BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

LC 80

In the matter of PORTLAND GENERAL ELECTRIC COMPANY, 2023 Integrated Resource Plan and Clean Energy Plan.	SUPPLEMENTAL COMMENTS OF NEWSUN ENERGY LLC

I. INTRODUCTION

NewSun Energy LLC ("NewSun") submits these Supplemental Comments on Portland General Electric Company's ("PGE's") 2023 Integrated Resource Plan ("IRP") and Clean Energy Plan ("CEP"), following up on comments from the January 17th, 2024 workshop on the same. The Commission should deny acknowledgement of *both* the IRP and the CEP to PGE. Both fail to meet the applicable standards.

Not only does the IRP modeling rely on indefensible, non-credible, and non-technically feasible assumptions—particularly in terms of insufficient constraints around timelines for available of transmission or market power supply sources, allowing the model to choose or rely on resources that cannot, will not, and/or are unlikely to be available on the timelines presumed (including by 2030)—but their modeling broadly omits whole classes and meaningful scales of technically and timeline feasible options, such as broad-scale solar PV distributed generation, utility-scale solar off-system in Oregon, and on- and off-system utility-scale solar on the Willamette Valley side of the state, where the cross-Cascades transmission constrains (PGE's primary real challenge) are largely non-applicable. These massive omissions, despite extensive

expert stakeholder commentary and requests to include them, repeatedly over many months and many meetings, comprise willful omission of viable resource options from the model—and ultimately from the ratepayers of the State of Oregon. They further cause the inappropriate denial of the ability of the State, particularly the customers of PGE, to meet the clear statutory obligations and objectives of Oregon, including what may be (and likely are, PGE's own comments last week, relative to transmission costs) lower cost options—and at least a full landscape of that which might indeed be achievable, and should be properly considered.

The Commission cannot and should not condone this abuse of the IRP process. It undermines a primary function of the IRP process, and ultimately a primary regulatory function of the Commission, if invalid and omissive inputs can dominate the IRP modeling exercise which is the heart of the IRP process. Nor should the Commission condone the utility's disregard for stakeholders' inputs and expertise on these matters for months and years, such that we have to bring it to your attention this late in the process.

Preventing the model from assuming transmission capacity that is not available, that cannot and will not be built by 2030 (for example), should not be controversial, but primary.

Ultimately, the IRP is the "plan" for the "resources" necessary to meet the "need," where the need includes the statutory standards. The "need" by definition includes compliance with the laws, i.e. HB 2021 (among a long list of other statutory and regulatory standards, such as the Clean Air Act, Clean Water Act, emissions restrictions (NOx, SOx, Mercury, Arsenic, and other pollutants) applicable to fossil plants.

> *"Integrated Resource Plan" or "IRP" means the energy utility's written plan satisfying the requirements of Commission Order Nos. 07-002, 07-047 and 08-339, detailing its determination of future long-term resource needs, its analysis of the expected costs and associated risks of the alternatives to meet those needs, and its action plan to select the best portfolio of resources to meet those needs.*

These statutory standards, which the IRP must incorporate and account for, *now include the emissions reductions targets (and other obligations) of HB 2021.* The "Plan" cannot *not* comply with the law—and especially not with the Commission's "acknowledgement". Particularly when abundant options have been precluded from the available resources artificially.

Further, as the Commission acknowledged in Order No. 24-002 the Commission has an obligation to "ensure" that an electric company take actions "**as soon as practicable** to facilitate rapid reduction of its greenhouse gas emissions." The record of this docket does not support such an order. The record shows that the renewable procurement proposed by PGE in its CEP is too small, too slow, and too speculative to demonstrate continual progress toward meeting its clean energy targets—and to even meet them at all. The unrefuted evidence—to which both the Commission and PGE agree—is that PGE could be doing more and doing it faster.

Leaving out major options for resources from the IRP resource candidates, i.e. from the "Resource Plan," that could reduce emissions *earlier* is definitionally inconsistent with "as soon as practicable" and "rapid reduction," particularly when various whole classes of resources, comprising hundreds or thousands of MW per class, could be available in advance of 2030, if not already immediately (as NewSun's CEO, and an expert in Oregon transmission, interconnection, and PNW energy development expert expert, Jake Stephens testified).

NewSun can, of course, speak to this omission of timeline viable resources authoritatively given its resources, its extensive knowledge of the BPA transmission and interconnection queues (including its own queue positions and transmission rights), thousands of permitted acres of solar in Oregon across a half-dozen counties, as well as multi-hundred MW options that PGE declined to pursue in its last RFP Final Shortlist (projects that could have been online by 2024 or 2025 if contracted in the last RFP cycle). On-system, there are hundreds of

MWs of small, medium, and large solar PV rooftop available (decades old technology, highly feasible), thousands of homes that can be stuffed with insulation, farms that can host small, mid- and large-scale solar projects. Omission of these defies common sense (and only seems explicable from the perspective of IOU profit objectives at the expense of timely regulatory compliance). The list goes on.

Further, the record shows PGE intends to continue emitting greenhouse gasses by continuing operating its thermal fleet in Oregon unabated, while also denying its customers access to those dispatchable gas resources to be available for long-duration capacity—i.e. instead of building 8, 12, 24, or 48-hour batteries.

Any finding by the Commission based on this record that PGE is demonstrating sufficient continual progress or rapidly reducing its greenhouse gas emissions, much less doing so "as soon as practicable" is not supported by substantial evidence in the record and would therefore be arbitrary and capricious.

II. LEGAL STANDARDS

HB 2021 requires the Commission to oversee PGE's obligations to make continual progress within each planning period to meet its clean energy targets. Specifically, ORS 469A.415(6) provides that "[t]he commission shall ensure that an electric company demonstrates continual progress as describe in subsection (4) (e) of this section *and* is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers" (Emphasis added). This is a two-part test. The first part is that PGE's IRP and CEP must model, plan-for, and demonstrate "continual progress" toward meeting its carbon emissions targets. While continual progress does not have to mean a strictly "linear"

progress year over year, it does mean that the carbon emissions reductions achieved through each planning cycle must be meaningful and substantial, and proportional to the task at hand.

Emissions reductions that should be expected to result in ultimate failure are not good enough. The Commission would not meet its legal obligation under ORS 469A.415(6) by allowing PGE to plan to fail. Not only that, but PGE's plan also does not account for factors *known today* as relates likely delays or challenges in some of its resources. If it is *known* today that some of the options and resources expected may be delayed in various ways, PGE's IRP—its "Plan"—must account for this in advance—not in arrears. This is called "contingency" and "risk mitigation." Given that HB 2021 calls for "continual progress" (not square stairsteps), and reducing emissions "as soon as practicable," Oregon utilities should be procuring *more, sooner, and extra*, which accomplishes both "as soon as practicable" *and* provides contingency for delays and failures, to ensure they arrive on time at *not less than* their milestone targets. And, of course, it is okay to end up with extra, because "as fast as practicable" prefers more sooner, and "continual progress" means that will be "continual progress." But in no event should the IOU be failing to account for delays and contingency in ensuring it succeeds at reaching the 2030 (or later) standards, much coming up short to begin with as their base case "Plan." The Commission must review accordingly and ensure their plans account for such *highly known and knowable issues today*, not sweeping them under the rug to beg forgiveness for in faux ignorance later. There is no excuse—we state on the record now—for an Oregon utility showing up later and saying "who could have known there would be interconnection [or transmission] delays that might have kept us from meeting our timelines?" That would defy credibility.

Nor should the Commission acknowledge an IRP or CEP today that fails to account for such known factors—much less lay the ground for the IOU coming back later and saying: "But

you agreed with our Plan… You acknowledged it… So you can't hold us in non-compliance…" The Commission must deny a plan that inappropriately accounts for such obvious factors—just as it must deny one based on illegitimate or omissive input data, or which fails to comply with laws and rules (including its own rules that require an IRP comply with laws and regulations).

The second part of ORS 469A.415(6) requires the Commission to ensure that PGE "is taking actions **as soon as practicable** that facilitate rapid reduction of greenhouse gas emissions." It would be legal error to conflate 469A.415(6) into a single standard. The plain meaning of the use of the word "and" in this context indicates that ORS 469.415(6) actually sets forth two separate and distinct legal requirements. Further, the words "as soon as practicable" require PGE to take actions as soon as such action is both possible and practical, taking into account all relevant facts and circumstances.

It would <u>not</u> be possible and practicable, for example, for PGE to build a new nuclear station to reduce greenhouse gas emissions. Nor would it be possible to assume that BPA's Big Eddy-Chemawa 500KV rebuild project that is required for new BPA transmission service to PGE's system will be in-service by 2030, when it is unlikely to even be permitted by then (due to NEPA and tracking through spotted owl habitat, and other complicating factors). It *would* be possible and practicable, however, for PGE to procure hundreds of MWs and numerous Willamette Valley solar development projects, and to build (or enable its customers to build) hundreds of rooftop solar throughout its system by 2030—because there are no technically insurmountable problems across a couple hundred thousand customers for a mature technology like solar PV that does not require new transmission lines—and because there a millions of acres available for solar projects and dozens of powerlines, as well as many on-system options, for utility-scale solar. These options may have *some* challenges, but they are not brick-wall type

challenges that defy credibly assuming them away, and are more proportional to staffing, very solvable (or already available options) in the pre-2030 timelines.

New Commission Order on HB 2021 Informs Applicable Standards:

In Order No. 24-002, the Commission announced that it would discharge its oversight obligations under ORS 469A.415(6) by issuing in the IRP/CEP docket a new reviewable order called a "continual progress determination." The Commission further explained that "[w]e intend for continual progress determinations to be made as final decisions subject to judicial review. This means that we intend to make separate determinations, in separate orders entered in the same docket, for continual progress and acknowledgement, but we will rely on the same record."[1] The Commission must therefore make *factual findings*, based on the record before it in this docket, that PGE's CEP demonstrates sufficient "continual progress" towards reaching the applicable carbon reduction targets *and* that PGE is taking action *as soon as practicable* that facilitate *rapid reduction* of greenhouse gas emissions.

It is noteworthy that the Commission went to considerable effort in Order No. 24-002 to explain why its "continual progress determination" would be subject to judicial review. By way of background, NewSun has appealed multiple final, written decisions issued by the Commission in IRP and RFP dockets following enactment of HB 2021. One of the express grounds for filing these appeals is that the Commission had failed (or refused) to properly implement HB 2021—specifically that the Commission failed to require electric utilities to take action as soon as practicable to reduce their greenhouse gas emissions. Following the lead of its regulated utilities, however, the Commission has argued before both Oregon trial and appellate courts that *any and all final, written orders issued in its IRP and RFP dockets are not subject to judicial review*

[1] Order No. 24-002, p. 29.

unless and until the Commission issues a final rate case order allowing the utility to recover the costs of an asset procured pursuant to the IRP and RFP dockets.

The logical fallout of the Commission's argument, of course, is that it will be far too late to fashion a remedy for any legal defect in the RFP or IRP dockets in the rate recovery process—including a utility's failure to comply with various applicable laws (whether those are the Clean Air Act and related EPA regulations or HB 2021 emissions reduction requirements)—which is definitionally *afterwards*, as well as deals primarily with rate recovery on *what the utility did*, not what the utility *did not do*. Utilities do not and cannot seek rate recovery on unbuilt assets, unprocured resources, unspent dollars, and undone deeds.

In Order No. 24-002, the Commission recognizes that treating continual progress determinations made in the context of its IRP and CEP dockets as final decisions for purposes of judicial review would be irreconcilable with its litigation position—i.e. the PUC's formally opposing in Oregon courts (alongside the IOUs it regulates) *any* judicial review of *any* of its IRP and RFP decisions (including the final order at the end of the docket, that used to be stamped with "final order" until appealed), on the grounds that IRPs are nothing more than a preamble to some future rate cases, and so are RFPs, so there are supposedly no "final orders." Thus, *no one* (whether NewSun Energy or the Sierra Club or CUB or AWEC or NIPPC or the Energy Advocates) can *ever* ask a court to confirm that the PUC's decisions in these matters, their "approvals" and "acknowledgements," *comply with the law*—including whether an IOU's procurement practices violate state statutes to protect competition; including whether the IRP impermissibly allowed coal or gas plants to run in non-compliance with the Clean Air Act; and including whether or not the utility met Oregon's clean energy statutes, such as RPS or HB 2021.

The Commission's untenable legal position has created a thorny challenge for the Commission as relates HB 2021's compliance obligations (under various statutory provisions therein) being confirmed. The Commission explained, "One procedural complication with making continual progress determinations in the same proceedings as IRP and CEP acknowledgment decisions involved the finality of these distinct determinations." The Commission attempts resolve this so-called "procedural complication" by pointing out how its continual progress determinations would require timely remedy. "[W]e understand that the purpose of requiring continual progress is to ensure utility action during the years before compliance with the relevant target is required, and that a lack of continual progress may not be capable of remedy solely at the time of that eventual compliance determination."

NewSun credits the Commission for *finally* acknowledging—at least in this limited context—exactly what NewSun has been arguing all along. Legal errors to final, written orders issued during the IRP, CEP, and RFP dockets need to be reviewed and (as needed) remedied immediately—and not a decade later after the harm has been fully realized and cannot be undone. There are a variety of practical reasons for why courts must be able to review the legal correctness of such important decisions. They range from as simple as "people make mistakes" to ensuring the laws of Oregon and of the United States of America are not misapplied—or just ignored. Indeed, it is highly reasonable to assume (understatement intended) that the legislature of Oregon, in exercising its constitutional authority to pass laws governing the state of Oregon, did indeed expect those laws to be complied with, and administered in a manner that ensures such occurs. Conversely, it is highly doubtful that the Legislature intended that their law be deprived access to courts, to confirm proper application (in which the law could be ignored in

various ways, without consequence, whether by electric company or by the agencies of the State charged with implementing it).

"Procedural complications" notwithstanding, the Commission cannot divorce its determinations of "continual progress"—or any other statutory standard applicable to utility resources, including all the HB 2021 standards—from its consideration of acknowledgement of the IRP and CEP. They are inextricably linked.

The IRP must comply with applicable laws and regulations. That means the IRP's inputs must be compliant with the laws. (For example, fossil plant emissions and pollutant regulations.) And the IRP's *outputs* must be compliant with the laws. (For example, timely emissions reductions.) These laws necessarily and unavoidably now include HB 2021. They also include Oregon's RPS, Small-Scale Renewables Standard, the Clean Air Act (and related EPA regulations of greenhouse gases), the presumption the new resources (generation or transmission) will have to comply with their laws (such as permitting, such as NEPA and EFSC for new powerlines crossing the U.S. Forest Service land which is universally unavoidable east of Portland).

The Commission cannot acknowledge an IRP or a CEP in which PGE has failed to demonstrate (1) continual progress toward meeting its clean energy targets and (2) that it is taking actions *as soon as practicable* to facilitate *rapid reduction* of its greenhouse gas emissions. With respect to CEP acknowledgment, ORS 469A.420(2) provides that:

> The Public Utility Commission shall acknowledge the clean energy plan if the commission finds the plan to be in the public interest and consistent with the clean energy targets set forth in ORS 469A.410. In evaluating whether a plan is in the public interest, the commission shall consider:
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> (a) Any reduction of greenhouse gas emissions that is expected through the plan, and any related environmental or health benefits;
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> (b) The economic and technical feasibility of the plan;

(c) The effect of the plan on the reliability and resiliency of the electric system;
(d) Availability of federal incentives;
(e) Costs and risks to the customers; and
(f) Any other relevant factors as determined by the commission.

Because the record does not support a continual progress order pursuant to ORS 469A.415(6), PGE also cannot acknowledge the CEP under ORS 469A.420(2). Likewise, the Commission cannot acknowledge an IRP that puts PGE in violation of its obligations under HB 2021 or other applicable law.

Further, as discussed extensively in our prior comments and in recent public meeting oral comments (and above), PGE's "Plan" is not technically feasible, due to various invalid, indefensible, and/or implausible assumptions (especially on transmission availability timelines). PGE bears the burden and responsibility of using, and showing use of, valid assumptions, which are not just plausible, but defensible. As has been extensively discussed, this is not true. Similarly, the PUC bears responsibility for ensuring the IRPs use inputs—and outputs—that meet the legal standards.

Of course, on top of all of this, *as was recognized by Staff, the Commissioners, and PGE itself,* the "Plan" does not meet the 2030 compliance requirement.

III. PGE HAS NOT DEMONSTRATED CONTINUAL PROGRESS TOWARD MEETING ITS CARBON REDUCTION TARGETS

The record before the Commission in this docket does not support a continual progress determination. PGE has failed to demonstrate in its CEP that it has made or will make "continual progress" towards reaching the applicable carbon reduction targets. The Final Staff Report, and nearly all of comments filed in this docket on the Final Staff Report, conclude that PGE's CEP fails to meet the applicable carbon emissions targets. Indeed, at the public meeting held in this docket on January 18, 2024, PGE itself conceded under questioning that it is not

confident that its CEP plan is sufficient.[2] The Commission cannot issue a determination of "continual progress" where the record shows that the CEP fails to make adequate progress.

The primary flaw with PGE's IRP and CEP is that PGE refuses to model technically-feasible alternatives to its proxy plants. Expert testimony in the record, including without expert limitation comments and testimony put in by NewSun, has detailed numerous opportunities that exist for PGE to develop—or at least to model—significantly more utility scale solar resources in the Willamette Valley, community solar, rooftop solar, net metering, PURPA resources, and energy efficiency resources. PGE has also refused to model alternative transmission products and pathways that would deliver additional renewable resources.

- The record shows that PGE's proposed procurement of renewable resources in the CEP is woefully undersized. PGE must reduce emissions from its 8.1 million metric ton CO2 equivalent ("MMTCO2e") to only 1.62 by 2030, 0.81 by 2035, and zero by 2040.[3] PGE estimates it needs 3,000 to 4,000 MW in non-emitting resources and capacity to meet its 2030 target.[4]
- The records shows that "learning as we go" and waiting for the *next* IRP cycle is inadequate. To reach zero emissions by 2040, the majority of emissions reductions must occur by 2030. That means that most of the reductions necessary to meet the 2030 target should be reflected in the action plan in *this* IRP. An IRP cannot be acknowledged now that does not reflect sufficient scale of action in the relevant timeframe.

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2 PGE witness Kristen Sheeran: "And I think you're hearing Seth and I say, you know, we're not 100% confident they'll be sufficient either." LC 80 Public Meeting Video at 1:13:30.

3 PGE Clean Energy Plan and Integrated Resource Plan 2023 at 90 (Errata filing Jun. 30, 2023) (hereinafter "PGE 2023 IRP").

4 *Id*. at 21.

- In the public meeting held in this docket on January 18, 2024, the Commission acknowledged that PGE's current RFP and procurement actions could be larger—as did PGE upon Commissioner inquiry.[5] If PGE *can* procure more, it *can* reduce more practicably, and more rapidly. Ergo, PGE is not meeting the standards.
- The record also shows that PGE is heavily relying on out-of-state renewable generation projects that lack transmission—and that do not have credible, timeline feasible pathways to that lack of transmission being remedied. PGE has modeled two generic proxy options that include transmission to Wyoming or the Desert Southwest.[6] In modeling these projects, PGE relies on the existence and availability of *future*, *hypothetical* transmission capacity that may never be built.[7] The Commission cannot base a finding of "continual progress" on renewable projects that rely on phantom transmission assets. Indeed, the overwhelming history of essentially *all* transmission builds is that they *always* take *longer* than expected, not less time than expected. Therefore, the burden of proof is on PGE to show why the highly unlikely will occur (and should be relied on), instead of the highly likely (delays and more delays); PGE has not done so, nor remotely even attempted to do so. Therefore, there is no adequate evidence in the record, if any, to support their presumptions.
- The record shows (per Mr. Stephens comments and the BPA Transmission Availability ATC postings, which are publicly available), that to the extent that PGE presumes import capabilities on the (BPA hosted capacity) AC and DC Interties occurring, there is not

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5 Chair Decker: "If there's something we're not seeing here, because it's a little bit—I think—hard to understand why an RFP procurement target couldn't just be bigger or different." LC 80 Public Meeting Video at 1:16:09.

6 PGE 2023 IRP at 227-228.

7 PGE 2023 IRP at 227.

long-term firm available on those paths available either after 2030 (if not prior) due to reservations by other parties. More directly, PGE has not shown it has control of capacity it might propose to rely on; and there is evidence that others control it, not them, which is not the best plan for reliance. Thus, there is not evidence in the record to support PGE's proposed assumptions for resources it presumes will be available to rely on.

- For CBRE resources: The record shows that PGE has capped its models at 100% of CBRE achievable potential, or 155 MW, but not higher.[8] PGE explained that 155 MW "is the assessment of the resource potential and . . . the maximum amount *that PGE considers realistic* and informative."[9] (emphasis added). PGE clarified that it determined what is realistic and informative by considering feedback from community participants, defined CBRE proxy resources to include in the portfolio, and quantitative assessments of leveraging multiple resources and lab studies.[10] NewSun appreciates PGE's transparency in stating the basis of its determination of 155MW, but fails to see how these factors necessarily preclude a model the projects more than 100% of CBRE potential.
- Indeed, PGE's statement defies credibility—and defies the factual history of the extensive participation and comments, including by NewSun, to the contrary, both in this docket and in PGE "IRP Roundtable" process that precedes these IRP filings. PGE has in essence self-selected a limit, without regard for expert input and without any reasonable

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8 *Id*.

9 PGE Reply Comments at 53.

10 PGE response to NewSun Energy Data Request 005 (Attached as Attachment A) (emphasis added).

basis in fact for limiting these resource options, which are functionally unlimited in the scale of this exercise, as 5-10X, or even 20X could be developed. Further, the HB 2021 statute does not limit CBREs to "distribution" connected generators only, nor even to on-system resources. But PGE has done so, effectively limiting itself artificially to deny itself (and its customers) access to essentially the entire State of Oregon. NewSun has asked over and over again for these artificial constraints to be relieved. PGE has not only refused, but done so disingenuously, refusing to explain itself.

- The record shows that PGE has failed to model DERs up to their fullest potential to mitigate the risk that PGE under-forecasted the pace of DER adoption. PGE explained that it determined technical potential for DERs using "customer adoption factors," which include cost effectiveness as a consideration, but not the sole variable.[11] So PGE could not run a model unconstrained by cost.[12] The record should model the costs and benefits of DERs at their fullest potential, *regardless* of consumer factors. And seek to determine *how much* could or should be done—not artificially constrain what can be considered.
- The record specifically shows that there is expansive potential for development of solar resources in the Willamette Valley, which PGE's system extends far into, far beyond urban Portland, with about 5000 MW in the BPA interconnection queue that could interconnect to robust transmission facilities that already exist, in addition to the connection potential PGE's own system. PGE's IRP/CEP should have modeled hundreds (at least) more MW of such solar potential in the Valley.

[11] PGE Reply Comments at 54.
[12] *Id*.

There is no evidence in the record to support a determination of adequate continual progress. At best, the evidence in the record indicates *minimal* progress that is contingent upon PGE's overriding business goal of winning future RFPs.

IV. PGE IS NOT TAKING ACTIONS AS SOON AS PRACTICABLE TO RAPIDLY REDUCE GREENHOUSE GAS EMISSIONS

The second part of ORS 469A.415(6) requires the Commission to ensure that PGE "is taking actions *as soon as practicable* that facilitate rapid reduction of greenhouse gas emissions." HB 2021 is not simply a mandate for electric companies to acquire a certain quantity of renewable energy. It is a legal obligation to *replace* existing carbon-emitting resources with renewable resources in order to *reduce* greenhouse gas emissions. Thus, in order to issue its "continual progress" determination, the Commission must be able to find based on evidence in the record that PGE is both *rapidly reducing* its greenhouse gas emissions and doing so *as fast as practicable*.

Wholesale exclusion of resource options which are timeline viable (or very likely and overwhelmingly so) and which are more diverse and less risky overall, does not comprise "as fast as practicable." Their "Plan" could go faster if it didn't exclude these options.

Meanwhile PGE also ignored, under-procured, or failed to pursue a variety of prior resource options presented to them in recent years, since HB 2021 passed. This includes QF generators that approached them for PPAs and have transmission already—hundreds of MWs of options NewSun presented them—as well as generators that made it through prior RFP processes, and had near fully-negotiated PPAs, and were not move forward on, based on PGE lack of action in their sole discretion. PGE could have reduced emissions faster; it chose not to.

V. THE RECORD DOES NOT SHOW THAT TAKING ADDITIONAL ACTIONS TO REDUCING EMISSIONS WOULD BE COST PROHIBITIVE

NewSun is mindful of the fact that HB 2021 requires the Commission (at some point, subject to a cost cap) to weigh the costs of potential emissions reductions alternatives. For example, the second half of ORS 469A.415(6) requires the Commission to ensure that PGE "is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions *at reasonable costs to retail electricity consumers*." That is not what has occurred here. Particularly given the above notes on exclusion of various options, *without* a basis in costs—and essentially *preventing* a comparison of proper cost comparisons.

This proviso does not allow PGE to ignore potential emissions reduction alternatives absent evidence in the record that the costs of such alternative would be unreasonable. In this case, there is no evidence in the record to indicate that doing more Willamette Valley solar, community solar, rooftop solar, net metering, PURPA, or energy efficiency would be cost prohibitive. Indeed, PGE's representatives stated on record last week that they would expect the model to choose *more* resources on the west side of the Cascades—if given the opportunity to choose them--which PGE did not allow, by its own admission, and despite substantial compelling reasons and public input to not so restrict the model.

Thus, the evidence indicates that these alternatives may actually be *more* cost-*effective* as compared to transmission project costs (never mind non-timeline viability) that would be needed for PGE to implement its proxy projects. The fundamental issue is that the Commission cannot determine whether such alternatives are cost-effective or cost-prohibitive unless and until PGE actually models them.

VI. CONCLUSION

The Commission cannot make an IRP or CEP acknowledgement against the current facts and record before it. To do so would undermine its IRP process and the integrity and purpose of the protections it provides, which relies extensively on the viability of the inputs in the model, as well as the proper inclusion of available resources. To let the utility self-exclude viable options, or permit inputs and model behaviors (and outputs) that are fundamentally inconsistent with the applicable laws, including HB 2021 itself and the emissions reductions levels (and pace of reduction) it requires (as fast as practicable), in consistent with the IRP rules and regulations, and the basic integrity of the process. It invites and condones abuse of the process by the utilities the Commissioner regulates. And it will condone failure by PGE (and other utilities) as being accepted by the Commission. It would condone doing so based on indefensible methods and assumptions—and brazenly ignoring and stonewalling expert input as it does so, which will further undermine public faith in the processes the Commission has implemented to protect the public, its ratepayers, and the market which must rely on the integrity and viability of these processes in order to invest in both participating in them, as well as invest in development of the market and generation resources necessary to support the ratepayers needs. As NewSun has testified here and in the UM 2274 PGE RFP docket (and elsewhere), Oregon is now in grave danger of sending a message to its major market participants, including NewSun, that investing in the service of Oregon's IOU's power supply needs is not a safe investment, is subject to abuse and undermining of fair opportunity and market consideration, and thus should be reconsider, redirected, or avoided.

Ultimately, Oregon's ratepayers deprivation of options from a viable, robust market—that could entrepreneurial cultivate a diversity of options and solutions—hangs in the wings.

Similarly, by the standards the Commission has laid out, a continual progress determination cannot be made based on the record of this docket. The record shows numerous areas that PGE can acquire more renewable energy, and do so more quickly.

There is nothing in the record that would compel the conclusion that doing more, sooner would be either technically or financially infeasible. Indeed, the record shows that PGE's proposed path is *not* technically or financially feasible, due to the invalidity of timeline assumptions; that which cannot exist is not feasible, economically, or technically. And the legislature's directive to the Commission to "consider" the economic feasibility in acknowledgement of a CEP is most definitely not a direct to entirely disregard the non-feasibility of these key standards; else the legislature may as well have omitted any statutory standards.

Finally, the record shows that PGE intends to continue operating its thermal fleet without meaningful restriction in Oregon even if it is not delivering the output to retail ratepayers—and without reserving that capacity for the benefit of its customers to be available to integrate renewables and provide long-term back-up, which necessarily elevates the cost of batteries and other dispatchable resources which must be procured—as well as elevating, complicating, and amplifying transmission needs that PGE would have for those other resources, in other places, thus *increasing the costs and technical challenges (or infeasibility) of alternate sources* in other place—and doing so unnecessarily. This is an issue NewSun also raised throughout stakeholder processes, which was ignored. And PGE would, per its own admission (and as discussed by Staff consultant Elaine Hart) rely on that fossil resource for reliability for its customers, while trading away the emissions attributes to other buyers, but depending on that fossil plant running for the benefit of its customers' routine reliability. Thus, any "reduction" in PGE's greenhouse gas emissions would exist on paper only.

For the reasons stated above, the Commission should not find that PGE is taking actions "as soon as practicable" to facilitate the "rapid reduction" of its greenhouse gas emissions. Nor should it acknowledge the IRP, which must comply with laws and regulations, including HB 2021 itself and its emissions reductions, which PGE has admitted its IRP, and its CEP, do not accomplish, and thus also should not be acknowledged either—for the direct failures and insufficiencies on emissions reductions, as well as the other statutory failures and insufficiencies of action as demonstrated throughout the record.

Finally, the Commission should withhold its acknowledgements from PGE's IRP and CEPs as well as it should not condone failures, plans to fail, and other regulatory non-compliance with its sacred blessings which essentially would approve such inadequacy and non-compliance—as well as the insufficiency and inappropriateness of the means by which it arrived there (including treatment of stakeholders and disregard of evidence and numerous available options).

To do so would undermine the Commission, the legitimacy and importance of its processes, and ultimately any chance of Oregon achieving the State's clearly stated, and duly legislated and enacted objectives for reduction of greenhouse gas emissions. NewSun Energy believes the reduction targets *can* be met—but only if Oregon's Commission does not give the utilities that it regulates permission to fail.

Dated this 24th day of January 2024.

Respectfully submitted,

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