BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

AR 610

In the Matter of Rulemaking Regarding the Incremental Cost of Renewable Portfolio Standard Compliance.	RENEWABLE NORTHWEST'S RESPONSE TO STAFF'S MEMORANDUM

I. INTRODUCTION

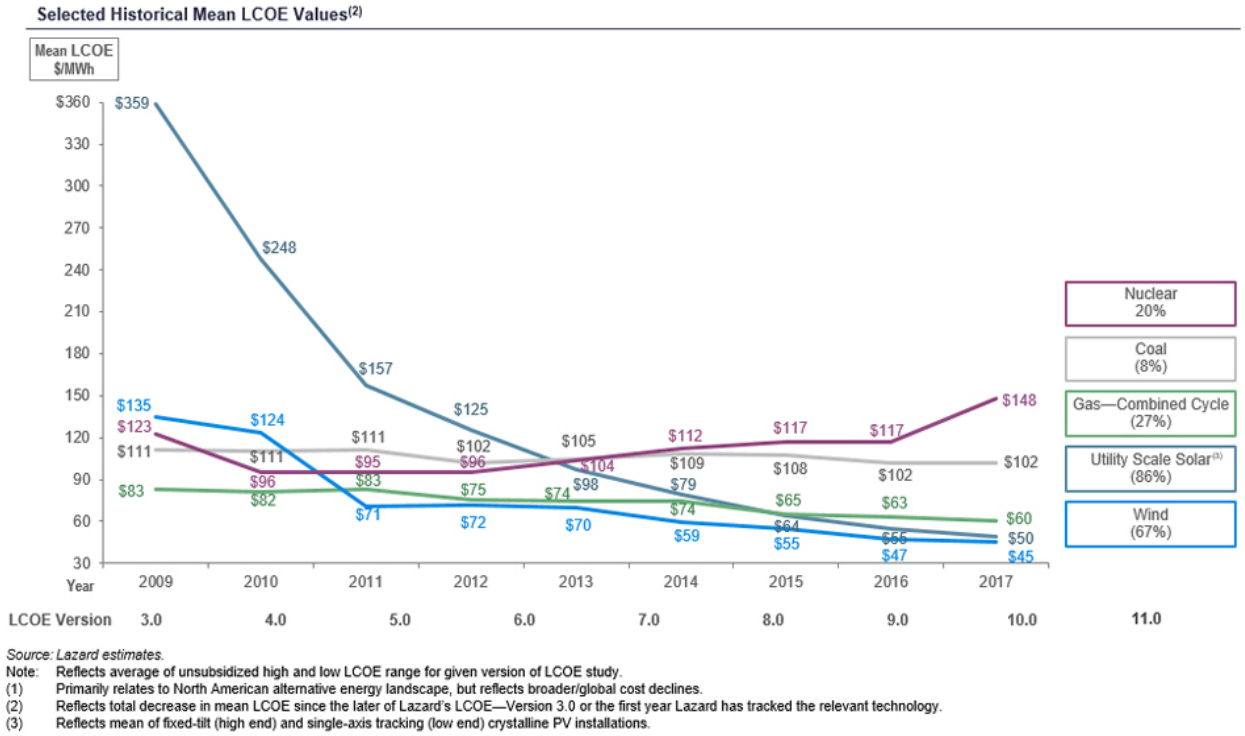
Renewable Northwest is grateful for this opportunity to comment on Oregon Public Utility Commission ("OPUC") Staff's memorandum as part of the Rulemaking Regarding the Incremental Cost of Renewable Portfolio Standard ("RPS") Compliance. We appreciate Staff's work to ensure that the incremental cost methodology resulting from this proceeding continues to appropriately focus on RPS compliance.

II. COMMENTS

Renewable Northwest structured these comments around the questions Staff posed in their August 15, 2018, Memorandum. As Staff requested, where we prefer not to comment on a particular question, we so indicate in our response.

1. Is the proxy plant methodology, last examined in Order No. 14-034 in Docket No. UM 1616, and summarily defined in OAR 860-083-0010(30), accurately and appropriately serving as the baseline for the incremental cost of compliance calculation?

No. As renewable energy becomes increasingly cost competitive, the concept of an incremental *cost* of compliance with the RPS comes into question. According to the most recent Lazard Levelized Cost of Energy data, shown in Figure 1utility-scale solar photovoltaic (PV) and wind are both less expensive on average than a new combined-cycle combustion turbine gas plant of the type currently used as a proxy resource for calculating the incremental cost of RPS compliance. The best methodology for determining the incremental cost of RPS compliance would use a proxy resource that accurately reflects the current economics of energy generation resources.



Source: Lazard estimates.
Note: Reflects average of unsubsidized high and low LCOE range for given version of LCOE study.
(1) Primarily relates to North American alternative energy landscape, but reflects broader/global cost declines.
(2) Reflects total decrease in mean LCOE since the later of Lazard's LCOE—Version 3.0 or the first year Lazard has tracked the relevant technology.
(3) Reflects mean of fixed-tilt (high end) and single-axis tracking (low end) crystalline PV installations.

Figure 1—Summary findings of Lazard's 2017 Levelized Cost of Energy Analysis. [1]

However, Oregon law does not appear to allow the Commission to use new solar PV or wind as a proxy for determining the incremental cost of compliance.[2] This constraint is outdated given that Oregon utilities are now procuring renewable generation assets as least-cost, least-risk resources to meet the energy and capacity needs identified in their Integrated Resource Plan ("IRP"). For example, PacifiCorp's 2017 IRP update represented "the first time an IRP has not included new fossil-fueled generation as a least-cost, least-risk resource for PacifiCorp."[3] This followed an IRP action plan that included the procurement of over 1 gigawatt of wind energy resources. As renewables are least-cost, least-risk resources, logic suggests that a renewable resource should serve as the proxy resource. With a non-renewable proxy resource, we should expect the incremental cost of compliance to trend into the negatives. Because the law does not appear to allow renewables to serve as the proxy resource, however, the Commission must use some other generation asset regardless of accuracy and appropriateness.

[1] Lazard's Levelized Cost of Energy Analysis 11.0 (2017), *available at* https://www.lazard.com/perspective/levelized-cost-of-energy-2017/.
[2] ORS 469A.100(4) (defining "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").
[3] OPUC Docket LC 67, *PacifiCorp's 2017 Integrated Resource Plan Update* at 2 (May 1, 2018), *available at* https://edocs.puc.state.or.us/efdocs/HAH/lc67hah9232.pdf.

2. Do our incremental cost rules accurately reflect the appropriate categories of cost for the incremental cost of compliance calculation?

We do not have a position on this issue at this time.

3. Are there any additional components of delivered cost that you would specify must be included in the calculation of incremental cost for long-term or short-term resources? What legal and/or policy justification is there for your position?

We do not have a position on this issue at this time.

4. Should the cost of qualifying electricity be included in the incremental cost of compliance in the year the electricity is generated, or in the year the associated RECs are retired? What legal and/or policy justification is there for your position?

The cost of qualifying electricity should be included in a utility's incremental cost of compliance in the year the utility retires the associated RECs. At the most basic level, the incremental cost of compliance is just that—the cost incurred when the utility takes action to comply with the RPS in accordance with statute. This is distinct from the costs incurred in implementing a least-cost, least-risk procurement strategy for energy, capacity and RECs, in order to generate RECs for compliance in a future year.

Under ORS 469A.070(1), "an electric utility . . . must comply with the [RPS] applicable to the utility . . . in each calendar year by: (a) [u]sing bundled [RECs] issued or acquired during the compliance year; (b) . . . using unbundled or banked [RECs]; or (c) [m]aking alternative compliance payments." We are not aware of any recent instance of utilities complying through alternative compliance payments, so utilities comply with the RPS primarily through retiring RECs consistent with ORS 469A.070(1)(a) and (b).

Utilities achieve RPS compliance by *retiring* RECs, not by generating or otherwise acquiring RECs. It therefore seems illogical to calculate the incremental cost of compliance in a given year by accounting for the cost of RECs that have been generated or acquired in that year but that will be retired for RPS compliance in some future year. An incremental cost of compliance methodology that included the cost of all RECs associated with electricity generated in a given year would create a number of unnecessary complications, precisely because such methodology would not focus on how the utility complies with the RPS. For example, under such a proposal, what would happen if the utility sells RECs already accounted in the incremental cost for a prior year? Therefore, Renewable Northwest recommends that any updates to the incremental cost of compliance calculation retain the focus on RECs retired for compliance in a given year.

The costs or benefits of RECs associated with electricity generated in a given year may provide useful information and context to the Commission, utilities, and stakeholders, but that information is not the incremental cost of compliance. To the extent that Staff, stakeholders, and/or the Commission would like to see utilities calculate that figure, we encourage that they calculate it as a figure separate from the incremental cost of compliance.

5. Should the rules be amended to reflect any changes you suggested? Do you have any specific recommendations for changes to the rules?

Yes. OAR 860-083-0010(30) currently defines "Proxy plant" as "a base-load combined-cycle natural gas-fired generating facility that is used to estimate the costs of non-qualifying electricity corresponding to new long-term qualifying electricity with the same beginning amortization year." Although the Commission is constrained by statute in its ability to change the proxy plant to a renewable, RPS qualifying resource (even if that resource is least-cost, least-risk), as discussed above, we encourage the Commission to amend the rules to reflect the evolving electricity sector by striking the term "base-load" from the definition. The concept of "base-load" generation is increasingly irrelevant as improved technology allows utilities to integrate a diverse generation mix to meet load, and is primarily an artifact of outdated resource planning. The Commission could strike the term from OAR 860-083-0010(30)—and from OAR 860-083-0100(6)(e)—and take a step in the right direction without losing anything.[4]

6. What should happen when an electric company reaches the four percent cost limit? What legal and/or policy justification is there for your position?

Under ORS 469A.100(1), if a utility reaches the four percent limit then it does not have to comply with the RPS any further. However, to date no utilities have come close to the cost cap. Today, renewables are least-cost resources and utilities possess significant quantities of banked RECs.[5] With renewable resources becoming increasingly inexpensive, it is also increasingly unlikely that utilities will reach the cost cap, especially under an incremental cost of compliance methodology focused on RECs used for compliance in a given year. Because the premise of this question—what should happen when a utility reaches the cap—appears unlikely to occur, we suggest that it does not merit the Commission's (or stakeholders') consideration.[6]

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[4] If the Commission is concerned that removing this language artifact could inadvertently undermine past Commission orders, we suggest the Commission include language in the Order implementing the change that makes explicit its intent not to undermine, overrule, or affect the terms of past orders.

[5] *See*, *e.g.*, UM 1914, *PacifiCorp's Renewable Portfolio Standard Implementation Plan 2019-2023* at Attachment A, p. 2 (Dec. 28, 2017) (showing PacifiCorp's then-current and expected quantities of banked RECs); UM 1916, *PGE 2018 Renewable Portfolio Standard Implementation Plan* at 2 (Dec. 29, 2017) (showing PGE's expected use of banked RECs to comply with the RPS).

[6] If the Commission were to substantially change its methodology for determining the incremental cost of RPS compliance, this question might need to be revisited.

7. What guidance, if any, should our rules provide about the process for when four percent is reached? Do you have any specific recommendations for changes to the rules?

There is no need for the Commission's rules to address the unlikely scenario of a utility's reaching the 4% cost cap, both for the reasons discussed above and because the statute is clear that if a utility reaches the cap then it need not comply further.[7]

8. Also considering ORS 469A.075, which requires an implementation plan, what should happen if an electric company is forecast to reach the four percent cost limit in a future compliance year? What legal and/or policy justification is there for your position?

There is no need for the Commission's rules to address the unlikely scenario that a utility forecasts that it will reach the cost cap, for the reasons discussed above. Additionally, ORS 469A.075 does not suggest that the Legislature intended for issues relating to the cost cap to be considered in utilities' implementation plans, as that section neither discusses nor references the cost cap.

9. Should utilities include the cost of unbundled REC purchases at the time of purchase or the time of retirement? What legal and/or policy justification is there for your position?

For the reasons discussed above, utilities should include the cost of unbundled REC purchases at the time of retirement. As we outlined in our response to question 4, utilities that choose unbundled RECs to comply with the RPS in a given year do so by retiring the RECs that year. The four percent calculation is used to determine whether a utility is required to comply with the RPS in a given year. As a result, the unbundled RECs should only be included in the four percent calculation if they are used, or retired, for RPS compliance purposes in that year.

10. Are there any specific changes you would like to see to the administrative rules regarding any aspect of the ORS 469A.100 cost limit calculation? What legal and/or policy justification is there for your position?

Given the current economics of renewable energy generation, there is no longer justification for a cost cap associated with RPS compliance; even the concept of the incremental cost of RPS compliance is on the verge of becoming—or might already be—outdated. Therefore, to the extent the Commission proposes changes to the rules regarding the incremental cost of RPS compliance, we encourage the Commission to consider minimizing the extent to which renewable resources are treated differently from non-renewable resources. We recognize that the

[7] ORS 469A.100 ("Electric utilities are 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 under ORS 469A.180 (Electric companies) exceeds four percent of the electric utility's annual revenue requirement for the compliance year.").

Commission is constrained in the extent to which it can level the playing field (the cost cap, for example, is a creature of statute). But for each rule change the Commission considers, we suggest asking the question whether the revised rule accurately reflects current energy economics.

III. CONCLUSION

Renewable Northwest again thanks Staff for this opportunity to inform its thinking as it develops draft rules. When considering changes to the incremental cost of compliance methodology, we strongly encourage Staff to retain its focus on how utilities comply with the RPS in a given year: by retiring RECs. We look forward to further engagement with Staff, utilities, and other stakeholders as this rulemaking progresses.

Respectfully submitted this fourteenth day of September, 2018.

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