

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • avc@dvclaw.com
Suite 430

107 SE Washington Street
Portland, OR 97214

January 12, 2024

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY,
2023 Clean Energy Plan and Integrated Resource Plan.
Docket No. LC 80

Dear Filing Center:

Please find enclosed Comments on Staff's Report and Final Recommendations of the Alliance of Western Energy Consumers in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Anna V. Congdon
Anna V. Congdon

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 80

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	COMMENTS OF THE ALLIANCE OF
COMPANY,)	WESTERN ENERGY CONSUMERS
)	ON STAFF REPORT AND FINAL
)	RECOMMENDATIONS
2023 Integrated Resource Plan/Clean Energy)	
Plan.)	
_____)	

I. INTRODUCTION

Pursuant to the Administrative Law Judge’s April 20, 2023 Conference Memorandum in the above-referenced matter, the Alliance of Western Energy Consumers (“AWEC”) files these comments with the Oregon Public Utility Commission (“Commission”) on Staff’s Report and Final Recommendations regarding Portland General Electric Company’s (“PGE”) combined Integrated Resource Plan (“IRP”) and Clean Energy Plan (“CEP”) (collectively “IRP/CEP”).

II. COMMENTS

a. AWEC supports Staff’s recommendations regarding improvements to PGE’s modeling in the IRP/CEP

As previously stated, AWEC agrees with many of Staff’s conclusions regarding PGE’s portfolio modeling, and Staff’s overall conclusion that the Commission should not acknowledge the CEP.¹ In particular, AWEC echoes Staff’s concerns regarding a lack of supporting analysis regarding greenhouse gas (“GHG”) emission modeling.² AWEC therefore agrees with Staff that

¹ AWEC Response to Staff Comments at 1-2 (Nov. 21, 2023).

² Staff Report and Final Recommendations at 14-16 (Dec. 14, 2023) (“Staff Report”).

it is necessary for PGE to update its IRP/CEP with an hourly analysis of GHG emissions.³

AWEC appreciates Staff's careful attention to these issues.

b. The Commission should decline to adopt Staff's recommendation and not acknowledge PGE's CBRE Action Item.

Generally, AWEC agrees with Staff that PGE should prioritize the quantification of CBREs as a resource option.⁴ However, such quantitative analysis has yet to be performed. Because such an analysis is missing from PGE's IRP/CEP, it is unreasonable for PGE in this IRP/CEP to commit to acquire 66 MW of CBRE resources by 2026. For the reasons set forth herein, AWEC disagrees with Staff's recommendation that the Commission acknowledge PGE's CBRE Action Item.

i. Neither Oregon law nor the IRP/CEP requires PGE's acquisition of 66 MW of CBRE resources.

PGE's proposal to acquire 66 MW of CBRE resources through a CBRE-RFP by 2026 is not required by applicable law, is unsupported by PGE's IRP/CEP, and may result in unnecessary cost and risk for ratepayers. PGE's acquisition of 66 MW of CBRE resources is therefore discretionary. As such, AWEC urges the Commission not to adopt Staff's recommendation that the Commission "[a]cknowledge PGE's CBRE Action Item subject to the condition that PGE pursue the broader range of procurement actions that it identified in comments in this docket,"⁵ and not acknowledge PGE's IRP with respect to this item.

Under IRP Guidelines and Commission rules, PGE's Action Plan must achieve the "primary goal" of the IRP to select a portfolio of resources "with the best combination of expected

³ Staff Report at 29-30.

⁴ *Id.* at 10.

⁵ *Id.* at 11.

costs and associated risks and uncertainties for the utility and its customers.”⁶ Additionally, the CEP must demonstrate “continual progress toward meeting the clean energy targets” and “continual progress toward meeting...community impacts and benefits.”⁷ Although AWEC did not identify in the IRP/CEP an estimate of the emissions reductions associated with PGE’s proposed CBRE acquisition, it is unlikely that these resources will contribute materially to the Company’s emissions reduction requirements, given (among other things) their size relative to PGE’s overall portfolio.

Furthermore, PGE is already projected to meet the only statutorily required CBRE acquisition. ORS 469A.210 – “Goal for community-based renewable energy projects” – requires that “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 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.”⁸ PGE’s current aggregate capacity is being met with 6% of CBRE resources.⁹ PGE forecasts an increase of 167% in distributed solar, an

⁶ Docket No. UM 1056, Order No. 07-002 at 5 (Jan. 8, 2007).

⁷ OAR 860-027-0400(5)

⁸ The Staff Report identifies this statute as the “small-scale renewables” requirement, but this is a term that Staff itself has applied to this statute, not the term the Legislature gave it. This statute is explicitly named the “goal for *community-based renewable energy projects*” (emphasis added). Furthermore, the requirement in this statute extends beyond “small-scale renewables” in the sense that biomass facilities that can generate thermal RECs are eligible and may be larger than 20 MW. The Commission “must” be guided “on the text and context of the statute to determine legislative intent.” Docket No. UM 2273, Order No. 24-002 at 5 (Jan. 5, 2024).

⁹ PGE Resp. to AWEC DR 006.

incremental nameplate capacity of approximately 330 MW.¹⁰ Regardless of PGE’s proposed acquisition of 66 MW in 2026, it is highly likely that PGE will meet the 10% clean energy target in 2030. This demonstrates that PGE will be making continual progress toward the clean energy targets and meeting community impacts and benefits without an incremental CBRE acquisition.

Although Staff recognizes the lack of analytical support for CBRE modeling assumptions in PGE’s portfolio analysis, Staff nevertheless recommends acknowledgement, and further recommends that PGE pursue “the broader range of procurement actions that it identified in comments in this docket,”¹¹ namely a CBRE-RFP, retail programs, bilateral acquisitions, and request for information proceedings. As an example of PGE’s lack of lack of analytical support for its CBRE acquisition, PGE applied a 10 percent cost reduction to CBRE resources¹² and then admitted in response comments that “PGE agrees with AWEC that the 10 percent cost reduction value for CBRE resources is essentially arbitrary.”¹³ Staff seemingly agrees with AWEC on this issue, stating that PGE’s modeling of CBRE resources is “simplistic,” and found that “PGE’s analysis and inclusion of CBRE is a novel concept[.]”¹⁴ Nevertheless, Staff’s basis for acknowledgment is that it “believes that PGE has put forth a meaningful quantity” of CBRE resources.¹⁵ Staff offers no explanation as to why the acquisition of a “meaningful quantity” of CBRE resources is, alone, an action to be acknowledged. PGE could propose the acquisition of a “meaningful quantity” of any resource, but surely the Commission would not acknowledge that

¹⁰ See AWEC Opening Comments at 14 (July 27, 2023).

¹¹ Staff Report at 10-11.

¹² PGE IRP/CEP at 426 (March 31, 2023) (“IRP/CEP”).

¹³ PGE Response Comments to Round One Comments at 65 (Sep. 6, 2023).

¹⁴ Staff Report at 10.

¹⁵ *Id.*

acquisition without robust modeling demonstrating the economics of the acquisition. It is not clear why CBRE resources should be treated differently, particularly without a statutory mandate to acquire them beyond what PGE is already on track to acquire.

Rather, the only incremental requirement HB 2021 applied to CBREs is that PGE “[e]xamine the costs and opportunities of offsetting energy generated from fossil fuels with community-based renewable energy.”¹⁶ PGE has failed to meet this statutory obligation, as made clear by the modeling inadequacies described above, and agreed to by Staff.

To be clear, given the non-traditional nature of CBRE resources, AWEC acknowledges that it is likely very difficult to accurately model CBRE resources, as also recognized by other stakeholders.¹⁷ For that reason, AWEC does not oppose PGE evaluating actual CBRE resources through the avenues Staff recommends. AWEC’s opposition is to PGE acquiring these resources based on modeling that does not clearly demonstrate that they provide an economic benefit to customers. Thus, acknowledgment of an action plan item that indicates PGE’s intent to explore the availability and cost-effectiveness of CBRE resources is reasonable; but any subsequent acquisition of such resources should be based on a modeling of these resources that is consistent with the modeling PGE does for all other resources.

ii. Biomass resources must be considered for CBRE acquisitions under Oregon law.

As explained above, Oregon law does not require the acquisition of 66 MWs of CBRE resources that PGE proposes in its Action plan. If, however, PGE moves forward with a CBRE

¹⁶ ORS 469A.415(4)(d).

¹⁷ See Staff Report at 10 wherein Staff discusses “[s]everal stakeholders” comments regarding the optimal acquisition target and states that “[w]ithout more sophisticated modeling approaches, arguments about [sic] that get more specific about the appropriate CBRE level target are difficult to substantiate.”

acquisition anyway, AWEC renews its recommendation that biomass resources be considered. Oregon law specifies that biomass resources are by definition a CBRE resource.¹⁸ Disregarding the law, PGE removed biomass resources from the candidate list and only evaluated three proxy resources in the IRP.¹⁹ PGE ignored its statutory mandate in favor of complying with “stakeholder[...direction that biomass resources should not be considered as non-emitting resources.”²⁰ Stakeholder feedback is not binding authority and cannot be the basis for PGE’s decision to exclude biomass resources from the CBRE resource candidate list.

This is particularly true where the Legislature has spoken on this issue. By including biomass in the category of CBRE resources that can be used to meet PGE’s 10% mandate by 2030, the Legislature has expressed a clear intention and preference that these resources qualify as CBRE resources. By removing biomass resources from its CBRE acquisition, PGE is improperly substituting its judgment for that of the Legislature. The Commission should make clear that any acquisition of CBRE resources should consider biomass.

c. The Commission should condition acknowledgment of PGE’s resource strategy on PGE analyzing the cost of resource acquisitions in the context of HB 2021’s cost cap.

AWEC appreciates Staff’s recognition “that cost containment is an important aspect of planning and implementing HB 2021.”²¹ Staff concludes that “the topics explored in this IRP/CEP review adequately lay the groundwork for cost containment in near-term actions” and that “it

¹⁸ ORS 469A.210(2)(b).

¹⁹ PGE IRP/CEP at 154.

²⁰ PGE Resp. to AWEC DR 004.

²¹ Staff Report at 19.

would be premature to recommend that the Commission condition acknowledgment on further cost analysis in the near-term.”²²

To an extent that Staff is arguing that this IRP is not the appropriate place to determine whether PGE will exceed the 6% cost cap or not, AWEC does not necessarily disagree. However, AWEC notes that, if HB 2021’s cost cap is to be effective in protecting customers from what the Legislature considered to be unreasonable cost increases from PGE’s compliance with the law, it cannot long delay providing guidance on how and when the cost cap will be considered and implemented. To this end, AWEC recognizes and appreciates the Commission’s recent decision to open a phase II of Docket UM 2273 to review aspects of the cost cap. However, if PGE invests in resources to meet its HB 2021 compliance obligations, and the cost of those resources exceeds the 6% cost cap, then it will already be too late to protect customers. Unless the Commission is willing to effect a disallowance on the utility for the sole reason that the cost of the resources it has acquired exceeds the cost cap (an outcome AWEC does not believe would be in the public interest), then it must apply the cost cap in some way to the costs PGE expects to incur and before it incurs them. For this reason, AWEC continues to believe it is reasonable for the Commission to condition its acknowledgment of the IRP/CEP on PGE providing additional information on the expected costs of its resource acquisitions. AWEC is not prescriptive here on when and how this should occur, but options include the IRP Update or an RFP process.

III. CONCLUSION

For the reasons set forth herein, AWEC supports Staff’s recommendations regarding improvements to PGE’s modeling in the IRP/CEP. Additionally, the Commission should decline

²² Staff Report at 19.

to adopt Staff's recommendation and not acknowledge PGE's CBRE Action item because neither Oregon law nor the IRP/CEP requires PGE's acquisition of 66 MW of CBRE resources. Further, the Commission should make clear that under Oregon law, any acquisition of CBRE resources should consider biomass. Finally, the Commission should condition acknowledgment of PGE's resource strategy on PGE analyzing the cost of resource acquisitions in the context of HB 2021's cost cap.

Dated this 12th day of January, 2024.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Corinne O. Olson

Corinne O. Olson

107 SE Washington Street, Suite 430

Portland, Oregon 97214

(503) 241-7242 (phone)

(503) 241-8160 (facsimile)

coo@dvclaw.com

Attorney for the

Alliance of Western Energy Consumers