

RPS 2010 Rulemaking Advisory Committee

Meeting #1 Minutes

July 20, 2010

1:00pm to 3:30pm

Local Government Center

Members Present:

Doris Penwell, AOC

Rick Oliver, Central Lincoln PUD/OPUDA

Paul Woodin, CREA

Jeff Bissonnette, CUB

Gary Marcus, Falls Creek Hydro

Linc Cannon, Forest Resources and Taxation

Tom O'Connor, OMEU

Ryan Flynn, PacifiCorp

Brendan McCarthy, PGE

Zabyn Towner, PNGC

Megan Walseth Decker, RNP

Kate Miller, Trout Unlimited

Lisa Brown, WaterWatch of Oregon (alternate)

Members Absent:

Ellie Booth, Covanta Energy

Glenn Montgomery, OSEIA

ODOE Staff Present

Jim Denno (Manager)

Hillary Dobson (Policy Analyst)

Tim Inman (Intern)

Kip Pheil (Senior Policy Analyst)

Andrea Simmons (Division Administrator)

Other Stakeholders Present:

Sandra Bishop, Bishop Communications Jeff

Karen Mark Brady, Business Oregon

Breckenridge, Covanta Energy

Darby Randhlev, Covanta Energy

Bickford, Marion County

Jason Heuser, EWEB

Tamara Brickman, Oregon Dept. of
Administrative Services

Andrea Jackson, PGE

Tashiana Wangler, PacifiCorp

John McKinnon, WaterWatch

1. Introductions and Agenda Overview

- a. **Call to Order:** Kip Pheil called this initial advisory committee to order at 1:00 pm. Meeting held at Local Government Building, 1201 Court Street Northeast, Salem, OR 97301.
- b. **Roll Call:** Ellie Booth and Glenn Montgomery were absent.
- c. **Approval of Agenda & Order of Business:** Approved.

2. Energy, RPS Overview by Kip Pheil.

- a. An overview of the Oregon RPS requirements and 2010 changes.
- b. An explanation of the Oregon RPS chronology. Brendan McCarthy asked for clarification on the process for how a generating unit (GU) gains RPS eligibility. Kip explained that OR 'certifies' a renewable GU within WREGIS¹ in order to qualify for Oregon's RPS. WREGIS creates and tracks Renewable Energy Certificates (REC). Megan Walseth Decker asked for further clarification on the

¹ Western Renewable Energy Generation System (www.wregis.org).

timing of RPS and WREGIS certification. Kip Pheil explained that a GU owner enters information into WREGIS, selecting all programs they believe they are eligible for. The relevant State/Program administrator then approves the GU within WREGIS or seeks further information. If approved, an Oregon certification ID is granted with a good thru date.

- c. Advisory Committee (Committee) discussion on HB 3649: low impact hydropower. Kip explained that the bill allows non-utility, pre-1995 Oregon facilities to qualify for RPS if certified as low-impact hydro. It parallels the SB 838 exception for low-impact, utility-owned facilities. The Committee must address what national organization to recognize for certification.
- d. Committee discussion on HB 3039 (2009): Feed-in Tariff. This bill was amended in 2010 by HB 3690 because the changes affected the Feed-in Tariff elements of HB 3039. HB 3039 established an Investor-Owned Utility (IOU) feed-in tariff pilot program. There are large PV requirements for IOU's – 20 MW total for all utilities divided by PUC between PGE, PacifiCorp, and Idaho Power.
- e. Committee discussion on HB 3674: pre-1995 biomass, MSW, and anhydrous ammonia. The bill allows pre-1995 PURPA biomass facility generation to be eligible for the RPS beginning January 1, 2011. However, the REC output must be banked until 2026. The bill allows new facilities that produce electricity using anhydrous ammonia as an intermediate energy storage medium to be eligible for the Oregon RPS beginning January 1, 2011. The bill implies that this is outside of the 50 aMW cap placed on low-impact hydro (LIH). There is no delay in REC use (as with pre-1995 facilities), thus the first-in first-out (FIFO) process is followed for compliance purposes. The bill allows generation from new MSW facilities, capped at 9 aMW (= 78,800 MWh/yr) of annual output. A new MSW also follows the FIFO rule. There was a discussion of the distinction between bundled and unbundled². The bill allows pre-1995 MSW generation via combustion process to qualify for the Oregon RPS beginning January 1, 2011, however, it must be banked until 2026. This type of generation is capped at 11 aMW (= 96,000 MWh/yr) of annual output.
 - i. Kip explained that the WREGIS process allows REC creation going back for about three months from time of registration or RPS certification. This means that RPS certifications for these facilities cannot happen until about April 2011. If certified earlier, REC output from 2010 could be created that would appear eligible for the RPS (which would violate HB 3674 provisions).

3. The Committee took a ten minute break.

4. The Committee discussed follow-up questions.

- a. Linc Cannon asked about the rulemaking timeline and meeting logistics. Kip noted this would be covered later in the agenda.
- b. Brendan McCarthy asked for further clarification on WREGIS GU determination and the implications for facilities that are/were not WREGIS GU certified. Kip responded that a goal for the administration of RPS tracking is to provide clarity for the renewable energy markets. He said that there are three conditions and periods of eligible generation to be addressed. This must be done in a way that satisfies the PUC. First, GUs that met eligibility requirements but were not registered in WREGIS (so did not produce any REC output for some period). Second, GUs that were registered and so produced WREGIS “generic REC output” for some period (i.e., w/o Oregon RPS certification). Third, GUs that were registered and had RPS certification, so produced WREGIS-issued, Oregon certified REC output. Kip is working with contacts at PacifiCorp, PGE, and EWEB to create a list of facilities and REC output under each of the first two scenarios.
- c. Ryan Flynn asked if ODOE waits for WREGIS to ‘bless’ the RECs. Kip responded that ODOE has to wait for the facility to be registered in WREGIS before providing certification. ODOE will move along a

² A bundled REC refers to purchase of both the REC and underlying 1 MWh of electricity; an unbundled REC has been sold separately from the underlying electricity. Unbundled REC output is what consumers are usually purchasing when they participate in an optional green power program such as PGE's Green Source, PacifiCorp's Blue Sky, and Northern Wasco County PUD's Pure Power.

parallel path to perform factual investigation needed to confirm RPS eligibility as WREGIS registration is in process. Once a GU has received the Oregon Certification ID, each REC produced by WREGIS indicates OR RPS eligibility.

- d. Tom O'Connor asked for clarification that the statute does not say that the REC tracking system has to be WREGIS. He is concerned about this because of Bonneville Environmentally Preferred Power (EPP) being bought prior to WREGIS being up and running. Also, he wanted clarification on what happens to hydro improvements that are allowed in statute but are not covered in WREGIS. Kip responded that WREGIS has an ongoing discussion about the retroactive REC creation issue. It may be a month or two months away from having a response to this issue. It's a question of what WREGIS is willing to do and how much the cost is to the system for a change to capture output prior to GU registration. Kip responded to the hydro improvement question (efficiency v. capacity issue). He said that the statute uses both terms for non-hydropower upgrades, but only allows efficiency for hydropower upgrades, and does not specify the meaning of each term. This issue may best be addressed in rules.

5. The Committee discussed low-impact hydro.

- a. There are two classes of pre-1995 hydro now eligible for the Oregon RPS. The first class is utility owned hydro, generated within WECC territory. The second is independently-owned pre-1995 hydro located in Oregon.
- b. Kip Pheil provided information about the Low Impact Hydro Institute (LIHI). Kip presented some background on the LIHI process. There are eight criteria that all must be met in order to receive certification. Applications are approved by a governing board. Hydro projects must be re-certified every five years, which allows the standards to be strengthened over time as standards change and also allows LIHI to police certification in case anything was missed the first time. Gary Marcus added that eight states have put LIHI in their standards with no other options for certification.
- c. Kip noted that LIHI appears to be the only group really providing this service nationally. He asked if anyone knew of an alternative national organization that is doing this type of certification. Gary Marcus stated that he supports having LIHI be the organization. Paul Woodin agreed. Brendan McCarthy said that when the language was being drafted in 2007, it was PGE's understanding that LIHI would be the organization, with the caveat that language exists that could allow for other organizations in the future. Gary Marcus added that ODOE should be careful with other groups that could water down the process.
 - i. Rick Oliver supports designating LIHI or the equivalent, but no less (weaker standards). Jeff Bissonnette, Zaby Towner, Tom O'Connor, Ryan Flynn, Megan Walseth Decker, Brendan McCarthy and Kate Miller support designating LIHI. Kate Miller added that she would like protections to guard against weakening of the standard in the future. Linc Cannon abstained.
- d. Kip posed a timing question to the Committee about whether the low impact process needs to be accelerated through the temporary rulemaking process to allow more eligible generation to be captured in WREGIS with the Oregon RPS Certification ID. Gary Marcus would recommend temporary rulemaking. Paul Woodin supports this plan noting that he represents several members affected by this timing issue. Doris Penwell supports expediting the process.
 - i. Kip told the Committee that ODOE will draft rule language for moving ahead with LIHI as the national certification organization and have information about proceeding with temporary rulemaking for next meeting.

6. The Committee addressed follow-up questions.

- a. Ryan Flynn asked if this rulemaking process will address the stranded RECs issue. Kip responded that the rulemaking would deal with core rules directed by legislation, including the low impact hydro process, and then look at issues that may be best addressed by rules but that do not have a direct

legislative mandate. Flynn noted the issue of timeliness with the reporting requirements coming in the next year.

- b. Tom O'Connor added that some of the hydropower efficiency upgrades are starting to take place, so would like to see timeliness addressed.

7. Kip Pheil and the Committee discussed the rulemaking schedule and logistics.

- a. The schedule is built around having rules adopted at the end of October. The plan is to have the Committee meet every third Tuesday: Aug. 10, Aug. 31, Sept. 22, and Oct. 12. The Committee noted that the week of the 21st of Sept. has legislative days (M, Tu, W, Th) but a rulemaking meeting could possibly be worked in. Committee members would know by end of August. The Committee agreed that afternoon meetings work best.
- b. Andrea Simmons told the Committee that ODOE should have draft rules ready for the Committee a week or better before the actual meeting.
- c. Kip stated that for next meeting, ODOE will have draft language on the LIH rule and background information on the other issues. Also, that background and reference documents will be posted to the website.

8. Adjournment

- a. Meeting adjourned at 3:30.

Respectfully submitted by: Hillary Dobson