



March 8, 2019

Oregon Legislature
Joint Committee on Carbon Reduction
900 Court St. NE
Salem Oregon 97301

Re: Amend House Bill 2020 to Remove Incentives to Construct Fracked-Gas Power Plants

Dear Senator Dembrow, Representative Power and Members of the Joint Committee on Carbon Reduction,

Thank you for your ongoing effort to gather input and new ideas to shape Oregon's climate policy. On behalf of Columbia Riverkeeper, Green Energy Institute, Oregon Physicians for Social Responsibility, 350 PDX, Beyond Toxics, Rogue Climate, Verde, Sustainable Energy and Economy Network, the Climate Action Coalition, and Sierra Club, we would like to share our concerns about provisions of HB 2020 that could create an incentive for new gas-fired power development in Oregon.

HB 2020, as currently drafted, backslides in addressing carbon pollution costs from gas plants until 2030. We urge the committee to resolve this issue by retaining the existing carbon dioxide standard until 2030 to bridge the gap. Alternatively, HB 2020 could be amended to remove free allowances for new fossil fuel resources for utilities, thereby addressing the carbon pollution of new fossil fuel power plants. This letter describes four flaws in HB 2020 and provides recommended amendments.

I. How HB 2020 May Create Incentives for Fossil Fuel Development

HB 2020 proposes to repeal Oregon Energy Facility Siting Council (EFSC) carbon dioxide standards for energy facilities seeking a site certificate in Oregon. At the same time, HB 2020 will provide free allowances for all carbon pollution from electric utilities through 2030. The number of the free allowances would be awarded based on emissions forecasts linked to the

utilities' acknowledged integrated resource plans (IRPs), and not on the emissions reductions necessary to reduce state greenhouse gas emissions by 45% below 1990 levels by 2035. Under this mechanism, utilities may receive free allowances for pollution they emit from new or expanded gas power plants, so long as the Oregon Public Utilities Commission (OPUC) approves these gas-fired resources as part of a utility's acknowledged IRP. **Collectively, these proposals—repealing Oregon's carbon dioxide standard and granting no-cost allowances to electric utilities—would create a nine-year window (2021 to 2030) in which carbon pollution from some fracked gas plants will not be addressed by Oregon's climate policy.** In fact, utilities may even sell the free allowances they receive, which creates a perverse incentive for utilities to build, and the OPUC to approve, new fossil fuel facilities.¹ In contrast, under current law, new gas-fired power plants would be required to pay \$1.91/ton to offset excess carbon emissions under EFSC's carbon dioxide standard monetary pathway.² HB 2020 thus backs away from the existing price on carbon dioxide emissions and creates the wrong incentives for utilities. It creates the risk of moving Oregon in the wrong direction.

By removing the carbon dioxide standard, HB 2020 may shave millions of dollars from the cost of new gas-fired power plants. These savings will make new gas-fired power plants more attractive as a potential least cost, least risk resource by hiding the price of the plants' carbon pollution. The removal of the carbon dioxide standard may also allow non-utility construction of new gas-fired power plants, as the EFSC carbon dioxide standard applies to "energy facilit[ies]" broadly.³ Although non-utility developers may be subject to purchasing emissions allowances (the bill's opaque language does not clearly distinguish between vertically integrated investor-owned electric utilities and independent power producers that will provide direct access), HB 2020's removal of the EFSC carbon dioxide standard will reduce the upfront costs of building a new gas plant. This may open a major loophole for companies not regulated by the OPUC to build new gas-fired power plants. The following examples illustrate the problem associated with the eliminating the carbon dioxide standard for utilities:

- If constructed as approved under current laws, the [415 MW Perennial Wind Chaser](#) gas plant would potentially pay over \$19 million for its excess carbon pollution, based on the carbon dioxide standard's current \$1.91/ton price.⁴ These

¹ Section 43 of the bill requires that proceeds from the sale of no-cost allowances be used to reduce carbon pollution or provide assistance to retail customers.

² Developers may also choose to establish their own offset programs. To date, all developers have chosen to use Oregon's monetary pathway to offset excess carbon dioxide emissions from gas-fired power plants. Additionally, EFSC may choose to increase the monetary offset cost by up to 50% every 2 years.

³ ORS 469.320.

⁴ Oregon EFSC. September 2015. [Final Order](#). Perennial Wind Chaser. P. 218. The carbon cost was estimated to be \$13.2 million at \$1.27/ton, due at the beginning of construction. At the current standard of \$1.91/ton, the cost would be \$19.9 million. The cost is actually higher because EFSC has also updated the baseline efficiency requirement for new gas plants, as well. If the developer chooses the monetary pathway to mitigate its excess carbon emissions, the carbon dioxide standard requires that these costs be paid at the beginning of construction.

costs may not be captured in Oregon's climate policy under HB 2020, depending on the customer for the power produced.

- PGE's recently canceled Carty gas-fired power plant expansion plans (Units 2 and 3 combined for more than 800 MW of gas-fired power) would have paid more than \$17 million in up-front carbon mitigation costs under EFSC's current carbon dioxide standard.⁵ Removing the EFSC carbon dioxide standard could make proposals such as the Carty expansion project more affordable and attractive to utilities.

These are significant savings that could lead to unintended results, as they provide an incentive for utilities or out-of-state buyers to build and operate gas-fired power plants in Oregon. At the very least, the Oregon legislature should assess the risks associated with eliminating the EFSC carbon dioxide standard.

Second, Section 10 of HB 2020 excludes from regulation pollution from power plants owned by multi-state utilities that sell electricity to out-of-state customers. Elimination of the existing price on carbon dioxide could incentivize "resource-shuffling," through which utilities would build or expand existing gas plants in Oregon and export the power to other states. As described above, in the absence of Oregon's carbon dioxide standard, power from new gas plants in Oregon would become more affordable to out-of-state buyers. For existing power plants, this exemption eliminates the utilities' or their shareholders' accountability for their contributions to climate change. While Oregon legislators may believe that this exclusion is necessary to protect out-of-state ratepayers, this view is incorrect. Investor-owned utilities build power plants both to serve ratepayers and to pay their shareholders. It is up to the states in which the utilities provide retail delivery to decide whether their ratepayers should pay for the costs of complying with Oregon's climate laws; if those states choose to not pass the cost of Oregon's regulations onto their ratepayers, then the utilities and their shareholders will be on the hook, as they should. It is not the Oregon legislature's responsibility to decide when and how ratepayers in other states will be treated. It is, however, the Oregon legislature's responsibility to protect the health and welfare of Oregonians. Categorical exemptions for power plants that emit greenhouse gases and other pollutants inside the state do not fulfill that responsibility.

Third, HB 2020 proposes changes that are inconsistent with the state's carbon reduction goals. Section 56.2 of HB 2020 removes EFSC's ability to enforce any condition requiring that the developer of an energy generating facility demonstrate a need for its facility. Removing EFSC's review of the need for a facility may be counterproductive for limiting greenhouse gas pollution from generating facilities in Oregon. At a minimum, the change is unnecessary.

⁵ Carty Generating Station Amendment 1 Application. 2016. Appendix Y. P. Y-9. Units 2 and 3 would have cost \$17 million in carbon fees, adjusted for current \$1.91/ton excess carbon pollution price. The cost would likely be higher by considering EFSC's more stringent baseline efficiency (heat rate) requirement.

Finally, provisions for providing free allowances to trade-exposed, emissions-intensive industries potentially fail to address pollution resulting from highly polluting fracked gas-to-methanol or other large fossil fuel-based petrochemical facilities. Section 18 of HB 2020 leaves undefined the process for determining allowances for new facilities or industries not expressly listed in Section 18. We are concerned that the lack of clarity regarding allowances for potential new, highly-polluting, fossil fuel-based petrochemical facilities could undermine the overall efficacy of the policy in reducing greenhouse gas pollution. These potential allowances could create a perverse incentive to bring more energy-intensive, trade-exposed polluters into Oregon, such as fracked gas-to-methanol refineries. Where the policy seeks to prevent “leakage” of existing industries out of Oregon, it may unintentionally promote leakage into Oregon from new polluting petrochemical facilities.

Indeed, it is unclear why HB 2020 includes any accommodation for new sources or increased emissions at all; the scientific consensus is clear that we cannot add any new fossil fuel sources or infrastructure. The construction of new facilities creates new path dependencies, or emissions lock-in, that will delay and undermine state decarbonization efforts. Oregon owes no duty to future emitters and prospective sources. It should eliminate every mechanism in the law that would accommodate new fossil fuel sources and infrastructure.

II. Amendment Recommendations

To remedy the problems described above, Columbia Riverkeeper, Green Energy Institute, Oregon Physicians for Social Responsibility, 350 PDX, Beyond Toxics, Sustainable Energy & Economy Network, Verde, Sierra Club, the Climate Action Coalition and Rogue Climate recommend the following amendments.

1. Retain the current carbon dioxide standard until 2030, or remove free allowances for any new emissions related to fossil fuel power plants prior to 2030.
2. Retain Oregon’s carbon dioxide standard for gas plants that sell to out-of-state buyers, and remove the provision in Section 10 that excludes from regulation pollution from plants that sell power outside of Oregon.
3. Remove Section 56.2 of HB 2020, which unnecessarily lowers the bar for energy generating facilities to gain approval for construction and operation.
4. Eliminate the possibility of free allowances for new, highly-polluting fossil fuel or petrochemical facilities by including “new petrochemical facilities” in Section 18.2 of HB 2020, changing it to read “A covered entity or opt-in entity that is a fossil fuel distribution and storage facility or infrastructure, **a new petrochemical facility**, or an electric generating unit, may not receive allowances at no cost under this section and section 14 of this 2019 Act.”

5. Prohibit any new fossil fuel facilities or infrastructure from purchasing, receiving, or using emissions allowances.

III. Conclusion

The Committee should amend HB 2020 to ensure the bill does not create incentives to site new gas-fired power plants or other new fossil fuel infrastructure in Oregon. As drafted, the OPUC may be more likely to approve and acknowledge IRPs that include gas-fired resources. If gas plant emissions occur as part of an acknowledged IRP, utilities would receive an allowance for this pollution until 2030, shielding millions of tons of excess carbon pollution from Oregon's climate policy. This undermines the bill's carbon reduction goals.

Thank you for considering these concerns, and please contact Dan Serres if you have any questions at dan@columbiariverkeeper.org or 503-890-2441.

Sincerely,

Dan Serres, Conservation Director, Columbia Riverkeeper
Licia Sahagun, Deputy Director, Green Energy Institute
Regna Merritt, Healthy Climate Program Director, Oregon Physicians for Social Responsibility
Rick Brown, Co-lead, State Legislation Team, 350 PDX
Lisa Arkin, Executive Director, Beyond Toxics
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Rhett Lawrence, Conservation Director, Sierra Club
Hannah Sohl, Executive Director, Rogue Climate
Tony DeFalco, Executive Director, Verde
Climate Action Coalition

Columbia Riverkeeper and its 16,000 members have a strong interest in ensuring that HB 2020 increases pressure to transition away from fossil fuel resources. Columbia River communities are already strained by the impacts of climate change, and our organization supports legislation that steers our region away from any expanded commitment to fossil fuel energy.

Green Energy Institute (GEI) is part of Lewis & Clark Law School's Environmental, Natural Resources, and Energy Law Program. GEI's mission is to develop comprehensive, effective strategies to further the transition to a 100% renewable energy grid. GEI's analyses and recommendations aim to hasten the energy transition by strengthening existing policies, eliminating barriers, and promoting innovative and ambitious new strategies to support renewable energy deployment across the region.

Guided by the values and expertise of medicine and public health, **Oregon Physicians for Social Responsibility** works to protect human life from the gravest threats to health and survival by striving to end the nuclear threat, advance environmental health, protect our climate, and promote peace.

350 PDX is a grassroots organization that is building a diverse movement to address the causes of climate disruption through justice-based solutions by inspiring, training and mobilizing people to act.

Beyond Toxics protects and enhances human and environmental health. Beyond Toxics uses environmental justice engagement and community-based environmental grassroots organizing to ensure environmental protection and health for all communities. Beyond Toxics seeks to empower communities to enact lasting solutions to environmental health threats.

Sustainable Energy & Economy Network (SEEN) is a network of activists working to ensure that elected officials live up to their moral obligation to ensure a stable global climate for present and future generations.

Sierra Club has 70,000 members and supporters in Oregon and has been hard at building an unstoppable environmental movement here since 1978. Today, Sierra Club works with volunteer leaders to advance the chapter's campaign priorities which include fighting for progressive carbon pricing legislation, stopping oil trains, and reducing diesel pollution.

Rogue Climate was founded in 2013 in the Rogue Valley of Southern Oregon. Rogue Climate's mission is to empower Southern Oregon communities most impacted by climate change, including low-income, rural, youth, and communities of color, to win climate justice by organizing for clean energy, sustainable jobs, and a healthy environment.

Verde builds environmental wealth in communities through social enterprise, outreach and advocacy.

The **Climate Action Coalition** is a Pacific Northwest alliance of community-based organizations dedicated to confronting the causes and effects of climate change.