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April 19, 2023

Via Electronic Filing

Public Utility Commission of Oregon
Attention: Filing Center
P.O. Box 1088
Salem, OR 97308-1088

RE: AR 655 - In the Matter of Rulemaking for the Filing, Review, and Update of Clean Energy Plans, revising OAR 860-027-0400; Joint Utilities' Comments

Dear Filing Center:

Portland General Electric Company (PGE) and PacifiCorp d/b/a Pacific Power (PacifiCorp) (collectively the Joint Utilities) respectfully submit these comments in response to the Public Utility Commission of Oregon (OPUC or Commission) draft Clean Energy Plan (CEP) procedural rule language.

The Joint Utilities appreciate Staff's expressed goal of this rulemaking to establish basic procedural rules for the CEPs without addressing policy issues more broadly¹. Generally, the Joint Utilities support the draft procedural rule language, which appropriately retain flexibility for initial and subsequent CEPs.

The Joint Utilities filed comments in the informal phase of this rulemaking and restate some of the points here for the record. In these comments, the Joint Utilities reiterate a limited number of concerns with the draft rules. Through our suggestions, we support rules that provide flexibility to incorporate learnings and findings from our initial CEPs.

¹ See UM 2225 Staff Report for Public Meeting (Item No. RA2) at 5 (Dec. 13, 2022).

I. Comments

A. OAR 860-0400(4)

The Joint Utilities recommend that the Commission allow for extensions to file CEPs for good cause, not an undue burden standard. While this differs from the guidance in Order No. 22-206 that discussed an undue burden standard, the Commission should retain broad discretion to determine whether to extend deadlines for integrated resource plans (IRPs) and CEPs on a case-specific basis. There are many hypothetical situations that would justify extending the deadline to file either an IRP or CEP for good cause, that may not justify an extension under an undue burden standard. For example, utilities should be permitted to request, and the Commission to consider, reasonable extensions of time to incorporate additional analyses on novel technologies that were recently completed; results of contract negotiations on specific generation, transmission, or distribution resources that were just finalized; or recently enacted federal or state statutes or regulations.

B. OAR 860-027-0400(5)

The Joint Utilities appreciate the intent behind the language in new proposed section (5) that requires CEPs to be drafted “as clear and simple as possible so that it may be understood by non-expert members of the public.” However, HB 2021 advances important public policy goals, and how and whether public utilities are achieving those goals for compliance purposes are necessary issues that the Commission will have to address.

As such, the Joint Utilities do not believe it is appropriate to codify this requirement in Commission regulations. CEPs are fact-specific, technical documents, that combine multiple subject areas (engineering, finance, economics, policy, and law). Analyses from these subjects are then forecasted over multiple decades to inform long-term resource procurement strategies.

Commission acknowledgment of these plans then informs future utility rate-recovery proceedings. CEPs will—and should—necessarily reflect the complexity of the given topic. Additionally, this proposed requirement that the CEPs are “clear and simple” and “understood by non-expert members of the public” is too vague to include in rules. These ambiguities could create enforcement problems: what is clear or simple to the Commission, utilities, and stakeholders, may not be clear to members of the public.

Consistent with all previous IRPs, the Joint Utilities will strive to ensure that future IRPs and CEPs are accessible, transparent, and readable; however, the Joint Utilities want to preserve the ability to use as accurate and precise language as necessary to communicate complex subjects. The Commission should remove this “clear and simple” and “understood by non-expert members of the public” language.

C. OAR 860-027-0400(7)

The Joint Utilities recommend removing the language for stakeholders to submit comments “generally” within six months. The IRP process can already be extensive, and this six-month deadline at least ensures one sideboard. Parties can always request the opportunity to waive the six-month deadline in rules, but the Joint Utilities recommending keeping this six-month window to encourage timely resolution of CEPs and not create a default expectation that the timeline may exceed the six months.

D. OAR 860-027-0400(9)

The Joint Utilities support OAR 860-027-0400(9)(c) which states that in the event the Commission does not acknowledge the CEP, any necessary refiling requirement timeline will be set by the Commission in its order. The Commission should have the discretion to determine an appropriate timeline to refile a CEP in the event of non-acknowledgment. A more prescriptive timeframe is unnecessary and potentially unworkable; the Commission can determine whether to establish a timeframe for any such requirements specific to each utility’s filing.

E. OAR 860-027-0400(11)

The Joint Utilities appreciate Staff’s clarification that the annual update is not intended to serve as an HB 2021 compliance review at this time.² The Joint Utilities support this approach.

II. Conclusion

The Joint Utilities appreciate Staff’s efforts with this rulemaking, and respectfully request the Commission consider the comments provided above.

Sincerely,

Shay LaBray

Shay LaBray
Senior Director, Regulatory Affairs & Strategy

/s/ Matthew McVee

Vice President Regulatory Policy and Operations
PacifiCorp

² UM 2225 Staff Report for Public Meeting (Item No. RA2) at 9 (Dec. 13, 2022).