addressed in either of those Rules. As a result, the null power issue was not included because it is outside the scope of the rulemaking.

Portland General Electric (PGE) offered a verbal comment at the hearing and filed December 9, 2013, an associated written comment related to the required reporting of spent nuclear fuel in OAR 860-038-0300(6)(e). While PGE admits this reporting requirement has been in the Rule for some time, the data upon which to report has not been available for some time. Oregon Department of Energy (ODOE), the source of the data used in reporting the other environmental impacts in OAR 860-038-0300(6), agreed verbally at the hearing that data regarding spent nuclear fuel is not available. Staff and ODOE verbally agreed with PGE at the hearing that the percentage nuclear power occupies in the power source mix in Oregon is small, and thus it is not worthy of quantification in the

environmental impact reporting. For this reason Staff proposes to delete OAR 860-038-0300(6)(e), the requirement for reporting of spent nuclear fuel.

PGE also offered a verbal comment at the hearing along with an associated December 9, 2013, written filed comment expressing concern about a regulatory certainty gap that would exist during the time between Commission adoption of the proposed Rule updates, and Commission prescription of the labeling requirements and frequency in OAR 860-038-0300(2) and (3). To alleviate the regulatory certainty gap Staff verbally proposed at the hearing and proposes herein that the Commission adoption of the proposed Rule updates include an effective date coincident with the date the Commission prescribes the labeling requirements and frequency.

Staff also proposes a wording change in OAR 860-038-0300(10) replacing the words "unspecified market purchases" with "unspecified market purchase mix."

Staff will not offer further comments.

This concludes Staff's Comments.

Dated at Salem, Oregon, this 18th day of December, 2013



Erik Colville
Senior Utility Analyst
Energy Resources & Planning

CERTIFICATE OF SERVICE

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I certify that I have, this day, served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-001-0180, to the following parties or attorneys of parties.

Dated this 18th day of December, 2013 at Salem, Oregon



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