

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1452

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	
OREGON)	
Investigation into Pilot Programs to)	SUPPLEMENTAL OPENING COMMENTS
Demonstrate the Use and Effectiveness of)	OF THE INDUSTRIAL CUSTOMERS OF
Volumetric Incentive Rates for Solar)	NORTHWEST UTILITIES
Photovoltaic Energy Systems)	
_____)	

I. INTRODUCTION

Pursuant to the March 29, 2010 Ruling of Administrative Law Judge (“ALJ”) Patrick Power, the Industrial Customers of Northwest Utilities (“ICNU”) submits these Supplemental Opening Comments to the Public Utility Commission of Oregon (“OPUC” or the “Commission”) regarding the implications of House Bill (“HB”) 3690 on this proceeding.

HB 3690 was enacted by the legislature during the pendency of this proceeding and modifies HB 3039,^{1/} which provides for the establishment of Solar Photovoltaic (“PV”) Pilot Programs. ALJ Power has authorized parties to file comments regarding the effects of HB 3690 on positions previously taken in UM 1452. Accordingly, ICNU offers commentary on the implications resulting from HB 3690. ALJ Power has also authorized commentary regarding current solar project installation costs, but ICNU offers no commentary on that subject at this time.

^{1/} HB 3039 is codified as ORS §§ 757.360 to 757.385.

II. COMMENTS

A. **HB 3690 Confirms the Fairness of Allocating Costs According to Customer Class Benefit and Pilot Participation**

In UM 1452 Closing Comments, ICNU took the position that the Commission should direct each utility to allocate pilot costs (in excess of the resource value) in proportion to customer class participation. ICNU Closing Comments at 2–8. ICNU continues to maintain this position, as it would be not be fair, just or reasonable to compel industrial customers to subsidize Solar PV Pilot Programs in disproportion to industrial class benefit.

HB 3690 modifies some of the statutory language discussed in ICNU’s Closing Comments; however, these modifications do not detract from ICNU’s position. In fact, the enactment of HB 3690 may well strengthen ICNU’s position.

HB 3039 § 2(10) provided:

All prudently incurred costs associated with compliance with this section are recoverable in the rates of an electric company. The costs associated with the resource value are recoverable in the rates of all retail electricity consumers. Prudently incurred costs in excess of the resource value are recoverable from customer classes eligible for the pilot programs described in subsection (1) of this section.

Former ORS § 757.365(10). HB 3690 eliminates the final two sentences from this subsection, leaving only the first sentence as a guide to the OPUC in establishing fair and reasonable cost recovery: “All prudently incurred costs associated with compliance with this section are recoverable in the rates of an electric company.” HB 3690 § 2(10).

The primary import of this modification is the removal of an express directive that allowed cost recovery “from classes *eligible* for the pilot programs.” *Id.* (emphasis added). Hence, the legislature removed any conceivable sanction in the statute for basing an allocation of

costs simply upon correlation to participation eligibility.^{2/} In addition, the sentence that mandated recovery for *all* retail electric consumers is also eliminated. Thus, the Commission should now allow for Solar PV Pilot Programs cost recovery in the most equitable manner available. Cost recovery for each customer class should, therefore, directly equate to the pilot benefit enjoyed by each class, *i.e.*, measured by the actual participation of each class.

While ICNU’s specific comments regarding the deleted sentences of ORS § 757.365(10) are now moot, the fundamental rationale supporting proportionate cost allocation is unchanged. Indeed, ICNU had alleged that residential and commercial classes were intended to be the near exclusive beneficiaries of the Solar PV Pilot Programs, thereby justifying the majority of cost allocation to these classes. ICNU Closing Comments at 4–5. The legislature has now validated ICNU’s position by: a) expressly adding sections which define “residential” and “small commercial qualifying systems;” and b) modifying the statute to require a 75% design goal “for capacity deployed by *residential* and *small commercial* qualifying systems.” HB 3690 §§ 1(4) and (7), 2(6) (emphasis added).

Likewise, HB 3690 does not adversely affect any consideration of the ease with which utilities will be able to segregate resource value costs from incentive costs when separately allocating recovery. ICNU Closing Comments at 5–8. HB 3690 § 3(1) will delay Solar PV Pilot Programs establishment from April 1, 2010, to July 1, 2010. This delay will probably result in a corresponding delay of the July 1, 2010 date by which each utility must file an estimate of the 15-year levelized resource value. Proposed OAR § 860-084-0370.

^{2/} This modification also supports ICNU’s contention that OAR § 860-084-0380(2) should be adopted as proposed, *i.e.*, without eliminating the requirement that utilities must estimate “the rate impact for each customer class *of participation* in its pilot program.” (Emphasis added); *see* AR 538, ICNU Closing Comments at 2. The position of Portland General Electric Company (“PGE”)—that pilot cost recovery should be allocated uniformly, in total disregard to proportionate customer class participation—cannot easily be squared with the deletion of the final two sentences from ORS § 757.365(10). *See* PGE Opening Comments at 6.

Nevertheless, the logic behind ICNU's position remains unchanged—utilities will have already calculated resource values well before cost recovery occurs, so there is no burden in requiring utilities to recover resource value costs *separately* from incentive costs, i.e., the costs exceeding resource value.

B. Staff's Capacity Allocation Now Conforms with the Modified Statute

ICNU opposed Staff's proposed allocation of pilot capacity as contrary to HB 3039. ICNU Closing Comments at 8–9. The modifications to the statute implemented by HB 3690, however, render Staff's proposed allocation more conformable to statute.

Specifically, HB 3690 § 2(6) provides that the OPUC must establish Solar PV Pilot Programs designed to attain a 75% goal “for capacity deployed by residential and small commercial qualifying systems.” Staff's proposed capacity allocation earmarks 80% to these two groups. Staff Opening Comments at 25, “NEW” Table 3. Moreover, the statute permits the Commission to recover costs on the basis of participation; 80% is the minimum the Commission should consider for recovery from residential and small commercial customers.

III. CONCLUSION

ICNU appreciates the opportunity to submit these Supplemental Opening Comments and respectfully reiterates its request that the Commission order each electric company to separately recover resource values and incentive costs, and to allocate recovery of incentive costs across customer classes in proportion to pilot participation.

Dated this 9th day of April, 2010.

Respectfully submitted,

/s/ Melinda J. Davison

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April 9, 2010

Via Electronic and U.S. Mail

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of THE PUBLIC UTILITY COMMISSION OF OREGON
Investigation into Pilot Programs to Demonstrate the Use and Effectiveness of
Volumetric Incentive Rates for Solar Photovoltaic Energy Systems.
Docket No. UM 1452

Dear Filing Center:

Enclosed please find the original and one copy of the Supplemental Opening
Comments of the Industrial Customers of Northwest Utilities in the above-referenced matter.

Thank you for your assistance.

Sincerely yours,

/s/ Martin H. Patail
Martin H. Patail

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Supplemental Opening Comments of the Industrial Customers of Northwest Utilities upon the parties on the service list, shown below, by causing the same to be sent by electronic mail to all parties, as well as, deposited in the U.S. Mail, postage-prepaid, to parties which have not waived paper service.

Dated at Portland, Oregon, this 9th day of April, 2010.

/s/ Martin H. Patail

Martin H. Patail

Waive Paper Service TEDDY KEIZER RAYMOND P NEFF DANIEL WELDON CABLE HUSTON BENEDICT HAAGENSEN & LLOYD, LLP RAYMOND S KINDLEY CITIZENS' UTILITY BOARD OF OREGON GORDON FEIGNER ROBERT JENKS G. CATRIONA MCCRACKEN DEPARTMENT OF JUSTICE JANET L. PREWITT ECUMENICAL MINISTRIES OF OREGON JENNY HOLMES ECUMENICAL MINISTRIES OF OREGON KATHLEEN NEWMAN ENERGY TRUST OF OREGON KACIA BROCKMAN JOHN M VOLKMAN ENVIRONMENTAL LAW ALLIANCE WORLDWIDE JENNIFER GLEASON ESLER STEPHENS & BUCKLEY JOHN W STEPHENS IDAHO POWER COMPANY RANDY ALLPHIN DAVE ANGELL CHRISTA BEARRY KARL BOKENKAMP JEANNETTE C BOWMAN JOHN GALE BARTON L KLINE JEFF MALMEN LISA D NORDSTROM GREGORY W SAID	teddy@goteddygo.com; teddy1a@aol.com rpneff@efn.org danweldon@bctonline.com rkindley@cablehuston.com gordon@oregoncub.org bob@oregoncub.org catriona@oregoncub.org janet.prewitt@doj.state.or.us jholmes@emoregon.org knewman@emoregon.org kacia@energytrust.org john.volkman@energytrust.org jen@elaw.org stephens@eslerstephens.com rallphin@idahopower.com daveangell@idahopower.com cbearry@idahopower.com kbokenkamp@idahopower.com jbowman@idahopower.com rgale@idahopower.com bkline@idahopower.com jmalmen@idahopower.com lnordstrom@idahopower.com gsaid@idahopower.com
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