BEFORE THE PUBLIC UTIITY COMMISSION

OF OREGON

UM 1505

In the Matter of	)	
	)	
PUBLIC UTILITY COMMISSION	)	
OF OREGON	)	REPLY COMMENTS OF
	)	OREGONIANS FOR
Solar Photovoltaic Program	)	RENEWABLE ENERGY POLICY

Oregonians for Renewable Energy Policy (OREP) thanks the Commission and Staff for the opportunity to contribute these reply comments on the Solar Photovoltaic Pilot Programs. Our comments address recommendations for the April 1, 2011 and October 1, 2011 enrollment dates.

1. Acquiring useful data at the time of capacity reservation.

There is broad consensus among stakeholders that it would be helpful to acquire data from a broader pool of aspiring applicants, rather than just those who have successfully reserved a slice of the limited capacity allotted to each enrollment period. We suggest that, on the date the enrollment period opens, the enrollment period be held open for a period of 24 hours and that, during that time, each applicant submit in addition to identifying information and the amount of capacity to be reserved, the following information:

- Anticipated system cost
- Anticipated installer
- Zip code of installed system

By requiring this information from a broad pool of successful and unsuccessful applicants, the utilities could easily and efficiently collect current installed cost

information from the market. Each serious applicant will presumably have had a solar site assessment and received a quote from a solar contractor. The Commission could use these quotes, coupled with the system size information, as it considers future rate adjustments.

2. Adjusting the incentive rate by more than 10% for April 1, 2011.

There is no factual basis to rebut the presumption that the incentive rate should be reduced by 10% for the April 1, 2011 capacity allocation. In 2010, Staff sought market data and carefully analyzed that data prior to setting the initial rates. We are not aware of any market cost data, or data on the volume of disappointed applicants, that has been received by the Commission since the program's launch on July 1, 2010.

Anecdotal reports and conjecture are inadequate bases for the Commission to set rates. With rebuttable presumptions, the burden is on the rebutter to present evidence sufficient to overcome the presumption. Hearsay evidence is inadequate. Without objective data, there is no evidence that the Commission should adjust the VIRs by more, or less, than the presumed 10%.

We recommend that the Commission use the Apri1 1, 2011 capacity reservation applications to obtain the information we have suggested above and then assess that data before deciding what rate adjustment, if any, to make on October 1, 2011. We agree with other comments which recommend that the incentive rates be adjusted and announced well in advance of the next enrollment date, 60 or 90 days, rather than just ten days before the enrollment date.

3. Decreasing demand versus pilot program objectives.

Some comments have asserted that the VIRs should be reduced sharply in order to decrease demand for the program. Decreasing demand for solar photovoltaic is not among the expressed goals of HB 3039. Instead, the Legislature directed the Commission to "consider regulatory policies designed to increase the use of solar photovoltaic energy systems, make them more affordable, reduce the cost of incentive programs to utility customers and promote the development of the solar industry in Oregon."[1]

Reducing the rates sharply would act to *decrease* the use of solar PV systems and make them *less* affordable. It would *not* promote the development of the solar industry in Oregon. Reducing the rates would, however, reduce the cost of incentive programs to utility customers. We recommend two specific program changes that would serve all pilot program goals.

In earlier comments and in the workshop on February 18, 2011, we recommended that the pilot program liability insurance requirement and the meter charge provisions be modified or eliminated. We pointed out that, for small-scale systems, the meter charge adds $1800 in costs over 15 years, and that liability insurance premiums add $1500-$3000 to system costs over 15 years. Each of these pilot program rules adds 4¢ per kWh to the revenue requirement for small systems. If both were eliminated, VIRs could be reduced by 8¢ per kWh, thereby reducing the cost of incentive programs to utility customers without undermining other pilot program goals.

[1] HB 3039, §7.

We recommend, however, that no VIR rate adjustments, beyond those presumed by the rules and based on enrolled capacity, be made prior to October 1, 2011. Not only does the Commission need to analyze objective data before adjusting rates, but also the solar industry needs stability and predictability in order to thrive. Private capital, too, seeks predictability and stability. A steady, principled, predictable degression in rates, announced well in advance, will facilitate longer-range business and investment planning. Rate adjustments based on necessary cost recovery for solar PV systems will serve these ends. Rate adjustments which fluctuate wildly based on demand rumors and hunches will likely discourage pilot program utilization.

4. Adjusting capacity allocation

Assertions have been made that capacity should be reallocated from the small size to medium size systems classifications based on anecdotal reports of relative demand. As is the case with data on costs, there is a complete absence of objective data on relative demand for the two systems size categories. At present, there is no basis on which to change the allocation from the proportions determined by the Commission prior to the pilot program launch. Allocations for both system size classifications were completely reserved in a few minutes.

5. Delaying spring enrollment date to allow time to transition to a lottery selection process.

OREP recommends that that the spring enrollment date not be delayed until May 1st in order to facilitate transition to a lottery selection process. There is a need for a consistent, predictable program that installers and customers can plan on. We are in agreement with the ETO, ODOE, RNP and others on this point.

A secondary consideration is the interplay of the solar pilot program with the sunset of the BETC program. Applications for the last BETC incentives are due on April 11th of this year. A pilot program enrollment on April 1 (in advance of the BETC application deadline) will minimize time and effort expended on the part of applicants and ODOE, as applicants who are successful in their pilot program bid will likely stop there and move forward with their installations. If the order of the deadlines is reversed and ODOE is unable to process the applications in time to notify applicants before the pilot program enrollment, it will be in applicants' best interests to apply for the pilot program on May 1, in addition to the BETC. This may result in some applicants winning pilot program allocation that they will not use, or perhaps leaving a won BETC incentive on the table for reassignment.

Thirdly, a lottery system presents potential improvements but there is reason for concern that moving to a new process in a rushed manner may invite a series of unintended consequences. With limited capacity available for distribution, there is arguably no absolutely fair method of allocation. OREP agrees with other stakeholders that a major change in the capacity allocation process should not go into effect until the October 1, 2011 capacity enrollment period at the earliest. The intervening period will allow time for full consideration of options, for development of a clearly established set of rules, and for all stakeholders to clearly understand and prepare for any changes.

Conversations with installers have led to two considerations that OREP offers here as information to the Commission:

First, contrary to earlier suspicions of sophisticated computer software being needed to win allocation, we have anecdotal evidence from a number of successful

installers in the July and October enrollments who used nothing more sophisticated than fast typists to submit applications.

Second, one benefit of the current system is that installers are motivated to enroll their more serious prospects first. With a lottery system, installers will be motivated to enter every perspective lead, playing the odds that the more entries they put into the system the better their chance of winning allocation. This has the potential of increasing the number of won allocations that do not lead to installations, thus slowing down deployment and not maximizing the effectiveness of the program. This is just one example to suggest that further discussion and a measured rather than rushed approach to changes in the process would be advisable.

6. Competitive bidding for medium-size systems.

Bifurcating the medium-size classification adds complexity and administrative cost to the program for developers, installers and the utilities. Bidders will likely find it necessary to apply for capacity for a VIR and prepare a competitive bid for the same project, and the utilities will have to process twice as many applications. We think the pilot program will be best served by clarity and simplicity; attributes which are lacking even in its present state.

Competitive bidding for medium-size systems may lead to unintended consequences and, without some regulatory parameters, may put some geographic areas of the state at a disadvantage. We know, for example, that Bend receives approximately 40% more sun than Portland. Due to differences in annual energy production per kW of installed capacity, bidders for solar PV systems in Central Oregon would presumably be able to submit bids at much lower rates than bidders in Northwest Oregon, leading to a

situation where a disproportional number of – perhaps all – winning bids would be clustered in one area of the State.

As we will mention in our March 9, 2011 comments on the VIRs, current VIRs for medium-size systems are level in all insolation zones of the state, unlike the rates for small-size systems, which vary by geographic area. If competitive bids are authorized for use in the medium category and the medium-size system VIRs are not corrected for differences in geographic insolation, the areas of the State with the greatest insolation will be the only ones where medium-size solar PV systems are economically viable. This would leave the most populous areas of the State, with the highest concentration of energy consumption, without meaningful participation in the medium-size category.

The language of HB 3039 subsection 2 makes it clear that the Legislature envisioned the Commission would establish and adjust rates, rather than allowing the market to do so. HB 3039 subsection 2(3) reads: "*The commission may establish incentive rates* for the pilot programs . . ." (emphasis added)

Subsection 2 (4) says:

"[a] retail electricity consumer participating in a pilot program may receive payments based on the actual electricity generated from solar photovoltaic energy system output for 15 years from the consumer's date of enrollment in the program, *at rates or through a rate formula in a rate schedule established at the time of enrollment.*" (emphasis added)

HB 3039 subsection 2(5) says:

"*The commission may adjust the rate schedule* as needed for new pilot program participants for the purpose of meeting the goal established in subsection (1) of this section." (emphasis added)

It is difficult to square a competitive bidding arrangement with the intent of the statute, as no rate schedule would be established at the time of enrollment and there

would be no rate schedule which the commission could adjust. In this pilot program, the Legislature intended that the Commission would set incentive rates.

We are not aware of feed-in tariff systems in other nations where a competitive bidding system has been used successfully; anecdotal reports from other jurisdictions indicate that auctions are easily gamed and often result only in phantom projects, as artificially low bids are submitted for the sole purpose of selling their "spot" rather than actually building a project.

While moving to a bid system would relieve the Commission of the responsibility of setting VIRs, we have experienced disastrous consequences nationally in instances where regulatory agencies have not exercised their authority and have allowed the market to determine prices and practices. An unregulated competitive bid system would be ripe for manipulation.

At this point in the pilot program, our recommendation is that the Commission continue to exercise authority over rate setting as the Legislature envisioned and not experiment with competitive bids in the medium-size category.

7. Making bids from competitive bidding publicly available.

With respect to the >100 kW systems, OREP is in full support of Staff's recommendation that the Commission require full disclosure of all bid prices for the reasons outlined in Staff's opening comments.

DATED this 28th day of February 2011.

Oregonians for Renewable Energy Policy (OREP)

/s/ Mark E. Pengilly */s/ Kathleen A. Newman*
OREP Representatives