

ORDER NO. 17 455

ENTERED NOV 08 2017

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1020

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

ORDER

Finalization of a Definition of Non-Profit  
Used by Voluntary Programs and Criteria for  
Commission Approval of Voluntary Program  
Awards to For-Profit Organizations.

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED


This order memorializes our decision, made and effective at our November 7, 2017 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 8 day of November, 2017, at Salem, Oregon.

  
**Lisa D. Hardie**  
Chair

  
**Stephen M. Bloom**  
Commissioner



  
**Megan W. Decker**  
Commissioner

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON  
 STAFF REPORT  
 PUBLIC MEETING DATE: November 7, 2017

REGULAR  CONSENT  EFFECTIVE DATE November 7, 2017

DATE: 10/31/17

TO: Public Utility Commission

FROM: JP Batmale *JB*

THROUGH: Jason Eisdorfer *J*

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:  
 (Docket No. UM 1020) Finalization of a definition of non-profit for use by  
 voluntary programs and criteria for Commission approval of voluntary  
 program awards to for-profit organizations.

**STAFF RECOMMENDATION:**

Staff recommends the Oregon Public Utility Commission (OPUC or Commission) adopt the definition of non-profits and the criteria for approving the awarding of grant funds to for-profits as part of Portland General Electric (PGE) and PacifiCorp's (PAC) voluntary renewable programs.

**DISCUSSION:**

Issue

Whether the Commission should adopt Staff's definition of non-profit and direct PGE and PAC to use Staff's criteria for approving the award of renewable grant funds to for-profit firms as part of the utilities' voluntary renewable programs.

Applicable Law

ORS 757.603 requires the electric utilities to provide a portfolio of rate options to residential customers. At least one rate option offered by PGE and PAC allows customers to contribute to a development fund that provides funding for renewable projects. Commission Order No. 16-123 directed Staff to revisit the appropriateness of allowing utilities to grant funds collected from ratepayers participating in the voluntary

UM 1020 – Definition of Non-Profit and Criteria for For-Profit  
October 31, 2017  
Page 2

program to projects that also receive funds collected from all ratepayers through general tariffs.

### Analysis

#### *Background*

In Order No. 17-289 the Commission adopted, with amendments, Staff's recommendation to limit the awarding of grant funds to non-profits from the utilities' voluntary renewable programs. Staff's recommendation was a result of an investigation into the appropriateness of commingling of ratepayer and voluntary funds on eligible renewable energy projects. Staff determined that the utilities' voluntary renewable programs should award grant funding only to non-profits because the benefits of encouraging new renewable development could be properly attributed to the voluntary programs only when non-profits were the grant award recipients. The limiting of awards to non-profits also removed concerns regarding attribution between ratepayer and voluntary funds when they were commingled on a project. This was not necessarily the case when grant funds were awarded to for-profits. The attribution of benefits was more tenuous and difficult to discern given that for-profits have greater access to project financing instruments, like tax credits.

The Commission added amendments to Staff's recommendation in Order No. 17-289 and directed Staff, the utilities, and stakeholders to develop:

1. An inclusive definition of non-profit organizations; and,
2. Criteria for the Commission to approve and subsequently use to determine when funds from a utility's voluntary programs may be awarded to a for-profit entity.

The amendments were in response to concerns raised by PGE, Renewable Energy Coalition (REC) and PAC. PGE, REC, and PAC filed written comments in Docket No. 1020 expressing their concerns.<sup>1</sup> PGE and REC also shared concerns at the July 25, 2017, public meeting.<sup>2</sup>

Generally, PGE was opposed to Staff's recommendation limiting voluntary renewable grant fund awards to non-profits for several reasons. First, it would impinge on their discretion to administer their program. Second, it would potentially impact currently open solicitations and require a tariff change. Third, their program screening process already includes a preference for non-profits.

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<sup>1</sup> See Docket No. UM 1020 for filed comments by all three parties.

<sup>2</sup> See July 25, 2017, Public Meeting video for the opinions expressed by PGE and REC directly to the Commissioners.

UM 1020 – Definition of Non-Profit and Criteria for For-Profit  
October 31, 2017  
Page 3

REC argued that the limiting awards to non-profits was arbitrary, not properly vetted in an inclusive stakeholder process and would cause harm to for-profit qualifying facilities (QF's). REC also asserted that QF's should not have been included in Staff's investigation of commingling of ratepayer and voluntary funds and that Staff's definition of non-profit was not exhaustive enough to include entities like irrigation districts.

PAC was opposed to Staff recommendation to limit grant awards to non-profits. PAC believes Staff's limitation was unnecessary as the current Blue Sky funding project evaluation criteria already addresses the Commission's concerns around attribution. To this end, PAC noted that in the past 11 years of Blue Sky grant funding only two projects out of 100+ projects has gone to for-profits entities.

#### *Definition of Non-Profit*

Staff met with stakeholders to develop an encompassing definition of "non-profit" for use by the utilities' voluntary program. Staff utilized the Oregon Revised Statute to develop the following definition:

*For the purposes of voluntary renewable programs, the term non-profit shall include any mutual benefit corporation, public benefit corporation, religious corporation, municipal corporation, or Indian Tribe as defined by Oregon Law.*

This clarification will require a minor change to grant guideline documentation, but no changes to the review process itself.

#### *For-Profit Exception Criteria and Commission Approval*

The Commissioners expressed support for a compromise position regarding grant awards to for-profit entities at the July 25, 2017, public meeting. The Commission allowed for the possibility that for-profits could receive awards for eligible, renewable energy projects if a streamlined exception process, including criteria, could be developed that allow for full Commission review and approval of any such grants.

Staff and stakeholders developed the following exemption criteria and process for awarding voluntary program grant funds to for-profits:

- Criteria for Awarding Grants to For-Profit entities
  - o The proposed renewable project meets the respective utility's eligibility criteria and any other minimum requirements for funding.
  - o The proposed renewable project reflects the respective utility's preferences for certain types of projects as captured in their existing application forms.

UM 1020 – Definition of Non-Profit and Criteria for For-Profit  
October 31, 2017  
Page 4

- When a for-profit entity's project is selected for grant funding, the utility will submit a letter documenting why it supports the for-profit entity's project.
- Review Process for Awards to For-Profit entities
  - **All** for-profit projects selected by the utility for funding, regardless of size, will go through the existing Commission review process for projects greater than \$400,000 in size.
  - The Commission will review for approval all for-profit projects.

The proposal from Staff and Stakeholders meets the Commission's goals of a streamlined process with full accountability. It requires no major program changes while using the existing, in-depth review process to accomplish the Commission's goals of ensuring proper attribution and accountability when seeking to award voluntary program funds to for-profit entities. PGE has already begun codifying the proposed exception criteria for their voluntary program and developed the additional criteria found in Appendix A.

#### Conclusion

The proposed definition of non-profits and the criteria for approving the awarding of grant funds to for-profits as part of utilities' voluntary renewable programs reflects the Commission's direction to Staff and Stakeholders.

#### **PROPOSED COMMISSION MOTION:**

Adopt the definition of non-profits and the criteria for approving the awarding of grant funds to for-profits as part of each utilities' voluntary renewable programs.

UM 1020 Additions to Staff's Recommendations on Commingling of Funds

### **Appendix A: PGE's Additional Evaluation Criteria for For-Profit Grant Applicants**

For-profit applicants are further evaluated on the following criteria:

1. Efficient use of all available funds.
  - Example: Utilizing the Federal Tax Credit and exhausting other funding sources.
2. Demonstrating a clear social benefit within the following realms:
  - Having a partnership with a non-profit.
  - Being a registered Benefit Corporation (B-Corp) or similar certification with an emphasis on the triple bottom line.
    - Example: LEED certified building, Entity is an employee owned cooperative.
  - Participating in a Green E certified renewable power program.
  - Utilizing local materials, labor, developers and resources.
  - Showing an obvious benefit to the community and local economy
    - Example: School curriculum, kiosk with public access, public tours, partnering with educational organizations.
  - Furthering the development of emerging technologies.
    - Example: Wave energy technology.
3. Submission of the full application from the third party evaluator.
4. Submission of the applicant's financial records.
5. Submission of the evaluator's report.

Additionally, all for-profit applications will be subjected to the same evaluation as non-profit organizations requesting greater than \$400,000, regardless of the amount requested.