



Oregon

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To: Kip Pheil, Oregon Department of Energy

From: Lisa Schwartz, senior analyst

Subject: ODOE rulemaking related to Oregon's Renewable Portfolio Standard (SB 838)

The Public Utility Commission of Oregon (Commission) staff appreciates the opportunity to comment on *draft* rules proposed by the Oregon Department of Energy (ODOE) related to the state Renewable Portfolio Standard (RPS). Staff has initial comments in the following areas:

- 1) **330-150-0020(4)** – This draft provision states that electric utilities and electricity service suppliers do not need to establish accounts with the Western Renewable Energy Generation Information System (WREGIS) until the time they are required to demonstrate RPS compliance. Commission staff objects to such a rule and requests that it not be included in the final proposed rule.

First, the Commission already requires regulated utilities to establish WREGIS accounts. The Commission decided at its public meeting on January 10, 2006, that all renewable energy certificates purchased by Portland General Electric (PGE) and Pacific Power for portfolio options pursuant to OAR 860-038-0220(4) and (6) be registered with WREGIS. Second, Commission Order No. 07-083 requires PGE to use WREGIS to track wholesale sales of renewable energy certificates.

Second, Commission staff anticipates proposing rules in the Commission's RPS-related rulemaking proceeding (Docket AR 518) that would require the regulated utilities and electricity service suppliers to establish WREGIS accounts in advance of their first RPS compliance year. Such Commission rules would facilitate banking of renewable energy certificates under SB 838, while ensuring the certificates are not counted toward multiple purposes — e.g., RPS compliance, wholesale sales, voluntary programs and power mix disclosure.

Conflicting agency rules and orders would not be in the public interest.

- 2) **330-150-0025(1) and (2)** – Staff agrees with a comment at the November 6, 2007, ODOE rulemaking workshop that the language in this section should state that *ODOE* identifies the WREGIS certificate as eligible for the Oregon RPS. The language should be clarified as follows: "...is identified by the Department as eligible for the Oregon RPS...." [Staff further recommends the definitions section define the term "Department" for use throughout the rules.]
- 3) **330-150-0025(2)** – Staff agrees with ODOE that for *bundled* renewable energy certificates, the WREGIS certificate must document that the electricity associated with the certificate was delivered to the Bonneville Power Administration, to the transmission system of the electric utility, or to another

delivery point designated by an electric utility for subsequent delivery to the utility. Staff also agrees that the NERC “e-Tag” should be used for this purpose. We recognize that Section 14(2) of SB 838 allows for substitution of the qualifying electricity after the time of generation (for example, for firming and shaping). However, before the December 5th hearing, staff requests further discussion on specifying in the rules a procedure for matching the WREGIS certificates to the originally qualifying electricity. In other words, staff believes the rules should provide a process for validating that the certificates were *procured* as a bundled product — i.e., with the underlying qualifying electricity.

I note that for out-of-state facilities, the California Energy Commission (CEC) matches the delivered energy to the RPS-eligible facility by requiring the facility’s California RPS identification number on the NERC e-Tag associated with the delivered energy. The CEC will match delivery and generation each calendar year. Oregon’s RPS does not require assignment of an RPS identification number to eligible facilities. Using the facility’s EIA identification number may be a workable alternative.

In addition, references to electricity service suppliers in this section should be removed. Such suppliers do not own transmission systems and are not referenced in Section 15(1)(b) of SB 838. Further, while electricity service suppliers may choose to use *bundled* renewable energy certificates to meet RPS requirements, they are not required to do so. Instead, they may meet the requirements of SB 838 solely through use of *unbundled* certificates. *See* Section 17(4) of SB 838.

- 4) **Dispute resolution** – Staff recommends that the rules specify an ODOE dispute resolution process for disagreements related to eligibility of 1) a specific generating facility and 2) renewable energy certificates from a qualifying generating facility, including but not limited to the portion of a mixed-fuel facility attributable to qualifying electricity. *See* Section 4(7) of SB 838. We note that Section 4(8) allows ODOE to specify other energy sources “by rule.” The public can file comments in such a rulemaking. We do not believe a dispute resolution process applies in that case.

Finally, though not part of the rulemaking, staff encourages ODOE to issue a summary to the marketplace on the Oregon RPS qualification process for generating facilities through WREGIS and ODOE.

Staff welcomes the opportunity to explore these issues further. If you have questions about our initial comments, please call me at 503-378-8718. Thank you for your consideration.

c: Diana Enright
Sven Anderson
Bill Drumheller