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VIA ELECTRONIC MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-1088

Re: AR 603 - In the Matter of Rulemaking to Implement Community Solar Provisions of SB 1547

Attention Filing Center:

INTRODUCTION

Idaho Power Company (Idaho Power or the Company) appreciates this opportunity to provide its closing comments regarding Staff's Proposed Rules issued pursuant to the Secretary of State's Notice of Proposed Rulemaking, dated April 14, 2017, implementing a Community Solar Program for the customers of Oregon's investor-owned electric utilities, as mandated by Section 22 of SB 1547 (Section 22). Idaho Power filed Opening Comments on May 15, 2017, in which it covered the primary issues of significance to the Company. In particular, Idaho Power's Opening Comments advocated the following:

1. The Proposed Rules should be revised to require Project Managers, not the utilities, to collect subscription fees directly from participating customers; and

2. The Commission should adopt changes to the Community Solar Program designed to ensure that interests in projects are not found to be securities.

In addition, Idaho Power's Opening Comments addressed several issues specific to the drafting and wording of the Proposed Rules.

In these Closing Comments, Idaho Power will not repeat the points made in its Opening Comments, but rather will respond to three specific arguments made by other parties, both at the May 16, 2017 Hearing, and in written comments.

DISCUSSION

1. The Commission should not adopt an interim bill credit rate. However, if the Commission wishes to adopt an interim bill credit rate, it should use the utilities' published avoided cost rates applicable to solar QFs.

In their written and oral comments, Renewable Northwest Project (RNP) and the Oregon Solar Energy Industries Association and the Coalition for Community Solar Access (together, OSEIA/CCSA), argue that the Commission should adopt an interim bill credit rate. RNP points out that the Commission's investigation into the resource value of solar (RVOS) in UM 1716[1] is ongoing, and that waiting for the completion of that docket could unnecessarily delay the commencement of the Community Solar Program. In addition, RNP points out that rushing the UM 1716 investigation could result in a less accurate RVOS. RNP does not specify the rate that should be adopted as an interim measure; however, OSEIA/CCSA argue that the appropriate interim bill credit rate is the retail rate.

Idaho Power believes that it is premature for the Commission to consider adoption of an interim bill credit rate. It is not clear that it will be possible to roll out the Community Solar Program before the RVOS for each utility is determined. Once these rules are adopted in this docket, there will be a Request for Proposals process to select a Program Administrator. Once a Program Administrator is selected, the Program Implementation Manual will need to be developed—after which it will be subject to a review process. It is not a foregone conclusion that these tasks will be completed in advance of the adoption of the RVOS. There is therefore no reason for the Commission to rush to adopt an interim bill credit rate at this time. Idaho Power suggests instead that the Commission revisit this issue when it is closer to an implementation date for the Community Solar Program.

That said, if the Commission does wish to adopt an interim bill credit rate, it should select a published avoided cost rate applicable to solar QFs. There is no basis for the Commission to substitute a retail rate for the RVOS.

In Section 22, the Legislature mandated that the electric utilities should credit a participant's bill for the amount of electricity generated by a community solar project "in a manner that reflects the resource value of solar."[2] At the time SB 1547 was passed, the Legislature had already adopted a definition for "resource value of solar" as follows:

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[1] *In the Matter of Public Utility Commission of Oregon, Investigation to Determine the Resource Value of Solar*, Docket No. UM 1716.

[2] Section 6(a).

> The estimated value to an electric company of the electricity delivered from a solar photovoltaic energy system associated with: (a) ***The avoided cost of energy including avoided fuel price volatility, minus the costs of firming and shaping the electricity generated from the facility; and (b) Avoided distributed and transmission cost.***[3]

In other words, the Legislature mandated that the generation produced under the Community Solar Program would be compensated at an avoided cost rate. Therefore, if the Commission does adopt an interim rate, it would make sense for that rate to be as close as possible to the RVOS contemplated by the Legislature—which would suggest that the PURPA avoided cost rate specific to solar generation would be appropriate. On the other hand, a retail energy rate—which includes variable energy-related costs ***and*** fixed grid-related costs (generation, transmission and distribution)—is not comparable in any respect to the value of solar and would over compensate for the generation produced under the Community Solar Program.

OSEIA/CCSA argues that the retail rate is "the logical starting point for discussion of an interim credit rate" pointing out that "[a]t least initially, this would put participants on a level footing with those customers lucky enough to have their own rooftop solar system."[4] Presumably, OSEIA/CCSA is referring to net metering customers, who offset their retail bills on a "kilowatt produced/kilowatt offset" basis. This position is contrary to legislative intent. In the net metering statute, the Legislature intentionally set up a credit framework that results in customers receiving a retail rate for their energy produced[5]; in the Community Solar Program, the Legislature mandated that customers receive an avoided cost based rate. OSEIA/CSSA's invitation to circumvent that intention must be rejected.

OSEIA/CCSA also points to Section 6(b), which provides that the Commission can adopt a rate other than RVOS "for good cause" and Section 2(b), which directs the Commission to adopt rules that will "incentivize consumers of electricity to be owners or subscribers." They argue that the need to incentivize participation might constitute good cause to adopt a rate higher than the RVOS. The Commission should reject this position as well.

It is true that the Legislature directed the Commission to adopt rules that incentivize participation. But at the same time, the Legislature directed the Commission to adopt rules that

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[3] ORS 757.360(5) (emphasis added).

[4] Joint Initial Comments on Behalf of the Coalition for Community Solar Access and the Oregon Solar Energy Industries Association in AR 603 at 4 (May 19, 2017).

[5] ORS 757.300.

minimize the shifting of costs to non-participating customers.[6] If set correctly, an RVOS rate will capture the costs that the utility actually avoids through the purchase of energy generated under this program, including avoided transmission and distribution costs, thereby leaving customers indifferent, as is required of a PURPA rate. On the other hand, a retail rate would inappropriately compensate Community Solar Program participants for fixed grid and customer-service related costs that are not avoided by the utility through the purchase of energy generated under this program, ultimately shifting the recovery of those costs to the rest of the utility's customers.

For these reasons, Idaho Power suggests that the Commission postpone a decision as to whether an interim rate will even be necessary. In the event the Commission does wish to adopt an interim bill credit rate, Idaho Power recommends that the Commission adopt the utility's published avoided cost rate for solar QFs.

2. The Proposed Rules appropriately limit the amount of unsubscribed generation for which Projects can be compensated to 10 percent.

During the workshops in this docket, the utilities expressed their view that projects certified under the Community Solar Program should be required to demonstrate that they are truly developed on behalf of a community of residential and/or commercial customers who wish to participate in solar generation. The utilities explained that they wished to avoid a situation where developers might propose a project prior to ascertaining or gaining any real community support, with the knowledge that the developer could always sell any unsubscribed generation under a power purchase agreement ("PPA") to the utility. To avoid this result, the utilities argued for a rule requiring community solar projects to be fully—or near fully—subscribed as a condition of certification. In response to the utilities' advocacy, some developers pointed out that it might be difficult to achieve full subscription prior to certification, and even if full subscription is achieved, it is possible that after certification, subscription levels could fluctuate as some subscribers move or otherwise become ineligible to participate in the program.

Staff's Proposed Rule OAR 860-088-0120 presents a simple and balanced solution to both utility and developer concerns. The rule requires that a project must be at least 50 percent subscribed in order to sell unsubscribed generation under a PPA. In addition, the rule limits the amount of unsubscribed generation that can be sold to the utility under a PPA to 10 percent. Unsubscribed generation over the 10 percent cap is to be donated to low income customers. In so doing, Staff's rule provides developers with a powerful incentive to fully subscribe their projects, and avoids a situation where a community solar project essentially becomes a PURPA project. At the same time, the Proposed Rule responds to the concerns of the developers,

[6] Section 2(B)(b).

permitting them to certify their projects before full subscription is achieved, and allowing projects to maintain their certification, even as subscription levels fluctuate.

RNP and OSEIA/CCSA advocate against any limits on a project's ability to sell unsubscribed generation, pointing out that the "as available" rate applicable to unsubscribed generation is low enough to provide a sufficient incentive to developers to fully subscribe community solar projects. Alternatively, RNP argues that the 10 percent cap should be increased.

RNP and OSEIA/CCSA's position should be rejected. Idaho Power acknowledges that developers will, at least in theory, and at current market rates, prefer a fully subscribed project to one receiving an as available QF rate. However, despite that incentive, a developer could, through poor planning or mismanagement, end up with a project with a very low subscription rate. In this situation, without the 10 percent cap, the utility and ultimately its customers could end up paying a PURPA rate for a significant portion of the project's generation, undermining the intent of the Community Solar Program.

Additionally, Staff's Proposed Rules increased the initial program capacity from one percent to 2.5 percent of a utility's 2016 peak load; if the 10 percent cap were to be increased or removed, the combination of these actions could impose a significant financial burden for Idaho Power's Oregon customers for the duration of the 20-year PPA. Idaho Power believes that Staff's Proposed Rules limiting the unsubscribed generation that can be sold under a PPA successfully balance the parties' interests and promote the legislative intent. Therefore OAR 860-088-0120 should be adopted as proposed.

3. Issues regarding the appropriate calculation of the RVOS should be addressed in UM 1716 and related RVOS-specific dockets.

RNP raises its concern that the bill credit rate adopted in UM 1716 could undercompensate participants, given that the Proposed Rule OAR 860-088-0210(2) requires utilities to include forecasts of market potential for community solar projects when assessing load-resource balances. While RNP supports the requirement, it is not certain that the methodology adopted in UM 1716 will accurately account for this practice.

Idaho Power does not object to RNP raising its concern on this point. However, this concern should not be addressed in this docket. It is appropriately addressed in UM 1716, or in individual rate making dockets that may be opened to adopt each utility's specific RVOS.

CONCLUSION

Idaho Power again wishes to commend Staff for its efforts in working with the parties to craft rules to implement the Community Solar Program. Idaho Power recommends that the Commission adopt Staff's proposed rules with the very specific changes proposed in its initial comments.

Very truly yours,

Lisa Rackner