Portland General Electric
121 SW Salmon Street · Portland, Ore. 97204
PortlandGeneral.com

February 21, 2019

VIA ELECTRONIC FILING
puc.filingcenter@state.or.us

Public Utility Commission of Oregon
201 High Street S.E., Suite 100
PO Box 1088
Salem, OR 97308-1088

Attn: Filing Center

RE: AR 622 – PGE's Final Comments on Key Policy Issues

Portland General Electric Company (PGE) appreciates the opportunity to provide these final comments to the Public Utility Commission of Oregon (Commission) regarding the implementation of small-scale renewable energy provisions in ORS 469A.210 (2). Our comments here are supplemental to PGE's earlier comments, including ones raising the authority of the Commission to undertake this rulemaking. We are not offering further comments on that issue.

ORS 469A.210 (2) requires electric utilities, by 2025, to meet an 8% capacity target using small-scale renewable projects and certain projects that generate electricity from biomass. We note that small-scale renewable projects may be different than the "community-based" projects that the Legislative Assembly specified in ORS 469A.210 (1). Parties at the commission hearing held on February 14, 2019, sometimes used "community-based" and "small-scale" interchangeably. They may not be the same thing. PGE believes that the 8% target applies specifically to "small-scale" and to certain biomass projects as described in ORS 469A.210 (2), not "community-based" projects specified in ORS 469A.210 (1).

On February 12, 2019, PGE submitted an updated matrix which provides a snapshot of current activity in the small-scale project queue and shows potential capacity positions for 2018, 2025, and 2036. The projects included in the numerator value demonstrate significant activity in the market through 2025, with over 110 qualifying facility (QF) projects contracting with PGE to be constructed and online by 2025. Once operational, those QFs could provide a total nameplate capacity of nearly 500 MW. While PGE has not yet obtained 8% of our aggregate capacity from small-scale projects, PGE believes that the extensive activity in the QF market shows that the goal sought by the legislature, that more small-scale renewable projects be built in Oregon, is well underway. If only a portion of the projects within our queue are built and ultimately deliver energy, PGE will meet our 8% target. We note that most of this activity has occurred in the past two years, after the adoption of Senate Bill 1547 (2016), as costs for renewable energy, mostly solar, have continued to fall.

Our comments will address the proposed rules as contained in the Notice of Proposed Rulemaking filed with the Secretary of State on December 27, 2018 and three key policy issues discussed at the Commission's rulemaking hearing on February 14, 2019:

1) Renewable attributes ownership
2) Eligibility of net metered projects
3) Denominator and numerator basis

Issue #1: Renewable attribute ownership

The proposed rules contain complicated and problematic language regarding renewable attribute ownership, utilization of renewable energy certificates (RECs), and integration with a renewable portfolio standard (RPS). PGE is opposed to this language.

Proposed OAR 860-091-0010 provides the following definition for "renewable attributes":

> "(3) "Renewable attributes" means the environmental attributes associated with energy generation represented by a renewable energy certificate that can be used to comply with Oregon's renewable portfolio standards in ORS 469A.050 and ORS 469A.055. Renewable attributes do not include greenhouse gas offsets from methane capture not associated with generation of electricity and do not include environmental attributes represented by a thermal renewable energy certificate created under ORS 469A.132."

Proposed OAR 860-091-0030 to -0050 include provisions for renewable attribute ownership requirements and further address the use of RECs associated with eligible projects for compliance with the RPS. The proposed rules require that a utility own the RECs from a project's energy generation to count the project as eligible toward the 8% capacity target in ORS 469A.210.

PGE has several concerns regarding the proposed language. As a minor point, we believe the statutory reference to ORS 469A.050 is incorrect and should be ORS 469A.052. There is no portfolio standard under ORS 469A.050.

Our first major point of concern is that the proposed rule establishes a definition of renewable attributes that is in conflict with the existing definition of REC adopted by the Oregon Department of Energy ("ODOE"). In OAR 330-160-0015 (17), the department determined that a REC is "a unique representation of the environmental, economic, and social benefits associated with the generation of electricity from renewable energy sources that produce Qualifying Electricity." In the manner established by the legislature for split authority for implementation of the Oregon Renewable Energy Act found at ORS 469A.005 to 469A.210, the proposed rule creates a conflict with the ODOE rule because it carves out certain environmental attributes from the REC where the ODOE rule includes all environmental attributes in the REC. This becomes a greater concern when the proposed rule seeks to require use of a REC to show that the utility has met the 8% target.

Secondly, the proposed rule's requirement to utilize a REC for the 8% target is inconsistent with the plain language found in ORS 469A.210. ORS 174.010 requires us "not to insert what has been omitted, or to omit what has been inserted" in the construction of statutes. There is simply no

requirement in the statute that project eligibility must be determined by renewable attribute ownership, RECs, or RPS compliance and we must not insert one.

A plain reading of the statute, subsection (2)(a), clearly defines the metes and bounds for project eligibility and they are: (1) facilities up to 20 megawatts (MW) in capacity; and (2) utilizing a *type* of energy contained in ORS 469A.025; or (3) certain biomass projects that also generate thermal energy for a secondary purpose. (emphasis ours). Project eligibility based on satisfying these requirements results in a clear and straightforward verification process. Implementation of any process for determining whether a project can help meet the 8% target under this two-pronged test is simple.

While we understand that RECs are an appealing way to provide verification, they are the wrong tool. RECs are a compliance tool to determine whether the projects utilized for RPS compliance generate qualifying electricity. The requirement of ORS 469A.210 is not to take qualifying energy from facilities – that requirement would be created by a reference to ORS 469A.020 – but instead to take energy of a *type* that can potentially generate qualifying electricity if other criteria are met, such as age of the facility. The language in ORS 469A.025 (1) is instructive, "Electricity generated utilizing the following *types* of energy may be used to comply with a renewable portfolio standard" – solar, wind, wave, geothermal, etc., can all be used.

The legislature, through ORS 469A.210, sought to promote small-scale and combined heat and power biomass energy generation. The "renewableness" of the project is determined by its type, not whether it generates a REC. The legislature did not express a preference in ORS 469A.210 about who could make claims to the environmental attributes of those projects and we should not read one into the law. Pursuant to our interpretation, the acquisition of null power from a small-scale facility could be used to meet the 8% target, acquisition of energy from a facility that declines to register to generate RECs would qualify, and a small-scale generator that was built prior to 1995, thus prohibited from generating RECs unless it is low-impact hydroelectric, would also qualify.

Thirdly, discussion in AR 622 raised uncertainty regarding the use of RECs as a means of determining if a project's capacity is eligible to count toward the 8% capacity target. As noted above, ORS 469A.210 asks us to determine the facility capacity (i.e. instantaneous power or ability to generate) and the *type* of energy, not the amount of energy. RECs are a measure of a project's actual energy generation and a right to claim environmental attributes, and is based on a different measurement than the statute's criteria.

Finally, PGE has concerns that regardless of proposed rule language that allows for the double claiming of RECs for both the 8% target and for the RPS, that such double claiming of environmental attributes is typically prohibited, even through implication, lest the value of the REC itself be called into question. Preventing double counting of renewable attributes is critical to ensuring the stability and integrity of the voluntary REC market (which underlies PGE's national leading voluntary green power program) and prevents consumer confusion in the marketplace. If the proposed rules retain the language about renewable attributes and should the rules require that a REC be used to comply with the 8% target, further environmental claims would be prohibited. If PGE were, for example, to purchase the energy from a small-scale facility and

bank the REC for RPS compliance, if the REC was required to be used to show that the energy and capacity from the project entered the PGE system and thus met part of the 8% target, PGE could not then sell the REC to a third-party without a cloud on that REC.

For these reasons, PGE recommends removing the language for renewable attribute ownership, RECs, and RPS from the proposed rules.

Issue #2: Eligibility of net metered projects

Net metered projects should be eligible to count toward the 8% capacity target in ORS 469A.210 following the removal of language for renewable attribute ownership, RECs, and RPS from the proposed rules. As previously noted, the statute defines two specific requirements for project eligibility. Net metered projects meet both requirements and we repeat our arguments above to the extent that they apply to net metered projects.

Issue #3: Denominator and numerator basis

PGE supports the use of nameplate capacity for both the denominator and numerator values in the equation to determine progress toward the 8% capacity target. Because ORS 469A.210 is a capacity target, it is reasonable to use nameplate capacity for resource supply values. Using nameplate capacity provides both consistency with the statute and ease of verification. Using nameplate capacity for both the denominator and numerator values is the easiest way to ensure an "apples to apples" comparison of the projects.

Conclusion

PGE appreciates the hard work of Commission Staff and the Administrative Hearings Division to draft the proposed rules. Should you have any questions regarding these comments, please contact Colin Wright at (503) 464-8011.

Please direct all formal correspondence and requests to the following email address pge.opuc.filings@pgn.com.

Respectfully submitted,

PORTLAND GENERAL ELECTRIC COMPANY

Karla Wenzel
Manager, Pricing and Tariffs
121 SW Salmon Street, 1WTC0306
Portland, OR 97204