

**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 11, 2019 to 1) finalize the scope of issues that will be addressed in the AR 617 rulemaking; and 2) initiate discussion of the issues to inform Staff's development of a straw proposal and schedule for the rulemaking. This document contains the Staff notes from this workshop.

Workshop Attendees:

In-Person:

Caroline Moore (OPUC)
JP Batmale (OPUC)
Jill Goatcher (OPUC)
Michael Dougherty (OPUC)
Johanna Riemenschneider (ODOJ)
Rebecca Smith (ODOE)
Jessica Ralston (PAC)
Jessica Zahnow (PAC)
Greg Adams (On behalf of Calpine Energy)

Doug Tingey (PGE)
Stefan Cristea (PGE)
Jacquelyn Ferchland (PGE)
Seth Wiggins (PGE)
Tyler Pepple (AWEC)

Via Phone:

Nicole Blackwell (Idaho Power)
Rebecca Brown (NWN)
Natascha Siores (NWN)

Workshop Notes

Staff gave a summary on the AR 610, 616, 617, and 636 rulemaking history and status. The group then discussed each potential topic in AR 617 individually.

REC Banking: "First In, First Out"

Staff proposed striking the “first in, first out” language in OAR 860-083-0300(3)(b)(B) to conform the rules to the statute. Additionally, Staff stated concerns about the intergenerational equity and stranded asset risks associated with an ever-increasing REC bank, and stated that they were considering language that would limit the size of the REC bank.

PGE stated that it was unsure of why there needed to be a cap on the REC bank. Staff stated that they viewed this as an issue of RECs sitting in the bank unused, and that there was a possibility of carbon legislation reducing the value of RECs in the bank before they can be used. Mr. Adams asked whether there would be a limit for Electric Service Suppliers (ESSs) as well as utilities. Staff stated that ESSs could fall within the scope of this change, but would like to perform additional analysis before including ESSs in the scope.

Mr. Dougherty explained that prior to SB 838, RECs were viewed as property and were sold and had value to customers. He explained that he wasn’t sure how strong the REC market is, but if RECs aren’t being used, they could be sold so that value goes back to ratepayers.

Mr. Pepple stated that AWEC shares the same concerns as Mr. Dougherty. AWEC proposed an offset to the rate base with REC banking in PGE’s Integrated Resource Plan (IRP). Mr. Pepple stated that this would probably be AWEC’s preference, as it gives utilities more flexibility.

PGE stated that it wanted to see rule language to comment on and reserved the right to comment, and wondered if AR 617 was the right venue to address REC bank size. PAC asked that Staff consider when this limit could take effect, thinking of new additions to the bank. Additionally, PAC wanted Staff to consider value and what a REC value may be in a carbon landscape with use of RECs in that regulatory regime, and also reserved the right to comment on draft language.

REC Banking, Expiring RECs

Staff proposed the idea that new rules might be necessary to govern the treatment of five-year RECs that are not used before they expire, based on utilities modeling physical compliance in the IRP process prior to the depletion of the existing REC bank. Staff proposed examples that included prohibiting sales from the REC bank or requiring Commission approval for the sale of banked RECs.

PGE stated that it was not sure whether it made sense to limit the sale of RECs, because the utilities can sell them to gain value for ratepayers. Mr. Pepple recommended that the rules not be too prescriptive on this issue, because RECs are utility property so they have the right to sell them. PGE agreed with Mr. Pepple. PGE also stated that there were two orders that came out in 2007 that allow utilities to sell RECs as property. Ms. Smith asked how we address lost value if RECs expire. PGE replied that they don’t anticipate this scenario happening. Mr. Pepple stated that for that situation to occur, there would need to be over five times the amount of RECs in the bank than there are now. PAC said that they would look at their bank to understand the sales and shape of the bank, but like PGE did not anticipate this being a situation that is likely to occur. PAC also stated they wanted to preserve the ability to transfer RECs between states, which they do not currently do.

REC Banking, Definition of Banked RECs

Staff proposed amending the rules to clarify the definition of banked RECs, given that RECs used for compliance in a given compliance year are not actually retired until the following calendar year. Parties expressed support for this change.

Unbundled RECs

Staff explained that 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. Staff noted that the rules do not currently include this, and proposed that additional rules may be needed to establish a REC allocation process for multi-state jurisdictions due to the limitations on the use of unbundled RECs. Staff also asked for any additional suggestions on rules that could be needed.

PAC stated that they would need to go back and look at the definition of unbundled RECs, and to consider multi-state allocation. PAC also stated that they weren't sure how RECs will be used in the Clean Energy Transformation Act (CETA) context in Washington, and that the role of RECs is changing dramatically in cap and trade regulatory environments, along with customer preference. Mr. Pepple recommended that the rules should state that if there is a commission-approved protocol for allocation, then that protocol will govern at the state level. Mr. Pepple stated that the current Multi-State Plan is not clear enough on this issue.

Mr. Dougherty stated that Staff is concerned about interstate transfers and Oregon ratepayers not getting value out of the RECs they paid for.

Staff stated that it is important that unbundled REC issues within AR 617 are consistent with matters outside of the Renewable Portfolio Standard (RPS). For example in PAC's implementation of its Schedule 272 bulk offering for the voluntary green power program, the utility is acquiring both RECs and energy from a facility through separate contracts, but the same term, and considers these unbundled RECs. PAC stated that those RECs don't enter the compliance realm. Staff agrees and notes that its interest is ensuring a consistent definition of unbundled RECs for matters within and outside of the RPS.

Mr. Adams brought up the issue of bundled RECs that are transferred to ESSs for direct access customers, and whether those RECs are still considered bundled. Mr. Adams asked for clarity on this issue, stating that they should still be considered bundled, and that Calpine Energy reached an agreement on this with PAC after litigation, and in UE 335 PGE agreed as well.

PAC agreed that this, overall, was a bigger issue that included fuel mix, content label, etc., and that RECs were reported from different perspectives including RPS compliance and source emissions. PAC agrees that consistency and clarity is important so customers know what they are receiving. Mr. Pepple stated that the driving consideration for the rule here should be financial obligation.

Next Steps

The workshop group reached consensus that the next step would be Staff development of strawman rules that will be distributed to the docket with opportunity for comment.

/s/Jill Goatcher

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