

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2273

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON

Investigation Into House Bill 2021  
Implementation Issues

INTERESTED PERSON COMMENTS OF  
MULTNOMAH COUNTY OFFICE OF  
SUSTAINABILITY, VERDE, OREGON JUST  
TRANSITION ALLIANCE, ROGUE CLIMATE,  
NW ENERGY COALITION, AND THE  
COALITION OF COMMUNITIES OF COLOR

**I. INTRODUCTION**

Multnomah County Office of Sustainability (MCOS), Verde, Oregon Just Transition Alliance (OJTA), Rogue Climate, NW Energy Coalition (NVEC), and the Coalition of Communities of Color (CCC) submit these Interested Person comments pursuant to Chief Administrative Law Judge Nolan Moser’s July 7, 2023 Memorandum<sup>1</sup> and thanks the Public Utility Commission (Commission) and ALJ Moser for exploring avenues for non-intervenor participation in this proceeding. We note that multiple intervenors chose to sign these Comments in addition to any briefs they are submitting in their role as intervenors. In these Comments, we first encourage the Commission to preserve the integrity of any emissions reductions claimed in the path to compliance with HB 2021. We then recommend that the Commission expands on how it will determine whether a Clean Energy Plan (CEP) is in the public interest based on the factors in ORS 469A.170(2), we suggest criteria for some of the factors, and we recommend additional factors for Commission consideration.

**II. DISCUSSION**

**A. Issue I(a) - Renewable Energy Credits and the Integrity of HB 2021**

We encourage the Commission to ensure the integrity of the emission reductions resulting from HB 2021 by addressing the risk that other entities get to make green energy claims with renewable energy certificates (RECs) associated with electricity and resources used to comply with HB 2021. We are concerned that lack of Commission action would leave the door open to Pacific Power and Portland General Electric (PGE) selling RECs from resources they use to back their claims of having reduced emissions for Oregon customers. Similarly, the utilities could buy energy without associated RECs while other entities could be making claims based on those RECs. Those outcomes would undermine a key goal of HB 2021: addressing greenhouse

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<sup>1</sup> Chief Administrative Law Judge Nolan Moser’s Memorandum (Jul. 7, 2023).

gas emissions and providing clean energy to Oregon customers. The Commission should exercise any authority and discretion to avoid those outcomes.

Climate change is a global issue and reducing greenhouse gas emissions is imperative so that we can have any hope of avoiding its worst impacts. For that reason, it is crucial that HB 2021 actually delivers its promised reductions in the amount of greenhouse gas emissions going into the atmosphere. Allowing Pacific Power and PGE to claim emissions reductions in Oregon while other entities are using the associated RECs to claim as green power that would otherwise be considered brown undermines our efforts to reduce emissions going into the atmosphere. We strongly encourage the Commission to take any and all action within its authority and discretion to avoid an outcome that would undermine a key goal of HB 2021.

### **B. Issue I(a)(2) – Public Interest**

We encourage the Commission to offer clarity on how it views the factors that ORS 469A.170(2) directs it to consider and to use its discretion under 469A.170(2)(f) to adopt additional factors to ensure that utilities center energy justice in HB 2021 compliance. We appreciate the Commission’s initial sentiment that “these are general factors, with significant discretion left to the Commission, and that these factors may be better suited to discussion after having been applied to specific facts in our initial CEP review.”<sup>2</sup> However, we strongly encourage the Commission to expand on how it will determine whether a CEP is in the public interest despite not having yet explored this language in light of specific facts in the initial CEPs.

Additional clarity regarding how the Commission expects to determine whether the initial and future CEPs are in the public interest will be important for stakeholders, utilities, and the Commission alike. Additionally, the Commission currently reviewing CEPs should not deter it from issuing that clarity. In fact, if the Commission issues guidance and determines that the initial CEPs do not include sufficient actions to meet one or more of the factors, the Commission could conditionally acknowledge the CEP contingent on additional work that addresses specific factor(s), or could issue guidance to the utilities regarding how it wants them to address the public interest factors in the next CEP.

Our more detailed comments on this topic below are grounded on our experience advocating for energy justice issues, on the work that the Energy Advocates did to identify community benefit indicators earlier in the HB 2021 implementation process,<sup>3</sup> and also on our experience co-facilitating a Community Advocates cohort. We offer additional information on that cohort for context. Starting in October 2022, Verde, Oregon Just Transition Alliance, Coalition of Communities of Color, NW Energy Coalition, Rogue Climate, and MCOS began to co-facilitate the Community Advocate cohort with 10-14 members from all over the state meeting twice a month to talk about energy justice and lived experiences as well as working towards shaping HB 2021 implementation. Multiple cohort members were a part of the Energy Justice Leadership Institute, the initial leadership program and campaign that worked to pass HB 2021 and HB

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<sup>2</sup> Order No. 23-194 (Jun. 5, 2023) at 5.

<sup>3</sup> UM 2225, Order No. 22-390, Appendix A (Oct. 25, 2022) at 65.

2475. We identify below the feedback that comes from the Community Advocates cohort and expect that you will likely see cohort feedback reflected in other documents filed in this proceeding, including by intervenors.

1. Public interest factor ORS 469A.170(2)(a): Any reduction of greenhouse gas emissions that is expected through the plan, and any related environmental or health benefits

We recommend that the Commission expands on how it expects to determine whether the actions in a CEP lead to sufficient “related environmental or health benefits” to determine that the utility has met factor 2(a).

In evaluating this factor, the Commission should consider the following feedback gathered in exercises with the Community Advocates cohort:

- Energy is integral to health. For example, energy can positively or negatively impact air quality (i.e. air purifiers, or indoor air quality impacts from indoor gas combustion). Similarly, the energy efficiency of buildings can impact the health of those experiencing that indoor living environment as well their ability to pay their bills and have energy at all.
- Environmental benefits include the preservation of natural resources. The Commission should consider how the CEP upholds tribal rights (to salmon, for example - a right impacted by the hydro system), as well as the protection of wildlife.
- The health and environmental impacts of lower or no-greenhouse gas emitting resources like hydro, nuclear or gas should also be considered.
- Mining, production and disposal of materials for solar and wind infrastructure should also be evaluated in terms of environmental and health impacts to local and global communities (near the mines, production and recycling/ disposal sites - both in the U.S. and in other places) to ensure that the transition to clean energy is just.

In evaluating this factor, we encourage the Commission to adopt the following criteria:

- The CEP includes actions related to improvements to, and strengthening of, energy efficiency programs that impact the health of communities, like weatherization programs that improve efficiency of the housing stock in the utility’s service territory. These actions prioritize environmental justice communities.
- The CEP includes actions related to improvements to, and strengthening of, programs that impact the comfort and safety of the home, such as programs that allow people to heat and cool as needed and with efficient heat pump technology, and/or to move away from measures that worsen air quality through indoor combustion. These actions prioritize environmental justice communities.
- The CEP includes actions that lead to energy workforce development, with a focus on rural areas, to address the barrier that scarce workforce poses to greater access to energy efficiency and other community benefitting, greenhouse gas reduction initiatives. These actions prioritize environmental justice communities.
- The CEP demonstrates awareness of the impacts of energy systems on natural resources and Tribal communities, and includes actions and strategies to protect fish

and reduce the region's pressure on the Columbia River and other northwest river ecosystems. The CEP actions and strategies are developed through meaningful bilateral engagement between the utilities and tribes.

- The CEP includes actions that advance any areas that the utility points to in relation to health and environmental benefits. For example, if the utility points to disconnections or energy burden reductions as a health benefit, the CEP includes actions that impact those metrics (i.e. increased investments in low-income weatherization) rather than relying solely on other policies like HB 2475 implementation. These actions prioritize environmental justice communities.
  - The CEP includes actions that lead to reduced pollution burden and pollution exposure, creating identifiable health outcomes. These actions prioritize environmental justice communities.
  - The CEP includes actions that lead to the creation or strengthening of programs that allow people to decrease their reliance on wood for heating. These actions prioritize environmental justice communities.
2. Public interest factor ORS 469A.170(2)(c): The effect of the plan on the reliability and resiliency of the electric system

While electricity is becoming more important to our society and to people's ability to live, be healthy, and thrive, the grid faces increasing pressures like those associated with a changing climate. As a result, it is important that utilities proactively consider reliability and resiliency measures that minimize cost while maximizing benefits to communities, centering those least able to cope with the consequences of reliability and resiliency events. With that in mind, we invite the Commission to consider the following thoughts and criteria related to factor 2(c).

In evaluating this factor, the Commission should consider the following feedback gathered in exercises with the Community Advocates cohort. To the extent that the Commission finds that some or all of this feedback is better considered in the context of subsections 2(e) or 2(f), we encourage the Commission to consider it when discussing that section and/or to adopt additional factors consistent with this community feedback.

- Reliability of the electric system goes beyond whether we have outages and their duration and is tied to how customers interact with it. Utilities should consider reliability expansively and from the perspective of customers, beyond the economic cost to a particular customer. Utilities should consider whether customers make daily changes to avoid using electricity during peak hours to save money, worry about not being able to pay a bill, or are not helped by a service representative in their language when they call their utility for assistance.
- Utilities should consider the impacts that programs can have on customers. For example, customers can experience barriers when energy companies adopt rate structures that make residential energy rates most affordable during normal sleep time (10 pm to 6 am) and least affordable when energy is most needed (6 to 9 am and 4 to 8 pm). When community members can't control when energy is affordable, they can only control when they use energy in order to afford it. This means they have no choice but to

schedule their essential, life-maintenance energy use according to the schedule of energy affordability. Since energy reliability and resilience are conditional upon energy access, shouldn't energy access for essential life-maintenance be prioritized as an unmet public interest, besides energy reliability and resilience? When they consider essential energy use such as food refrigeration, cooking, communication, computer use for school and work, tele-health appointments, lighting, cooling, heating, or operating a prescribed medical equipment for asthma or sleep apnea, they seldom can move these activities to the "off peak" hours for energy affordability. For these reasons, energy access for essential human needs, along with energy reliability and resilience, are public interests for health and for life. Therefore, they all need to be included in the clean energy plan and clean energy targets that the Public Utility Commission shall acknowledge.

- Community members consider resilience as much more than the ability of the electric grid to withstand interruption - to them it includes the cultivation of social cohesion, the ability for members to thrive and not just survive. Any component of a plan that fosters community care, preparedness, and strong community networks should be considered "in the public interest," as well as those that present opportunities for community self-determination, allowing them to rebuild on their own terms.
- Resilience also considers other challenges and crises beyond physical ones; job loss, economic crisis, and the inability to pay energy bills are also crises through which communities need to build resilience.
- Another relevant factor is disaster preparedness - any utility action that is in service of preparing for an environmental challenge or disaster is "in the public interest." This includes the support for local generation and storage.

In evaluating this factor, we encourage the Commission to adopt the following criteria. To the extent that the Commission finds that some or all of these criteria are better suited to subsection 2(f), we encourage the Commission to consider adopting additional factors consistent with this community feedback.

- The CEP includes resiliency analysis consistent with the findings in the *Considerations for Resilience Guidelines for Clean Energy Plans* report that the Department of Energy Grid Modernization Lab Consortium prepared for the PUC.<sup>4</sup>
- The CEP includes actions that enhance reliability and resiliency that prioritize communities least able to cope with the impact of events.
- The CEP includes actions that enhance communities' resiliency to the impacts of reliability and resiliency events.
- The CEP includes actions related to increased availability of electricity storage in Tribal and non-Tribal communities.
- The CEP includes actions related to increased access to storage for households that rely on power to keep necessary medical equipment and medications refrigerated.

### 3. Public Interest Factor 2(e): Costs and risks to the customers

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<sup>4</sup> UM 2225, Staff's Resiliency Planning Standards and Practices (Sep. 7, 2023)

Electricity is ever more important to our communities, yet its costs continue to increase, exacerbating energy burden and energy insecurity. As a result, it is important for the utilities to consider approaches that target vulnerable communities with measures that are likely to help them mitigate their electricity cost, therefore reducing their energy burden and their risk of finding themselves experiencing energy insecurity.

In evaluating this factor, the Commission should consider the following feedback gathered in exercises with the Community Advocates cohort:

- The affordability of energy is of very high importance to community members - the electric system is not reliable nor resilient if people are unable to pay to use it.
- And costs are not just financial costs but costs to health and mental and physical well being from electricity shortages/blackouts/shutoffs.
- There is risk that should be considered in having an electrical grid that is owned and operated by a single (or just a couple) entity/ies. By contrast, there are opportunities and benefits that come to customers and communities when the grid has a large proportion of community-owned and -operated energy generation and distribution.

In evaluating this factor, we encourage the Commission to adopt the following criteria:

- The CEP includes actions aimed at addressing energy burden, like actions that strengthen weatherization and renewable energy programs, as well as initiatives that address barriers of access for low-income and other environmental justice communities. Barriers of access addressed include economic barriers.
- The CEP includes actions aimed at addressing community-ownership of resources.
- The CEP considers whether procurement strategies may frontload rate impacts on customers.

4. Public Interest Subsection ORS 469A.170(2)(f): Any other relevant factors as determined by the commission.

We encourage the Commission to use the discretion that ORS 469A.170(2)(f) grants it and adopt factors that evaluate the utilities' application of energy justice principles, signaling that energy justice is important to its determination of whether a CEP meets the public interest. As a result, we suggest factors related to recognition, procedural, and distributional justice.

In adopting additional factors, the Commission should consider the following feedback gathered in exercises with the Community Advocates cohort:

- Disaster preparedness is a relevant factor - any utility action that is in service of preparing for an environmental challenge or disaster is "in the public interest." This includes the support for local generation and storage.
- "Other relevant factors" should also be identified by community members themselves, and not up to utility discretion.

We also encourage the Commission to adopt the following factors:

- Procedural justice
  - The utility bilateral engagement with Tribes.
  - The robustness of utility efforts to engage with impacted communities and to gather and incorporate feedback from energy justice stakeholders.
  - The robustness of utility engagement with its community benefits and impacts advisory group and the extent to which the utility incorporates feedback from those groups in clean energy planning.
- Distributional justice
  - The effect of the plan on enhancing environmental justice communities' access to renewable energy, storage, energy efficiency, and demand-side resources.
  - The effect of the plan on enhancing Tribal communities' access to renewable energy, storage, energy efficiency, and demand-side resources.
  - The effect of the plan on increasing environmental justice communities' representation in the clean energy workforce.
  - The effect of the plan in addressing workforce-related barriers to access to energy efficiency and other energy solutions in rural areas.

### III. CONCLUSION

We thank the Commission for addressing these important issues and encourage it to use the full extent of its authority and discretion to preserve the integrity of any emissions reductions claimed in the path to compliance with HB 2021 through ensuring that RECs are not retired by other entities, and to offer clarity regarding how it will determine whether a utility's CEP is in the public interest.

Respectfully submitted this 24th day of July, 2023.

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