



May 10, 2022

Via electronic filing

Oregon Public Utility Commission

Attn: Filing Center

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**Re: UM 2225 Investigation into Clean Energy Plans
Comments of Renewable Northwest on Planning Framework Straw Proposal**

Renewable Northwest (“RNW”) appreciates the opportunity to comment on the Planning Framework Straw Proposal (“Proposal”) presented by Oregon Public Utility Commission (“Commission”) Staff on April 4, 2022. Staff’s Proposal provides a thoughtful approach to how the Commission can work to implement Oregon’s 100% Clean Electricity for All law, HB 2021 (2021). In these comments, we set forth our understanding of the planning framework established by HB 2021 and respond to several elements of Staff’s Proposal, which we generally support.

I. Planning Framework

HB 2021 is a sweeping piece of legislation that sets forth both broad policy goals and specific requirements that play out at the Commission (among other provisions). While each of the policy statements is important, we wish to highlight one in particular: after HB 2021, “[i]t is the policy of the State of Oregon ... [t]hat retail electricity providers rely on nonemitting electricity in accordance with the clean energy targets set forth in section 3 of this 2021 Act **and** eliminate greenhouse gas emissions associated with serving Oregon retail electricity consumers by 2040.”¹ Thus the law makes clear that it is providing both a mechanism for achieving 100% clean electricity **and** a broader policy mandate to take whatever steps are necessary to eliminate emissions from Oregon’s electricity sector.

The mechanism HB 2021 establishes for achieving 100% clean electricity is a combination of mandatory emission-reduction targets -- 80% below a statutorily prescribed baseline by 2030, 90% by 2035, and 100% by 2040 -- and a new planning mechanism -- the Clean Energy Plan --

¹ HB 2021, Section 2(1) (emphasis added).

to determine how a utility will meet its targets.² These comments will focus on the statute’s approach to and requirements for Clean Energy Plans, or “CEPs.”

On the question of how a CEP should be developed, the statute is clear on several points. First, it is to be developed by the relevant utility (“An electric company shall develop a clean energy plan for meeting the clean energy targets set forth in section 3 of this 2021 Act ...”).³ Second, the utility shall develop the plan “concurrent with the development of each integrated resource plan.”⁴ Although development is concurrent, filing may occur either as a part of the integrated resource plan (“IRP”) or as a separate document submitted to the Commission within 180 days after IRP filing.⁵

CEPs must contain several elements: they must demonstrate how a utility will achieve the law’s greenhouse gas-reduction targets, they must include annual goals for progress including acquisition of clean energy and demand-side resources, they must examine resiliency opportunities and community-based renewable energy, they must maintain reliability and affordability, and they must demonstrate continual progress toward achieving the law’s targets -- “including demonstrating a projected reduction of annual greenhouse gas emissions.”⁶ This last point -- continual progress -- is particularly important, as the statute separately mandates that “the Commission **shall** ensure that an electric company demonstrates continual progress as described in subsection (4)(e) of this section and is taking actions **as soon as practicable** that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”⁷ Substantively, the focus of a CEP is on “[a]ctions and investments” that “may include the development or acquisition of clean energy resources, acquisition of energy efficiency and demand response, including an acquisition required by ORS 757.054, development of new transmission and other supporting infrastructure, retirement of existing generating facilities, changes in system operation and any other necessary action.”⁸

The action the Commission must take in response to CEPs is similarly clear in the statute, which also expressly leaves room for Commission discretion in implementation. Most fundamentally, the “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 section 3 of this 2021 Act.”⁹ The statute directs the Commission to consider several factors in deciding whether to acknowledge a plan: greenhouse gas emission reductions “and any related environmental or health benefits,” “economic and technical feasibility,” “reliability and resiliency,” federal incentives, customer costs and risks, and “[a]ny other relevant factors as determined by the

² HB 2021, Sections 3 & 4.

³ HB 2021, Section 4(1).

⁴ *Id.*

⁵ HB 2021, Sections 4(2) (Plans must be submitted to the Commission) & 4(3)(a) (details of submission requirement).

⁶ HB 2021, Section 4(4).

⁷ HB 2021, Section 4(6) (emphasis added).

⁸ HB 2021, Section 4(5).

⁹ HB 2021, Section 5(2).

commission.”¹⁰ Again, this section of HB 2021 establishes that the Commission must consider compliance with the law’s mandatory greenhouse gas emission-reduction targets **and** the “reduction of greenhouse gas emissions” as part of its assessment of the public interest -- as well as any other factor the Commission determines is relevant to the public interest.

The statute intentionally does not include a compliance mechanism. Instead, the statutory framework builds on the existing regulatory structure whereby a utility develops an IRP subject to Commission acknowledgement,¹¹ followed by an RFP to acquire resources aligned with needs identified in the IRP subject to Commission acknowledgement,¹² all of which ultimately informs a rate case whereby the Commission determines what expenses undertaken by a utility are recoverable in rates.¹³ The CEP, which is subject to acknowledgment, will -- like an IRP -- influence procurement decisions¹⁴ and affect but not determine what expenses are recoverable in rates. Expenses inconsistent with HB 2021’s requirements and a utility’s acknowledged CEP may be disallowed in rates and borne instead by a utility’s investors.

II. Comments on Staff’s Proposal

Staff’s Proposal seeks to answer how CEPs will fit into the overall framework that currently governs utility planning and procurement. RNW supports Staff’s efforts “to leverage existing practices where possible and to provide clear paths for developing a CEP concurrently with an IRP in a manner that satisfies the requirements of HB 2021.”¹⁵ As an organization that interacts with resource planning efforts in Oregon and other northwestern states, RNW supports Oregon’s IRP process as particularly robust in terms of allowing and accounting for stakeholder engagement and in terms of Commission review. That said, HB 2021 contemplates involving additional stakeholders, additional plan elements, and even an additional plan in Oregon’s regulatory framework. RNW agrees with Staff that building on the existing resource planning process while accounting for these additional voices, considerations, and instruments is an ideal way to implement HB 2021 both timely and well. We offer feedback on specific elements of Staff’s Proposal below.

1. CEP Pathways

Staff has proposed two pathways for development and review of CEPs, to reflect the two options presented in the statute: including a CEP in or with a utility’s IRP, or filing it separately after the IRP. RNW agrees with Staff’s characterization of both pathways and strongly supports Staff’s

¹⁰ *Id.*

¹¹ Oregon Public Utility Commission, Order No. 07-002 at 24 & Order No. 89-507 at 7.

¹² OAR 860-089-0500(2).

¹³ See Order No. 07-002 & Order No. 89-507, *supra* n.11. Acknowledgement is a determination of reasonableness, and “just and reasonable rates” are the touchstone of the rate-making process, *see* ORS 757.020, but acknowledgment decisions are just factors in rate-making decisions -- they do not predetermine what costs are prudent and ultimately recoverable in rates.

¹⁴ HB 2021, Section 4(5).

¹⁵ Staff’s Proposal at Attachment A.

identification of Path 1 as the preferred approach to procedural compliance, provided there are clear avenues for broader stakeholder engagement in the planning process. Oregon's ramp to compliance with HB 2021's 80%-by-2030 requirement is a steep one, and Path 1 offers a relatively streamlined approach that best leverages existing practices and allows for introduction of new processes including enhanced public participation. The challenge will be to sufficiently balance a robust stakeholder process that considers the new elements as outlined in HB 2021 (such as resilience and community benefits and impacts) with a short timeline for bringing new non-emitting electricity resources online. For that reason, we encourage Staff and the Commission to focus on keeping CEP process timelines tight.¹⁶

We understand that Path 2 is responsive to the options set forth in HB 2021, and we agree that Staff's proposal gets the substance right as to how the IRP, CEP, and procurement decisions should interact. That said, we also encourage Staff and the Commission to maintain Staff's preference for Path 1. Renewable Northwest's experience with the new planning device of Clean Energy Implementation Plans ("CEIPs") in Washington, required by that state's Clean Energy Transformation Act, indicates that separating the IRP from the CEP has the potential to cause significant confusion. The Washington Utilities and Transportation Commission's review of the first round of CEIPs may help to address this confusion. But in the meantime, it is possible for a utility to present analysis in its IRP, fail to address accurate stakeholder feedback, then carry over that flawed analysis to the CEIP on the grounds that the statute requires consistency between the IRP and CEIP. In Oregon, where the IRP review is already quite robust, it could create similar confusion to eliminate or scale back the IRP-acknowledgement process, but it could also create unnecessarily duplicative work on the part of utilities, Staff, stakeholders, and the Commission, to review an IRP for acknowledgement using the current process and then, six months later, review a CEP also for acknowledgement. For these reasons, we reiterate our preference for Path 1.

As to how best to integrate Distribution System Planning ("DSP"), RNW agrees that DSP should both affect and be affected by bulk-level planning. That said, because DSP itself is an evolving process, it is unclear exactly how that interaction should work. Rather than extending the initial CEP process, we encourage Staff to allow sufficient flexibility to amend or revisit procedures and processes after the first round of CEPs in order to incorporate any lessons learned. This approach appears to be consistent with Staff's Proposal in regards to potential future changes in the DSP or IRP processes and how these may impact CEPs. Too much delay may jeopardize utilities' ability to meet HB 2021's mandatory 2030 targets.

2. Staff's Work Plan

Renewable Northwest supports Staff's proposed Work Plan beyond the CEP compliance pathways. We encourage Staff and the Commission in providing initial direction at the May 31,

¹⁶ To that end, it may also be worthwhile to consider in this process whether some streamlining of the Commission's competitive bidding rules at OAR 860-089 would be appropriate.

2022 public meeting to support the Work Plan but to leave room to address additional substantive and procedural questions that may arise as the HB 2021 implementation process plays out. Establishing requirements for CEPs will involve a lot of balancing: between getting the first Plans done in time to achieve the 2030 targets and allowing room for more robust integration of concepts that are new to the Commission into future Plans; between keeping future Plan development and review processes efficient in order to achieve the Commission’s mandate of ensuring “actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions” and building in robust and meaningful opportunities for engagement and influence by a broader pool of stakeholders than has traditionally participated in utility resource planning; between traditional considerations of providing reliable service at the least cost and risk to customers and new considerations of decarbonization, resiliency, and community benefits and impacts; and between what is mandatory in HB 2021 and what is subject to Commission discretion. Being too prescriptive at this early point could make it more challenging to achieve that balance. Following the Work Plan proposed by Staff should allow Staff, stakeholders, and the Commission the time and space to identify a balance that reflects the requirements and policy set forth in HB 2021 and that is workable to all parties.

III. Conclusion

Renewable Northwest appreciates Staff’s development of the Proposal, including the HB 2021 implementation Work Plan and CEP compliance pathways. We agree with Staff’s analysis of the two identified compliance pathways and support Staff’s preference for Path 1, which builds on the existing IRP process. We encourage the Commission to bear in mind both the need for an efficient process and the important work of building in new opportunities for broader stakeholder feedback and influence. We support some degree of flexibility in the first round of CEPs in order to enable swift action to meet HB 2021’s ambitious decarbonization timeline, but encourage the Commission to bear in mind the importance of pairing a well-paced process with robust stakeholder engagement. Finally, we very much look forward to continued engagement with the HB 2021 implementation process.

Respectfully submitted this 10th day of May, 2022,

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