



Portland General Electric Company
121 SW Salmon Street • Portland, Oregon 97204
PortlandGeneral.com

September 6, 2016

Public Utility Commission of Oregon
201 High St. SE, Suite 100
P. O. Box 1088
Salem, OR 97308-1088

RE: UM 1758 – Informal Reply Comments on Staff’s Draft Solar Incentives Report

Portland General Electric Company (“PGE”) would like to thank the Oregon Public Utility Commission (“OPUC”) and its Staff for the process that has led to the creation of the draft report in UM 1758. We continue to believe that the draft report represents a forward-looking view of the solar photovoltaic market and industry in the state and is responsive to the Oregon Legislative Assembly’s request in Oregon House Bill 2941 (2015).

PGE had not planned on filing any additional comments in this informal docket. However, the filing made August 19 by Renewable Northwest (“RNW”) prompts us to reconsider that decision because we believe that some portions of their filing require refinement in order to not leave the public and legislators with a misimpression regarding the use of public purpose charge funds (“PPC funds”). RNW’s comments on Appendix A seek to correct what they assert is a mischaracterization by Staff of the limitation created by Oregon Senate Bill 838 (2007) (“SB 838”) on the use of PPC funds for funding the above-market costs of renewable energy generation facilities. However, PGE believes that the legislative history supports Staff’s claim. RNW further is concerned that the staff comment leaves the impression that PPC funds do not contribute to utility compliance with the Renewable Portfolio Standard (“RPS”). While PGE agrees that PPC funds do assist utilities in compliance, we must also point out that vast majority of money expended by the Energy Trust of Oregon (“ETO”) on solar photovoltaic systems (“solar PV”) since 2007, has been spent on systems that do not assist with RPS compliance.

I. Staff’s phrasing of separation of public purpose charge use from utility obligation to meet RPS is correct.

In our opinion, Staff did not mischaracterize the change made in 2007 regarding public purpose charge funding. In the Appendix, Staff stated that the change was made to “separate the public purpose charge use from the utilities’ obligation to meet the state’s RPS requirements.” A better understanding of the changes made in 2007 is necessary to understand whether Staff’s comment needed correction. Based on our comprehensive understanding of this history, we believe Staff was correct in asserting that the change separated the use of the public purpose charge from any obligation to meet the state’s RPS requirement.

Legislative History of SB 838

Prior to the modification of ORS 757.612 by SB 838 that extended the public purpose charge through 2025 and ETO incentives to 20MW and under projects, renewable generation projects regardless of size were eligible for public purpose charge funding.¹ During the creation of the concept that ultimately became SB 838 by the Renewable Energy Working Group (“REWG”), contemporary documents show that the change was made to separate the funding of utility-scale projects, which were assumed to be built by utilities for compliance, from smaller projects. Those smaller projects might be used for compliance, but there was no guarantee that they would be. The 20MW limit came from the Community Caucus concept² in order to boost the funding of community renewables to provide “increased system stability and reliability,” to “create enhanced economic opportunities” and to “keep Oregon competitive in emerging renewable energy industries.” Nothing in their concept suggested that these projects would be utilized for compliance by utilities, though nothing prohibited such a use. The Community Caucus chose this restriction of ETO funding and the “soft” 8% statewide goal for small renewables over an “8% carve-out setting aside a portion of a Renewable Portfolio Standard for community-scale renewable energy ... with a separate cost cap from the overall RPS cost cap.” Thus, the group that came up with the 20 MW limit was attempting to create a bright line separation from the utility obligation to meet the state RPS requirement with utility-scale projects from a separate small-scale requirement. The caucus settled on the 20 MW funding limitation as a proxy for this separation and as a way to support smaller projects.³ The 8% goal, as adopted in SB 838, was not part of the mandated percentages of the RPS and sat apart from the standard itself. The 8% goal, the fact that it was structured as a statewide goal rather than on the large utilities and the fact that it is not linked to the RPS itself, indicates that the Community Caucus did not seek to tie their concept (the 8% goal and 20MW limit) to that RPS requirement. This is further support for the separation ETO incentive use from the compliance requirement.

The RPS Dialogue Group, a separate subgroup of the REWG, of which RNW (née RNP) was a member, at the same time⁴ recommended a proposal in the RPS to “let the utilities make decisions on the utility-scale resources under the cost cap” and to focus the ETO incentives on smaller technologies to ensure that they would “not have to compete with utility-scale resources.” The RPS Dialogue Group was thus also focused on separating RPS compliance, which was assumed to largely come from large resources under the cap, from other projects that might be supported from the PPC funds.

¹ PGE’s phase 1 of the Biglow Canyon wind facility received an ETO incentive as it started construction prior to 2006, but phases 2 and 3 did not.

² The Community Caucus was a subgroup of the REWG led by Paul Woodin and the Community Renewable Energy Association. Letter from the Community Caucus to the REWG dated July 11, 2006, available at https://www.oregon.gov/energy/P-I/docs/REWG_CommunityCaucusReport.pdf

³ The limitation was chosen in lieu of a small-scale carve-out. See, e.g. https://www.oregon.gov/energy/P-I/docs/DRAFT_2007_REWG_Progress_Rpt.pdf page 10

⁴ Memorandum to Chair Mike McArthur from RPS Discussion Group dated July 6, 2006, available at https://www.oregon.gov/energy/P-I/docs/RPS_Dialogue_Group_Report_to_REWG.pdf

In both of these cases, it is clear that Staff's comment in the UM 1758 draft report accurately describes (or at a minimum, should not be described as a mischaracterization) what the Community Caucus and the RPS Dialogue Group were attempting to do: separate the public purpose charge funding of projects that would most likely be used for compliance by utilities (e.g., Biglow Canyon) from those projects that may or may not be used for compliance.

Further, the 20 MW limitation was not chosen completely at random. At the time the RPS was being negotiated and at the time the Community Caucus was working on their proposal, there was significant federal regulatory activity that recognized 20 MW as a size distinction which required different treatment for generators above and below that line.⁵ The regulatory context around qualifying facilities ("QF") is even more relevant when what was happening at the state level is taken into consideration. Prior to 2006 and early 2007, the period in which the RPS was negotiated and adopted, the OPUC engaged in a series of dockets around QF contracts, including rules on ownership of the non-energy attributes of renewable energy, or renewable energy certificates ("REC").⁶ In that docket, the OPUC adopted Staff's proposal that "the owner of the renewable energy facility owns the non-energy attributes associated with the generation of electricity and that a sale of power to an electric company would not convey title to the green tags without an express clause doing so."⁷ If the Community Caucus and others understood that many facilities under 20 MW would also be QF facilities, then they undoubtedly also understood that utilities would not automatically be able to use the RECs from the sub-20 MW facilities.⁸ RNW (as RNP) agreed with Staff's position and noted that "implementation of a Renewable Portfolio Standard in the future will be problematic to the extent that electric companies face conflicting requirements to hold green tags but to not pay rates greater than avoided costs."⁹ Thus, RNW too understood at the time that the funding of these smaller scale projects with public purpose funds was likely to produce facilities for which the utilities could not *de facto* use for RPS compliance.

It is this exact separation that we believe Staff referred to in Appendix A. Staff could have perhaps more artfully expressed what they meant, but we believe that it is accurate to phrase the modification by SB 838 in the manner expressed by Staff. As noted above, we believe that the legislative record and the regulatory contextual record supports Staff's characterization.

II. RNW's assertion that PPC funds do contribute to RPS compliance requirements is overbroad and incomplete

⁵ E.g., Federal Energy Regulatory Commission (FERC) order 688, dated October 20, 2006: QFs of 20 MW or less are presumed to not have non-discriminatory access in competitive markets; FERC order 2006, dated May 12, 2005: creating a 20 MW limit for small generating facilities; FERC order 2003, issued July 24, 2003: providing standard interconnection procedures and agreement for generators larger than 20 MW; and federal law provisions exempting facilities less than 20 MW from scrutiny under sections 205 and 206 of the Federal Power Act when a sale is made pursuant to a state regulatory authority's regulations.

⁶ AR 495, OPUC Order No. 05-1229, entered 11/28/05

⁷ Resulting in the adoption of OAR 860-022-0075

⁸ Paul Woodin, chair of the Community Caucus was the representative for the Community Renewable Energy Association and was on the service list for AR 495.

⁹ See OPUC Order No. 05-1229, page 4.

RNW states that Staff's comment "implies that PPC funds do not contribute to the utilities' RPS compliance requirements." Instead, RNW claims that PPC funds do contribute to the utility's RPS compliance obligations which implies that this happens in all cases. This is not at all accurate.

Viewed from a total portfolio basis since 2002, and including non-solar projects and utility-scale wind, calculated on the basis of generation, 94% of the RECs in the ETO portfolio are either registered in the Western Renewable Energy Generation Information System ("WREGIS") or are capable of being so registered.¹⁰ Thus, it seems that PPC funds have contributed significantly to RPS compliance. However, this 94% figure masks what has happened since 2007 (the period that is relevant here) and particularly with respect to solar PV incentives. Because this is a docket regarding solar incentives, it is most appropriate to look at the ETO's support for solar without the utility-scale wind included. If the RECs in WREGIS associated with utility-scale wind are removed from the generation calculation, and if focused on solar only, approximately 70% of RECs associated with ETO incentives are WREGIS eligible. But even that figure masks a different picture as described below.¹¹

As previously discussed, since the adoption of SB 838, the ETO has been limited to providing incentives to projects with a nominal electric generating capacity of 20 MW or less. In pursuit of this legislative mandate, the ETO breaks out the total amount of renewables funding into source specific funding, like wind, biomass and solar. Since 2007 and as calculated not on generation but by dollars spent on incentives for solar PV, 80% of PPC funds in the solar PV "bucket" have been provided to owners of solar PV facilities that are **not** capable of being utilized for RPS compliance purposes due to the lack of 1) a cost-effective manner for registering those facilities with WREGIS and 2) a sufficient meter on many of the facilities.¹² While the ETO does take possession of a proportion of RECs from these systems, the RECs generated are not – and cannot be – used by utilities to comply with the RPS.¹³ Therefore, from a dollars-spent perspective – only 20% of the money spent on solar through the public purpose charge helps with RPS compliance. This is an important fact left out of RNW's claim.

For several years now, the ETO, the Oregon Department of Energy and other stakeholders, including the utilities and RNW, have been discussing a methodology that would enable the cost-effective registration of these facilities and their associated RECs in WREGIS.¹⁴ It has been the opposition of independent renewable energy development interests, including Iberdrola, NextEra Energy Resources and EDF Renewable Energy, that has prevented this change from happening.¹⁵ RNW represents these same development interests, including having several on their board. This oppositional effort is denying

¹⁰ Email from Jed Jorgensen to Brendan McCarthy, dated 8/23/16 and included with this filing as Attachment 1.

¹¹ Id.

¹² Id. Mr. Jorgensen estimates that since 2007, 80% of public purpose charge funding for solar PV has been provided to solar systems that are not able to be cost-effectively registered with WREGIS.

¹³ Part of the reason for this disparity is related to larger market forces in the solar PV market since 2007 and the elimination of the Business Energy Tax Credit.

¹⁴ This effort has culminated in the development of WREGIS Process Change Request 232 (PCR-232). At this time, PCR-232 is likely to be withdrawn.

¹⁵ See, e.g., comments from WREGIS Account Holders to the WREGIS Committee on PCR-232:

<https://www.wecc.biz/Administrative/WREGIS%20Committee%2020150514%20Meeting%20PCR%20232%20Comments.pdf> and <https://www.wecc.biz/Administrative/PCR%20232%20-%20Joint%20Ltr%20re%20Proposal%20to%20Change%20WREGIS%20Rules%20re%20Registration%20---%20FINAL%20%203-31-15.pdf>

UM 1758 PGE Informal Reply Comments

September 6, 2016

Page 5

Oregon investor-owned utility customers the value associated with a significant portion of their investment in solar PV in the state since 2007 – a sum totaling \$66 million and growing.

We appreciate being able to clarify the history and context for the record and the legislature, should the PUC include this information in its report. Should you have any questions, please contact Brendan McCarthy at (503) 464-7371.

Respectfully,



Karla Wenzel
Manager, Pricing

UM 1758
Attachment 1

Hi Brendan,

In the process of answering your question we took a look at our full portfolio of projects so that we could see how the solar projects fit into the bigger picture of what we have done.

Contextually, we think it is important to note that when you look at our total portfolio since 2002, including non-solar projects and utility-scale wind, only 6% of the RECs from the total portfolio cannot be cost-effectively registered in WREGIS. Said the other way, 94% of the RECs from our full portfolio of projects ARE either in WREGIS or are capable of being cost-effectively put into WREGIS for RPS compliance purposes.

Now to your question: You asked what percentage of our solar incentive dollars, since 2007, have gone towards projects that are not, at this time, able to be cost-effectively registered in WREGIS for the purpose of RPS compliance. The answer to that is 80% (\$66 million out of \$82.7 million).

Please let us know if you have any follow up questions.

Thanks,

Jed

Here is the data behind the total portfolio numbers, which are calculated since the inception of our programs.

	Incentives	Generation kWh
Utility scale wind - RECs in WREGIS	\$ 11,043,000	798,000,000
Solar - RECs in WREGIS	\$ 16,693,683	26,991,647
Non-Solar - RECs in WREGIS or able to be cost effectively registered	\$ 10,256,348	124,128,563
Solar - RECs <i>not</i> able to be cost effectively registered in WREGIS at this time	\$ 70,562,688	64,398,310
Non-Solar - RECs <i>not</i> able to be cost effectively registered in WREGIS at this time	\$ 1,219,015	799,791
Total	\$ 109,774,734	1,014,318,311
All projects not able to be cost effectively registered in WREGIS at this time	\$ 71,781,703	65,198,101
% not able to be cost effectively registered in WREGIS at this time	65%	6%

Jed Jorgensen
Program Manager

503.445.7611 **DIRECT**
503.546.6862 **FAX**
energytrust.org

This email is intended for its addressee(s) and may contain confidential information. If you receive this email in error, please notify me and delete it promptly. Thank you.