



Staff's Draft Modifications to CSP PIM

December 1, 2022

## UM 1930 – Community Solar Program (CSP)

### Request for public comments on Staff's draft modifications to CSP Program Implementation Manual

December 1, 2022

Staff is posting draft modifications to the CSP Program Implementation Manual (PIM). Staff and the CSP Program Administrator (PA) have worked to ensure the draft PIM modifications are consistent with recent Commission Orders and reflect needed and required changes in Program administration. Written comments should be submitted to Docket No. UM 1930 docket by December 16, 2022. Comments will inform Staff's final recommended PIM modifications, to be presented at an upcoming public meeting.

**Please email comments on the draft modifications to [puc.filingcenter@puc.oregon.gov](mailto:puc.filingcenter@puc.oregon.gov) by December 16, 2022.**

## 1. Updating Requirements for REC Registration and Reporting

Staff proposes to require Project Managers (PM) of Certified projects to retire renewable energy credits (RECs) associated with on-site station electricity usage (station service). Staff also proposes to require PMs to include RECs associated with station service in annual reports submitted to the PA, and proposes to prohibit PMs from selling any RECs associated with station service.

### Rationale

PIM Section 3.8 requires projects larger than 360 kW-AC in aggregate size to register with the Western Renewable Energy Generation Information System (WREGIS) and retire all RECs owned by Participants annually in WREGIS. PIM Section 5.4.3 also requires PMs to submit an annual report to the PA by September 30th.<sup>1</sup> The report must show, as of the end of March of the same year, the total number of RECs retired on behalf of Participants. The report must also show the total number of RECs generated and sold as a result of a contract for the unsubscribed portion of the project's generation.

In Q2 of 2022 the PA identified a discrepancy between the amount of project generation reported by utilities to WREGIS and metered generation used to create program bill credits. This discrepancy is based on WREGIS operating rules requiring utilities to exclude any station service, whereas CSP bill credits are based on gross project generation. As a result, if a CSP Project has station service, there will be a discrepancy between the generation reported by utilities in WREGIS and the generation based on CSP bill credits. This discrepancy prevents PMs from retiring all RECs owned by Participants.

In Q4 of 2022 the PA and WREGIS staff will implement an annual true-up process to align bill credit generation and REC generation for Certified projects. In the true-up process, WREGIS staff will create additional RECs, identified as associated with station service, which will equal the difference between the prior year's metered program generation and the amount of generation reported to WREGIS. Staff proposes that PMs must retire RECs associated with station service and include them in the report they compile and provide annually to the PA. Staff also proposes to prohibit PMs selling any RECs associated with station service. To facilitate

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<sup>1</sup> Commission Order No. 22-348 extended the 2021-2022 Program year reporting deadline to December 31, 2022. <https://apps.puc.state.or.us/orders/2022ords/22-348.pdf>

## Staff's Draft Modifications to CSP PIM

December 1, 2022

the true-up process, Staff also proposes to require PMs provide their WREGIS Generating Unit number and WREGIS generation data if requested by the PA.

### **2. Prohibiting Specific Uses of Agent Agreements in CSP**

Staff proposes to modify the PIM to be consistent with Commission Order No. 22-363, which states that projects using the agent subscription model are not eligible to participate in CSP.<sup>2</sup> Specifically, Staff proposes to clarify in PIM section 13.3.3 that PMs and Subscription Managers may not use an agent agreement<sup>3</sup> for the following purposes:

- 1) Administer a Participant's utility account,
- 2) Assign a Participant's subscription to a CSP project without first identifying the project in the contract signed by the Participant, or
- 3) Provide the Participant with a consolidated bill, paid to the agent instead of the utility.

#### Rationale

In Commission Order No. 22-363, Staff presents its findings following an investigation into the use of the agent subscription model in CSP. In summary, Staff finds use of the model in CSP creates additional risks for Participants; additional risk and complexity for the Program; specific additional barriers for low-income participation; and would result in additional ratepayer costs. Staff's proposed PIM modifications ensure the PIM reflects current requirements for projects applying for pre-certification as well as those projects seeking Certification.

### **3. Clarifying Ability of Project Managers and their Agents to Modify Subscriptions on Behalf of Participants**

Staff proposes to modify the PIM to be consistent with Commission Order No. 22-363. Specifically, Staff proposes to modify PIM section 3.13.4 to clarify that PMs and their agents are permitted to make the following subscription modifications after a contract is signed by a CSP

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<sup>2</sup> See Commission Order No. 22-363. <https://apps.puc.state.or.us/orders/2022ords/22-363.pdf>

<sup>3</sup> Commission Order No. 22-363 defines an agent agreement as granting a limited power of attorney to an agent to act on behalf of a CSP participant.

## Staff's Draft Modifications to CSP PIM

December 1, 2022

### Participant:

1. Determine the initial size of a Participant's subscription;
2. Adjust the size of a Participant's subscription; and
3. Transfer a Participant's subscription from one project to another.

While not specifically addressed in Commission Order 22-363, Staff proposes to further modify PIM Section 3.13.4 to clarify the following related issues:

1. PMs and their agents may transfer a Participant's subscription from one project to another so long as all other contractual terms and pricing remain unchanged.
2. If PMs or their agents make one or more of the permitted subscription modifications to a CSP contract after it has been signed by the Participant, the PM or its agent must also provide the Participant with notice of the change(s) and a revised and updated contract, without delay.

### Rationale

Staff's proposed PIM modifications would bring the PIM into alignment with Commission Order No. 22-363. In the Order, the Commission adopt Staff's recommendation, which includes Staff finding that allowing the subscription modifications benefits Participants, projects and the Program. Staff's recommendation also reflects significant stakeholder support for allowing the subscription modifications in CSP.

Staff's proposed PIM modifications also seek to mitigate potential harm to Participants. Staff recognizes the benefits to participants and CSP when a PM or its agent can efficiently transfer Participants from a project experiencing extended development delays to one that is expected to come online sooner. However, Staff finds allowing this in CSP should not come at the expense of changes to other contractual terms including pricing that the Participant has agreed to. Staff also finds that Participants should be notified without delay if PMs or their agents make any of the permitted subscription modifications to their contract. Prompt notification will provide Participants with the opportunity to quickly engage with the PM or its agents regarding the subscription modification(s) should they have questions or concerns about the modification(s).

#### 4. **Modifying Code of Conduct for Project Managers and their Agents**

Staff proposes modifying PIM Section 2.6.5 to specify that any utility customer information shared by the PA with a PM or its agent to support Participant's enrollment or management may be used only by the PM or its agents for those purposes and may not be shared with other entities. Staff also proposes to modify PIM Section 2.6.6 to require PMs to retain signed copies of all Participant contracts, and to share these contracts with the PA upon request.

##### Rationale

Staff's proposed PIM modifications aim to enhance consumer protection measures for Participants by disallowing certain uses and sharing of utility customer information that are not in support of subscribing and managing Participants within CSP. Staff's proposed modifications also aim to ensure that Staff and the PA have the ability to properly investigate Participant complaints that may arise, and to conduct periodic audits of Participant contracts.

#### 5. **Clarifying Applicability of Excess Generation Penalties for Participants**

Staff proposes to clarify in the PIM that if a Participant cancels their contract and exits the Program, but later signs a new CSP contract, any excess generation penalties that would have been owed had the Participant not canceled their original contract will be incorporated into the next calculation of excess generation.

##### Rationale

Staff proposes to modify PIM Section 6.3.6, which addresses the annual bill credit reconciliation that occurs every April. In the annual reconciliation, the PA compares actual kWh credited from a Participant's subscription against the kWh used at the site based on the prior twelve months. If the reconciliation finds that the subscription has generated more kWh than the site consumed during the previous twelve months, the Participant will need to repay the utility the full value of bill credits received for the oversubscribed kWh.

Staff's proposal clarifies an edge case in the calculation of cost recovery when Participants subscribe to an amount of generation that exceeds their annual usage. The PIM presently states that this calculation will only be performed if a Participant has subscribed to CSP for a full billing

year. Staff's proposal would close a potential loophole where a Participant may avoid the cost recovery process by cancelling their subscription and later re-enrolling in CSP.

#### **6. Requiring Project Managers and their Agents to Include all Contracts and Agreements in CSP Standard Contract Template for Residential Participants**

Staff proposes to modify PIM Section 3.13.1 to require PMs and their agents to incorporate all agreements, terms, and conditions into the standard CSP contract template when subscribing residential Participants or modifying an existing residential subscription. Staff's proposed PIM modification would also prohibit PMs and their agents from using additional and separate agreements or contracts with residential Participants.

##### Rationale

Staff's proposed PIM modifications reflect Commission Order No. 22-363. In that Order, Staff presents findings that additional contracts can include terms and conditions that reduce Participant protections already incorporated into the standard CSP contract template. The Commission previously identified Participant protections as a program design principle in Order No. 19-392.<sup>4</sup> In Order No. 22-363 Staff also presents findings that additional contracts can reduce the Commission's ability to effectively regulate CSP projects and project billing practices. Staff's proposed PIM modifications are based on these findings, and aim to mitigate risks to Participants and the Program by requiring a single contract for residential Participants based on the standard CSP contract template and that includes all terms and conditions.

#### **7. Requiring a Minimum Amount of Project Capacity Subscribed to Residential Participants for Certain Projects Eligible for the CSP Carve-Out**

Staff proposes to modify PIM Section 1.4 for projects seeking to qualify for the designated project carve-out. Specifically, Staff proposes to only modify the following two sets of eligibility requirements for projects as currently described in the PIM:

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<sup>4</sup> Commission Order No. 19-392. <https://apps.puc.state.or.us/orders/2019ords/19-392.pdf>

## Staff's Draft Modifications to CSP PIM

December 1, 2022

1. Small Community-Sited projects, whereby an agent partnering with a PM is a Federally-recognized tribe, a public entity, or a non-profit organization, and the project is sized less than or equal to 360 kW-AC. The agent must demonstrate that it has played a central role in identifying and securing the project site. In this scenario, the PM and the agent commit at Pre-certification that the agent will lead outreach efforts to subscribe community members it represents for least fifty percent of the project capacity.
2. Underserved Community Participation projects, whereby an agent partnering with a PM is a Federally-recognized tribe, a public entity, or a non-profit organization. In this scenario, the PM and the agent commit at Pre-certification that the agent will lead outreach efforts to subscribe underserved community members it represents for least fifty percent of the project capacity.

In both sets of eligibility requirements, Staff proposes to modify requirements at the time of pre-certification to require the PM and agent commit that at least half of the fifty percent of project capacity will be subscribed to residential community members represented by the agent.

### Rationale

In Order No. 22-007, the Commission adopted Staff's recommendation to modify eligibility criteria for projects seeking to qualify for the designated project carve-out. Staff's recommendation in Order No. 22-007 aimed to provide PMs and communities with more opportunities and flexibility to develop new carve-out projects. Staff's recommendation also aimed to preserve the Commission's intent and goals for the carve-out capacity, including: (1) serving substantial numbers of low-income participants or people from underserved communities; or (2) demonstrate significant community-level control or leadership in the development process.

Staff's proposed PIM modification aims to resolve a potential outcome that could occur in both sets of eligibility criteria and that Staff finds would be inconsistent with the Commission's intent and goals for the carve-out capacity. As currently written in the PIM, a project could satisfy either set of eligibility criteria if a qualifying agent partnering with a PM subscribed multiple sites controlled by a single large energy consumer to fifty percent of a project's capacity, provided that the large energy consumer belongs to the community represented by the agent. Staff finds this outcome can result in a project not meeting the Commission's intent and goals for carve-out capacity. Staff is also concerned that both eligibility criteria as currently written



## Staff's Draft Modifications to CSP PIM

December 1, 2022

could create a pathway for projects to qualify for carve-out capacity while not meeting the Commission's intent, by strategically partnering with select large non-residential anchor subscribers. As a result, Staff proposes to modify both sets of eligibility criteria to specify a minimum amount of enrollment led by the agent among residential members of the target community.