ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 18, 2017

REGULAR X **CONSENT** ____ **EFFECTIVE DATE** **April 19, 2017**

DATE: April 13, 2017

TO: Public Utility Commission

FROM: Nolan Moser and Jason R. Salmi Klotz

THROUGH: Jason Eisdorfer and John Crider

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: Recommendation to Open Investigation into Electric Utility Participation in Oregon's Clean Fuels Program.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) open an investigation into electric utilities' participation in Oregon's Clean Fuels Program as credit generators, how participation would be structured, and how revenues from participation might be allocated consistent with the public interest.

DISCUSSION:

Issue

Whether the Commission should open an investigation pursuant to its authority under ORS 756.515(1) into electric utility participation in Oregon's Clean Fuels Program.

Applicable Law

Pursuant to ORS 756.515(1), the Commission has broad authority to open an investigation on its own motion regarding any matter relating to a public utility that the Commission believes should be investigated. ORS 756.515(2) and (4) further allow the Commission to hold hearings on any matter investigated and make such findings and orders that the Commission deems necessary.

Analysis

Background

In 2009, HB 2186 was passed by the Oregon Legislature, requiring the Oregon Environmental Quality Commission (Dept. of Environmental Quality's (DEQ) policy and rulemaking board) to adopt rules to reduce the average carbon intensity of transportation fuels used in the state by 10 percent over a 10-year period, known as the "Oregon Clean Fuels Program (CFP)." In 2015, the Oregon Legislature passed SB 324, amending provisions from HB 2186 and extending implementation of the CFP to 2025. The CFP rules are found in OAR Chapter 340 Division 253, and compliance is administered by DEQ.

HB 2186 and SB 324 (collectively the CFP) as implemented in DEQ rule aim to reduce the carbon intensity of Oregon's transportation fuel mix through a system of credits and deficits. Under the rules, "Regulated Parties" (all persons that produce in Oregon, or import into Oregon, any regulated fuel) can comply in two ways. The first option is to generate credits through the purchase or import of fuels with lower carbon intensity when compared to the clean fuel standards. The second option is to purchase the credits from "Credit Generators" to offset any deficits generated from higher carbon intensity fuel when compared to the clean fuel standards. In order to be a Credit Generator, an entity has to be an "opt-in" party or an entity that is not regulated under the CFP.

Pursuant to DEQ rules, Credit Generators can include entities that provide lower carbon-intensity fuels such as liquefied petroleum gas, natural gas, electricity, or renewable natural gas. OAR 340-253-0330 contains provisions specific to the use of electricity as a transportation fuel.

Specifically, OAR 340-253-0330(2)(a) allows electric utilities that register prior to October 1 to generate and aggregate credits in the following calendar year from all residentially-charged EVs registered in their service territory.[1] Additionally, electric utilities may register any non-residential charging infrastructure (i.e., publically available charging stations, fleet charging, and workplace charging stations) they own or unregistered non-residential charging infrastructure in their service territory under OAR 340-253-0330(3)(a) and (b) for credit generation. Credits generated can then be sold by the utilities to Regulated Parties in need of credits to achieve annual carbon intensity reductions consistent with DEQ rule.

Neither HB 2186, SB 324, nor the current rules adopted by DEQ provide guidance on how Credit Generators may spend or utilize funds collected from the sale of credits.

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[1] See https://www.oregon.gov/deq/FilterDocs/guidanceEutilities.pdf

Need for an Investigation
Staff believes that Oregon ratepayers may benefit from electric utility participation as CFP Credit Generators. The public interest may be served by Commission oversight of the spending of funds derived from CFP credit sales. The objective of this proposed investigation is to develop guidelines for electric utility participation in the CFP. These guidelines would address utility risks and concerns, address how to facilitate effective participation, determine ongoing Commission oversight of that participation and credit generation, and give utilities guidance for spending value received from their participation in the program.

Currently, credits generated under the program can be exchanged for value with compliance entities in need of those credits. The average residential EV owner in Oregon will generate approximately 2.5 credits annually, worth an estimated $150.[2] This amounts to roughly 12.5% of an average investor-owned utility customer's annual charges for electricity according to PUC 2014 data.[3]

In 2014, more than 1.5% of all new vehicles sold in Oregon were EVs; nearly double the U.S. average.[4] Portland, Oregon has the highest per-capita number of EV charging stations of any large city in the United States.[5] Further, there is likely a "strong correlation" between charging infrastructure development and increasing sales of EVs.[6] Therefore, Staff believes that if Oregon electric utilities were to participate in the CFP as Credit Generators, over time they would gain significant monetary value for their customers based on growing EV ownership in their service territories. Such monetary value could potentially be used by the utilities to offset the costs of their efforts to accelerate the transition from traditional carbon intensive fossil fuels to alternative fuels such as electricity. For example, Portland General Electric (PGE) currently owns thirteen public EV charging stations and, pursuant to SB 1547's transportation electrification requirement, has proposed additional investment in public EV charging stations that will be subsidized by ratepayers.

As indicated by a July 13, 2016 publicly available list of Regulated Parties and Credit Generators in the DEQ Clean Fuels Program, PGE, PacifiCorp, and Idaho Power did

[2] Argus News and Analysis tracks low carbon fuel standard credit for California and Oregon. Last Checked March 31, 2017, available at www.argusmedia.com/emissions.
[3] 2014 Oregon Electric Utility Statistics, Average per customer for investor owned utilities: $1,197 annually on sales of 10,495 kWh.
[4] See http://www.theicct.org/blogs/staff/oregon-success-story-electric-vehicles
[5] See http://www.theicct.org/blogs/staff/ev-incentives-chargers-sales
[6] *Id.*

not register as Credit Generators.[7] Staff confirmed that PacifiCorp and PGE have not registered as Credit Generators prior to the October 1, 2016 registration deadline for the production of credits in 2017.

The finalized rules of the Clean Fuels Program explicitly provide for electric and natural gas utility participation as Credit Generators.[8] DEQ has further eased participation burdens for electric utilities with custom registration, a residential credit estimation methodology, a clear carbon intensity methodology, and simple reporting requirements.[9]

Further, through AR 599, the Commission adopted transportation electrification program rules, including OAR 860-087-0030(1)(c)(B), which requires electric utilities to coordinate with related state programs to effectively accelerate transportation electrification as required by SB 1547. During informal discussions with Staff to explore why PGE and PacifiCorp had opted not to register as Credit Generators under the CFP, the utilities indicated that guidance from the Commission on the administration and application of CFP credits is needed.

Therefore, Staff recommends the Commission open an investigation into electric utilities' participation in Oregon's Clean Fuels Program as Credit Generators, how participation would be structured, and how revenues from participation might be allocated consistent with the public interest. The process would encourage broad stakeholder participation. Both the growth of the EV market in Oregon and the associated development of infrastructure is a relatively recent phenomenon. Significantly, the CFP is a program largely administered and developed by another state agency, the DEQ. Staff recognizes that no single party, including Staff and Commission, can be expected to supply all the answers to the novel questions posed by utility participation in the CFP.

Thus, Staff believes this proposed investigation will be greatly enhanced by participation of knowledgeable stakeholders with expertise particular to CFP and EVs. The recommendations outlined in this memo have been shared with the DEQ. The DEQ supports the scope of this investigation.

Because the CFP creates a new marketplace with unknown and not fully-established market dynamics, it is the intention of Staff to use this proceeding to identify clear initial criteria for utility participation in the CFP credit market. This guidance would be designed to allow electric utilities to engage CFP credit market actors with an understanding of Commission expectations.

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[7] See http://www.deq.state.or.us/aq/cleanFuel/docs/Registered%20Parties/RegisteredParties.pdf
[8] OAR 340-253-0320 and OAR 340-253-0330.
[9] See https://www.oregon.gov/deq/FilterDocs/guidanceEutilities.pdf

As noted above, neither the law nor the rules associated with the CFP outline how Credit Generators can or should spend funds collected under the program. Staff believes Commission oversight of electric utility spending of funds collected under this program is in the public interest because it would maximize benefits to the public and potentially offset costs associated with ratepayer-funded charging infrastructure. According to DEQ rule 340-253-0320(2)(b), if electric utilities do not participate in the program as Credit Generators in the residential or non-residential charging market, registered "Brokers" may generate and monetize those credits. Broker use of CFP credit derived funds will not be reviewed by any agency or necessarily used in a manner consistent with the public interest.

Utility expenditure of funds collected through participation in the CFP would be reviewed by the public, stakeholders, and the Commission. The value of proposed spending would be examined, and ideas for various uses of the funds to benefit ratepayers and the public interest would be vetted in an open process.

By contrast, broker spending of funds might not be transparent, and also not subject to review by interested stakeholders or the public. Staff advocates that an open review of spending proposals will better serve the public interest.

Natural Gas Utilities
Staff recommends that natural gas utility participation in the CFP not be addressed in this investigation. Staff came to this conclusion based on the expansion of EV sales and infrastructure development, particularly in the residential marketplace, as contrasted with Natural Gas Vehicle (NGV) adoption by residential customers. Because there is essentially *no* substantial NGV adoption in the residential sector, the structure of DEQ rules as it relates to use of natural gas as a transportation fuel is significantly different. For example, under OAR 340-253-0320, the owner of the compressor at the facility where the fuel is dispensed is the entity able to generate credits. Further, unlike electric utilities that are subject to SB 1547 transportation electrification requirements, there is currently no tariff that allows the natural gas utilities to use ratepayer funds to invest in public fueling infrastructure. Northwest Natural does own fueling infrastructure for the private use of its fleet. According to Northwest Natural there are only 400 NGVs in Oregon; 100 of them are in Northwest Natural's own fleet; the remainder are "mostly commercial fleets of passenger and light duty trucks, such as airport shuttle buses."[10] In other words, the de minimus amount of residential natural gas vehicles operating in Oregon does not justify investigation into natural gas utility participation in the CFP at this time. That noted, while Staff recommends this investigation be limited to electric

[10] See https://www.nwnatural.com/aboutnwnatural/environmentalstewardship/naturalgasvehicles

utilities, a separate investigation to cover natural gas utilities could be justified based upon future residential uptake of NVGs or future DEQ rule changes.

Scope of Investigation
Registration for CFP Credit Generation for 2017 closed on October 1, 2016. The 2018 program registration deadline is set for October 1, 2017. At this time, it is important to ensure that guidance on the basic aspects of utility participation in the program is developed in the near term, in order to ensure adequate time for utilities to receive that guidance and still meet the October 2017 registration deadline for 2018. We view this investigation as forward-looking, not backward looking.

Staff envisions a two phase process for investigation and guidance to utilities. The first phase will provide general guidance to utilities sufficient to begin participation and registration as Credit Generators before the October 1, 2017 deadline. Subject to change, the issue Staff intends to address in the first phase of this proceeding is the following:

1) Discussion and guidance regarding the electric utility role under the Clean Fuels Program and the Commission's role.

Subject to change the questions Staff proposes to address in the second phase of this proceeding are the following:

2) What is the highest and best public interest use of credit value received from participation in the CFP by utilities?
3) What are appropriate programmatic and administrative structures for utility participation in the CFP?
4) What guidance would be helpful to the utilities as they participate in the nascent CFP credit market?
5) What is the appropriate forum for resolving these and future issues associated with utility implementation of the CFP?

PROPOSED COMMISSION MOTION:

The Commission open an investigation pursuant to ORS 756.515 into electric utility participation in the Clean Fuels Program as Credit Generators.