



July 27, 2023,
Via Electronic Filing

Oregon Public Utility Commission
201 High St. SE, Suite 100
Salem, OR 97301-3398

Re: Docket LC 80: Round One Comments on Portland General Electric’s Clean Energy Plan and Integrated Resource Plan

The Green Energy Institute at Lewis & Clark Law School (GEI) appreciates the opportunity to provide the following comments on Portland General Electric’s (PGE or the company) combined Clean Energy Plan (CEP) and Integrated Resource Plan filed in docket LC 80.

GEI was pleased to see that PGE offered a response to our comments regarding its treatment of RECs under HB 2021.¹ While PGE reiterated its conclusion that HB 2021 does not require the retirement of RECs, a decision GEI recognizes will be resolved by the Commission in UM 2273, it failed to speak to our concerns about the Federal Trade Commission’s (FTC) Green Guides² or to address the eerily similar pre-enforcement letter from the FTC directed at Vermont Mountain Power.³

As a reminder, if associated RECs are not retired, PGE should proceed cautiously in how it represents its procurement plans in its CEP to avoid misleading customers who read the plan.⁴ Importantly, PGE may not make any public statement that either directly or by implication indicates it uses renewable energy to produce electricity for consumers.⁵ To prevent misleading inferences, the FTC requires proper disclosure or qualification. For example, “We generate renewable energy, but sell all of it to others.”⁶ Variations of this example are acceptable, but reasonable customers must be able to understand that the utility did not deliver “clean” or “renewable” electricity to them.⁷ Disclosures must be conspicuous and carry equal weight to the environmental claim they qualify.

¹ LC 80, PGE’s Response to Initial Comments 61 (May 31, 2023).

² 16 CFR § 260.

³ Petition to Investigate Deceptive Trade Practices of Green Mountain Power Company In the Marketing of Renewable Energy to Vermont Customers 4 (Sept.15, 2014), <http://assets.law360news.com/0577000/577562/FTC%20Petition%209%2015%20%281%29.pdf>.

⁴ See The Green Guides: Statement of Basis and Purpose, Fed. Trade Comm’n., 24, 218 <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguidesstatement.pdf> (last visited July 27, 2023); 16 CFR § 260.2.

⁵ 16 CFR § 260.15(d).

⁶ 16 CFR. § 260.15, Example 5.

⁷ The Green Guides: Statement of Basis and Purpose, Fed. Trade Comm’n., *supra* note 4, at 224.

The CEP must not deceive retail electricity consumers about what they are receiving under HB 2021. PGE will need to correct and refile its CEP to reflect this reality if the Public Utility Commission determines that PGE need not retire RECs associated with renewable energy it uses to comply with HB 2021.

Thank you for the opportunity to provide these comments.

Sincerely,

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Green Energy Institute at Lewis & Clark Law School