

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT**

PUBLIC MEETING DATE: December 28, 2021

REGULAR **CONSENT** **EFFECTIVE DATE** December 29, 2021

DATE: December 20, 2021

TO: Public Utility Commission

FROM: Kim Herb

THROUGH: Bryan Conway and JP Batmale

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
Requests waiver of the Renewable Portfolio Implementation Plan
OAR 860-083-0400(2)-(5) for the 2022 Renewable Portfolio
Implementation Plan compliance filings

STAFF RECOMMENDATION:

The Commission should waive the Renewable Portfolio Standard Implementation Plan (RPIP) requirements in Oregon Administrative Rules (OAR) 860-083-0400(2)-(5) for the Pacific Power (PacifiCorp or PAC) and Portland General Electric (PGE) 2022 filings.

DISCUSSION:

Issue

Whether the Commission should waive OAR 860-083-0400(2)-(5) for the 2022 RPIP filings.

Applicable Rule or Law

Under ORS 469A.075, an electric company that is subject to a renewable portfolio standard (RPS) is required to develop a renewable portfolio implementation plan for meeting the requirements of the RPS. PacifiCorp and PGE are the electric companies subject to the RPIP filing requirement. At a minimum under statute, the RPIP must contain annual targets for acquisition and use of qualifying electricity, and the estimated cost of meeting the annual targets.¹

¹ ORS 469A.075(2).

OAR 860-083-0400 is the administrative rule that establishes the additional requirements for the content of electric company RPIPs, and the procedure for Commission acknowledgement of the plans.

Under OAR 860-083-0005(2) the Commission may modify or waive any of the administrative rules in Division 083 for good cause shown.

Analysis

Background

ORS 469A.075 establishes that a utility must develop a RPIP to outline how it plans to comply with the requirements of the Oregon RPS. The utility must revise, update, and file the RPIP with the Commission at least once every two years.² At its core, the RPIP is meant to demonstrate the utility's plan and forecasted incremental cost to comply with the RPS over a five year planning window.

Senate Bill 1547, passed in 2016, included various changes to the Oregon RPS that will impact the both the format and substance of the RPIP filings reflected in the OAR. The Commission has had rulemakings underway since 2017 to reflect these changes to the RPS.³ Once completed, these rulemakings may fundamentally change how PacifiCorp and PGE (the Companies) will approach the content and format of their RPIP filings. The Companies are required by rule and by statute to file their next RPIPs on or before January 1, 2022.⁴

For the 2020 RPIP, Staff recommended waiving OAR 860-083-0400(2)-(5) for Pacific Power's and PGE's filings because of the congruent timing with the RPS rulemakings.

Examples of RPS Rulemakings Affecting the 2020 RPIP Filings

There are several concrete examples of how the Companies' RPS compliance obligations will likely change as a result of the RPS rulemakings.

Presently, one of the main functions of the RPIP is to determine whether the five-year plan for compliance with the RPS is likely to exceed the four percent incremental cost cap. Electric utilities are not required to comply with the RPS to the extent that the incremental cost of compliance exceeds four percent of annual revenue requirement for the compliance year.⁵ The Commission opened the rulemaking docket AR 610 to

² ORS 469A.075(1).

³ See Docket No. AR 610, Order 18-128; see *generally* Docket Nos. AR 610, AR 616, AR 617.

⁴ ORS 469A.075(1); OAR 860-083-0400(1).

⁵ ORS 469A.100(1).

address this issue.⁶ The scope of AR 610 includes the methodology the Companies use to calculate the incremental cost and the methodology the Companies use to calculate the annual revenue requirement.⁷ This rulemaking could fundamentally change how the Companies are calculating the incremental cost cap in their RPIPs. However, the last action taken in AR 610 was a Staff workshop held on June 9, 2020, which initiated a discussion on the issues around the timing of the incremental cost calculations as well as the appropriate proxy resources. These discussions have not yet been reflected in a Staff proposal for rules modifications and the docket is currently paused in the informal stage.

Additionally, the Commission opened rulemaking docket AR 616 to address how the Companies should address the RPS planning process and associated reports.⁸ The scope of this rulemaking specifically addresses what the function of the RPIP should be, the timing and frequency of the RPIP, and major updates to the content of the RPIP.⁹ This rulemaking could fundamentally change both the content and function of the RPIP going forward. However, the last actions taken in AR 616 were stakeholder comments received on October 22, 2020 regarding Staff's draft proposed rule changes. These comments have not yet been reflected in an updated draft of proposed rule changes and the docket is currently paused in the informal stage.

Administrative Rule Waiver

As discussed above – and in the two previous RPIP filings – the RPS rulemakings will change the Companies' plans and forecasted incremental costs to comply with the RPS. As a result, Staff believes that the RPIPs the Companies are required to file in 2022 may not meaningfully reflect the five year compliance planning window. However, if the Commission were to waive the rule sections identified herein for the 2022 filings, there will be fewer overlapping years across the past RPIPs and the current filing. The RPIPs that the Companies filed in 2018 forecasted the planning window of 2019 – 2023. The 2020 RPIP filing required forecasted the planning window of 2021 – 2023, and waived the same selection of administrative rules as those contemplated in this waiver request. Therefore, if those sections of the rule are waived for the 2022 filing, which will forecast the planning window of 2023 - 2025, there will be only one year of overlapping data across the three most recent RPIPs (see Figure 1).

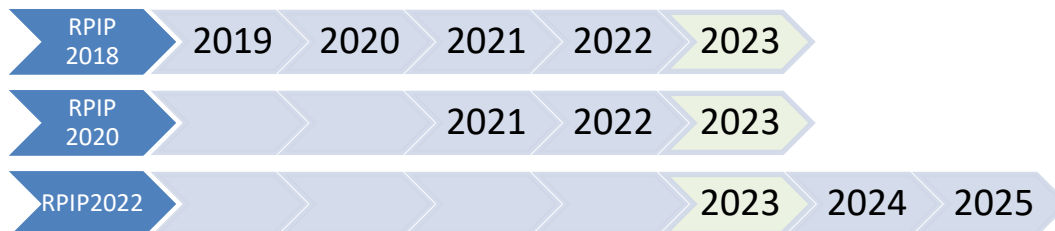
⁶ See *generally* Docket UM 1930, Order No. 18-128, Staff Report at p. 3-4.

⁷ *Id.*

⁸ *Id.* at p. 4-5.

⁹ *Id.*

Figure 1: RPIP Reporting Windows Data Overlap



While this is not ideal as it limits the ability to compare RPIPs, Staff is comfortable with this because it believes the data the Companies are being asked to provide will be valuable, accurate, and not substantially compromised by current rulemaking activities.

The statute governing the RPIP has broad requirements for what utilities are required to include in their filing. These requirements are: (1) annual targets for acquisition and use of qualifying electricity; and (2) estimated cost of meeting the annual targets, including the cost of transmission, the cost of firming, shaping and integrating qualifying electricity, the cost of alternative compliance payment, and the cost of acquiring renewable energy certificates.¹⁰ The administrative rules further define the mechanics of RPS compliance, including what the utilities are required to report in the RPIP.¹¹

These administrative rules are likely to change following the conclusion of Docket Nos. AR 610, 616, 617, and/or due to HB 2021. Staff and the Companies have come to an agreement that it would be the best use of Commission resources if the Companies included the broad information required by statute to guide compliance obligation planning for the 2022 filings, while waiving the rules that may be affected by the RPS rulemakings. To make this change in what the Companies must include in the RPIP, a waiver of the administrative rule sections (2)-(5) in OAR 860-083-0400 is necessary.

RPIP Administrative Rules That Should Be Waived

OAR 860-083-0400(2)-(5) should be waived because these rules are likely to change based on the RPS rulemakings discussed above. Therefore, there is minimal benefit to subjecting the Companies to these extensive reporting requirements. To comply with the statutorily required reporting and OAR 860-083-0400(6), Staff and the Companies are in agreement that the following elements may be included in the 2022 RPIP filings:

- (1) The annual targets for the acquisition and use of qualifying electricity through 2025;
- (2) The estimated cost of meeting the annual targets, including:

¹⁰ ORS 469A.075(2).

¹¹ ORS 469A.075(4); see also OAR 860-083-0400.

- a. The cost of transmission, firming, shaping and integrating qualifying electricity;
 - b. The cost of alternative compliance payments and the cost of acquiring renewable energy certificates (RECs);
 - c. A description of base case incremental cost calculations, using the cost of the RECs retired in a year;
 - d. Reporting on the incremental cost of RECs generated in each year; and
 - e. Sensitivities for the use of 20 percent unbundled RECs and different gas price scenarios.
- (3) The cost of new resources that were not included in the 2020 RPIP filing;
- (4) An explanation of the following:
- a. How this year's plan complies with any conditions specified in previous Commission acknowledgments of Integrated Resource Plans, requests for Production, or RPIPs;
- (5) Major changes and new resources that have been acknowledged or proposed, and how they would change the Companies' compliance strategy between now and the next RPIP filing.

The Companies will still be expected to comply with OAR 860-083-0400(1) and (6)-(10).

Utility and Stakeholder Response to Administrative Rule Waiver

Staff coordinated with the Companies to reach agreement on the plan outlined above. The Companies support Staff's approach to the 2022 RPIP filings and worked collaboratively to come to agreement on what should be included in the content of the filings. Additionally, Staff reached out to the Citizens' Utility Board, The Alliance of Western Energy Customers, as well as Renewable Northwest. All three stakeholders felt that this approach was sensible and supported it.

Conclusion

The Commission should approve the waiver of the RPIP rule OAR 860-083-0400(2)-(5) for the 2022 RPIP filings because of the congruent timing with the RPS rulemakings provided that the companies include the elements required by the statute and as otherwise set forth in the rule.

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PROPOSED COMMISSION MOTION:

Waive the Renewable Portfolio Standard Implementation Plan requirements in OAR 860-083-0400(2)-(5) for the PacifiCorp and PGE 2022 filings.