

**Oregon Department of Energy
Renewable Energy Division
Renewable Portfolio Standard Rulemaking
Minutes
December 5, 2007**

I. OPEN HEARING

Kip Pheil introduced himself as the Hearing Officer for the Oregon Renewable Energy Working Group Rulemaking. He explained this hearing is to provide opportunity for public comments and recommendations to meet the intent of the statute more efficiently. Comments will be posted on the website for review.

Three people have signed up to make comments – Ryan Flynn of PacifiCorp, Tom O’Connor, Director of Oregon Municipal Electrical Utilities Association and Jessie Jenkins with Renewable Northwest Project.

II. HEARING GUIDELINES

Written comments will be accepted until December 11, 2007 5:00 pm by fax or email. Unless it is decided to keep the comment period open, no comments will be accepted after that time. The Hearing Officer also explained the procedure to comment and that no response will be given to comments, only clarification of points being made. At the end of the hearing a report will be prepared and posted on the website for review.

III. OVERVIEW

Hearing Officer Pheil began discussion by reviewing the changes made since the last draft, Draft #1A, published in November 2007.

330-150-0020 Establishment of Renewable Energy Certificate System

Subsection (4) has been removed, which involved discussion of the option for signing up for the system. This was in conflict with PUC rules.

330-150-0025 Types of Renewable Energy Certificates

In addition to consolidating the language an addition was made in subsection (1). Other unique identification value was added, in case something is needed to make the system work for what’s going on in Oregon. This may be necessary if there are generation transactions that don’t get an e-Tag associated with them.

Modify the reference to Oregon eligible certificates. WREGIS will track RECs though the process to determine Oregon eligible certificates is prescribed by the Oregon Department of Energy.

The next change made in the same section, subsection (1) (a) reference was made in error to electric service suppliers in terms of the transmission systems, which has been removed.

330-150-0030 Date of Establishment of Renewable Energy Certificate System

Revise effective dates to October 1, 2007 to align with start of BPA fiscal year and related early action taken by some utilities in direct response to passage of SB 838.

Also subsection (4) has been added to refer back to statute in terms of what are qualified generating facilities, facilities capable of producing the defined qualifying electricity.

There are numerous provisions in the bill about what qualifies and what doesn't, with the main reference is that the oldest date is January 1, 1995 for potentially qualified facilities. The argument was also discussed that energy generated since 1995 is eligible and found that to not have any merit based upon the bill. The legislation is grandfathering some facilities back from that date but not grandfathering generation since 1995.

IV. TESTIMONY

Ryan Flynn, PacifiCorp

Mr. Flynn stated that PacifiCorp supports the Department's adoption but there is one concern reflected in their initial comments relating to the Renewable Energy Certificate System (REC) date. The October 1, 2007 date appears arbitrary, and inconsistent with SB838. PacifiCorp feels this compromises important consumer protection measures within the bill. Mr. Flynn stated the appropriate date should be January 1, 1995 which is consistent with what's included in the legislation.

As PacifiCorp interprets SB838 Section 2 defining qualifying electricity as that electricity produced from renewable resources as described in Section 3. Section 3 identifies renewable resources as those facilities dating back to January 1, 1995. Therefore, Section 2 and 3 are linking the qualifying electricity with the renewable resource.

Section 14 of SB838 allows the Department in consultation with the Commission to make a determination regarding the tracking system, WREGIS. PacifiCorp does not think however that Section 14 authorizes the Department or the regional system

(WREGIS) to ignore or modify that January 1, 1995 date relating to qualifying electricity.

SB838 is a delicately balanced law to promote new renewable development in a cost-effective manner. In that respect the legislation includes several consumer protection measures. Some of those key measures are banking and the use of RECs. The parties fully intended that those measures would in one instance, reward early adopters of renewable energy by including the January 1995 date and in the other instance, ensure the customers will benefit from that early action in an affordable manner.

PacifiCorp feels the Department's proposed rule has the effect of de-linking Section 2 and 3 – separating the qualifying electricity from the renewable resource, which undermines the consumer protection measures in the bill by creating an arbitrary scarcity of RECs to meet the Oregon RPS.

Mr. Flynn proceeded saying that for those that feel that utilities may experience some sort of windfall from RECs dating back to January 1, 1995 and that it would discourage the development of new renewable resources, PacifiCorp can assure you that is not the case.

First, Mr. Flynn stated, from 1995 to 2003 there were a limited number of Oregon eligible resources available so that's a limitation with RECs at the outset. The second reason is that most of the RECs are from the 2001 timeframe, so the vintage is relatively recent. The third point is that, from PacifiCorp's analysis, the system shows that PacifiCorp cannot meet the first compliance target on bank RECs alone so new renewable resources have to continue to be developed.

Mr. Flynn said that for those that are concerned that utilities will be into the market to comply with RPS dating back to January 1, 1995 there's a limitation of 20 percent on un-bundled RECs which that limitation stands.

He further stated that the October 1, 2007 date ignores the early action of the larger IOU's in the state. PacifiCorp has done a lot in the renewable area and this bill reflects that action.

Tom O'Connor, Director of Oregon Municipal Electrical Utilities Association

Mr. O'Connor expressed his appreciation for the opportunity for OMEU to comment on the draft proposed rules to implement SB838, the Oregon RPS.

Mr. O'Connor referred to concerns of OMEU with regards to the effective date of RECs. Action was taken by some in response to SP 838 and began purchasing RECs through Bonneville in the most recent contracts that went into effect October 1, 2007.

The second issue that OMEU has concerns about are even if the effective date is in 2007 there still seems to be an issue of whether or not utilities including Bonneville, will be up and running with WREGIS; also how that will work to ensure those eligible RECs from the effective date of the rules will be able to operate through WREGIS. OMEU originally thought there could be a “bridging proposal” where the RECs could be registered with ODOE for a bridge period until WREGIS and Bonneville were up and running with a contract. The intent would be not that those would be RECs for sale but simply that they would be able to be banked for compliance with the Oregon Statute.

Mr. O’Connor noted he received an email from Lisa Swartz at the PUC suggesting there may be an alternative way to a bridge mechanism through WREGIS. This is still being worked on, and OMEU would reserve judgment on this for the time being. The concern is that a mechanism be in place, either through WREGIS or through ODOE to allow the RECs to be banked.

Mr. O’Connor stated more clarification would be given in their written comments.

Jesse Jenkins, Renewable NW Project

Mr. Jenkins initially stated Renewable NW Project is supportive of ODOE and agree with the selection of WREGIS as the tracking system for demonstrating compliance and verifying compliance with Oregon’s Renewable Energy Standard.

Mr. Jenkins stated that Renewable NW Project is also supportive of a start date for the banking of RECs sometime after the date of enactment of the 2007 act; therefore they are supportive of the October 2007 start date in the latest draft.

He further stated there is a different interpretation from PacifiCorp and Associated Oregon Industries (AOI) on the incentive act and eligibility of RECs from vintage 1995 years and later. We believe the intent of that was to allow utilities to rely on renewable energy facilities that were built after 1995 but that does not mean the intent of the act was for them to rely on generation from vintage years 1995 through 2007. It was not intended to allow utilities to use RECs from those years. This strikes a balance between early investment and also the main intent of the bill is to advance the development of renewable energy in the northwest and supply Oregon customers.

Renewable NW Project also believes the bill authorizes ODOE to establish a REC tracking system that will ensure credible compliance with the Oregon RPS in Section 14. Mr. Jenkins stated that they feel WREGIS is the best system to do so and it does not certify renewable energy credits from vintage years that were before the system went online in the summer of 2007. From a practical standpoint it can’t go back before the summer of 2007.

In regards to the bridging strategy that Mr. O'Connor, OMEU, brought up for utilities that aren't online with WREGIS at the present time, Mr. Jenkins said he would be curious to see what this would look like. He did note that they are generally supportive of the idea.

Mr. Jenkins also noted that written comments will follow.

V. CLOSE HEARING

There being no further comments Hearing Officer Kip Pheil closed the hearing.