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Suite 400
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December 12, 2014

Via Electronic Mail

Public Utility Commission of Oregon
Attn: Filing Center
3930 Fairview Industrial Drive SE
Salem OR 97302

Re: PUBLIC UTILITY COMMISSION OF OREGON
Voluntary Renewable Energy Tariffs for Non-Residential Customers / HB 4126
Docket No. UM 1690

Filing Center:

Enclosed please find the Industrial Customers of Northwest Utilities' Comments on Staff's Final Issues List. Please note that ICNU has previously filed a filled-in VRET Models Table.

Thank you for your assistance. If you have any questions, please do not hesitate to contact our office.

Sincerely,


Hannah A. Adams

Enclosures
cc: UM 1690 Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the attached **Comments of the Industrial Customers of Northwest Utilities** upon all parties in this proceeding by causing a copy to be sent via electronic mail to the following parties at the following addresses.

Dated at Portland, Oregon, this 12th day of December, 2014.

Sincerely,


Hannah A. Adams

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1690**

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	COMMENTS OF THE
OREGON)	INDUSTRIAL CUSTOMERS
)	OF NORTHWEST UTILITIES
)	
Voluntary Renewable Energy Tariffs for)	
<u>Non-Residential Customers / HB 4126</u>)	

ICNU appreciates the opportunity to participate in Staff’s study regarding the offering of voluntary renewable energy tariff (“VRET”) pursuant to HB 4126. ICNU continues to believe that, pursuant to HB 4126, a VRET should be a narrow, voluntary offering tailored to the needs of non-residential customers, and it will not result in cost shifting to other customers not taking service under a VRET. In addition, the design and implementation of a VRET should not impact the Public Purpose Charge.

Recently, an ICNU member in Washington State was able to work with its local utility to present to the Washington Commission a proposal that would allow the large industrial customer to purchase Renewable Energy Credits (“REC”) directly from its local utility so that it could ensure that the RECs that were to be retired on its behalf could be sourced from specific, local, renewable generation, rather than simply purchasing market RECs, as the customer was considering. This customer-driven process was made possible by the utility’s willingness to work with customers taking electric power through an effective and successful direct access program, and the large industrial customer’s desire to transition to purchase renewable energy for its operations. ICNU was struck by the simplicity of the arrangement, and the fact that it acts to promote development of significant renewable resources; preserves the benefits of a competitive market; does not have a cost shifting impact on remaining customers; and permits the customer

and utility to continue to rely on competitive procurement processes. In other words, the Washington arrangement satisfies each of the requirements and considerations set forth in Oregon's HB 4126, and moves a large customer voluntarily toward a renewable energy. In order to accommodate the desire of certain large, non-residential customers to support and promote renewable energy development, Oregon parties need to look no further than an effective competitive market.

The following comments address certain questions posed by Staff addressing the five statutory considerations listed in HB 4126 Section 3(3). These comments are not exhaustive and ICNU reserves the right to address any issues raised by the parties.

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?

A VRET tariff must ensure that all costs and benefits of the tariff are borne by the participating customer; it must also not interfere with development of competitive markets.

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?

Including VRET customers in total retail sales could create the potential for cost shifting between participating and non-participating customers in violation of HB 4126.

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

All non-residential customers should have the option to voluntarily select a green tariff.

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)?

ICNU has no position on whether a cap should apply, so long as stranded costs are not imposed on non-participating customers.

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?

All reasonable options should be available to eligible customers.

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?

ICNU has no comment at this time.

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)?

VRET customers should be responsible for an allocated portion of the costs of flexible capacity and other resources necessary for integrating and firming renewables that serve those VRET customers.

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? All cost protections currently associated with transition to direct access should also apply to VRET customers; others may be appropriate depending on the ultimate design of the VRET.

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

ICNU has no information on this issue.

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?

ICNU believes it likely that new ESS offerings, potentially combined with additional or refined direct access tariffs are the best option for a successful VRET and would be fully consistent with the language and intent of HB 4126.

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, but 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)? A REC-based VRET would be governed by existing REC standards and should be responsive to the needs of the customer. If a customer and a power producer wish to enter a power purchase agreement from a renewable generator that is not REC-based, the content should be determined by the customer and the ESS.

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)?

ICNU does not see any such restriction within HB 4126.

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)?

ICNU has no comment at this time.

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

No VRET will promote development of renewable resources unless it is elected by a customer to meet its electric needs. Customers in this proceeding have repeatedly expressed a desire to work with utility partners to access open renewables markets, as they are able to in other jurisdictions. Such cooperation by utilities would be responsive to customer needs and facilitate the desires of many non-residential customers to access green energy, and as a result would more effectively promote renewables development.

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?

ICNU has no comment at this time.

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?

Yes, the competitive market would be harmed because the incumbent utility would have product options not available to competitive suppliers.

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?

Retail markets may become more competitive if IPPs supply power through the regulated utility, but much about this model is still uncertain.

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?

The regulated utility should be supportive of, and assist in facilitating the offering of competitive products through any VRET model.

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)?

A VRET should be designed to comply with the requirements of a fixed tariff. Similar pricing structures already exist with variable pricing terms.

For example, PGE has market-based pricing which comports to fixed tariff requirements.

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)?

Aggregation should be performed consistently with the Commission's aggregation rules. HB-4126 was specifically designed to leave direct access rules intact.

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?

Requiring customers to purchase solely from a utility-owned resource will negatively impact the competitive market. Oregon utilities have declined to consider using a generation subsidiary or affiliate to own and offer renewable resources to customers as market competitors. Additionally, utility-owned VRET resources could create a significant cost-shifting danger, if they are included in the utility's rate base and allocated to all customers.

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?

This model should be handled through existing options for customers.

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?

See response to 6(a).

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])?

See response to 6(a).

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?

See response to 6(a).

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?

See response to 6(a).

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?

The existing direct access rules should act as a starting point for VRET design elements to prevent cost-shifting. Additional elements (firming and shaping) may be necessary, but depend on the ultimate design of the VRET. As a starting point, Oregon's Incremental Cost of Compliance calculations should serve as a reference for firming and shaping costs.

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)?

Under no circumstance may non-participating customers bear the risk of unfulfilled VRET obligations. If utilities do not wish to offer VRETS through a direct access model, the utility must bear all cost-shifting risks associated with offering the VRET.

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?

Transition charges must be designed to recover all stranded costs. Absent a Direct Access model, customers on a VRET should be treated separately from the cost of service rate model, while a method for assigning the firming and shaping services embedded in the cost of service should be established.

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)?

HB 4126 prohibits any cost shifting. VRET customers should continue to pay for RPS compliance requirements.

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?

The utilities in this proceeding have indicated to date that they will not offer a VRET in a competitive market through an affiliate or subsidiary because they find it administratively challenging to set up a subsidiary. It is far from certain under this approach that cost shifting would not occur. The VRET rate base concept should be rejected.

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?

ICNU views this option as inappropriate. If such a structure were adopted, the utility must solely bear the risk created thereunder.

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?

Current regulations should not be weakened, if a utility to procure a VRET resource.

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?

See response to V(1) above.

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?

Under Model 2 there is need for competitive procurement. Under Model 4(a/x) there is not.

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?

See response to V(1).

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?

ICNU has no comment 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)?

The renewable resources developed for a VRET should be represented in the utility’s power mix disclosures if and to the extent that the loads are reflected in the utility’s retail sales.

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

The concept of no cost shifting is a key element. Otherwise, a VRET should be broadly available to all eligible customers utilizing competitive resources.

Dated this 12th day of December, 2014.

Respectfully submitted,

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