



Northwest and Intermountain Power Producers Coalition

COMMENTS ON VOLUNTARY RENEWABLE ENERGY TARIFF

UM Docket 1690

Response to Staff's VRET Issue List and Potential VRET Models Table

The Northwest and Intermountain Power Producers Coalition (“**NIPPC**”) respectfully provides the following comments with respect to the merits of whether the Commission should authorize utilities to offer a Voluntary Renewable Energy Tariff (“**VRET**”), along with responses to Staff’s November 7, 2014 Issues List and Potential Voluntary Renewable Energy Tariff Models Table. In addition to addressing some of the key issues in this proceeding, NIPPC offers a realistic and workable solution to meet all the goals of a VRET as anticipated in HB 4126.

1. **Introduction**

In enacting HB 4126, the Oregon Legislature directed the Commission to examine the merit of allowing electric companies to offer a VRET, and to subsequently determine whether to allow VRETs at all. While the Legislature explicitly chose not to pre-determine any outcome, it did direct the Commission to evaluate the merit of the VRET concept with four specific and one general policy goals in mind. The Commission is deeply familiar with these policy goals, which inform many of its deliberations. The policy goals outlined in HB 4126 include:

- (a) **Promotion of Significant New Renewable Resources**: “Whether allowing electric companies to provide voluntary renewable energy tariffs to nonresidential customers promotes the further development of significant renewable energy resources” (*HB 4126 Section 3(a)*);
- (b) **The Effect on Development of a Competitive Retail Market**: “The effect of allowing electric companies to offer voluntary renewable energy tariffs on the development of a competitive retail market” (*HB 4126 Section 3(b)*);
- (c) **Costs shifts to other customers**: “Any direct or indirect impact, including any potential cost-shifting, on other customers of any electric company offering a voluntary renewable energy tariff” (*HB 4126 Section 3(c)*);
- (d) **The Need for Competitive Procurement**: “Whether the voluntary renewable energy tariffs provided by electric companies to nonresidential customers rely on electricity supplied through a competitive procurement process” (*HB 4126 Section 3(e)*); and

- (e) **Other Reasonable Considerations:** “Any other reasonable consideration related to allowing electric companies to offer voluntary renewable energy tariffs to their nonresidential customers”(HB 4126 Section 3(e)).

The bill’s Legislative history suggests that the Legislature expects the Commission to do more than consider these policy goals: it expects the Commission to reconcile any VRET it adopts with them. And, if a VRET considered by the Commission cannot be so reconciled, then the Legislature does not expect to see such a VRET enabled.¹

At workshops, and in their written comments, customer representatives have repeatedly stated they want to acquire renewable energy at rates that are not subject to fluctuation based on the utilities’ changing cost of service, and have no desire to be limited to purchasing such service only from their utility.² Indeed, the customers’ comments directly contradict utilities’ assertions that customers want only their utilities to deliver the power they prefer. While it demonstrably *is* a problem that many commercial and industrial customers want to select renewable energy to meet their loads, it is utility resistance to enabling their customers’ access to the market, and not the options available under the Commission’s regulations, which is the source of the problem.

The underlying friction in in this docket can be clearly seen in PacifiCorp’s interpretation of what “voluntary” means in connection with a VRET. PacifiCorp suggests that the term “voluntary”

¹ See, e.g., Transcript, hearings on HB 4126 before the Senate Committee on Energy & Environment, February 6, 2014 (the “**February 6 HB 4126 Hearing**”), page 3, line 26 through page 5, line 17. (A non-official transcription of the February 6 HB 4126 Hearing is attached for convenience. Page and line citations refer to the attached transcription.

² See “*Above and Beyond: Green Tariff Design For Traditional Utilities*,” January 2014 (“*WRI/WWF Working Paper*”):
“To date, the models that give companies the broadest access to these energy services and hedges are primarily available in markets with some retail choice and flexible net metering approaches. In 17 states, for example, large customers can sign direct power purchase agreements (PPAs) with suppliers other than the utility managing the wires to their facilities.”

The report adds:

“In many states, however, companies cannot pursue these strategies. They have to find other options that fit within a traditional utility model—or, as some are doing, seek to open the markets to allow third parties and the approaches they have found so useful.”

indicates that a VRET is only appropriate if the utility is interested in moving forward.³ In this regard, the utilities appear to be insisting they are only willing to participate in a VRET to the extent it is in their own financial interest, regardless of the benefits to Oregonians, and that they do not want to offer a VRET unless doing so would add to the bottom line of their shareholders over and above what they are otherwise entitled receive under their regulated cost of service rate.⁴ But the legislative history of HB 4126 makes it abundantly clear that the term “voluntary” is meant to apply to individual customers that can choose whether or not to purchase renewable energy, not whether or not utilities should be allowed – or required – to offer such service.⁵

The Legislature has not asked the Commission to approve a VRET; instead, it has directed the Commission to consider whether a VRET is appropriate. If the utilities are unwilling to participate in a VRET that clears the statutory hurdles of HB 4126, the Commission should decline to allow a VRET. Under no circumstance should the Commission allow utilities to do an end-run around the carefully crafted Direct Access Regulations and be entitled to make special contract offers to select customers under terms or conditions where the competitive market has little or no ability to offer similar services on a level competitive field. As stated throughout this proceeding, NIPPC supports allowing the utilities to offer a VRET provided it meets two overarching principles: **(1)** A VRET must offer a level playing field where all parties – whether independent power producer (“**IPP**”), electric service supplier (“**ESS**”) or utility (whether through an affiliate or otherwise) – can compete fairly to provide the service; and **(2)** a VRET must not create any unfair cost shifts from one group of customers to another. In particular, as expressed in greater detail in Section 3 below, **any proposal under which a utility could offer VRET service to commercial or industrial customers under terms and conditions that are not equivalent to the type of service that ESS service providers or IPPs can offer will have**

³ See, e.g., PacifiCorp’s August 29, 2014 Comments in UM 1690: “The VRET is intended to be a voluntary offering by the utility and the interest of the utility in offering a particular model is an important consideration in narrowing down the scope of the potential models for evaluation. For example, the degree to which a model can be incorporated into existing business processes, business systems and staffing levels is likely to be one of many such considerations.”

⁴ By way of example, during Staff sponsored workshops, when explicitly asked why the utility is unwilling to create an affiliate and compete as an ESS for their customers’ business, their response was, in effect: “because we don’t want to.”

⁵ Transcript, February 6 HB 4126 Hearing, page 3, lines 19-24.

a devastating effect on the still nascent retail electric market in Oregon, and cannot pass the statutory hurdles set out in HB 4126, Section 3(3)(b). To the extent the utilities are unwilling to offer a VRET that meets these and other relevant considerations, the Commission should simply decline to allow VRETS.

2. *The Commission can require utilities to offer a Direct Access VRET separate from their existing Direct Access Tariff Offerings.*

Meanwhile, a solution already exists that meets all of the express desires of the customers for a VRET: Oregon's Direct Access program, as codified in Division 38 of the Commission's Regulations, Direct Access, §860-038-0001, *et seq.* Under Direct Access, a utility (through an affiliate) or any other qualified ESS can offer customized power sales to non-residential customers, including long-term, fixed price offers for renewable energy products.

The existing Direct Access Regulations were carefully considered, and have built-in safeguards to ensure a level playing field and to avoid shifting costs to non-participating customers. For example, the Direct Access Regulations already have specific provisions for establishing transition costs and credits when a shipper leaves a utility's system (Section 860-028-0160); provisions requiring the utilities to unbundle costs (Section 860-038-0200); provisions under which the Commission may require utilities to provide ancillary services to facilitate direct access (860-038-0340); provisions for aggregation of Direct Access load (860-038-0380); provisions assuring fair competition among competitors (Section 860-038-0560); and provisions that protect customers not choosing the direct access option from cost shifts.⁶

⁶ Examples of services that can be provided under the existing Direct Access Regulations include:

- A utility (through an affiliate) or an independent ESS could offer a customer a 5 year contract to purchase all of the energy from a specified wind farm at a levelized rate, along with shaping and ancillary services provided through fossil generation.
- A utility (through an affiliate) or an independent ESS could offer to construct a new solar facility and guarantee the output of the facility to a customer for a fixed price for 20 years.
- A utility (through an affiliate) or an independent ESS could offer to aggregate and provide renewable energy to one portion of a customer's facilities.

Although renewable power sales can be provided under the Direct Access Regulations, the utilities have implemented Direct Access in a manner that makes it difficult and expensive, reducing the level of customer interest. ***But it is critical to understand the distinction between what can be offered under the Direct Access Regulations and what the utilities have chosen to implement through their tariffs.***⁷

NIPPC recognizes that the utilities' existing Direct Access tariff provisions are not at issue in this docket. However, to the extent the Commission believes a VRET is a workable mechanism, it could authorize utilities to file a new and separate tariff for renewable service under Direct Access. In that instance, any customer desiring a renewable product could purchase it through a utility affiliate or an ESS.

A Direct Access VRET would be a separate and distinct from of the utilities' current Direct Access offerings because it would only apply for purchase of renewable energy. And, in recognition of the benefits of renewable energy, such Direct Access VRET could be designed to eliminate many of the issues that limit the utility of the "standard" Direct Access offering, further incenting use of renewable energy. For example, NIPPC recommends that such Direct Access VRET have the following features:

- (1) An ongoing open season window, not limited to just one month per year.
- (2) No cap on participation.
- (3) Available to all industrial and commercial customers, regardless of load size.
- (4) Confirmation that new loads (*i.e.*, loads for facilities that did not previously exist, such as a major new data center or a significant expansion of a commercial or industrial facility) are not subject to transition charges.

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- A utility (through an affiliate) or an independent ESS could offer a customer a 25 year contract to purchase renewable power at a rate fixed for five year terms, with the rate adjusted at the end of each term based on the changes to the consumer price index.

Countless other permutations are available. ***And, the utilities' affiliate or the ESS, rather than the utilities' other customers, would bear all of the risk of the agreements.*** In short, the existing Direct Access Regulations allow for VRET service, and meet the exact need expressed in this docket.

(5) Customers may take VRET Direct Access Service at some of their meters without being required to take such service at all meters.

(6) Customers may take VRET Direct Access Service for a portion of their load without being required to take such service for all their load, at any given meter.

A Direct Access VRET, as described, would be a new tariff service built on the foundation of existing regulation. In sum, a new Direct Access VRET meets all of the criteria for a VRET “model,” while retaining the carefully crafted consumer and competitor protections approved by the Commission.⁸

3. ***The Effect of a VRET on Development of a Competitive Retail Market:***

The Legislature seeks to encourage development of renewable energy through competition. This is apparent from the statutory history leading up to the Direct Access Regulations, as well as the express inclusion in HB 4126 of a provision requiring the Commission to directly consider the affect such VRET would have on the competitive retail market.

The competitive retail market in Oregon remains nascent, due in large part to the restrictions placed on it by the utilities. To the extent a VRET is created in conjunction with extant Direct Access policy, as described above, a competitive market will have an opportunity to develop and deliver renewable power at least cost. But a VRET pursuant to which only utilities can offer a service, or only utilities can reach a subset of customers, *per se* harms the development of the competitive retail market. Such damage does not need precise measurement – it is apparent on its face. It cannot be overstated that ***any VRET that allows a utility to provide a service to customers that cannot be offered by other competitive suppliers is harmful to the competitive market.*** Similarly, any VRET proposal under which the utility is inserted into the contractual relationship between a competitive supplier and the customer will unnecessarily increase the complexity of the program and require disclosure by both of confidential information, compromising the efficiency and effectiveness of competition.

⁸ *See, e.g.*, Transcript, February 6 HB 4126 Hearing, page 5 lines 3-8, comments of Rep. Smith (“Third, this is a subsection 5 clarification. Because there are no Commission rules that cite directly to ORS757.646 I’d like to clarify that the purpose of section 5 is only to explicitly state that Direct Access rules do not prohibit the adoption of a renewable energy tariff, not to prevent the application of the consumer protections under those [Direct Access] rules to a green tariff”).

4. Conclusion: There is an Elegant and Effective Solution to This Complex Problem.

The Commission has been tasked with a complex question: Is it in the public interest to allow utilities to offer a VRET, given the many competing priorities facing the state, particularly including the potential effect on retail competition and the potential to shift costs to other customers – and if so, how should it be done?

NIPPC believes that, if a VRET should be considered at all, there is only one methodology that meets all of the potential hurdles – and the Commission has full authority to authorize such action now, without further issue: Direct the utilities to file a new tariff service for Direct Access for renewable power. The necessary regulations are essentially in place, and there is a pre-existing system to protect non-participating customers, avoid cost shifting, and develop the competitive retail market – all while substantially increasing opportunities to develop low-carbon renewable power and build Oregon’s economy.

Respectfully submitted this 12th day of December, 2014.

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ATTACHMENT 1

RESPONSE TO STAFF VRET ISSUES LIST

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?

NIPPC RESPONSE: NIPPC submits that the essential features of a VRET Tariff include the following:

- a. A VRET must allow customers the voluntary option to purchase renewable energy on a long-term basis at a fixed (or negotiated) price not subject to fluctuation based on a utilities' cost of service.

NIPPC believes that the fundamental goal of a VRET is to provide a voluntary opportunity for non-residential customers to secure long-term renewable electric power at stable rates that are not subject to fluctuations based on a utilities cost of service, but not require customers to choose this service. In this regard, the legislative history of HB4126 makes it clear that reference to the term "voluntary" refers to the prospective customers, and not to the whether the utility desires to offer such service.¹⁰

- b. A viable VRET must be open to competition and present a level playing field.

To the extent a VRET is adopted, it must ensure a level playing field for non-utility suppliers to have an opportunity to offer service on an equivalent basis. The utilities should not be able to create terms and conditions under which they can provide service but an ESS provider cannot. By way of example, PacifiCorp's main Direct Access program is limited to serving customers that have exceeded 30kW at least twice over the past 13 months. Creating a second system whereby a utility could provide VRET Service to commercial and industrial customers, while limiting ESS providers from serving the same load, would unquestionably harm the continued development of a retail market and should not be contemplated. Similarly, customers desiring service from ESS providers are currently forced to pay substantial transition costs that the utilities claim are required to prevent cost shifting to other customers. NIPPC is not taking a position in this docket as to what the level

⁹ In the interest of developing an efficient record in this proceeding, NIPPC has generally limited its responses to those issues that most require responses from the viewpoint of independent power producers and ESS entities. NIPPC and its members reserve the right to provide further comments on, or responses to other comments made, with respect to all of the issues.

¹⁰ See, e.g., Transcript, February 6 HB 4126 Hearing, page 3, lines 19-24.

of transition costs should be; however, there is no basis for allowing a utility providing a VRET for an exemption from such costs. This is especially true given the specific provisions of HB 4126 limiting cost shifts from a VRET to non-participating customers.

- c. A viable VRET must not shift costs to non-participants or make use of facilities or services paid for in rate base.

NIPPC believes that the costs of providing VRET service to specific customers should be entirely borne by the customers desiring such service, and not subsidized by other customers. This includes the value of any utility functions and services already included in, and paid for by, the utilities existing customers; the risks to the utility from potential failure of the end-use customer or provider of power, and related costs. NIPPC submits that the best – and perhaps the only -- way to meet this goal is to use the existing Direct Access Regulations under which risks and costs are borne by the ESS provider and/or the customer that voluntarily chooses to subscribe to such service, and under which the utility may act as an ESS and provide VRET service through an affiliate, that would bear the costs of such service to the same extent as any third-party.

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

NIPPC RESPONSE: A VRET should be considered for the same subset of non-residential customers as a utility allows under its Direct Access Tariff. Utilities should be encouraged to make Direct Access Service available to a wider subset of non-residential customers, and/or have a special "VRET Direct Access Service" available to a larger range of customers. Doing so would encourage increased development of renewable resources.

- 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)?

NIPPC RESPONSE: Subject to a level playing field, there should be no cap on the amount of load that can utilize a VRET. To the extent a VRET is successful, it will promote job growth in Oregon while decreasing the state's overall carbon footprint. There is no need to artificially limit the level of service.

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?

NIPPC RESPONSE: Subject to a level playing field, NIPPC believes that VRET customers should have full flexibility to utilize VRET service, including

the ability to aggregate multiple sites and points of delivery for VRET service, and to take full or partial load service at any such point.

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?

NIPPC RESPONSE: A VRET load must have the ability to be met through multiple renewable resources. Any solution that limits a given load to a single renewable resource imposes unnecessary, artificial risk on both the customer and the power provider, without any commensurate benefit. The Direct-Access VRET model avoids the need to address the issue of disclosure by the utility.

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)?

NIPPC RESPONSE: Any VRET model should allow back-up/supplemental services and firming/shaping through non-renewable power. The Direct-Access model already provides for this service, allowing either an ESS to provide ancillary services directly, or allowing the Commission to require that the utility provide such service. See, e.g., Section 860-038-0340 of the Direct Access regulations.

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?

NIPPC RESPONSE: Generally, NIPPC believes that there is no rational basis for treating VRET load different than Direct Access load with respect to transition charges, enrollment windows, and related matters. However, NIPPC also believes that the level of these charges and conditions imposed by the utilities is artificially high and designed to limit, rather than support, a competitive retail market. As described in the introductory material above, NIPPC believes that the Commission could allow utilities to offer a new tariff service under Direct Access specifically for renewable energy that has different levels of transition charges, enrollment windows, etc., as compared to non-renewable Direct Access in order to facilitate further development of renewable power.

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

NIPPC RESPONSE: Energy Service Suppliers offer a broad array of green energy options in utility service territories under Direct Access designed to meet the needs of individual customers. Some examples include:

- A 5 year contract to purchase all of the energy from a specified wind farm at a levelized rate, along with shaping and ancillary services provided through fossil generation.
- A fixed-rate contract to meet all of an industrial customer's power requirements, including all ancillary services, with all generation from renewable sources (and/or with purchases of voluntary carbon offsets for ancillary services that cannot be met with renewable power) for a fixed price for 20 years, with a customer option to terminate service on two years notice, and subject to a minimum payment requirement by the customer.
- A 25 year contract to purchase renewable power at a rate fixed for five year terms, and adjusted at the end of each term based on the changes to the consumer price index.

To the extent a customer desires a different business structure, NIPPC members would be happy to meet and discuss potential options. There are very few limitation facing an ESS' ability to provide a bespoke green energy service to customers that meet such customers' individual needs and desires other than the constraints imposed by the utilities' tariff requirements

- 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?

NIPPC RESPONSE: Yes. Utilities could file revised tariff sheets to allow for a VRET Direct Access product that allows for more flexibility in purchasing green energy products, including allowing additional selection windows, reduced terms for transition charges, lower caps on usage, and confirmation that load not previously included within a utilities' service territory (such as industrial operations relocating from out-of-state) are not subject to transition charges.

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

1. A. 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)?

NIPPC RESPONSE: Yes.

- b. 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?

NIPPC RESPONSE: See response to sub question c below.

- c. 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)?

NIPPC RESPONSE: NIPPC recommends allowing any renewable resources not or constructed and/or operating to serve the utilities’ native cost of service load to qualify as a renewable resource for any VRET, regardless of the on-line date of such resource.

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)?

NIPPC RESPONSE: NIPPC believes that all renewable resources within the Pacific Northwest should be eligible. The Pacific Northwest electricity market is an integrated market, and the benefits of low-carbon electricity generation benefit Oregon directly, even if power is generated in Washington or elsewhere in the Pacific Northwest.

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)?

NIPPC RESPONSE: The minimum renewable energy threshold for a VRET product, excluding ancillary services, should be significantly above the RPS minimum threshold, and could be 100 percent. NIPPC notes that, to the extent a customer desires service that does not meet whatever threshold is ultimately established, they would still be able to purchase a mix of power, including renewable power, pursuant to Direct Access.

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

NIPPC RESPONSE: A Direct Access VRET is the model most likely to promote development of significant renewable energy resources. This is true because it will allow ESS and IPP entities to do what they do best: provide creative

solutions and take market risk to bring new energy solutions to Oregon. In contrast,

- models where the utility is a middleman will disincent participation of IPPs and reduce the overall amount of renewable energy developed.
- Although NIPPC fully supports customer-owned generation, a VRET model relying solely on customer-owned generation would not be successful because it would artificially constrain the potential sites and size of developments and not lead to development of significant renewable resources above that allowed under the existing framework.
- Utility-owned models will constrain competition and severely disincent any further IPP development in the Pacific Northwest, reducing the overall amount of renewable resources developed.

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?

NIPPC RESPONSE: The target market for competitive suppliers is any commercial or industrial load that does not want to be served through a regulated cost of service and/or desires a specific power mix unavailable from the utility's standard. NIPPC believes that any VRET service provided by the utility has a per-se detrimental effect on the competitive retail market.

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?

NIPPC RESPONSE: It is beyond question that the competitive retail market would be dramatically harmed to the extent utilities could offer service under terms not available to the retail market.

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?

NIPPC RESPONSE: Allowing the regulated utility to act as a middle man would damage the retail market in two major ways: First, it would provide the utility with access to extremely sensitive competitive market information that would give the utilities an unfair advantage; and (2) it compromises the relationship between the ESS/IPP and its customer. By contrast, there is little, if any, advantage to this model.

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

NIPPC RESPONSE: The regulated utility should have no role in developing offering a product or transacting between customers and an IPP under these VRET models.

- 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)?

NIPPC RESPONSE: No, NIPPC does not believe that this model can be implemented such that an IPP is not required to provide confidential pricing data to a regulated utility.

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)?

NIPPC RESPONSE: Yes, the regulated utility should be prevented from acting as an aggregator (though it could form an affiliate to perform such service). Otherwise, the utility would be in a position to use its monopoly status to lock out competition, to the detriment of the competitive retail market.

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?

NIPPC RESPONSE: NIPPC does not believe a Model 2 –regulated utility-owned resource warrants further consideration because it does not pass the statutory hurdle of not harming the competitive retail market. Allowing a utility to offer such VRET services outside of a cost of service model will eliminate all retail market competition.

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?

NIPPC RESPONSE: NIPPC continues to support customer ownership and operation of generation as currently allowed under the regulations. However, allowing customers to own or operate resources beyond their own portfolio needs will have a detrimental impact on the competitive retail market by reducing the prospective customer base available to market suppliers.

- 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? **Yes.**
- 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])?
- 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?
NIPPC RESPONSE: A customer that generates more power than it consumes should be required to act as an aggregator pursuant to Section 860-038-0380 of the regulations.
- 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?

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?
NIPPC RESPONSE: The Direct Access VRET model already contemplates this risk and provides for transition charges.
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)?
NIPPC RESPONSE: Under the Direct Access VRET model, these risks are borne by the ESS's and not by the utility or its customers.
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?
NIPPC RESPONSE: VRET participants with load not expressly contemplated in a utilities' integrated resource plan should not be subject to any transition charges. VRET Participants for existing load should not be subject to any transition charges to the extent a utility is experiencing load growth elsewhere on its system (including other states and/or the ability to wheel to other markets) that absorb the decline in load from the VRET.

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)?
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?
NIPPC RESPONSE: To the extent a utility desires to offer VRET service, it should be done through an affiliate with completely separate accounts.
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?
NIPPC RESPONSE: Under the Direct Access VRET model, these risks are borne by the ESS’s and not by the utility or its 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?
NIPPC RESPONSE: A competitive procurement process is not necessary for a Direct Access VRET where the suppliers are limited to ESS’s (including affiliates of the utility), because market forces will insure competitive procurement. To the extent the utility is otherwise engaged in providing VRET service in any manner, a competitive process should be required.
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?
NIPPC RESPONSE: Yes, to the extent Utility-owned generation is considered for a VRET at all, the competitive bidding process must be modified to apply to any resource used to serve a VRET, without exception and regardless of the duration.
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?

NIPPC RESPONSE: NIPPC does not believe a Model 2 –regulated utility-owned resource warrants further consideration because it does not pass the statutory hurdle of not harming the competitive retail market. To the extent it is considered, competitive procurement is an essential requirement. Note that a utility should not be permitted to use existing renewable generation to provide a VRET service, because such generation should be already dedicated to the existing customer base. As such, any new, VRET generation must be newly purchased, and should be subject to competitive procurement.

While NIPPC supports continued opportunities for customer-owned generation, NIPPC does not believe a Model 4(a/x) – customer-owned resource warrants further consideration as a VRET solution because it does not pass the statutory hurdle of promotion of significant new renewable resources, because model limitations prevent development of significant new load. To the extent it is considered, competitive procurement is unnecessary because the competitive market will ensure customers strive for the best solutions for such customers.

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?

NIPPC RESPONSE: To the extent Utility-owned generation is considered for a VRET at all, the competitive bidding process must be modified to apply to any resource used to serve a VRET, without exception and regardless of the duration.

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?

NIPPC RESPONSE: NIPPC reserves comment on this topic.

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)?

NIPPC RESPONSE: NIPPC reserves comment on this topic.

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

NIPPC RESPONSE: In considering whether to allow utilities to offer a VRET, the Commission should consider, among other things, the potential market changes that may occur from three factors: the potential requirements for complying with proposed Federal Clean Power Plan pursuant to Section 111(d) of the Clean Air Act; the continued movement away from the centralized utility model and towards more distributed generation, and the continued march of renewable energy towards price parity with fossil generation; and the utilities' continued obstinacy in working towards a solution to a VRET issue in the best interest of Oregon. The utility industry continues to change, and the Commission will face numerous and complex challenges in coming years. The Commission should not create a special plan, and subject Staff and interested parties to countless expensive regulated proceedings, to allow the utilities to do something they already can do simply by formation of an affiliate.

ATTACHMENT 2

NIPPC COMMENTS ON POTENTIAL VRET MODELS TABLE

COMMENTS OF NIPPC ON STAFF'S PROPOSED VRET MODELS TABLE 12-12-2016

Basic Structure				Statutory Considerations					Potential Conditions
Basic Structure	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	to mitigate issues or cons in the statutory considerations (e.g. VRET cap, transition adjustment charges)
Third Party - Existing Direct Access Comparison to Potential VRET Models	Existing Direct Access - "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services directly from an entity other than the distribution utility. (860-038-0005(13))	*ESS contracts with non-residential customer to sell electricity services. *ESS schedules energy to utility, which delivers the energy to the customer through the distribution system. *ESS could provide back-up/supplemental (firming/shaping) services, but may not, instead those services may be provided by the regulated utility. *An aggregator may combine customer loads into a buying group for purchase of electricity and related services.	Staff added this row at the suggestion of several parties as a backdrop to the VRET models evaluation to provide a comparison between potential VRET models and the existing direct access model. DIRECT ACCESS	YES, THIS MODEL SUPPORTS THE STATUTORY GOALS for further development of renewable energy. This model provides the best opportunity to create significant development of new renewable generation because ESS/IPP providers are able to take risks and offer services outside of the utility restrictions.	YES, THIS MODEL SUPPORTS THE STATUTORY GOAL TO SUPPORT/NOT HARM DEVELOPMENT OF THE COMPETITIVE RETAIL MARKET. This model is the only model that supports, and does not harm, continued development of a competitive retail market.	YES, THIS MODEL SUPPORTS THE STATUTORY GOAL OF PROJECTING NON-PARTICIPATING CUSTOMERS. This model already includes specific safeguards to prevent cost shifts and to protect non-participating customers.	YES, THIS MODEL SUPPORTS THE STATUTORY GOAL OF ENSURING ANY UTILITY-PROCUREMENT IS UNDERTAKEN PURSUANT TO A COMPETITIVE PROCESS. Because utilities must use an affiliate to provide direct access service, all procurement would be competitive.	The Commission should recognize the distinction between the Direct Access Regulations, on one hand, and on the utilities' current tariffs on file, on the other. A DIRECT ACCESS VRET WOULD BE A COMPLETELY SEPARATE TARIFF SERVICE FROM CURRENT DIRECT ACCESS OFFERINGS AND MEETS EVERY CRITERIA FOR A VRET. While it is appropriate to consider the utilities' existing Direct Access Tariffs in comparison to other potential VRET solutions, there is no basis of any kind to exclude a Direct Access VRET from the models under consideration - doing so would be arbitrary and capricious. The Direct Access VRET Model is relatively simple to administer, and will not require the Commission to consider numerous complicated fact and policy questions that must be addressed to implement any of the other programs.	The Commission should direct the utilities to file a separate Direct Access VRET that removes some of the restrictions imposed by the utilities that currently limit use of Direct Access.
(1b/s) Third Party owned renewable resource. Regulated Utility facilitates between a 3rd party and customer(s).		*Regulated Utility facilitates between a 3rd party and customer(s). *Customer and 3rd party negotiate for renewable energy service. *Regulated utility takes ownership of power through contract with Third Party. Tariff is set for same price and duration as contract. Contract terminates if customer defaults. *Utility remains primary point of contact for billing and (by customer choice) load management/ancillary services. Utility could credit customer bill for project output (at credit amount TBD - e.g. utility's wholesale avoided cost rather than retail rate) and service balance of customer's energy and capacity need (if any) at cost of service rate.	This model is generally described in the Rocky Mountain Power filing in Utah (Docket 14-035-T02), but staff removed the "second contract" language because it may not be legal in Oregon. Instead, staff replaced "second contract" with tariff. Also, staff added elements of RNV's (1-s) model without the specifics of the RPP (which will be examined in the statutory considerations and potential conditions sections of the study).	THIS MODEL PARTIALLY SUPPORTS THE STATUTORY GOALS FOR FURTHERING DEVELOPMENT OF RENEWABLE ENERGY. However, the need for an IPP or ESS to work through the Utility will create a chilling effect on participants' willingness to participate, reducing its value and unnecessarily increasing costs.	THIS MODEL PARTIALLY SUPPORTS THE STATUTORY GOALS FOR TO SUPPORT/NOT HARM DEVELOPMENT OF THE COMPETITIVE RETAIL MARKET. However, the need for an IPP or ESS to work through the Utility will create a chilling effect on participants' willingness to participate, reducing its value.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL OF PROJECTING NON-PARTICIPATING CUSTOMERS. By placing the utility in the contract path, the Utility (and therefore its customers) face unnecessary risk. In addition, this model does not provide for mechanisms to manage loss of utility load and related risks. All of these factors have already been considered, and build into, the Direct Access Model.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL OF ASSURING A COMPETITIVE PROCUREMENT PROCESS.		Customers should be given the option to allow load management/ancillary services to be provided by the third party, and not be required to take them from the Utility.
(1c/d) Third Party owned renewable resource. Regulated Utility facilitates between a 3rd party and customer(s).		*Regulated utility or third party aggregator could aggregate customers into "VRET load" put that aggregated load out for bid, and contract with third parties to serve that load. *And/or regulated utility or third party aggregator could aggregate third party RE generators and purchase output through fixed price, long term contracts; the regulated utility offers that output to the customers through a "subscription" process. *Regulated utility or third party aggregator could match VRET load(s) with aggregate VRET RE generators to mitigate issues of timing and risk.	Combined 1(c) and 1(d) to create this row 1(c/d). Issues of timing and risk depending on when and how aggregation occurs. Added option for third party aggregator (not just utility) to aggregate load or supply.	YES, THIS MODEL SUPPORTS THE STATUTORY GOALS for further development of renewable energy. This model provides an opportunity to create significant development of new renewable generation because ESS/IPP providers are able to take risks and offer services reliably at least cost.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL TO SUPPORT/NOT HARM DEVELOPMENT OF THE COMPETITIVE RETAIL MARKET. This model would effectively eliminate the competitive market from Oregon and should not be considered further.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL OF PROJECTING NON-PARTICIPATING CUSTOMERS. To the extent the utility is utilizing facilities and systems paid for by non-participating customers to engage in VRET sales in competition with third parties, such sales are improperly subsidized by non-participating customers. Mechanisms to assure non-participating customers remain whole can be created, but they are complicated, cumbersome, and time intensive to develop and litigate.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL OF ASSURING A COMPETITIVE PROCUREMENT PROCESS.		
(2) Regulated Utility		Regulated utility and customer(s) negotiate long-term contract(s) for non-system renewable energy.	General concerns in comments about ability of regulated utility to prevent cost-shifting and effects on competitive market - which will be explored through consideration of the statutory factors.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL. Utilities already have obligations to acquire renewable power. Allowing the utilities to simply shift their renewable portfolio to select customers will just shuffle the deck on power delivery without creating a significant change in the overall generation mix.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL TO SUPPORT/NOT HARM DEVELOPMENT OF THE COMPETITIVE RETAIL MARKET. This model would effectively eliminate the competitive market from Oregon and should not be considered further.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL OF PROJECTING NON-PARTICIPATING CUSTOMERS. To the extent the utility is utilizing facilities and systems paid for by non-participating customers to engage in VRET sales in competition with third parties, such sales are improperly subsidized by non-participating customers. Mechanisms to assure non-participating customers remain whole can be created, but they are complicated, cumbersome, and time intensive to develop and litigate.	Yes, if done properly, this model can be implemented in a manner that meets the statutory goal for assuring competitive procurement. However, such processes need to be updated.		
(2a/d) Regulated Utility		*Similar to relationships in the aggregation-related model 1(c/d). *Regulated utility could aggregate customers into "VRET load" put that aggregated load out for bid, and contract to serve that load. *And/or regulated utility could aggregate third party RE generators and purchase output through fixed price, long term contracts; the regulated utility could then offer that output to customers through a "subscription" process.	General concerns in comments about ability of regulated utility to prevent cost-shifting and effects on competitive market - which will be explored through consideration of the statutory factors.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL. Utilities already have obligations to acquire renewable power. Allowing the utilities to simply shift their renewable portfolio to select customers will just shuffle the deck on power delivery without creating a significant change in the overall generation mix.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL TO SUPPORT/NOT HARM DEVELOPMENT OF THE COMPETITIVE RETAIL MARKET. This model would effectively eliminate the competitive market from Oregon and should not be considered further.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL OF PROJECTING NON-PARTICIPATING CUSTOMERS. To the extent the utility is utilizing facilities and systems paid for by non-participating customers to engage in VRET sales in competition with third parties, such sales are improperly subsidized by non-participating customers. Mechanisms to assure non-participating customers remain whole can be created, but they are complicated, cumbersome, and time intensive to develop and litigate.	Yes, if done properly, this model can be implemented in a manner that meets the statutory goal for assuring competitive procurement. However, such processes need to be updated.		
(4) Customer Owned		*If customer self-generates renewable energy on site, then likely requires other regulated utility services and may fall under Net Metering. *Could be distinct from Net Metering if Regulated Utility credits customer bill for project output (at credit amount TBD - the utility's wholesale avoided cost rather than retail rate) and serves balance of customer's energy/capacity needs (if any) at cost of service rates. *Utility remains primary point of contact for billing and (by customer choice) load management/ancillary services.	General concerns in comments about interaction with net metering and whether customer-owned resources should be treated like third-party IPPs. Continued open questions and potential confusion about on-site or off-site customer-owned resources. Staff added elements of RNV's (1-s) model without the specifics of the RPP (which will be examined in the statutory considerations and potential conditions sections of the study).	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL. Customers already have the ability to self-generate to a limited extent through existing Net Metering regulations, which limits the degree to which this proposal would facilitate additional development of renewable resources. Although further customer-owned generation would be better than nothing, individual customers do not have facility sizes, loads or expertise to generate substantial new renewable resources. If such customers are allowed to aggregate sources, share excess generation or develop off site, they are no different, and should be treated no differently, than an ESS, and should be subject to the requirements of the Direct Access regulations.	NO, THIS MODEL DOES NOT SUPPORT THE STATUTORY GOAL. Allowing individual customers to self-generate over and above net metering amounts limits the opportunity for parties participating in the competitive retail market and decreases overall market size. This could further discourage participation in such market.	This model could support the statutory goals subject to an appropriate rate design.	Not Applicable		

In the interest of developing an efficient record in this proceeding, NIPPC has generally limited its responses to those issues that most require responses from the viewpoint of independent power producers and ESS entities. NIPPC and its members reserve the right to provide further comments on, or responses to other comments made, with respect to all of the issues.

ATTACHMENT 3

Unofficial Transcript

**Oregon State Legislature Hearings on HB 4126 before the House Committee on
Energy and Environment, February 6, 2014**

OREGON STATE LEGISLATURE
Hearings on HB 4126 before the
House Committee on Energy and Environment
February 6, 2014¹¹

Chair Bailey

“The House committee on Energy and Environment will come to order. Thank you colleagues for your flexibility on this snowy day in meeting a little bit early and thank you to all the people who have modified their schedules in order to be here. We have one and exactly one item on our agenda today. I will announce that House Bills 4107, 4041, HJM 201 will be heard on Tuesday, February 11 and today we will be dealing solely with House Bill 4126 so we’ll go ahead and open a public hearing [on]: House Bill 4126. I’d like to call up Representative Smith please and if Mark Meyer from legislative counsel could join him and Ms. Hoffman if she is available. Representative, please...”

Rep. Smith

“Good afternoon. That was almost like Congress! For the record I’m Oregon State Representative Greg Smith, representing District 57. Thank you so much for allowing this hearing to occur on this blustery day. It’s kind of funny because where I come from, when you look outside, we call this October, but we’re glad to be here and we want to make this very quick. Chair Bailey, members of the committee, what’s before you represents the hard work of over 20 different organizations. And just very quickly, very, very quickly, they represent Umatilla Electric Cooperative, Central Electric Cooperative, The Oregon Rural Electric Cooperative Association, the Oregon Municipal Electric Utilities Association, Renewable Northwest Project, the Northwest Energy Coalition, Idaho Power, Pacific Power, Pacific General Electric, Eugene Water and Electric Board, the Industrial Customers of Northwest Utilities, Association of Oregon Counties, Citizens Utility Board of Oregon, Bonneville Power Administration, the People’s Utility District Association, Public Utility Commission and the Oregon Department of Energy. But most importantly, we received leadership from the Governor’s Office to help bring this Bill forward. And Chair Bailey, we want you to know how much we appreciate your leadership in allowing this conversation to occur. There’s two pieces to this legislation. There’s a Part A and a Part B and if it would be alright Chair I’d like in a moment to toss this over to legislative counsel to share with you those two pieces of the bill.”

Chair Bailey

¹¹ This document is transcribed from: http://oregon.granicus.com/MediaPlayer.php?clip_id=858 Please refer to the link for the official text.

“Sounds like a good idea.”

Rep. Smith

“But what I want everyone to know is when we first started this process, we literally could not get folks to even look at each other in the eye. We could not get them to shake hands and, at times, there was contentious conversation. But through continued dialogue by everyone agreeing to work together to work to the middle and to work in what I would call the “Oregon Way,” we were able to reach consensus. And so if it would be alright, Mr. Chair, after some brief words from the Governor, it’d be great if we could have legislative counsel walk through the bill.”

Chair Bailey

“Sounds like an excellent plan. Miss Hoffman.”

Margi Hoffman

“Chair Bailey, members of the committee, thank you very much for the opportunity to testify in support of House Bill 4126 today. My name is Margi Hoffman. I am the energy policy advisor for Governor John Kitzhaber. I want to just say one word: ditto, and I really want to thank Representative Smith for his leadership on this issue, and you Mr. Chair and members of the committee for sticking with us and allowing us the space to come together and figure out a consensus proposal that we can bring before you today. So, thank you very much.”

Chair Bailey

“Thank you and before we go to legislative counsel and at the risk of making this a love fest, I have to chime in and thank you Representative and thank you Ms. Hoffman on behalf of the Governor for the collaboration here and I know that, even as recently as, gosh, a month ago or so, there were some question marks about whether or not this plane was going to be able to be landed and I think it was only because we had a couple of able pilots on board guiding it and I really want to thank you for your hard effort and your willingness to trust, to have a conversation and to work hard. And although you two are sitting here and I’m thanking you, that thanks goes to everybody sitting in the audience who’s worked really hard on this. I apologize that because of the scheduling we won’t have a chance to have everybody come up and talk. I’m sure that probably makes some of you happy, maybe all of you happy, makes us happy but I think, I think really the credit goes to all of you because if I thought there was going to be a deal on this, I did not think that it was going to be possible to be a deal on this and you guys pulled it off, all of you, so thank you. Mr. Meyer would you care to walk us through parts A and B briefly?”

Mark Meyer

“Thank you Chair Bailey, Vice Chair Johnson, Vice Chair Boon, I’m Mark Meyer from legislative counsel. The bill as introduced is what has been called Part A and that is the

piece that addresses a consumer owned utility that becomes subject to the large Renewable Portfolio Standard. And basically what this brief bill does on its face is allow a consumer owned utility that becomes subject to that standard to use a greater portion of renewable energy certificates to meet their obligations under the standard for a period of time. Basically it allows them to use up to 100% when they are at a 5% obligation, 5% of their energy has to come from renewable sources, and they can use 75% of the certificates when they are, when 15 and 20% of their energy has to come from renewable sources. At the time that they have to meet the full standard, the full 25%, then the allowances in this bill are cut off and they're subject to the same standard as any other utility under the current law. So that's the first part. And that was drafted to help mitigate the process of becoming subject to the large standard. One other important part of that is there is a caveat. If a consumer owned utility does take over without the consent of a private owned utility, that private owned utility's land or portion of their land, then they will no longer have these allowances. So that's the one caveat there. The dash 3 3 amendments right here which don't change the underlying bill at all basically have to do with allowing non-residential consumers, customers excuse me, of electric companies or public utilities that sell and distribute electricity, to voluntarily enter into an agreement or a tariff with the company, that would allow them to purchase at a higher rate, renewable energy. The best example I can give of that in our own daily lives is we can all currently purchase power at a green power rate from PGE or PacifiCorp or whoever we buy our power from, and this would operate in much the same way. There are a couple of key components to this bill that you should look at. The first one is that there are intelligible principles that guide the offering of these particular tariffs: the Public Utility Commission must consider these intelligible principles both before allowing any tariff to be filed and then at the time of the filing of any individual tariff. And that's probably important. So they're looking at both before allowing the program to be put into place and, at the same time, on an individual basis."

Chair Bailey?

"I'm sorry to interrupt: do those include consumer protection principles?"

Mark Meyer

"Yes they do. In fact, I think three of the intelligible principles are basically written specifically for consumer protection purposes."

Chair Bailey?

"Thank you."

Mark Meyer

"Do you want me to just go through those very briefly?"

Chair Bailey?

"Yes, just very briefly, that would be excellent."

Mark Meyer

“Alright, actually I’ll just shift down to the one that’s on the bottom of the page, I’ll just mention it very briefly, which is they have to consider any direct or indirect impact including any potential cost shifting on other customers. So if there’s going to be cost shifting to other customers by allowing for these things, it’s going to, basically they’re not going to allow the tariff. And that is also written specifically on page two, the amendment in the middle of subsection 4 you’ll see ‘all costs and benefits associated with the voluntary renewable energy tariff shall be borne by the non-residential customer receiving service under the tariff.’ So it is a mandate in this bill that if you elect to receive these services you’re going to be paying for the additional costs of them. And that is part 3 in a nutshell. There were some statements that a party requested Representative Smith to read and...”

Chair Bailey

“Sir, would you care to get some clarifications here on the record?”

Rep. Smith

“Thank you Chair Bailey, colleagues. Like any good piece of cord there’s a few statements we need to get read onto the record if that would be alright?”

Chair Bailey

“Please.”

Rep. Smith

“Alright. The first one represents a commitment that was made about a week ago. It’s regarding section 3 part 4 of the proposed amendment to House Bill 4126. This ensures that each customer that chooses a renewable energy tariff will pay all of the costs related to its participation. It is the intent of this amendment that a renewable energy tariff will result in no cross subsidization between customers that belong to different rate schedules. Second, this is another commitment, the renewable energy tariff is not intended to raise any issues surrounding the public purpose charge. This amendment and any resulting renewable energy tariff will not result in any increase in the public purpose charge. Third, this is subsection 5 clarification. Because there are no Commission rules that cite directly to ORS757.646 I’d like to clarify that the purpose of section 5 is only to explicitly state that Direct Access rules do not prohibit the adoption of a renewable energy tariff, not to prevent the application of the consumer protections under those rules to a green tariff. Thank you Mr. Chair, I needed to get those on the record.”

Chair Bailey

“Thank you. Mr. Meyer, I assume all that is accurate and in a technical reading of this amendment.”

Mark Meyer

“Yes.”

Chair Bailey

“Thank you”.

Mark Meyer

“Yes, those are accurate statements.”

Chair Bailey

”Questions for this panel? Representative Bentz.”

Rep. Bentz

“Thank you, Mr. Chair. If I could, perhaps you could give us, Mr. Meyer, the background of the original reason we need this section 3. Why do we need it? There was a prohibition against entering a tariff of this nature and I just wanted to go back to the historical reason for the need for this at this point.”

Mark Meyer

“Correct. That does involve..., there is a section of law 757.646 which mandates that the Public Utility Commission, in considering the distribution of electricity eliminate barriers to competition. Although there are no ..., -- the Public Utility Commission has interpreted that in such a way over the past 10 years as well as developed internal policies that would disallow for these types of agreements to be entered into. If you want a little bit more information on that internal, that reading of that statute, I would suggest that I think Jason Eisendorfer is here, he could come up and explain their own reasonable interpretation of that statute. So that is the specific purpose to point to that law in sub 5 here and say, you can do this despite this other mandate, this other existing mandate but, at the same time, we try to craft language that would allow them to consider that mandate in conjunction with these other factors that they’re looking at when they are approving the tariff. Is that satisfactory, Representative Bentz?”

Rep. Bentz

“Actually it is. Thank you very much.”

Mark Meyer

“Thank you.”

Chair Bailey

”Further questions? Seeing none, thank you very much. I appreciate your effort on this. I’d like to call up Dave Markham, please. Afternoon!”

Dave Markham

“Well good afternoon Chair Bailey and members of the committee. For the record, my name is Dave Markham. I am the President and CEO of Central Electric Cooperative headquartered in Redmond, Oregon and also the President of Oregon Rural Electric Cooperative Association, also a member of the taskforce. I made the drive over from Bend today. I’m pretty passionate about what this taskforce has done that’s why I was crazy enough to make the drive over and I think there’s a lot of qualified people out here that could have testified and I got the sympathy nod for driving the longest. So I’ll just, I’ll just take a couple of minutes of your time just to make some comments I figure about one1 mile per second I’ll talk. But I’m here to testify in support of House Bill 4126 which, which, what it does is allows more flexibility for compliance with the RPS and, in Oregon, smaller consumer owned utilities..., if we become classified as a large utility because of large loads that come into our service territory, we’re non-generating utilities so this will give us some more flexibility with compliance. Now the Oregon electric co-ops, I think you all know that the power that we receive comes from the BPA that we provide to our members and, again we’re non-generating utilities and this power that we receive from the BPA is 96% carbon free. And we’ve been leaders in this state historically from a standpoint of our investment in smaller renewable energy resources. CEC – Central Electric Cooperative - we’re involved in the Coffin Butte, landfill gas to electricity project near Corvallis. I don’t know if you’re all aware of that project but it takes methane gas from decomposing garbage and it captures it and we create a very environmental friendly source of electricity. Some co-ops are involved in a geo thermal project. We’re also involved with other co-ops in a wave energy project and CEC, my co-op we’re also investigating moving into a community solar project as another option that we can provide to our members as far as renewable energy. And, as I said, I served as a member of this taskforce not only as a representative of ORECA the President of the Association, but as the CEO of an organization that we have several large data centers that are looking at coming into our region and we have a couple of data centers that are there right now and I think you’d probably understand that keeping rates affordable for our members, it’s, it’s a pretty high priority right now and for many of our, the areas that we serve, we still are facing double digit unemployment rates. And so what we’ve been concerned about, meaning we as the co-ops, is the impacts that the RPS would have on small non-generating utilities such as Umatilla Electric Cooperative that they’ve grown dramatically in load size but they haven’t grown in actual size of members. UEC, they serve 10,000 members but they are going to be classified as a large utility under the RPS in the same category as Pacific Power and Portland General Electric that I believe have around 1.4 million customers between the two of them. And my co-op, as I just mentioned, could be in a very similar situation as Umatilla Electric Cooperative in the near future as we have more data centers that look at doing some construction. So just briefly, we had some really excellent analysis that was done by Oregon Department of Energy and, and it was helpful because we could take real live data that Umatilla Electric Cooperative has right now with their loads and model that and it did show that there would be a significant impact on rates with...,

especially in the early years for compliance with the Renewable Portfolio Standard. And so the taskforce, what we did was we evaluated a range of alternatives that would address this rate shock and we looked at how we could smooth the cost to consumers for compliance. And the taskforce, we ended up reaching consensus on a proposal that would, as I mentioned, allow the use by consumer owned utilities that become large utilities of using more renewable energy certificates to, to become compliant. And the good thing about this is this compliance option, in the agreement that we have here with House Bill 4126, would allow this ballot measure to go away and I think that and that's the ballot measure that's out there that would make all hydro power from the BPA be a qualified resource under the RPS. And we also reached consensus on the taskforce to void any further disagreements on this RPS and I think that's welcome news for everybody. And I want to thank Representative Smith and Margi Hoffman; excellent leadership on that taskforce. Representative Smith constantly, every time we met, he urged us to come to the center, to be willing to give and I think we saw that because, if you took a look at the diversity on that taskforce, that was no easy task to come to agreement. And so there was a lot of passion surrounding the RPS and I think everybody can understand that, but we were able to come together and come up with what I believe is a win-win situation for all. And I'd also like to thank Lisa Schwartz and Julie Peacock with Oregon Department of Energy. They did an excellent job with providing the ability to help us model real life situations and do some analysis and I'd like to end this just with saying I really urge the committee to support House Bill 4126 and I thank you for the opportunity to allow me to testify. I cut it short from my notes here because I know everybody's got things to do and get out of here before the storm really settles in but I'd be more than happy to answer any questions that you may have."

Chair Bailey

"Thank you Mr. Markham and thank you for making the trip over here."

Dave Markham

"Thank you."

Chair Bailey

"I appreciate it"

Dave Markham

"Good."

Chair Bailey

"Questions? Seeing none, I will let you get back on the road. You need to."

Dave Markham

"Thank you."

Chair Bailey

“OK. We see no one else signed up to testify on House Bill 4126 so with that we’ll close the public hearing on House Bill 4126, open a work session on House Bill 4126. Rick do we have the fiscal and revenue impact statements available?”

“Sure, yes we do. On the dash 3 there is a minimal expenditure impact and a no revenue impact.”

Chair Bailey

“Thank you.”

Vice Chair Johnson

“Verily, I move to adopt the dash 3 amendments dated 2/5/14.”

Chair Bailey

“Vice Chair Johnson moves to adopt the dash 3 amendments dated 2/5/14. Is there any discussion on the amendment? Any objection to the amendment? Seeing none, amendment is adopted. Mr. Johnson.”

Vice Chair Johnson

“Chair Bailey, I move House Bill 4136, 26 pardon me, as amended to the floor with a due pass recommendation.”

Chair Bailey

“Vice Chair Johnson moves House Bill 4126 as amended to the floor with a due pass recommendation. Is there any discussion? Clerk will please call the roll...”

“Representative Bentz.” “Aye.”

“Representative Lininger.” “Aye.”

“Representative Reardon.” “Aye.”

“Representative Smith Warner.” “Aye.”

“Representative Vega Pederson.” “Aye.”

“Representative Weidner.” “Excused.”

“Representative Whitsett.” “Aye.”

“Co-vice chair Boone.” “Aye.”

“Vice Chair Johnson.” “Aye.”

“Chair Bailey.” “Aye.”

Chair Bailey

“Motion carries. It’s on its way to the floor. Representative Smith would you care to carry this bill?”

Rep. Smith

“I’d appreciate it. Thank you Chair.”

Chair Bailey

“Excellent. Thank you very much. Good work to all and with that we’ll close the work session on House Bill 4126. And see you on this committee on Tuesday. We are adjourned.”

UM 1690 - CERTIFICATE OF SERVICE

I hereby certify that, on this 12th day of December, 2014, I served the foregoing **Northwest and Intermountain Power Producers Coalition Comments On Voluntary Renewable Energy Tariff And Response To Staff's VRET Issue List And Potential VRET Models Table** in docket UM 1690 upon each party listed in the UM 1690 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and one copy by U.S. mail, postage prepaid, to the Commission's Salem offices

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