

## OREGON PUBLIC UTILITY COMMISSION

Docket No. UM-1690 Voluntary Renewable Energy Tariffs

COMMENTS OF Letha Tawney, Sr. Associate at World Resources Institute

I respectfully submit comments in response to the draft VRET Models Table circulated by the Commission Staff on July 8, 2014. As requested by the Staff, I have populated the draft models table with its comments on individual elements of that table. The populated table is attached as an appendix to these overview comments. Here, I briefly summarize the main principles and considerations underlying those comments.

As described below, enabling utilities to offer Voluntary Renewable Energy Tariffs (“VRETS”) can reasonably be expected to produce substantial public benefits, notably by encouraging the development of renewable energy and attracting large, sophisticated business customers in the technology and other sectors, who are actively seeking out renewable energy supplies and who often have the ability to shift operations, employment, and energy consumption among locations readily. By adding, or retaining, a significant customer base in the Oregon electricity system, VRETS can also strengthen the offering utilities and potentially independent generators financially, to the benefit of non-VRET customers as well.

### I. Letha Tawney and Her Role in this Proceeding

Letha Tawney is an expert on renewable energy deployment and a Senior Associate at the World Resources Institute (WRI). WRI is a global, non-profit research organization that is actively engaged in more than 50 countries around the world in seeking, among other things, to collaboratively develop and advance transformative solutions that will increase affordable access

to clean energy.<sup>1</sup> In a working paper dated January 2014, I described certain of benefits of “green tariffs” in promoting the development and use of renewable energy resources.<sup>2</sup> I have participated actively in this proceeding, by, among other things, serving on one of the panels of the Phase I workshop conducted on June 26, 2014.<sup>3</sup>

## II. Considerations Underlying Comments on Draft Models Table

The Commission study mandated by Section 3(a) of HB 4126 is to consider, among other things:

- (a) whether allowing utilities to offer voluntary renewable energy tariffs (“VRETs”) will promote further development of significant renewable resources;
- (b) the effect of VRETs on the development of a competitive retail market;
- (c) any impact, including potential cost shifting, on other customers;
- (d) whether utilities should rely on a competitive procurement process to obtain the energy sold under their VRETs; and
- (e) any other relevant considerations.

### A. Promotion of Renewable Energy Resources

As evidenced by the support from potential VRET customers in this proceeding, VRETs could provide a significant additional option for buyers seeking renewable energy. The existing options, notably, self-generation and direct purchases from independent power producers, will remain available to customers. Similarly, VRETs could offer a potentially efficient, and thus

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<sup>1</sup> See <http://www.wri.org/our-work/topics/energy>.

<sup>2</sup> See <http://www.wri.org/publication/green-tariff-design>.

<sup>3</sup> These comments have been prepared with the pro bono assistance of Nicholas Fels and Richard Herzog, attorneys at law.

attractive, method for independent power producers, particularly smaller ones, to market their renewable output.

By enabling willing “green” buyers to purchase renewable energy produced by willing “green” sellers -- so long as there are no adverse external effects – VRETs can expand the use and development of renewable energy, when compared to the otherwise-identical case in which that option is precluded.

In particular, by aggregating supply, and / or possibly reducing transaction costs by simplifying access, utility offerings of renewable energy under VRETs may attract demand that is incremental to what would obtain in the “no-VRET” case. Customers have cited transaction complexity as one barrier to meeting their renewable energy goals in general.<sup>4</sup> This incremental demand for renewable energy could be expected to call forth additional supply, some, if not all, of which could be independently owned. Thus, renewable energy sold under a properly structured VRET (see below) could be expected not merely to displace quantities of renewable energy supplied by independent power producers today, but significantly to increase such quantities.

#### B. Effect on Competitive Markets

With respect to anticompetitive effects, it seems most useful here to consider whether and the extent to which implementation of a VRET would increase the incentives or ability of a utility to behave anticompetitively, in comparison to the case in which no VRET could be offered. In other words, would the VRET make uncompetitive outcomes more likely, when compared with the “no-VRET” case?

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<sup>4</sup> See Corporate Renewable Energy Buyers’ Principles at <http://www.wri.org/publication/corporate-renewable-energy-buyers-principles>.

Keeping this principle in mind as the VRET is designed can avoid impacts on competitive markets. If, and to the extent that, there are deemed to be flaws in current regulations applicable to retail competition, these flaws can and should be addressed separately, in proceedings relating to the overall competitive retail market, including the renewable energy segment of that market. They need not delay or preclude the environmental and other public benefits to be derived from VRETs.

C. Impact, Including Cost Shifting, on Other Customers

Implementation of a VRET need not shift costs to utility customers who take service under other tariffs. Eligible existing customers who choose to purchase under a VRET will continue to take transmission and distribution service from their present provider of such service, and, under carefully designed tariffs, will continue to bear their share of the utilities' transmission and distribution costs. To the extent that fixed costs of non-renewable generation were properly incurred in anticipation of serving those customers, those costs should be recoverable by the utility from such customers, presumably as a component of the VRET rate. The identification and calculation of such costs can be undertaken in individual tariff proceedings. If rapid growth of the VRET is a concern, other utilities with VRET-like products have included overall size limitations and reviews when those limits are reached to evaluate further expansion.<sup>5</sup>

D. Competitive Procurement of Power Sold under VRET

To assure that the power sold under a VRET reflects the underlying costs of available renewable energy resources, utilities should be required to acquire such power by means of a

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<sup>5</sup> See the WRI submission of June 17, 2014 to this proceeding for examples of other VRET-like products in other jurisdictions.

transparent competitive procurement process. Such a process could even include demand as well as supply in order to address the challenges of price discovery. Thus, customers wishing to purchase under a VRET for a specific period would bid in the respective amounts of renewable energy they are seeking, and the price (or prices) they are willing to pay for those amounts. Suppliers would bid in the amount of renewable energy they are offering and the price (or, for different blocks of supply prices) they would accept. The price at which supply and demand balance for a given period would be the market-clearing price.<sup>6</sup>

If the VRET procurement process is carefully structured, renewable resources owned by utilities, utility affiliates, or even customers could be eligible to bid. Inclusion of such resources could expand the potential supply of renewable energy, spur competition, and promote overall efficiency.

#### E. Other Considerations

Large, sophisticated, and energy-intensive businesses are increasingly drawn to renewable generation as the preferred source of power for their operations.<sup>7</sup> They perceive advantages in avoiding fuel-price volatility and in having access to renewable energy from projects near their facilities. They also emphasize the importance of having choice among

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<sup>6</sup> The price resulting from this process would be for acquisition of the renewable energy itself. In calculating their bids, customers would have to take into account other elements of the utility's charge, notably transmission, distribution, and back-up power. Similarly, suppliers would have to factor in amounts that they would bear, e.g., interconnection charges, as offsets against the revenues that they would receive at the prices they bid.

<sup>7</sup> See, for example, "Corporate Renewable Energy Buyers' Principles" issued earlier this month by Facebook, Walmart, Hewlett Packard, Johnson & Johnson, Sprint, Proctor & Gamble, Bloomberg, Intel, Aditya Birch Novelis, Mars, General Motors, and REI and available at <http://www.wri.org/publication/corporate-renewable-energy-buyers-principles>. WRI, in partnership with the World Wildlife Federation, convened the discussions that gave rise to the principles.

suppliers and products to meet their business goals.<sup>8</sup> Such businesses, particularly in the technology sector, have the ability to shift operations—and thus output and employment—among existing locations quickly and with relative ease; data storage and processing operations would be one such example. Being able to offer renewable energy under VRETs that reflect actual costs of generation, transmission, and distribution can significantly bolster Oregon utilities in their ability to attract and retain such businesses, to the benefit of the state’s economy as a whole.

It should also be noted that, by enabling Oregon utilities to compete for a sizable and growing customer base, the authorization of VRETs have the potential to strengthen those utilities financially, with resulting benefits -- such as lower costs of capital -- to their traditional, non-VRET customer base as well. Expanding the potential market for IPPs through competitive procurement and simplified transactions similarly could strengthen their financial base. Conversely, the loss of large existing or potential customers, possibly leading to underutilized facilities and stranded costs, will adversely affect those utilities and their remaining customers.

The Commission should be slow to adopt detailed, prescriptive rules in this rulemaking proceeding. As noted by WRI in its submission of June 17, 2014 in this proceeding, other jurisdictions have authorized VRETs, or their equivalents, taking a wide variety of forms; there is no single and obvious template model for new VRETs. The individual proceedings that result from future VRET filings will provide ample opportunity for the Commission to consider the impact of particular tariff proposals in concrete factual circumstances.

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<sup>8</sup> Id.

## CONCLUSION

Properly structured, Voluntary Renewable Energy Tariffs can provide significant benefits, in among other things, promoting the development of renewable energy resources, encouraging economic development.

Respectfully submitted,  
Letha Tawney

A handwritten signature in cursive script that reads "Letha Tawney".

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Framework for VRET Models Table, July 3, 2014

Basic Structure				Statutory Considerations				
Resource Owner	Utility Role	Relationships	Notes/Comments	Further Dev of Significant RE	Effect on Dev of Competitive Retail Markets	Impacts on Non-Participating Customers	Competitive Procurement Process	Other Considerations
	(1.a.) Regulated utility "passes-through" the renewable energy without taking ownership.	The passthrough option exists today. In this arrangement, the utility is not selling power. It is instead an arrangement for T&D. Allowing the utility to participate in the same transaction by way of a VRET should not affect one way or the other the development of significant RE or competitive retail markets, nor should it change the existing effects of passthroughs on non-participating customers. As the utility is not a buyer of power here, there is no occasion to require competitive procurement.	Staff inquired as to the effects of allowing the utility to act as a broker. Allowing the utility that role might encourage further development of RE by linking customers wishing to purchase RE with RE resources that might otherwise not find each other. There would be an issue whether broker fees should go to shareholders or ratepayers (by being counted toward the utility's revenue requirement). That issue should be resolved in a rate proceeding.					
	(1.b.) Regulated utility is the middleman between a 3rd party and customer(s) that are contracting for renewable energy. Regulated utility takes ownership of power through one contract and sells it to customer(s) through second contract(s).		The utility's contract with the IPP terminates if customer defaults. So, the risk of customer default is borne by the IPP, not the utility. The first half of this "sleeve" transaction could occur today, but the purchased power would go into the utility's overall power mix instead of being dedicated to a particular customer or group of customers. As a result, the predictable, fixed price structure of the PPA cannot be accessed by specific customers in the current approach.	Whether the utility's ability to offer the purchased power on a dedicated basis under a VRET encourages or discourages development of RE primarily hinges on whether this approach offers simpler access for customers with lower transaction costs than other options. Insofar as the transaction would increase throughput over the wires, the utility has incentive to accommodate this type of transaction, which could only encourage RE.	Whatever incentives the utility has to sell its own brown or green power would not be materially changed by allowing its participation in this type of transaction to be pursuant to a VRET.	The ability of a utility to offer this model of a VRET has no effect on extent of stranded costs caused by this type of buy-sell transaction, and no effect on ability to shift such costs to non-participating customers.	It would be inappropriate to require customers to engage in competitive procurement for this type of transaction. Of course, they might choose to do so. But, they know what is best method of acquisition for them.	

<p>(1.) Third Party (IPP, ESS)</p>	<p>(1.c.) Regulated utility aggregates customers into a "VRET load" and puts that aggregated load out for bid. Regulated utility contracts with third parties to serve the "VRET load."</p>		<p>While a utility today can put out a block of needed power for bid, the block would not be on behalf of any defined group of customers, and the purchased power would go into the utility's overall power mix. A VRET would enable the utility to offer dedicated power to a specific aggregated load, including the pricing structure of that energy.</p>	<p>Aggregation of load can bring efficiencies, in the form, for example, of greatly reduced transaction costs, complementary load profiles that encourage better location and placement of RE, RE facilities larger than they might otherwise be (realizing scale economies), and eliminating risk to IPP of reliance on a single customer's continued business operations and creditworthiness. The opportunity to obtain RE in a simpler way for multiple meters could encourage customers to participate who might not otherwise pursue RE. The opportunity to offer a VRET to aggregated load could therefore encourage RE.</p>	<p>Aggregation of load by utility arguably might preempt bilateral opportunities of IPPs selling RE. But this preemption would be the result of efficiencies, not unfair advantage. It would occur only if the customers participating in the aggregated load view aggregation as preferable to bilateral arrangement with an IPP. If preemption is viewed as a serious problem, it could be cured by requiring the utility to disclose identities of the facilities to be aggregated, and allowing reasonable opportunity for IPPs to seek bilateral arrangements with those facilities.</p>	<p>Aggregation of load might increase the size of stranded utility generation costs by driving expansion of RE. Even if that is the case, there would not be an increase in the ability to shift those costs to non-participating customers since the bars on doing so are already established in regulations. Aggregation of load should not present any special difficulties in identifying costs attributable to the VRET customers.</p>	<p>The utility's acquisition of power to serve aggregated load should be through competitive procurement, that could include utility affiliates and even customers owned facilities. Doing so maximizes price discovery and removes any issue as to whether the utility's incentive is to bargain for the best price (which might otherwise be in question if the utility is not to be allowed any mark-up).</p>	<p>Consideration should be given as to whether there are any issues relating to the need to prescribe procedures and criteria to determine opportunity of customers to participate in a given aggregation of load.</p>
	<p>(1.d.) Regulated utility aggregates 3rd party RE generators and purchases the output through fixed price, long term contracts. The regulated utility offers that output to the customers through a "subscription" process.</p>		<p>There may not actually be a difference between aggregating load and aggregating supply (1.c. and 1.d.). It would not seem feasible to aggregate supply without telling potential suppliers the price they will receive, or, in the case of aggregating load, telling potential customers the price that they will pay. What might emerge informally or formally, therefore, in both cases is a single price auction whereby potential sellers and buyers submit bids in the form of curves with volumes and prices. The price at which aggregate demand and supply balance is the market-clearing price that also determines volume. The utility purchases and resells at the market-clearing price.</p>	<p>This aggregation of RE supply could only further the development of RE. It reduces marketing and other transaction costs for IPPs, and spreads the risk as against bilateral arrangements of the creditworthiness of customers and the risk that they will cease operations at the site. It reduces risk to customer of creditworthiness and ability of an IPP to develop and operate an RE project – matters as to which utility expertise will generally exceed that of customers. And, as against bilateral contracts, utilities may be more willing than individual customers to enter into long-term contracts, because the utility has the ability to substitute new subscribers to the aggregated supply, should a subscriber cease operations.</p>	<p>Nothing in this arrangement constrains customer choice or forces customers to subscribe; they will do so if it appears to be a better deal than what they could obtain in a bilateral with an IPP. Thus, subscription is an addition to rather than a reduction in customer choice. And, as noted above, aggregation may bring efficiencies for generators and customers not obtainable through bilateral arrangements.</p>	<p>Aggregation of supply might increase the size of stranded costs if the supply is serving aggregated load some or all of which the utility might otherwise supply itself from its owned resources. But this aggregation, would not increase the utility's ability to shift such costs to non-participating customers, as discussed in 1.c. above. The ability is governed by existing regulations.</p>	<p>Aggregation should be through competitive procurement, for the reasons noted above in 1.c..</p>	<p>Unlike resale in a sleeve transaction, where the resale is likely to be by contract, a VRET would seem feasible for the resale here, where the utility has aggregated RE generators.</p>

<p><b>(2.) Regulated Utility</b></p>	<p>Regulated utility owns and operates renewable resource(s) and delivers power to customer.</p>		<p>In many respects this could be structured like 1b or like 1c/d from the customer perspective. Competitive procurement and proper anticompetitiveness measures would be required.</p>	<p>Utilities have stated in IRPs that, on the basis of cost projections, they do not wish to exceed their RPS obligations. A well designed VRET in general could expand RE beyond this current ceiling - regardless of the generation ownership model.</p>	<p>If and to the extent that VRETs would lead to utility intent to increase owned RE, VRETs might increase the incentive to favor the utility's own RE. This might discourage RE development if utilities have the ability to act on those increased incentives. Does the utility have that ability, so that utility RE will prevail over equally or more efficient IPP RE? The answer depends on efficacy of existing regulations governing interconnection, access to T&amp;D, and unbundling of costs. A VRET does not expand any deficiencies in those regulations.</p>	<p>The identification of costs caused by the dedicated resource owned by the utility should not pose unique problems, particularly if the resource is bid into a competitive procurement. Allocation of costs that are joint and common with non-participating customers should be by standard methods for allocation among customer classes.</p>	<p>Utility should be required to bid its own proposed RE into competitive procurement process.</p>	
<p><b>(3.) Utility Affiliate</b></p>	<p>(3.a.) Regulated utility "passes-through" the renewable energy without taking ownership. (3.b.) Regulated utility is the middleman between a utility affiliate and customer(s) that are contracting for renewable energy. Regulated utility takes ownership of power through one contract and sells it to the customer(s) through a second contract(s).</p>		<p>As the Table points out, this is essentially the same as 1.a.</p>	<p>This option could encourage development of RE by utility affiliates, insofar as they prefer sale for resale to marketing directly to large end-users. The option should not discourage IPP RE so long as the utility's purchase is the result of competitive procurement process.</p>	<p>The utility's ability to purchase RE from an affiliate and resell on a dedicated basis under a VRET would not increase incumbent advantage in retail competition with IPPs offering RE or conventional power. The option of purchasing RE from an affiliate after a competitive procurement and reselling under a VRET would not cause a utility to offer RE when it would not otherwise do so.</p>		<p>Utility purchases from an affiliate should be the result of competitive procurement.</p>	
<p><b>(4.) Customer Owned</b></p>	<p>Regulated utility role depends on the customer's specific load and resource. Could involve distribution and backup/supplemental services; "firming and shaping."</p>	<p>Customers could be enabled to own an RE facility offsite in models like 1a and 1b or through the opportunity to bid their project into any of the competitive procurement options</p>	<p>Customers today can self-supply with RE under the net metering regulations, and obtain backup and supplemental power under partial requirements tariffs. In the unlikely event that the backup and supplemental power is RE, the ability of a utility to offer such power, and associated distribution, under a VRET would not seem to present considerations distinct from those in the passthrough transactions or in any of the types of transactions in which the utility is selling RE.</p>					
	<p>(5.a.) Regulated utility continues to provide energy and services as it does with a cost-of-service customer today.</p>		<p>This option is widely available today to customers.</p>	<p>This options is unlikely to rather development of RE as it is widely available today.</p>				

<p><b>(5.) Market-Based (REC Product)</b></p>	<p>(5.b.) Regulated utility buys bundled RECs from the market and re-sells them to the customer(s).</p>		<p>In the models listed above, customers would need the RECs associated with the energy to be included in the VRET in order to claim use of green power. Otherwise they will need to buy other, unbundled RECs to claim they are using green power. It is likely a minority of customers that would participate in a VRET with no interest in also receiving the RECs or having them retired on their behalf.</p>	<p>While the RECs are central to claiming the use of green power - if this product were offered without the attractive price structure attributes of renewable energy, it would be essentially the same as 5a and would be unlikely to expand development of RE.</p>				
<p><b>(6.) 3rd Party (transmission VRET)</b></p>	<p>Open access, transmission only service by regulated utility</p>		<p>Staff inquired where energy balancing and ancillary services should be procured. There is no evident reason why the customer should not be able to arrange for energy balancing and ancillary services from the third party. At the same time, it would encourage the development of RE and of competitive markets if the utility remains obligated to provide such services at the request of the customer and with sufficient notice to allow the acquisition by the utility of the necessary capacity.</p>					