

May 23, 2024

***Via Electronic Filing***

Public Utility Commission of Oregon  
Attn: Filing Center  
P.O. Box 1088  
Salem, OR 97308-1088

**RE: Docket No. UM 2273  
NewSun Energy's Phase 2 Opening Brief**

NewSun Energy LLC ("NewSun") offers this brief in response to the Public Utility Commission of Oregon ("Commission")'s Phase 2 questions for docket UM 2273. NewSun appreciates the opportunity to comment on issues relating to the cost cap contained in Section 10 of HB 2021. Specifically, NewSun offers the below practical recommendations regarding implementation of the cost cap.

**Exclude Ordinary Course Costs.** Utilities should be prohibited from counting ordinary course costs (i.e., costs that the utility would have incurred notwithstanding their compliance obligations under HB 2021) in their cost-cap calculations. For example, if a utility proposes to undertake a large transmission line upgrade to ease congestion, but would have made such investment regardless of its compliance obligations under HB 2021, such costs should not count toward the Section 10 cost cap. A clear example of this would be PacifiCorp's potential "Blueprint South" project to build a new 180-mile, 500kV transmission line in southern and central Oregon, where the utility has identified the project as being necessary to address "increased load demands."<sup>1</sup> Additionally, projects undertaken for the Wester Resource Adequacy Program ("WRAP") compliance or other regulatory requirements should not be included in the cost cap.

**Exclude Costs that Reasonably Could Have Been Avoided.** Costs incurred by a utility which could have been avoided by pursuing reasonable and prudent alternatives should be excluded from the cost cap calculation. For example, if a utility unreasonably failed to acquire resources sufficiently in advance of their compliance deadline and then as a result was forced to expend costs on higher-cost market purchases, the difference between those two cost streams should not count towards the cost cap.

**Deduct Savings.** Costs applied to the cost-cap should take into account (i.e., deduct) savings realized by the utility.

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<sup>1</sup> <https://ktvz.com/news/business/2024/03/29/deschutes-county-officials-briefed-on-new-180-mile-pacific-power-transmission-line-still-in-early-planning-stages/>

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**Guided By HB 2021 Policy Goals.** Finally, for determining whether an investment or cost contributes to compliance, qualifying costs should be limited to those consistent with the State's policy as articulated in HB 2021 so that the cost cap implementation does not frustrate the entire purpose of the act.

Thank you for the opportunity to submit these comments.

Thank you,

*s/ Marie Barlow*

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