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April 10, 2020

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 OREGON PUBLIC UTILITY COMMISSION,
Rulemaking Related to Renewable Portfolio Standard
Docket No. AR 610

Dear Filing Center:

Please find enclosed the Comments of the Alliance of Western Energy Consumers in the above-referenced docket.

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

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

BEFORE THE

PUBLIC UTILITY COMMISSION OF OREGON

AR 610

In the Matter of Rulemaking Regarding the Incremental Cost of Renewable Portfolio Standard Compliance.	))))))	COMMENTS OF THE ALLIANCE OF WESTERN ENERGY CONSUMERS

I. INTRODUCTION

Pursuant to the Oregon Public Utility Commission Staff's ("Staff") March 27, 2020 Memorandum in the above-referenced docket, the Alliance of Western Energy Consumers ("AWEC") submits these comments in response to the questions posed in Staff's Memorandum. AWEC notes that it previously circulated a straw proposal to the stakeholders in this rulemaking that addresses many of Staff's questions in its Request for Comments. AWEC continues to support the concepts in this straw proposal, which is attached to these comments for reference.

II. COMMENTS

AWEC's responses to Staff's questions are guided by the language and intent of ORS 469A.100 and the purpose of the four percent incremental cost cap. Accordingly, AWEC's suggested structure supports the two primary objectives of this rulemaking: "1) update RPS rules related to the total and incremental cost of compliance calculations and 2) address the proper steps if the RPS cost cap is forecasted to be reached, or is reached, by a utility."[1/]

[1/] Docket No. AR 610, Staff Memorandum Requesting Comments from Stakeholders, at 1 (March 27, 2020).

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1. Are there any additional options for calculating incremental cost that Staff should consider? What legal or policy reasons support your position?

As specified in Staff's memorandum, stakeholders have put forth the following options regarding the calculation of incremental cost of compliance with the RPS statute:

a) Counting REC cost at Retirement (Retire most expensive RECs first)
b) Counting REC cost at the time of generation
c) Counting REC cost at the time of generation, not including RECs sold
d) Counting REC cost at the time of generation, minus revenue from REC sales (Sell most expensive RECs first and retire the least expensive RECs.)
e) Counting REC cost at time of generation, minus revenue from REC sales, with active cost management. (Use the 20% limit of unbundled RECs and sell all other RECs generated.)

AWEC does not present an additional option for calculating incremental cost of compliance with the RPS statute. From AWEC's perspective, the most important component for calculating incremental costs of compliance with the RPS statute is that RECs are counted when generated rather than retired. Accordingly, AWEC could potentially support any of the options presented above with the exception of Option (a).

2. Should AR 610 include rules or standards for assessing REC bank management? What legal or policy reasons support your position?

AWEC has significant concerns over whether the utilities are managing their REC banks to maximize customer benefits. However, AWEC does not recommend that rules be created to govern REC bank management. How banked RECs are best managed will likely vary over time and by utility; rules are inflexible tools that may inhibit variable approaches. Rather, AWEC believes that these issues are better addressed in the utilities' integrated resource plans and, if applicable, in rate proceedings. AWEC understands Staff's desire for better guidance on

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how REC banks can be prudently managed, but believes such guidance is best articulated through policy guidance from the Commission rather than embodied in rules.

3. Are there any RECs that should not be included in the compliance calculation? If so, please identify these and explain why.

Yes. RECs sold to third parties should not count toward the incremental cost of compliance because these RECs will not be used for RPS compliance. Additionally, where the incremental cost of compliance is based on RECs generated, then RECs that have been banked prior to this rulemaking likely cannot be counted because they were previously generated. This should not result in an inaccurate calculation of the incremental cost of compliance because the calculation still will be based on the cost of resources serving customers, and included in customer rates, today. Finally, AWEC's straw proposal offered that bundled RECs banked as a consequence of unbundled REC purchases would not count toward the incremental cost of compliance because these bundled RECs are essentially being offset for compliance purposes with incremental unbundled REC purchases, and this treatment incentivizes utilities to pursue the least cost RPS compliance path.

Assume REC costs are included in the incremental and total cost calculations in the year of generation.

4. Is this appropriate? Is it feasible?

As discussed in AWEC's strawman proposal, including REC costs in the incremental and total cost calculations in the year of generation is not only appropriate and feasible, it is the most consistent application of the language of the RPS law. ORS 469A.100 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

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equivalent amount of reasonably available electricity that is not qualifying electricity."[2/] Additionally, in determining whether a utility has reached the four percent incremental cost cap, the incremental cost of compliance is figured "for the compliance year."[3/] Thus, the statute requires that the "delivered cost" of qualifying electricity in the compliance year be used to calculate the incremental cost of compliance.

In addition to the language and intent of ORS 469A.100, Staff may look to the purpose of the four percent incremental cost cap in order to determine that including REC costs in the incremental and total cost calculations in the year of generation is both appropriate and feasible. The purpose of the four percent incremental cost cap is to protect customers from cost increases above this amount relative to the cost customers otherwise would have incurred absent the RPS. When calculated on the basis of RECs retired in a compliance year, the incremental cost cap does not protect customers from such increases. This is because the utility has already incurred the cost for these RECs and passed that cost through to its customers, so being relieved of the obligation to retire RECs if the four percent cap is reached has no impact on customer rates. Conversely, if a utility is relieved of the obligation to generate RECs in a compliance year (by, for instance, not acquiring a new resource that would otherwise be needed for RPS compliance), this would protect customers from cost increases above this cap if properly structured.

[2/] ORS 469A.100(4) (emphasis added).
[3/] ORS 469A.100(1).

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5. Are there alternatives that are also feasible and/or more appropriate? If not, why not?

As specified above, the most important component for calculating incremental costs of compliance with the RPS statute is that RECs are counted when generated rather than retired. Thus, alternatives that are built upon this standard may be feasible and appropriate.

6. What should happen to the existing bank of RECs once the new method of calculating cost is implemented? Should RECs being retired from the existing REC bank be accounted for in the total cost and/or incremental cost calculation? If so, how? If not, why?

If the incremental cost is calculated based on RECs generated in the compliance year, then the existing bank of RECs would no longer be accounted for in the total cost nor incremental cost of calculation because they were generated in previous years.

Assume that REC Sales are subtracted from the total cost of compliance.

7. Is this appropriate? Is it feasible?

Under the construct presented in AWEC's straw proposal, currently banked RECs that are sold would not be subtracted from the total cost of compliance. Just as these banked RECs would not factor into the cost of compliance under a RECs-generated approach, they also could not reduce the cost of compliance. If, however, RECs generated in the compliance year are sold in the same year, then it may be appropriate to subtract this revenue from the total cost of compliance.

8. Are there alternatives that are also feasible and/or more appropriate? If not, why not?

At this time, AWEC does not present any additional alternatives that are feasible and/or more appropriate.

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Dated this 10th day of April, 2020.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

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AWEC STRAWMAN FOR INCREMENTAL COSTS
AR 610
June 15, 2018

The following strawman proposal describes a means of calculating a utility's incremental cost of RPS compliance based on the cost of RECs generated in the compliance year, rather than the current method, which calculates this cost based on RECs retired for compliance in the compliance year. This strawman does not address other issues relating to incremental costs, such as how they are calculated (other than on a RECs-delivered basis), the appropriate proxy resource, calculation of utility revenue requirements, etc.

While there may be other methods for performing this calculation, which AWEC is open to, AWEC believes that calculating the incremental cost based on RECs generated, rather than RECs retired, is compelled by both the language and intent of ORS 469A.100. This statute 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." ORS 469A.100(4). For purposes of determining whether a utility has reached the four percent incremental cost cap, the incremental cost of compliance is figured "for the compliance year." ORS 469A.100(1). Accordingly, the statute requires that the "delivered cost" of qualifying electricity in the compliance year be used to calculate the incremental cost of compliance.

Further, the purpose of the four percent incremental cost cap is to protect customers from cost increases above this amount relative to the cost customers otherwise would have incurred absent the RPS. When calculated on the basis of RECs retired in a compliance year, the incremental cost cap does not protect customers from such increases. This is because the utility has already incurred the cost for these RECs and passed that cost through to its customers, so being relieved of the obligation to retire RECs if the 4% cap is reached has no impact on customer rates. Conversely, if a utility is relieved of the obligation to generate RECs in a compliance year (by, for instance, not acquiring a new resource that would otherwise be needed for RPS compliance), this would protect customers from cost increases above this cap if properly structured. AWEC, therefore, proposes the following structure:

- All RECs generated in the compliance year are figured into the incremental cost of compliance so long as the utility either uses those RECs for RPS compliance in that year or banks them for future use.
    - RECs banked for future use (i.e., not needed to meet RPS compliance in that year) should figure into the incremental cost of compliance in the compliance year both because they are "delivered" in that year and because they allow a utility to defer additional RPS generation and, therefore, provide an RPS compliance benefit in the year they are generated.
    - Includes RECs received from QFs.
    - RECs that have been banked prior to rule changes from this rulemaking do not count toward the incremental cost of compliance (because they should have been counted already, and this cannot be retroactively modified).

- RECs sold to third-parties do not count toward the incremental cost of compliance.
- Unbundled RECs offset bundled RECs for purposes of the incremental cost calculation in the year that they are used for compliance (rather than purchased).
    - Thus, if average cost of unbundled RECs is $1 and utility uses unbundled RECs to meet 20% of compliance obligation. Twenty percent of the utility's total cost of compliance is assumed to be $1/REC, regardless of the average cost of bundled RECs generated in the compliance year.
    - Bundled RECs banked as a consequence of unbundled REC purchases do not count toward the incremental cost of compliance.
    - Unbundled RECs figure into the incremental cost of compliance when they are used, rather than when they are purchased.
        - Thus, if a utility purchases more than 20% of its compliance year obligation in unbundled RECs and banks the amount above 20%, the banked unbundled RECs figure into the incremental cost of compliance when they are pulled from the bank and used.
        - The rationale for treating unbundled RECs differently from bundled RECs (i.e., unbundled RECs are counted when used rather than when purchased) is because the incremental cost calculation ("levelized annual delivered cost") is inapplicable to unbundled RECs, and counting them when used allows for a smoother and more predictable incremental cost forecast.
            - For example: a utility could purchase five years' worth of unbundled RECs in a single year, which might bring it below the 4% cost cap for that year if they were all counted, but bring it above the 4% cap in subsequent years.
- Utility compliance obligation:
    - Statutory language: "Electric utilities are not required to comply with [the RPS] during a compliance year to the extent that the incremental cost of compliance … exceeds four percent …."
        - Statute does not prohibit utilities from complying, only eliminates the requirement for them to comply.
    - Utility's must continue to purchase from QFs under federal law – thus, incremental cost cap would not impact this requirement or prudence of the purchase (but the cost of RECs received from QFs would continue to factor into the incremental cost calculation).
    - A utility that has reached the 4% cost cap has no obligation to acquire new renewable resources for RPS purposes
        - Utilities could still pursue these resources as part of their least-cost/least-risk procurement plan.
    - If a utility has not reached the 4% cost cap, but its RPIP and/or IRP projects that it will, then the utility has the obligation to make the least-cost/least-risk decision in its IRP.
        - Example: utility's incremental cost of compliance in 2020 is 3.5%. Utility projects a need for a new RPS resource in 2025, but also projects that it will exceed the 4% cost cap in 2023 and beyond (for instance, because of additional QF purchases or PTCs expiring). The least-cost/least-risk

decision will likely depend on factors such as: (1) likelihood of exceeding cost cap; (2) availability of banked RECs to push out need to acquire new RPS resources; (3) estimated cost of new RPS resources; (4) cost of alternative compliance payments, etc.

- If the utility makes a reasonable decision to acquire a new RPS resource even with the potential for it to reach the 4% cost cap, then the Commission should still find the decision to be prudent.

- Alternative hypothetical: utility is at/above the 4% cost cap but RPIP/IRP projects that it will fall below this cap in the future.
  - When the utility is above the 4% cost cap, it does not need to retire RECs for compliance, so these RECs will be banked, providing the utility with a temporary compliance mechanism if it falls below the cap, allowing it to pursue physical options in the meantime.
  - Utility can also make alternative compliance payments if necessary.