



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners McRae, Barofsky, Schlossberg, Brown, and Carlson
FROM: Jason Heuser, Public Policy and Government Affairs Program Manager
DATE: October 31, 2024
SUBJECT: Federal, State and Regional Legislative Policy Update
OBJECTIVE: Information

Issue

EWEB monitors, influences, and strategically plans around legislative and regional policy issues.

Background

The Board adopts general policy directives for advocacy on legislation and other public policy matters, which guide the work of EWEB's lobbying activities. When political considerations test the applicability of those directives, the General Manager makes a determination as to whether a fundamental shift in direction is required. The Board may be asked to reaffirm policy directives or direct staff to make necessary adjustments.

Discussion

STATE POLICY

Oregon Energy Strategy Development

In early September, the Oregon Department of Energy (ODOE) released the Oregon Energy Strategy Draft Reference Scenario and draft inputs for the Oregon Energy Strategy model. The modeling phase of the Oregon Energy Strategy features development of a Reference Scenario and five alternative scenarios. The modeled scenarios produce different pathways to meeting Oregon's energy and climate objectives. They provide information on the effects of different energy choices and will serve as foundational information for policy discussions in the upcoming Phase 2 of the Oregon Energy Strategy process. These Phase 2 discussions are where policy recommendations will be developed.

The model must solve to meet Oregon's anchor climate and clean energy goals: Executive Order 20-04 (80 percent economy-wide reduction in greenhouse gas emissions by 2050); HB 2021 (100 percent clean electricity for the state's largest investor-owned electric utilities and Electricity Service Suppliers), and the Climate Protection Program (90 percent reduction in greenhouse gas emissions from fuels by 2050). This is a requirement of HB 3630, which directs ODOE to develop the energy strategy and identify pathways to achieving the state's energy policy objectives.

Background: The Oregon Legislature enacted HB 3630 in 2023, directing ODOE to develop a State Energy Strategy. The report will be developed in consultation with relevant agencies, federally recognized Indian

tribes, and stakeholders. It will examine and further build on state laws, policies, and targets regarding energy and greenhouse gas emissions; existing energy and integrated resource plans; and energy-related studies and data analysis. The development of the Oregon Energy Strategy is a two-and-a-half-year project, which began initial steps in July 2023, with a final written report to the Governor and Legislature due by November 1, 2025. The Oregon Energy Strategy will be built through a step-by-step process that combines data gathering, technical analysis, scenario definition and modeling, and development of policy recommendations, integrated with an iterative stakeholder engagement process that ensures an inclusive and informed Strategy.

Possible 2025 Oregon Legislative Session Topics

Utility Rate Caps

It is likely that electric and natural gas consumer advocates will propose some form of rate cap legislation that would apply to investor-owned utilities regulated by the Oregon Public Utilities Commission. Based upon testimony at interim legislative committee hearings and filings to the OPUC the legislation would be expected to cap any rate increase at 7% plus the rate of inflation, or 10% annually, whichever is lowest. A rate increase to cover costs that go over that would need to be pushed to the next year or beyond. This legislation would not be expected to apply to consumer-owned utilities like EWEB.

Background: Average bills for Portland General Electric, Pacific Power, and NW Natural have increased between 30-50% since 2022.

EWEB Position: While this legislation is not likely to apply to consumer-owned utilities like EWEB, EWEB generally favors decisions be made by those entities most expert on these complex issues. In the case of rates, the OPUC oversees investor-owned utility pricing. Placing artificial limits on that authority is counter to EWEB's general position.

Solar Consumer Protection

In response to September interim legislative committee testimony from the Oregon Department of Justice's (DOJ) Consumer Protection Division and educational outreach from Oregon utilities sharing information on legislation passed in Washington state earlier this year, Oregon legislators have initiated drafting of a legislative concept modeled after Washington's new law. Stakeholders including Oregon DOJ, Oregon Solar Energy Industries Association (OSEIA), Consumer Protection advocacy groups, utilities (including EWEB), Oregon AARP, and the Oregon Department of Energy, will be meeting in November and December to discuss the possible design choices of the legislation.

Background: In 2023 the Washington Legislature enacted, SB 2156, known as "the Washington Solar Consumer Protection Act." Washington Legislators, Consumer Protection Advocates, the Washington Solar Industries Association were responding to growing signs of out of state dubious sales lead generators and marketing companies responsible for misleading solar energy ads suggesting "free solar" was available, often citing the Inflation Reduction Act. High pressure and deceptive sales tactics, as well as subpar installation quality, are also a growing problem. While there are many good actors in the solar energy industry, the uptick in examples of bad actors is concerning especially as Inflation Reduction Act solar incentives are set to be deployed.

Washington's Solar Consumer Protection Act introduces new requirements that prohibit certain predatory tactics, outline precise directives for specific contractual language, reinforce current regulations regarding the licensing of solar installers, and grant increased authority to the WA Attorney General's office to impose penalties on non-compliant companies. The legislation also requires solar contracts to explicitly disclose

certain costs and clearly state what to expect as far as system performance, using best-practice methodology. Additionally, it facilitates an “apples to apples” comparison of competitive quotes and provides a clear explanation of consumer rights, including an opportunity to cancel a contract within the first 72 hours. The legislation also imposes penalties on companies that fail to adhere to these requirements.

Transmission Siting/Permitting Reform and Financing

Legislation is expected to be brought forward with intentions to stimulate new electricity transmission development. Details of these proposals are not yet available but are expected to run on two tracks: 1) streamlining transmission siting and permitting; and 2) providing financial assistance to transmission development (funding source TBD). The bill may create a designated “transmission authority” in state government.

New Large Electric Load Costs

Legislation may be introduced with the intention to ensure that new large electric loads locating in Oregon are paying for associated new costs to the grid (i.e. new generation, new transmission, resource adequacy, etc.). No specific details are available at this time. This would likely be focused solely on investor-owned utilities regulated by the OPUC. Current OPUC regulatory mechanisms and authorities may not be flexible enough to account for the unprecedented uptick in new large electric loads in the Pacific Northwest. In contrast, the governance model for most consumer-owned utilities includes pre-existing local decision-making and authority that could be applied to a topic like this.

Background: The most recent regional electricity load forecast by the Pacific Northwest Utility Coordinating Council (PNUCC) shows load is projected to increase from about 23,700 average megawatts (aMW) in 2024 to about 31,100 aMW in 2033 (an increase of 7,400 aMW), which is an increase in demand of over 30% in the next 10 years. For comparison, the previous year’s forecast projected demand could rise by 24% in 10 years. The rapid expansion of data centers is one of the reasons for the expected increased volume in the Northwest. According to a Cushman & Wakefield report that evaluates data centers by their electricity usage, the Oregon data center market ranks as the fifth largest in the nation. High-tech manufacturing and the trend toward electrification also contribute to the expected increase in regional demand.

Wildfire Policy

The Oregon Wildfire Funding Strategies Advisory Group is expected to issue a final set of recommendations soon to the legislature for the 2025 session, aiming to address funding shortfalls, for Oregon to be capable of effectively responding to larger and more expensive wildfires in recent years. This advisory group is striving to achieve consensus but if that proves elusive it could forward a set of multiple options, without recommendation, for the legislature to consider. A long list of possible funding sources could include property owner assessments, forest harvest taxes, and fees on electric utility bills, among other options.

Wildfire liability changes could also be proposed in the 2025 session, in consideration that while utilities are operating under new and increasingly heightened safety standards and making robust investments in infrastructure designed to reduce the risk of utility related ignitions, it is not possible to guarantee that no ignition related to utility distribution and transmission lines might occur.

Recreational Immunity

SB 1576A was enacted in the 2024 legislative session and included a restoration of recreational immunity, a priority for local governments and recreation enthusiasts. The bill added running, walking and biking to the definition of recreational immunity, but included a sunset date at the end of 2025 to allow for pending court cases to be resolved and a workgroup to craft a more durable solution to be adopted in the 2025 legislative session. Reportedly, the workgroup has not been able to reach consensus on a permanent solution yet. In

the absence of successful negotiations, one option could be to simply remove the sunset date included in SB 1576A.

Background: In 2023 an Oregon appellate court decision called into question the tort immunity enjoyed by public and private landowners when they allow access to land free of charge for recreation. The issue in question in the case was whether a person hiking on a trail while walking their dog and socializing with a friend was recreating on the trail or was using it for transit to and from a beach recreational area without recreating.

Recommendation/Requested Board Action

These are informational updates, and no action is required at this time. In December, EWEB positions on these potential topics will be discussed.