

**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.

OPENING BRIEF OF PINE GATE
RENEWABLES, LLC

I. INTRODUCTION

A. Background

Pursuant to Administrative Law Judge (“ALJ”) Mapes’s June 8, 2023 Memorandum, and the Public Utility Commission of Oregon’s (“PUC” or “Commission”) Order No. 23-227, Pine Gate Renewables, LLC (“PGR”) respectfully submits its Opening Brief in the above-captioned proceeding. Pine Gate Renewables is a leading U.S. solar and storage developer based in Asheville, North Carolina. PGR has developed projects around the U.S. and is actively developing in over 30 states across the county. PGR has a focus in Oregon as the company has developed many solar facilities to operation in the state. PGR has several planned projects in development at a much larger scale than its current operating portfolio and has an interest in the outcome of any proceeding related to the implementation of HB 2021. In this Brief, PGR presents policy arguments on two of the questions the Commission listed in Phase I(a) from its Scoping Decision: whether the Commission should require the retirement of renewable energy certificates (“REC”) to demonstrate compliance with HB 2021, and the extent to which the Commission should use the policy statements in HB 2021 as a lens through which to implement the law.

II. ARGUMENT

A. REC Retirement

Responding to questions posed in Order No. 23-194 relating to REC retirement and management, PGR joins with other commenters in support of requiring REC retirement to demonstrate compliance with HB 2021. Renewable energy credits are used for Scope 2 emission accounting and are broadly accepted as the tradeable and monetizable renewable attributes associated with renewable energy production. PGR is concerned that compliance without REC retirement may lead to double counting. A utility that delivers clean power on behalf of ratepayers and represents that the power is emission-free for compliance purposes but does not retire a REC in relation to that MWh of production could cause problems if it offers that REC and the “cleanness” associated with it for sale after it has made such a claim in its compliance for HB2021. This may constitute a double counting situation and cause confusion in voluntary or other state REC markets. In certifying utility compliance with HB 2021 and as a matter of sound public policy, the PUC should not permit utilities to sell RECs to buyers in other states for MWh procured to meet the HB 2021 standards. PGR is unconvinced that the “generation-based” methodology assuages the concerns of double counting, as it is limited to the confines of Oregon and does not take into account the broader REC market in the region. Further, it is unclear why a “generation-based” methodology would prevent the Commission from considering the fate of credits created by generation.

If the commission does decide that the disposition of RECs is not within its regulatory purview, PGR urges the Commission to require that those subject to compliance provide an accurate accounting of RECs related to generation that will be reported as non-emitting electricity sold to Oregon customers. In addition, if electricity suppliers are selling RECs that

they have acquired through HB 2021 non-emitting resources, then any revenue generated from such sales should be returned to ratepayers as they have borne the cost of compliance and the procurement of such resources.

B. HB 2021 Policy Statements

In addition to the REC issue, PGR would also like to respond to questions 2 and 3 laid out in Order 23-194. In terms of guidance about which public interest factors should be considered when acknowledging a Clean Energy Plan (“CEP”), PGR believes this is the place where the HB 2021 policy statements should be incorporated. While noting the Commission’s position around the policy statements and how they relate to the operative sections of the law, PGR agrees that policy statements should guide the Commission in its discretionary role.¹ HB 2021 clearly states that it is the policy of the State of Oregon that, to the maximum extent practicable, benefits of emission-free resources should go to communities in the state in terms of jobs, workforce equity, and energy security and resiliency.² In order for the state and its communities to reap these benefits, HB2021 compliance generation resources need to be built in Oregon and the Commission should play a role in supporting that. PGR submits that the Commission should include these Oregon policy statements in its assessment of whether the CEPs put before it are in the public interest. CEPs should demonstrate how utilities are planning to meet the policy goals of the state and bring benefits to Oregon communities to the maximum extent practicable as that is within the public interest as set out by the legislature.

Beyond the public interest standard, the Commission should embrace the policy statements of HB 2021 whether *required* to or not. HB 2021 gives the Commission quite a bit of discretion

¹ *In re Public Utility Comm. Of Oregon Investigation Into House Bill 2021 Implementation Issues*, Docket No. UM 2273, Order No. 23-194 (Jun. 5, 2023).

² ORS 469A.405

but also policy guidance on how to exercise that discretion and implement the law. To answer question 3 posed in Order 23-194, the relevance of the statements of policy is that they provide the lens through which the Commission implements the operative provisions of the law. Following the logic of the policy statements set out in HB 2021, benefits should be realized by Oregon communities in the resource build-out to meet the ambitions of the statute. Even if “in-state” preferences cannot be mandated, the Commission should set the expectation that utilities in their procurements and plans should endeavor to meet the policy goals of the state and should expect a higher burden of proof when planning to meet the goals with resources that will not directly benefit communities in Oregon.

III. CONCLUSION

PGR is excited to see the Commission examining these important topics related to the implementation of HB 2021. To summarize, PGR recommends that the Commission require the retirement of renewable energy certificates to demonstrate compliance with HB 2021. In addition, PGR recommends the Commission use the policy statements in HB 2021 as a lens through which to implement the law and as part of the public interest review of CEP acknowledgement.

Thank you for your attention to these comments.

Dated this 24th day of July 2023.

Respectfully submitted,

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