

ITEM NO. CA7

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 14, 2018

REGULAR  CONSENT  EFFECTIVE DATE August 15, 2018

DATE: July 25, 2018

TO: Public Utility Commission

FROM: Paul Rossow *PR*

THROUGH: Jason Eisdorfer and JP Batmale *J E* *JP*

SUBJECT: CONSTELLATION NEWENERGY INC: (Docket No. UM 1956) 2017  
Renewable Portfolio Standard Compliance Report.

**STAFF RECOMMENDATION:**

Staff recommends that, based upon Constellation NewEnergy Inc.'s (Constellation) 2017 Renewable Portfolio Standard (RPS) Compliance Report (Compliance Report) for 2017, the Commission: (1) find that Constellation complied with the RPS for the 2017 compliance year; and (2) direct Constellation to retire the renewable energy certificates (RECs) identified in its Compliance Report, and to provide a Western Renewable Energy Generation Information System retirement report to the Commission, subject to appropriate non-disclosure agreements, within 30 calendar days of the Commission's Order.

**DISCUSSION:**

Issue

Whether Constellation's Compliance Report for the year 2017, filed on June 1, 2018, demonstrates compliance with the applicable RPS.

Applicable Law

Per ORS 469A.170(1), each electric utility and electric service supplier that is subject to the RPS must file an annual compliance report with the Commission. The Commission, on review of the report, shall determine whether the company or supplier has complied with the applicable RPS. In reviewing the reports, the Commission must consider the manner in which the company or supplier has complied and review the information

required under ORS 469A.170(2)(a)-(g) and any other factors deemed reasonable by the Commission.

RPS compliance may be demonstrated through the retirement of RECs that are maintained through the Western Renewable Energy Generation Information System (WREGIS). RECs may be either bundled with energy or exchanged separate from the energy (unbundled). See ORS 469A.135. One REC is issued per megawatt-hour of renewable generation produced. See OAR 330-160-0015(16).

Under ORS 469A.065, the RPS for an electricity service supplier is the same as the RPS requirement applicable to the electric utilities that serve the territories in which the electricity service supplier sells electricity to retail consumers. When an electricity service supplier sells electricity in more than one service territory, the Commission may provide for an aggregate standard based on the amount of electricity the electric service supplier has sold in each territory.

OAR 860-083-0350(1)(b) requires that each electric company subject to the RPS in ORS 469A.052 and each electric service supplier subject to Oregon's RPS in ORS 469A.065 and providing service in the service territory of an electric company subject to ORS 469A.052 provide an annual report on or before June 1 of each year. OAR 860-083-0350(2) sets forth specific information that the electric company or supplier must address in its Compliance Report. Among other reporting details required by OAR 860-083-0350(2)(a-s), the Compliance Report must contain a complete accounting of the RECs used for compliance in the compliance year, separating the RECs into bundled or unbundled categories, showing clearly which generating unit produced the RECs, and the total cost of compliance.

Once a company or supplier files a compliance report, Staff and interested persons may file written comments within 45 days of the filing. The company or supplier may respond within 30 days of any comments, per OAR 860-083-0340(4).

Per OAR 860-083-0340(4), on review of the Compliance report, the Commission will issue a decision determining whether the company or supplier complied with the applicable RPS and the Commission may address any of the issues noted in ORS 469A.170(2) such as whether the actions taken are contributing to the long-term development of generating capacity using renewable energy resources and the effect on rates for retail customers. If the company or supplier is not in compliance with the RPS, the Commission may require an alternative compliance payment, impose a penalty or both, unless the cost limit in ORS 469A.100 applies.

### Analysis

As an ESS, Constellation must meet the requirements of the RPS that apply to the electric utilities that serve the territories serviced by Constellation. Constellation serves customers in the territories of Pacific Power (PAC) and Portland General Electric Company (PGE). The 2017 RPS requirement for both PGE and PAC is 15 percent.<sup>1</sup> Therefore, for the compliance year 2017, Constellation must meet its RPS target through the retirement of RECs equal to 15 percent of its retail load or provide an alternative compliance payment. In confidential supporting filings, Constellation's 2017 RPS Compliance Report demonstrates compliance with the RPS through the use of non-banked unbundled RECs.

There are two mechanisms that serve as cost protections for Oregon consumers – an alternative compliance payment (ACP) mechanism and a cost limit on RPS expenditures equal to four percent of annual revenue requirement. In lieu of procuring renewable resources, utilities are allowed to pay an ACP and the funds are placed in a holding account to be spent on energy conservation programs or for procuring additional eligible resources.<sup>2</sup>

Though not relevant as Constellation has complied with the RPS standard, Staff notes that Constellation has calculated the total cost of compliance and the percentage of revenue requirement that this cost represents. Constellation's total cost of compliance is below the cost limit of four percent of revenue requirement established by law.

### Conclusion

Staff finds that Constellation's 2017 Report demonstrates that it complied with the RPS by the purchase and planned retirement of unbundled RECs equivalent to 15 percent of the electricity that Constellation sold to retail electricity consumers.

### **PROPOSED COMMISSION MOTION:**

- (1) Find that Constellation has complied with Oregon's Renewable Portfolio Standard during the 2017 compliance year; and
- (2) Constellation is directed to retire the RECs identified in its Compliance Report, and to provide a WREGIS retirement report to the Commission, subject to appropriate non-disclosure agreements, within 30 calendar days of this Order.

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<sup>1</sup> ORS 469A.052(1)(b).

<sup>2</sup> See ORS 469A.100 and ORS 469A.180(4), OAR 860-083-0300(2)(a) and OAR 860-083-0300(3)(b)(A).