

April 9, 2018

Via Email

Chair Lisa Hardie
Commissioner Steve Bloom
Commissioner Megan Decker
Oregon Public Utility Commission
201 High St SE, Suite 100
Salem, Oregon 97301

RE: OREGON PUBLIC UTILITY COMMISSION STAFF: Request to revise the scope of AR 610 and open two additional Renewable Portfolio Standard rulemaking dockets
Docket No. AR 610

Dear Commissioners:

The Renewable Energy Coalition (“REC”), and the Community Renewable Energy Association (“CREA”)¹ submit these comments in opposition to the Oregon Public Utility Commission (the “Commission” or “OPUC”) Staff recommendation to not open a rulemaking regarding the 8% community-based renewables mandate and instead postpone such a rulemaking to some undetermined point in time. The Commission has repeatedly declined to take any action regarding the Legislature’s direction on community renewables since the passage of Senate Bill (“SB”) 838 in 2007. Once again, the Commission is choosing not to adopt rules or policies to implement the Oregon Legislature’s specific statutory directions, and its findings that community-based renewable energy projects are an essential element of this state’s energy future. REC and CREA specifically request that the Commission open a rulemaking regarding the community renewables mandate with meetings starting no later than September 1, 2018 that will be completed no later than February 1, 2019.

SB 838 adopted a generic Oregon policy in favor of community-based renewable projects. The 2007 law established a goal for community-based renewable energy projects that “by 2025 at least eight percent of Oregon’s retail electrical load comes from small-scale renewable energy projects with a generating capacity of 20 megawatts or less”² The Legislature specifically found that “community-based renewable energy

¹ The Renewable Energy Coalition represents the interests of renewable energy generators in Idaho, Oregon, Utah, Washington and Wyoming. The Community Renewable Energy Association works to protect and create favorable state and federal policy in support of Oregon based renewable energy.

² Former ORS 469A.210.

projects are an essential element of Oregon’s energy future”³ The Legislature specifically directed all state agencies, including this Commission, to “establish policies and procedures promoting the goal declared in this section.”⁴

While REC and/or CREA have repeatedly requested that the Commission implement the law, we are not aware of the Commission taking any action to comply with the letter or spirit of the community renewable goal. First, despite the Commission being the most important Oregon state energy agency, the Commission did not take any actions to achieve this goal or in any way recognize that community-based renewable energy projects are an essential element of Oregon’s energy future. Second, the Commission appears to have ignored the specific direction that it establish policies and procedures promoting the goal.

In 2016 (SB 1547) and 2017 (SB 339), the Oregon Legislature made substantive changes to the community renewables law, including: 1) making the goal a mandate; 2) applying the mandate to Portland General Electric Company (“PGE”) and PacifiCorp rather than the entire state; and 3) changing the metric for compliance from “energy” to “capacity.” The current law states: “by the year 2025, at least eight percent of the aggregate electrical capacity of all electric companies that make sales of electricity to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by” community renewable energy projects.⁵

REC and CREA are unaware of PGE and PacifiCorp taking any actions to comply with this law, and these utilities have taken the de facto position that 2025 is too far away to plan on actions to meet its obligations. This is in stark contrast to PacifiCorp’s and PGE’s actions to meet their other renewable portfolio standard obligations. After SB 1547 passed, PacifiCorp has been in a near continual state of attempting to acquire new company-owned renewable energy to comply with its mandates and is on the cusp of acquiring over 1,300 MW of new Wyoming renewables, all but 200 MW of which are shareholder owned. Similarly, while more deliberative and respectful of the Commission’s integrated resource planning and competitive bidding policies, PGE has also been attempting to acquire new renewable resources over the last couple years.

REC and CREA have asked that this Commission adopt rules to determine how close PGE and PacifiCorp are to meeting the law’s goals and to ensure that PGE and PacifiCorp are in compliance with the law. For example, Brian Skeahan, the Executive

³ Former ORS 469A.210.

⁴ Former ORS 469A.210.

⁵ ORS 469A.210.

Director of CREA, testified before the Oregon Legislature regarding the community renewable standard on February 17, 2018.⁶

REC and CREA understood that the Commission had originally intended to open a rulemaking regarding the community renewable mandate in 2017. That did not occur. At the February 17, 2018 Informational Hearing, the Commission informed the House Committee on Energy and the Environment that a rulemaking would start in August or September 2018.⁷

Opening a rulemaking in the Fall of 2018 could ensure that the rules are adopted before the start of the 2019 Oregon Legislative session on February 1, 2019 but only if the Commission moves with greater alacrity than it typically does and completes its rulemaking in five months. This should be possible as the issues associated with the community renewables mandate may be controversial, but they are not complex.

What concerns REC and CREA is that the Staff Report in AR 610 does not propose any date for the start of a rulemaking regarding community renewables. Staff proposes to open three separate renewable portfolio rulemaking dockets, one of which regarding renewable energy certificates will not have its scoping meeting until August 2018. In regards to the community renewables mandate (emphasis added):

Staff notes that the proposed scope does not include every issue connected with SB 1547 and ongoing RPS compliance. Most notably, SB 1547, Staff does not include Section 14, which changed the goal of eight percent small-scale community-based renewable energy to a requirement. While Staff recognizes the importance of addressing this issue, *it proposes to do so through a separate rulemaking. Staff expects this approach will better support the timeline of the RPS rulemaking.*

Staff does not propose any date for when this separate community renewables rulemaking will be opened, when meetings will start, or what the expected date of completion will be.

REC and CREA are not opposed to opening a separate rulemaking regarding the community-based renewable energy mandate, but they do not understand why that rulemaking should not be opened now or at least a schedule for starting workshops identified now. Staff recommended that there be three separate renewable portfolio standard rulemakings, and there is no reason why a fourth related to community renewable energy should not also be opened. If the Commission does not formally open

⁶ Attachment A (CREA and REC Presentation before the House Committee on Energy and the Environment Informational Hearing February 26, 2018).

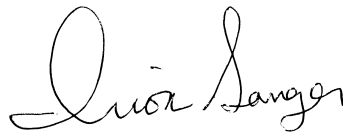
⁷ Attachment B (Commission Presentation before the House Committee on Energy and the Environment Informational Hearing February 26, 2018).

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a rulemaking until September 1, 2018, then given that it takes the Commission months to even start preliminary workshops, such a rulemaking is unlikely to be completed by the start of the 2019 Legislative session.

REC and CREA therefore request that the Commission open a community renewable energy rulemaking with meetings that start no later than September 1, 2018 and a timeline to ensure that new rules are adopted before the start of the 2019 Legislative session. The Legislature first adopted a community renewable energy mandate in March 2016, and it is not unreasonable for the Commission to adopt rules to comply with that law within three years (or by the start of 2019). This is especially true, where the Commission never adopted policies and procedures to comply with SB 838, and the eight percent mandate must be met no later than 2025.

Sincerely,

A handwritten signature in cursive script that reads "Irion A. Sanger". The signature is written in black ink and is centered on the page.

Irion A. Sanger

On behalf of the Renewable Energy Coalition, and
Community Renewable Energy Association

cc: John Lowe
Brian Skeahan

Attachment A

**CREA and REC Presentation before the House Committee
on Energy and the Environment Informational Hearing**

Community Renewable Energy Association
Presentation to the House Energy and Environment Committee
Regarding Community Renewable Requirement Implementation
February 26, 2018



8% Community Renewable Standard Update

- Just over one year ago, on February 6, 2017 I appeared before this committee to testify on behalf of HB 2136 which addressing unresolved issues regarding the 8% small community renewable requirements that were contained in 2016's SB 1547 which, among other things expanded Oregon's Renewable Portfolio Standard
 - For background the 8% small community issue dates back to the original RPS bill in 2007
 - 469A.210 Goal for community-based renewable energy projects. The Legislative Assembly finds that community-based renewable energy projects, including but not limited to marine renewable energy resources that are either developed in accordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential element of Oregon's energy future, and declares that it is **the goal of the State of Oregon that by 2025 at least eight percent of Oregon's retail electrical load comes from small-scale renewable energy projects with a generating capacity of 20 megawatts or less.** *All agencies of the executive department as defined in ORS 174.112 shall establish policies and procedures promoting the goal declared in this section. [2007 c.301 §24; 2010 c.68 §1]*
 - During the 2016-17 interim legislators were engaged in an effort with ODOE and stakeholders to determine the level of IOU compliance with the 8% provision, without a definitive conclusion

2017 HB 2136

- Last year I discussed:
 - What the 8% provision was; a requirement that 8% of IOU load be supplied by Oregon located small community renewable projects
 - Are we in compliance yet; there are a number of possible answers to the where we are question but none of them seem to include, yes we are there
 - Issues included how to treat behind the meter solar, out of state projects, etc
 - CREA / REC proposed changes and clarifications to what came out of SB 1547 including reverting to an energy based rather than capacity / peak load based calculation as is done for other RPS calculations, clarify biomass provisions and increasing the 8% requirement as the overall RPS increased over time
 - The importance of distributed renewable energy generation to local businesses and economies
 - Studies show that small projects are not appreciably more expensive while relying more on local contractors and suppliers

My Mom Told Me Not To Expect To Get Everything I Want, Which Is Good Because I Didn't Last Year

- But that's OK-ish as there are opportunities available to see additional small community renewables developed because the IOUs aren't in compliance
 - Attainment may have been as low as 2% in 2-16 according to ODOE data
- CREA and REC anticipated rulemaking by the OPUC that would address ambiguities and create a more certain environment for developers of these projects as part of the rulemaking for 1547
- OPUC has commenced discussions of 1547 rulemaking broadly
 - Has not made a determination on if community renewables rulemaking specifically will be part of broader 1547 process or separate
 - While it has been suggested that OPUC may make a decision on how to proceed by the end of the month, I was told that they were going to make that decision last fall when I originally asked
 - If community renewable rulemaking is separate we are concerned that it is not clear when rulemaking will be complete or how definitive the rules will be

But My Mom Also Told Me I Wouldn't Likely Get What I Want If I Didn't Ask

- **After 10 years the legislature adopted the 8% goal, it's not unreasonable to determine**
 - Current compliance status?
 - How does the OPUC intend to assure the development community a reasonable opportunity to build and interconnect their projects?
 - How does the OPUC intend to assure there is a path and schedule to compliance?
 - How will the capacity of community renewables be counted toward compliance
 - Name plat capacity vs the contribution of the projects toward meeting a utilities peak capacity needs
 - If and how compliance will be determined by IOUs individually
- CREA and REC request that the legislature assists us in assuring that the community renewable rulemaking be part of the broader SB 1547 rulemaking and that the result of this rulemaking reflects the legislative intent of insuring small community based renewables be a portion of the IOUs generation portfolio, an intent that has existed since 2007

Attachment B

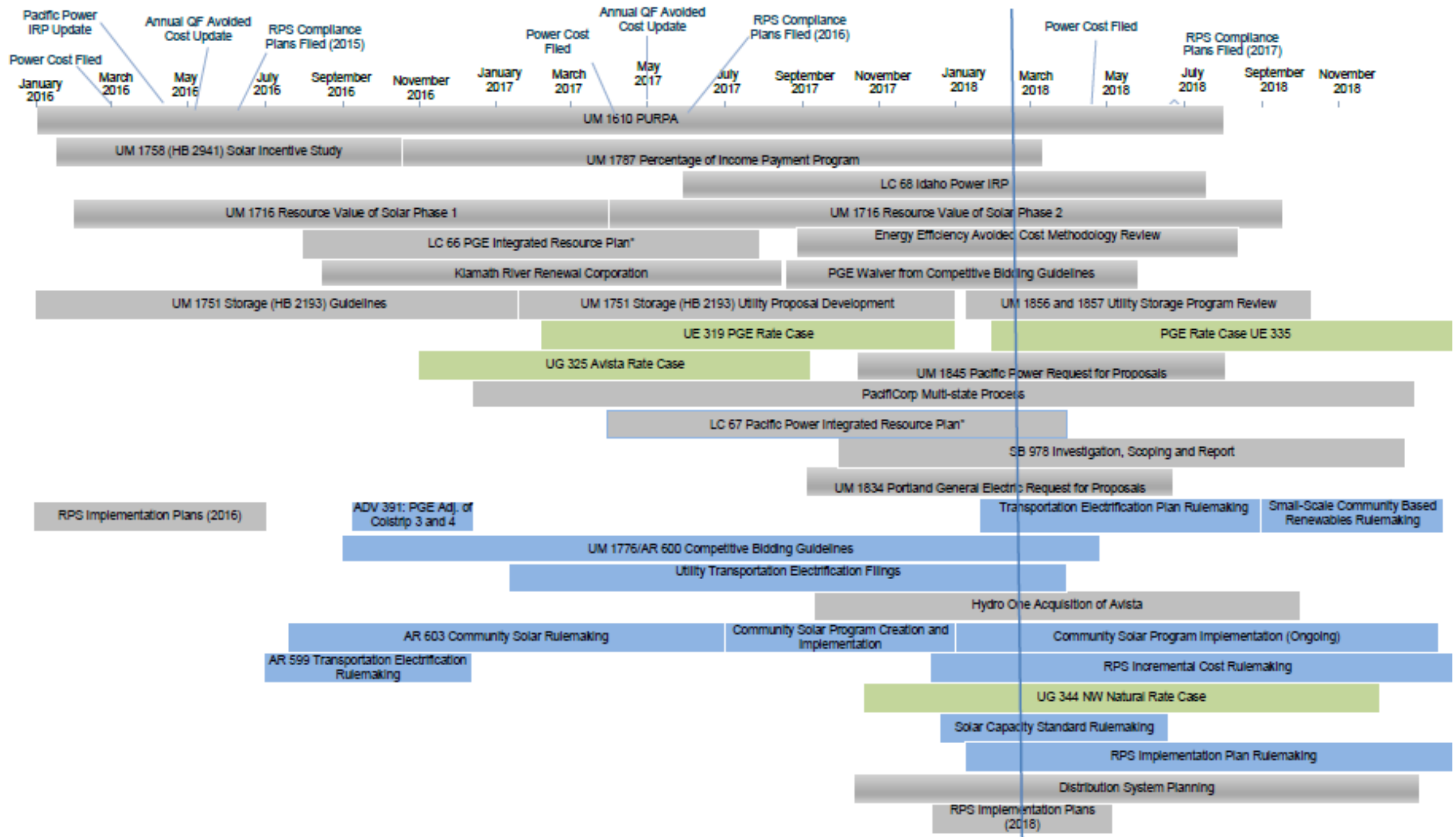
**Commission Presentation before the House Committee
on Energy and the Environment Informational Hearing**

Small-Scale Community Based Renewables

SB 339 (2017) and
SB 1547 (2016)

Jason Eisdorfer, Utility Program Director
Julie Peacock, Policy Advisor





SB 838 (2007)



Created a statewide, small-scale community based renewable energy goal.

Stated that it was the goal of the state that at least 8 percent of retail electric sales come from small-scale renewable energy projects with a generating capacity of 20 megawatts or less.

SB 1547 (2016)



Created the requirement that by 2025, 8 percent of aggregate electrical capacity of Portland General Electric and Pacific Power be from small-scale renewable energy projects with a capacity of 20 MW or less; or facilities that use biomass and also generate electricity from a secondary source.

In the House Committee on Rules, testifying members of the House and Senate noted that there may be a need to come back during the 2017 Legislative Session to clarify portions of this language.

SB 339 (2017)



Clarified that the “Renewable Portfolio Standard” definitions would be the same ones used to determine whether or not something was considered renewable under the Small-Scale Community-Based Renewable requirement.

Also, clarified that the amount of co-generating biomass that could be used to satisfy the standard was limited to 20 MW of capacity.

Rulemaking Questions



What does aggregate electrical capacity mean?

What are the utilities individual responsibilities for compliance?

How does a utility demonstrate compliance with the standard?

Should interim targets be established?

How will certification of eligibility occur?

