

ITEM NO. CA12

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: May 22, 2018

REGULAR  CONSENT  EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: April 30, 2018

TO: Public Utility Commission

FROM: Caroline Moore <sup>CM</sup>

THROUGH: Jason Eisdorfer and JP Batmale <sup>JE JP</sup>

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1916) Requests Acknowledgement of the 2019-2023 Renewable Portfolio Standard Implementation Plan.

**STAFF RECOMMENDATION:**

Acknowledge Portland General Electric's (PGE or Company) 2019-2023 Renewable Portfolio Standard Implementation Plan (RPIP).

**DISCUSSION:**

Issue

Whether PGE's 2019 - 2023 RPIP meets the applicable Renewable Portfolio Standard (RPS) statutes, administrative rules, and conditions set forth in Order No. 17-004 as amended by Order No. 17-166, such that the Commission should acknowledge it.

Applicable Law

Oregon's RPS laws are codified at ORS 469A.005 through 469A.210, and establish incremental targets for energy companies to procure qualifying renewable energy. OAR Chapter 860, Division 83 establishes guidelines for RPS compliance, including qualifying resources, limits on the cost of compliance, requirements for planning and reporting, and standards for the use of Renewable Energy Certificates (RECs) as the primary compliance instrument.

OAR 860-083-0400 requires electric companies subject to ORS 469A.052 to file an RPS implementation plan every even-numbered year, unless otherwise directed by the

Commission, that conveys its compliance strategy over the subsequent 5 years (compliance period). The RPIP focuses on two compliance planning elements:

1. The Company's plan to meet annual targets within the compliance period with bundled RECs, unbundled, RECs, and/or Alternative Compliance Payments (ACP); and
2. A forecast of the Company's incremental cost of compliance during the compliance period, relative to the 4 percent incremental cost threshold established in ORS 469A.100.<sup>1</sup>

Among the reporting details required by ORS 469A.075(2) and OAR 860-083-0400(2)(a-f), the RPIP must contain annual load forecasts, the renewable energy credits (RECs - which may include both bundled and unbundled RECs) required in order to comply with annual RPS targets, the estimated cost of meeting annual RPS targets, an account of qualifying electricity generators, and a detailed explanation of any material deviations from the electric company's most recent IRP's action plan or material changes from the conditions assumed in the most recent IRP.

In calculating costs of RPS compliance, the utility must determine the incremental costs, which is composed of bundled and unbundled REC costs as well as ACPs. Electric companies are not required to comply with the RPS during a compliance year to the extent that this cost exceeds the 4 percent threshold. If the incremental costs in any year exceed the limit of 4 percent, the utility is required to provide sufficient information that demonstrates how the RPIP appropriately balances risks and expected costs. See IRP guidelines 1.b and 1.c set forth in Commission Order No 07-047.<sup>2</sup> This requirement is also triggered if, among other reasons, the utility plans to use unbundled RECs or to sell any RECs included in the rates of retail customers.

ORS 469A.075(2) and OAR 860-083-0400(2)(a-f) further require that the RPIP provide the Commission with the information necessary to determine whether, and how, the electric company will be in compliance with the RPS over the ensuing five years.

RPS compliance must be demonstrated through the retirement of RECs that are maintained through the WREGIS.<sup>3</sup> RECs may be either bundled with energy or

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<sup>1</sup> ORS 469A.100(1) states that utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance exceeds the 4 percent incremental cost threshold.

<sup>2</sup> ORS 469A.100(1) states that utilities are not required to comply with the renewable portfolio standard during a compliance year if the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year.

<sup>3</sup> OAR 330-160-0020.

exchanged separately (unbundled).<sup>4</sup> One REC is issued per megawatt-hour of generation produced.<sup>5</sup>

RECs procured before March 31 of a given year may be used for the previous year's RPS compliance.<sup>6</sup> RECs issued on or before March 8, 2016 have unlimited life. RECs generated or procured from resources with a commercial operation date (COD) between March 8, 2016 and December 31, 2022 have unlimited life; these RECs are commonly referred to as "golden RECs" (Golden RECs).<sup>7</sup> RECs from generating resources with a COD on or before March 8, 2016 and issued after March 8, 2016 have only a five year-life. RECs generated after December 31, 2022 also have a five-year life.<sup>8</sup>

With limited exception, only 20 percent of an electric utility's RPS compliance obligation may be satisfied using unbundled RECs in any given compliance year.<sup>9</sup> However, ORS 469A.145(3) provides that this limitation "does not apply to renewable energy certificates issued for electricity generated in Oregon by a qualifying facility under ORS 758.505 to 758.555."

ORS 469A.075(3) and OAR 860-083-0400(8) require the Commission to acknowledge the RPIP within six months of filing. The Commission's acknowledgment may be subject to conditions as specified by the Commission.

In Order No. 17-004, the Commission acknowledged PGE's 2016 RPIP subject to two conditions. The Commission modified Order No. 17-004 in Order 17-166, clarifying that acknowledgement was subject to the following conditions:

- (1) PGE must provide the analysis required by Order No. 16-157 in a manner; and timeframe suitable to both PGE and Staff;
- (2) Staff will convene workshops to address, on a generic basis with PGE, PacifiCorp and interested persons, the goal of, and possible revisions to, the RPIP process; and
- (3) PGE must comply with the following steps when it commences a resource procurement action, for the purpose of complying with the Renewable Portfolio Standards (RPS) law, that materially deviates from its most recently filed Integrated Resource Plan or RPIP:

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<sup>4</sup> OAR 330-160-0025.

<sup>5</sup> OAR 330-160-0015(15).

<sup>6</sup> OAR 860-083-0300(3)(b)(B); also note that SB 1547 established new requirements regarding REC generation and banking privileges for future compliance years.

<sup>7</sup> March 8, 2016 is the effective date of SB 1547.

<sup>8</sup> A REC generated from a resource with which the utility has a PPA has a varying lifetime depending on the length of that PPA. See Section 6 of SB 1547 for further details.

<sup>9</sup> ORS 469A.145(1).

- (a) Calculate new incremental costs with the new resource or resources included over a time period acceptable to PGE and Staff; and
- (b) Respond to requests by the Commission regarding its new analysis arising out of the calculation set forth above.<sup>10</sup>

## Analysis

### *Background*

PGE submitted its 2019 – 2023 RPIP on December 29, 2017. In its RPIP, PGE plans to use bundled and banked "5-year RECs" to meet compliance needs over the next five years. As part of the Company's 2016 IRP Action Plan, PGE plans to procure 100 aMW of wind with a commercial operation date in 2021.<sup>11</sup> PGE does not plan to use this resource(s) for RPS compliance during the 2019 - 2023 compliance period.

Staff submitted initial comments on March 5, 2018 indicating that PGE has complied with the basic requirements outlined in OAR 860-083-0400 and the conditions set forth in Order No. 17-144, and that it is unlikely that PGE will exceed the 4 percent incremental cost threshold during the compliance period. Staff further found that ongoing RPS compliance issues are present in the PGE 2019 – 2023 RPIP; however, these issues are best addressed through the upcoming RPS rulemaking dockets.<sup>12</sup>

On March 5, 2018, the Alliance of Western Energy Consumers (AWEC) (f/k/a the Industrial Customers of Northwest Utilities) stated that there are outstanding issues with the methodology to calculate the incremental cost of compliance; however, AWEC expects to pursue these issues in the RPS rulemakings. Oregon Citizen's Utility Board (CUB) also indicated that it does not intend to file comments, based on its review of the issues and the procedural posture of the docket.

PGE filed reply comments on April 5, 2018, which agree with Staff's assessment that the Company's RPIP met the basic requirements outlined in OAR 860-083-0400. PGE responded to Staff's ongoing compliance issues, and agreed that these issues are best addressed in the RPS rulemaking dockets.

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<sup>10</sup> Order No. 17-166 at 1-2.

<sup>11</sup> See *In re Portland General Electric*, OPUC Docket No. LC 66, Order No. 18-044 (Feb. 2, 2018).

<sup>12</sup> See RPS rulemaking dockets, AR 610 *In re Rulemaking Regarding the Incremental Cost of Renewable Portfolio Standard Compliance*, AR 616 *In re Rulemaking Regarding Renewable Portfolio Standard Planning Process and Reports*, and AR 617 *In re Rulemaking to Address Renewable Energy Certificate (REC) Issues in Renewable Portfolio Standard (RPS)*.

In its initial comments, Staff requested that PGE discuss any potential changes to its incremental compliance costs resulting from changes in federal corporate tax rates.<sup>13</sup> PGE states in its reply comments that it is unable to discuss the impacts of the federal tax code changes due to a lack of finalized inputs, and because it requires a significant undertaking.<sup>14</sup>

A sensitivity provided by PacifiCorp in its 2019 – 2023 RPIP indicates that the Tax Cuts and Jobs Act may slightly increase its forecasted cost of compliance.<sup>15</sup> Staff requested PGE analyze this issue to provide similar context to the Commission when evaluating PGE's position in relation to the 4 percent threshold.

Staff finds PGE's response to its request concerning for two reasons.

1. PGE has provided analysis and estimates of the impacts of the federal tax code changes in both its Application for Deferred Accounting of Benefits Associated with the U.S. Tax Reconciliation Act<sup>16</sup> and its currently pending general rate case.<sup>17</sup> PGE's reply comments do not discuss the results of this analysis or how it could impact the incremental cost of compliance forecasted in its RPIP.
2. In its 2019 – 2023 RPIP, PacifiCorp shows the potential direction and scale of the impact (i.e., the sensitivity results in an increase in the incremental cost of compliance, but the effect is minimal). PacifiCorp uses a simple mechanism to estimate these effects by increasing the discount rate applied to renewable generation assets in its cost of compliance methodology. Staff understands that this is not a precise evaluation of net impacts, but the inclusion of the sensitivity provides helpful, high-level insight into the degree to which compliance costs may deviate from the base case.

Staff does not believe its request for a *discussion* of impacts is unreasonable or overly burdensome, but feels that resolving reporting and planning's issues such as this can be addressed more comprehensively in the AR 616 Renewable Portfolio Standard Planning Process and Reports docket.

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<sup>13</sup> See Staff's initial comments filed in *In re 2018 Renewable Portfolio Standard Implementation Plan*, Docket No. UM 1916, at p. 5 (March 5, 2018).

<sup>14</sup> See PGE's reply comments filed in *In re 2018 Renewable Portfolio Standard Implementation Plan*, Docket No. UM 1916, at pp. 3-4 (April 5, 2018).

<sup>15</sup> See PacifiCorp RPIP filed *In re PacifiCorp's Renewable Portfolio Standard Implementation Plan 2019-2023*, Docket No. UM 1914, at p.15, (December 28, 2017).

<sup>16</sup> UM 1920 – PGE's Supplemental Application for Deferred Accounting of Benefits Associated with the U.S. Tax Reconciliation Act (April 13, 2018).

<sup>17</sup> UE 335 PGE/200, Tooman – Espinoza/12-15.

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Conclusion

Staff concludes that PGE has met applicable legal requirements, including conditions imposed in Order 17-004 as amended by Order No. 17-166, and therefore recommends that the Commission acknowledge the Company's 2019 – 2023 RPIP.

**PROPOSED COMMISSION MOTION:**

Acknowledge PGE's 2019 - 2023 Renewable Portfolio Standard Implementation Plan.

PGE 2019 -2023 RPS Implementation Plan