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December 18, 2013

Attention: Filing Center
Public Utility Commission of Oregon
3930 Fairview Industrial Drive SE
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Re: *In the Matter of a Rulemaking to Update Certain Division 038 rules. (Portfolio Options/Labeling)*
OPUC Docket No.: AR 555
DOJ File No.: 330030-GN0300-12

Enclosed for filing with the Commission today are an original and five copies of Oregon Department of Energy's Comments in the above-captioned matter.

Sincerely,

Renee M France
Senior Assistant Attorney General
Natural Resources Section

Enclosures
RMF:jrs/#4854478
c: AR 555 Service list



Oregon

John A. Kitzhaber, MD, Governor



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December 18, 2013

Oregon Public Utility Commission
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Re: Oregon Department of Energy comments in AR 555 – revisions to Division 038 rule regarding portfolio options and labeling

The Oregon Department of Energy (ODOE) appreciates the opportunity to comment on the proposed changes to OAR 860-038-005 (Definitions for Direct Access Regulation) and 860-038-0300 (Labeling Requirements). The department recognizes the substantial effort and patience that all parties have invested in the lengthy discussion preceding this rulemaking. The proposed rule changes, and accompanying modifications to the label template and reconciliation report formats, represent a reasonable compromise reflecting the points of view brought forward in this process to date. The department supports the rule changes and template changes as proposed with two exceptions. In accordance with Staff's request to address both the proposed rules and the label template, comments specific to each topic are provided separately below.

Additionally, the department encourages the Commission to open a separate proceeding to address how to display renewable energy certificates (RECs) and null power as part of the power source mix.

Proposed Rules

The department supports the proposed rules with one exception in relation to the reporting of spent nuclear fuel (as noted by Portland General Electric (PGE) in their comments).

Neither of the investor-owned utilities affected by this rule (PGE and PacifiCorp) operates a nuclear generating facility.¹ The Columbia Generating Station, the only operating nuclear facility in the Northwest Power Pool, is operated by Energy Northwest with the power dedicated to the Bonneville Power Administration. Importantly, this facility contributes to the regional pool of unspecified market power and should therefore be represented on the retail electricity label. In the past, when included in the label's bar chart, the proportion of spent nuclear fuel has been calculated using either national averages or by assuming a simple proportion of regional generation rather than measuring actual spent fuel attributable to annual generation at the facility. This is because there is no readily available annual data for spent nuclear fuel in the units specified in the rule, milligrams per kilowatt hour. Therefore the requirement to quantitatively report on spent nuclear fuel in the designated units relative to a regional

¹ Noting that PGE continues to operate a spent fuel site at the site of the retired Trojan nuclear plant.

average is overly burdensome and may not be possible due to insufficient annual data. For that reason the department supports PGE's proposal that the requirement to quantitatively report on spent nuclear fuel should be eliminated.

It is, however, important for consumers to understand, and for the label to communicate, that nuclear waste has significant environmental impacts. While we believe that numeric representation of spent fuel is unnecessary, it is still important to disclose the environmental impacts of nuclear power as originally intended in the rules. For that reason the department recommends amending paragraph 6(e) in the current rule to read:

(6)(e) A qualitative explanation of the sources and environmental impacts of spent nuclear fuel.

This would require disclosure that the Columbia Generating Station is an operating nuclear facility in the Northwest contributing to a customer's power mix and that there are impacts of this operation, including spent nuclear fuel. This approach has the advantage of balancing the intent of the original rule to address nuclear environmental issues with the limits of the available data. This qualitative reporting would then be part of the label template, as discussed below.

Proposed Label Template

The department supports the proposed changes to the label template distributed by Staff in September 2013, with two changes to maintain the accuracy of the environmental impacts information that customers use in part to choose among their power options.

First, Staff's proposed label template does not include the environmental impacts of nuclear spent fuel. We recommend retaining nuclear spent fuel impacts, consistent with the currently approved Commission template and the rule modification recommended above. Specifically, the department supports the strategy proposed by PGE of replacing the quantitative reporting of spent nuclear waste with a qualitative method of noting the environmental impacts of nuclear waste. PGE has suggested using a website reference analogous to referencing external government websites for air pollutants. This is an acceptable approach.

Second, Staff's proposed template would remove any mention of the environmental impacts of hydropower generation, the region's largest electricity source. We recommend a similar qualitative approach for providing information on the environmental impacts of hydropower.

Finally, the department does not support implementing the process changes for the label template that Staff proposed on December 13, 2013, as part of this proceeding. Staff explains that it is uncertain whether the current pie chart format is the best method for presenting the percentage of each resource type and suggests that a process be put in place to allow changes to that format. The format and content of the pie chart were topics of considerable conversation during the workshops in this proceeding. Any such changes to the process and label template may be a significant departure from the compromise reached in this proceeding and deserve more time for further discussion and stakeholder feedback.

A Proceeding to Address Null Power and REC Accounting

During this proceeding, Staff asked parties to consider how to display RECs and null power as part of the power source mix. Although the issue was dropped in AR 555, the department joined with PGE and Renewable Northwest Project (RNP) in suggesting another venue and format including the possibility of a workshop.² The department notes that the Portfolio Options Committee has raised questions about the proper way to inform customers about RECs and null power and indicated that it may make a similar, independent recommendation to the Commission.³ The department agrees with the joint comments of RNP and Citizens' Utility Board on this matter and respectfully requests that the Commission direct Staff to open a separate docket or convene a workshop that affords parties the opportunity to address this complicated issue.

These comments are respectfully submitted by:

/s/ Kacia Brockman
Kacia Brockman, Energy Policy Analyst

² See ODOE's August 27, 2012, AR 555 comments:

REC and Null Power Guidelines - What guidelines should be used for how RECs and null power are reported in both the NSPM, and in the company specific power mix? Although Staff does not address a proper future venue, ODOE supports PGE's proposal: "[A] productive venue to discuss guidelines for RECs and null power is a workshop format similar to what is underway in AR 555, where a cooperative discussion that explores the unique accounting issues for banking and retiring RECs can occur." We note that RNP's comments made the same request.

³ Discussion from November 19, 2013, Portfolio Options Committee meeting.

CERTIFICATE OF SERVICE/SERVICE LIST

I hereby certify that on December 18, 2013, I served the foregoing OREGON DEPARTMENT OF ENERGY'S COMMENTS upon the persons named on the service list, by electronic mail only as all parties have waived paper service.

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