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.	FINAL COMMENTS OF NEWSUN ENERGY LLC

NewSun Energy LLC ("NewSun") submits these comments pursuant to ALJ Mellgren's November 17, 2023 Memorandum.

- **Use Your Powers and Authority to Facilitate & Ensure *Successful* Achievement of Oregon's Goals.** Your role here is not passive, but active. HB 2021 primarily is an energy procurement (i.e. replacement) law. Which vests the PUC with the primary *responsibility* for overseeing the utilities you regulate *succeed*.
- **HB 2021 is not Aspirational—but a Statutory Mandate**: "Compliance" is the language of HB 2021. Compliance with emissions reductions,
- **Measurement of Success includes Section 2:** HB 2021 is clear that "compliance" is "to the extent…consistent with Section 1 to 15".
- **Focus on ensuring 2030 success first.** Too much attention in comments seems myopic on 2040 – especially as relates reliability, capacity, technology, etc. The core, primary job at hand is *emissions reductions by 2030*. This is achievable. There are many years ahead to solve the last 1-5% of emissions reductions. What is most important—and most consistent with the climate action desire the State has asked for—is massive (80%) reductions in CO2 "as soon as practicable". This does not require new reliability solutions today. It requires the *displacement* of fossil fuel consumption—through *clean energy being used to serve load*.
- **HB 2021 should not result in *increased emissions* from Oregon ratepayer-funded generation assets.** The State clearly did not intend to increase emissions in the world as a result of this law. PAC and PGE fossil plants should not have any chance of running *more* as a result of this law's implementation. That would be a perverse outcome. It is preventable—by You. Including through transparency—and measurement.
    - **100% transparency of RECs and Emissions for All Ratepayer Funded Assets and Transactions.** Simple solution. Within your power. That ensures the state knows and can measure the results of this law. That tracks emissions from fossil plants near Oregon's environmental justice communities (eg. Latino communities near Hermiston gas plants).

- **100% accountability and retirement for all RECs:** There is no reason for any (even semblance of) risk of Oregon undermining the entire WECC clean energy accounting schemes of our market as the region unites to decarbonize our power sector. RECs exist to track and certify greenness. If ratepayers pay for them, they must be accounted for. If cleanness is asserted for energy serving Oregon loads, it must be certifiable, tracked, accounted for—and not again claimed by another party. Oregon certainly shouldn't risk enabling defrauding of the market or shareholder profiteering on clean energy "attributes" by allowing RECs to disappear into black holes or be sold for profit.

- **Meaningful Compliance Penalties—and expectation of consequences for failure—must exist.** A law without any consequences—as is the indicative guidance currently implied by this Commission—cannot be expected to succeed. These things are hard. The Commission cannot condone its regulated utilities disregarding the duly enacted laws of Oregon with impunity. Else it facilitates decarbonization failure—and undermines the duly adopted policies of the state. Make the expectation of consequences clear.
- **Lack of Consequences Enables IOU profiteering and arbitrage for shareholder gains against lack of regulatory oversight and consequences.** The Commission must prevent this. Including through:
- **Technically-viable timeline assumptions and proven technological feasibility are basic minimum conditions for CEPs.** Transmission; nukes. Utilities can pursue the creative and risky at shareholder expense; CEPs should presume actionable base cases, including delay contingencies; succeed.
- **Confirm Clean Energy Plans and IRPs are Appealable, Subject to Judicial Review.** This is required for the success of the law. The Commission has recently joined hands—in court—with its regulated utilities' to argue in court that a PUC final order *acknowledging an IRP is not subject to judicial review*, not "final". The Commission has decided to review and approve Clean Energy Plans as part of the IRPs. IRPs and CEPs must be subject to the legal standards of statute—state and federal—otherwise the heart of Oregon's clean energy law is gutted—just as ability of stakeholders' abilities to ensure IRP models follow (for example) the Clean Air Act and comply with recent EPA greenhouse gas regulations. The PUC position in court directly contradicts statements made by Michael Grant to the Oregon Legislature that Commission's CEP acknowledgements of Clean Energy Plans would be subject to judicial review. The Commission should clearly confirm that an order approving a Clean Energy Plan will be a "final order" for purposes of judicial review, ensuring it is not facilitating, end this risk.

Dated this 29thth day of November 2023.

Respectfully submitted,
s/ Jacob Stephens
Jacob Stephens