

**PGE's Informal Comments on
Staff's Discussion Paper on Alternative Compliance Payments
For Discussion at February 5, 2009 Workshop**

Issue 1

Is a focus on the incremental cost of qualifying electricity (compared to non-qualifying electricity) more appropriate for determining the ACP rate than a focus on the cost of unbundled renewable energy certificates (RECs)? OPUC staff supports a primary focus on incremental costs.

PGE Comment:

PGE agrees with Staff's discussion on Issue 1.

Issue 2

Assume a utility did not meet its renewable resource target for a prior compliance year due to a temporary event, such as a project contingency or high prices for qualifying electricity, and the utility made an ACP to meet its renewable portfolio standard (RPS) obligations for the year. Also assume the utility expects to meet its renewable resource targets for the years after the shortfall. If the Commission set the ACP rate based on the forecasted incremental cost of qualifying electricity for an upcoming compliance year, would the utility have an adequate incentive to acquire additional qualifying electricity to replace the prior compliance year shortfall? OPUC staff supports this framework.

PGE Comment:

PGE generally agrees with Staff's position on the framework of Issue 2 with one exception. Staff uses the terminology "replace" throughout the discussion paper. PGE disagrees that the purpose of the ACP is to replace a prior year compliance goal. PGE believes the ACP is simply a payment in lieu of reaching the RPS target for any given compliance year. PGE does not believe that the payment is for the purpose of "replacing" a shortfall in a previous compliance year. We believe the ACP was not intended by the Legislature to be punitive, but rather to act as a safety valve for high costs.

Issue 3

What role, if any, should forecasts of incremental costs in acknowledged implementation plans under ORS 469A.075 play in setting the ACP rate? What role, if any, should acknowledged integrated resource plans (IRPs) play in setting the ACP rate? OPUC staff supports using incremental cost forecasts from RPS implementation plans.

PGE Comment:

Staff discusses use of the acknowledged Implementation Plan and the acknowledged IRP. As parties are aware, the time between IRPs may be more than two years, thus the utility may not have a recently acknowledged Implementation Plan or IRP. How would such a delay in the IRP (or even RFP) work? Would estimates from other sources be acceptable? Further, PGE believes that having two acknowledgement processes (one for IRP and one for the Implementation Plan) is duplicative and unnecessary. PGE suggests using the IRP acknowledgement process to include Implementation Plan issues. If the IRP is delayed or not acknowledged, the utility would file a separate filing providing the PUC the necessary information on compliance with the RPS.

Issue 4

Should the ACP rate be the same for all three regulated utilities or should the rate differ by utility? OPUC Staff supports an individually determined ACP rate for each electric company, based on the incremental costs of qualifying electricity (compared to non-qualifying electricity), with a floor.

PGE Comment:

PGE agrees that each utility should have its own incremental cost of compliance and ACP rate. However, PGE disagrees that there should be a floor for the ACP rate.

PGE believes there is no basis for the \$50/MWh floor. Both California and Washington use a penalty system for non-compliance. There is nothing in ORS 469A that would infer the ACP is a penalty. PGE believes the Legislature intended the ACP to be a safety valve if the costs of adding renewable resources were too high. In addition, PGE does not find any reference to “payback of a shortfall” in the ORS. PGE does not believe there is a payback – the ACP is simply an alternative payment.

Issue 5

How frequently should the Commission update the ACP rate? By law, the Commission must set the first ACP rate by July 1, 2009. Should updates go into effect on that anniversary date, or would another date be more appropriate? Staff recommends the Commission adopt the ACP rate for each company and ESS at a regular Commission public meeting at least one year in advance of the compliance year. For an electric company the rate would be set in each even-numbered year for the following even-numbered year and the next year.

PGE Comment:

Staff proposes updating the ACP rate every two years in even numbered years for the next even numbered year and the year following. The initial ACP will be set on July 1, 2009 for the compliance year 2011. Then in 2010, the ACP rate would be updated for 2012 and 2013. In 2012, the ACP rate would be updated for 2014 and 2015

PGE questions whether the second year estimate should be updated. In 2012 when setting the ACP rate for 2014 and 2015, should there be an update the following year for 2015? In addition, if through the Implementation Plan (or acknowledged IRP Action Plans, it is evident that a utility company will not reach the four percent cap, why should we go through the exercise of establishing an ACP rate. If it is clear that an ACP will be necessary, this process seems moot.

Issue 6

If forecasts of the incremental cost of qualifying electricity are the primary basis for setting the ACP rate, what factors should be considered to assure a high likelihood ACP funds will be adequate to replace the RPS shortfall? How should political uncertainties, such as extension of the federal production tax credit (PTC) and possible federal or state regulation of CO₂ emissions, be considered? How should uncertainties regarding future natural gas prices be considered? What other analyses should be performed to determine the ACP rate?

Staff proposes the rule require the estimates of incremental costs of new qualifying resources assume the PTC and other federal renewable resource incentives will not be extended beyond the expiration date in federal law at the time. The ACP rate should be set at the [90 percent] confidence interval of the incremental cost estimate to provide a high assurance of adequate funds. Staff proposes the rule set the ACP rate at the higher of a floor rate of [\$50] per MWh (\$2007) or the average of forecasted high case incremental costs for the [four] years following the compliance year.

PGE Comment:

Staff suggests using stochastic analysis for incremental costs estimates. PGE questions what specific variables to model. Is there one variable or several? If it is a single variable there is no reason to do stochastic analysis. If it is several variables then PGE agrees it can do stochastic analysis, but could also do less complex statistical analysis. PGE seeks clarification on what Staff's intention is.

In addition, Staff proposes a 90 percent confidence interval of the incremental cost estimate. PGE needs clarification on Staff's proposal. One way to interpret this is that Staff is expecting the ACP rate to be at the 90th percentile (on average) as opposed to setting it at an expected value (50 percent). If this is Staff's intent, will there be a true-up for actual costs?

Another way to interpret this is that Staff is proposing the ACP rate be within a range of reasonableness 90% of the time. PGE seeks clarification on this issue.

See PGE's comment on Issue 4 regarding the \$50 floor proposed by Staff.

PGE does not believe the Commission may *direct* the ACP funds. ORS 469A.180(5) states Commission must *approve* [emphasis added] expenditures. See PGE's comments on Issue 2.

Issue 7

What are the potential impacts on meeting the renewable resource targets in the Oregon Renewable Energy Act if Oregon's ACP rates are significantly higher or lower than the ACP rates in other western states? OPUC staff supports keeping ACP rates in reasonable alignment with regulations in other Western states, particularly California and Washington.

PGE Comment:

PGE generally agrees with the proposed methodology, but we again note that the ACP is not intended to replace any shortfall. PGE believes the ACP provides a sufficient incentive so that the utility is not encouraged to make the ACP payments instead of purchasing or generation resources or acquiring RECs. However, the law does not state that the ACP rate should be punitive.

Overview of Use of ACP Funds and the ACP rate

PGE Comment:

Staff again states in this section that the Commission could *direct* ACP funds. PGE disagrees for the same reasons noted previously.

Staff states the first use of the ACP funds should be to replace the shortfall. PGE disagrees with this statement for two reasons. First, the statute does not state a priority of the use of the ACP funds. The statute lists three uses, but makes no assertion as to the importance or preference of one over another.

Second, the terms “replace” and “shortfall” are not used in the statute. The statute does not state that the year of compliance needs to be “made whole.”

Staff states “the fundamental purpose ORS 469A is to quicken the pace of renewable resource acquisition.” Staff goes on to states that “the Legislature clearly values earlier MWh of renewable power over later ones. [emphasis added] PGE is unaware of these implied statements in the statute. Please provide the basis for these statements.

Staff continues to discuss the “shortfall” and also proposes a “2.5 times factor” for “replacing” such shortfall. As stated above, PGE believes the ACP is meant to be a safety valve against high costs passed on to customers and is not intended to be punitive. Alternatively, PGE asks why is there not then a bonus? If the utility must be penalized by replacing 2.5 MWh for every 1 MWh it is short, then wouldn’t it be appropriate that for every MWh the utility is over the RPS targets, it be given a bonus of 2.5 MWh?

Further Staff proposes that the ACP is not recoverable through rates and does not count toward the RPS. PGE does not agree that these assumptions are implicit in the statute.

Lastly, how can an electric utility be assured it is not paying more than is needed related to the ACP. Staff states that customers will benefit from ACP funds. However, if customers are paying more than they really should, how does this benefit customers?

PGE does not understand the terminology or the methodology of undiscounted payback ratio. PGE would request a “walk through” of this methodology at the February 5th Workshop and also directs Staff to PGE’s earlier comments regarding the unnecessary complexity of these proposed rules.