

**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.

ORAL ARGUMENT FOLLOW-UP
COMMENT OF PINE GATE
RENEWABLES, LLC

BACKGROUND

Pursuant to Administrative Law Judge (“ALJ”) Mellgren’s November 17, 2023 Memorandum, Pine Gate Renewables, LLC (“Pine Gate”) respectfully submits its oral argument follow-up comment in the above-captioned proceeding.¹ Pine Gate Renewables is a leading U.S. solar and storage developer based in Asheville, North Carolina. Pine Gate has developed projects around the U.S. and is actively developing in over 30 states across the county. Pine Gate has a focus in Oregon as the company has developed a number of solar facilities currently operating in the state and has several planned projects in development at a much larger scale. Pine Gate therefore has an interest in the outcome of any proceeding related to the implementation of HB 2021 and securing a clean electricity system in the state.

FOLLOW-UP COMMENT

In previously filed briefs, Pine Gate argued that the Commission should require REC retirement to certify compliance with section 3 of HB 2021 in order to implement the law as intended and avoid double-counting of carbon-free resources.² As stated in our reply brief, Pine Gate has a specific policy concern about the risk that non-action from the Commission will have on the integrity of HB 2021 and its impact on the REC market more broadly.³ As a producer of RECs and an active partner with energy consumers who utilize RECs, Pine Gate is concerned about a scenario in which investor-owned utilities (IOUs) can utilize zero-carbon resources to satisfy their decarbonization obligations and at the same time sell the RECs generated by those resource to third-parties off system to support their own clean energy claims. A single megawatt of renewable energy cannot properly be used to support two parties’ clean energy or decarbonization claims. Moreover, allowing such double-counting would create substantial confusion within the REC market and among utility customers about the validity of clean energy

¹ *In re Public Utility Comm. Of Oregon Investigation Into House Bill 2021 Implementation Issues*, Docket No. UM 2273, Memorandum (Nov. 17, 2023).

² Opening Brief of Pine Gate Renewables, LLC at 2-3 and Reply Brief of Pine Gate Renewables LLC at 5.

³ Reply Brief of Pine Gate Renewables LLC at 5

claims as well as harm independent power producers serving Oregon (whose renewable energy facilities cannot properly be characterized as carbon-free resources serving Oregon customers if the RECs they generate are sold off-system rather than being retired by the utility purchasing the power from those facilities).

As discussed in our reply brief, Pine Gate is also concerned about the emission leakage potential given the double-counting scenario one can imagine in the future.⁴ As argued by Green Energy Institute (GEI) in oral arguments,⁵ the Commission, using its discretion granted under Section 5 of HB 2021, should find that IOU has complied with HB 2021 only if the Commission can assure that double-counting of emission attributes has not occurred and will not. The Commission and Oregon do not exist in a bubble, and they cannot ignore the larger impact of not properly retiring RECs in conjunction with Oregon's emission-reduction mandates. To Chair Decker's point during oral arguments, it may be that this double counting problem is the result of legislative drafting,⁶ but as noted by GEI at oral argument, the legislature directed the Commission to implement HB 2021 in a manner that promotes the public interest (with a specific reference to emission reduction). As GEI argued, if RECs are not properly retired on behalf of Oregon retail customers, then the emissions reductions nominally achieved by the IOUs will be a façade because the transfer of RECs will facilitate new or continued carbon emissions elsewhere by parties lawfully claiming to be zero emission resources.⁷ Pine Gate urges the Commission to protect the public interest and the goal of HB 2021 by preventing this double counting problem and ensuring true greenhouse gas reductions.

Thank you for your attention to these comments.

Dated this 29th day of November 2023.

Respectfully submitted,

Dugan Marieb

Dugan Marieb
Pine Gate Renewables, LLC
duganmarieb@pgrenewables.com

⁴ Reply Brief of Pine Gate Renewables LLC at 4

⁵ Caroline Cilek of Green Energy Institute in oral arguments in front of the OPUC at the November 17th Special Public Meeting at 40:52. Pine Gate is not making legal argument but is rather pointing to GEI's legal argument. https://oregonpuc.granicus.com/player/clip/1244?view_id=2&redirect=true&h=4527232a104921be65373b0e11fdde28

⁶ Chair Megan Decker of the Oregon Public Utility Commission at the November 17th Special Public Meeting at 40:26 https://oregonpuc.granicus.com/player/clip/1244?view_id=2&redirect=true&h=4527232a104921be65373b0e11fdde28

⁷ Caroline Cilek of Green Energy Institute in oral arguments in front of the OPUC at the November 17th Special Public Meeting. Specifically, the legal argument around the OPUC's ability to use Section 5, subsection 2 to determine whether the Clean Energy Plans are consistent with the public interest at 40:52 https://oregonpuc.granicus.com/player/clip/1244?view_id=2&redirect=true&h=4527232a104921be65373b0e11fdde28