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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

November 23, 2010

Attention: Filing Center
Public Utility Commission of Oregon
550 Capitol Street NE, #215
PO Box 2148
Salem, OR 97308-2148
puc.filingcenter@state.or.us

Re: *In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Solar Photovoltaic
Program Draft*
PUC Docket No.: UM 1505
DOJ File No.: 330-030-GN0415-10

Enclosed are an original and one copy of OREGON DEPARTMENT OF ENERGY'S
REPLY COMMENTS in the above-captioned docket for filing with the PUC for today.

Sincerely,

Janet L. Prewitt
Senior Assistant Attorney General
Natural Resources Section

Enclosure
JLP:mme/#2359305
c: UM 1505 Service List

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1505

In the Matter of the)	
)	
PUBLIC UTILITY COMMISSION OF)	
OREGON)	OREGON DEPARTMENT OF
)	ENERGY'S REPLY COMMENTS
Solar Photovoltaic Program Draft)	
_____)	

Background

In the 2009 Oregon legislative session, HB 3039 directed Oregon Public Utility Commission (“Commission”) in ORS 757.365(13) to submit a report regarding the overall use and effectiveness of the “volumetric incentive rate and payment pilot” (“VIR”) program for solar photovoltaic energy systems. Oregon Department of Energy (ODOE) supports such a unique pilot program in the ways that it would facilitate market-transformation and use of production based incentives to assist with cost-effective generation of photovoltaic energy.

Specific comments to Draft report:

ODOE provides specific comments below, and in some instances highlights questions for ensuring the cost-effectiveness and deployment of future phases of the program.

I. Program Structure, Costs and Rate Impacts

a. Program structure and VIR rate impacts: ODOE requests that Oregon Public Utility Commission Staff (“Staff”) and Oregon’s investor-owned utilities provide some details on how the projected (2011-2014) yearly program costs were assessed. Like any other incentive program, a VIR program is also sensitive to project specifics. For this reason, an understanding of any inherent input assumptions used in determining the program costs and rate impacts would provide clarity to the Commission’s report and intended audience.

b. Capacity outlay versus Program Costs:

There appears to be a potential discrepancy between the reported program costs between Portland General Electric (“PGE”) and PacifiCorp (“PAC”) vis-à-vis’ their capacity outlays in the pilot program. By April 2011, PGE will have allocated 5.96MW of capacity. The reported cost for PGE in 2011 is \$2,715,929, or \$0.46 per watt based on capacity allocated through April 2011. By April 2011, PAC will have allocated 3.92MW of capacity. The reported cost for PAC in 2011 is \$3,867,247, or \$0.98 per watt based on capacity allocated through April 2011. There appears to be a difference in program costs between the two companies by more than a factor of two in 2011 (on a dollar per watt basis). Balancing this with the program payments, which show PGE’s to be higher than those of PAC, warrant additional review of the capacity outlay versus costs and payments.

- c. **Cost savings realized by VIR versus other programs:** If there is a need to determine estimated cost savings realized by the State through the use of the VIR as compared to other state tax credit programs (including the Business Energy Tax Credit (“BETC”) program, the “Residential Energy Tax Credit” (“RETC”) program, the Energy Trust of Oregon “ETO”, ORS 469.160 *et seq.*, and ORS 469.185 *et seq.*), ODOE would encourage a collective effort to identify the performance savings and related cost estimates.

II. State tax credit programs

Staff comments (Page 3) characterize “state tax credit programs” (as administered by ODOE specifically) as “lump-sum up-front payment” programs. ODOE’s state tax credit programs (BETC and RETC) are not based on upfront “lump-sum” payments. In the BETC and RETC programs, credits are offset against taxes due, and may (or must, depending on the type of credit) be offset over a period of years.¹ Therefore, without

¹ Even under the “pass-through” option in the BETC program, where the BETC applicant receives a lump-sum payment from the pass-through partner, the pass-through partner would use the credit as an offset against taxes due, and could do so (or would have to do so, depending on the type of BETC) over a period of years.

representative project cost estimates, it would be impossible to predict that participants in the VIR program are willing to assume a higher level of risk than participants in the state tax credit programs.

III. Cost-Effective definition and Program adjustment

ODOE requests Staff to clarify the choice of the term “cost-effective” (Page 5) when used to evaluate the “VIR” program, as “cost-effectiveness” can be determined in varying ways, and can cover costs only or both costs and benefits. Furthermore, ODOE requests clarity on the metrics used in regards to program adjustment. The draft report’s cost estimates do not provide the ability to understand the components used in determining “cost-effectiveness”.

IV. Market bidding range and proposed rates

ODOE requests Staff and “pilot-program participating utilities” to document the information on the “number” of bidders and “proposed rates”. This information would better assist an understanding of the “market depth” for 100kw or higher (large) photovoltaic projects that seek VIR. It would also serve as a critical indicator for future large-scale, commercial investments in photovoltaic energy systems.

V. “Actual” versus “potential” demand for enrollment - Options for flexibility in enrollment and review participant survey

As stated in a previously attended workshop (on October 19, 2010), ODOE requests an equal opportunity for all parties to be able to review the participant survey moving forward. Furthermore, ODOE recommends that a stakeholder workshop be held to comment on the survey questions for better review of the future market potential associated with VIR enrollment. In relation to that, ODOE also requests that the electronic enrollment system have the ability to track the “non-successful” applicants, to get a sense of the “actual” versus “potential” market demand for the VIR pilot program.

VI. Future design recommendation

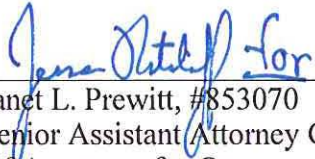
While ODOE finds the current pilot program to be pragmatically designed, ODOE recommends any future expansion of the current pilot program to be sensitive to a true “production based incentive” program, also commonly known as a “feed-in-tariff” program.

In summary, ODOE appreciates the opportunity to file comments and be involved in future workshops and discussions that assist the Commission and Staff with a robust and effective implementation of the VIR pilot program.

DATED this 23rd day of November, 2010.

Respectfully submitted,

JOHN R. KROGER
Attorney General

 05B# 04374

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Senior Assistant Attorney General
Of Attorneys for Oregon
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of November 2010, I served the foregoing OREGON DEPARTMENT OF ENERGY'S REPLY COMMENTS upon the persons named on the service list, by mailing a full, true and correct copy thereof and to such persons waiving such service by mail who were served at their e-mail address as listed on the service list.

DATED: November 23, 2010

OSB#
04394



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