



October 12, 2018

**VIA ELECTRONIC MAIL**

Public Utility Commission of Oregon  
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**RE: Comments on Docket No. AR 622 (Implementation of ORS 469A.210)**

To the Commissioners and Commission Staff:

Recently Biogreen Sustainable Energy Co. LLC (Biogreen) became aware of the potential of the Commission's rulemaking in the above docket to affect the value and/or ownership of Thermal RECs.<sup>1</sup> I understand that Staff, at the October 4 workshop, invited rulemaking participants to submit additional comments, and therefore ask to submit the following comments regarding T-RECs into the record of Docket No. AR 622.

Biogreen is an Oregon company engaged in development of biomass-powered electricity generation in Oregon. Biogreen will utilize thermal energy for secondary purposes at a facility when cost effective, and therefore has a direct stake in the Commission's implementation of ORS 469A.210(2)(b).

Biogreen applauds the Commission's efforts to implement ORS 469A.210--an important pillar of the state's Renewable Portfolio Standards intended to foster new development of under-20MW renewable energy projects, including biomass electric projects that generate thermal energy for a secondary purpose. Clear rules of compliance and penalties for non-compliance are essential if the statute's eight percent capacity requirement is to perform as the legislature intended.

Biogreen suggests that a rule is needed to clarify how ORS 469A.210(2)(b) affects ownership of Thermal RECs, a/k/a T-RECs, generated at biomass facilities whose capacity is counted towards attainment of the eight percent capacity requirement.

One workable approach is a rule declaring that eligibility under ORS 469A.210(2)(b) *does not require* transfer of T-RECs to the utility. Biomass facilities could then sell their T-RECs (which are qualifying unbundled RECs under Oregon's RPS) to the highest bidder.

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<sup>1</sup> Thermal RECs are Oregon RPS Renewable Energy Certificates associated with the generation of qualifying thermal energy and are defined in ORS Chapter 469A and OAR 330 Div 160.

Alternatively, the rule could require transfer of the T-RECs for consideration. This approach was favored by the Commission in Docket No. UM 1396, where the Commission established separate avoided cost rates available to qualifying facilities that delivered bundled RECs to the utility with their generation. Order No. 11-505, at 7. Under this approach, the Commission would establish a separate avoided cost rate for projects counting towards the eight percent capacity requirement, and biomass facilities seeking the new avoided cost rate would be required to convey their T-RECs to the utility.

At this early stage of rulemaking, it is unclear which T-REC approach above, is better. Biogreen believes that either approach could work, if done in a way that does not deprive facilities that generate T-RECs of their value (as unbundled RECs from Oregon qualifying facilities).

One approach that won't work well is to remain silent. If the Commission does not clarify how ORS 469A.210 affects T-REC ownership then title to T-RECs from ORS 469A.210-eligible projects may be subject to dispute. In that event their value will be destroyed and any incentive the legislature intended to provide will be thwarted.

Biogreen therefore asks that the Commission address this important issue in the final rules that result from Docket No. AR 622. Thank you for your time and consideration.

Sincerely,

BIOGREEN SUSTAINABLE ENERGY CO., LLC



Jason B. Joner