



Before the
SENATE COMMITTEE ON BUSINESS AND TRANSPORTATION

**Prepared Remarks of Robert Kahn on behalf of Northwest &
Intermountain Power Producers Coalition**
on
SB 979 (Relating to Purchase of Eligible Renewable Energy).
April 3, 2017

Chair Beyer, Vice-Chair Thomsen, and Committee Members:

My name is Robert Kahn. I serve as Executive Director of the Northwest and Intermountain Power Producers Coalition¹ (“**NIPPC**”), and appreciate this opportunity to submit testimony in support of SB 979. This legislation is designed to meet the commitment of many Oregon businesses that seek to purchase renewable energy above and beyond that required of their utilities under the Renewable Portfolio Standard. This legislation will accelerate Oregon’s policy goals by enabling self-selecting eligible commercial and industrial customers to purchase 100 percent renewable energy and to serve as the leading edge of renewable energy growth in the state. SB 979 achieves these objectives by making minor changes to Oregon’s longstanding direct access policies, as originally mandated by SB 1149.

Access to 100% renewable energy is a priority in boardrooms throughout the United States. Scores of major businesses, many of which have a substantial presence in Oregon, seek a pathway to use 100 percent renewable energy to power their facilities.² And it cannot be over emphasized that these companies desire to be responsible for adding new

¹ NIPPC is a member based advocacy group representing electricity market participants in the Pacific Northwest. Membership includes a diverse cross section of entities across the electricity value chain in the region, including renewable power developers and non-utility electricity service suppliers. NIPPC is committed to facilitating cost effective electricity sales, offering consumers choice in their energy supply, and advancing fair, competitive power markets. Learn more about NIPPC at www.nippc.org.

² See, e.g., the RE 100, <http://there100.org/companies>, which includes, among others, Facebook, Google, Hewlett Packard, Microsoft, Nike, Starbucks, Walmart and others.

green power to the grid – “additionality” is the term of art. Plain and simple, these companies - for sound business reasons - want their brands to be 100% green. Their goals will benefit Oregon by reducing green house gas emissions and generating in-state economic development. This commitment accounts for the bill’s wide support from commercial and industrial entities.

The Legislature first created policy allowing non-residential customers to purchase electricity from the market in 1999 with passage of the landmark SB 1149, also known as “direct access.” That law directed the Oregon Public Utility Commission to eliminate barriers to the development of a competitive retail market structure.³

Regrettably, more than 15 years after SB 1149 was enacted, the results remain disappointing: only approximately 3.5 percent of eligible Pacific Power customers and 16 percent of eligible of Portland General Electric customers utilize the direct access program. This is true despite the fact that independent energy service suppliers stand ready, willing and able to sell 100 percent renewable power to customers that wish to leave utility cost of service. Commercial and industrial entities’ continued avid interest in acquiring 100% renewable power is the reason we have proposed SB 979. By breathing new life into SB 1149, the legislation before you will enable these nonresidential organizations to fulfill their deeply seeded commitments to operate using green energy.

Three years ago the legislature responded to nonresidential customers’ interest in purchasing renewable power in Section 2 of HB 4126. That legislation directed the Commission to consider whether, and under what circumstances, utilities could offer a Voluntary Renewable Energy Tariff, commonly referred to as a “VRET.” After protracted proceedings, the Commission issued an order encouraging the utilities to file draft VRET proposals subject to specific conditions, including the requirement that any VRET mirror the principles of direct access.⁴ Neither PacifiCorp nor

³ See Senate Bill 1149, Section 6(1), codified at 57 ORS §757.646(1). “The duties, functions and powers of the Public Utility Commission shall include developing policies to eliminate barriers to the development of a competitive retail market structure. The policies shall be designed to mitigate the vertical and horizontal market power of incumbent electric companies, prohibit preferential treatment, or the appearance of such treatment, of generation or market affiliates and determine the electricity services likely to be competitive.”

⁴ See In re Voluntary Renewable Energy Tariffs for Nonresidential Customers, Docket UM 1690, OPUC Order No. 15-405(2015) [included as Attachment 1].

Portland General Electric offered a VRET proposal, and the proceeding was ultimately closed. As a result, the vast majority of Oregon businesses that have a pressing desire to purchase renewable energy lacks a reasonable mechanism to do so.

SB 979 is tailored to do what HB 4126 - as interpreted by the OPUC - was unable to accomplish. SB 979 builds on the existing direct access statute, but carves out a new product applicable only for electricity stemming from an “eligible renewable energy resource.” The bill also contains provisions to ensure costs are not shifted to utility customers. Consistent with existing policy, SB979 shifts a corresponding portion of compliance with the Renewable Portfolio Standard from the utilities to electricity service suppliers providing renewable direct access service. It also, not incidentally, makes a VRET more economically attractive for those nonresidential customers who prefer to remain with traditional utility service.

Here are several highlights of what the legislation accomplishes:

- Encourages New Commercial and Infrastructure Development in Oregon. The legislation corrects a blind spot in current policy, allowing *new* commercial and industrial load electing to purchase power from an eligible renewable energy resource to not be subject to transition charges. This policy correction will encourage businesses committed to using renewable power to invest in Oregon, creating new jobs and spurring economic growth.
- Caps Transition Charges on Customers Purchasing 100 Percent Renewable Energy up to a Maximum of Five Years. SB 979 clarifies that customers permanently leaving a utility’s system to purchase power from an eligible renewable energy resource shall not be responsible for continuing to pay transition costs beyond 5 years after leaving the system. It should be noted that this five-year period is consistent with Portland General’s current program under its existing direct access service.
- Provides Clarity in the Ownership of the “Green Attributes.” Renewable Energy Credits, or RECs, are the currency used prove

that energy was created through a renewable resource.. These RECS are intended to reflect *all* the green attributes associated with renewable power generation. When nonresidential customers purchases renewable power from an independent power producer or electricity service supplier it also must acquire the power's all of the "green attributes" that are reflected in the REC in order to legally claim that it is utilizing renewable energy, as required by the Federal Trade Commission's "Green Guides," Title 16, Part 260 of the Code of Federal Regulations. This applies whether the power is physically delivered to one of the buyer's facilities or indirectly from a renewable power generator separately selling RECs. Either way, the renewable direct access customer must be the only entity to own these green attributes if they are to have any value. SB 979 recognizes that the achievement of a buyer's goal to operate on 100% renewable energy depends on the customer's sole and uncontested ownership of these RECs, and that no other entity may claim credit or be entitled to a reduction of compliance obligations based on energy claimed by the renewable direct access customer as qualifying renewable power.

- Shifts a Portion of the RPS Obligation from the Utilities to Electricity Service Suppliers. Last year's landmark legislation in SB 1547, also known as the "Coal to Clean" bill, ramps the renewable portfolio standards obligations for utilities and electricity service suppliers to 50 percent by 2040. By allowing customers desiring renewable power to purchase such power from non-utility suppliers, this bill will lower the utilities' cost of compliance to meet their RPS obligations. Moreover, the bill specifies that any RECs delivered to customers by an ESS "must be retired and cannot be resold, transferred, or used for RPS compliance obligations," ensuring that this bill does not reduce the stringency of the Oregon RPS requirements.
- Reduces Utility Costs and Protects Cost-of-Service Customers by Clarifying That a Utility Can Meet its Obligation to Serve Returning Direct Access Customers through Interim Market Purchases. One of the factors driving the high transition charge costs under the onerous existing direct access program is the utilities' claimed need to stand ready to provide default utility service in the event a direct access customer elects to return to the utility cost of service. SB 979 makes

clear that the utility can meet its obligation to provide default utility service to such customers through interim market purchases, rather than being required to maintain “stand by” generation capacity even though it’s unlikely such an event may never occur. The legislation also provides that a returning customer ultimately can return to the utility’s cost of service tariff, but only after the utility has had sufficient notice to allow it to acquire any appropriate resources. This ensures that a customer desiring to return to utility service can do so, without impacting other ratepayers.

- Specifies that Transition Charges are applied on Depreciated Costs and Requires Utilities to Use Diligent Efforts to Mitigate Transition Costs. Transition Charges, or “exit fees,” are intended to protect a utility’s remaining customers from cost shifts that could occur if the utility has assets that are underutilized as a result of customers moving to direct access. However, because the utility continues to earn a return on such investment, it has no incentive to sell or re-use such underutilized assets or otherwise mitigate costs. The legislation directs the utility to demonstrate to the Commission that it cannot reasonably mitigate this component of transition. This will provide an incentive to the utility to pursue reasonable measures to reduce costs, and reduce the level of transition charges applicable to renewable direct access customers.

In conclusion, SB 979 provides limited, common sense changes to the existing direct access regulations to enable nonresidential power consumers who want to go 100% renewable to do so.

NIPPC hopes the Committee sees merit in our proposal and will vote to move SB 979 to the full Senate for its consideration.