

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1953**

In the Matter of

PORTLAND GENERAL ELECTRIC,

Investigation into Proposed Green Tariff

COMMENTS  
OF  
RENEWABLE NORTHWEST

Renewable Northwest submits these comments to draw attention to the transmission requirements in Phase I of PGE’s green tariff program, and to highlight transmission and storage as important policy issues for consideration in Phase II of this docket.<sup>1</sup>

Renewable Northwest was actively involved in docket UM 1690, which the Oregon Public Utility Commission (“PUC” or “Commission”) opened on April 22, 2014 to investigate voluntary renewable energy tariffs (“VRETs”) following the passage of House Bill 4126. Following this investigation, Renewable Northwest was part of docket UM 1953, opened to investigate Portland General Electric’s (“PGE’s”) proposed green tariff, and participated in the associated settlement discussions. In our December 11, 2018, Closing Brief we encouraged the Commission to approve Phase I of the tariff, while advocating that further details be explored in Phase II.<sup>2</sup>

On March 5, 2019, we welcomed the Commission’s Order 19–075 that approved PGE’s VRET proposal and “[...] provide[d] guidance on issues to be further addressed during a second phase of this docket.”<sup>3</sup> Phase I will include up to 100 MW procured by PGE through a competitive RFP for a power purchase agreement (“PPA”) or PPAs (“PGE Supply Option”), while in addition PGE’s largest customers (with an average load greater than 10 aMW) can bring-their-own PPA up to a total limit of 200 MW (“Customer Supply Option”).<sup>4</sup>

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<sup>1</sup> Although we discuss tax credits, these comments are exclusively for the purposes of describing Renewable Northwest’s position on PGE’s green tariff, and do not constitute legal or tax advice. Utilities and developers should consult with their own tax advisor or attorney with regard to their company’s tax situation.

<sup>2</sup> UM 1953, Closing Brief of Renewable Northwest, December 11, 2018.

<https://edocs.puc.state.or.us/efdocs/HBC/um1953hbc114826.pdf>

<sup>3</sup> UM 1953, Order No. 19-075, March 5, 2019, p 1. <https://apps.puc.state.or.us/orders/2019ords/19-075.pdf>

<sup>4</sup> *Ibid* p 4.

On March 6, 2019, PGE submitted a compliance filing to initiate Schedule 55—Green Energy Affinity Rider<sup>5</sup>, followed by an update on March 22, 2019 that included instructions regarding the Customer Supply Option PPA Criteria.<sup>6</sup> These instructions required that the Customer Supply Option PPA have long-term firm transmission “[...] or a reasonable and achievable plan to deliver using long-term firm.”<sup>7</sup>

Our reading of this high-level criterion is that a PPA could be required to have long-term firm transmission that is *incremental* to PGE’s, or the bidder’s, existing long-term firm transmission rights. Such incremental long-term firm transmission rights would be difficult to obtain, and furthermore could potentially be unnecessary when alternative and sufficiently reliable transmission solutions—such as conditional firm—are possible. It is also unclear whether this criterion would enable PPAs on PGE’s own network to qualify as long-term firm if they were using Network Integration Transmission Service.

On April 9, 2019, PGE submitted its proposed schedule for Phase II of UM 1953.<sup>8</sup> PGE noted that it aimed to expedite this second phase to “[...] enable PGE customers to take advantage of the enhanced economics of wind and solar projects qualifying for the Production Tax Credits [PTC] and In[vestment] Tax Credits [ITC], before those credits are phased out.”<sup>9</sup>

Wind facilities “commencing construction” in 2016 were eligible to receive the full PTC of approximately \$0.023 per kWh.<sup>10</sup> “Commenced construction” requires that a taxpayer commence “physical work of a significant nature” on the project or show that 5% of the facility’s costs have already been paid out (“safe harbor”).<sup>11</sup> Internal Revenue Service Notice 2017-4 clarified that wind facilities would have four calendar years after commencing construction to come into service in order to be eligible for the PTC at the level in the year in which construction began.<sup>12</sup>

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<sup>5</sup> Advice No. 19-06, New Schedule 55 - Green Energy Affinity Rider (GEAR) , March 6, 2019.

<https://edocs.puc.state.or.us/efdocs/HAD/um1953had163632.pdf>

<sup>6</sup> Advice No. 19-10, Green Energy Affinity Rider (GEAR) Web Link Update

<https://edocs.puc.state.or.us/efdocs/UHR/um1953uhr155857.pdf>

<sup>7</sup> PGE, Green Future Impact—Minimum Requirements for Customer Supply Option.

[www.portlandgeneral.com/business/power-choices-pricing/renewable-power/choose-renewable](http://www.portlandgeneral.com/business/power-choices-pricing/renewable-power/choose-renewable)

<sup>8</sup> UM 1953, PGE’s Proposal for Phase II Schedule, April 9, 2019.

<https://edocs.puc.state.or.us/efdocs/HAO/um1953hao161355.pdf>

<sup>9</sup> *Ibid* p1.

<sup>10</sup> The tax credit amount is \$<sub>1993</sub>0.015 per kWh adjusted by the IRS inflation adjustment factor: see U.S. DoE, Renewable Electricity Production Tax Credit (PTC),

[www.energy.gov/savings/renewable-electricity-production-tax-credit-ptc](http://www.energy.gov/savings/renewable-electricity-production-tax-credit-ptc)

<sup>11</sup> U.S. DoE, Renewable Electricity Production Tax Credit (PTC),

[www.energy.gov/savings/renewable-electricity-production-tax-credit-ptc](http://www.energy.gov/savings/renewable-electricity-production-tax-credit-ptc)

<sup>12</sup> IRS Notice 2017-04, Section 3, Extension and Modification of the Continuity Safe Harbor,

<https://www.irs.gov/pub/irs-drop/n-17-04.pdf>

The PTC phased down by 20% for wind facilities commencing construction in 2017, phased down by 40% for facilities commencing construction in 2018, and will phase down by 60% for projects commencing construction in 2019.<sup>13</sup> Solar facilities seeking the ITC can avail themselves of it at the 30% rate for construction beginning through the end of 2019, falling to 26% for 2020, 22% for 2021, then 10% for future years (except for residential solar which falls to zero).<sup>14</sup>

The IRS provided guidance for taxpayers seeking the ITC in June 2018.<sup>15</sup> Projects “commencing construction (as with the PTC, “physical work of a significant nature” or “safe harbor”) should be eligible for the full ITC at 30% through 2019, so long as they are in service by the end of 2023.<sup>16</sup> Projects commencing construction in 2020 should be eligible for the ITC at 26%, and in 2021 at 22%, so long as in service before 2024.<sup>17</sup>

With a UM 1953 Phase II target order date of January 10, 2020, any wind projects would need to have already commenced construction in 2019 to be eligible for the PTC at the 60% phased down level and need to be operational within four years, while solar projects commencing construction in 2020 would be eligible for a reduced ITC of 26% and need to be in service before 2024. The time limited opportunity is all the more stark for Phase I of this process, with 2019 being the last year in which solar projects could commence construction and still be eligible for the full 30% ITC, and likely the final year in which wind projects could safe harbor PTC-eligible equipment at the 60% phased down level.

Despite our questions regarding the practicable maximization of competition in this process, Renewable Northwest does not wish to disrupt Phase I of the green tariff procurement given the time limited opportunities presented by the PTC and ITC phase outs. However, in Phase II of this docket we see the need and the opportunity to explore the impacts to the green tariff program and subscribers that may stem from the long-term firm transmission criterion.<sup>18</sup> Furthermore, the issue of renewable generation plus storage, and how it relates to transmission requirements, should be investigated.

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<sup>13</sup>*Ibid*

<sup>14</sup> U.S. DoE, Renewable Electricity Production Tax Credit (PTC), [www.energy.gov/savings/business-energy-investment-tax-credit-itc](http://www.energy.gov/savings/business-energy-investment-tax-credit-itc)

<sup>15</sup> IRS Notice 2018–59, Beginning of Construction for the Investment Tax Credit under Section 48, June 22, 2018, [www.irs.gov/pub/irs-drop/n-18-59.pdf](http://www.irs.gov/pub/irs-drop/n-18-59.pdf)

<sup>16</sup> GTM, IRS Issues Favorable Tax Credit Guidance for New Solar Projects, June 22, 2018, [www.greentechmedia.com/articles/read/irs-issues-favorable-tax-credit-guidance-for-new-solar-projects#gs.66wsw4](http://www.greentechmedia.com/articles/read/irs-issues-favorable-tax-credit-guidance-for-new-solar-projects#gs.66wsw4)

<sup>17</sup> *Ibid*.

<sup>18</sup> See UM 1953, Order No. 19-075, p 9 (providing that Phase II “shall allow for parties and the Commission to examine ... policy issues as identified by parties in the course of the investigation”).

The issue of transmission has been under consideration at the Commission for some time now. During PGE’s 2018 Request for Proposals (“RFP”) for Renewable Resources, UM 1934, Renewable Northwest advocated for the relaxation of the long-term firm transmission requirements. We were concerned that “[...] the scarcity of available long-term firm transmission (“LTF”) rights to PGE’s Balancing Authority Area (“BAA”), combined with the inability of third-party bidders to rely on PGE’s LTF transmission rights, would likely severely restrict bidding into the 2018 RFP.”<sup>19</sup> Renewable Northwest advocated for PGE to “[...] allow bidders to rely on a mixture of conditional firm, short-term firm, and non-firm transmission [...]”<sup>20</sup> We appreciated the Commission’s modification of the 2018 RFP to allow bidders to rely on conditional firm bridge service,<sup>21</sup> the Commission’s observation in its order approving PGE’s final shortlist that “transmission deliverability requirements in this RFP did, in fact, limit the shortlist,”<sup>22</sup> and the careful attention the Commission has been giving to related issues in its series of transmission workshops.<sup>23</sup> We look forward to additional discussion of these issues in Phase II of this docket.

Respectfully submitted this 22nd day of April, 2019.

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<sup>19</sup> UM 1934, Renewable Northwest Comments on Staff Report, March 30, 2018, p2.

<https://edocs.puc.state.or.us/efdocs/HAC/um1934hac102944.pdf>

<sup>20</sup> *Ibid* p 3.

<sup>21</sup> UM 1934, Order No. 18-171, May 21, 2018, pp 3-4.

<sup>22</sup> UM 1934, Order No. 18-483, Dec 19, 2018, p 3.

<sup>23</sup> OPUC, Transmission Workshops, accessed April 16, 2019.

[www.puc.state.or.us/Pages/electric\\_gas/OPUC-Transmission-Workshops.aspx](http://www.puc.state.or.us/Pages/electric_gas/OPUC-Transmission-Workshops.aspx).