

## Update to the REWG from Oregon Public Utility Commission staff 6-3-08

This concept is related to the implementation of SB 1149. ORS 757.600(16) defines an "Electricity Service Supplier" as a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer, except for utilities selling to retail customers in their own service territories.

An unintended consequence of this definition is that it applies to third party investors who finance and sometimes own solar units (or other distributed generation) and sell the power to the building owner or site. This is currently an issue for Honeywell Building Solutions. The company has committed to build three systems and is in discussions for more installations. However, the potential statutory requirement to be treated as an ESS has the company rethinking its interest in doing projects in Oregon.

On March 3, 2008, staff met with Paul Graham to discuss possible changes to the language in ORS 757.600(16). Staff considered a variety of generation sources that potentially should be excluded from the definition of an ESS, if the power will not be delivered over a utility's distribution system:

1. All renewable resources eligible to comply with the renewable portfolio standard under Section 4 of SB 838, plus combined heat and power (CHP) projects.
2. Only the renewable resources eligible to comply with the renewable portfolio standard under Section 4 of SB 838, without including CHP.
3. Solar and wind projects. This mirrors an existing exemption in ORS 757.005(1)(b)(C)(iii). Further, such third-party transactions are common both with solar and wind projects.
4. Only solar projects.

The narrowest concept would be to exclude only solar projects from the definition of an ESS. This would address the known concern of Honeywell Building Solutions and Sun Edison, which also has inquired about the issue. The most liberal, but more controversial, approach would be to apply the exclusion to all renewable resources eligible to comply with the renewable portfolio standard as well as CHP projects. Staff and DOJ agreed that the existing statute poses the greatest risk to solar and wind projects and propose option 3 above. This keeps the scope of the concept quite narrow while facilitating development of wind and solar projects through third party development.

The proposed language is as follows:

Relating to electricity services, without distribution services, provided to end use customers from solar or wind resources.

ORS 757.600 (16) is amended to read:

"Electricity service supplier" means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. "Electricity service supplier" does not include an electric utility selling electricity to retail electricity consumers in its own service territory. **"Electricity service supplier" also does not include a person selling electricity from solar or wind resources to any number of customers, if the person is also not providing distribution as defined in subsection (8) of this section.**