

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1953

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY

Investigation into Proposed Green Tariff.

OPENING BRIEF OF
RENEWABLE NORTHWEST

I. INTRODUCTION

Renewable Northwest is grateful to the Public Utility Commission of Oregon (the “Commission”) for this opportunity to submit our Opening Brief in Commission Docket UM 1953 regarding the green tariff program proposed by Portland General Electric Company (“PGE”). Because PGE’s proposal conforms to statutory requirements and reflects regulatory guidelines for assessment of voluntary renewable energy tariffs (“VRETs”), and because the proposal would add new zero-carbon renewable energy resources to PGE’s system in response to significant need and demand for such resources, Renewable Northwest encourages the Commission to approve PGE’s proposal and to issue direction aimed at accurately identifying the capacity credit during periods of resource sufficiency.

II. BACKGROUND

A. Procedural Background: The Green Tariff’s Legislative and Regulatory Basis

In 2014 the Oregon Legislature passed House Bill 4126, directing the Commission to “determine whether, and under what conditions, it is reasonable and in the public interest to allow electric companies to provide voluntary renewable energy tariffs [“VRETs”] to

nonresidential customers.”¹ Following such a determination, the Commission may “authorize an electric company to file a schedule with the commission that establishes the rates, terms and conditions of services offered under the [VRET],” provided that “[a]ll costs and benefits associated with a [VRET] shall be borne by the nonresidential customer receiving service under the [VRET].”² Finally, the Commission must consider several factors in deciding whether to approve a proposed VRET: (1) promotion of further renewable-energy development; (2) effects on a competitive retail market; (3) possibility of impacts including cost-shifting; (4) resource procurement through a competitive process; and (5) “[a]ny other reasonable consideration.”³

To carry out the Legislature’s directives, the Commission opened Docket UM 1690 and began an investigation of VRETs. Ultimately, that process led to Order No. 15-405, which established a set of nine guidelines for utilities to follow in designing VRETs:

1. Renewable Portfolio Standard (RPS) definitions for resource type, location, and bundled Renewable Energy Certificates (RECs) must apply to VRET products.
2. VRET options should only include bundled REC products. Any RECs associated with serving participants must be retired by or on behalf of participants, unless the participants consent to RECs being retired by the utility or the developer.
3. The year in which a VRET eligible renewable resource became operational should be no earlier than 2015.
4. The VRET program size is limited to 300 aMW for PGE and 175 aMW for PacifiCorp.
5. VRET product design should be sufficiently differentiated from existing direct access programs.
6. VRET terms and conditions (including the timing and frequency of VRET offerings), as well as transition costs, must mirror those for direct access. PGE and PacifiCorp may propose VRET terms and conditions that differ from current

¹ House Bill 4126 (2014), Section 3(3).

² *Id.* Section 3(4).

³ *Id.* Section 3(4) (referring to section 3(3)).

direct access provisions but must proposed changes to their respective direct access programs to match those changes.

7. The regulated utility may own a VRET resource, but may not include any VRET resource in its general rate base. It may recover a return on and return of its investment in the VRET resource from the VRET customer; however, the utility must share some of the return on with other utility customers for ratepayer-funded assets used to assist the VRET offering.

8. All direct and indirect costs and risks are borne by the VRET customers, shareholders of the utility, or third-party developers and suppliers with provisions allowing independent review and verification by the Commission Staff of all utility costs. Costs include but are not limited to ancillary services and stranded costs of the existing cost of service rate based system.

9. All VRET offerings must be made publicly available and subject to review by the Commission to ensure they are fair, just, and reasonable.⁴

In 2016, the Commission closed Docket UM 1690.⁵ Then in April 2018 PGE filed a motion to reopen Docket UM 1690 so the Commission could consider a proposed VRET, which they labeled a Green Tariff.⁶ The Commission opened this docket, UM 1953,⁷ to assess whether the proposed Green Tariff conforms to the requirements of HB 4126 and the guidelines established in Order No. 15-405.

B. Evidentiary Background: PGE's Green Tariff Proposal and Responses⁸

PGE's April 2018 Green Tariff filing included the Direct Testimony and Exhibits of Brett Sims and Jay Tinker, which outlined the Green Tariff proposal.⁹ At a basic level, PGE proposed to procure a renewable-energy resource through a power-purchase agreement ("PPA").¹⁰ This renewable-energy resource would be associated with the Green Tariff, to which nonresidential

⁴ Docket No. UM 1690, Order No. 15-405 (Dec. 15, 2015).

⁵ Docket No. UM 1690, Order No. 16-251 (Jul. 5, 2016).

⁶ Docket No. UM 1690, Portland General Electric Green Tariff Filing (Apr. 13, 2018).

⁷ See Docket No. UM 1953, Prehearing Conference Memorandum (May 25, 2018).

⁸ This section provides a summary of relevant testimony from PGE and Renewable Northwest. Additional elements of this and other parties' testimony will be discussed as appropriate in this brief's Argument section below.

⁹ See Docket No. UM 1690, PGE/200.

¹⁰ Docket No. UM 1690, PGE/200, Sims-Tinker/9.

customers with aggregate demand over 30 kW could subscribe at their election.¹¹ In addition to paying cost-of-service, subscribing customers (or “Subscribers”) would pay PGE for the cost of the PPA plus program costs (administration and integration) and receive from PGE a credit designed to represent the market value of the resource’s energy and capacity.¹² RECs associated with the Green Tariff resource would be retired on behalf of Subscribers unless a Subscriber “specifically requested” that PGE retire the RECs “for general RPS compliance.”¹³ PGE also proposed to include a “risk premium,” an additional cost to be paid by Subscribers in order to insulate non-subscribing customers from project risks.¹⁴

In its testimony, PGE tied its program to the nine guidelines set forth in Order No. 15-405. Notably, while that testimony indicated that “[t]he size of PGE’s initial green tariff offering will depend on customer demand” and could “be well below the 300 aMW cap listed in the conditions,” PGE left the door open to a procurement up to the 300 aMW cap.¹⁵ Finally, PGE included testimony regarding customers’ interest in green tariff products¹⁶ and a report from consultant 3Degrees “not[ing] that most subscription-based utility green tariffs sell out within hours to months of launch” and concluding “that there is a tremendous demand for utility-provided renewable energy.”¹⁷

Several stakeholders, including Renewable Northwest, filed response testimony. Renewable Northwest’s witness Michael O’Brien raised four points. First, he supported the

¹¹ Docket No. UM 1690, PGE/201 Sims-Tinker/2.

¹² *Id.* at 10-11.

¹³ *Id.*

¹⁴ *Id.* at 15-16.

¹⁵ *Id.* at 20.

¹⁶ *Id.* at 23-24.

¹⁷ *Id.* at 29.

overall concept and structure of PGE’s proposed Green Tariff.¹⁸ Next, he suggested changing PGE’s proposed methodology for compensating Subscribers for capacity.¹⁹ Specifically, PGE had proposed that “[n]o capacity credit will be applied during periods where PGE’s system is resource sufficient.”²⁰ Mr. O’Brien countered that “[t]his proposed compensation scheme could fail to reflect the actual capacity value” of Green Tariff resources and suggested that the Commission’s continued exploration of “options for valuing capacity additions incrementally during resource sufficiency” across other dockets inform its decision on capacity credits in the Green Tariff.²¹ Mr. O’Brien went on to question the possibility that PGE might retire RECs for RPS compliance at a Subscriber’s request, and to request additional detail on PGE’s proposed risk premium.²²

PGE filed supplemental testimony on August 17, 2018 adding detail to the risk-premium concept and also raising the new possibility of a “floating credit structure.”²³ In the cross-answering testimony of Michael O’Brien, Renewable Northwest represented that PGE’s supplemental testimony had assuaged its concerns about the proposed risk premium and expressed openness to a floating credit.²⁴ Additionally, Renewable Northwest reiterated concerns regarding capacity valuation and offered new testimony regarding demand for green tariff-type products, noting that Puget Sound Energy had recently fully subscribed a green tariff program and applied to the Washington Utilities and Transportation Commission for approval to increase

¹⁸ RNW/100, O’Brien/2-3.

¹⁹ *Id.* at 3-4.

²⁰ Docket No. UM 1690, PGE/200 Sims-Tinker/12.

²¹ RNW/100 O’Brien/3-4.

²² *Id.* at 4-5.

²³ PGE/300 Sims-Tinker/2-3, 4.

²⁴ RNW/200 O’Brien/1-3.

the program cap to accommodate waitlisted customers who wished to subscribe.²⁵ All in all, Renewable Northwest continued to support PGE’s proposed Green Tariff subject only to concerns regarding REC treatment and capacity credit.

On the same date, PGE filed cross-answering testimony that “removed the language that would have allowed a customer to assign a renewable energy certificate (REC) to the utility for compliance purposes,” alleviating one of Renewable Northwest’s only concerns.²⁶ PGE retained its proposal that “[a] capacity credit will be applied only to years of capacity deficiency,” however.²⁷

III. ARGUMENT

Renewable Northwest broadly supports PGE’s proposed Green Tariff. As Michael O’Brien testified on behalf of Renewable Northwest in this docket, the program “is an important addition to the set of options for Oregon utility customers” with “the potential to result in hundreds of megawatts of new renewable energy that would otherwise have not been developed, offsetting greenhouse gas-intensive fossil generation and helping Oregon achieve its climate goals.”²⁸ Additionally, with the very limited exceptions set forth below which can easily be remedied by conditions attached to a Commission order, the evidence in the record appears to support approval of PGE’s Green Tariff proposal.

Specifically, the proposal would promote further renewable energy development by bringing up to 300 aMW of new renewables online, support continued development of a competitive retail energy market by creating new retail choices for customers, limit impacts to non-Subscribers, commit to competitive resource procurement with third-party ownership, and

²⁵ RNW/200 O’Brien/2, 4.

²⁶ PGE/400 Sims-Tinker/2.

²⁷ *Id.* at 7.

²⁸ RNW/100 O’Brien/2.

reflect careful consideration of the guidelines established by the Commission in Order No. 15-405.

The following argument addresses three points for the Commission to consider: First, decisions by the Commission in other dockets and the testimony of Michael O'Brien in this docket support expanding the capacity credit to Subscribers to include Green Tariff resources procured during periods of resource sufficiency. Second, HB 4126 requires that PGE retire RECs associated with meeting Green Tariff load on behalf of Subscribers and not for RPS compliance. And third, approval of PGE's proposed Green Tariff is particularly important at this moment in time, when action to reduce greenhouse gas emissions is urgently needed and there is very high customer demand for voluntary green energy products.

A. An Accurate Capacity Credit Would Include Compensation During Periods of Resource Sufficiency

Renewable Northwest recommends that future stages of this Green Tariff more accurately compensate Green Tariff resources for capacity provided during resource sufficiency, thereby more accurately valuing the benefits of Green Tariff resources.

Accurately compensating Green Tariff resources for the capacity they provide during resource sufficiency would enhance this Green Tariff program's consistency with Oregon law. As highlighted above, HB 2146 requires that all benefits associated with a VRET be borne by subscribers.²⁹ Here, PGE proposes to credit Subscribers during resource sufficiency periods "only for the value of energy in accordance with IRP methodology (AURORA market price forecast)."³⁰ However, and as Mr. O'Brien's testimony highlighted, PGE's proposal would fail to

²⁹ House Bill 4126 (2014), Section 3(4).

³⁰ Docket No. UM 1690, PGE/200 Sims-Tinker/10

accurately compensate Subscribers for the capacity value provided by Green Tariff resources during a utility's sufficiency period.³¹

In its investigation into the Resource Value of Solar ("RVOS"), Docket No. UM 1716, the Commission concluded that the compensation scheme for Qualifying Facilities ("QFs"), which "uses forward market prices to calculate avoided cost price [during the sufficiency period] . . . embeds the value of incremental QF capacity in the total market-based avoided cost rate."³² The Commission also determined that adopting QF practice for the first version of the RVOS was most efficient for the first version of the RVOS.³³ However, the Commission went on to direct Staff and parties to explore options for valuing capacity additions incrementally during resource sufficiency, including: "1) allowing the full capacity value upto a reasonable number of years before the deficiency year (e.g., three or four years) as recognition that it takes several years to ramp up infrastructure to avoid a major resource; (2) using the short run marginal cost affixed operations and maintenance (O&M) as a proxy value as suggested by E3; and (3) other ideas arising from related Commission Dockets or those raised by the parties."³⁴

Here, we encourage the Commission to similarly direct Staff and parties to explore options for valuing capacity additions during resource sufficiency in future tranches or phases of the docket. Renewable energy resources have a capacity value even in years when the utility is not planning to procure capacity resources. We encourage the Commission to issue direction in its order aimed at accurately identifying that value moving forward.

³¹ RNW/100 O'Brien/3-4

³² Docket No. UM 1716, Order 17-357 at 6 (Sep. 15, 2017).

³³ *Id.*

³⁴ *Id.* at 7.

A. HB 4126 Requires That PGE Retire All Green Tariff RECs on Subscribers' Behalf

Renewable Northwest recommends that the Commission approve PGE's decision in its updated proposal to retire RECs solely on behalf of customers and not for PGE's own RPS compliance, in order not only to ensure robust accounting of renewable energy but also to comply with the plain language of HB 4126.

HB 4126, section 3(6) provides in full that “[a]ny qualifying electricity, as defined in ORS 469A.005, procured by an electric company to provide electricity pursuant to a voluntary renewable energy tariff described in this section may not be used by the electric company to comply with the requirements of the renewable portfolio standard described under ORS 469A.052 or 469A.055.” That language is straightforward and broaches no ambiguity: PGE may not retire RECs associated with VRET-supplied energy except on behalf of subscribing customers.

Commission Order No. 15-405 appears to have inadvertently departed from the requirements of HB 4126 by creating a guideline that “[a]ny RECs associated with serving participants must be retired by or on behalf of participants, unless the participants consent to RECs being retired by the utility or the developer.”³⁵ Given the language of Order No. 15-405, it is no surprise that PGE's proposal originally included an exception to the general rule that RECs associated with the Green Tariff resource would be retired on behalf of Subscribers, with that exception to apply only where a Subscriber “specifically requested” that PGE retire the RECs

³⁵ Docket No. UM 1690, Order No. 15-405 (Dec. 15, 2015). In contrast to the order's language, the Staff Report included as Appendix A to the order provides at page 8 that “HB 2941(6) clearly states that RECs generated from a VRET resource ‘may not be used by the electric company to comply with the requirements of the RPS’ and that “[t]o ensure that those RECs are not applied towards RPS compliance, nor sold as unbundled RECs in the market, a necessary condition of the VRET should be that bundled RECs generated by the project are retired on behalf of the customer.” Order No. 15-405 does not explain its departure from the statutory language or from Staff's recommendation.

“for general RPS compliance.”³⁶ But notwithstanding the Commission’s past guideline, the best way to conform to the statute and ensure the Commission’s order in this docket is on solid legal footing is to approve PGE’s proposal to retire RECs only on behalf of Subscribers.

There are other reasons for requiring PGE to retire RECs on behalf of Subscribers as well. As Michael O’Brien testified on behalf of Renewable Northwest, “a green tariff . . . in which the subscriber would be assisting the utility in complying with mandated RPS targets . . . would require extraordinary attention to detail in both the marketing and the claims made about such a product . . . in order to ensure the integrity of both RECs and the RPS, and also to avoid double-claims of environmental benefits.”³⁷ Indeed, the only witness Renewable Northwest identified as raising any concerns about Mr. O’Brien’s testimony on this point—Bradley Mullins on behalf of the Alliance of Western Energy Consumers (“AWEC”)—still agreed with his fundamental conclusion:

Any RECs associated with serving participants should be retired by or on behalf of participants. It would be inappropriate, for example, for the utility to use RECs generated from the Green Tariff program and retire those RECs on behalf of other customers for purposes of achieving RPS compliance.³⁸

Nevertheless, Mr. Mullins’s concern also requires a brief response.

Mr. Mullins’s concern is that PGE’s proposal might lead to the retirement of too many RECs.³⁹ Because Green Tariff Subscribers still fundamentally remain cost-of-service PGE customers, their load will factor into PGE’s RPS responsibility.⁴⁰ To properly account for subscribing customers’ load, Mr. Mullins says, “the utility should not be required to acquire any additional RECs, other than those acquired through the subscription resource, to serve the load of

³⁶ Docket No. UM 1690, PGE/200 Sims-Tinker/10, 11.

³⁷ RNW/100 O’Brien/5.

³⁸ AWEC/200 Mullins/15.

³⁹ *Id.* at 16.

⁴⁰ *Id.* at 15.

the participating customer.”⁴¹ Instead, according to Mr. Mullins, “the proper REC accounting is to exclude only those RECs generated from the Green Tariff program that are in excess of the currently effective RPS percentage.”⁴²

Mr. Mullin’s suggestion is problematic as it could undermine the Green Tariff. Voluntary renewable energy should not be used to meet mandated targets. If a portion of the Subscribers’ RECs associated with their voluntarily acquired renewable energy (specifically, the RECs that are not “in excess of the currently effective RPS”⁴³) are essentially being assigned to meet the utility’s RPS mandate, then the Subscribers’ claims to additionality are being eroded. Voluntary renewable energy Subscribers usually expect their commitments to go beyond what is required by law, allowing their commitments in their entirety to make an incremental difference.

Furthermore, it is important to remember that the first criterion for VRET programs set forth in HB 4126 is “[w]hether allowing electric companies to provide voluntary renewable energy tariffs to nonresidential customers promotes the further development of significant renewable energy resources.”⁴⁴ With a primary goal of promoting additional renewable-energy resources, the Legislature understandably did not provide a means of limiting the RECs retired on behalf of VRET subscribers. Under HB 4126, the best course of action (and the one most attractive to potential Subscribers) is to maximize additionality and carry out the statute’s requirement that “[a]ny qualifying electricity ... procured by an electric company to provide electricity pursuant to a voluntary renewable energy tariff ... may not be used by the electric company to comply with the requirements of the renewable portfolio standard.”⁴⁵

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ HB 4126 (2014), Section 3(3)(a).

⁴⁵ *Id.* Section 3(6).

B. PGE's Proposal Is Necessary To Reduce Carbon Emissions and Meet Customer Demand

PGE's proposed Green Tariff is necessary to help Oregon achieve its aggressive greenhouse gas emission reduction goals, which science tells us are increasingly important, and at the same time to meet significant customer demand for voluntary renewable-energy programs.

Just two weeks ago, Governor Kate Brown announced an ambitious vision called the Oregon Climate Agenda.⁴⁶ The Oregon Climate Agenda points to existing "specific, science-based climate emissions reduction goals for Oregon" including the goal of achieving "emissions levels that are at least 75 percent below 1990 levels by 2050," and notes that the state is presently "not on track" to meet that goal.⁴⁷ To help get Oregon on track,

Governor Brown supports expanding green power options and tariffs for residential, municipal, and commercial utility customers, provided these options do not compromise the efficiency and reliability of the utility system or impose costs on existing customers. Designed well, utility green power options can enhance the quality of utility services, continue to attract sustainability-minded businesses to Oregon, create good jobs in the clean power sector, and reduce Oregon's emissions.⁴⁸

The Oregon Climate Agenda followed not long after the release by the Intergovernmental Panel on Climate Change ("IPCC") of a special report finding that "limiting global warming to 1.5°C ... would require rapid and far-reaching transitions in energy."⁴⁹ It is now Oregon strategy that

⁴⁶ Gov. Kate Brown & Kristen Sheeran, Ph.D., *Oregon Climate Agenda: A Strong, Innovative, Inclusive Economy While Achieving State Climate Emissions Goals*, at 22 (Nov. 28, 2018), available at <https://www.oregon.gov/gov/policy/Documents/Governor%20Kate%20Brown%20Climate%20Agenda.pdf>

⁴⁷ *Id.* at 8 (citing HB 3543 (2007)).

⁴⁸ *Id.* at 22.

⁴⁹ Intergovernmental Panel on Climate Change, *Special Report on Global Warming of 1.5°C*, Summary for Policymakers, SPM-21 (Oct. 8, 2018), available at http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf. PGE's CEO Maria Pope referenced the IPCC on page one of her opening testimony supporting the Green Tariff, before the release of the IPCC's October special report, noting that "[i]t's essential that greenhouse gases are systematically driven out of the energy economy." UM 1690 – PGE/100, Pope-Wheeler-Gamba-Callaway-Bennett-Bemis-Doyle/1.

“green power options and tariffs” are an important tool for achieving those necessary energy transitions.⁵⁰

Governor Brown’s support for green tariffs as a tool for achieving greenhouse gas emission reductions from the energy sector is supported by ample evidence—including in this docket—of high and growing customer demand for voluntary renewable energy products such as green tariffs. Indeed, as noted above, in this docket PGE offered testimony of several potential Green Tariff Subscribers expressing interest in PGE’s proposal,⁵¹ presented additional testimony discussing other potential Subscribers’ interest in green tariff products,⁵² and submitted a report from consultant 3Degrees “not[ing] that most subscription-based utility green tariffs sell out within hours to months of launch” and concluding “that there is a tremendous demand for utility-provided renewable energy.”⁵³ Additionally, Michael O’Brien testified for Renewable Northwest that Puget Sound Energy recently ran such a successful green tariff program in Washington that it ended up applying to the Utilities and Transportation Commission for approval to increase the program cap to accommodate waitlisted customers.⁵⁴ On the record before the Commission, approval of PGE’s proposed Green Tariff would likely result in a program that rapidly reaches full subscription, accomplishing just what the Legislature intended when it passed HB 4126: “promot[ing] the further development of significant renewable energy resources.”⁵⁵

⁵⁰ See Oregon Climate Agenda at 22.

⁵¹ See generally Docket No. UM 1690, PGE/100, Pope-Wheeler-Gamba-Callaway-Bennett-Bemis-Doyle; PGE/101, Pope-Wheeler-Gamba-Callaway-Bennett-Bemis-Doyle; PGE/102, Pope-Wheeler-Gamba-Callaway-Bennett-Bemis-Doyle.

⁵² Docket No. UM 1690, PGE/200, Sims-Tinker/23-24.

⁵³ *Id.* at 29.

⁵⁴ RNW/200 O’Brien/2, 4.

⁵⁵ HB 4126, Section 3(3)(a).

IV. CONCLUSION

PGE has carefully crafted its proposed Green Tariff to conform to the requirements of HB 4126 and to reflect the Commission's guidance set forth in Order No. 15-405. The Green Tariff proposal is also an important step toward achieving Oregon's ambitious climate policy and meeting growing customer demand for voluntary renewable energy. For these reasons, Renewable Northwest offers strong support for PGE's proposal and respectfully requests that the Commission approve the proposal—including specifically PGE's proposal to retire all Green Tariff-associated RECs on behalf of Subscribers—and encourage the Commission to issue direction aimed at accurately identifying the capacity credit during periods of resource sufficiency.

Dated this 11th day of December, 2018

Respectfully submitted,

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