



June 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 Roadmap Acknowledgement Questionnaire**

Renewable Northwest (“RNW”) appreciates the opportunity to comment on the Roadmap Acknowledgement Questionnaire (“Questionnaire”) filed to docket UM 2225 by Oregon Public Utility Commission (“Commission”) Staff on May 20, 2022. The issues raised in the Questionnaire are central to achievement of the binding elements of HB 2021:

A retail electricity provider **shall** reduce greenhouse gas emissions ... by the following targets:

- (a) By 2030, 80 percent below baseline emissions level.
- (b) By 2035, 90 percent below baseline emissions level.
- (c) By 2040, and for every subsequent year, 100 percent below baseline emissions level.¹

Then “[a]n electric company **shall** develop a clean energy plan for meeting the clean energy targets”² and “**shall** submit the clean energy plan to the Public Utility Commission and the Department of Environmental Quality.”³ At that point, “[t]he 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,”⁴ and “**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.”⁵ In deciding whether a plan is consistent with the public interest (one of two prerequisites for acknowledgement), “the

¹ HB 2021 (2021), section 3(1) (emphasis added).

² *Id.*, section 4(1) (emphasis added).

³ *Id.*, section 4(2) (emphasis added).

⁴ *Id.*, section 4(6) (emphasis added).

⁵ *Id.*, section 5(2) (emphasis added).

commission **shall** consider” a number of factors addressed in the Questionnaire.⁶ Finally, in deciding whether a plan is consistent with HB 2021’s binding targets (the other prerequisite for acknowledgement), “[t]he Public Utility Commission **shall** use the greenhouse gas emissions reported to the department under paragraph (a) of this subsection and provided to the commission.”⁷

It is worth remembering here that, under Oregon law as elsewhere, “[s]hall’ is a command: it is used in laws, regulations, or directives to express what is mandatory” and affords “no discretion.”⁸ Accordingly, our comments focus on two things: highlighting where HB 2021 is clear on its face and offering recommendations where we think the commission has room for discretion in implementation.

To briefly preview the substance of our comments, in response to Question 1, we recommend the Commission maintain the 20-year planning horizon and 4-year action plan window currently used in Integrated Resource Plans. This approach appropriately balances the long-term economics of resource decisions and the need to respond to near-term needs, while providing a known and reliable framework for testing those near-term resource decisions against a number of future conditions. On question 2, utility IRPs generally identify resource additions and subtractions by year, and we think this level of granularity is appropriate for Clean Energy Plans (“CEPs”). We do, however, recommend that the Commission consider adding resources beyond the “nonemitting generation resources, energy efficiency measures and . . . demand response resources” identified in the statute; in particular, we recommend annual goals for storage resources.⁹ Question 3 is complex and weighty, and -- while we offer some initial thoughts here -- we recommend that the Commission and Staff hold this question open for additional discussion throughout the implementation process. As to question 4, in general we recommend the Commission use the existing IRP acknowledgement process as a framework for CEP acknowledgement.

Renewable Northwest appreciates the opportunity to comment on this deeply important topic. HB 2021 was designed in part to respond to and align with the work of the Intergovernmental Panel on Climate Change (“IPCC”), which has issued a series of reports on the causes of climate change and the actions necessary to limit warming to 1.5 or 2.0 degrees Celsius. Earlier this year, the IPCC issued its Working Group III report on mitigation of climate change. Among the report’s more striking conclusions is a finding that, in order to limit warming to 2.0 degrees, solar capacity will likely need to increase by a factor of 15 and wind by a factor of 10.¹⁰

⁶ *Id.*

⁷ *Id.*, section 5(4)(b) (emphasis added).

⁸ *Preble v. Dept. of Rev.*, 14 P. 3d 613, 615 (Ore. 2000) (internal quotation marks and citations omitted).

⁹ HB 2021, section 4(4)(b).

¹⁰ IPCC Working Group III: Mitigation Pathways, section 16.2.4.3 at 16-27 (2022), available at https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf.

Renewable Northwest recommends that the IPCC’s work remain a touchstone as the Commission considers how to define the public interest, in addition to consideration of more local community benefits as discussed in the Coalition comments also filed today and in previous Community Lens questionnaire responses, and we further recommend that the Commission bear in mind the speed and scale of the transformation necessary to mitigate climate change and avoid its most disastrous effects.

I. RESPONSES

Question 1: What should be the planning and acknowledgement horizon for the annual goals for action and clean energy targets in the Clean Energy Plan (CEP)?

Question background

HB 2021 § 4(4) states that a clean energy plan must:

- “(a) Incorporate the clean energy targets set forth in section 3 of this 2021 Act;*
- (b) Include annual goals set by the electric company for actions that make progress towards meeting the clean energy targets set forth in section 3 of this 2021 Act...”*

Response of Renewable Northwest:

There are good reasons to maintain and apply to Clean Energy Plans the 20-year planning horizon and 4-year action plan window currently in use for Integrated Resource Plans. These reasons boil down to two main points: First, the current planning horizon strikes an appropriate balance between the need to assess long-lived assets over a significant portion of their life against the need to make near-term decisions to meet immediate needs. And second, the current planning horizon has been working -- utilities have been identifying significant portfolios of clean resources and have often constrained their actual acquisition primarily out of concern for doing too much too quickly. This history suggests that, given a toothy clean-energy policy to work with, application of traditional resource-planning tools can facilitate the cost-effective transformation of Oregon’s electric grid to one in line with HB 2021’s emission-reduction targets.

Similarly, we recommend that the Commission maintain the current requirement that a utility must file an IRP -- and therefore a CEP -- within two years of acknowledgment of the previous IRP. The technological feasibility and economics of clean energy resources continue to change quickly, and the onramp to HB 2021’s binding targets is steep, so we cannot allow the planning process to slow down at this critical time. By the same token, we recommend that the Commission retain and perhaps strengthen the “annual update” currently required by OAR 860-027-0400(8).

As to annual *goals*, utilities already provide year-by-year resource additions and subtractions as part of their IRP preferred portfolios. Calling out these proposed actions as goals provides a stronger signal both to advocates regarding what utility actions will be necessary to achieve HB 2021's targets and to developers as to when different resources are likely to be needed by a utility. These proposed actions also provide a window into a utility's assessment of what might be necessary to maintain continual progress toward achieving HB 2021's targets -- an important element of the statute which we discuss further below. For these reasons, we recommend that these proposed resource actions -- among other things -- be established as annual goals.

Question 2: What details should the annual goals for action include?

Question background

HB 2021 § 4(4)(b) states that the annual goals for actions must include, "acquisition of nonemitting generation resources, energy efficiency measures and acquisition and use of demand response resources"

HB 2021 §4(5) states that:

"Actions and investments proposed in a clean energy plan 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 (cost effective energy efficiency), development of new transmission and other supporting infrastructure, retirement of existing generating facilities, changes in system operation and any other necessary action."

Response of Renewable Northwest:

The actions identified in the statute are a reasonable starting point for annual goals identified in CEPs. Other categories may be appropriate to include -- in particular, energy storage, which is emerging as a key resource for maintaining reliability in a highly decarbonized electric grid. While IRPs, and therefore likely CEPs, generally use proxy resources to determine utilities' preferred portfolios, identifying key attributes of those proxy resources may be helpful to send signals to the development community. Size, location, and technological attributes of resources included in annual goals may be particularly important. It will be equally important, however, not to limit a utility to procuring only resources that meet precisely the size, location, and technological criteria identified in a CEP and its annual goals. Competitive procurement processes featuring bids for real, not proxy, projects often result in selection of a moderately different resource portfolio than the one produced by modeling as least-cost and least-risk. This is an appropriate outcome that we recommend the Commission maintain in CEP implementation.

Question 3: How should compliance and continual progress be demonstrated and assessed?

Question background

HB 2021 §4(4)(e) states that a clean energy plan must:

“(e) Demonstrate the electric company is making continual progress within the planning period towards meeting the clean energy targets set forth in section 3 of this 2021 Act, including demonstrating a projected reduction of annual greenhouse gas emissions”

HB 2021 §4(6) states that:“(6) The commission shall ensure that an electric company demonstrates continual progress...and is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”

According to HB 2021 §5, the Department of Environmental Quality must verify the projected greenhouse gas emissions forecasted in a clean energy plan and report the Department’s findings to the Public Utility Commission and the electric company seeking acknowledgement of a Clean Energy Plan by the Commission.

Response of Renewable Northwest:

HB 2021 contains a number of provisions relevant to compliance that will likely require significantly more Commission, Staff, and stakeholder discussion to figure out how best to implement. Accordingly, RNW recommends that the Commission, Staff, and stakeholders not become too prescriptive in determining the specifics of compliance and ensuring continual progress at this point. We lean on the Coalition comments for some specifics that we recommend as a starting point. But we also offer a few other considerations to bear in mind regarding compliance and ensuring continual progress.

First, we recommend the Commission remember that ensuring conditional progress “as rapidly as possible” is mandatory under Section 4(6) of HB 2021. Given the legislature’s decision to establish this mandate, we recommend that the Commission take care to establish particularly strong standards for continual progress.¹¹

Second, we highlight that the state clearly and consistently establishes Commission authority to ensure robust greenhouse gas emission reductions separate and distinct from mere compliance with the statute’s core accounting framework housed at the Department of Environmental Quality.¹² This both means that the Commission can establish additional safeguards if necessary

¹¹ We understand the modifying phrase “at reasonable costs to retail customers” to avoid inconsistency with the cost cap established later in HB 2021.

¹² For more on this, see Renewable Northwest’s May 10, 2022 comments in this docket: <https://edocs.puc.state.or.us/efdocs/HAC/um2225hac13599.pdf>.

to address weaknesses in the core accounting framework and that the statute affirms the Commission's role as the key *regulator* on greenhouse gas emissions (as opposed to DEQ's accounting role).

Third and finally, we highlight that the statute is clear and unambiguous that -- with the exception of specific offramps based on reliability and rate impacts -- a finding by DEQ that a utility's plan will achieve HB 2021's binding targets is a minimum requirement for compliance. We believe this conclusion is clear on the face of the statute, and given limited space in these comments will not belabor the point.

Question 4: How do you envision Commission acknowledgement of the Clean Energy Plan/annual goals for actions?

Question background

HB 2021 §5(2) requires 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 section 3 of this 2021 Act. 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”*

Response of Renewable Northwest:

We view acknowledgement of a CEP as effectively equivalent to acknowledgement of an IRP in form and effect: a decision by the Commission that tests the plan against statutory requirements and Commission rules and guidance, and that results in evidence to be used in determining the prudence of investments in a later rate case.

That said, Staff have called out some directives the legislature has established that the Commission must consider in carrying out its mandate to “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.” We reiterate that the statute directs the Commission to acknowledge a CEP if it achieves the GHG targets **and** is in the public interest,

where the public interest also includes “reduction of greenhouse gas emissions” as a mandatory element. These requirements affirm the Commission’s new status as a clear regulator of greenhouse gas emissions.

Certain requirements, however, may be designed to ensure consistency with other portions of the statute, such as reliability (Section 9, reliability pause) and costs to customers (Section 10, cost cap). Others may be designed to retain elements of the current planning process that are reasonably well understood (“costs and risks”, for example, calls to mind least-cost, least-risk planning). Overall, though, these requirements are new and likely raise questions that go beyond the scope of a seven-page comment document and require vetting across the stakeholder process Staff has established for this summer. Renewable Northwest looks forward to participating in that process.

II. CONCLUSION

Again, we appreciate the opportunity to comment on and participate in the Commission’s process to establish the framework for HB 2021 implementation, and the Commission’s consideration of Renewable Northwest’s comments. As outlined above, the Commission’s authority and mandate to implement the requirements of HB 2021 is clear in many respects, and we suggest that implementation should build upon the existing IRP process. Greenhouse gas emission regulation is a significant addition to the Commission’s regulatory authority and legislative mandate through HB 2021 and will require careful consideration, as discussed above in our response to question 3. As this is a new but essential regulatory consideration for ensuring that IOUs and Oregon meet the statute’s mandatory targets and discretionary policy to mitigate climate change impacts, we encourage the Commission to leave this issue open for further discussion and consideration throughout the implementation process. Equally important to the realization of emissions reductions is to ensure the support of public and community benefits, and we refer to the Coalition comments which include a robust discussion of this key element of HB 2021.

Respectfully submitted this 10th day of June, 2022,

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