



November 28, 2018

Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301

To the Commissioners and Staff:

Freres Lumber Company, located in Lyons, Oregon, is a family owned mill founded nearly 100 years ago. The Company owns and operates two veneer plants, a veneer drying facility, one plywood plant, and a small lumber facility. Total annual production exceeds 550 million surface feet of plywood and veneer, and 10 million board feet of lumber (studs). In 2007, Freres (through its subsidiary, Evergreen BioPower, LLC) built a 10 MW combined heat and power ("CHP", also called co-generation) facility to save on gas costs to dry veneer while producing enough power to light 6,000 homes. Wood waste residuals from sites at two different milling operations partially feed the steam boilers. The facility provides 12 family wage jobs in a state-designated Enterprise Zone.

Freres sought and obtained a standard fifteen-year Schedule 201 power purchase agreement (PPA) with Portland General Electric in 2017. Freres Lumber, its employees and the town of Lyons are likely to be affected by the Draft Rules, and asks that the Commission consider the following comments:

i. Draft Rules are silent on treatment of Thermal Renewable Energy Certificates.

PGE's standard PPAs utilized by most community renewable energy projects are filed with and approved by the Commission in conjunction with PGE Schedule 201.



Those PPAs make a distinction between “Environmental Attributes”¹ and “RPS Attributes”². The difference between Environmental Attributes and RPS Attributes is subtle but important. Under its standard PPAs, during its Renewable Resource Deficiency Period, PGE receives the RPS Attributes in consideration of paying the Commission-approved renewable avoided cost price, while the Seller retains ownership of all Environmental Attributes that are not RPS Attributes. See, e.g., PGE’s *Standard Renewable Off-System Non-Variable Power Purchase Agreement*, § 4.6 [“From the start of the Renewable Resource Deficiency Period through the remainder of the Term of this Agreement, Seller shall provide and PGE shall acquire the RPS Attributes for the Contract Years as specified in the Schedule and Seller shall retain ownership of all other Environmental Attributes (if any).”].

One non-RPS Attribute of major importance is the generation of thermal energy for a secondary purpose, and its associated reporting right, known as the Thermal Renewable Energy Certificate, or T-REC. In 2016, SB 1547 created T-RECs for generation of thermal energy for a secondary purpose by a biomass-electric facility. Freres’ facility generates T-RECs from its use of steam in its milling processes. Freres is counting on selling its T-RECs to augment the revenue it receives from the PPA.

Because transfer of T-RECs is not required to furnish PGE Qualifying Electricity³, T-RECs are not RPS Attributes (as defined in the PPA) and therefore they belong to the Seller. However, the Draft Rules, if allowed to take effect, could cloud seller’s ownership of T-RECs. Draft Rule 5 provides that “Energy projects that satisfy the

¹ "Environmental Attributes" shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.

² "RPS Attributes" means all attributes related to the Net Output generated by the Facility that **are required in order to provide PGE with "qualifying electricity,"** as that term is defined in Oregon's Renewable Portfolio Standard Act, Ore. Rev. Stat. 469A.010, in effect at the time of execution of this Agreement. RPS Attributes do not include Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity.

³ Qualifying Energy was defined by SB 838 in 2007, nine years before the advent of T-RECs. Nothing in SB 1547 requires biomass co-generation facilities to deliver T-RECs in order to be paid for Qualifying Energy.



criteria of Rule 4 are eligible to count toward the standard in Rule 3 as renewable energy projects when the electric company owns or otherwise has the rights to the *environmental attributes associated with the energy produced by the energy project during the compliance year*" (emphasis added). As drafted, the rule would likely lead to litigation over which environmental attributes are required. Current and past PPAs only purport to transfer RPS Attributes rather than all Environmental Attributes. The draft language would also create an incentive for utilities to revise their PPAs to transfer all "Environmental Attributes", which would be an enlargement of the scope of attributes currently transferred under a standard renewable PPA without any additional consideration. Freres suggests that the Commission consider defining "RPS Attributes" in the Rules and using that term in place of "environmental attributes" to clarify that the utility acquires only those attributes necessary to meet Oregon's RPS.

Freres also suggests that the Commission clarify that "environmental attributes associated with the energy produced by the energy project" (the emphasized language from Rule 5, above) does not include T-RECs. Otherwise, there may be uncertainty regarding whether T-RECs must be transferred to the utility in order for the facility to count towards the 8% standard. A short statement that "for purposes of these rules 'environmental attributes associated with the energy produced by the energy project' does not include T-RECs produced by the energy project, if any" would suffice. While it may seem clear that "environmental attributes associated with the energy produced by the energy project" does not include T-RECs, only an express statement will prevent a dispute on the subject. Disputes regarding the ownership of T-RECs can take years to resolve and can destroy the value of T-RECs to both the Seller and utility, frustrating the policies of the legislature.

ii. Calculation of the 8% standard (Rule 3).

Draft Rule 3 would measure compliance with the 8% standard using an electric company's forecasted annual peak load, compared to the sum of the nameplate capacities of all eligible renewable resources. Staff's comment on the Draft Rule 3 explains that a working group agreed in 2016 to equate "system capacity" to a utility's Oregon peak load for purposes of determining compliance. This agreement, if adopted, would greatly diminish the utilities' obligations to attain the 8% standard, and would not be mathematically correct. A "fraction" is a part of the whole. Accordingly, the sum of nameplate capacities of renewable resources divided by the sum of nameplate capacities of all resources is a fraction. So is the sum of peak load contributions of renewable resources divided by the peak load for Oregon. But to mix the two together is not a fraction, and it impermissibly reduces Oregon's commitment to small community based renewable energy projects. Freres



suggests that the Commission consider using comparable metrics to measure the numerator and denominator of its 8% standard.

iii. A Community Renewable Avoided Cost may be needed to achieve the 8% standard.

ORS 469A.210 furthers Oregon's important policy of fostering adequate community-owned small renewable generation. If the utilities' compliance with the 8% standard is not assured, Freres suggests that the Commission implement a new standard avoided cost specific to community-owned small renewable generation. The utilities' existing renewable avoided costs are based upon large, centrally-owned facilities that do not accurately reflect the cost of under-20 MW community renewable generation projects. Such an avoided cost would be an effective method to ensure that the utilities attain and maintain compliance with the 8% standard. Without such an avoided cost (or an increase in today's published avoided cost rates), new small community renewable generation projects are unlikely to be developed, and existing ones are likely to shut down when their current PPAs expire.

Conclusion.

Freres applauds the Commission for this rulemaking and thanks the Commission and its Staff for its time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Freres", is written over a light blue horizontal line.

Kyle Freres
Vice President, Freres Lumber Co., Inc.,
Manager, Evergreen BioPower LLC