

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1432

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON

Establish the Alternative Compliance  
Payment rate for 2011 pursuant to  
ORS 469A.180.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION APPROVED**

The 2007 Oregon Legislature adopted a renewable portfolio standard (RPS, Senate Bill 838). Under the law, Oregon's two large electric companies, Portland General Electric Company (PGE) and PacifiCorp, dba Pacific Power, and each electricity service supplier (ESS) must meet 25 percent of their energy needs by 2025 with qualifying renewable resources. The requirement for the first compliance year, 2011, is five percent. The requirement increases to 15 percent in 2015 and 20 percent in 2020.<sup>1</sup>

At its June 2, 2009, public meeting, the Public Utility Commission of Oregon adopted Staff's recommendation to establish an alternative compliance rate of \$50 per megawatt-hour (MWh) for 2011 (2011\$) for PGE, Pacific Power, and all ESSs, pursuant to ORS 469A.180. The details of the filing and Staff's recommendation are described in Staff's Report, attached as Appendix A, and incorporated by reference.

**ORDER**

IT IS ORDERED that:

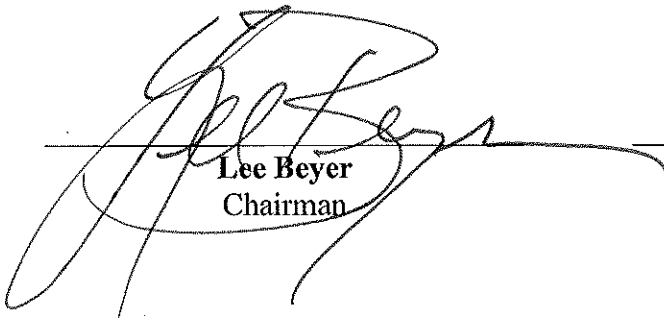
1. The Public Utility Commission of Oregon Staff's recommendation, attached as Appendix A, is approved.

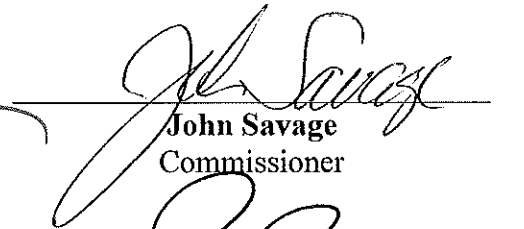
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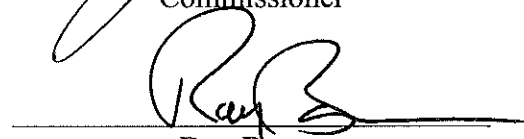
<sup>1</sup> Small utilities, including Idaho Power Company, must meet five percent or 10 percent of their energy needs with qualifying renewable resources by 2025, depending on the size of the utility.

2. An alternative compliance rate of \$50 per MWh (2011\$) for 2011 for Portland General Electric Company, PacifiCorp, dba Pacific Power, and all electricity service suppliers is adopted pursuant to ORS 469A.180.

Made, entered, and effective JUN 12 2009.

  
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**Lee Beyer**  
Chairman

  
\_\_\_\_\_  
**John Savage**  
Commissioner

  
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**Ray Baum**  
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: June 2, 2009

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE  July 1, 2009

DATE: May 22, 2009

TO: Public Utility Commission

FROM: Phil Carver *Phil*

THROUGH: Lee Sparling, Ed Busch *EB* and Maury Galbraith *MG*

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: Establish the Alternative Compliance Payment rate for 2011 pursuant to ORS 469A.180

**STAFF RECOMMENDATION:**

Staff recommends the Commission adopt an alternative compliance rate of \$50 per megawatt-hour (MWh) for 2011 (2011\$) for Portland General Electric, PacifiCorp and all electricity service suppliers, pursuant to ORS 469A.180.

**DISCUSSION:**

The 2007 Oregon Legislature adopted a renewable portfolio standard (RPS, Senate Bill 838). Under the law, Oregon's two large electric companies, Portland General Electric (PGE) and PacifiCorp, and each electricity service supplier (ESS) must meet 25 percent of their energy needs by 2025 with qualifying renewable resources. The requirement for the first compliance year, 2011, is 5 percent. The requirement increases to 15 percent in 2015 and 20 percent in 2020.<sup>1</sup>

Under ORS 469A.180, an electric company or an ESS may elect to comply with the RPS by making an alternative compliance payment (ACP). Under ORS 469A.180(3), the Commission may require that an electric company or an ESS use an ACP to comply the RPS. Under ORS 469A.180(4), the Commission determines how much of an ACP may be recovered in the rates of an electric company.

Section 20a, Chapter 301 of Oregon Laws 2007 requires that the Commission establish an ACP rate in dollars per MWh of compliance for each electric company and ESS for 2011 no later than July 1, 2009.

<sup>1</sup> Small utilities, including Idaho Power, must meet 5 percent or 10 percent of their energy needs with qualifying renewable resources by 2025, depending on the size of the utility.

ACP Rate for 2011  
May 22, 2009  
Page 2

Under ORS 469A.180(2):

*"In establishing an alternative compliance rate, the commission shall set the rate to provide adequate incentive for the electric company or electricity service supplier to purchase or generate qualifying electricity in lieu of using alternative compliance payments to meet the renewable portfolio standard applicable to the company or supplier."*

Further under ORS 469A.180(2), Commission considerations to set the ACP rate must include:

*the cost of qualifying electricity, contracts that the electric company or electricity service supplier has acquired for future delivery of qualifying electricity and the number of unbundled renewable energy certificates that the company or supplier anticipates using in the compliance year to meet the renewable portfolio standard applicable to the company or supplier.*

Incremental cost, the cost of unbundled RECs and the ACP are parts of the cost limit test set forth in ORS 469A.100(1) as follows:

*Electric utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year.*

The decision to set ACP rates for 2011 differs qualitatively from future Commission decisions to set the rates. After this year, ACP rate decisions will benefit from Commission proceedings on electric company implementation plans. Decisions in 2012 and beyond will benefit from the Commission's review of electric company and ESS compliance reports. The only factual data available for this decision are responses by the electric companies to an informal information request from Commission staff.

PGE indicates that its banked RECs from 2007 and 2008 will be sufficient for compliance in 2011. These are from renewable projects operated in 2007 and 2008. It is unlikely that the power from PGE's three Biglow Canyon wind projects will cost more than an equivalent amount of non-renewable power. PGE estimates the aggregate incremental cost of the Biglow Canyon projects will range from a negative \$50 per MWh to a positive 49 cents per MWh (nominal levelized costs). The range depends on the range of assumed costs for non-renewable energy. The \$50 per MWh negative cost premium is based on a scenario with a nominal levelized natural gas price of \$11.76 per million Btu. The 49 cent per MWh premium is based on a gas price of

ACP Rate for 2011  
 May 22, 2009  
 Page 3

\$4.91 per million Btu. These are the high and low natural gas price scenarios provided to PGE by the PIRA consulting firm.

PacifiCorp indicates that banked bundled RECs from 2007, 2008 and 2009 will be sufficient for 2011 compliance. Their estimated incremental costs for the Seven Mile Hill II, the Glenrock III, and the High Plains wind projects range from a negative \$14.61 per MWh to a negative \$1.76 per MWh.<sup>2</sup> The PacifiCorp April 2009 draft integrated resource plan estimates the incremental cost of a generic wind resource will range from negative \$22 per MWh to a negative \$10 per MWh. This range is based on a range of carbon dioxide cost adders of \$45 to \$8 per ton of CO<sub>2</sub>, respectively. The natural gas price forecast used for these estimates has a levelized cost of \$10 (nominal or \$8.33 in 2009\$) per million Btu.

Unlike an electric company, an ESS may comply with the RPS by using only unbundled RECs. An unbundled REC is purchased separately from the power. Under ORS 469A.100(6) the cost limits applicable to ESSs must be equivalent to the limits for electric companies.

Staff anticipates that ESSs will comply in 2011 with RECs issued in 2007. Oregon is the only West Coast state where unbundled RECs issued in 2007 can be used for compliance. RECs issued in 2007 cannot be used for compliance in Washington. Under current rules, unbundled RECs generated in the Northwest cannot be used for compliance in California.

The California Public Utility Commission is considering allowing the use of unbundled RECs. In the administrative law judge's proposed decision in California PUC Docket 06-02-012, unbundled RECs issued in 2007 could not be used for compliance.<sup>3</sup> The lack of alternative markets and the relatively low Oregon RPS level in 2011 are likely to keep the cost of 2007 unbundled RECs quite low, probably below \$2 per MWh.

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<sup>2</sup> According to the direct testimony of Mark Tallman in PacifiCorp's UE 210 rate case: "The range [in costs] resulted from including terminal value and taking into account the avoidance of costs for turbine storage and incremental allowance for funds used during construction." See page 27 of Exhibit PPL 400,. The PacifiCorp filing in UE 210 is at <http://edocs.puc.state.or.us/efdocs/UAA/ue210uaa10328.pdf>. These results are based on the alternative cost for compliance (ACC) method of estimating incremental costs.

<sup>3</sup> See page 62 of the March 26, 2009 ALJ's proposed decision at <http://docs.cpuc.ca.gov/efile/PD/99016.pdf>.

ACP Rate for 2011  
May 22, 2009  
Page 4

Neither PGE nor PacifiCorp currently plans to make an ACP in 2011. Staff cannot envision a realistic scenario under which PGE or PacifiCorp would make an ACP in 2011. There is little likelihood or desirability of an ESS making an ACP.

The main impact of setting ACP rates for 2011 will be as a potential precedent. Also, the level of the Oregon ACP may be compared with RPS implementation policies of other western states.

Because the ACP rate for 2011 may be perceived as a precedent, staff recommends that the Commission set the rate at the highest rate that might be needed in the foreseeable future. It will be easier for the Commission to lower the rate than to raise it. Below are some considerations on how high a future ACP rate might need to be.

California is a key competitor for renewable resources. If its statutory RPS target in 2025 is met, California would acquire three times as much new renewable generation as Washington and more than four times as much as Oregon or Colorado in that year. Planned RPS acquisitions by New Mexico, Nevada and Montana are considerably smaller.<sup>4</sup>

To help meet California's greenhouse gas emission targets, Gov. Schwarzenegger has signed an executive order to raise the 2020 RPS target from 20 percent to 33 percent. Achieving this new target would magnify California's impact on western renewable energy markets.

While none of the other western RPS states has an ACP,<sup>5</sup> California has a penalty of \$50 per MWh for noncompliance. This also is the proposed cap on the price California electric companies would be permitted to pay for unbundled RECs.<sup>6</sup> The penalty for noncompliance under the Washington RPS is \$50 per MWh in 2007 dollars.

A penalty rate encourages a utility to acquire unbundled RECs when the penalty is above the REC price. An ACP rate can have the same effect. If there are insufficient unbundled RECs for compliance in the West, REC prices can be bid up to the ACP or penalty rates. Accordingly, Oregon having an ACP less than Washington's and California's penalty rates could force Oregon electric companies and ESSs to make an ACP instead of buying unbundled RECs.

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<sup>4</sup> See slide 22 of [http://www.cleanenergystates.org/Meetings/Chicago-RPS\\_Summit/ChicagoSummit\\_Wiser.pdf](http://www.cleanenergystates.org/Meetings/Chicago-RPS_Summit/ChicagoSummit_Wiser.pdf).

<sup>5</sup> See Table 9 on page 31 of <http://eetd.lbl.gov/ea/ems/reports/lbnl-154e-revised.pdf>.

<sup>6</sup> See page 42 of the March 26, 2009 CPUC ALJ proposed decision at <http://docs.cpuc.ca.gov/efile/PD/99016.pdf>.

ACP Rate for 2011  
May 22, 2009  
Page 5

An ACP rate of \$50 per MWh is likely above future market prices of unbundled RECs in the West. A high rate provides a strong incentive for electric companies and ESSs to purchase or generate qualifying electricity. This is the primary criterion for setting the ACP rate in ORS 469A.180(2). A \$50 rate would indicate Oregon is as serious about RPS compliance as other West Coast states.

In any case, the Commission should set the rate well above possible unbundled REC prices in 2011. Unbundled REC markets should be allowed to develop before ACP is used for compliance. If a future Commission wants to encourage the use of ACP for compliance, it could lower the ACP rate toward the likely market price of unbundled RECs at that time.

**PROPOSED COMMISSION MOTION:**

An alternative compliance rate of \$50 per MWh (2011\$) for 2011 for Portland General Electric, PacifiCorp and all electricity service suppliers be adopted pursuant to ORS 469A.180.

Set-2011-ACP-rate.doc