



Oregon Citizens' Utility Board

610 SW Broadway, Suite 400
Portland, OR 97205

(503) 227-1984
www.oregoncub.org

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Via Electronic Filing
Oregon Public Utility Commission
201 High St. SE, Suite 100
Salem, OR 97301-3398
puc.filingcenter@puc.oregon.gov

TO: Oregon Public Utility Commission
FROM: Jennifer Hill-Hart, Oregon Citizens' Utility Board
RE: UM 2273 - CUB Opening Comments on Draft Order

The Oregon Citizens' Utility Board (CUB) submits these Opening Comments in response to Administrative Law Judge (ALJ) Mike Grant's Notice and Memorandum (Memorandum) including Draft Order issued on May 27, 2025. CUB generally agrees with the proposed Draft Order. However, we also have some questions about some of the findings that we look forward to learning more about at the Public Utility Commission (PUC) Workshop in this docket on August 28, 2025, and potentially commenting on in more detail in Reply Comments.

Draft Order

HB 2021 and the Renewable Portfolio Standard

CUB continues to have concerns and ongoing questions about whether an investment can qualify for compliance with Oregon's Renewable Portfolio Standard (RPS) cost cap and HB 2021 cost cap. We still do not understand how a project that would be required for the RPS and would be made regardless of HB 2021, could be added to HB 2021 costs. Does the Commission foresee the possibility that both policy goals can be met with the same resources as a least-cost/least-risk strategy that meets both policy goals with one investment rather than two?

While the Memorandum correctly identifies that HB 2021 did not state if an investment in an HB 2021 asset could also be considered a Renewable Portfolio Standard (RPS), as CUB argued in our briefing, we believe this was intentional.¹ As we discussed in our Opening Brief, Section 13

¹ UM 2273 - Notice and Memorandum (Memorandum) , Appx. A, 6 ("the "counterfactual" model should remove only the constraints and assumptions...used in development of the preferred [counterfactual] portfolio".) (May 27, 2025).

of HB 2021 states that the law does not “replace or modify the requirements” in the RPS.² This explicit statement indicates the laws run parallel together, but do not intersect. This interpretation is further bolstered by the fact that both policies have different cost cap provisions and requirements, indicating their separateness. If the legislature intended the investments to be one and the same, why create confusion with two cost cap provisions and also explicitly state the RPS law is unaffected?

Counterfactual Portfolio

The Draft Order acknowledges that “where an investment or cost is the least cost, least risk option for serving load reliably, regardless of any policy requirements, that investment or cost should not be included in the HB 2021 cost cap.”³ The Draft Order also states, however, that inclusion of an action in the counterfactual would not be dispositive evidence that an action should not count towards HB 2021 compliance and its cost cap.⁴ These statements appear to be in conflict.

CUB interprets the counterfactual scenario as meant to propose the least-cost/least-risk option inclusive of its RPS requirements. Just like the least-cost/least-risk options that meet the IOU’s capacity and policy requirements are not subject to the HB 2021 cost cap, shouldn’t the same interpretation apply to investments made to meet the RPS policy requirements? Say Commission implements a pause due to HB 2021 requirements because the anticipated rate impact indicates it will exceed six percent, but an action contributing to that pause would still be required due to the RPS, would the utility have to make the RPS investment?

CUB believes the issue of the counterfactual portfolio and when the utility would have information about upcoming procurement is interesting. At the IRP level, the utility does not know whether it is pursuing a rate-based investment or a power purchase agreement — typically the rate based investment is much more front loaded and has higher costs in earlier years. This suggests that utilities start to get some clarity around the time of the RFP. At this point, the cost cap could affect the RFP. If the utility’s self-build option will struggle under the cost cap, but a similar resource through a PPA would not, shouldn’t this influence the make-up of the preferred portfolio?

Further, how does an IOU propose a counterfactual or even most of this analysis when it has the ability to propose changes in resource allocation as a tool to meet emission limits? For example, PacifiCorp just proposed a new resource allocation to meet Washington requirements and that proposal actually increases Oregon’s emissions, but the Company also says it will propose a new methodology for Oregon before 2030. If in 2028 or 2029 the Company proposes a new resource allocation and a set of new resources to meet Oregon’s limits which would

² HB 2021, Sec. 13 (2021), codified at ORS 469A.460; see UM 2273 – CUB’s Phase II Opening Brief, 19 (May 23, 2024).

³ Memorandum, Appx. A at 3.

⁴ *Id.*

violate the cost cap, how do we separate compliance and allocation issues? Could the Commission order an alternative resource allocation that puts Oregon under both the emission limit and the cost cap? How can the Commission balance continual progress, appropriate cost cap exemptions, but also ensure IOUs' robust and meaningful compliance with HB 2021 goals?

These are some of CUB's initial thoughts. CUB appreciates that the Commission and stakeholders are thinking critically about these issues, especially at a time when energy affordability is at the top of everyone's minds. We are looking forward to the upcoming Commission Workshop on this matter. Thank you for the opportunity to provide comments.

Dated this 12th day of August 2025.

Respectfully submitted,

/s/Jennifer Hill-Hart

Jennifer Hill-Hart, OSB #195484
Oregon Citizens' Utility Board
610 SW Broadway, Ste. 400
Portland, OR 97205
T. (503) 227-1984
E. jennifer@oregoncub.org