

IN THE COURT OF APPEALS OF THE STATE OF OREGON

<p>THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES, an Oregon non- profit corporation,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>OREGON DEPARTMENT OF ENERGY and MICHAEL W. GRAINEY, in his capacity as Director of the Oregon Department of Energy,</p> <p style="text-align: center;">Respondents.</p> <hr style="width: 40%; margin-left: 0;"/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Oregon Department Of Energy Adoption of Permanent Rule Implementing a Renewable Energy Certificate Tracking System OAR 330-150-0005 to 330-150-0030</p> <p>CA A _____</p>
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PETITION FOR JUDICIAL REVIEW

Pursuant to ORS § 183.400, Petitioner, the Industrial Customers of Northwest Utilities (“ICNU”), seeks judicial review of a final rule adopted by the Oregon Department of Energy (“ODOE”), OAR § 330-150-0030, with an effective date of January 28, 2008. Notice of the final rule was given on January 30, 2008.

The Parties to this review are:

Michael B. Early
Executive Director
Industrial Customers of
Northwest Utilities
333 SW Taylor St. Suite 400
Portland, OR 97204
Phone: (503) 239-9169
Fax: (503) 241-8160
Email: mearly@icnu.org

Michael W. Grainey
Director
Oregon Department of Energy
625 Marion St. NE
Salem, OR 97301
Phone: (503) 378-5489
Fax: (503) 373-7806
Email: michael.w.grainey@state.or.us

Melinda J. Davison
OSB No. 930572
Allen C. Chan
OSB No. 042597
Davison Van Cleve, P.C.
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Phone: (503) 241-7242
Fax: (503) 241-8160
Email: mail@dvclaw.com
Attorneys for Petitioner ICNU

Hardy Meyers
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Oregon Attorney General
Oregon Department of Justice
1162 Court St. NE
Salem, OR 97301-4096
Phone: (503) 378-6002
Fax: (503) 378-4017
Attorney for Respondent ODOE

A. Attached to this petition is a true and correct copy of the Rule for which judicial review is sought.

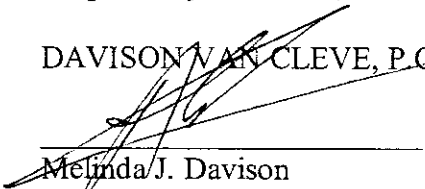
B. Petitioner participated in the administrative proceedings resulting in the Rule. Petitioner is adversely affected or aggrieved by the Rule as set forth in the affidavit attached to this petition.

C. Petitioner designates the entire record for review, but is willing to stipulate that the agency record may be shortened.

DATED this 31st day of March, 2008.

Respectfully submitted,

~~DAVISON VAN CLEVE, P.C.~~


Melinda J. Davison
OSB No. 930572
Allen C. Chan
OSB No. 042597
333 S.W. Taylor, Suite 400
Portland, Oregon 97204
(503) 241-7242 phone
(503) 241-8160 facsimile
mail@dvclaw.com
Of Attorneys for the Industrial Customers of
Northwest Utilities

CERTIFICATE OF SERVICE

I certify that on March 31, 2008, I served a true copy of this petition for judicial review

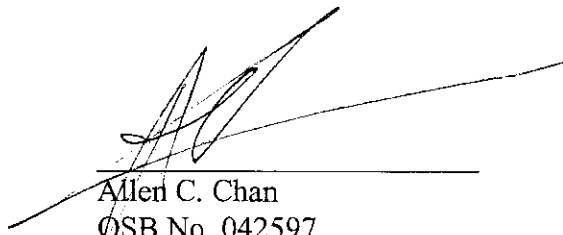
on:

Michael W. Graineey
Director
Oregon Department of Energy
625 NE Marion St.
Salem, OR 97301
Phone: (503) 378-5489
Fax: (503) 373-7806
Email: Michael.w.graineey@state.or.us

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by:

- United States Postal Service, ordinary first class mail
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- hand delivery
- other



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Northwest Utilities

CERTIFICATE OF FILING

I certify that March 31, 2008, I filed the original of this petition for judicial review with the State Court Administrator at this address:

State Court Administrator

1163 State Street

Salem, Oregon 97301-2563

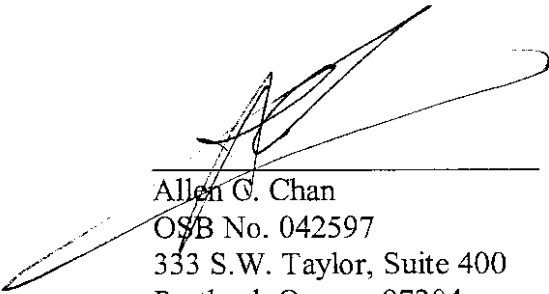
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Of Attorneys for the Industrial Customers of
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IN THE COURT OF APPEALS OF THE STATE OF OREGON

THE INDUSTRIAL CUSTOMERS OF)
NORTHWEST UTILITIES, an Oregon non-) Oregon Department Of Energy Adoption of
profit corporation,) Permanent Rule Implementing a Renewable
) Energy Certificate Tracking System
) OAR 330-150-0005 to 330-150-0030
Petitioner,)
)
vs.) CA A _____
)
OREGON DEPARTMENT OF ENERGY and)
MICHAEL W. GRAINEY, in his capacity as)
Director of the Oregon Department of Energy,)
)
Respondents.)
)

AFFIDAVIT OF MICHAEL B. EARLY

1 I, Michael B. Early, being first duly sworn on oath, depose and say:

2 1. My full name is Michael Brent Early. I am the Executive Director of the
3 Industrial Customers of Northwest Utilities (“ICNU”). My business address is: 333 S.W.
4 Taylor, Suite 400, Portland, OR 97204.

5 2. The matters set forth below are based on my personal knowledge, and I am
6 competent to testify to these facts.

7 3. ICNU is an Oregon non-profit corporation whose members consist of industrial
8 users of electricity. ICNU’s members include customers of Portland General Electric Company
9 (“PGE”) and PacifiCorp.

10 4. On January 30, 2008, the Oregon Department of Energy (“ODOE”) gave notice
11 that it had adopted final rules establishing a system of tracking Renewable Energy Certificates
12 (“RECs”) for compliance with SB 838, Oregon’s Renewable Portfolio Standard (“RPS”). OAR

1 §§ 330-250-0005 to 330-150-0030. ODOE's final rules have an effective date of January 28,
2 2008.

3 5. OAR § 330-150-0030 prevents Oregon utilities such as PGE and PacifiCorp from
4 using RECs acquired prior to January 1, 2007 to comply with the RPS. As a result, ODOE's
5 final rules will make compliance with the RPS more expensive. This will increase the cost of
6 electricity for customers, such as ICNU's members.

7 6. ICNU's members are therefore adversely affected or aggrieved by ODOE's
8 adoption of OAR § 330-150-0030.

9

1 I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST
2 OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE
3 AS EVIDENCE AND IS SUBJECT TO PENALTY FOR PERJURY.

4 SIGNED THIS 31st day of March, 2008, at Portland, Oregon.

5
6
7
8

Michael B. Early

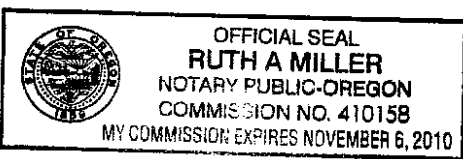
MICHAEL B. EARLY

State of Oregon

County of Multnomah

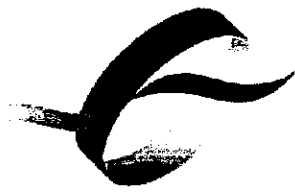
Subscribed and sworn to (or affirmed) before me this 31st day of March,
2008, by

Michael B. Early



Ruth A. Miller
Notary Public

commission expires 11/6/2010



OREGON
DEPARTMENT OF
ENERGY

**Oregon Administrative Rules
Renewable Portfolio Standard**

OAR 330-150-0005 to 330-150-0030

(for Senate Bill 838)

Effective January 28, 2008

(New Rules)

**Oregon Department of Energy
625 Marion Street NE
Salem, Oregon 97301-3737
(503) 378-4040
Toll-Free 1-800-221-8035
Fax (503) 373-7806**

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) OAR 330-150-0030
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Petitioner,)
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vs.) CA A 138472
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OREGON DEPARTMENT OF ENERGY,)
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Respondent.)
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_____)

AMENDED PETITION FOR JUDICIAL REVIEW

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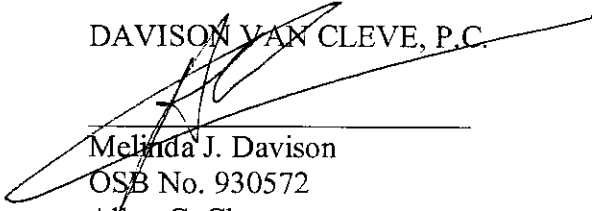
B. Petitioner participated in the administrative proceedings resulting in the Rule. Petitioner is adversely affected or aggrieved by the Rule as set forth in the affidavit attached to this petition.

C. Petitioner designates the entire record for review, but is willing to stipulate that the agency record may be shortened.

DATED this 10th day of April, 2008.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.



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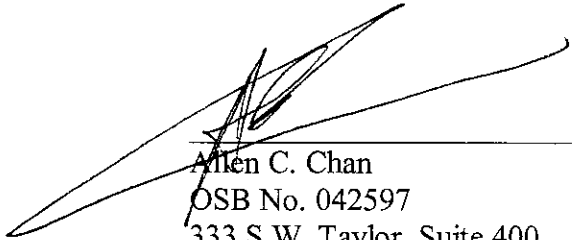
I certify that on April 10, 2008, I served a true copy of this petition for judicial review on:

Michael W. Grainey
Director
Oregon Department of Energy
625 NE Marion St.
Salem, OR 97301
Phone: (503) 378-5489
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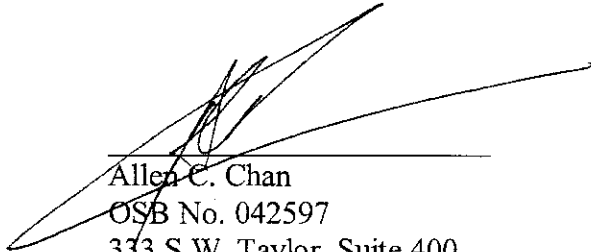
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