BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

Docket No. AR 674

In the Matter of Rulemaking to Amend OAR 860-091, Division 91 Rulemaking Small Scale Renewable (SSR) Energy Amendments	JOINT COMMENTS OF OREGON SOLAR + STORAGE INDUSTRIES ASSOCIATION, COMMUNITY RENEWABLE ENERGY ASSOCIATION, AND RENEWABLE ENERGY COALITION

I. INTRODUCTION AND SUMMARY

The Oregon Solar + Storage Industries Association ("OSSIA"), Community Renewable Energy Association ("CREA"), and Renewable Energy Coalition (the "Coalition") (collectively the "Small Renewables Advocates") appreciate the opportunity to provide these joint comments to the Public Utility Commission of Oregon ("PUC" or "Commission") on the Proposed Rule Amendments to the Division 91 Small Scale Renewable ("SSR") Requirements. These comments make the same points made at the public hearing in this rulemaking, ensure that key points from written comments submitted during the informal phase of the rulemaking are included in the formal rulemaking record, and respond to certain points made by Portland General Electric Company ("PGE") and PacifiCorp at the public hearing.

The Small Renewables Advocates stress the importance of the small-scale renewable requirement in ORS 469A.210. The policy objective of this statutory provision—to promote development and operation of community-based or small-scale renewable energy facilities in Oregon—is central to the mission of each of the Small Renewables Advocate's organization. This statutory requirement that at least 10% of aggregate electrical capacity be composed of electricity generated by small-scale renewable projects is truly one of the best ways to provide a market

opportunity and bring online small-scale renewable facilities that the utilities may not otherwise pursue.

At the outset, it is important to recognize the limited scope of this rulemaking. There was already a comprehensive rulemaking, in Docket No. AR 622, to better define the requirements of this unique capacity-based procurement requirement and, in that rulemaking, a careful balance was struck in the Commission's final order.[1] Given the intended narrow scope of this rulemaking, the Small Renewables Advocates have not attempted to re-litigate the issues decided adversely to them in that rulemaking, such as the fact that the utilities can claim SSR compliance with resources for which they do not own the renewable energy certificates and that out-of-state resources can also be used for compliance.[2] However, by the same token, the Commission should not adopt changes that will weaken this requirement as the first compliance date of 2030 approaches. Indeed, Commissioner Les Perkins expressed concerns with potentially weakening the SSR requirement during the public meeting establishing this very docket.[3]

At this point, the Small Renewables Advocates largely support the Proposed Rule before the Commission, which is the product of Staff's Report during the informal rulemaking phase. The Small Renewables Advocates comment on two key points of remaining disagreement with the Proposed Rule's exclusion of certain capacity resources from the measurement of the utility's "aggregate electrical capacity" in the denominator of the 10% requirement. Specifically, for the reasons explained below, the Small Renewables Advocates recommend revising the Proposed

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[1] *In the Matter of Small-Scale Renewable Energy Projects Rulemaking*, Docket No. AR 622, Order No. 21-464 (Dec. 15, 2021).

[2] *See id.* at 12-13

[3] Oregon Public Utility Commission, Public Meeting on June 24, 2025 (starting at 44:50).

Rule to include energy storage and SSRs as part of the utility's "aggregate electrical capacity." Further, these comments express support for the Proposed Rule's exclusion of behind-the-meter resources as qualified SSRs for compliance purposes in the numerator. Finally, these comments respond to assertions the utilities have made regarding their recent requests for proposals ("RFP") to acquire small-scale renewable resources.

II. COMMENTS

1. <u>Denominator Subtractions</u>: The Commission Should Revise the Proposed Rule to Include Storage and SSRs as Part of the "Aggregate Electrical Capacity" in the Denominator.

The Small Renewables Advocates recommend that the Commission include energy storage and SSRs as part of the utility's "aggregate electrical capacity" against which the necessary capacity of SSRs is calculated. The key statutory language provides that "by the year 2030, at least 10 percent of the *aggregate electrical capacity* of all electric companies that make sales of electricity to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by" certain specified small-scale renewable facilities.[4] Thus, "aggregate electrical capacity" is the key measure of the utility's capacity resources in the denominator of the equation used to derive the 10% minimum capacity threshold of required SSR facilities. The statute provides no further definition of "aggregate electrical capacity" or any exclusion limiting the types of capacity resources that should be included in this measurement. However, the Proposed Rule creates two new exclusions to this key measurement, as follows: "Aggregate electrical capacity does not include: (A) The nameplate capacity of storage resources; (B) The nameplate capacity of small-scale energy resources that the electric company applies to meeting

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[4] ORS 469A.210(2) (emphasis added).

the standard in a compliance period, consistent with OAR 860-091-0030(3)[.]"[5] The Commission should remove these two exclusions and clarify that both storage and SSRs are included as capacity resources in the measurement of the utility's aggregate electrical capacity.

a. <u>Storage</u>: Storage should be included in "aggregate electrical capacity."

As noted above, ORS 469A.210 established that at least 10% of a utility's "aggregate electrical capacity" must come from SSRs. The statute does not authorize deductions or adjustments to that aggregate figure to reflect other policy objectives, such as encouraging acquisition of storage resources. The utilities clearly consider energy storage to be a part of their capacity portfolio in planning exercises.[6] Thus, it should be included in the measure of the utility's aggregate electrical capacity for purposes of ORS 469A.210. The Proposed Rule's unnecessary exclusion of storage would have a significant impact of weakening the SSR requirement.[7]

Staff proposed to exclude storage from the denominator based on its position that the "aggregate electrical capacity" must be *generating* capacity.[8] However, this position misreads the statute. The statutory language states that "at least 10 percent of the aggregate electrical capacity

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[5] Proposed OAR 860-091-0020(1)(b).

[6] *See* PacifiCorp's 2025 Integrated Resource Plan, Vol. I, p. 128 (discussing energy storage as a resource assigned a "project specific qualifying capacity contribution" in the section on PacifiCorp's "Capacity Balance Overview"); *id.* at pp. 132-135 (tables listing "storage" as a capacity resource in the load and resource balance); PGE's 2023 Clean Energy Plan and Integrated Resource Plan, p. 242 (stating: "From a capacity standpoint, the Preferred Portfolio adds 232 MW of 4-hr storage resource in 2026 to address the bulk of the capacity needs resulting from expiring contracts and load growth.").

[7] *See* Staff Report, Docket No. AR 674, at 8 (Oct. 21, 2025) ("Staff notes that including storage in aggregate electrical capacity could have a notable impact on PacifiCorp and PGE's SSR requirements.").

[8] *See id.* at 7 ("Staff believes that *all* storage resources should be excluded from aggregate electrical capacity for the same reason it believes they are not eligible SSRs: they do not generate electricity.").

. . . must be composed of electricity *generated* by" SSRs.[9] The word "generated" does not qualify the term "aggregate electrical capacity"; it only qualifies the SSR resources eligible in the numerator. There is no textual basis in the statute for limiting the "aggregate electrical capacity" to capacity resources that generate electric energy, and storage is appropriately included as part of the aggregate electrical capacity in this context.

Further, exclusion of storage as a capacity resource is inconsistent with the position that Staff and the utilities have taken in another relevant small-scale renewables docket where the Commission is establishing policies governing avoided cost rates offered to qualifying facilities ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA"). In the Commission's Docket No. UM 2000, Staff even proposed that standalone battery energy storage could be the avoided capacity resource used to calculate the avoided costs of non-emitting capacity.[10] The Commission has now approved Staff's proposal on that point over renewable advocates' concerns that using standalone storage as the avoided capacity resource without appropriate rate adjustments could undervalue the avoided capacity costs.[11] However, the inconsistency in Staff's position across these dockets is glaring and should not be adopted by the Commission. Simply put, it is

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[9] ORS 469A.210(2) (emphasis added).

[10] *See, e.g.,* Staff's Opening Brief, Docket No. UM 2000, at 24 (Sept. 26, 2025) ("In place of the SCCT Staff proposes using the avoided capacity resource described in the previous section, with costs represented by the average cost of non-emitting capacity resources that appear on the utility's shortlists for RFPs concluded in the last months, or from an independent third-party source if no competitive solicitations have concluded in the last 24 months. In recent IRPs, this resource has generally been a battery with an ELCC less than 100 percent.").

[11] *See, e.g., In the Matter of Public Utility Commission of Oregon, Investigation into PURPA Implementation*, Docket No. UM 2000, Order No. 26-021, at 11-12 (Jan. 23, 2026) (adopting Staff's proposal for avoided capacity resource selection); *id.* at 14 ("The QFTGs also argue that batteries are not equivalent to baseload capacity and thus, if batteries are allowed for use as the capacity resource, the Commission should require a baseload capacity adder to QFs that provide baseload capacity."); *id.* at 16 ("We decline to order a baseload capacity adder at this time.").

not reasonable to use standalone, grid-charged storage as the avoided capacity resource to ensure avoided cost rates offered to QFs are as low as possible, while simultaneously creating a policy that storage is not part of the utility's "aggregate electrical capacity" for the purpose calculating how many SSRs the utility must acquire under ORS 469A.210.

To ensure the record is clear, the Small Renewables Advocates also highlight how storage should be treated in the numerator of the SSR equation because there appears to be confusion on this point. The Commission should be careful not to conflate the requirements of the numerator and denominator, which are different in the statute. In the numerator, the Commission is measuring the qualified SSR facilities' capacity. The statutory language requires measurement of the following in the numerator:

> the aggregate electrical capacity . . . of electricity generated by one or both of the following sources:
> (a) Small-scale renewable energy projects with a generating capacity of 20 megawatts or less that generate electricity utilizing a type of energy described in ORS 469A.025; or
> (b) Facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose.[12]

Thus, the numerator is limited to facilities generating energy with Renewable Portfolio Standard ("RPS")-complaint resource types or certain biomass facilities. Standalone, grid-connected storage cannot be counted in the numerator because it is not RPS compliant.[13] That said, a hybrid small-scale renewable facility that combines an RPS-complaint generating resource with a battery storage system charged only with the RPS-compliant energy should not be disqualified as an SSR due to its use of storage. The capacity of such a hybrid facility should be the capacity the facility

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12 ORS 469A210(2).

13 *See* ORS 469A.025 (listing RPS-compliant resource types and not including energy storage).

is able to deliver to the grid at any one time, consistent with treatment of such facilities under PURPA, and should not be the sum of the storage component and the renewable resource component within the facility.[14] This point could be clarified in Proposed OAR 860-091-0030(3)(b). In practice, the storage component of the SSR facility would not normally increase the capacity of the facility because storage is generally sized to be no greater capacity than the renewable resource's generation capacity.

However, as noted above, there is no textual basis to import the "generated" requirement into the denominator of the equation to exclude standalone storage as part of the utility's aggregate electrical capacity for purposes of calculating the 10% SSR capacity requirement.

b. <u>SSRs</u>: SSRs should be included in "aggregate electrical capacity."

The same plain text interpretation of "aggregate electrical capacity" applies equally to require inclusion of SSR resources themselves in the denominator. Nothing in the statute supports their exclusion. The statute plainly requires inclusion of the "aggregate electrical capacity" in the denominator, which clearly includes the small-scale renewable resources themselves.

In the informal rulemaking, the concern was expressed that without deducting the existing and future SSRs from the denominator, the utility would never be able to achieve full compliance because each new MW of SSR it adds to the system also increases its compliance target by 10%

[14] *See Solar Energy Indus. Ass'n v. FERC*, 154 F4th 863, 868-72 (D.C. Cir. 2025) (affirming Federal Energy Regulatory Commission's measurement of hybrid solar-plus-storage facility's "power production capacity" as the facility's "send out," or "maximum net output of electricity of AC power to the electrical grid," which was 80 MW AC and not the sum of its 160 MW DC solar array and 50 MW DC battery storage components); OAR 860-029-0010(32) (defining "Nameplate Capacity Rating", in relevant part, as the "instantaneous power production capacity of the completed Facility, expressed in MW (AC), and measured at the Point of Interconnection"); OAR 860-029-0010(20) (defining "Facility" as inclusive of associated storage devices).

of that new SSR resource(s). However, this is only a problem if the utility's objective is to achieve the minimum compliance in every single compliance year. This problem is adequately mitigated by the Proposed Rule's use of the utility's aggregate electrical capacity as of the beginning of the compliance year to prevent an increasing compliance target during the compliance year, which the Small Renewables Advocates support.[15] Once that point is adopted, the denominator is locked down for the compliance year, and the utility can easily achieve precisely 10% SSR capacity in that year or, if the utility elects, more than 10% to ensure compliance in future years too without further SSR acquisitions in those future years. Specifically, the utility can ensure it will achieve compliance in future years by simply acquiring the necessary buffer of SSR capacity in the first compliance year to overtake the relatively minor incremental compliance obligation the new SSR resources themselves create. Or the utility could acquire diminishing quantities of SSRs in the following years to ensure compliance with the new aggregate electrical capacity inclusive of SSRs at the end of each year.

In contrast, the Proposed Rule would substantially reduce the SSR requirement by removing all existing SSRs from the denominator even though the statute makes no suggestion that deduction should occur. The statute requires "at least 10 percent of the aggregate electrical capacity" be SSR resources, not "at least 10 percent of the aggregate non-SSR electrical capacity" or "at least 10 percent of the aggregate electrical capacity after deducting SSR capacity." Similarly, a load-based compliance target, like the RPS, does not typically reduce the compliance

[15] Proposed OAR 860-091-0020(3) states: "For purposes of establishing compliance with the standard in ORS 469A.210(2), an electric company shall calculate its aggregate electrical capacity based on a measurement taken 12 months prior to the date on which it is required to file a compliance report under OAR 860-091-0040."

obligation by deducting out the load that is served by 100 percent renewable resources. The reality is that the utility's aggregate electrical capacity is likely to move up and down from year to year due to the non-SSR acquisitions and retirements in any event, so the SSR requirement is going to be a moving target for that reason regardless of whether new SSRs are included in the denominator.

Additionally, as discussed at the public hearing, the Small Renewables Advocates oppose the recommendation made by PacifiCorp to extend the 12 month leeway in measuring aggregate electrical capacity to a 48-month measurement buffer. Locking down the measurement of aggregate electrical capacity at the beginning of the compliance year is a reasonable accounting mechanism within the Commission's discretion in implementing the SSR requirement. However, it is not reasonable to allow the utility to lock down the critical measure of aggregate electrical capacity four years before its SSR compliance filing. Extending the measurement cut-off date from 12 months to four years goes far beyond what is necessary to address the impact of the SSRs themselves in the denominator. Rather, PacifiCorp's proposal would create a new tool to weaken the SSR requirement by allowing substantial non-SSR acquisitions without corresponding SSR acquisitions, in direct contradiction of the language and intent of the statute.

2. Behind-the Meter Resources: The Proposed Rule Properly Excludes Behind-the-Meter Resources as SSRs in the Numerator.

The Small Renewables Advocates support the Proposed Rule's exclusion of behind-the-meter resources as SSR eligible in the numerator of the equation.[16] Notably, the Proposed Rule is consistent on this point by also excluding behind-the-meter resources from the utility's "aggregate

[16] *See* Proposed OAR 860-091-0030(3) ("Resources and project types that may not be used to comply with the standard in ORS 469A.210(2) include: (a) Behind-the-meter resources").

electrical capacity" in the denominator, which the Small Renewable Advocates also support.[17] In contrast, front-of-the-meter resources incorporated into a microgrid or other resilience project are appropriately included as eligible for SSR compliance under the Proposed Rule.[18] This distinct treatment of behind-the-meter resources was a decision made in the original rulemaking and was part of the careful balance that should not be relitigated in this clarifying rulemaking proceeding.

Specifically, the Commission expressly stated in the last rulemaking that net metering facilities are not to be counted as SSRs, as follows:

> Consistent with our determination that the numerator and denominator be calculated based on the utility's supply portfolio, we conclude that net-metered projects are not reasonably considered part of the utility's "aggregate electrical capacity." Net-metered projects exist exclusively on the customer side of the meter and, by definition, their generation nets against the customer's energy usage. Both utilities traditionally have viewed net-metered projects in their load-resource planning as decrements to load. As such, they are not considered part of the utility's resource portfolio. Rather, net-metered resources are generally viewed as customer-owned resources, reducing the utility's capacity needs, rather than a utility's resource for meeting load.[19]

The Commission's determination was correct and should not be revisited now. Net metering facilities are still understood as facilities that reduce the individual customer's load,[20] not as utility-scale generation resources. Indeed, revisiting the exclusion of behind-the-meter resources was intended to be outside of the scope of this rulemaking.[21]

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[17] Proposed OAR 860-091-0020(1)(b)(C).

[18] Proposed OAR 860-091-0030(2).

[19] *In the Matter of Small-Scale Renewable Energy Projects Rulemaking*, Docket No. AR 633, Order No. 21-464, at 13 (Dec. 15, 2021).

[20] *See* ORS 757.300(1)(d) (defining "Net metering facility" as facility generating renewable energy on customer's premises and "intended primarily to offset part or all of the customer-generator's requirements for electricity").

[21] Oregon Public Utility Commission, Public Meeting on June 24, 2025 (starting at 50:50).

Further, as has been pointed out repeatedly, the Commission's exclusion of net metering facilities is consistent with the legislative history of ORS 469A.210. One of the sponsors of HB 2021, Representative Helm, in a legislative floor speech just prior to the House's vote on the final version of the bill stated, among other things, that the intent was that the SSR standard could be satisfied with any RPS-eligible technology but not with net metered projects in ORS 757.300.[22] This legislative history informs interpretation of the statute and confirms the Commission's exclusion of net metering as an SSR resource is correct.[23]

PGE's attempt to diminish the significance of the legislative history supporting the exclusion of net metering facilities from the utilities' SSR capacity is unpersuasive. PGE does not dispute Representative Helm's statement, and PGE has identified no contrary statement in the legislative history expressing that net metering does count towards the utility's qualifying SSR capacity under the current version of ORS 469A.210.

PGE's legal arguments on this point are misplaced. PGE has cited *Brown v. SAIF Corp.*, as holding that "one legislator 'is an especially slim reed on which to rest' a reading regarding the meaning of a statute."[24] However, in *Brown*, the court explained that "one legislator provided not entirely consistent signals about the meaning of the terms at issue[,]" and other legislators,

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[22] House Chamber Convenes 06/25/2021 10:00 AM, Oregon State Legislature (October 4, 2021), available at https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2021061180&startStreamAt=3928.

[23] *See State v. Gaines*, 346 Or 160, 171-72, 206 P3d 1042 (2009) (holding that "a party is free to proffer legislative history to the court, and the court will consult it after examining text and context, even if the court does not perceive an ambiguity in the statute's text").

[24] PGE's Comments, Docket No. AR 674, at 9-10 (Sept. 11, 2025) (quoting *Brown v. SAIF Corp.*, 361 Or 241, 271, 391 P3d 773 (2017)).

legislative staff, and witnesses had also provided a contrary understanding of the terms at issue.[25] It was in that context that a single legislator's understanding was a "slim reed" upon which to rely.[26] Here, in contrast, PGE's portrayal of the Small Renewables Advocates' comments made regarding HB 4036 in 2016 is unhelpful to PGE.[27] Just because comments in 2016 may not have referenced behind-the-meter resources does not imply that the organizations, much less the legislators, would consider them eligible. Both in 2016 and now, behind-the-meter resources are designed to offset a single customer's load and are not eligible for the RPS, and so commenters likely did not feel the need to discuss them at all.

PGE has claimed that excluding net metered resources would create a disincentive for rooftop solar or virtual power plants. PGE's own efforts to create a virtual power plant ("VPP") program, as seen in their 2024 Distribution System Plan ("DSP"), disprove that assertion. Their VPP and flexible load pilot programs were created despite the increase of the SSR requirement in 2021 and the Commission's ruling in AR 622 that net metered resources were not eligible. Clearly, their exclusion did not create a disincentive to pursue those resources for PGE.

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[25] *Brown*, 361 Or at 268-73.

[26] *Brown*, 361 Or at 271. Despite PGE's argument, the Oregon Supreme Court has relied on a floor speech as a valid and persuasive form of legislative history. *See Ostlund v. Hendricks*, 289 Or 543, 549, 615 P2d 327 (1980) (relying on "committee discussions and Senate floor speech"). The Second Circuit case PGE relies upon is one where there were contradictory floor speeches, and thus it was logical not to rely on a floor speech. *See Butts v. N.Y. Dep't of Hous. Pres. & Dev.*, 990 F2d 1397, 1405 (2d Cir 1993) ("The Congressional Record is replete with floor speeches by Senators and Representatives stating either that the bill is intended to apply prospectively only or that it was meant to apply retroactively").

[27] *See* PGE's Comments, Docket No. AR 674, at 7-10 (Sept. 11, 2025).

In addition, whether or not net metered resources sometimes export power to the grid is irrelevant to the rules. Net metered resources are treated as load reduction and are not procured by the utility.[28]

Similarly, PacifiCorp's concern with the mechanics of the Proposed Rule's "behind-the-meter" exclusion overstates the confusion that should exist. PacifiCorp asserted at the hearing that: "the Commission may want to exclude the nameplate capacity from net metering but may not want to exclude a biomass generator that is behind the -- the customer's meter and sells its excess output as a qualifying facility."[29] In the Small Renewable Advocates' view, the type of biomass facility described by PacifiCorp could properly be considered a "front-of-meter" facility under the Proposed Rule and not an excluded "behind-the-meter" facility. Such a facility sells excess power to the utility at wholesale as a qualifying facility under PURPA, and it would need to be properly certified to make such wholesale sales with the Federal Energy Regulatory Commission.[30] Traditional net metering and behind-the-meter applications do not make such wholesale sales of power. However, the existence of such facilities that sell energy at wholesale from onsite generation does not justify proposals to enable net metering and other similar behind-the-meter applications from being counted as SSR capacity targeted by ORS 469A.210.

3. SSR RFPSs: The Commission should disregard PGE and PacifiCorp's assertions regarding their recent RFPs.

At the public hearing, both utilities pointed to the lack of success that they have had with their recent RFPs for small-scale or community-based resources as justification for certain of their

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28 *See* ORS 757.300(1)(d).

29 Public Hearing Transcript at 35, Docket No. AR 674 (Jan. 13, 2026).

30 *See generally* 18 CFR Part 292.201 et seq.

proposed edits to the Proposed Rule, or otherwise weakening the 2030 SSR compliance requirement.[31] The Small Renewables Advocates disagree with these assertions and strongly urge the Commission not to weaken the SSR standard in response to these arguments. In the Small Renewables Advocates' view, the utilities' current shortfall of SSR resources needed for compliance before 2030 is the result of their failure to engage in meaningful efforts to acquire such resources, despite the longstanding legislative directive that they do so, and the inability of qualifying facilities to sell their net output to Oregon utilities because of Oregon's policies and rates under PURPA in recent years.

With respect to the recent RFPs, neither utility has held an RFP that was truly designed to procure SSRs at the lowest cost available. None of these RFPs were reviewed and approved as reasonable by the Commission, and they had restrictions and limitations that are the likely cause of the low participation. PacifiCorp's 2025 Oregon Small-Scale Renewable Request for Proposals appears to have been limited to bids with maximum capacity of just 2 MW eligible for fast-track interconnection,[32] and it required an executed interconnection agreement or completed

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[31] *See* Public Hearing Transcript at 29, Docket No. AR 674 (Jan. 13, 2026) (PGE asserting: "We have had a CBRE RFO out for roughly a year. We will be putting our learnings and results into our just-beginning IRP process, but I can state here now that there is not, at this point, a large volume of generating resources that have come in through that RFO. These rules do not tell PGE where it can go to find the resources that the rules now bar from qualification or provide any additional help in that regard."); Public Hearing Transcript at 37, Docket No. AR 674 (Jan. 13, 2026) (PacifiCorp asserting: "Having conducted several versions of -- of a RFP for small-scale resources and looking at the cluster study queues that are currently studied and available, there is not a large volume of these resources available").

[32] PacifiCorp's 2025 Oregon Small-Scale Renewable Request for Proposals at 5 ("Minimum nameplate capacity of 100 kilowatts - 2 megawatts"), available at: https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/suppliers/rfps/2025-orssr-rfp/2025ORSSR_RFP_Main_Document2.pdf.

interconnection study consistent with the bid.[33] PacifiCorp's 2024 Small-Scale Renewable RFP would have been more broadly targeted at 3 MW to 20 MW SSR bids, despite containing other unreasonable restrictions, including excluding paired storage, excluding off-system bids, and requiring completed interconnection studies.[34] In any event, PacifiCorp inexplicably canceled that 2024 RFP.[35] PGE's reliance on its 2025 Community-Based Renewable Energy Request for Offers ("CBRE RFO") as evidence of the difficulty of complying with ORS 469A.210 is equally misplaced. PGE's CBRE RFO included very restrictive minimum bid criteria that severely restricted the bid pool, including exclusion of off-system bids and requirements that the facility be "paired with a dispatchable capacity product" and include specific community benefits.[36] While those project features may be laudable and justify a high score in such an RFP, PGE's imposition of those features as *minimum bid criteria* precludes that RFP from demonstrating the difficulty of acquiring SSR facilities, which are only required to be RPS-compliant and less than or equal to 20 MW in capacity.

In sum, neither utility has held an RFP targeted at a large pool of SSR bids, and their assertions regarding the difficulty of complying with the statutory requirement are unsupported.

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[33] *Id.* at 15.

[34] *See* 2024 Small-Scale Renewable Request for Proposals, Pre-Issuance Bidder Workshop Slide Show at Slides 4-5 (Jan. 24, 2024), https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/suppliers/rfps/2024-small-scale-renewable-rfp/2024_OSSR_RFP_Pre_Issuance_Bidders_Jan%20_2024.pdf.

[35] *In The Matter of PacifiCorp, dba Pacific Power, 2023 Integrated Resource Plan*, Docket No. LC 82, Order No. 24-297, App. A at 14-15 (Aug. 28, 2024).

[36] *See* https://portlandgeneral.com/about/who-we-are/resource-planning/cbre-procuring-clean-energy.

III. CONCLUSION

The Small Renewables Advocates thank Staff and the Commissioners for their thoughtful work in this expedited rulemaking and for considering stakeholder input on these important issues. We recommend that the Commission make the changes to the Proposed Rule described above in order to preserve the integrity of the SSR requirement and to ensure rule revisions do not water down the procurement intent of the statute.

Dated this 23rd day of January 2026.

Respectfully submitted,

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