

September 6, 2006

To: Mike Grainey and Bill Drumheller

From: Tom O'Connor

Subject: Draft of Potential RPS Language

Below is a more fleshed out version of the outline Don, Dick and I submitted to the August REWG meeting. This has not been reviewed by legal counsel, but I've attempted to put our thoughts on a public power section into legislative style and format. I hope this will be helpful as you draft your strawman.

**SEC. 1. Purposes and Policies:** The Legislative Assembly declares that it is the purpose of this Act to:

- 1.) Encourage cost-effective conservation and efficiency in the use of electric power;
- 2.) Encourage the development of cost-effective renewable resources;
- 3.) Assure customers an adequate, economical, and reliable power supply
- 4.) Recognize that consumer-owned utilities purchase all or major portions of their electricity supply from the Bonneville Power Administration under long-term federal contracts;
- 5.) Recognize that virtually all of the existing Federal Base System power comes from resources that do not contribute to greenhouse gas emissions;
- 6.) Recognize that increasing development of renewable resources by consumer-owned utilities will require new Bonneville Power Administration renewable products, adequate and affordable transmission access and the availability of the Federal hydropower system and conventional resources for shaping and firming;
- 7.) Preserve and enhance the ability of consumer-owned utilities and their governing bodies to respond to their consumers;
- 8.) Recognize that areas served by consumer-owned utilities located in various parts of the State of Oregon differ in their needs and desires concerning the provision of electricity and related products and services;
- 9.) Retain local control over consumer-owned utilities
- 10.) Preserve, clarify, and as provided herein, enhance the rights and authorities of consumer-owned utilities and their governing bodies.

**SEC. 2. Definitions**

- 1.) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric co-operative as defined in ORS 757.600.
- 2.) "Covered consumer-owned utility" means a consumer-owned utility that serves over 50,000 retail electric customers in Oregon on the date of this Act.
- 3.) "Eligible renewable resource" means
  - (a.) electricity from a generating facility powered by a renewable resource that commenced operation after the passage of the Regional Act where the facility is located within the boundaries of the Western Energy Coordinating Council
  - (b.) incremental electricity produced as a result of improvements to existing hydroelectric generation or combined heat and power projects owned or

operated by a utility, the federal government, or any other entity within the boundaries of the Western Energy Coordinating Council.

(c.) electricity from hydroelectric generating facilities 30 MW or less

(d.) electricity from eligible renewable resources purchased from the

Bonneville Power Administration

(e.) electricity needed to shape, firm, or integrate an eligible renewable resource used to meet the requirements of Section 3 and 4 of this Act

(f.) electricity from a customer-owned eligible renewable resource through a net metering agreement or PURPA contract

(g.) renewable energy certificates or green tags from eligible renewable resources

(h.) renewable resource research and development expenditures

(i.) community scale projects eligible at 150% credit

4.) "Renewable resource" means (a.) wind; (b.) solar; (c.) geothermal; (d.) water; (e.) wave, ocean, or tidal power; (f.) verifiable conservation ; (g.) combined heat and power (CHP); (h.) biomass energy from landfill gas, wastewater treatment facilities, animal waste, and solid organic fuels from wood, forest or field residues or dedicated energy crops or black liquor but does not include wood products treated with chemical preservatives or municipal solid waste.

### **SEC. 3. Consumer-owned utility renewable resource policies**

1.) By 2012, each local consumer-owned utility board, through a public or member process, shall adopt and implement a local utility renewable resource policy giving priority to the purposes in Section 1 of this Act.

2.) As part of that policy each consumer-owned utility shall consider and make a specific determination whether to implement either:

a.) inclusion as part of its resource portfolio, in an amount determined by the local board, a BPA renewable product, or other eligible renewable resources, or

b.) a green pricing or green tag program for its customers

### **SEC. 4. Covered consumer-owned utilities to adopt renewable resource standards**

1.) By 2012, each local board for a covered consumer-owned utility, through a public or member process, shall adopt and implement a local renewable resource standard giving priority to the purposes in Section 1 of this Act.

2.) A local renewable resource standard is deemed to meet the intent of Section 1 if it targets either:

a.) 25% of load with eligible renewable resources by 2025 or

b.) 60% of load growth with eligible renewable resources by 2025

3.) A covered consumer-owned utility may adopt a local alternative standard to Subsection (2.)(a.) or (b.). The local alternative standard must be accompanied with findings and a determination that the standard that is consistent with Section 1 of this Act.

4.) The board may adjust the standard if it determines through a public or member process and with appropriate findings that there is a lack of firm transmission availability to acquire renewable resources needed to meet the standard or that the standard cannot be met due to a force majeure event.

**SEC. 5. Resource costs**

- 1.) Placeholder for cost cap which must be included in any RPS
- 2.) Nothing in this Act shall cause a consumer-owned utility to reduce its purchases of the lowest priced electricity from the Bonneville Power Administration pursuant to Section 5 of the Pacific Northwest Electric Power and Conservation Act of 1980, Public Law 96-501, as amended.
- 3.) Nothing in this Act shall require a consumer-owned utility to forgo any generating resources owned or under contract as of the date of this Act nor to acquire any resource or credits that would cause the utility to have resources or credits in excess of the cumulative electric demand of its customers.

**SEC. 6. Annual report to Oregon Department of Energy**

- 1.) Each consumer-owned utility shall submit an annual statement to the Oregon Department of Energy that verifies it is in compliance with this Act. The statement submitted by the consumer-owned utility is for informational purposes and is not subject to approval by the Oregon Department of Energy.

**SEC. 7. Existing rights and authorities of consumer-owned utilities**

- 1.) Nothing in this Act is intended to limit or restrict the rights and authority of a consumer-owned utility, or to subject a consumer-owned utility to the regulatory authority of the Public Utility Commission not otherwise provided by law.

**SEC. 8. Placeholder for statutory changes that may be necessary for COUs to implement the above requirements and policies**