

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 617

In the Matter of
Rulemaking Related to Renewable Energy
Certificates

STAFF WORKSHOP NOTES

The Public Utility Commission of Oregon Staff held a stakeholder workshop in this docket on December 16, 2020 to discuss 1) draft rules; and 2) the status of RECs transferred to an Energy Service Supplier on behalf of Direct Access Customers; 3) the relationship to and timing of related dockets; and 4) next steps in the rulemaking process. This document contains the Staff notes from this workshop.

Workshop Attendees (via Zoom):

Greg Adams - Richard Adams, PLLC on behalf of Calpine Energy
John Cornwell - ODOE
Stefan Cristea - PGE
Kevin Dodson - Idaho Power
Jaki Ferchland - PGE
Rich George - PGE
Kim Herb - OPUC
Ben Orndoff - PGE
Riley Peck - PacifiCorp
Johanna Riemenschneider - ODOJ
Sashwat Roy - Renewable Northwest
Seth Wiggins - PGE
Jessica Zahnow - PacifiCorp

Background

Staff held a workshop on December 11, 2019 to finalize the scope of AR 617 and to inform Staff's development of a straw proposal. Staff circulated draft language in April 2020, and received comments from PacifiCorp and Portland General Electric, who were supportive of Staff's position and suggested minor language changes. After making some minor adjustments to the proposed language, Staff posted the language to the docket and solicited broad stakeholder input.

Workshop Notes

Draft AR 617 Rules

Staff gave a brief summary of the scope of AR 617 in the context of Renewable Portfolio Standard rule changes associated with SB 1547. Staff reviewed each of the proposed changes in AR 617 individually and provided an opportunity for stakeholder comments and questions. Parties were supportive of the draft changes, which are summarized below:

Banked REC Clarification

ORS 469A.005(2) defines a banked renewable energy certificate as “a bundled or unbundled renewable energy certificate that is not used by an electric utility or electricity service supplier to comply with a renewable portfolio standard in a calendar year, and that is carried forward for the purpose of compliance with a renewable portfolio standard in a subsequent year.” Staff proposed a rule amendment to OAR 860-083-0300(3)(b) to clarify the distinction between a calendar year, a compliance year and a subsequent year for purposes of determining compliance.

Proposed Amendment:

Add “For the purposes of this rule, banked renewable energy certificates do not include a renewable energy certificate generated in the same calendar year as the compliance year for which its use is attributed.”

REC Banking: “First In, First Out”

SB 1547 §7 removed the requirement in ORS 469A.140 that utilities use banked RECs in order from first issued to last issued, and established new guidelines for the eligible life of different types of banked RECs. Oregon OAR 860-083-0300(3)(b)(B) stated that utilities need to use banked RECs from “first issued to last issued.”

Proposed Amendment:

Delete text of OAR 860-083-0300(3)(b)(B) to conform to the Statute

Unbundled & Multi-State RECs

ORS 469A.150 directs the Commission to establish a process for allocating the use of RECs by an electric company that makes sales of electricity to retail customers in more than one state. The rules do not currently include this. Due to the limitations on the use of unbundled RECs, Staff proposed that additional rules may be needed to establish a REC allocation process for multi-state jurisdictions.

Proposed Amendment:

Add OAR 860-083-0300(4): “For purposes of this rule, the electric company’s multi-state allocation of renewable energy certificates shall be informed by the most recent inter-jurisdictional protocol adopted by the Commission.”

Status of ESS RECs

Staff explained that the bundled or unbundled status of RECs transferred to an Energy Service Supplier (ESS) for direct access customers was an issue that had been discussed, but not resolved, in the course of the informal rulemaking process to date. Staff explained that it does not believe RECs may be considered “bundled” under the statutory definition after an Investor Owned Utility transfers RECs to an ESS without the associated energy.¹ Staff explained that this exacerbates an ESS’s challenge in meeting its RPS obligation because the use of unbundled RECs for RPS compliance will soon be capped at 20 percent. Staff proposed that to address the challenge ESSs face in RPS compliance, one must either change the definition of bundled and/or unbundled RECs, or consider changing the 20 percent cap on unbundled RECs for ESSs. Either of these approaches would require a change in statute and would need to be addressed by the legislature.

Mr. Adams stated that he did not agree that the statute is as restrictive as Staff portrayed, and that his concern is primarily about returning the “stranded benefit” value of the REC to the direct access customer. It should be noted that Mr. Adams has sought clarity from the Commission on this issue through various dockets, stating that these RECs should be considered bundled.²

Staff explained that it would note that this issue remains unresolved and that parties may raise the issue and provide comments on this issue on the record as this docket moves to the formal rulemaking process.

Related Dockets

Staff reviewed the history of RPS Rulemaking dockets AR 610 – Incremental Cost of Compliance, AR 616 – Planning Process & Reports, and AR 617 – Renewable Energy Certificates. Staff explained that Staff had intended these rulemaking dockets proceed such that AR 610 would be the first docket launched, and would inform AR 616 and AR 617. However, because the changes proposed in AR 617 did not rely on or influence the incremental cost of compliance being addressed in AR 610, and because parties were supportive of the proposed changes, Staff proposed that AR 617 proceed to formal rulemaking, ahead of AR 610. Most participants supported moving AR 617 to formal rulemaking.

Next Steps

Staff proposed advancing AR 617 to formal rulemaking, which participants supported. Staff will recommend that it be included on the March 9, 2021 public meeting Rulemaking agenda.

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¹ ORS 469A.005(14) “Unbundled renewable energy certificate” means a renewable energy certificate for qualifying electricity that is acquired by an electric utility or electricity service supplier by trade, purchase or other transfer without acquiring the electricity that is associated with the renewable energy certificate.”

² See Calpine Solutions’ Response Comments, *In the Matter of Calpine Solutions LLC, 2019 Renewable Portfolio Standard Compliance Report*, Docket UM 2104, (August 13, 2020)