

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1690

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Voluntary Renewable Energy Tariffs for Non-
Residential Customers/HB 4126.

COMMENTS ON ISSUES
RELATED TO IMPLEMENTATION
OF HB 4126

I.

INTRODUCTION

Shell Energy is a wholesale and retail supplier of gas and electricity to customers throughout the United States, and is interested in becoming an active participant in direct access programs in those jurisdictions that adopt rules that provide for meaningful retail choice. Shell Energy is a certified Electricity Service Supplier (“ESS”) in the State of Oregon by virtue of a certificate granted by this Commission on June 9, 2004 (Order No. 04-310). Shell Energy is registered as an ESS with Portland General Electric Company (“PGE”). Shell Energy is not registered as an ESS with PacifiCorp, however, due to the difficulty of entering and participating in the direct access market on the PacifiCorp system.

Shell Energy has a direct and substantial interest in this proceeding. Shell Energy’s ability to provide retail energy services to customers in Oregon will be affected by the Commission’s determination whether (and if so how) to allow the electric utilities to provide voluntary renewable energy tariffs (“VRET”) to nonresidential customers in response to HB 4126.

The Commission seeks comments on several issues, including the structure of a VRET, whether a VRET will promote the development of renewable energy resources, whether a VRET may have an impact on the development of a competitive retail market, and whether a VRET program would impose costs on nonparticipating customers. Shell Energy offers comments on these issues, as well as a VRET “model” that could be adopted by the Commission without negatively affecting the development of a competitive retail market.

II.

SUMMARY OF POSITION

Voluntary enhanced renewable procurement options can be offered to nonresidential customers today through the direct access program. Based upon the terms of an agreement between an ESS and its customer, an ESS may offer a portfolio of energy supplies that includes up to 100 percent renewables. These renewable supplies (and/or RECs) may be subject to a long term procurement contract between the ESS and a supplier, which may be matched with a long term retail sales contract between the ESS and its customer. The options for nonresidential customers to engage in enhanced renewable procurement through the direct access program are unlimited. Increased renewable procurement through the direct access program will “promote the further development of significant renewable energy resources,” which is a consideration under HB 4126 (Section 3(3)(a)).

If the electric utilities were to offer a VRET option that allowed customers to purchase from a separate renewable energy portfolio, this option would compete directly with direct access service, and would also compete with the electric utilities’ “bundled” cost-of-service sales tariffs. Based on the inherent advantages associated with the existing utility-customer

relationship, an electric utility would enjoy an improper competitive advantage if it were to offer a voluntary enhanced renewable procurement option to its existing customers.

Moreover, depending on the structure of the VRET program, the offering of a VRET by the electric utilities likely would shift utility costs to nonparticipating customers, owing to the utilities' use of existing utility resources (paid for by ratepayers) to promote and administer the VRET program. In light of the potential negative effect of utility participation "on the development of a competitive retail market," the utilities should not be permitted to offer a VRET program.

If the Commission nevertheless determines that the electric utilities should be allowed to offer a VRET program, the Commission should support a VRET model that allows the electric utilities to facilitate increased renewable procurement by nonresidential customers, while leaving the negotiation of price and other key terms of service between the customer and its renewable energy supplier. An acceptable VRET program (similar to Model 1.b/x) would incorporate the following elements:

1. The VRET program should be open to all nonresidential customers. Participating customers should be able to designate a specified percentage (up to 100%) of their energy from renewable energy supply projects that are offered by third party suppliers.
2. Renewable energy developers and suppliers will negotiate contract terms (including price, quantity and term) with participating customers for the "incremental" renewable energy quantity (quantity above the utility's RPS obligation) elected by the customer.
3. Participating suppliers will sell RPS-eligible supplies (matching the supplier's aggregate contracted incremental renewable energy demand) to the utility on a wholesale basis pursuant to a standard contract, at a price that is established by the Commission. The increment

(or the decrement) reflecting the difference between the price established by the Commission and the price agreed upon between the customer and the third party supplier will be settled between the supplier and the customer pursuant to the terms of their contract.

4. Participating customers will pay an “indifference” charge to the utility to account for any incremental costs (e.g., firming and shaping costs, transition adjustment, administrative costs) incurred by the utility to accommodate the integration of new RPS supplies that exceed the proportion of RPS supplies in the utility’s supply portfolio. The purpose of the indifference charge is to ensure that non-participating customers are “indifferent” to the costs of the program.

5. The utility will continue to provide bundled cost-of-service sales service (and related services) to participating customers. The utility will maintain the RPS obligation, scheduling, metering and billing obligation for participating customers. The utility will schedule the RPS supplies delivered to the utility by the third party suppliers.

Although this VRET approach would mitigate the negative impact on the competitive retail market, any VRET model would be inferior to relying on the direct access program to facilitate and encourage enhanced renewable energy procurement by nonresidential customers. Direct access is a straightforward program that provides the supplier and the customer with maximum flexibility to develop an innovative renewable procurement structure. In assessing the various models that are presented in response to HB 4126, the Commission should ask whether any of the models provide the simplicity and flexibility offered through a robust direct access program.

III.

RESPONSES TO QUESTIONS

Shell Energy's responses to the questions presented by the Commission follow:

I. How should a Voluntary Renewable Energy Tariff (VRET) be defined and designed? (context/general issues)

1. What are the essential features of such a tariff (e.g. ability to purchase power at a long term, fixed rate)? If the Commission were to allow VRETs, would more than one type of VRET design help to satisfy diverse customer demands?

Response: As noted above, a voluntary enhanced renewable procurement option offered by the electric utility is not necessary as long as a robust direct access market is encouraged and nurtured. Enhanced renewable procurement offered by the utility competes with the utility's "default" cost-of-service procurement service. Customers can and should purchase renewable supplies (up to 100 percent of their energy requirements) from third party suppliers. In order to make this happen, the Commission must adopt rules that require the utilities to facilitate direct access transactions, while protecting non-participating customers from significant cost-shifting.

If a VRET program is to be adopted, the program should minimize participation by the electric utility in the purchase of incremental renewable energy supplies from third party suppliers, and minimize participation by the electric utility in the sale of incremental renewable supplies to utility customers. A VRET program that includes the utility in the active purchase and sale of incremental renewable supplies (e.g., Model 2 and Model 5) would cause the utility to "compete" against its own default bundled sales service, likely resulting in cost-shifting between participating and nonparticipating customers. A VRET program that includes the utility in the active purchase and sale of incremental renewable supplies also would cause the utility to compete against ESSs that may also offer an enhanced renewable procurement option. In view of the competitive advantages of "incumbency" enjoyed by the utilities, such a VRET program would have a negative impact "on the development of a competitive retail market," which is a consideration that the Commission must take into account under HB 4126 (Section 3(3)(b)).

On this basis, if a VRET program is adopted, the "essential features" of a VRET tariff (similar to Model 1.b/x) should be as follows:

- Third party renewable energy developers and suppliers will negotiate contract terms, including price, quantity and term, with participating customers;
- The electric utility will purchase the renewable energy from the third party developers/suppliers, and sell the renewable energy to participating customers, at the same price, which is fixed by the Commission;

- The agreed upon price between the renewable supplier and the customer will be “settled” between the supplier and the customer;
- Participating customers will pay to the utility, in addition to the otherwise applicable bundled cost-of-service sales price, an “indifference” charge that reflects the utility’s cost of integrating incremental renewable supplies into the utility’s supply portfolio;
- The utility remains responsible for providing bundled sales service to participating customers; and
- Failure of the renewable energy supplier to perform its delivery obligation is addressed through a standard contract between the energy supplier and the utility.

2. Should a regulated utility continue to plan for VRET load through integrated resource planning? Should VRET customers be included in a regulated utility’s total retail sales?

Response: No. Under the VRET structure described above (similar to Model 1.b/x), a customer and its renewable supplier are responsible for planning for the customer’s future energy needs. For procurement planning purposes, the customer’s load should be treated like direct access load.

a) Should VRETs be considered for all non-residential customers or only a subset of non-residential customers (e.g. only large customers)?

Response: The VRET program should be available to all non-residential customers.

b) Should there be a cap on the amount of load that can be served under a VRET to protect against risk of large amounts of load leaving the existing cost-of-service system (e.g. the 300 average MW cap for direct access in PGE’s 400 series cost-of-service opt-out schedules)?

Response: No.

3. What portion of a customer’s load should a VRET be able to serve? All load? Partial load? Service at a given Point of Delivery (POD)? Should VRET customers be able to aggregate multiple sites/PODs?

Response: A VRET program should allow a participating nonresidential customer to meet any portion of its load, up to 100 percent, with incremental renewable supplies above and beyond the “baseline” provided through the utility’s bundled sales service.

4. Should VRET load be met with multiple renewable resources that are aggregated? If so, how should the regulated utility disclose the renewable resources provided as an aggregated product?

Response: A participating customer and a participating renewable energy supplier should be allowed to meet the committed (participating) load with any combination of renewable supplies, from multiple sources. The renewable supplier should be required to identify, for the utility, the renewable resources aggregated for one or more customers.

5. Given the variability of renewable energy generation, what services should be included in a VRET to enable delivery of renewable energy (e.g. back-up/supplemental services or firming/shaping)?

Response: Because the customer will continue to be a bundled sales customer, the utility will remain responsible for providing services (e.g., firming and shaping) that are necessary to integrate the incremental renewable supplies. The participating customer will pay an “indifference” charge to ensure against cost-shifting.

6. For comparison, with regard to **existing Direct Access** as summarized in the **VRET Models Table**:

- a) Are there service requirements (e.g. transition charges, enrollment windows, etc.) applicable to direct access that should not be required in provision of service under a VRET? If so, what is the rationale for differentiating between direct access requirements and VRET requirements?

Response: Customer participation in a VRET program should not be allowed under more favorable terms and conditions than customer participation in direct access. If the enrollment window and transition charges are modified or eliminated for VRET program participants, these requirements should be modified or eliminated for direct access customers, as well.

- b) What “green energy” options do Energy Service Suppliers (ESS) currently offer in utility service territories under direct access?

Response: Enhanced renewable procurement (“green energy”) options are based on negotiations between an ESS and a prospective customer. As noted above, there

is no limit on the green energy options that can be negotiated between an ESS and its customer(s).

- c) Are there new or additional ESS offerings that regulated utilities can enable through direct access that will meet the requirements of direct access laws and improve customer access to the kinds of “green energy” products that they are seeking?

Response: On the PacifiCorp system, the Commission should approve the five-year opt-out proposal advanced by PacifiCorp in Docket No. UE 267, subject to the modifications proposed by the stipulating parties in the “Stipulation” that was submitted in October 2013. In addition, any “caps” on customer participation in direct access should be eliminated.

II. Whether Further Development of Significant Renewable Energy Resources is Promoted? *(issues related to HB 4126 Section 3(3)(a))*

1. Should VRET renewable resources be defined to include the same types of renewable energy resources as the Renewable Portfolio Standard (RPS) (e.g. solar power, wind power, only certain types of hydroelectric power)? Should “further development of significant renewable energy resources” include buying the direct output and/or bundled Renewable Energy Certificates (RECs) from a new renewable resource power plant? From an existing plant? How should “new” and “existing” plants be defined? Should there be a limit on how old the plant is? (e.g. recently constructed or constructed since a selected year)?

Response: If a VRET program is adopted (Model 1.b/x), the scope and scale of renewable resources eligible to participate in the VRET program should be broad. Expanding the types of renewable resources that may participate in the VRET program will “promote the further development of significant renewable energy resources,” in accordance with HB 4126 Section 3(3)(a). Participating customers should be allowed to purchase “bundled” renewable energy and/or RECs, from “new” or existing renewable facilities. Increased customer participation in enhanced renewable procurement will promote renewable energy project development. Any limitations on the types of renewable resources included in the program will discourage customer participation as well as supplier participation.

2. In order to be considered “further development of significant renewable energy resources,” should there be geographic limits on the source of eligible renewable energy (e.g. Oregon or the Northwest)?

Response: No.

3. Given that the RPS is a minimum threshold for utilities in the existing cost-of-service rate based system, what should be the minimum renewable energy required in a VRET product (not including non-renewable resources that may be needed for back-up/supplemental service or firming/shaping)?

Response: Under the VRET structure outlined above (similar to Model 1.b/x), the customer remains a bundled sales customer of the utility. The customer's arrangement for renewable energy delivered by a third party must be for incremental renewable energy beyond the amount of renewable energy reflected in the utility's portfolio.

4. Of **all the models** in the **VRET Models Table**, which model is most likely to promote "further development of significant renewable energy resources"?

Response: As discussed above, a robust direct access market without unnecessary barriers and limitations is the best means "to promote further development of significant renewable energy resources." If a VRET model is to be adopted, Model 1.b/x is most likely to promote renewable energy development because this model allows the greatest flexibility between the renewable energy supplier and the customer, thus encouraging participation by both.

III. What may be the Effect on Development of a Competitive Retail Market? (HB 4126 Section 3(3)(b))

1. How should a VRET's effect on competitive suppliers and the direct access market be assessed?

Response: A VRET program that is structured in a manner that allows the utility to sell renewable energy from a portfolio of renewable supplies that is separate from the utility's bundled sales portfolio presents a new competitive utility supply offering that constitutes "direct access." Such an approach would inhibit competition in the retail market.

Under Models 2, 2.c/d, and 5.b, the utility would offer its new renewable supply portfolio as an alternative to "default" bundled cost-of-service sales service. This VRET structure would place the utility squarely in competition with its own bundled sales service, as well as in competition with direct access service.

A VRET program structure that allows the utility to compile its own separate portfolio of renewable energy supplies, and sell from this portfolio to a targeted group of customers, would be inconsistent with the utility's role as the "default" supplier of electric commodity service to retail electric customers. The electric utilities should not

be permitted to leverage their monopoly status to offer a new competitive procurement service option.

If the electric utilities are allowed, under a VRET structure, to offer a competing renewable supply option, the utilities will enjoy the multitude of competitive advantages that come with their monopoly utility status: access to customer lists, access to individual customer load data; name recognition and purchasing power in the energy commodity (and renewable energy) market; preferential access to transmission and ancillary services; and the ability to subsidize their renewable supply options through the use of existing utility assets, existing supply and transmission relationships, and existing utility resources, including utility personnel. These aspects of utility status confer upon the electric utilities an inherent (and unjust) competitive advantage.

2. Is the competitive retail market harmed if a regulated utility is able to make offerings under a VRET to non-residential customers that a third party competitive supplier is not permitted to provide under the terms of current direct access tariffs (e.g. enrollment windows and transition adjustments)? If so, how?

Response: Yes, absolutely. As noted above, the utility has a built-in competitive advantage interacting with existing customers. If a utility has the ability to compete with ESSs to offer a product or service without the limitations that apply to ESSs, this reinforces and enhances the utility's competitive advantage.

3. With respect to **Model 1(b/x) [third party owned resource & regulated utility facilitated]** and **Model 1 (c/d) [third party owned resource with aggregation]**:

- a) What are the effects, if any, on the competitive retail market if Independent Power Producers (IPPs) supply power through the regulated utility as part of VRET design in these models?

Response: The VRET structure described in Model 1(b/x) is different from the VRET structure described in Model 1(c/d) owing to the role played by the electric utility. Under Model 1(b/x), where the utility is the "middleman" between the supplier and the customer, retail competition is substantially preserved because suppliers compete with one another to supply power to individual customers. By contrast, under Model 1(c/d), the utility acquires the customers through its marketing efforts, and the utility acquires the renewable supply from third party suppliers. Under this approach, the utility is obtaining a separate supply portfolio to sell to the targeted customers. This provides the utility with a competitive advantage in the retail market, and creates the potential for cost-shifting between participating and nonparticipating customers.

- b) What should the role of the regulated utility be in developing and offering a product or transacting between customers and an IPP under these VRET models?

Response: Under Model 1.b/x, the utility acts as a “sleeve” between the renewable energy supplier and the customer. The utility will pass along the energy, as well as the cost of the energy, from the renewable supplier to the customer. The central commercial arrangement, however, is between the renewable energy supplier and the customer, similar to direct access. Although Model 1.b/x provides a structure under which the utility will be competitively neutral, this model is inferior to direct access.

- c) Would these VRET models comport with the requirements of a filed tariff (e.g. must list prices and be accessible to all similarly situated customers [see HB 4126 Section 3(4) and ORS 757.205, 757.210, 757.212, 757.215])? Can these models be implemented such that an IPP is not required to provide confidential pricing data to a regulated utility (e.g. non-disclosure agreements)?

Response: As noted above, Model 1.b/x can be adjusted so that participating customers pay the otherwise applicable bundled (cost-of-service) sales price, and renewable energy suppliers are paid, by the utility, a fixed price set forth in a contract. The difference in price between the bundled sales price and the price under the contract between the customer and the renewable supplier can be settled between them.

4. With respect to **Model 1(c/d) [third party owned resource with aggregation]** and **Model 2(c/d) [regulated utility owned resource with aggregation]**, if aggregation is allowed, should a regulated utility be prohibited from acting as an aggregator such that the VRET would only permit aggregation by registered aggregators (see OAR 860-038-0380)?

Response: Both of these models, if adopted, would inhibit competition in the retail market because the utility would solicit the renewable energy supply to establish a separate supply portfolio, and the utility would solicit customers to purchase from this separate portfolio of renewable supplies. As noted above, the utility would be using its market power to compete against its own bundled sales service, and compete against direct access. The utility’s role as a competing supplier offering a separate portfolio of renewable supplies to a targeted class of customers also raises cost subsidization issues, as noted above.

5. With respect to **Model 2 [regulated utility owned resource]** and **Model 2(c/d) [regulated utility owned resource with aggregation]**, what are the effects, if any, on

the competitive retail market if a regulated utility owns or operates resources as part of VRET design in these models?

Response: See response to No. 4, above.

6. With respect to **Model 4(a/X) [customer owned resource]**:

- a) What are the effects, if any, on the competitive retail market if a customer owns or operates resources as part of VRET design in this model?

Response: None at this time.

- b) Can this model already occur through Partial Requirements tariffs (e.g. PGE schedules 75, 76R, 575 or PacificPower schedules 47, 247, 747)? If not, how is it differentiated from partial requirements service?

Response: None at this time.

- c) Would this VRET model comport with the requirements of a filed tariff (e.g. must list a price and must be accessible to all similarly situated customers [see HB 4126 Section 3(4) and ORS 757.205, 757.210, 757.212, 757.215])?

Response: None at this time.

- d) If a customer owned renewable resource is off-site, should it be treated as a third party supplier (e.g. similar to the IPPs role in **Model 1(b/x) [third party owned resource & regulated utility facilitated]**)? If not, why? May a customer that generates more power at an off-site resource than needed at a given time sell the excess power to other customers?

Response: None at this time.

- e) Should on-site resources be limited to the Net Metering program? Does inclusion as a net metered resource depend on if any excess energy generation is anticipated? If a customer owned resource is on-site, but is permitted to be operated and managed by the regulated utility or IPP as a service provided through a VRET, should it be distinguished from the Net Metering program?

Response: None at this time.

IV. What may be the Direct or Indirect Impacts on Non-Participating Customers (*issues related to HB 4126 Section 3(3)(c)*)

1. What regulatory tools or VRET design elements (e.g. transition charges for customers that leave the cost-of-service system) would ensure that the prices paid for products under a VRET reflect all costs associated with providing that service, including any requisite back-up/supplementary service (e.g. firming/shaping), without subsidization from non-participating customers?

Response: The Commission properly inquires into the potential for “cost-shifting” between participating VRET customers and nonparticipating customers. Under direct access, “cost-shifting” has been addressed through the “transition adjustment” that has been incorporated in direct access customer rates. Instead of trying to address cost-shifting under a VRET program, the Commission should focus on enhancement, extension and expansion of the direct access program as the appropriate framework within which to “promote the further development of significant renewable energy resources.”

Under a VRET structure, the potential for cost-shifting arises in the following areas:

- The costs associated with the utility’s promotion of the VRET program using existing utility resources and assets that are paid for by all utility customers;
- The costs of administration of a VRET program, including procurement of resources for a separate supply portfolio, billing customers for purchases from the separate portfolio, educating customers, and fielding calls from customers (customer support function);
- Assignment of the cost of incremental renewable resources that are unsubscribed/stranded as a result of participating customers returning to bundled sales service;
- Stranded capacity costs associated with “departing load” (customers electing to participate in a VRET program); and
- Cost of flexible resources needed for “integration” of incremental renewable procurement.

Cost-shifting (nonparticipating customer subsidization of participating customers) would be greatest under a VRET structure that allows the utility to establish a separate renewable supply portfolio that the utility “markets” to targeted customers. Under such a VRET structure (Model 2; Model 5), the Commission would have to establish cost allocation protocols to ensure that participating customers (or the utility’s shareholders)

bear 100 percent of the incremental cost, as well as an allocated portion of the embedded cost, of any utility resources used to provide this new procurement service. In addition, the Commission would have to establish a mechanism to ensure that customers that switch from bundled sales service to VRET service bear the “stranded” costs, if any, associated with the reduction in the utility’s obligation to purchase energy and capacity for bundled sales customers.

2. What regulatory tools or VRET design elements would ensure that non-participating customers do not face increased risk of VRET obligations (e.g. costs of under-subscribed VRET resources or unfulfilled power purchase agreement obligations)?

Response: See response to No. 1 above.

3. How should the fixed costs of the existing cost-of-service rate based system be allocated to VRET participants that completely or partially leave the cost-of-service rate based system?

Response: In the same manner that direct access customers bear a charge (transition adjustment) to prevent cost-shifting, customers that participate in a VRET program should bear a charge that reflects the above-market cost of resources that are “stranded” as a result of the customer’s departure from bundled sales service.

4. Assuming that VRET load is part of “total retail electric sales,” what would be the impact to RPS resource cost recovery and compliance requirements if a significant amount of VRET load leaves the cost-of-service rate-based system? Would VRET customers continue to pay for RPS compliance requirements (e.g. their share of rate-based RPS renewable resources and RAC filings)?

Response: None at this time.

5. With respect to **Model 2 [regulated utility owned resource]** and **Model 2(c/d) [regulated utility owned resource with aggregation]**, should the regulated utility have a separate set of resources used for VRET customers in a “VRET rate base” for which the costs and rate of return are regulated by the PUC? How should the regulated utility account for separate capital investments and costs of capital related to a VRET?

Response: The Commission should reject Model 2 and Model 2 (c/d) because these VRET structures, if adopted, would inhibit the competitive retail market.

6. With respect to **Model 2(c/d) [regulated utility owned resource with aggregation]** and **Model 1(c/d) [third party owned resource with aggregation]**, if the regulated utility is allowed to aggregate retail load through a VRET, how should the regulated utility manage the risk and timing of the matched VRET load and/or the obligations to the aggregated RE generators?

Response: The utility should not be allowed to aggregate customer load (or renewable energy supply) to establish a new supply portfolio and/or a new market for incremental renewable supplies. The utility is the provider of “default” bundled (cost-of-service) sales service, including the requisite renewable energy to meet its RPS obligation. The utility should not compete with its own bundled sales service, or with direct access. The utility should not “promote” or encourage customers to purchase their energy from a separate supply portfolio established by the utility. Any risk associated with matching customer load with incremental renewable energy supplies can and should be addressed by renewable energy suppliers and their customers.

V. Whether VRETs should rely on a Competitive Procurement Process? (*issues related to HB 4126 Section 3(3)(d)*)

1. Should the Commission limit VRET resource eligibility to renewable energy developed and supplied through a competitive procurement process? With an independent evaluator? If yes, why? If no, how should the Commission evaluate renewable energy not supplied through a competitive process?

Response: No. The utilities should not be engaged in soliciting renewable energy supplies beyond those resources necessary to meet the RPS procurement obligation associated with their bundled sales loads.

2. Should the PUC’s existing processes for competitive bidding (currently for “major resources” defined as quantities greater than 100 MW and duration greater than five years [UM 1182, Order Nos. 12-007 and 11-340]) be adapted for use with VRET resources and, if so, how should it be changed?

Response: No.

3. With respect to **Model 2 [regulated utility owned resource]** and **Model 4(a/x) [customer owned resource]**, is there any room for a competitive procurement process in these models?

Response: See response to No. 1 above.

4. With respect to **Model 2(c/d) [regulated utility owned resource with aggregation]**, what regulatory tools or VRET design elements would ensure that a regulated utility-owned resource fairly competes in a competitive procurement process?

Response: See response to No. 1 above.

VI. Other considerations (*issues related to HB 4126 Section 3(3)(e)*)

1. What customer protections may be appropriate for VRET resources (e.g. Green-E certification? Commission or advisory group oversight)? For which customer classes or subsets of classes?

Response: None at this time.

2. How will resources developed for a VRET, for which environmental attributes will be claimed by customers, be represented in power mix disclosures (e.g. regulated utility disclosures pursuant to OAR 860-038-0300)? Assuming that a VRET could be used for partial loads with continued use of the existing cost-of-service rate based system, how would such a customer claim its renewable resource use (e.g. claim a portion of the RPS in its “green” marketing)?

Response: If the environmental attributes (including but not limited to RECs) associated with enhanced renewable energy procurement are conveyed to customers, the environmental attributes cannot be claimed by the utility. Only if the environmental attributes (including RECs) are transferred to the utility may the utility reflect the environmental attributes in its power mix disclosure.

VRET Model 1.b (or 1.b/x) relies upon customers and renewable energy suppliers to establish the key terms associated with the sale and delivery of incremental energy supplies to the utility. One of the key terms to be negotiated is whether the environmental attributes will be transferred from the supplier to the customer. Whether or not the environmental attributes are transferred to the customer, the incremental supply is not a part of the utility’s supply portfolio, and the environmental attributes should not be reflected in the utility’s power mix disclosure.

3. What other factors, if any, should the Commission consider in determining whether and how utilities should offer VRETs to non-residential customers?

Response: The Commission should consider whether the complexity associated with implementation of a VRET is worth the effort. As discussed above, the Commission

can “promote the further development of significant renewable energy resources” and encourage the “development of a competitive retail market” by allowing renewable energy suppliers and customers to engage in enhanced renewable energy procurement through the direct access program. Changes can be made to the direct access program, including a more liberal customer enrollment process, and a less onerous transition adjustment mechanism, to encourage nonresidential customers - and renewable energy suppliers and marketers – to participate in direct access. With the unlimited competitive procurement options that are available through direct access, customers participating in direct access will be encouraged to increase the level of their renewable energy procurement beyond the minimum levels currently set for RPS compliance.

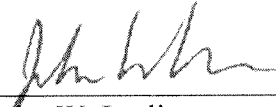
By contrast, as is apparent from the description of various “models” presented by the Commission, implementation of any VRET will be complicated. Any VRET approach creates the risk of stranded capacity, cost-shifting between participating and non-participating customers, and the exercise of market power by the utilities. Any VRET approach creates the need for another layer of utility administration, with additional costs associated with billing, promotion, and customer service.

IV.

CONCLUSION

Evaluation of various models for a VRET program should lead the Commission to conclude that the most efficient means by which to encourage nonresidential customers to participate in voluntary enhanced renewable energy procurement is to facilitate, expand and refine the direct access program. Because unlimited competitive procurement opportunities are available through direct access, a VRET program is not necessary to increase the “further development of significant renewable energy resources.”

Respectfully submitted,



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