

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2273

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation Into House Bill 2021
Implementation Issues.

Energy Advocates’ Comments on Scoping
Questions

The Green Energy Institute at Lewis and Clark, Sierra Club, Rogue Climate, Metro Climate Action Team, Oregon Solar + Storage Industries Association, Climate Solutions, Renewable Northwest, Coalition of Communities of Color, and NW Energy Coalition (“Energy Advocates”) provide the following comments on the initial scoping questions posed in Chief Administrative Law Judge Nolan Moser’s Memorandum dated March 16, 2023. The Energy Advocates, a group consisting of consumer groups, environmental organizations, and environmental justice and community-based organizations, look forward to participating in this docket and appreciate the opportunity to provide initial comments on scoping.

I. What Open Questions or Issues Need to be Addressed or Resolved by the Commission, and In What Order Should Those Issues Be Resolved?

The Energy Advocates generally agree with the questions outlined by Staff in its February 2, 2023 report, with a few recommended changes. We have also identified four other issues that the Commission should address and resolve in this docket. With regards to initial scoping question two, we identify and discuss the questions, both Staff’s proposed questions and our additions, in the order in which we think each should be resolved.

- What are the requirements for the use of RECs associated with generation attributed to the utility under the HB 2021 emissions accounting methodology?
 - **Recommendation:** We recommend this question be phrased more broadly. In order to address the full range of questions posed by stakeholders during the UM 2225 docket, as well as other considerations that must be brought to the Commission’s attention to properly resolve this question, we recommend the question be: **“How should RECs associated with generation attributed to the utility under HB 2021 be treated under the law?”** Following Staff’s request to open an investigation into HB 2021 implementation issues on February 2, 2023,

including the REC issue, the Joint Utilities asked the Commission to “explicitly exclude” the treatment of RECs under the investigation of HB 2021 in UM 2273.¹ Without revision, the Commission adopted Staff’s Recommendation in Order 23-059. As such, the Commission acknowledged the value of investigating this issue. Broadening the question is also supported by several arguments and considerations posed in the Joint Environmental Parties’ Response to Application for Rehearing or Reconsideration of Public Utility Commission of Oregon’s Order Nos. 22-390, 22-446, and 22-477, which supported the opening of this docket.²

- What, if any, requirements does HB 2021 place on the Commission related to in-state resource preferences?
 - **Recommendation:** We recommend that the Commission rephrase this question to “how does the Section 2 policy statements inform HB 2021 implementation?” This would allow the Commission to consider, for instance, not only whether HB 2021 requires any preference for in-state resources but also whether HB 2021 requires a preference for technologies that can increase energy security and resiliency. This docket should also consider how such a preference should be implemented or evaluated in a CEP.
- Does HB 2021 assign emissions accounting policy to DEQ exclusively?
 - **Recommendation:** No change to Staff’s posed question.
- What are the implications of regional emissions accounting activities and their timelines?
 - **Recommendation:** No change to Staff’s posed question.
- Compliance-related issues:
 - **Recommendation:** We recommend that the questions related to compliance be addressed together. As set forth in the Staff Report, those questions include:
 - What is the compliance process in emissions reduction target years (e.g., 2030, 2035, 2040)?
 - What if any, compliance determinations will the PUC make in the interim?
 - What are the enforcement mechanisms for compliance in the target years and, potentially, in the interim?
 - What does ensuring continual progress require?
- How is the incremental cost cap calculated (e.g., annual v. cumulative)?
 - **Recommendation:** No change to Staff’s posed question.

Additional questions that should be evaluated for scoping:

- Discussion of the public interest criteria under HB 2021 § 5.
 - **Recommendation:** We recommend that the Commission examine what constitutes “in the public interest” concerning CEP acknowledgment, including the acknowledgment considerations set out in the law.
- Discussion of the interim Community Benefit Indicators (CBIs) proposed by utilities.

¹ Joint Utility Comments Regarding Staff’s Proposed HB 2021 Investigation and Implementation Issues, UM 2273 and UM 2225 2 (Jan. 17, 2023), available at <https://edocs.puc.state.or.us/efdocs/HAC/um2273hac161358.pdf>.

² Joint Environmental Parties’ Response to Application for Rehearing or Reconsideration of Public Utility Commission of Oregon’s Order Nos. 22-390, 22-446, and 22-477, UM 2225 (Jan 11, 2023), available at <https://edocs.puc.state.or.us/efdocs/HAC/um2225hac152921.pdf>.

- **Recommendation:** We recommend an examination of the proposed CBIs and their utility in measuring, including but not limited to environmental and health benefits, and guiding the utilities’ resource acquisition and investment prioritizations. We also recognize that in Order 22-390, the first CEP’s CBIs were established as “interim” and therefore Staff may already have a process planned to accommodate further discussions.³ However, in the event that UM 2273 is an appropriate forum, we recommended CBIs are addressed in this docket.
- Discussion of continued operation of Oregon-based, fossil-fueled generation intended for sales to non-retail customers.
 - **Recommendation:** We recommend that the Commission address reporting and disclosure requirements pertaining to the use of Oregon-based, fossil-fueled generation intended for out-of-state sale. We believe this information is critical to the Commission’s determination of whether a utility’s resource plans are in the public interest.
- Discussion of the capacity of Staff to conduct independent analysis of CEPs and other utility filings
 - **Recommendation:** In order for the Commission and its Staff to perform the needed analysis to review CEPs, to predict the progress toward required benchmarks, to articulately engage with DEQ staff about the emissions reporting, and the myriad of other activities needed to implement this law, a discussion about the Commission’s internal capacity would be useful. Understanding existing internal capacity, or the possibility of access to external expertise, will allow all parties to recognize those needs and determine how to meet them over time, whether in allocating current staff resources or requesting additional resources in the future.

II. What Process or Processes Should be Used to Address Issues?

The Nature of Contested Cases

Contested case dockets often require a level of formality that could undercut the Commission’s nascent efforts to expand the diversity of participants and the overall inclusion of the Commission’s processes. We understand that Staff wants to ensure that, despite the contested case status of this docket, the increasingly diverse participation involved in Commission proceedings continues. We support this intention and encourage Staff to explain how it intends to strike this balance. As one example, at this stage, it is unclear whether classifying UM 2273 as a contested case indicates that intervenors will be expected to submit expert testimony and, if so, whether expert testimony will be given greater weight than written comment. Setting clear expectations will help all parties improve their participation. Once we have a better understanding of what Staff intends, we would be happy to provide feedback based on the

³ *In the Matter of Public Utility Commission of Oregon, Near-term guidance on Roadmap Acknowledgment and Community Lens Analysis [in] the first Clean Energy Plans*, Order 22-390 39 (Oct. 25, 2022) (describing in Topic #3, “For the first CEP, the utility should develop interim community benefit indicators in coordination with communities served by the utility and with input from stakeholders and Staff), available at <https://apps.puc.state.or.us/orders/2022ords/22-390.pdf>.

Diane Brandt
Oregon State Director
Renewable Northwest

Nikita Daryanani
Climate & Energy Policy Manager
Coalition of Communities of Color

Marli Klass
Energy & Environmental Justice Policy Associate
NW Energy Coalition