

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1020

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	THE RENEWABLE ENERGY
OREGON)	COALITION COMMENTS
)	REGARDING STAFF REPORT
)	
Recommendation for Portfolio Options)	
Pursuant to ORS 757.603(2) and OAR 860-)	
038-0220)	
_____)	

I. INTRODUCTION

The Renewable Energy Coalition (the “Coalition”) submits these comments recommending the Oregon Public Utility Commission (the “Commission”): 1) adopt the Commission staff (“Staff”) recommendation to allow commingling of funds from utility voluntary programs with funds from the Energy Trust of Oregon (“Energy Trust”); and 2) reject Staff’s recommendation to limit the awarding of the grant funds from the utilities’ voluntary programs to non-profit organizations. This limit is an arbitrary solution to a problem that was not properly vetted in this proceeding. The non-profit requirement was not addressed by stakeholders, will cause harm to for-profit qualifying facility (“QF”) projects, and should not be endorsed by the Commission.

The Coalition was established in 2009 and is comprised of about forty members that are both large and small QFs operating approximately 50 projects throughout the region. The Coalition’s members are irrigation districts, water districts, corporations, small utilities, and even individuals. The Coalition’s goal is to support QFs in all aspects, including those that require technical and regulatory expertise. Much of the Coalition’s

focus is on regulatory activism at the state level and assisting new and existing QFs in negotiating power purchase agreements (“PPAs”) and interconnection agreements with investor owned utilities.

The Coalition cares about commingling because the majority of its members have been pioneers in the renewable industry, in part seeking to counter the utilities’ traditional reliance upon coal or natural gas. This squarely aligns with the purpose, goals of the utilities’ voluntary grant funding programs. For example, PacifiCorp’s and PGE’s programs promise to help community-based, local renewable projects. The Coalition’s members own these kinds of renewable projects. When ratepayers signed up for these grant funding programs, they likely assumed that they would be funding all kinds of renewable projects, including those owned by for-profit entities. Thus, a non-profit limit will harm many of the very projects that serve the purposes advertised by these programs, are widely supported by ratepayers and should be supported by the Commission.

III. COMMENTS

A. QF PPAs Are Just Like Other PPAs and Are Not Ratepayer Funded

The Coalition would like to thank Staff for clarifying that QFs should receive “commingled” voluntary funds. That said, Staff’s proposal that QFs adhere to certain operational parameters deserves additional consideration. QFs were included in this investigation under the false premise that QF PPAs rely upon ratepayer funds to support small scale renewable projects. As the Coalition explained in detail in its comments, however, that premise is not correct.¹ QFs sell power to utilities at their avoided cost

¹ Re Recommendation for Portfolio Options pursuant to ORS 757.603(2) and OAR 860-028-0220, Docket No. UM 1020, Renewable Energy Coalition Comments at 1-2 (June 20, 2016).

rate, which makes a QF's PPA more like power costs than a utility-owned or rate-based project. Thus, the Coalition requests the Commission clarify that the concerns that instigated this investigation should not include QFs any more than it would other independent power producers selling power to utilities under a PPA.

B. The Non-Profit Limitation Is Not Appropriate

The Coalition has struggled to understand Staff's recommendation with respect to non-profits, because there does not seem to be any legal or regulatory support for treating for-profit groups differently than non-profit groups. The Staff Report does not cite to any such legal support, and the Coalition is not aware of any. ORS 469A.205 requires the utilities to "allow retail electricity consumers to elect a green power rate" and there are no limitations or discussion regarding who owns the green power that is included in that rate. Instead, the provision only requires that the rate reasonably reflect the costs of the electricity purchased or generated, and that costs be prudently incurred.² It would be imprudent for the utility to discriminate against projects that are cost effective and that provide significant local community benefits, simply because they are owned by for profit entities.

Staff justifies the discrimination against for profit entities on the grounds that "[w]hen the voluntary programs award grant funding to Non-Profits, the voluntary funds act as a replacement to federal tax credits that the Non-Profits usually cannot access." The Coalition is not aware of this being the primary justification for ORS 469A.205, the utilities' green tariffs, or the program design. Even if it were, then this justification does not make sense. The federal production tax credit for wind and the investment tax credit

² ORS 469A.205.

for solar are set to expire and are of limited duration. Oregon’s biomass tax credit is also currently set to expire.³ Federal and state government support for renewable energy is rapidly diminishing, and now is the time for expansion of eligibility rather than taking away what may be one of the last areas of support for these renewable projects.

Moreover, when utility customers signed up for these voluntary programs there does not seem to be any indication that they understood they may be supporting non-profit projects over for-profit projects. To the contrary, these utility programs seem to suggest that ratepayers will support a wide variety of projects rather than those that fit an elite profile. For example, PGE claims that more than 150,000 PGE customers have joined its programs and are supporting “local renewable power.”⁴ PGE tells its customers they can pay a flat fee to “go completely renewable” or “[b]uy small units of wind power at a set price.”⁵ PacifiCorp uses very similar language. Customers enrolling in one of PacifiCorp’s Blue Sky Programs are asked to choose between three options to “support renewable energy.”⁶ PacifiCorp’s customers are told that they can: 1) “help fund new, community-based renewable energy projects” in 100 kilowatt-hour blocks; 2) “Support a blend of 100% Pacific Northwest renewable resources” based on usage; or 3) “help restore and preserve native fish habitats in Oregon” via The Freshwater Trust, which is

³ Biomass Tax Credits, OREGON DEPARTMENT OF ENERGY, <http://www.oregon.gov/energy/At-Work/Pages/Biomass-Tax-Credits.aspx> (last visited July 20, 2017).

⁴ PORTLAND GENERAL ELECTRIC, <https://www.portlandgeneral.com/residential/power-choices/renewable-power/choose-renewable> (last visited July 20, 2017).

⁵ Id.

⁶ PACIFIC POWER, <https://www.pacificpower.net/env/bsre/bso.html> (last visited July 20, 2017).

identified as a non-profit organization.⁷ The fact that two of the three program options are specifically not identified as non-profit organizations strongly indicates that the expectation of individuals who signed up for the program were not aware and did not intend for this sort of discriminatory treatment. The Commission should not impose a requirement that penalizes for-profit groups or projects or use ratepayer money for any purpose other than that which it was collected for.

Finally, the Coalition notes that the Staff Report indicates that the utilities have had a chance to share their opinions on Staff's recommendation about limiting the awarding of voluntary grant funds solely to non-profits. The Coalition points out that stakeholders have not had this opportunity. Although the Staff Report indicates that both PacifiCorp and PGE oppose implementing a non-profit requirement, it does not explain the utilities' rationale. The Staff Report also fails to explain why the stakeholders were excluded from ongoing discussions after last summer's workshop. The process used to make this recommendation troubles the Coalition, and is adequate grounds for the Commission to reject it.

C. Non-Profits Should Include All Non-Profits

If the Commission agrees with Staff and decides to limit funding to only non-profits, then it should clarify that the non-profit limit applies to all types of non-profits, not just those listed in the Staff Report. The Staff Report describes "Non-Profits" as "Oregon Indian Tribes, 501 (c)3's, municipalities, universities, schools, and hospitals." Staff's justification for this discrimination is that these entities do not pay income taxes and are not eligible for certain state and federal tax credits. Non-profits, however,

⁷ Id.

include more than just these entities, and the term should be broadly interpreted to include all such similarly situated entities. For example, Oregon has many irrigation districts that operate for the benefit of their local communities and do not make a “profit” that is taxed. Similarly, cooperatives generally do not pay federal income taxes as a business entity, and may be unable to take advantage of the same federal and state subsidy programs. To avoid future disputes, the Commission should take this opportunity to clarify that it will take an expansive view of what constitutes a non-profit entity.

IV. CONCLUSION

For the reasons explained above, the Coalition urges the Commission to adopt Staff’s recommendation to allow the commingling of funds collected from ratepayers participating in the utilities’ voluntary grant funding programs while rejecting Staff’s recommendation to limit the use of those funds to only non-profit organizations.

Dated this 21st day of July 2017.

Respectfully submitted,



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