

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 80

In the matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

2023 Integrated Resource Plan and Clean
Energy Plan.

COMMENTS OF NEWSUN ENERGY
LLC ON STAFF REPORT AND
FINAL RECOMMENDATIONS

I. INTRODUCTION

NewSun Energy LLC (“NewSun”) submits these Comments on the Staff Report and makes its final recommendations on Portland General Electric Company’s (“PGE’s”) 2023 Integrated Resource Plan (“IRP”) and Clean Energy Plan (“CEP”). This is the first CEP ever to be reviewed by the Commission. The precedent set in this docket will shape the course of all future CEPs. It would not be an exaggeration to say that the success or failure of HB 2021 hinges on the decisions made by the Commission in this docket.

II. LEGAL STANDARD FOR CEP ACKNOWLEDGEMENT

The legal standards applicable to CEP acknowledgement differ from those applicable to traditional IRP acknowledgement. With respect to CEP acknowledgment, ORS 469A.420(2) provides that:

The Public Utility Commission shall acknowledge the clean energy plan if the commission finds the plan to be in the public interest and consistent with the clean energy targets set forth in ORS 469A.410. In evaluating whether a plan is in the public interest, the commission shall consider:

- (a) Any reduction of greenhouse gas emissions that is expected through the plan, and any related environmental or health benefits;
- (b) The economic and technical feasibility of the plan;

- (c) The effect of the plan on the reliability and resiliency of the electric system;
- (d) Availability of federal incentives;
- (e) Costs and risks to the customers; and
- (f) Any other relevant factors as determined by the commission.

ORS 415.415(2) further provides that “Commission shall ensure that an electric company demonstrates *continual progress* as describe in subsection (4) (e) of this section . . .” (Emphasis added). To be clear, this is higher substantive legal standard than acknowledgement of a traditional, stand-alone IRP.

The Commission may not acknowledge PGE’s CEP unless and until it can make factual findings based on the record before it showing that the CEP meets the criteria laid out in ORS 469A.415 and ORS 469A.420. This specifically includes, among other things, that the plan includes renewable energy projects that are “technically feasible,” and that demonstrate “continual progress” towards reaching the applicable carbon reduction targets. In adopting this legal standard, the Oregon Legislative Assembly tasked the Commission with ensuring that CEPs show an actual plan and clear path towards compliance. On its face, this applicable legal standard excludes projects that have no viable path to transmission, or that rely on future transmission projects that are decades away from completion.

III. ANALYSIS: PGE’S CEP FAILS TO MEET THE HEIGHTENED LEGAL STANDARD FOR CEP ACKNOWLEDGMENT

The CEP as submitted by PGE fails to meet the legal standard for acknowledgement under ORS 469A.415 and ORS 469A.420. As NewSun and others have commented in this docket, PGE’s CEP hinges upon “unlocking” out of state renewable opportunities that lack transmission for the foreseeable future. PGE has modeled two generic proxy options that include transmission to Wyoming or the Desert Southwest.¹ In modeling these projects, PGE relies on

¹ PGE 2023 IRP at 227-228.

the existence and availability of *future*, hypothetical transmission capacity that may never be built. PGE notes that these transmission products “*could be met* through transmission rights, partnership in projects *currently being developed, and/or additional development on a longer-term time horizon.*”² (Emphasis added). PGE’s caveat that transmission needs “could be met” through transmission rights or facilities that do not currently exist is telling. While PGE agreed to change certain modeling assumptions around these projects in response to comments in this docket, the record still does not contain any evidence that PGE has either obtained the needed transmission rights or otherwise replaced the proxy projects with ones that are technically feasible on a reasonable planning horizon.

While model-tinkering and further “study” of known transmission problems, without any proposed resolution of that problem, may have been an acceptable course of action in prior IRP dockets, it is not an adequate factual and legal basis for the Commission to acknowledge a CEP. The record before the Commission in this docket still shows that PGE still is heavily relying on out of state renewable generation projects that lack transmission for its CEP. Transmission cannot be built overnight. It is an extremely complicated, long lead-time endeavor that often ends in failure. Even in the best-case scenario, transmission upgrade projects can take seven to ten years to complete. A project that requires transmission, but that does not have transmission, is not “technically feasible.” It is like a car without wheels. No matter how good it looks on paper, it’s still not going anywhere.

PGE’s IRP/CEP also should not be acknowledged without examination of the impact of the Bonneville Power Administration (“BPA”) recent cluster study. On January 8, 2024, BPA published the 2023 Cluster Study (“Cluster Study”), which includes detailed results and its plan

² PGE 2023 IRP at 227.

to accommodate the transmission service requests (“TSR”), that have been filed with BPA. The Cluster Study provides a roadmap to determine what renewable projects may be technically feasible within the compliance horizon of HB 2021, and what projects are not technically feasible the foreseeable future. The Cluster Study includes about 17,000 MW of pending TSRs, including a significant number pointed to PGE’s system. Of those, only 78 MW were awardable (for transfer to Nevada). And ZERO MW were awarded service to PGE’s system (or PODs). Indeed, essentially every single request to PGE system will require multi-year, if not decade or multi-decade transmission projects. Further, the DC Intertie, one of the primary pathways to import power from the desert southwest, is entirely subscribed long-term (1900 of 1904 MW) in the northbound direction, by parties other than PGE. How will PGE use that which is unavailable?

In short, the Cluster Study confirms comments made on the record in this docket that the vast majority of projects with TSRs—to the tune of *thousands* of MWs—have no foreseeable path for transmission within the next seven to ten years. Thus, the pool of eligible renewable resources available to meet HB 2021 targets may be much smaller and geographically concentrated than anticipated in PGE’s CEP. There is currently not sufficient evidence in the record for the Commission to conclude whether and how the results of the Cluster Study might impact the technical feasibility and, therefore, continual progress of PGE’s CEP.

Meanwhile, PGE has largely ignored comments made in this docket from expert developers and stakeholders such as NewSun, OSSIA, CREA, and others to model meaningful alternatives to its transmission-less proxy plants. Such alternatives include major utility-scale solar, rooftop DERs, and EE on the Portland and Willamette Valley side of the mountains. The record shows that these alternatives can be developed—either on-system or with transmission—

at a scale that would be economically and technically feasible and would result in continual progress. Insulation can be installed in homes without building new transmission lines. Rooftop solar can be built in Portland without any new transmission lines. And there are over five thousand (5,000) megawatts of solar and storage interconnection requests now in the BPA Interconnection queue for the Willamette Valley area, since June 2023, which have not been considered at all, even though it is the most robust area of the entire BPA transmission system in Oregon. These stakeholder comments and recommendation as thus far fallen on deaf ears, and requests made on the record for PGE to model reasonable alternatives have been refused or ignored.

Furthermore, PGE repeatedly has shown technical inaccuracy (at best) or incompetence on the core technical issue of transmission pivotal to the entirety of this matter and the future of decarbonization for the state. This has included repeated instances of PGE misstating and mis-assessing BPA transmission policies and transmission availability. Former BPA Administrator Randy Hardy commented at a PGE IRP roundtable workshop call last year that PGE was overestimating BPA transmission capacity available by *thousands of MW* (when in fact there is essentially none). While Mr. Hardy's comments resulted in a radical reversal of position, this likely would not have occurred but for experts like Mr. Hardy calling it out. Even last week, at PGE's RFP approval public meeting (and in prior written comments), PGE literal described to Commissioners BPA transmission policies which were wholly inaccurate for Commissioners to rely on in critical decisions.

In light of PGE's demonstrable unreliability on the core topic of the availability of transmission for its proxy projects, and the clear testimony and comments in the record to the contrary made by actual experts, it would be arbitrary and capricious for the Commission to

conclude that PGE's CEP is economically and technically feasible. As an administrative agency subject to the Oregon Administrative Procedures Act, the Commission cannot ignore expert testimony in the record and blindly accept implausible and demonstrably impossible proposals (or at best very unproven and challenging and unlikely) made in a CEP.

Even more so for such a pivotal and critical IRP and CEP, which will set the stage for billions of dollars of renewable energy procurement over the next decade and the entire pathway to compliance (or non-compliance) with the State's duly enacted goals, policies, and laws requiring decarbonization. Ultimately, any CEP that complies with the law will require a mix of resources that includes technological and geographic diversity. But the mix should not be overly or exclusively reliant on that which is impossible, nor exclude that which clearly is possible and demonstrably timeline viable.

IV. RECOMMENDATIONS

In order for the CEP to meet the legal standards for acknowledgement, NewSun respectfully recommends that the Commission do the following:

- Require realistic, minimum timelines for every new transmission line proposed for reliance, consistent with the BPA Cluster Study.
- Require assumption of not less than 2035 ISD for any new major transmission line crossing the Cascades or any other material public lands crossing route.
- Require specific justifications for each assumption, including every PGE system transmission project required for service to PGE's system, which projects the BPA Cluster Study report itemized extensively in the report sections on Cross Cascades South, PGE sub-grid, South of Allston, and North of Pearl.

- Additionally, real-world minimum interconnection timelines need to be developed and presumed as well.

V. CONCLUSION

NewSun respects the fact that time is of the essence with respect to meeting the carbon reduction targets. This does not mean, however, hastily rubber-stamping a flawed CEP that relies on projects that are not technically feasible. As the Commission has noted in UM 2273, CEP acknowledgement will result in a final order that is subject to judicial review. In Order 24-002, the Commission concluded that “our existing CEP and IRP review processes are appropriate for making regular determinations that utilities are achieving continual progress at an appropriate pace of action and that *determinations on continual progress will be final orders subject to judicial review.*” (Emphasis added). It would be a waste of time and resources for stakeholders to have to endure a lengthy appeal process to enforce the legal criteria for CEP acknowledgement set forth in ORS 469A.415 and ORS 469A.420(2). These criteria can and should be enforced now, even if it means sending the CEP back to PGE to revise to meet the legal standards of technical feasibility and continual progress. In the long run, it will be faster to get CEP acknowledgement right the first time than it would be to take a years-long detour through the courts.

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Achieving the mandates set by HB 2021 hinges on the successful execution of this CEP. As explained above, PGE's CEP is not technically feasible and does not show continual progress towards meeting the HB 2021 carbon reduction requirements. Accordingly, NewSun urges the Commission to deny acknowledgment of the CEP unless and until PGE revises its CEP to reflect renewable projects with technically feasible transmission options consistent with the HB 2021 compliance horizon.

Dated this 12th day of January 2024.

Respectfully submitted,

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