



House Committee on Energy and Environment
Oregon State Capitol
900 Court St. NE
Salem Oregon 97301

March 22, 2021

Subject: House Bill 2021, -1 Amendment

Dear Chair Marsh, Vice-Chair Brock Smith, Vice-Chair Helm, and members of the committee,

Obsidian Renewables LLC is an Oregon-based independent renewable energy developer, with a focus on larger scale solar projects. Obsidian developed the first utility scale solar projects for PacifiCorp and for Portland General Electric in 2012. Obsidian is an active member of renewable energy trade associations, including OSSIA, NIPPC and the Community Renewable Energy Association.

Today we are disappointed to be testifying against -1 amendment to HB 2021 as drafted. There are multiple elements in the bill that would cause harm to Oregon's renewable energy industry. A glaring absence in this proposal is a mechanism to increase development of renewable energy in Oregon beyond what the status quo would otherwise facilitate. The plain fact is that we do not advance our goals of more clean energy unless we build more clean energy projects. Subscribing for existing hydro has long been recognized as no step forward. Obsidian would prefer to come before this committee and support a proposal for 100% clean electricity that accelerates development of renewable energy in Oregon, so we urge you to make substantial amendments to the bill and we stand ready to collaborate.

Obsidian's concerns with HB 2021-1 include the following:

1. Absence of support for projects to be built in Oregon.
2. Lack of tangible support for community based, small scale renewable projects that would be built in-state (a study is unnecessary).
3. Weak, goal-oriented language regarding utilities meeting clean energy targets, off-ramps that have no consequences.
4. Anti-competitive changes to current law. These changes favor utility shareholders over third party developers and represent a major policy shift.
5. A proposed green tariff program that is anti-competitive, again favor utility shareholders over third parties. The proposed green tariff does not sufficiently promote incremental development of clean energy.

6. Under the new proposed green tariff rules, utilities would receive benefits from renewable energy already claimed by their customers, a treatment not available for competitors and that fails to encourage incremental development of renewable resources.
7. A cost cap which inappropriately includes existing programs to give utilities off-ramps and the apparent ability to raise rates without adequate control by the OPUC.
8. No support for rooftop solar or storage for homes or businesses.
9. Lack of penalties for utility non-compliance.
10. Confusion regarding which agencies direct which provisions.
11. Delay in implementation which leads to delays in new project construction.
12. The proposed labor standards are expensive, unprecedented for private investments, and would severely disadvantage projects trying to develop in Oregon without protecting local workforce development. Obsidian expects and supports Oregon policy to ensure quality wages and supports efforts to find a consensus proposal. The approach outlined in the -1 misses the balance between ensuring high wages and ensuring local workforces benefit from these projects. We urge continued workgroup discussions on labor standards.

For nearly a year, Obsidian has participated, through trade groups and other groups to which it belongs, in several different stakeholder conversations to discuss policy options that would enable Oregon 100 percent clean energy legislation that accelerates renewable energy in Oregon. Those discussions feel divorced from the language under consideration today. The -1 Amendment falls short in the many ways described in this testimony, and rather appears to reinforce a preference for a cautious and slow utility-based approach to clean energy electricity development. Obsidian encourages this Committee to ensure that any 100 clean policy: 1) aggressively accelerates renewable energy development beyond the status quo in the next 5 years; 2) ensures that renewable energy projects will be built in Oregon including at a community scale; and 3) protects competitiveness rather than tipping the scale toward utility development more than the law already allows.

More details on our concerns:

1. Absence of support for projects that would be built in-state (a study is unnecessary). It is extremely difficult to site large solar projects in Oregon; there are fewer than five projects that are over 50 MW in Oregon. Oregon policy should be to ensure some of the projects required to meet this standard are built in Oregon. Building projects out of state will require more transmission lines and will result in increased line losses.

PacifiCorp's interconnection cluster study for this year, based on data filed with regulatory authorities, involves the study of 3,600 megawatts of energy projects, but only 10 percent of that is in Oregon. Oregon represents 25 percent of PacifiCorp customers by load, so it is clear that under current circumstances out of state projects are being favored.

Oregon's 100 percent clean policy should include steps to better assure that projects built to serve Oregon's clean energy requirements are in fact built in Oregon.

2. We must fix the current mandate on small-scale or community renewables. This is the only way to ensure the counties receive the economic development, property tax, and resiliency benefits that come with renewables built in Oregon.

In 2016, SB 1547 changed the language regarding how small-scale renewables were treated in the Renewable Portfolio Standard (RPS). The 8% goal was changed to a requirement, but the language regarding the 8% was changed from 8% of utility generation to 8% of nameplate capacity. This seemingly innocent word change resulted in the utilities being able to say that they had already met their goals – no new community renewable projects needed to be built. And indeed, especially in Pacific Power territory, new community renewables all but stopped being built after the RPS expansion bill took effect.

There are other ideas that have been introduced which could also create renewable projects and jobs in Oregon. HB 3180, scheduled for a hearing next week, lays out a proposal to site 50% of new renewable energy projects in Oregon, to provide resiliency to our grid in the face of more frequent power outages. The -3 Amendment similarly proposes a different structure and more certain outcome.

3. Weak, non-binding language regarding utilities meeting clean energy targets. The -1 amendment says that the utilities “shall seek to provide” clean energy. That language creates a large loophole for utilities to say that they tried, but were unable to provide clean energy for Oregonians. Further, the bill offers several excuses and even off-ramps if clean energy is difficult or expensive.
4. Anti-competitive changes, designed to favor utility shareholders. Overall, one important goal to advancing clean energy in Oregon is to strengthen the existing competitive market. This means robust third-party participation in construction and ownership of projects. Competition to the investor-owned utility monopolies is healthy for our economy and for ratepayers. Section 20 removes important language from current law that protects ratepayers. This section narrows the definition of a competitive retail market for the benefit of utility monopoly shareholders. Changing the nature of a competitive market is no small conversation, and it has not happened in an open process. Utilities wrote this; it does not need to be a part of this bill and should be removed. Obsidian agrees with the more detailed comments on competition submitted by the Northwest Power Producers Coalition.

5. Proposed green tariff program is anti-competitive and does not adequately promote new (incremental) clean energy. The OPUC role is reduced by fiat. While Obsidian supports the concept that all ratepayers should have access to 100 percent clean energy, it is unwise to develop an expansion policy that favors the utilities, particularly when the OPUC has already been studying and implementing green tariffs and community green tariffs. The process involves all stakeholders and the outcome is more likely to be one that benefits customers while keeping the clean energy market competitive. We ask this committee to allow that process to move forward. The changes proposed in this bill would make the program significantly weaker and less competitive. Again, we agree with the comments on this point from NIPPC.
6. Utilities would receive benefits from renewable energy already claimed by their customers. The RPS laws require incremental renewable energy and prohibit double counting. The -1 amendment to the emissions bill seems to permit both utilities and customers to claim the same emissions reductions. It appears the utility competitors have no similar allowance. It is another example of anti-competitive policy seemingly baked into this bill. This is a complicated question that is best determined and decided by the OPUC, not by prescriptive legislation.
7. A cost cap which inappropriately includes programs already in place (e.g. net metered and community solar) that are not part of the emissions reduction legislation. The bill appears to allow utilities to raise rates for these unrelated programs without customary OPUC oversight. The current cost cap language in Section 9 includes programs that are not related to the cost of complying with an emissions reduction standard. For example, net metered solar on homes and businesses should not be included in the cost cap that excuses utilities from meeting emission targets. How can customer efforts to develop their own renewable energy excuse utilities from meeting utility emissions targets? Once again, this is a utility-only rule not available for competitors.

In addition, there are no consequences for hitting the cost cap. Rather than giving utilities a “spend freely” rider, the legislation should direct the OPUC to determine whether all costs and expenses the utilities claim toward the cost cap were directly and prudently incurred in meeting the clean energy goals.

8. No support for rooftop solar or storage for homes or businesses. The -1 amendment does not include any support for net metered solar or storage projects. These projects not only provide resiliency to communities and save customers money, but also provide grid resiliency benefits and economic development.

9. Lack of penalties for utility non-compliance. The bill has weak “shall seek” language to require utilities to go 100% clean, there are no penalties imposed on utility shareholders should the utilities fail to meet the targets.
10. Confusion regarding which agencies direct which provisions. Section 13 details an electricity market rulemaking which would be led by the Department of Environmental Quality instead of the Public Utility Commission (PUC). The language should be much more streamlined.
11. Delay in implementation and project construction. The -1 amendment requires extensive rulemaking and has weak language on the reduction targets. This means that actual emissions reductions will not happen promptly. A better way to reduce emissions sooner would be through an immediate increase in the RPS. This would guarantee more emissions free generation, faster.
12. The labor standards proposed in the -1 Amendment are expensive, unprecedented for private investments, and would severely disadvantage projects trying to develop in Oregon. In comparing the wage rates being paid today on renewable energy projects (they are good wages) with the BOLI “prevailing wage” schedules (which are very high, particularly for entry level work), the net effect of this policy is to discourage renewable energy development in Oregon. The effect will be to reduce, not encourage good high paying rural Oregon jobs. Obsidian is convinced a consensus on this issue can be reached. We urge workgroup discussions on labor standards to continue.

Sincerely,

/s/David W Brown

David W. Brown
Principal and Manager