

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1505

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	
OREGON)	COMMENTS OF INDUSTRIAL
)	CUSTOMERS OF NORTHWEST UTILITIES
Solar Photovoltaic Program Draft Report)	
Comments and Recommendations.)	
_____)	

I. INTRODUCTION

Industrial Customers of Northwest Utilities (“ICNU”) submits these comments to the Public Utility Commission of Oregon (“OPUC” or the “Commission”) regarding Commission Staff’s (“Staff”) Solar Photovoltaic Program Draft Report in Docket No. UM 1505 (“Draft Report”), released on November 9, 2010. The solar photovoltaic pilot program (“pilot program”) was established pursuant to House Bill (“HB”) 3039, and modified in 2010 by HB 3690. Under ORS § 757.365(13), the Commission is required to submit a report to the legislature regarding the costs and effectiveness of the pilot program every two years, with the first report due on January 1, 2011.

ICNU is submitting initial comments at this time and will provide additional comments on the next version of the Report, which is due on December 9, 2010.

II. COMMENTS

ICNU recommends that Staff revise the Draft Report to include more data about pilot program results to date. The Draft Report contains little data from the participating utilities

about the details of the program implementation. For example, there is no information about administrative expenses incurred, no information about whether the systems under the pilot program are operational, and if so, the number of kilowatt hours (“KWh”) produced to date. Additionally, the Draft Report does not present data or analysis regarding the costs and effectiveness of other incentive programs such as the Oregon Business Energy Tax Credit (“BETC”) and Residential Energy Tax Credit (“RETC”), a task with which it was charged in the legislation requiring the Commission to issue the Draft Report. ORS § 757.365(13).

ICNU recognizes that the solar pilot program has been active for only for two enrollment periods, July and October 2010, and that Staff has not yet had an opportunity to review and draw conclusions from the customer surveys. Draft Report at 2. However, the absence of complete information is not a justification to present so little information, and the Draft Report should be revised to include data that is currently available. Specifically, the Draft Report should include data regarding: 1) pilot program participation on a customer class basis; 2) costs to implement and administer the pilot program; and 3) the costs and effectiveness of other incentive programs. Additionally, the Draft Report should be revised to provide an analysis of whether it might be less expensive to incent solar development through the Commission’s authority to set rates for qualifying facilities, and also to acknowledge that stakeholders were not afforded an opportunity to participate in drafting the customer surveys.

A. The Draft Report Fails to Present Data About Customer Participation on a Customer Class Basis

The Draft Report should be revised to include additional information on pilot program participation by customer class. In accordance with ORS § 757.365(6), the Commission is directed to develop pilot programs “designed to attain a goal of 75 percent of the

capacity under each program to be deployed by residential qualifying systems and small commercial qualifying systems.” ORS § 757.365(6). In its order in UM 1452, the Commission exceeded the statutory allocation goal, adopting an allocation of 80% of pilot program capacity for residential and small commercial customers. Re OPUC, Docket No. UM 1452, Order No. 10-198 at 18-20 (May 28, 2010). As demonstrated by the legislation and the Commission order, the pilot program has been designed and implemented to primarily benefit residential and small commercial customers.

The Draft Report observes that enrollment in the small and medium sized systems was fully subscribed within fifteen minutes in the first enrollment period, and within ten minutes for the second enrollment period. Draft Report at 4. For the large size capacity projects, the Draft Report describes “a significant level of participation,” but does not provide any data regarding the number of bidders or the customer class of the winning bidders. Id. The Draft Report does not provide any data that demonstrates that industrial customers are participating in the pilot program at all, and if they are, to what extent they participate and receive benefits under the program.

Despite the fact that the pilot program is designed to benefit residential and small commercial customers, there is a significant likelihood that industrial customers will disproportionately bear the costs of implementation of the pilot program. The exact method of cost allocation will not be determined until the pilot program costs are amortized in rates. Re OPUC, Docket No. UM 1452, Order No. 10-198 at 22. Regardless of which cost allocation model is chosen, the legislature would benefit from having a full understanding of how benefits

of the program are distributed by customer class to ensure that customer classes receiving minimal benefit under the program do not disproportionately bear the cost of its implementation.

Finally, ICNU proposes amending the language in final sentence of the second paragraph on page 5 of the Draft Report as follows: “We will continue to monitor the annual customer class retail rate impact and make program changes as needed in the future, in order to achieve a cost-effective solar pilot program that does not unduly burden any one utility **or any one customer class.**” This proposed revision is consistent with the statute implementing the pilot program, which guards against rate shock for customers on a customer class basis by limiting the nameplate capacity if the revenue requirement for a particular class exceeds 0.25 percent. ORS § 757.365(7).

B. The Draft Report Fails to Present Data Regarding the Costs to Administer the Pilot Program

In May 2010, prior to the commencement of the pilot program, Portland General Electric Company (“PGE”) and PacifiCorp filed applications for deferral of expenses associated with the pilot program in dockets UM 1482 and UM 1483, respectively. PGE’s application indicated that it would seek recovery of costs including, but not limited to: incentive payments, administrative costs, data collection, development for billing and website, customer surveys, and regulatory reporting requirements. Re Portland Gen. Elec. Co., Docket No. UM 1482, Application at 3 (May 6, 2010). PacifiCorp proposed to defer costs for administration of the program, marketing, metering, incentive payments and “any other costs incurred by PacifiCorp for purposes of implementing the pilot program.” Re PacifiCorp, Docket No. UM 1483, Application at 5 (May 19, 2010).

PGE estimated that it would incur incremental administrative costs in the range of \$300,000 to \$500,000,^{1/} while PacifiCorp, which received a smaller allocation than PGE by approximately one-third,^{2/} estimated that the incremental costs will range from \$1,000,000 to \$1,200,000 annually.^{3/} The exact incremental costs are uncertain at this time and potentially present a significant add-on to the already high incentive rates. As the utilities have indicated their intent to recover these costs in rates in their applications for deferred accounting, they are presumably tracking these costs as they are incurred. The administrative costs incurred to date should be readily available to the utilities, and information describing these costs should be included in the Draft Report so that the legislature and parties have a better idea of the actual costs to implement the pilot program. In addition, these costs should not be merely a pass-through to customers, but should be reviewed carefully to ensure cost-effective implementation.

C. The Draft Report Fails to Present Any Data Regarding the Costs and Effectiveness of Other Incentive Programs

The pilot program’s implementing legislation directs the Commission to provide a report to the legislature which compares “the effectiveness of the pilot programs” with the effectiveness of the tax-based incentives “for promoting the use of solar photovoltaic energy systems and reducing system costs.” ORS § 757.365(13). The Draft Report acknowledges that it does not fulfill the requirements of the legislation: “this report does not attempt to provide a quantified or qualitative evaluation of whether or not one program is more ‘successful’ than another program.” Draft Report at 1. The justification provided in the Draft Report for failure to comply with the statutory requirement to make a comparative evaluation is that, to do so, “broad

^{1/} Re Portland Gen. Elec. Co., Docket No. UM 1482, Application at 5.

^{2/} Re OPUC, Docket No. UM 1452, Order No. 10-198 at 19 (May 28, 2010).

^{3/} Re PacifiCorp, Docket No. UM 1483, Application at 7.

assumptions would have to be made with regard to an individual's personal discount rate, risk appetite, or tax status.” Draft Report at 1. Even if the Draft Report does not make a conclusion about the success of the pilot program, it should still present information that is currently available regarding the costs and effectiveness of other incentive programs.

For over twenty years, incentives for the development of renewable energy resources have been available through existing programs. The tax-based incentive programs include the BETC and RETC, which have been in place since 1979. Additionally, the Energy Trust of Oregon (“ETO”) provides incentives for the development and installation of renewable energy resources. These existing programs have substantially contributed to the development and installation of solar and renewable energy resources in Oregon. The Draft Report is deficient for failing to include data about the actual solar development that has occurred in Oregon to date under the incentives through the ETO, BETC, and RETC programs.

Instead of presenting data and making a comparison, the Draft Report declares that the pilot program incentive rates are a success because there is high level of participation in the program. Draft Report at 1, 3. The Draft Report utilizes only one criterion to evaluate “success,” which does nothing more than point out the obvious – if you give out excessive subsidies, enrollment in the pilot program will be quickly subscribed. The purpose of this analysis is not to report to the legislature that paying customers at a high subsidy rate will lead to a high level of participation in the pilot program. Rather, the purpose of the report is to provide the legislature with comparative information from which it may make a policy decision as to whether or not it should continue to subsidize solar development, and if so, which method will accomplish that objective in the most cost-effective manner.

D. The October 21, 2010 Federal Energy Regulatory Commission Order May Grant the Commission Authority to Set Rates Under its Existing Authority Which Will Incent Solar Development and Cost Less Than the Pilot Program

Under the “Policy Considerations” section, the Draft Report describes the October 21, 2010 Federal Energy Regulatory Commission Report (“FERC Order”) in Docket Nos. EL10-64-001 and EL10-66-001. The Draft Order provides an interpretation of the FERC Order to allow the Commission authority to set tiered rates for qualifying facilities (“QFs”):

[I]f the state were to require electric utilities to acquire a certain amount of energy generated by Solar PV generators, the state regulatory commission would be authorized to set rates for Solar PV QFs that are based only on the costs a utility would incur to purchase or generate energy from a Solar PV facility.

Draft Report at 6. The Draft Report continues to explain that in earlier proceedings in which the Commission considered how to set rates in the pilot program, it declined to set rates under its Public Utility Regulatory Policies Act (“PURPA”) authority because it did not believe the avoided cost rate would adequately incent development. Id. at 6. In light of the FERC Order, it now appears that the Commission could set rates under its PURPA authority that will incent solar generation. Id. at 6-7. The Draft Report continues that it is not necessary at this time to substitute a PURPA-based program for the pilot program. Id. at 7. However, it would be entirely appropriate – and within the scope of the Draft Report – to offer a comparison of the expected costs of the pilot program as compared to the costs under a PURPA-based program. The purpose of the Draft Report is to inform the legislature about the comparative costs of different options for solar development. Thus, the possibility of creating incentives through the Commission’s PURPA authority should be further discussed, as a PURPA-based program may potentially cost less for ratepayers than the incentive rates provided in the pilot program.

E. No Opportunity for Stakeholder Participation in Drafting Customer Surveys

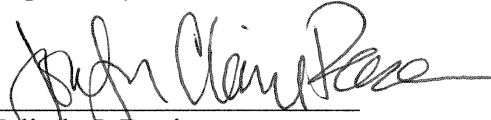
The customer surveys are an essential component to evaluate the effectiveness of the solar pilot program, as they will provide direct feedback from participants and may provide information about how a customer decides whether to participate in the program, and most importantly, what level of compensation is adequate to incent the customer's participation in the program. Thus, the questions that are asked of customers are essential to the evaluation of whether there are other, less costly alternatives to the subsidies. At the October 19, 2010 workshop, ICNU and other parties requested an opportunity to review and provide comments on the surveys. Unfortunately, Staff and the utilities did not allow for this review, claiming that there was not enough time to receive and process comments on the surveys. Although survey results are not discussed in the Draft Report, if the final report to the legislature includes information obtained from the surveys, the discussion of that information should be prefaced with language qualifying the findings, explaining that stakeholders were denied an opportunity to participate in the process of obtaining feedback from customers.

III. CONCLUSION

ICNU appreciates the opportunity to submit these Comments and looks forward to future participation in this proceeding.

Dated this 23rd day of November, 2010.

Respectfully submitted,



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November 23, 2010

Via Electronic and U.S. Mail

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Re: In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Solar
Photovoltaic Program Draft Report
Docket No. UM 1505

Dear Filing Center:

Enclosed please find a hard copy of the Comments on behalf of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Thank you for your attention to this matter.

Sincerely yours,

/s/ Sarah A. Kohler
Sarah A. Kohler
Paralegal

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Comments on behalf of the Industrial Customers of Northwest Utilities upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail where paper service has been waived.

Dated at Portland, Oregon, this 23rd day of November, 2010.

/s/ Sarah A. Kohler

Sarah A. Kohler

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