

**Public Utility Commission of Oregon**  
**Comments to the House Committee on Energy and Environment**  
**HB 2021-1 Implementation**  
**March 26, 2021**

The PUC has been asked by the House Committee on Energy and Environment to review written comments submitted by Brittany Andrus, AndrusPDX Consulting, and provide an estimate for how long it would take to implement the clean energy proposal in HB 2021-1. We understand this request to include the following:

- Timeline to conduct rulemakings required prior to Clean Energy Plans
- Timeline to file and acknowledge Clean Energy Plans (and begin implementation); and
- Differences and similarities in implementation and impact of an emissions-reduction policy versus an RPS approach to decarbonization of the electric system.

The PUC has examined HB 2021-1 and concludes that it would take 9-12 months to complete work necessary before retail electricity providers file Clean Energy Plans for PUC review. The PUC must approve the Clean Energy Plans in 6 months. Utility procurement under existing PUC processes would generally continue (and accelerate) under HB 2021-1 without delay, given the fact that the utilities are currently seeking to acquire least-cost carbon-free renewable resources. The Clean Energy Plans may identify additional incremental resource procurements, which can take 10-12 months for the RFP process but will not require new rulemaking. The PUC has also identified other work necessary before the DEQ and PUC determine whether the providers have met the first emission reduction target in 2030.

Our analysis is focused solely on the clean energy provisions of HB 2021-1. Ms. Andrus's comments included consideration of HB 2995 – another 100% Clean Energy bill that proposed a comprehensive program than HB 2021-1.

**HB 2021-1 PUC/DEQ Implementation Timeline**

HB 2021-1 provides a streamlined Clean Energy Program that leans on the existing PUC planning process and existing DEQ emissions calculation and reporting. The bill requires limited compliance review, with only two firm emission targets dates for compliance (2030 and 2035). The bill does not require the PUC to adopt a prescriptive incremental cost methodology, and requires an incremental cost review only upon request by utility or ratepayer organization.

If enacted, utilities will be required to immediately begin resource planning to meet 2030 and 2035 emission targets, as the PUC's existing IRP guidelines require adherence to Oregon energy policies. Utility procurement under existing PUC processes would likely continue without delay, given the current trend for utilities to seek carbon-free renewable resources to capture

economic opportunity under changing market conditions. The Clean Energy Plans may identify additional incremental resource procurements required under HB 2021-1.

The PUC divides the work required to implement HB 2021-1 based on two primary milestones. The first milestone is the date the retail electricity providers file Clean Energy Plans for PUC acknowledgement. The second milestone is 2030—the date by which the retail electricity providers must reduce baseline emissions by 80 percent.

**A. Clean Energy Plans**

HB 2021-1 will require the PUC (and DEQ) to complete the following through rulemakings or investigations prior to the filing of Clean Energy Plans:

Agency	Action	Time
DEQ	Establish baseline emission levels based on existing data  May need to ensure current emissions calculation methodologies address all resource types that may be used to comply, such as storage technologies	Unknown
PUC	Rulemaking or update to the IRP Guidelines* to determine Clean Energy Plan requirements and acknowledgement process  Rulemaking/IRP Guideline update efforts will focus on: <ul style="list-style-type: none"> <li>• Plan requirements needed in addition to those specified in HB 2021-1;</li> <li>• Whether the IRP acknowledgment process can be used for Clean Energy Plan acknowledgements without modification;</li> <li>• Specialized rules for PacifiCorp (multi-state utility) and ESSs to file Clean Energy Plans that are not contained in an IRP</li> </ul> *The PUC can update the IRP Guidelines by order	9-12 months

Once the above rulemakings and investigations have defined the planning parameters, the utilities and ESSs will file Clean Energy Plans. Acknowledgement of the plans will occur within 6 months of filing, followed by a resource procurement process and any other investment activities acknowledged. For utilities, this typically involves an RFP that follows the PUC’s competitive bidding rules. Procurement under the competitive bidding rules can take 10-12 months, depending on factors such as stakeholder

involvement. Other resources, such as PURPA Qualifying Facilities, Green Tariff, and Community Solar Projects are procured under a separate process. These timeline are project dependent. The PUC does not have oversight over the ESS procurement process.

For utilities, the Clean Energy Plans will be included in or closely linked to the IRP process. The IRP process assesses resource needs over the next 20 years and includes an Action Plan of least cost, least risk investments over the next 4 years. Delays to the next IRP cycle may be required so that utilities can identify additional near-term investments needed to meet the targets in HB 2021-1. These delays may not be necessary or extensive, however, given the current trend for utilities to propose near-term procurement of large quantities of renewable resources to capture economic opportunity under changing market conditions. Additional time may be required to consider near-term procurement of non-emitting dispatchable resources, such as storage, that can displace natural or other emitting facilities.

Based on the PUC's current expectations, the current utility IRP schedule is as follows:

- PacifiCorp plans to file its next IRP in September 2021, with acknowledgement in March 2022. If HB 2021-1 is enacted, PacifiCorp might may delay the IRP, or file a Clean Energy Plan that identifies incremental investments to comply with HB 2021-1 following the March 2022 acknowledgment.
- PGE currently plans to file its next IRP in the first quarter of 2022, with acknowledgement in July - September 2022. PGE might request to delay its IRP filing by a few months so that it can identify incremental updates required to comply with HB 2021-1.
- Idaho Power is actively engaged in an IRP review process with acknowledgment in April 2021. The company will have two years to file its next IRP.

For ESSs, the timeline to file a plan will be determined in rulemaking. Procurement activities will vary based on the existing resources serving the ESSs customers.

***Please Note:*** PUC acknowledgement of the IRP Action Plan requires a demonstration that the actions are a least-cost, least-risk strategy to serve customers in the public interest. *The utilities may seek to procure resources in advance of need, and have done so to take advantage of economic activities.* Although accelerated procurement is not prohibited, the utility bears the burden to justify the early action. Mechanisms to capture the benefits of early procurement while mitigating risks are a topic of discussion in recent PUC proceedings, and risk to customers has been cited by the PUC when evaluating proposals to make investments in advance of need.

## **B. 2030 Compliance**

The PUC and DEQ will need to complete the following activities prior to the first interim emission reduction review of 2030. Utility IRPs current focus on investments in non-

emitting resources will likely provide a long runway to implement this work, such as cost containment and reliability protections.

The PUC can also leverage existing work streams from the Governor’s Executive Order 20-04 (e.g., updating IRP practices to focus on emissions) and run rulemakings concurrently to address other actions needed prior to the first 2030 compliance date.

DEQ/PUC	<p>Section 7 – Unexpected Greenhouse Gas Emissions</p> <p>The DEQ will need to adopt processes for coordination with the PUC to evaluate the conditions underlying any unexpected emissions when determining whether a clean energy provider has met the 2030 Clean Energy Target</p>	12 months
PUC	<p>Section 8 - Reliability Pause</p> <p>The PUC may need to adopt rules for determining grounds and process for granting a temporary exemption due to system reliability concerns</p> <p>The PUC’s work will likely be influenced by its pending investigation on, as well as work on region-wide efforts addressing resource adequacy (and potential legislation)</p>	12 months
PUC	<p>Section 9 - Cost Cap</p> <p>If requested, the PUC is required to use a contested case proceeding to examine (1) whether an investment is related to HB 2021-1 and; (2) whether the cumulative rate impact of HB 2021-1 investments exceed a cost cap.</p> <p>The PUC may need to examine whether rules are required to govern the identification of investments that are related to implementing the Clean Energy Plan and the calculation of rate impacts associated with those investments.</p>	12-18 months
PUC	<p>Section 10 – Incentives for Early Compliance</p> <p>The PUC will need to investigate what incentives may/should be offered to for early compliance with the clean energy targets</p>	12 months

PUC	<p>Section 6 - Treatment of renewable energy sources</p> <p>The PUC will need to examine how the carbon accounting and attribution policies will interact with REC-based programs such as RPS, voluntary products, PURPA, and Low-Carbon Fuel Standards, where claims about the environmental attributes of energy may be made by someone other than the utility that receives the energy. This work is not expected directly impact the filing or implementation of Clean Energy Plans, but rather impact the manner in which utilities implement these other REC-based programs. This will also require ESSs to procure bundled renewable energy, rather than unbundled RECs from PURPA and other facilities, to comply with HB 2021-1.</p>	12-24 months
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### Emissions-Based vs. RPS-Expansion

The PUC is not endorsing the use of a particular regulatory pathway to clean energy, but offers the following observations.

- **Rulemakings:** Comparing approaches to decarbonize Oregon’s power sector is challenging, and the differences in time required to implement each will largely be determined by how the legislation is structured—not the underlying approach. For example, an RPS-expansion approach that changes the cost of compliance calculation, redefines qualifying resources, introduces new compliance enforcement mechanisms, revises PURPA policies, and changes renewable energy certificate policies may require significantly more time to develop administrative rules and plan for compared to implementing a streamlined emissions-based policy.
- **Outcomes and Market Impacts:** While the work required to implement either approach will primarily depend on the structure of the legislation, assuming all else is held constant, there are a few foundational differences between the impact of an RPS-expansion versus an emissions-reduction approach:
  - **Investments:** An RPS-expansion approach will be more targeted in driving investment in the technology specified to the amount and timeline specified. New investments may be limited by the treatment of banked and unbundled RECs. An emissions-based approach may result in near-term investment in renewables given the utilities’ current resource strategies, but is not designed to drive investment in a specific resource type within a specific timeframe. Rather, an emissions-based policy will drive utilities consider a range of near-term investments, including demand response, energy efficiency, and non-emitting capacity resources such as storage technology or optimally-sited renewables.

- **Emissions-reduction:** The emissions-based approach will be more targeted in reducing utility greenhouse gas emissions. An RPS-expansion will help with emission reduction due to the need to acquire renewable resources, but this impact will be indirect. The RPS only requires the utility to generate a specific amount of renewable energy in a given year. This renewable generation could be used to serve customer demand, but could also be sold to the market if the generation does not coincide with customer demand. Therefore, the extent to which an RPS impacts utility emissions depends on the extent to which the new renewable resources generate during hours that displace the need to use fossil fuels and the extent to which the RPS policy allows legacy renewables, banking, and unbundled RECs. This is why, for example, PacifiCorp's emissions reported to DEQ has only decreased by 2% between 2010-2019 (most current data), despite compliance with increasing RPS standards from 0% to 5% in 2011, 5-15% in 2015, and the impending increase to 20% in 2020.

*Please Note: PacifiCorp continues make meaningful strides toward coal retirement and large-scale non-emitting resource investments. This example is simply meant to illustrate that the RPS is not designed to regulate the use of fossil fuel generation resources or drive specific emissions outcomes.*

- **Impact on Procurement**

The methodology adopted (either an emission reduction or RPS-enhanced approach) will not significantly impact current utility procurement activities under existing process due to the fact that renewable resources are least cost options that would help meet either emission reduction or enhanced RPS targets. Both approaches will require modifications to IRP planning activities to meet new targets. Delays could occur under either approach based on the need to meet additional desired attributes for the renewable resources, such as resiliency, and community benefits.

- **Interagency Coordination:** Both an emissions-based and RPS-expansion approach involve inter-agency processes, with its attendant risks of coordination and planning.
  - HB 2021-1 relies on coordination between the PUC and DEQ focused on emissions reporting and verification.
  - An RPS-expansion approach would rely on PUC and ODOE coordination. ODOE leads all efforts in qualifying RPS and PURPA facilities. Additionally, ODOE oversees some aspects of the REC market in Oregon.
- **Other Implementation Impacts:** Either approach will likely include provisions focused on Oregon policies other than decarbonizing the electric sector, such as localized community investments and benefits, resilience, and workforce standards. Under

either an emission-based or RPS-expansion approach, additional implementation work would be required to address these policy goals.

## **PUC Rulemaking**

Finally, to help the Committee better understand the time needed for the PUC to implement legislation, we offer the following background on our rulemaking processes and prioritization.

The PUC uses a stakeholder driven process to help ensure that all affected stakeholders have an opportunity to participate in and contribute to PUC rulemaking.

- Unlike most agencies, the PUC uses an initial informal process for outreach/comment opportunities to scope and develop proposed rule prior to triggering the formal rulemaking process set forth in ORS Chapter 183.
- Once formal rulemaking initiated, the PUC frequently holds additional workshops and provides comment opportunities, in addition to the mandated rulemaking hearing, to increase understanding of stakeholder positions and to develop consensus.

For these reasons, the speed of our rulemakings is often dictated by stakeholder needs—as well as the scope of delegated issues/policies to be decided by the PUC. While this often results in a more extended process than the minimum guidelines requiring only a rulemaking hearing after an agency proposes rules, we believe it to be a better and more inclusive process.

With the increase in legislative action, the PUC currently conducts approximately 20 rulemakings annually on a wide range of subjects. These include utility resource procurement, wildfire mitigation plans, transportation electrification, telecommunication regulatory policies, and a wide variety of topics involving diverse stakeholders. This workload requires the PUC to prioritize its rulemaking based on implementation deadlines and impact.

Even with this enhanced rulemaking process and busy docket, PUC is able to effectively adopt rules to implement new programs and meet legislative deadlines. For example, in 2019 the legislature passed Senate Bill 98 to encourage Oregon's large and small natural gas utilities to supply natural gas from renewable sources. The PUC completed an extensive rulemaking process in one year that included:

- An informal rule development process over a period of 5 months
- Broad and sustained participation of numerous stakeholders
- Formal rulemaking process that included 4 workshops and 3 opportunities to submit comments, as well as opportunity for comment at the rulemaking hearing