

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

AR 622

In the Matter of

Rulemaking for Community-Based  
Renewable Energy Projects.

STAFF REQUEST FOR REPONSES

The Public Utility Commission of Oregon (PUC) Staff seeks input from stakeholders to help inform a Staff-led workshop to address potential rulemaking regarding the implementation of community-based renewable energy provisions in ORS 469A.210. Staff's memo requesting the opening of the rulemaking, attached below, includes the relevant statutory language from ORS 469A.210 and some of the issues involved.

In opening this rulemaking, the Commission noted that there are different perspectives on whether the statute is clear or ambiguous, and that a workshop in the informal phase of this rulemaking would allow stakeholders to comment on the issues. After this workshop, the Commission stated it would be able to weigh in on whether rules are necessary. Finally, the Commission noted that there is overlap between the community-based renewable energy projects and other dockets addressing distribution level resources, and asked the stakeholders to be aware of this overlap so there can be continuity between rules.

With these directives, Staff is preparing to hold a stakeholder workshop to address the core issues in this docket, including how to define community-based, renewable energy projects, and to determine how the 8 percent requirement in ORS 469A.210 will be implemented and evaluated. To prepare for that workshop, Staff requests that stakeholders review and answer the following sixteen questions. Answers to these questions will allow Staff to prioritize or eliminate issues to address in the workshop.

Staff requests that stakeholders submit responses to these questions by Friday, September 28, 2018. All comments should be submitted to the Commission's Filing Center at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us). If you prefer not to comment on a particular question, please respond that you are choosing not to take a position on that issue at this time.

## AR622 Questions

### Rulemaking

- 1) Should the PUC be engaged in this rulemaking? If not, what other type of process should the commission undertake in order to provide subject utilities with guidelines for compliance?

Yes, the PUC should engage in rulemaking to address ambiguities that exist in the 8% small scale mandate. The utilities have aggressively opposed statutory and rulemaking clarification on this mandate<sup>1</sup>, accordingly this is the appropriate/last venue.

### Measurement

- 2) Should the PUC define how the 8 percent requirement in ORS 469A.210(2) will be measured? **Yes**
- 3) What does electrical capacity mean?  
**Retail energy sales calculation should be consistent with other RPS calculations and mirror the RPS math formula (8 percent of the electricity sold by an electric company to retail consumers in each of the calendar years must be composed of electricity generated by small-scale renewable energy projects).**
- 4) What does aggregate electrical capacity mean? **For stakeholder discussion and decision making.**
- 5) How should an individual project's capacity be measured? **For stakeholder discussion, and decision making.**

### Project Eligibility

- 6) Should the PUC determine which projects are eligible to count towards the 8 percent requirement? **At a minimum the PUC should establish qualifying parameters for projects used to satisfy the requirement, including whether projects are only based in Oregon, beginning date for measurement period, whether net metered projects are considered under the definitions of the section, whether projects are only RPS qualifying, etc.**

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<sup>1</sup> PGE and PAC opposed HB 2136 (2017)  
<https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/96454>

- 7) What process should the PUC follow to determine which projects are eligible? **Begin by utilizing the current ODOE database as what could qualify, and narrow according to stakeholder feedback and final decision making. Update eligible projects list yearly from information of the utilities and ODOE.**
- 8) Which renewable projects should be eligible? **Basic question begins with whether the projects are only subject to this requirement as RPS eligible. For stakeholder discussion and decision making..**
  - a. Can eligible resources be utility-owned? **Yes**
  - b. Does a utility need to demonstrate a contract length beyond 2025? **Yes, since the requirement for RPS eligible must be met from 2025 and into the future.**
  - c. Do existing PURPA projects under 20 MW qualify? **Yes; but must determine when period of qualification begins.**
  - d. Do community solar projects qualify? **Potentially**
  - e. Do net-metered projects qualify? (Including the gross portion?) **Depends on whether PUC and stakeholders can come to an agreement whether net-metering fits under the RPS definition.**
- 9) What locational restrictions are applicable? **Requirement under the statute should be for Oregon-based projects.**
  - a. How should PacifiCorp's multi-state service territory be addressed? **Yes, will likely need to be addressed because of the Oregon-based project issue.**
- 10) Does a utility need to own the associated RECs of a qualifying project? **This was not a requirement of the 8% mandate as adopted by the 2016 Legislature.**

### Compliance

- 11) Should the PUC determine compliance with the 8 percent mandate? **Yes**
- 12) When does compliance occur? **Compliance begins at meeting all conditions, including the Oregon-based issue, and work toward 2025 8% state rollup, applicable percentage required from each utility, based on decision of this rulemaking. Begin by requiring an annual report from the two utilities as well as an immediate snap shot of current qualifying resources as of January 1, 2018.**
- 13) How should the utility report progress? **Within current reporting requirements.**

- 14) How should a utility demonstrate compliance? **List qualifying projects, specific details as to what percentage they are relying on qualifying towards the 8% mandate.**
- 15) What happens after 2025? **As with all other RPS statutory requirements, 8% of Oregon renewable project requirements must be met by 2025, and every year after, unless changed by the legislature for future years.**

Additional Questions

- 16) Do you have any other specific issues you would like addressed in this informal stage of this rulemaking that falls within the scope of this rulemaking as opened by the Commission in Order No. 18-322? **Is the 8% requirement divided proportionally between the two utilities based on service population, assuring that one set of customers does not subsidize another? Or another measure?**

Dated this 19th day of September, 2018, at Salem, Oregon.

*/s/ Seth Wiggins*  
Seth Wiggins  
Senior Utility Analyst

**PUBLIC UTILITY COMMISSION OF OREGON**  
**STAFF REPORT**  
**PUBLIC MEETING DATE: August 28<sup>th</sup>, 2018**

REGULAR	<u>X</u>	CONSENT	_____	EFFECTIVE DATE	_____	N/A
<b>DATE:</b>				August 20 <sup>th</sup> , 2018		
<b>TO:</b>				Public Utility Commission		
<b>FROM:</b>				Seth Wiggins		
<b>THROUGH:</b>				Jason Eisdorfer and JP Batmale		
<b>SUBJECT:</b>				<u>OREGON PUBLIC UTILITY COMMISSION STAFF:</u> (Docket No. AR 622) Request to open AR 622 for consideration of rulemaking for community-based renewable energy projects.		

**STAFF RECOMMENDATION:**

Staff recommends that the Commission open a docket to consider rulemaking for community-based renewable energy projects, under Oregon Revised Statute (ORS) 469A.210.

**DISCUSSION:**

Issue

Whether to open a docket to consider rulemaking for community-based renewable energy projects.

Applicable Law

In executing its general powers under ORS 756.040, the Commission “is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.”

Under ORS 756.060, the Commission is authorized to “adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission” and to “adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations

and hearings of public utilities and telecommunications utilities and other parties before the commission.”

Oregon Revised Statute (ORS) 469A.210 currently provides:

(1) The Legislative Assembly finds that community-based renewable energy projects, including but not limited to marine renewable energy resources that are either developed in accordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential element of this state’s energy future.

(2) For purposes related to the findings in subsection (1) of this section, by the year 2025, at least eight percent of the aggregate electrical capacity of all electric companies that make sales of electricity to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by one or both of the following sources:

- a. Small-scale renewable energy projects with a generating capacity of 20 megawatts or less that generate electricity utilizing a type of energy described in ORS 469A.025; or
- b. Facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose.

(3) Regardless of the facility’s nameplate capacity, any single facility described in subsection (2)(b) of this section may be used to comply with the requirement specified in subsection (2) of this section for up to 20 megawatts of capacity.

This statute was first enacted as part of the Oregon Renewable Energy Act in 2007, commonly referred to as Senate Bill 838, and subsequently amended in 2010, 2016 and 2017, to read as set forth above.<sup>2</sup> “Electric company” as used in ORS 469A.210 has the same meaning as provided in ORS 757.600 per ORS 469A.005.

### Analysis

Under ORS 469A.210, by 2025 at least 8 percent of the aggregate electrical capacity of all electric companies with more than 25,000 customers in Oregon must be comprised of electricity generated by the sources listed in section (2)(a) and (2)(b). At present, only Portland General Electric Company (PGE) and PacifiCorp have more than 25,000 customers in Oregon.

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<sup>2</sup> Senate Bill 838, Oregon Laws 2007, c. 301, § 24; House Bill 3633, Oregon Laws 2010, c. 68, § 1; Senate Bill 1547, Oregon Laws 2016, c. 28, § 14; Senate Bill 339, Oregon Laws 2017, c. 452 § 1.

For reference as to the potential scope of this mandate, the total installed electric capacity in 2016 was 4,593MW for PGE and 2,819 MW for PacifiCorp for an estimated aggregate capacity of approximately 7,142 MW, of which eight percent is 593 MW. The manner in which the statute is implemented may result in circumstances where the electric companies either have or have not met the standard of at least eight percent of electric capacity generated from these sources.

By opening a rulemaking the Commission can consider the definition and application of key terms to the affected electric companies. Additionally, if the result of this rulemaking is that more resources will be needed, each utility will need time to plan the optimal pathway for meeting the mandate in other forums.

Accordingly, Staff recommends that the Commission open this rulemaking to clarify how the mandate will be evaluated, enabling PGE and PacifiCorp to assess their current portfolios and make any necessary decisions in time for 2025. To focus stakeholder input, Staff will circulate a set of questions to all parties in August, answers to which will be welcomed at a September Staff workshop. To facilitate a rapid but thorough rulemaking, Staff proposes to draft proposed rules by November 5, 2018, and to provide multiple opportunities for stakeholder and utility input between now and then.

This input and feedback will be critical in this rulemaking. Staff will solicit responses at multiple points in this rulemaking in order to provide the Commission with as much information as possible. It is Staff's hope that interested parties will engage in the process and share their perspectives, in order to provide the Commission with as complete a view of the issues as possible.

### Conclusion

In order to clearly define what is meant by community-based, renewable energy projects, and to determine how the mandate in ORS 469A.210 will both be implemented and evaluated, Staff recommends that the Commission open this rulemaking.

### **PROPOSED COMMISSION MOTION:**

Open a rulemaking docket regarding community-based renewable energy projects.