

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1746

In the Matter of)
)
OREGON PUBLIC UTILITY COMMISSION) PORTLAND GENERAL ELECTRIC'S
Legislative Report HB 2941 Solar Program) COMMENTS
Designs and Attributes)

Principles

While our first round of comments also included these principles, we repeat them as a foundation for developing the framework of a community solar program:

- A community solar program should minimize cost-shifting from community solar participants to nonparticipants to the greatest extent practicable.
- The basis for determining a participating customer's bill credit, if applicable, should be the resource value of solar (RVOS) to the utility system, defined as the utility system's avoided costs due to solar, net of the utility system's incremental costs due to solar.¹ PGE anticipates that the referenced RVOS will be dependent on the context in which it is applied, for example, whether the utility is resource sufficient and not in need of Renewable Energy Credits (RECs).
- Participating customers should have a financial stake in the community solar project.
- Ownership, development, or operation of a community solar facility, including the management of a community solar program should be made available to all market participants, including utilities.
- Participation in a community solar program should be voluntary.

Legislative Intent

The Oregon legislature passed HB 2941 on June 25, 2015. Section 1 of the law requires utility voluntary programs to offer customers options like Portland General Electric's (PGE) new

¹ See PGE Comments on July 20, 2015, UM 1716 (Resource Value of Solar)

Green Future Solar renewable portfolio program. Section 2 directs the Oregon Public Utility Commission (OPUC) to make recommendations to the legislature on existing and future solar programs, recommending the most effective, efficient, and equitable approaches to incentivizing solar development and use. Finally, section 3 of the bill requires the OPUC to hold a proceeding, including public comment, to examine a range of community solar programs and attributes to allow individual customers to share in the costs and benefits of solar facilities.

All of these sections must be read in context with each other in order to understand the legislative intent. While the UM 1746 docket itself is focused only on carrying out the specific requirement of section 3, it must do so with the other interests of the legislature, expressed in the other sections of the bill, in mind. The bill was introduced as a community solar bill, worked as a community solar bill, and passed as a community solar bill. PGE's new Green Future Solar program is therefore a community solar program, as understood by the legislature. To the extent that the PUC must examine a "range" of community solar programs that share in the "costs and benefits of solar facilities," PGE's program must be included in that consideration. Moreover, in that the OPUC will soon evaluate programs that incentivize the development and use of solar photovoltaic systems in the most "effective, efficient and equitable approach" it would make little sense to recommend community solar programs within this docket that would not then pass muster in future dockets.

During the legislative session, stakeholders clarified the intent of having an OPUC proceeding on community solar. Many advocates testified that because access to solar is generally limited to customers with suitable roof space and the economic means, solar access should be made available to those customers who rent, live in multi-family buildings, lack suitable roof space, or lack the economic means.

Though PGE agrees with the majority of Staff's characterization of the legislature's intent, we believe that it is more constructive to provide the legislature with a set of preferred attributes, as specified in section 3(3), of different community solar designs, including those provided by voluntary programs offered by utilities, and let the legislature establish the policy of the state regarding community solar. While the legislature provided a list of attributes for different designs, it is clear that not all designs must include all attributes. Thus, not all community solar designs must include a bill credit, just as not all designs must include ownership of the facility by subscribers.

Finally, we note that the legislature wanted the designs to ensure that individual customers could share in the costs and benefits of solar facilities. PGE raised this language in the workshop and questioned whether risk was intended as well as costs. PGE is reluctant to endorse attributes of community solar designs that serve to shift either the development risk or production risk to nonparticipating customers. To the extent that subscribers share benefits, they must also share costs and risks associated with the facility.

Definition for Community Solar in Oregon

During the August 11th OPUC workshop, a participant mentioned the ongoing work of the Solar Electric Power Association (SEPA) to develop a standard definition of community solar. In fact, PGE has been and continues to serve as a member on the SEPA committee working on this definition. PGE is thus satisfied with basing an Oregon definition of community solar on the SEPA work. SEPA's working definition is: "a program through which individual members of a community have the opportunity to 'buy in' to a nearby solar installation. As part of the buy-in, customers typically receive a proportionate share of the financial or energy output

of the system.”² But the definition should be read carefully, as while bill credits are certainly one way to share the financial or energy output of the system, there are other ways, such as through REC crediting, to account for the energy output of the system.

Any definition of community solar should be broad enough to encompass multiple approaches to solar deployment that connect with community stakeholders rather than being limited to a specific community solar design. There can be many roles involved with a community solar facility and program including:

- Developer of a community solar facility;
- Owner of a community solar facility;
- Operator and maintainer of a community solar facility;
- Manager of a community solar program, i.e. the party developing and marketing the community solar program to potential customers;
- Administer of bill credits on a participating customer’s utility bill.

Northwest & Intermountain Power Producers Coalition and the Joint Comments of Renewable Advocates unnecessarily limit community solar programs to those owned and operated by non-utility third-parties. The definition should allow for all market participants, including utilities to assume any one or any combination of the roles involved with a community solar facility and program. Staff’s suggestion that there was general agreement that there “should be some economic benefit for subscriber” is also too limiting a definition and possibly not justified by the ownership structure of the community solar facility.

² See *Expanding Solar Access Through Utility-Led Community Solar*, September 2014, Solar Electric Power Association, executive summary, page 4.

Eligibility/Limitations

Potential Characteristics

- A community solar facility, to qualify as such, should be located in the same utility service territory as the customers it serves. “Community” solar projects ought to reside in the same “community” as the participating customers. Defining an electric customer’s “community” as its utility service territory makes sense in this context, and helps lower the administrative burden of trying to match possible participants with projects in their particular county or neighboring county.
- A community solar facility should be both connected at the distribution-level and no larger than 2 MW, given that a generator above the 2 MW threshold falls under PGE’s partial requirements service, tariff Schedule 75. These constraints help more closely align community solar projects with the rooftop systems they are intended to replicate/mimic.
- PGE also notes that there are land use limitations on solar facilities located in exclusive farm use zones that may also serve to limit the size of facilities.

Special Carve-Outs

- The determination of special carve-outs is a policy matter for the legislature. If such carve-outs are established, any subsidies and/or incentives associated with the carve-outs should not be borne by nonparticipating utility customers through their electric rates.

Subscription Sizing

- A customer’s subscription for community solar energy/capacity should not exceed their average annual load.

Contract Terms

Potential Characteristics

- PGE does not see the need to limit contract structures for a community solar program. There should be flexibility for the developer of community solar facility. However, we note that contract terms with customers should not exceed the effective useful life of the community solar facility.
- Contracts should include provisions that mitigate risks to utilities, their customers, and the reliability to the electric grid.
- PGE is also concerned about the marketing of these contracts, promises made in the contracts and enforcement of contract provisions. Customers could be forced to be making claims against well-funded, experienced developers and be at a significant

disadvantage should they need to make a claim. Recommendations to the legislature could include recommendations as to which state agency should have the authority to review the contract terms and regulate or enforce claims made against the subscriber organization.

Transfers and Termination

- Participating customers should be eligible to transfer their agreements within their given community (i.e. service territory if defined as such).
- A penalty for early termination should be determined by the contracting entity of the community solar facility. However, caps on such penalties could be determined by the consumer protection entity, as outlined by the OPUC for utilities or the legislature for non-utility third-parties.

Subscription Pricing

How is it calculated?

- Price should be set by negotiations between participants and their community solar program manager, which may be the utility.
- Price should include solar resource cost plus cost and risks of administering the program.

Design

- Prices should be based on energy, capacity, or a combination, depending on the program.
- The rate should be transparent so as to include costs and benefits.

Bill Credits

Rate

- The compensation rate for generation from a community solar facility should not be greater than a rate based on the RVOS determination, which considers the solar generation's cost and benefits to the utility system. Bill credits should not serve to mask an additional incentive provided to the participant for joining but should be rationally related to the energy produced by the community solar facility.
- Because the OPUC's community solar report is due to the legislature on November 1st before a final determination in the RVOS docket, the rate should be determined by the Commission and be informed by the process that occurred during OPUC Docket No. UM 1559.

- Bill credits are not fundamentally a necessary attribute of all community solar programs. Other methods include providing a payment directly to the subscriber organization and having that organization provide a direct payment to the subscribers on the basis of a membership share.

Minimizing Cost-Shifts

- Participating customers should be credited the RVOS for their respective solar generation to avoid potential cost-shifts to non-participating customers (net-metering at the retail electric rate is not appropriate).
- Nonparticipating customers should not bear any cost associated with ongoing program management of the community solar facility, or actual undersubscription or the risk of undersubscription to a community solar facility. This treatment of nonparticipating customers is similar to how costs are borne amongst stakeholders under utility-offered renewable portfolio options programs.
- If incentives are deemed important to lower the potential costs of community solar programs to participating customers, those incentives should not come from nonparticipating customers via their electric bill. Such an approach helps maintain the long-term sustainability of community solar programs adopted in Oregon.

Risks

Project Performance

- The risk of project performance should be borne by participating customers and the community solar facility owner/developer/operator, which could be a utility.
- Performance guarantees may be included in contracts similar to Standard Qualifying Facility Power Purchase Agreements.
- Nonparticipating customers should not bear any risk associated with project performance.

Undersubscription

- The risk of undersubscription should be borne by the community solar program manager.
- Nonparticipating customers should not bear any risk associated with undersubscription.

Billing Errors

- The Commission should exempt PGE from billing accuracy requirements for the provision of bill crediting services to non-utility customer third-party community solar program manager.

- Compensation for utility administrative costs should be sufficient to address risk associated with administration of any community solar program involving bill credits. Alternatively, developers should indemnify and hold the utility harmless from such risk.

Consumer Protection

- Since the PUC does not have authority over non-utility solar developers, the legislature should make explicit the consumer protections with respect to non-utility third-party community solar contracts, including potentially a specific enumeration of enforcement authority to the Oregon Department of Justice under the Unfair Trade Practice Act.

These comments are respectfully submitted by:

/s/
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