

ORDER NO. 22-112

ENTERED Apr 07 2022

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2216

In the Matter of

PORLAND GENERAL ELECTRIC  
COMPANY,

2022 Renewable Portfolio Implementation  
Plan.

**ORDER**

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on April 5, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

**BY THE COMMISSION:**



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**Nolan Moser**

Chief Administrative Law Judge



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**ITEM NO. CA7**

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: April 5, 2022**

**REGULAR**        **CONSENT** X **EFFECTIVE DATE** \_\_\_\_\_ **N/A**

**DATE:** March 30, 2022

**TO:** Public Utility Commission

**FROM:** Zachariah Baker

**THROUGH:** Bryan Conway, JP Batmale, and Kim Herb **SIGNED**

**SUBJECT:** PORTLAND GENERAL ELECTRIC:  
(Docket No. UM 2216)  
Acknowledgement of the 2022 Renewable Portfolio Standard  
Implementation Plan.

**STAFF RECOMMENDATION:**

Acknowledge Portland General Electric's (PGE or Company) 2022 Renewable Portfolio Standard Implementation Plan (RPIP).

**DISCUSSION:**

Issue

Whether PGE's 2022 RPIP satisfies all applicable Renewable Portfolio Standard (RPS) statutes, administrative rules, and orders.

Applicable Rule or Law

Oregon's RPS laws are codified at ORS 469A.005 through 469A.210 and establish incremental targets for energy companies to procure qualifying renewable energy. OAR Chapter 860, Division 83, establishes guidelines for RPS compliance, including limits on the cost of compliance, requirements for planning and reporting, and standards for the use of Renewable Energy Certificates (RECs) as the primary compliance instrument. OAR 860-083-0400 requires electric companies subject to ORS 469A.052 to file an RPIP every even-numbered year, unless otherwise directed by the Commission.

Senate Bill 1547, passed in 2016, included various changes to the RPS that will impact both the format and substance of the RPIP once reflected in the OAR. The Commission has had rulemakings underway since 2017 to reflect these changes to the RPS.<sup>1</sup> These rulemakings will fundamentally change how the utilities will approach both the content and format of their RPIP filings.

Due to the broad concerns over both the content and format of the RPIP and the associated rulemakings, the Commission waived a majority of the administrative rules that governed the 2020 RPIP filings. In Order No. 19-447, the Commission adopted Staff's recommendation to waive the requirements under OAR 860-083-0400(2)-(5) for the 2020 RPIP filings.

Relying on similar concerns, as well as possible changes that may result from the implementation of House Bill (HB) 2021, the Commission waived the requirements under OAR 860-083-0400(2)-(5) for the 2022 RPIP filings.<sup>2</sup> Similar to the waiver for the 2020 RPIP filings, the waiver for the 2022 filings allows the RPIP to cover three years instead of five years. In this case, the RPIP is expected to project an RPS compliance strategy for the years 2023-2025.

## Analysis

### *Background*

PGE submitted its 2022 RPIP on December 30, 2021. Although only required to provide an RPIP that covered 2023-2025, PGE included planning information for five years, through 2027.

Staff submitted comments on February 10, 2022, indicating that it believed that PGE had complied with the applicable requirements in statute, OAR 860-083-0400(1) and (6)-(10), and relevant orders.<sup>3</sup> But, Staff also noted ongoing concerns specific to PGE's RPS compliance strategy as well as with RPS planning more generally, which have spanned previous dockets.<sup>4</sup> These ongoing items are discussed further in the "ongoing considerations" section of this memo.

In addition, as part of its comments, Staff noted that it was not able to verify whether the cost of compliance as a percent of the revenue requirement would be below the four

<sup>1</sup> See Docket No. AR 610, Order No. 18-128; see generally Docket Nos. AR 610, AR 616, AR 617.

<sup>2</sup> See Order No. 21-487.

<sup>3</sup> See Staff Comments dated February 10, 2022. Staff considered Order No. 21-487 waiving certain rules for the 2022 RPIP and Order No. 14-267 requiring projections of the incremental cost of compliance under a 20 percent unbundled REC scenario.

<sup>4</sup> Staff Comments dated February 10, 2022. Pages 4-5.

percent cost threshold found in OAR 469A.100(1). This was due to the fact that PGE was not required to provide the revenue requirement for the RPIP per the rule waiver in Order No. 21-487. However, Staff felt it was important to verify this information.

In the previous RPIP docket, PGE similarly was not required to provide the revenue requirement due to the waiver of the relevant rule, but Staff attempted to estimate PGE's revenue requirement.<sup>5</sup> This time around, Staff thought it would be preferable to ask the Company to provide the revenue requirement. As a result, Staff submitted a data request for the revenue requirement and noted that it would provide an analysis of that information in Staff's Recommendation.<sup>6</sup>

In response to Staff's data request, PGE explained that its annual financial forecasting and budgeting does not isolate PGE's regulated revenue requirement, and therefore, PGE was not able to provide the revenue requirement for the RPIP years. PGE did however provide an estimate of the revenue requirement for the first year of the RPIP – 2023 – based on the stipulated revenue requirement in its most recent general rate case proceeding.<sup>7</sup>

The Company filed a letter in lieu of reply comments on March 3, 2022, that stated the Company agreed with Staff's conclusion from Staff's comments that PGE sufficiently met the minimum requirements of its 2022 RPIP. No other comments were filed in the docket.

#### *2022 RPIP Compliance*

Staff continues to find that PGE's 2022 RPIP complies with the applicable requirements in statute, OAR 860-083-0400(1) and (6)-(10), and relevant orders. Table 1 below provides Staff's summary of PGE's planned compliance strategy including the cost of compliance as a percent of revenue requirement.

As mentioned above, PGE was unable to provide an estimate of the revenue requirement beyond 2023. Therefore, Staff used a similar methodology to the last RPIP docket to estimate PGE's revenue requirement. Following this methodology, Staff used the revenue requirement from PGE's most recent rate case and simply added 2 percent each year as an inflation adder. While rudimentary, it at least provides the Commission with some comparator. Based on these estimates, as can be seen in Table 1, it is unlikely that PGE will exceed the four percent incremental cost threshold during the compliance period. With that said, unexpected shifts in the cost of qualifying electricity, particularly in 2025, could push PGE closer to the four percent threshold.

<sup>5</sup> Docket No. UM 2048. Staff's Initial Comments dated February 14, 2020. Pages 2-3.

<sup>6</sup> Staff Comments dated February 10, 2022. Page 3.

<sup>7</sup> See PGE's Response to OPUC Data Request No. 01.

*Table 1: Summary of PGE's Planned Compliance – 2023-2027*

	2023	2024	2025	2026	2027
Annual RPS Compliance Obligation (% of Electricity Sold) <sup>8</sup>	20%	20%	27%	27%	27%
Estimated Annual MWh Target for Compliance <sup>9</sup> (MWh)	3,756,740	3,817,400	5,218,803	5,279,796	5,338,683
Estimated Unbundled RECs for Compliance <sup>10</sup>	0	0	0	0	0
Estimated Bundled RECs for Compliance <sup>11</sup>	3,756,740	3,817,400	5,218,803	5,279,796	5,338,683
Estimated Incremental Cost of Compliance <sup>12</sup>	\$55,060,228	\$53,957,639	\$74,730,312	\$56,373,737	\$58,343,972
Revenue Requirement (000) <sup>13</sup>	\$2,136,311	\$2,179,037	\$2,222,618	\$2,267,070	\$2,312,412
Cost of Compliance as a % of Revenue Requirement	2.58%	2.48%	3.36%	2.49%	2.52%

### *Ongoing Considerations*

Over the years, Staff has highlighted ongoing RPS compliance issues that represent broad concerns with the current RPS planning and compliance regimes. Staff summarizes the outstanding issues below:<sup>14</sup>

<sup>8</sup> ORS 469A.052.

<sup>9</sup> PGE's 2022 RPIP. Page 1.

<sup>10</sup> PGE's 2022 RPIP, Attachment A, 'Annual Form of Compliance.' Page 6.

<sup>11</sup> PGE's 2022 RPIP, Attachment A, 'Annual Form of Compliance.' Page 6.

<sup>12</sup> PGE's 2022 RPIP, Attachment A, 'Incremental Cost Summary.' Page 1.

<sup>13</sup> These numbers are rudimentary projections developed by Staff using the revenue requirement in PGE's most recent rate case (Docket No. UE 394) starting in 2023, escalated by 2 percent each year as an inflation adder. For the starting number in 2023: See Docket No. UE 394 Joint Testimony in Support of Third Partial Stipulation, Exhibit 302. Page 26. See also PGE's Response to OPUC Data Request No. 01.

<sup>14</sup> These issues are similar to those summarized in the previous RPIP docket (see Docket No. UM 2048, Staff Report dated April 13, 2020, Page 2), but the sixth issue noted in the previous docket was resolved in Docket No. AR 617.

1. The timing, function, and content of the RPIP;
2. The methodology to calculate the incremental cost;
3. The utilities' accumulation of banked RECs without a meaningful strategy to utilize them and the associated intergenerational equity concerns;
4. The notion of physical compliance and whether the utilities are adequately planning for the use of unbundled RECs; and
5. The sale of qualifying RECs to return the value of investment in RPS-eligible resources;

Some of these issues were underscored in reviewing PGE's 2022 RPIP compliance strategy. In its comments, Staff noted specific concerns around PGE's pattern of not including the use of unbundled RECs in its Base Case, but then ultimately using the maximum number of unbundled RECs to comply; the unclear relationship between unbundled REC use and Qualifying Facility (QF) REC retirements; and PGE's expectation of significant swings in costs of compliance between years.<sup>15</sup> Staff noted that it anticipates working with the Company to better understand these items moving forward. Staff will particularly seek strategies to harmonize and streamline how PGE's RPS Compliance strategy and costs, Voluntary Renewable Compliance, and existing REC banking interact with implementation of HB 2021 and associated Clean Energy Plans.

Staff notes that under the planned HB 2021 implementation work, Docket No. AR 616 – the RPS Implementation Plan rulemaking – is expected to be revisited and completed in Q1-Q2 2023.<sup>16</sup> There also could be additional relevant discussion and guidance on changes to the RPS Compliance/RPIP process leading up to that as part of the recently launched Clean Energy Plan Investigation Docket (Docket No. UM 2225).

Staff is hopeful that the ongoing issues with PGE's RPS compliance strategy, and more generally across the RPS Compliance and RPIP dockets, can be addressed before the next RPIP is filed. If the issues are not addressed by then and the Commission considers another waiver of certain RPIP requirements, Staff recommends that Staff consider how it will capture projected revenue requirements if a future waiver is pursued.

### Conclusion

Staff believes that PGE has met applicable legal requirements and therefore recommends that the Commission acknowledge the Company's 2022 RPIP.

<sup>15</sup> Staff Comments dated February 10, 2022. Page 4.

<sup>16</sup> OPUC Website, Legislative Activities, HB 2021 Clean Energy Gantt Chart. Page 3. Updated 11-29-2021. <https://www.oregon.gov/puc/Documents/HB2021-Gantt.pdf>.

**PROPOSED COMMISSION MOTION:**

Acknowledge PGE's 2022 Renewable Portfolio Standard Implementation Plan.

UM 2216