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July 15, 2016

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PORTLAND GENERAL ELECTRIC CO.
2015 Renewable Portfolio Standard Compliance Report
Docket No. UM 1783

Dear Filing Center:

Enclosed for filing in the above-referenced docket, please find the Comments of the Industrial Customers of Northwest Utilities, along with Attachments A and B thereto.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1783

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, 2015 Renewable Portfolio Standard Compliance Report.	)))))))	COMMENTS OF THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

I. INTRODUCTION

Pursuant to OAR 860-083-350(4), the Industrial Customers of Northwest Utilities ("ICNU") files these Comments on Portland General Electric Company's ("PGE" or the "Company") 2015 Renewable Portfolio Standard Compliance Report ("Compliance Report"). ICNU's review of the Compliance Report has revealed that the Company is not calculating its cost of complying with Oregon's renewable portfolio standard ("RPS") in accordance with statutory requirements. ICNU, therefore, recommends that the Oregon Public Utility Commission ("Commission") require PGE to recalculate its total cost of compliance with the RPS in 2015 based on the levelized cost of qualifying electricity delivered in 2015, the method required by ORS 469A.100. Additionally, ICNU recommends that the Commission initiate a process to review and update its rules applicable to the RPS in light of certain ambiguities in those rules and new requirements associated with Senate Bill ("SB") 1547. Finally, while the Compliance Report indicates that the Company prudently complied with the RPS in 2015, PGE should revisit its long-term strategy for RPS compliance in future dockets with respect to its use of unbundled renewable energy certificates ("RECs").

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II. BACKGROUND

Oregon's RPS, first passed in 2007 by SB 838, requires PGE to submit to the Commission an annual compliance report "for the purpose of detailing compliance, or failure to comply, with the renewable portfolio standard applicable in the compliance year."[1/] The Commission's rules implementing the RPS contain, among other things, the requirements for compliance plans to include: (1) the facilities that generated RECs used for compliance; (2) the amount of bundled and unbundled RECs used, and whether they were banked or not; and (3) the total cost of RPS compliance.[2/] The RPS law also includes a cost limitation such that PGE is "not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments … exceeds four percent of the utility's annual revenue requirement for the compliance year."[3/] This is known as the "four percent cost cap."

In the 2016 regular session, the Oregon Legislature passed SB 1547, which made numerous changes to the State's RPS. These include increasing the RPS to 50% by 2040 and modifying REC banking provisions so that, with certain exceptions, RECs acquired going forward have a five-year life, while currently banked RECs may be retained indefinitely.[4/] SB 1547 did not, however, amend the provisions related to the incremental cost of RPS compliance or the four percent cost cap.

1/ ORS 469A.170(1).
2/ OAR 860-083-350.
3/ ORS 469A.100(1).
4/ SB 1547 §§ 5, 7.

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PGE filed its Compliance Report on June 1, 2016. The Compliance Report shows that the Company met its 2015 RPS obligation through a combination of banked bundled RECs and unbundled RECs.[5/] All of the banked bundled RECs PGE used for compliance were generated in prior years from its Biglow Canyon wind facility ("Biglow Canyon").[6/] The Compliance Report shows that, by calculating the cost of the RECs it used for compliance in 2015, PGE's total cost of compliance was 2.2% of its revenue requirement.[7/] The Company concludes, therefore, that it did not reach the four percent cost cap in 2015.[8/]

III. COMMENTS

A review of PGE's Compliance Report reveals that, while the Company appears to have complied with the RPS in 2015, its cost of compliance is not accurately reported. PGE calculates its total cost of compliance based on the cost of RECs retired in 2015, not the cost of qualifying electricity delivered in 2015. This is inconsistent with the plain language of the RPS law as well as the law's intent because it does not reflect the costs that are in customer rates. Moreover, while the Company's method is arguably consistent with the Commission's rules, those rules appear contradictory and ambiguous and, in any event, cannot be interpreted inconsistently with the statute those rules are intended to implement. Following passage of SB 1547, the Commission will need to revise its rules implementing the RPS in a number of ways. It should take the opportunity to ensure that those rules clearly define how to calculate properly the incremental cost of RPS compliance. Specifically, the cost of compliance should be

5/ Compliance Report at 2.
6/ *Id.* at 5.
7/ *Id.* at 6.
8/ *Id.*

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based on the cost of RECs generated in the compliance year from qualifying resources included in customer rates, along with the cost of any RECs purchased for the compliance year, rather than the cost of RECs that were retired for compliance in the compliance year.

A. PGE's calculation of its cost of RPS compliance is inconsistent with statutory requirements and does not reflect the costs currently in customer rates.

PGE's Compliance Report indicates a total cost of RPS compliance in 2015 of $39.8 million, or 2.2% of its revenue requirement.[9/] The "total cost of compliance" is defined in the Commission's rules as "the cumulative cost of: (a) [t]he incremental cost of compliance; (b) [t]he cost of unbundled [RECs] used to meet the applicable [RPS] for a compliance year; and (c) [t]he cost of alternative compliance payments ["ACPs"] used to meet the applicable [RPS] for a compliance year."[10/] This is equivalent to the costs that must be considered under the statute in determining whether an electric company has reached the four percent cost cap in the compliance year.[11/]

As noted, one component of the "total cost of compliance" is the "incremental cost of compliance." The RPS defines the "incremental cost of compliance" as "the difference between the levelized annual delivered cost of the qualifying electricity and the levelized annual delivered cost of an equivalent amount of reasonably available electricity that is not qualifying electricity."[12/] Established rules of statutory construction dictate that "there is no more persuasive evidence of the intent of the legislature than the words by which the legislature undertook to give expression to its wishes."[13/] Here, that legislative intent is unambiguous.

9/ Compliance Report at 6.
10/ OAR 860-083-0010(39).
11/ ORS 469A.100(1).
12/ *Id.* 469A.100(4) (emphasis added).
13/ *State v. Gaines*, 346 Or. 160, 171 (2009) (internal quotations omitted).

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Under the plain terms of the statute, in determining whether an electric company is at the four percent cost cap, the Commission must consider the "incremental cost of compliance," along with the cost of unbundled RECs and ACPs, "for the compliance year."[14/] Thus, the levelized cost of the electricity that was delivered in that compliance year must be used to establish the cost of compliance relative to the four percent cost cap.[15/]

Contrary to this statutory requirement, however, PGE calculates the incremental cost of compliance in its Compliance Report based on the cost of RECs retired in 2015, not qualifying electricity delivered in 2015. This is evident from pages 5 and 6 of the Compliance Report, which show that PGE included only the cost of unbundled and bundled RECs it retired in 2015 to calculate its total cost of compliance. All bundled RECs it used for compliance came from RECs it had banked in previous years that were generated by Biglow Canyon.[16/] The consequence of this method is that the levelized cost of electricity the Company's Tucannon River Wind Farm ("Tucannon") delivered in 2015 is unaccounted for. In fact, under PGE's method of calculating the incremental cost of RPS compliance, Tucannon does not exist. This is because all of the RECs Tucannon produced in 2015 were banked for future years. Attachment A to the Compliance Report, however, shows that Tucannon operated for all of 2015 and delivered qualifying electricity in this year.[17/] Under the plain terms of ORS 469A.100(1) and (4), therefore, the levelized cost of electricity Tucannon delivered in 2015 must be considered in

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[14/] ORS 469A.100(1).
[15/] *Id.* 469A.100(1), (4).
[16/] Compliance Report at 5.
[17/] *Id.*, Attach. A at 1

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PGE's 2015 cost of RPS compliance, regardless of whether the Company retired RECs from this facility in that year.

Furthermore, in determining the legislature's intent behind a statute, "[l]egislative history may be used to confirm seemingly plain meaning and even to illuminate it …."[18/] The legislative history accomplishes that task here. It demonstrates that stakeholders were in agreement that the four percent cost cap was intended to limit rate impacts from the RPS on customers. PGE testified in support of SB 838 because, among other things, it "[m]inimiz[ed] rate effects through the use of a cost cap."[19/] PacifiCorp noted its concern "that the costs to our customers are reasonable" and voiced its support for the "4-percent-of-revenue-requirement cap" as one of a number of tools that provided "important consumer protections in the event costs of compliance become too high in a particular year."[20/] The Citizens' Utility Board testified that "if renewable resources are consistently more expensive, over the long term, as the costs of renewable energy acquisitions add up, the 4% cost cap ensures that customers will not pay too much to implement the standard."[21/] Governor Kulongoski stated that SB 838 "addresses concerns over rates in a few different ways, including a provision that calls for the [Commission] to develop a cost cap that protects customers of investor-owned utilities from unexpected rate increases."[22/] Finally, then-Commission Chair Lee Beyer stated that, while the four percent cost

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18/ *State v. Gaines*, 346 Or. at 172.

19/ Attachment A at 1, (Testimony of Dave Robertson before the House Committee on Energy and the Environment (Apr. 16, 2007)).

20/ *Id*. at 6 (Testimony of Scott Bolton before the House Committee on Energy and the Environment (Mar. 15, 2007)).

21/ *Id.* at 2 (Testimony of Jason Eisdorfer before the House Committee on Energy and the Environment (Mar. 15, 2007)).

22/ *Id.* at 12 (Testimony of Governor Ted Kulongoski before the House Committee on Energy and the Environment (Apr. 16, 2007)).

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cap "doesn't mean rates won't go up, it does address the point of whether they would go up more than they would without the RPS standards."[23/]

What all of these statements have in common is their recognition that the four percent cost cap exists to protect customers from paying more in rates than this amount for RPS compliance, relative to what they otherwise would have paid without an RPS. Yet, PGE's Compliance Report does not give effect to this intent. While Tucannon is invisible from an incremental cost of RPS compliance perspective, it certainly is not invisible to ratepayers. In the Company's 2014 general rate case, the Commission approved a stipulation authorizing PGE to place Tucannon, at a capital cost of $524.6 million, in rates.[24/] Tucannon began commercial operation on December 15, 2014, and customers have been paying for it ever since.[25/] Indeed, Tucannon was built for the purpose of ensuring the Company's compliance with the current 15% RPS.[26/] It reflects neither statutory requirements nor reality, therefore, for PGE to exclude Tucannon from its incremental cost of RPS compliance in 2015.

This disconnect between the costs of RPS resources in customer rates and the costs PGE uses to report its incremental cost of RPS compliance may become far more egregious in the near future. In Docket No. UM 1773, the Company has requested a partial waiver of the Commission's competitive bidding guidelines in order to pursue a request for proposals for 175 average megawatts ("aMW") of new RPS resources.[27/] The cost of these resources is likely to be

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23/ *Id.* at 14 (Testimony of Chairman Lee Beyer before the House Committee on Energy and the Environment (Apr. 16, 2007)).

24/ Docket No. UE 283, Order No. 14-422 at 8 (Dec. 4, 2014).

25/ Docket No. UE 283, Attestation of Stephen Quennoz ¶ 3 (Dec. 15, 2014).

26/ Docket No. UE 283, PGE/400, Pope-Lobdell at 2:3-9.

27/ Docket No. UM 1773, PGE Petition for Partial Waiver of Competitive Bidding Guidelines and Approval of Request for Proposals (RFP) Schedule at 5 (May 4, 2016) ("PGE RFP Petition").

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over $1 billion,[28/] and pursuant to ORS 469A.120(2), the Company will have the opportunity to seek to include these resources in customer rates through its Renewable Resources Adjustment Clause tariff the day they come online and without filing a general rate case.[29/] Under the State's new RPS, enacted through SB 1547, however, PGE likely will have the option to bank all RECs generated from these resources indefinitely for the first five years of their useful lives.[30/] Following this initial five-year period, RECs will be time-limited to five years.[31/] This means that, under PGE's method, the levelized cost of the Company's $1 billion capital investment in these facilities, which customers will pay for the day they go into service,[32/] will not be reflected in the incremental cost of RPS compliance for at least a decade.

As the statutory language and the legislative history demonstrate, the four percent cost cap is intended to protect customers from paying rates that include excessive incremental costs to achieve RPS compliance. PGE's method of calculating its cost of RPS compliance, however, does not reflect this intent. The Commission should require the Company to recalculate its total cost of RPS compliance in 2015 to reflect the levelized cost of qualifying electricity delivered in 2015, not the cost of RECs retired for compliance in 2015. That is, the Company should calculate the cost of RECs generated from qualifying resources included in customer rates in the compliance year, along with the cost of RECs it purchased for the compliance year, rather than the cost of RECs it retired in the compliance year.

28/ Docket No. UM 1773, ICNU Supplemental Comments, Mullins Affidavit ¶ 4 (June 28, 2016).
29/ PGE Schedule 122.
30/ SB 1547 § 7(3)(c).
31/ *Id.* § 7(3)(d).
32/ That is, assuming the Commission finds the costs associated with these resources to have been prudently incurred.

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B. The Commission should revise its rules to remove ambiguity and clearly reflect statutory requirements.

The Commission's rules implementing the RPS are ambiguous and appear to be conflicting in a number of places with respect to how a utility determines its incremental cost of RPS compliance. Certain provisions appear to support PGE's method of calculating the cost of RECs retired in the compliance year, and other provisions do not.

For instance, the rules define the "incremental cost of compliance" as "the cost of bundled [RECs] used for compliance for a compliance year as calculated pursuant to OAR 860-083-0100."[33/] This definition would appear to support PGE's method in its Compliance Report. Similarly, the rules provide that, "[i]f the total cost of compliance exceeds the cost limit under ORS 469A.100, the electric company … is not required to use additional [RECs] or make an alternative compliance payment to meet the applicable standard," and also state that the "costs of [RECs] used to determine whether the cost limit has been reached must be from the applicable compliance report."[34/] These provisions also suggest that the rules may contemplate that the cost of RECs retired in the compliance year provides the means for determining whether the four percent cap has been reached, not the cost of electricity delivered in the compliance year.

Conversely, however, the rules also state that the "incremental cost under ORS 469A.100(4) for long-term qualifying electricity is the difference between the levelized annual cost of qualifying *electricity delivered in a compliance year* and the levelized annual cost of an equivalent amount of electricity delivered from the corresponding proxy plant."[35/] They further

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33/ OAR 860-083-0010(19).
34/ *Id.* 860-083-0300(3)(b)(D)-(c).
35/ *Id.* 860-083-0100(1)(c) (emphasis added).

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specify that "[i]ncremental cost estimates for an electric company must be based on the *likely impacts on the rates* of its Oregon retail electricity customers,"[36/] and that the "levelized annual cost of qualifying electricity delivered in the compliance year must be based on *all costs* that will be included in rates through the qualifying electricity's time horizon."[37/] Finally, the rules state that if a "generation facility that was previously included in a compliance report has significant investment costs in a compliance year, all qualifying electricity from the facility is new qualifying electricity … [and] costs for each such facility must be updated in the next regularly scheduled compliance report and implementation plan."[38/] This provision indicates that the costs associated with a qualifying RPS facility must be reflected in a compliance report, not just the costs associated with RECs retired.

Consequently, there is some conflict and ambiguity in the rules with respect to how the incremental cost of RPS compliance is to be calculated and reflected in a compliance report. That ambiguity, however, must be resolved in favor of the statutory requirements. This is because the authority of a regulatory agency, like the Commission, "may be [] limited by the legislature itself; its power arises from and cannot go beyond that expressly conferred upon it."[39/] Consequently, "[w]hen an agency's interpretation of its rule conflicts with the intent of the legislature in enacting the statutory provision, the agency's interpretation must give way to the statutory limitation."[40/] In this case, the legislature's intent in enacting ORS 469A.100 is unambiguous: the incremental cost of RPS compliance must be based on the "delivered cost of

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[36/] *Id.* 860-083-0100(1)(h) (emphasis added).
[37/] *Id.* 860-083-0100(2)(b) (emphasis added).
[38/] *Id.* 860-083-0100(4)(a).
[39/] *Pacific Nw. Bell Telephone Co. v. Sabin*, 21 Or. App. 200, 213 (1975).
[40/] *Talbott v. Teacher Standards & Practices Comm'n*, 260 Or. App. 355, 358 (2013).

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the qualifying electricity" in the compliance year – the costs reflected in customer rates – not the cost of RECs retired in the compliance year. Thus, to the extent the Commission's rules could be interpreted to require calculation of the incremental cost of compliance based on the cost of RECs retired in the compliance year, that interpretation must yield to the legislative intent embodied in the statute.

In light of the passage of SB 1547, the Commission will likely need to update its rules implementing the RPS. The rules, for instance, require electric companies to retire RECs on a "first-in, first-out" basis.[41/] That requirement was eliminated by SB 1547.[42/] A number of other changes and updates also will likely need to be made. As part of this process, ICNU recommends that the Commission update its rules related to the calculation and reporting of the incremental cost of RPS compliance in order to ensure that these rules clearly reflect and effectuate the legislature's intent in codifying the four percent cost cap.

C. PGE appears to have prudently complied with the RPS in 2015, but its strategy related to unbundled RECs should be revisited.

Despite the issues discussed above, ICNU feels the Company executed a prudent strategy for RPS compliance in 2015. Recognizing the low cost of unbundled RECs in the market, PGE purchased enough of these RECs to meet 20% of its compliance obligation, the maximum amount allowed by law.[43/] Additionally, the Company met the remainder of its compliance obligation with banked bundled RECs, allowing it to bank the RECs it generated in 2015.[44/]

41/ OAR 860-083-0300(3)(b)(B).
42/ SB 1547 § 7(2).
43/ ORS 469A.145(1).
44/ ORS 469A.140(2) requires banked RECs with the oldest issuance date to be used first. SB 1547 has removed this requirement, but it is the requirement that applies to PGE's 2015 compliance.

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Given the low price of unbundled RECs in the market, the Company reasonably could have purchased more than the 20% limit in order to bank them for future compliance years.[45/] In response to a Commission Staff data request, PGE stated that it did not do so because "[p]urchases beyond the sufficient level of banked RECs would introduce price risk, and PGE does not speculate on forward prices."[46/]

This response appears problematic given the Company's concurrent actions. The Company's proposal in Docket UM 1773 to issue an RFP for 175 aMW of new RPS-compliant generation is based on an intent to capture the full value of the production tax credit ("PTC") before it begins to phase out. This is itself price speculation. The Company is not proposing to acquire these resources based on need; it is doing so because it claims that capturing the PTC will result in long-term cost savings for customers.[47/] ICNU has refuted this claim,[48/] but in any event, it is inconsistent for the Company to argue that it should not purchase unbundled RECs that it can use for future compliance years because this would speculate on forward prices, but it should acquire new physical generation that is not needed for RPS compliance for a decade or longer merely because it thinks customers might save money in the long run.

Unlike the $1 billion investment in physical generation the Company proposes to make pursuant to the RFP it has filed in UM 1773, it cost PGE a mere $170,000 to purchase enough unbundled RECs to meet 20% of its 2015 compliance obligation.[49/] This is little more

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45/ With the benefit of hindsight, it is particularly unfortunate that the Company did not avail itself of the opportunity to purchase additional unbundled RECs in 2015, as this was the last year PGE could have done so and banked them indefinitely. SB 1547 now restricts the Company's ability to bank unbundled RECs to five years. SB 1547 § 7(3)(b).

46/ Attachment B (PGE Resp. to Staff DR 002.b).

47/ Docket No. UM 1773, PGE RFP Petition at 4-5.

48/ Docket No. UM 1773, ICNU Supplemental Comments, Affidavit of Bradley Mullins (June 27, 2016).

49/ Compliance Report at 2.

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than a rounding error in the Company's revenue requirement and hardly seems to introduce the price risk the Company fears, particularly considering the alternative.

Both ICNU and Commission Staff have recognized the significant cost savings the Company can realize by maximizing its use of unbundled RECs.[50/] Given the low price of these RECs on the market currently, ICNU recommends that, going forward, PGE purchase the maximum amount of unbundled RECs it can use within the five-year banking limitation period imposed by SB 1547 and incorporate unbundled RECs into its long-term RPS compliance strategy.

IV. CONCLUSION

PGE is not calculating its total cost of RPS compliance in accordance with statutory requirements. Those requirements mandate that the incremental cost of compliance be calculated based on the levelized cost of qualifying electricity delivered in the compliance year, not the cost of RECs retired in the compliance year, as PGE has done in its Compliance Report. The Commission should require PGE to recalculate its total cost of RPS compliance in 2015 in accordance with the law so that all costs of RPS compliance included in customer rates are accounted for. Furthermore, while the Commission's rules arguably provide support for PGE's method of calculating its total cost of RPS compliance, the rules on this matter are conflicting and ambiguous, and interpreting them as PGE appears to have done is inconsistent with legislative intent, as reflected in the plain language of the statute and legislative history. As part of the process for updating its rules implementing the RPS following passage of SB 1547, the

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[50/] Docket No. UM 1773, ICNU Supplemental Comments, Affidavit of Bradley Mullins; *Re PGE 2016 Renewable Portfolio Standard Implementation Plan*, Docket No. UM 1755, Staff's Initial Comments at 2-3 (Feb. 17, 2016).

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Commission should revise its rules related to the incremental cost of RPS compliance to ensure they clearly reflect the statute and legislative intent. Finally, ICNU recommends that, going forward, PGE incorporate the purchase of unbundled RECs into its long-term RPS compliance strategy.

Dated this 15th day of July, 2016.

Respectfully submitted,

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MEASURE: SB 838
EXHIBIT: E
Energy and the Environment
DATE: 4-16-07 PAGES: 1
SUBMITTED BY: Dave Robertson

Portland General Electric
Dave Robertson, Director of Government Affairs
House Committee on Energy and the Environment
Hearing on SB 838, Renewable Energy Standard
4/16/07

- Good afternoon, Chair Dingfelder and members of the committee, my name is Dave Robertson, and I am the government affairs director for Portland General Electric. Thank you for allowing me to testify today on SB 838, the Renewable Energy Standard bill.
- PGE supports SB 838 and urges the committee to pass it.
- PGE has been actively involved in the discussions developing the compromise language that you see before you today. We participated in the Governor's Renewable Energy Working Group during the interim, and also in a smaller discussion groups with many of the parties you will hear from on this issue.
- Since last year, PGE has said that it could support a thoughtful, meaningful RPS that balanced the needs of our customers while ensuring that that reliability and safety of the electric supply system was not diminished.
- To achieve those goals, PGE executives developed a list of priorities that would have to be met in order for PGE to support an RPS. The priorities included:
    - Ensuring that the Oregon Public Utility Commission has the necessary authority to implement the RPS
    - Minimizing rate effects through the use of a cost cap
    - Tying the RPS to the OPUC's integrated resource planning process
    - Ensuring cost recovery for prudently incurred costs; and
    - Applying the RPS to all load-serving entities
- We believe SB 838 meets these priorities and provides us with the flexibility needed to meet the renewables targets set out in the bill:
    - The bill recognizes some of the contribution that hydropower makes toward a carbon free environment by allowing 50 megawatts, per utility, of low-impact hydro to count as a renewable resource
    - The utilities' RPS implementation plants are tied to the existing OPUC Integrated Resource Planning process. This will ensure that the best combination of "least-cost, least risk" energy resources are obtained to meet growing customer demands
    - The cost cap contains language that ensures a true apples-to-apples comparison of resources
    - An Alternative Compliance Payment plan is included to provide flexibility in meeting the targets, which can help keep costs down
    - Renewable Energy Credit banking is allowed and those credits can be acquired from the entire US Western electric grid, which also helps manage costs
    - The amendments apply the RPS to all load serving entities eventually
    - Timely recovery of utility costs is allowed if those costs are prudently incurred
    - Allows utilities to do more energy efficiency projects for residential and commercial customers if they are deemed a "least-cost, least-risk" resource for customers.
- Thank you again for the opportunity to comment on this bill.

MEASURE: SB 838
EXHIBIT: P
Sen. Environment & Natural Resources
DATE: 03/15/07 PAGES: 2
SUBMITTED BY: Jason Eisdorfer

Before the Senate Environment and Natural Resources Committee

SB 373

Jason Eisdorfer, Citizens' Utility Board

March 15, 2007

Cost Cap.
This provision is not a rate cap. If the Public Utility Commission authorized a 7% rate increase for costs associated with health care costs, a new customer information system, or a new fossil-fuel base load plant not associated with renewable energy, then this cost cap is not implicated at all. This cost cap says that if the cumulative difference between the levelized costs of renewable energy resources and comparable market-priced non-renewable energy resources reaches 4% of the utility's revenue requirement, then the utility need not meet the annual renewable targets. At such time as the cumulative difference falls below the 4% level, then the utility must meet the targets again.

This 4% is neither a guarantee of a 4% cost increase, nor is it meaningless. Renewable resources over time may be at market or, especially after the advent of carbon regulation, could cost less than the comparable fossil-fuel resource. If renewable resources are consistently higher than other comparable resources, we think that it is highly unlikely that the cost cap will be triggered in early years of the RES. However, if renewable resources are consistently more expensive, over the long term, as the costs of renewable energy acquisitions add up, the 4% cost cap ensures that customers will not pay too much to implement the standard

The costs that fall under this cost cap will undergo two prudence reviews: first, the rate-based resource will undergo the standard PUC prudence review, and second, through the compliance report, the PUC will determine the prudence of the utility's choice of resources (be they owned or contracted resources, or purchases of unbundled renewable energy certificates, or payment of alternative compliance payments) to meet the renewable standard.

Cost Recovery
There is a new provision that directs the PUC to identify a mechanism whereby the utility can apply for and get timely recovery of prudently incurred investment in renewable resources without the need for a rate case. This makes policy sense, because the RES will promote a strategy of adding renewable resources on an on-going basis, and this might otherwise require annual rate cases, which are resource intensive proceedings. In addition, as a renewable resource comes on line, the utility's variable costs, or costs of fuel, go down and those savings will be passed on to the customer through annual rate adjustment that are currently in place. It is not warranted to allow cost reductions to flow

through to customers from this RES and not allow for reasonably contemporaneous recovery of the fixed costs of the resource. Furthermore, the opportunity to recover fixed costs between rate cases currently exists at the PUC; this provision is to formalize the process in a more consistent way between utilities.

This cost recovery provision is NOT:
a) recovery of costs that are not used and useful in violation of Measure 9 (ORS 757.355). That existing statutory provision says that a utility may not recover the cost of an investment until the investment is actually turned on and is benefiting customers. The term "construction" in the proposed SB 373 bill language refers only to utility-built, or utility-constructed, resources as opposed to purchased resources. The term does not mean to imply that the utility can recover the costs of construction before the plant goes on line and is actually serving customers. All the parties agree to this interpretation;

b) preapproval of a resource. The cost recovery is of prudently incurred costs only, so whatever mechanism the PUC adopts as a result of this statute, the PUC must assume a prudence review of an operating resource in the process.

Alternative Compliance Payment
In addition to the cost cap there is an alternative compliance payment provision. While the cost cap protects customers from spending too much to meet the requirements of the RES, the ACP protects customers from getting too little value under the cost cap. So if the market for renewables spikes, the ACP, set annually by the PUC, allows the utility to meet the RES standard by making payments at a more reasonable rate to put into a fund for future renewable resource or energy efficiency investment. This makes sure that customers get a good value for their money.

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Sen. Environment & Natural Resources
DATE: 03/15/07 PAGES: 5
SUBMITTED BY: Scott Bolton

3/15/07

Testimony of PacifiCorp on Senate Bill 373

Chair Avakian, Members of the committee, for the record my name is Scott Bolton, Government Affairs manager for Pacific Power. Along with me today are Kyle Davis, PacifiCorp Manager of Environmental Policy & Strategy, and Brent Gale, Senior V.P. – Legislation & Regulation of MidAmerican Energy Holdings Company, to help answer questions. We are pleased to come before the committee and offer our impressions of the amendments to the Senate version of the Oregon Renewable Energy Act that are currently being negotiated.

PacifiCorp is an integrated electric utility serving approximately 1.7 million customers in six western states. In Oregon, the company serves more than 550,000 retail customers as Pacific Power. We are one of the lowest-cost electric providers in the state and indeed the region.

PacifiCorp fully supports the goal of including cost-effective renewable energy as part of a balanced portfolio. PacifiCorp's generation capacity is currently more than 10,400 megawatts from coal, hydro, gas-fired combustion turbines and renewable wind and geothermal power. The system peak demand is about 9,400 MW, with the Oregon peak demand about 2,700 MW. Oregon retail sales are about 15 million MWh annually.

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PacifiCorp has about 1500 MW of hydro-electric generation, about 37 MW of geothermal generation, approximately 300 MW of wind generation and 53 MW of other renewable generation or purchase contracts such as biogas and biomass. The fastest growing portion of our resource mix is renewable energy. Since the completion of the sale from Scottish Power to MidAmerican Energy Holdings Company one year ago this month, PacifiCorp has embarked on an aggressive renewable energy plan that has added almost 400 MW of renewables and is expected to add another 1000 MW to 1500 MW of additional cost-effective renewable energy into our portfolio by 2014.

This expansion of our renewable portfolio has occurred without a renewable portfolio requirement. For PacifiCorp, renewable energy makes both environmental and business sense. Portfolio diversification is a critical tool to help manage the risks associated with coal and natural gas, including the costs of future carbon regulation at the state, regional, federal and even international levels.

When evaluating a renewable portfolio standard for Oregon, we are primarily concerned that the costs to our customers are reasonable and all parties, including utilities, are treated fairly. Oregon utilities will be the fiduciary agents of this policy - and PacifiCorp does not shy away from advocating for good public policy when it serves to benefit our customers or exposing bad policy when it does not. For us, addressing these concerns is paramount. And we greatly appreciate the time and effort the stakeholders involved in this issue have spent with us to address our concerns.

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While we are still reviewing the language, the amendments to the legislation that are being negotiated with the supporters of the bill appear workable, provide cost protections for our customers, treat parties equitably and provide utilities an opportunity to negotiate for the lowest-cost renewable energy to satisfy the standard. Allow me to highlight these improvements:

- Assurance of reasonable costs– The amendments allow utilities more flexibility to comply with the standard and allow compliance alternatives when the costs of compliance would be too high. The utility may generate the renewable energy necessary to comply with its target, or it can acquire renewable energy certificates (with a much wider geographic market than previous versions of the bill that provides for greater opportunities for competition and reduced costs), or it can opt to use an alternative compliance payment when that option is most cost effective for customers. These are important consumer protections in the event costs of compliance become too high in a particular year. The amendments also contain a 4-percent-of-revenue-requirement cap, established by the public utility commission.

- Planning – We have listened to our customers, in particular our larger industrial and commercial customers, who wanted a transparent and complimentary resource planning process. We asked for, and the amendments contain, a clear tie-in between

the existing Integrated Resource Planning process and the implementation planning required by the amendments. This tie-in allows our regulators to look at investor-owned utility resource planning in a holistic fashion and allows our customers and the general public significant opportunity to weigh in and comment. We see this as a substantial improvement in the bill and should address the reasonable concerns we share with our customers to ensure that the renewable portfolio standard process is compatible with, and integrated into, the integrated resource planning process.

- Investment in new resources – The amendments incorporate other improvements to protect customers while not discouraging utility investment in renewable energy facilities. The amendments allow for the recovery of utility investment costs at the time the benefits of renewable energy are delivered to customers. This provision will still permit strong regulatory oversight and allow customers and their advocates the opportunity to review these investments without forcing long, expensive general rate cases. Importantly, this provision will also allow customers to receive the benefits of production tax credits much faster than the current process.

As I noted, PacifiCorp supports the goal of using renewable resources to the extent they are cost effective and do not adversely impact the reliability of the system. PacifiCorp believes that compliance with a standard perhaps as much as 15 percent should

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be achievable in a cost-effective way without compromising our system integrity or operational reliability.

We do want to note for the record some concern about the standard as we move into the later years and the targets increase to 20 and 25 percent. Today's technologies and operations indicate that these targets could potentially present operational challenges. However, we urge the Legislature to treat this standard as a living policy, to be revisited and fine tuned as experience, technologies and market conditions determine.

We share the hope and optimism of many of those who have testified to this committee -- as well as Governor Kulongoski -- that innovation and competition for renewable energy development and technologies will help us to achieve cost effective implementation of this renewable standard. The amendments to the bill that are being negotiated will help the state achieve that objective.

We are happy to take your questions.

WRITTEN TESTIMONY IN SUPPORT OF SENATE BILL 838
Governor Ted Kulongoski
House Committee on Energy and the Environment
April 16, 2007

Chair Dingfelder and members of the committee: Thank you for the opportunity to express my support for Senate Bill 838 – and the Renewable Energy Standard it would set for Oregon.

Senate Bill 838 is at the heart of my energy agenda this session. It is the centerpiece of a five-bill package that will help Oregon accomplish what we know we need to do – and scientists tell us the whole world must do: Shift from using carbon-based sources of energy to cleaner, renewable sources of energy.

My energy agenda relies on a combination of aggressive – yet attainable – renewable energy targets and incentives to help build a stronger, more competitive and sustainable economy… healthier communities… and energy security for Oregon.
This energy package – and this bill in particular – will position Oregon to:

- Reduce our dependence on foreign oil;
- Grow Oregon's home-grown sources of renewable power;
- Create good, sustainable living-wage jobs; and
- Enhance our quality of life through cleaner air and healthier communities.

The concept of a renewable energy standard for Oregon has evolved over the last several years resulting in the bill before you today.

The Global Warming Advisory Group that I appointed included an RPS as a central recommendation in its final report, which was released in 2005.

The concept was introduced, but the framework still needed to be developed. So last year I appointed a 32-member Renewable Energy Work Group, with the directive to discuss and develop a proposal for the legislature to consider this session.

While I said that this bill has evolved over the last few years – I would be remiss if I didn't also acknowledge that this bill is overdue.

Oregon is a state with abundant potential for the development of renewable energy – and many states with much less potential have already begun to capitalize on the demand in the market.

In fact, 23 other states have already enacted Renewable Energy Standards – though few are as ambitious as the one we're proposing in Senate Bill 838, which requires that 25 percent of our state's electricity come from new renewable energy sources by 2025.

And I would argue that few states are positioned as well as Oregon to be competitive in this ever-growing market of renewable and alternative energy. For that reason, we must

act with not just equal determination – but greater determination if we are serious about making Oregon a leader in renewable energy.

This bill demonstrates that commitment and determination.

Earlier this session, the House passed out three important bills that also help Oregon gain momentum in the renewable and alternative energy sector. The biofuels standard and incentives for production along with the Business Energy Tax Credit and Residential Energy Tax Credit send a message to both businesses and consumers that Oregon is a state looking to the future and a state worth investing in.

The legislature may be more familiar with these initiatives – we've been debating them for several years now and the tax credits have proven effective – which is why we want to expand them.

But setting a Renewable Energy Standard is newer to Oregon – and many of your colleagues may ask how it helps Oregon get ahead.

There are several key ways establishing an RPS moves Oregon forward toward leading our nation in renewable energy:

First, it creates certainty for the market. Last week Oregon was selected as the spot for a solar panel company – SolarWorld – to build their largest facility in the United States. They chose Oregon because of our incentives (the BETC) – and because of the direction we're going and our commitment to research, development and consumption of alternative and renewable energy.

An RPS provides certainty for the market because companies know with such a standard, there will be a demand for renewable sources of energy.

And this certainty leads to my second point – it creates good, living-wage jobs. Oregon must diversify our economy if we are going to be competitive in a global marketplace – and by growing our domestic energy sector, we're creating sustainable, good-paying jobs for Oregonians throughout the state....NOT just in urban areas.

Third, enacting an RPS helps us reach our targets for reducing greenhouse gas emissions – which is good for our air, our health and our quality of life. Last year, I announced greenhouse gas reduction goals of 10 percent below 1990 levels by 2020 and 75 percent below 1990 levels by 2050.

Fourth – it helps reduce long-term utility costs and will create greater energy diversity and rate stability for consumers. If you look at the trends in the costs of fossil fuels and renewable energy, fossil fuels are only going up, while renewable energy costs are going down.

Other states have shown that adoption of an RPS does not lead to significant rate impacts and I am confident that the same will hold true in Oregon. Even if there are some initial

additional costs, we are certain that the long-term benefits of transitioning to a renewable energy based market will far outweigh the option to just sit back and do nothing.

Not just for the reasons outlined above – but also for the mere out-of-pocket costs to consumers if we continue to allow ourselves to depend on fossil fuels for energy.

And Fifth – for environmental, economical and national security reasons – we must decrease our dependence on foreign sources of energy. And we can. An RPS creates the demand for home-grown energy sources – and Oregon has the natural resources to meet that demand.

The reality is that our nation's transition to alternative energy technologies is still in its infancy. But that is good news for Oregon because we have a unique position because of our geographical location and the investments we have already made in research and development to help our nation move beyond the horizon and into a new energy world.

A new world that relies less and less on traditional methods of generating electricity—and toward new methods that use the wind, the ocean waves, and the sun.

The question we face today is this: How should we position Oregon to not just make this change, but be a leader in this change?

I believe strongly that we must take bold steps to fashion an energy policy that encourages a rapid shift away from traditional fossil fuels in generating electricity. That means not waiting for change, but becoming the agents of change.

We must become the leaders who guide our citizens and consumers toward a new way of living and working that reverses the headlong plunge toward global warming and reliance on foreign oil.

I also believe that Oregon, with its strong potential for generating renewable energy, must position itself to maximize the environmental and economic benefits from using more renewable resources and stimulating the demand for new, clean energy technologies.

The answer to that question – about how to position Oregon – is before you today in the form of Senate Bill 838. Establishing a Renewable Energy Standard of 25 percent by 2025 will place Oregon on a straight path toward improved energy security, a cleaner environment, and sustained economic opportunity and prosperity.

Chair Dingfelder and committee members, the provisions of this bill are reasonable. They are cost-effective, flexible, innovative – and together they are the right policy for Oregon.

I know that you will hear from many different voices today. Some who support this legislation – others who will raise questions about the potential impact on rates.

We must recognize that the traditional ways of generating electricity—methods like burning coal and operating dams—carry serious risks of their own.

Still, our proposal addresses concerns over rates in a few different ways, including a provision that calls for the Public Utility Commission to develop a cost cap that protects customers of investor-owned utilities from unexpected rate increases. It also exempts from the large standard Oregon's smaller utilities, those that contribute less than 1.5 percent to the state's total energy load. Instead, those utilities are required to meet a five percent renewable standard as of 2025. In closing, if there's one message I want you to remember from my testimony today it is this:

If we fail to adopt renewable energy standards for Oregon—if we fail to act during this legislative session—we will leaving it to other people in other states to determine Oregon's success in the market place and as stewards of our environment.

Failure to act means letting someone else decide whether Oregonians benefit economically from the inevitable transition to renewable energy, a transition that lies just over the horizon. And it means letting others get ahead, leaving Oregon behind.

Chair Dingfelder and committee members, is that what we want for a state with such a proud environmental tradition—to let someone else decide, to let someone else lead?

That is not the Oregon way – and SB 838 is our best opportunity to work collaboratively with all the different stakeholder groups and interested parties, not only to protect Oregon's economic and environmental interests, but also to move the state toward a more secure and sustainable energy future.

I urge you to support Senate Bill 838.

- END -

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Energy and the Environment
DATE: 4-16-07 PAGES: 5
SUBMITTED BY: Lee Beyer

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Theodore R. Kulongoski, Governor

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Testimony of Chairman Lee Beyer
Oregon Public Utility Commission
On

SB 838

April 16, 2007

The Public Utility Commission supports passage of SB 838, the Renewable Portfolio Standards

The Commission regulates three private utilities which serve 75% of all Oregonians and which will be most impacted by SB 838's standards.

In view of this, the Commission worked closely with the utilities, the Governor's Office and other interested parties to insure that the bill, when adopted, would be implementable – we believe that goal has been achieved.

Response to some concerns that have been raised:

1. *Will the renewable energy targets cause the utilities to add unneeded generation?*

No. The energy demands of PGE, Pacific and Idaho Power are such that they would be adding this amount of generation – and probably more – between now and 2025. What this bill does in direct that the majority of new generation be renewable.

2. *Will the RPS interfere with or replace the PUC's traditional Integrated Resource Planning process?*

No. We believe the required renewable resource plans and action plans can be coordinated with or become part of that routine process.

3. *Will the RPS lead to higher cost?*

All new energy generation will cost more than what is in rates today. That is why the Commission particularly likes the bill features that allow utilities to obtain cost-effective energy conservation/efficiencies where possible. In terms of new generation, the question is will renewables be most expensive than fossil fuels? Given the likely implementation of a national carbon tax or European style cap and trade program, we believe renewables will be competitive.

4. What is the protection against rapidly escalating rates?

The bill contains a revenue cap of 4%. While this doesn't mean rates won't go up, it does address the point of whether they would go up more than they would without the RPS standards.

5. Will the automatic adjustment clause provision in the bill prevent ratepayer advocates from challenging the utilities proposals for cost recovery?

No. The Commission has provided a lengthy answer to the Chair's questions in this area, but the short answer is there is nothing new in this provision. Current law allows the utilities to apply for automatic adjustments (ORS 757.210) and, in fact, the use of automatic adjustment mechanism was a central feature of the SB 408 tax bill in the 2005 Session. The key feature is use of the term recovery of "prudently incurred costs". That phrase requires a full and open public review with provisions for discovery or information requests by consumer advocates including public hearings.

July 1, 2016

TO: Kay Barnes
Oregon Public Utility Commission

FROM: Patrick Hager
Manager, Regulatory Affairs

PORTLAND GENERAL ELECTRIC
UM 1783
PGE Response to OPUC Data Request No. 002
Dated June 17, 2016

Request:

Regarding PGE's 2015 Renewable Portfolio Standard Compliance Report, page 5, where the Company, in response to OAR 860-083-0350(2)(l), represented:

> ***"Unbundled RECs, beyond those included in our 2014 Implementation Plan, were available at a good value relative to other means of compliance; thus, RECs were purchased up to the 20% of complicate requirement limit and are proposed for retirement here to meet PGE's 2015 RPS obligation. The retirement of unbundled RECs enables PGE to preserve bundled RECs for use in later compliance years."***

a. **Please describe the parameters and methodologies that PGE utilized to determine what "good value" is in the context of "good value relative to other means of compliance."**
b. **Please explain why PGE did not pursue unbundled RECs beyond the 20% compliance limit in order to bank them for later compliance?**

Response:

a. PGE viewed "good value" in the context of overall cost per REC. PGE's intent was to keep the bank flat. Therefore, the bank was replenished with unbundled RECs which were purchased for less than the residual price of the bundled green energy sold. See PGE's Response to OPUC Data Request No. 001.

b. In 2015, PGE determined that PGE's bank balance of bundled and unbundled RECs was sufficient. Purchases beyond the sufficient level of banked RECs would introduce price risk, and PGE does not speculate on forward prices.

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