ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 28, 2018

REGULAR X **CONSENT** ____ **EFFECTIVE DATE** N/A

DATE: August 17, 2018

TO: Public Utility Commission

FROM: Rose Anderson RA

THROUGH: JP Batmale and Jason Eisdorfer JPB EP for

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: (Docket No. UM 1826) Staff Investigation into Electric Utility Participation in Clean Fuels Program.

STAFF RECOMMENDATION:

The Commission should approve Staff's Program Design Principles (Principles) and Program Selection Process (Process) for the use of revenues from utility participation in the Oregon Department of Environmental Quality's (DEQ) Clean Fuels Program (CFP).

DISCUSSION:

Issue

Whether the Commission should approve the Program Design Principles and Program Selection Process intended to guide utilities in their utilization of CFP revenues.

Applicable Rule or Law

Department of Environmental Quality's Clean Fuels Program
In 2009, House Bill 2186 was passed by the Oregon Legislature, requiring the Oregon Environmental Quality Commission (DEQ's policy and rulemaking board) to adopt rules to reduce the average carbon intensity of transportation fuels used in the state by 10 percent over a 10-year period. This program became known as the Oregon Clean Fuels Program (CFP). Later in 2015, the Oregon Legislature passed SB 324, amending provisions of HB 2186 and extending implementation of the DEQ's GHG reduction

program out to 2025. HB 2186 and SB 324 as implemented in DEQ rule (collectively the CFP) aim to reduce the carbon intensity of Oregon's transportation fuel mix through a system of credits and deficits. The CFP rules are found in OAR Chapter 340 Division 253, and compliance is administered by DEQ.

OAR 340-253-0330 contains provisions addressing the use of electricity as a transportation fuel. Specifically, OAR 340-253-0330(2)(a) provides that an electric utility that registers prior to October 1, will be eligible to generate credits from all residentially charged EVs in its service territory. This rule expressly provides that an "Electric Utility" is the first-choice generator of residential charging credits.

Public Utility Commission Investigation into Utility Participation in CFP
At the April 18, 2017 regular public meeting, pursuant to the Commission's broad investigatory authority under ORS 756.515(1), the Commission opened a Staff-led investigation into electric company participation in Oregon DEQ's Clean Fuels Program, including how participation would be structured and how revenues from participation might be allocated consistent with the public interest. In its order, the Commission directed Staff to address whether electric company participation in the Clean Fuels Program is in the "public interest."[1]

At the July 11, 2017 regular public meeting, the Commission found that electric company participation in the CFP as a credit generator is in the public interest.[2] PacifiCorp and Portland General Electric (PGE) were to register with the DEQ prior to the October 1, 2017 deadline in order to be eligible to generate and aggregate CFP credits in the coming 2018 year.

<u>Analysis</u>

Background
Phase I of the Investigation
Phase I of the investigation into utility participation in DEQ's Clean Fuels Program was completed with Order No. 17-250, when the Commission found that utility participation in the CFP is in the public interest. The Commission directed that the investigation process continue, allowing Staff to address the electric company's "role" in the CFP in Phase II of the investigation, in addition to the four questions originally designated for Phase II.

[1] Order No. 17-152 at 1 (April 20, 2017).
[2] Order 17-250 at 1 (July 12, 2017).

Phase II of the Investigation
The following five questions were to be resolved in "Phase II" of the investigation:

1. What is the electric utility role under the Clean Fuels Program and the Commission's role?
2. What is the highest and best public interest use of credit value received from participation in the CFP by utilities?
3. What are appropriate programmatic and administrative structures for utility participation in the CFP?
4. What guidance would be helpful to the utilities as they participate in the nascent CFP credit market?
5. What is the appropriate forum for resolving these and future issues associated with utility implementation?

To provide guidance for utilities on participation in the CFP credit market (question four), Staff utilized stakeholder input to develop credit monetization principles for utility participation in the CFP. Staff's nine recommended principles for credit monetization were adopted by the Commission in Order No. 17-512.

To help address questions one, two, and three, Staff held two stakeholder workshops on April 23rd and June 29th of 2018. Staff listened to stakeholders' views on the principles that could guide utilities in spending CFP credit revenue and the procedural process that could be followed to identify new programs in a transparent and collaborative way. The stakeholders that participated in the workshops or provided written informal comments include Portland General Electric, PacifiCorp, Idaho Power, Department of Environmental Quality, Union of Concerned Scientists, NW Energy Coalition, Department of Energy, Oregon Citizens' Utility Board, Department of Environmental Quality, Northwest Energy Coalition, Forth, Oregon Environmental Council, Natural Resources Defense Council, and Tesla.

Taking into consideration the valuable feedback from stakeholders, Staff recommends below a set of Program Design Principles and a Program Selection Process that are designed to allow for a wide range of programs while encouraging stakeholder collaboration and consensus.

Principles for Utility Use of CFP Credit Revenues
The following draft principles were suggested at the June 29th stakeholder workshop for utilities seeking to use CFP credit revenues.

1. Increase transportation electrification in Oregon.
2. Provide benefits to EV owners.
3. Provide incremental benefits over existing SB 1547 Commission-approved transportation electrification programs.
4. Maximize benefits for traditionally underserved communities.
5. Coordinate with other state programs, taking into consideration the broader picture of EV programs in Oregon.

Staff added refinements to the draft principles where necessary to help balance the interests expressed by stakeholders with the interests of public utility customers.[3] Staff provided a revised draft of the principles and procedural process to stakeholders and received informal written feedback on the draft. In the sections below, Staff has tried to address all stakeholder feedback by either incorporating it into the proposed Program Design Principles and Program Selection Process, or explaining why it was not incorporated.

The resulting Principles have been designed by Staff to guide utilities in spending CFP credit revenues without being overly proscriptive. Staff's intention is to allow utilities and stakeholders flexibility to fund a variety of programs that align with the Principles.

The Principles should serve as an important guide for program design and development. However, the Principles are not intended to hold utilities or third parties responsible for affirmatively achieving the intended goals of the program. In other words, if a program is designed according to the Principles, but does not achieve the intended results, then the program results should inform the collaborative program development process in future years.

PROGRAM DESIGN PRINCIPLES FOR THE USE OF CFP CREDIT REVENUES

1. Increase transportation electrification in Oregon.

- Programs should be designed to increase access to or use of electric vehicles and electric vehicle charging in Oregon.
- Programs should seek to consider, leverage, and coordinate with other electric vehicle programs in Oregon to maximize the effectiveness of the CFP credit revenues.

[3] See ORS 756.040. The Commission is directed to represent the interests of public utility customers and the public generally, and to obtain for them adequate service at fair and reasonable rates.

- Programs should seek to use learnings from programs in other states to inform program design and selection.
- Where barriers to transportation electrification exist, programs may be designed to study and move past those barriers.[4]

2. **Provide majority of benefits to residential customers.**
    - Programs should be expected to create a benefit for residential customers in Oregon.
    - While benefits may flow to residential electric customers as a class, programs that provide a more direct benefit to residential electric vehicle owners may be considered as well.

3. **Provide benefits to traditionally underserved communities.[5]**
    - Some portion of CFP revenues should benefit communities traditionally underserved by access to electric vehicles and electric vehicle charging infrastructure.
    - Utilities and stakeholders should endeavor to engage traditionally underserved communities in program development.

4. **Programs are Independent from ratepayer support.**
    - Program design will preclude the use of ratepayer funds.
    - Programs should be designed to utilize CFP credit revenues from credits already monetized at the time of the application and CFP credit revenues reasonably expected to be available during the program year(s). Ratepayers will not be responsible for a shortfall in funding.
    - Program proposals should be designed for efficiency and efficacy but will not be held to traditional cost effectiveness rules.

5. **Programs are developed collaboratively and transparently.**
    - Utilities, stakeholders, and Staff must work toward the goal of reaching consensus on desired programs through stakeholder workshops, with meaningful and accessible participation.

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[4] For example, EV grid impacts may limit the number of electric vehicles that can charge in a given location.

[5] Communities traditionally underserved by access to electric vehicles include but are not limited to multi-family housing, low-income communities, and areas with a low density of public charging stations.

6. **Maximization of funds for implementation of programs.**
   - Funds should be predominantly used for programmatic efforts and reduce to the greatest extent possible administrative costs.
   - Utilities or third parties responsible for spending CFP credit revenues will report annually to stakeholders and the Commission on the use of CFP revenues, including how funds were utilized, efficacy of the program, and the percentage of revenues spent each year that goes toward administration costs.

Principle Design
The Program Design Principles are intended to allow programs to adapt to changing markets and conditions over time, and to allow for the maximum range of effective programs. Although different programs will align with each principle to varying degrees, any program that utilizes CFP revenues should be designed to align with each of the principles.

To protect ratepayers, the Principles have been designed so that programs are funded through already-monetized CFP credits only; in other words, programs must be designed and managed up to a pre-established budget.

The Principles direct benefits to residential customers, and do not necessarily restrict benefits to flow to EV drivers only. This allows the consideration of benefits like improved air quality or access to information that might accrue to residential customers other than just current EV drivers. Although benefits do not need to go exclusively to residential customers, they should predominantly accrue to residential customers because residential customers will be generating the credits for monetization by the utility.

In Staff's memo of July 5, 2017, Staff pointed out that "It is feasible that based on the feedback produced through this investigation, initial utility programing may rely entirely or in part upon third party aggregators." Principles have been designed to allow for both utility administered programs and stakeholder or third-party administered programs. Therefore, a utility may propose that the CFP credits or CFP credit revenues go to another party for a program which follows the Principles outlined in this memo.

Program Finance and Funding
At this time, Staff believes that a reasonable standard for the CFP programs is to maintain administrative costs at or below 10 percent of total program costs in a program year. Administrative costs may vary based on the program and the community being served.[6]

Programs may be designed to run for more than one program year. However, ratepayers are not responsible for any cost overruns. Programs should be designed to adapt to any changes in actual or projected credit revenues without relying on ratepayer funds.

CFP Credit Revenue Oversight and Program Selection Process
Staff proposes the following Program Selection Process for Commission review of the use of CFP credit revenues. The Process is designed to be a collaborative effort between the utilities, stakeholders, and Staff. The intent is to start with utility and stakeholder proposal(s) for specific program(s) to expend the annual CFP revenues. Utilities may file proposals for a program or programs run by the utility or another party, taking into account stakeholder input. Stakeholders may file proposals for non-utility-run programs only. If a stakeholder has a suggestion for a program to be implemented by a utility, then the stakeholder should utilize the collaborative process to suggest that the program be included in a proposal by the utility. The credit revenue will likely be more effective if utilized by a party that has designed or is already familiar with the proposed program(s).

Stakeholders and utilities will collaborate to clarify or modify a proposal in such a way as to align all perspectives to the extent possible and recommend the selection of a program or programs to the Commission. If consensus absolutely cannot be achieved in advance, Staff will identify the program(s) for recommendation to the Commission to most closely align the use of CFP credit revenue with the Principles.

PROGRAM SELECTION PROCESS

In response to stakeholder requests to promptly allow utilities to begin using CFP credit revenues, there may be an expedited schedule in the first program year.

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[6] Reasonable variation from the 10% standard may be appropriate if the responsible party demonstrates the need for additional administrative expenses.

First Program Year:

October 26, 2018: Utilities file a proposal for a 2018-19 program or programs that utilizes funds according to the Principles. The first program year should end no later than December 31, 2019.

November 9, 2018: Stakeholders file comments on utility 2018-19 program(s).

December 4, 2018: Public meeting on utility 2018-19 program(s).

Process After First Program Year[7]

July 2019: Utilities and stakeholders provide any program expenditure plans to everyone on the UM 1826 service list for the upcoming program year by July 1. Plans can only include funds available from CFP credits already monetized or reasonably expected to become available in the program year(s).

August 2019 through October 2019: Approximately two Staff-led, stakeholder workshops will be held to allow stakeholders to achieve consensus. Notification of the workshop location, date and time will be sent to everyone on the UM 1826 service list. The goal of the workshops is to select, amend, and/or modify the plans(s) to achieve consensus.

If consensus is achieved among stakeholders, then stakeholders and utilities should select a party to file the consensus proposal with the Commission, following the Proposal Guidelines. If there is not a consensus and stakeholders advocate for more than one program, then any parties that provided a program expenditure plan may file a proposal with the Commission.

December 2019: Staff prepares a public meeting memo describing the proposal achieved through stakeholder consensus, summarizing the collaborative process, and applying the Principles. If a consensus is not reached, Staff will make a recommendation based on the closest alignment with the Principles. This will be presented to the Commission at a Regular Public Meeting for Commission decision. The program year is from January 1 through December 31.

[7] This is Staff's proposed schedule, but the amount of time available for the August through October process may be extended as necessary.

The Program Selection Process repeats each year.[8] The Process may be amended in future years based on experience or changing availability of CFP revenues.

Proposal Guidelines:
Provided below are general outlines for program proposals. Staff may work with stakeholders to establish more detailed proposal requirements if such a process appears necessary after the first year.

Any proposal by a utility or a stakeholder

- Should include a full description of the program(s), including the overall budget, how the money will be used, how the money will be administered, the likely recipients, and the overall goals and objectives of the program(s).
- Should include monthly projections of expenses throughout the entire program duration, including administrative expenses.
- Should include an explanation of how any program(s) meets each of the principles.
- Should describe how the party intends to report on the efficacy of the program(s).

Any proposal for a third-party-run program:

- Should also include a description of any arrangements between the utility and a third party, an explanation of how money will get to the third-party, the schedule of payments, and other information necessary for transparency of accounting.

Clean Fuels Program Funds as a Testbed
Staff recommends keeping ratepayer funds separate from the programs that utilize CFP revenues in this docket. However, the Clean Fuels Program may serve as a testbed for viable EV programs, and as a result, successful programs could be pursued on a larger scale by utilities through a future transportation electrification application under SB 1547.

The forthcoming Transportation Electrification Plan rulemaking may propose connections to the utility CFP electric vehicle programs, namely with regard to reporting on CFP EV programs.

Idaho Power's Participation in CFP
In Order No. 17-250, the Commission directed Staff to work with Idaho Power Company (IPC) to determine the appropriate extent of participation in programs under CFP. Staff participated in a phone conversation with Idaho Power and determined that, at this particular point in time, IPC does not have sufficient electric vehicles in its Oregon service territory to warrant the expense of administering a program using CFP revenues. Idaho Power will continue to monitor its rates of EV penetration, and the Commission may consider Idaho Power participation to be reasonable at a later time.

<u>Conclusion</u>

The Commission should approve Staff's proposed Program Design Principles for the use of CFP Credit Revenues and the proposed Program Selection Process.

PROPOSED COMMISSION MOTION:

Approve Staff's proposed Principles for the use of CFP Credit Revenues and the proposed CFP Funds Oversight Process.

UM 1826