



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Simpson, Helgeson, Manning, Mital and Brown
FROM: Erin Erben, Chief Customer Officer; and Jason Heuser, Legislative Affairs Coordinator
DATE: November 23, 2016
SUBJECT: EWEB's 2017 State Legislative Agenda
OBJECTIVE: Approval of Resolution No. 1636, EWEB's 2017 Legislative Agenda

Issue Statement

The Oregon Legislature convenes annually – for approximately six months in odd numbered years and two months in even numbered years – to enact laws and to set and adjust the biennial budget for the State of Oregon. EWEB has an active advocacy presence during legislative sessions to protect the interests of EWEB and its customers. The 2017 Oregon Legislative Session will begin Feb. 6, preceded by an orientation period and informational hearings in January.

Background

Prior to the start of each legislative session, the Board adopts general policy directives for advocacy at the Capitol. The adopted directives are approved by a resolution, after a presentation and discussion with the Board. The adopted directives guide the work of EWEB's lobbying activities. When political considerations test the applicability of these directives, the General Manager makes a determination as to whether a fundamental shift in direction is required. The Board may be asked to reaffirm its policy or direct staff to make necessary adjustments. This practice is derived from Board Policy GP-13 – Board Role in Legislative Session. EWEB staff will prepare monthly "legislative update" memos to the Board throughout the legislative session that will apprise the Board of the bills or issues that EWEB staff is devoting time and resources toward in support or opposition, the implications of these bills for the utility, and prognostications on the likelihood of these bills advancing in the legislative process.

Discussion

The accompanying resolution provides high level direction and principles for EWEB's advocacy efforts on the variety of legislative proposals that are likely to emerge over the course of the session. At this time, a tentative picture is developing of what stands a good chance of occupying the bulk of bill-reviewing and advocacy for EWEB staff. However, it is very early in the process, and staff has not yet seen actual legislative language or details on most of these issues. These legislative issues may look very different in February, or they may not materialize at all. At the time of this memo, EWEB staff is tracking the following issues:

Renewable Portfolio Standard (RPS) Eligibility for Legacy Hydropower

In the 2016 Legislative Session, Oregon's RPS Targets were raised for PGE and Pacific Power to 50 percent, while maintaining the same eligibility criteria for renewables, which excludes most hydropower. Existing hydropower is handled with some nuance in Oregon's RPS, in that it is exempt from displacement (i.e. no renewable energy certificates would ever be required to "green" any amount of hydropower, as is required of fossil fuels). However, the aggressive increase in state renewable energy targets uses a procurement standard approach that excludes hydropower from equal standing along other clean energy sources. This gives new credence to prior concerns that energy policies that are not technology-neutral in fact stymie a lowest-cost carbon emission abatement policy approach. Such an approach has anti-competitive elements and degrades the value of hydropower and its environmental attributes.

The Northwest Power Planning and Conservation Council's recent Seventh Power Plan found that there is on average 4500 MW of surplus power being exported out of the region, primarily hydropower, and that no new resources are needed even in low water scenarios. Furthermore, the plan found that the region can most effectively reduce carbon by reducing exports of surplus hydropower and instead use it in the region. The plan found that the region would least effectively reduce carbon by increasing RPS targets.

RPS expansion is a great concern to EWEB and other BPA customers because it would also further exacerbate the regional energy surplus that has a large part in depressing wholesale power prices that have negatively impacted the secondary revenues of both EWEB and BPA.

There is strong evidence to support that modifying Oregon's RPS to allow eligibility for some existing legacy hydropower would in fact reduce the overall system cost to meet Oregon's renewable energy targets relative to current policy, in a way that would have benefits for the customers of both investor-owned utilities AND consumer-owned utilities.

EWEB will be working with other Oregon utilities and stakeholders this session to make a case for a more inclusive renewable portfolio in Oregon.

Carbon Cap and Trade Legislation

It is expected that at least one carbon cap and trade bill will be considered this session, but it is unclear what design choices the bill will have, whether it is a priority item for the House and Senate majorities, and if the necessary votes are in place for successful passage.

Oregon DEQ was tasked through a budget note last session to present the legislature with design recommendations for a market based carbon reduction policy by the start of the 2017 legislative session. DEQ is expected to submit a draft report in December, solicit public comments, and hold a public stakeholder meeting.

EWEB staff testified at DEQ's earlier public meeting in April 2016 and will be actively involved in providing constructive input to DEQ when the draft report is released to promote EWEB's carbon pricing position and advocate for carbon abatement policies that are 1) direct; 2) efficient/market based; 3) economy-wide; 4) technology neutral; 5) fair to early actors in emission reductions; and 5) regionally-linked.

Energy Efficiency Mandates (Spending and/or Reporting)

The NW Energy Coalition has indicated they may pursue a statutory requirement that consumer-owned utilities report energy efficiency acquisition and expenditures to the Oregon Department of Energy. This requirement may be accompanied either now or in the future to include minimum levels of energy efficiency acquisition and/or funding levels. EWEB is working with other interested consumer-owned utilities in developing a non-statutory and voluntary joint information packet on annual energy efficiency procurement in lieu of a prescriptive reporting mandate.

In the event any legislation also impose any mandatory statewide “one-size-fits-all” level of energy efficiency spending, EWEB would oppose this preemption of EWEB’s local decision-making.

Residential Energy Tax Credit (RETC) Extension

Oregon’s Residential Energy Tax Credit (covering renewable energy and energy efficiency) will expire at the end of 2017 and the legislature will examine whether to extend or sunset these programs, and if extended what changes are in order. EWEB has traditionally weighed in with recommendations when these programs have been opened up for alterations and will likely do so again on the basis of our expertise with the changing technology trends, resource value, and market conditions for energy efficiency measures.

RETC Eligibility for Community Solar Participants

Oregon has recently seen an uptick in Community Solar project construction. Lane Electric Cooperative and Central Electric Cooperative both have completed projects, others are in planning at other Oregon consumer-owned utilities (COUs), and the Oregon PUC will release rules by July requiring investor-owned utilities to accommodate community solar options for customers. One issue that has come up is that a subscriber/participant in a community solar project may not avail themselves to Oregon’s RETC as would a homeowner who installs solar panels. Early community solar projects have had extremely long payback periods for participants. Allowing the RETC to be used to support community solar projects would make these projects more viable and marketable. If the state of Oregon chooses to support these projects through the RETC, EWEB and other Oregon COUs would be better positioned in the future to offer this option to customers.

Community Renewables Mandate

In the 2007 legislation enacting Oregon’s RPS, a target was set that 8 percent of new renewable energy deployment statewide would come from “community renewables” implied to be small local projects, but not defined. The target did not explain if individual utilities were subject to 8 percent and did not outline enforcement mechanisms. In the 2016 Legislative Session, advocates of “community renewables” argued the aspirational goal had been ineffective and successfully included a mandate in the legislation expanding Oregon’s RPS to 50 percent for investor-owned utilities, with an 8 percent sub-target for “community renewables”. However, the 2016 legislation deleted the applicability of the target from “retail electricity sold” and replaced it with “aggregate capacity”, an apparent oversight that negated the effect of the new mandate. Using “aggregate capacity” rendered Oregon’s two large investor-owned utilities in compliance from the get go. New legislation has been proposed to return to the original language for applicability and also to define more specifically what qualifies as a community renewable energy project (i.e. under 20 MW, not utility-owned, etc.). As

currently proposed, the bill would not expand the “community renewables” mandate to apply to EWEB or other COU’s, but because PGE has proposed the bill apply statewide, EWEB will be closely monitoring this bill and would likely oppose it if amended to apply to EWEB.

PERS Reforms

Due to ongoing upward pressure in PERS employer rates and the state budget deficit (>\$1 billion) there is renewed interest in changes to PERS to better manage system costs. To date, a lengthy list of individual PERS measures has been compiled. These measures are being vetted by PERS employers and stakeholder groups, which will likely culminate in a PERS reform package for the legislature to consider. EWEB will be closely monitoring proposed PERS changes, and any staff recommendations on EWEB’s position will be formulated on the basis of whether proposals are: 1) legally defensible; and 2) able to demonstrate reliable short and long term savings; ~~3) do not unduly impact EWEB’s ability to recruit and retain qualified employees.~~

At the 12/06/16 board meeting, Commissioner Mital moved to amend Resolution No. 1636 - State Legislative Agenda to include only Sections 1 and 2 under PERS Reforms, striking Section 3. The motion carried unanimously 5:0.

Qualification Based Selection in Procurement of Professional Services

EWEB will work again with a coalition of local governments to proactively lobby against the revival of unsuccessful legislation from previous sessions that would prohibit EWEB and other local governments from considering price until AFTER the selection in procuring design services over \$100,000, such as architecture and engineering services. Furthermore, some local governments have formed a work group and expressed interest in legislation that would increase the project threshold that triggers RPS to be higher and applicable to only very large and complex public projects. EWEB has been invited to participate in this local government work group and EWEB staff will be accepting that invitation.

Recommendation and Requested Board Action

Management recommends that the Board adopt the accompanying resolution as provided.

The Board also has the option of delaying approval of the resolution until the January meeting, to provide Commissioners with time to resolve any questions or concerns about the legislative agenda as stated.

If you have any questions prior to the Dec. 6 Board meeting, please contact Jason Heuser at 541-685-7425 or jason.heuser@eweb.org.

**RESOLUTION NO. 1636
DECEMBER 2016**

**EUGENE WATER & ELECTRIC BOARD
2017 LEGISLATIVE SESSION**

WHEREAS, the 2017 Oregon Legislative Session will convene on February 6, 2017;
and

WHEREAS, the Eugene Water & Electric Board (EWEB) will continue to participate in the legislative process on behalf of its customers; and

WHEREAS, the Board has traditionally adopted positions and guidelines which provide general direction for purposes of supporting or opposing specific legislation; and

WHEREAS, the Board again desires to set forth such legislative directives.

BE IT RESOLVED that the Eugene Water & Electric Board adopts the attached legislative agenda, which includes the following issues and goals:

1. Renewable Portfolio Standard (RPS) Eligibility for Hydropower: Expand RPS eligibility to include some legacy hydropower in order to reduce the overall system cost to meet Oregon's renewable energy targets relative to current policy in a way that would have benefits for the customers of both investor-owned utilities AND consumer-owned utilities.
2. Cap and Trade Legislation: Influence this policy to be consistent to the greatest extent possible with the Board's standing position on carbon pricing. Advocate for carbon abatement policies that are 1) direct; 2) efficient/market based; 3) economy-wide; 4) technology neutral; 5) fair to early actors in emission reductions; and 5) regionally-linked.
3. Energy Efficiency Mandates: Preserve local decision making and shield utilities from mandated approaches that do not recognize early action, legacy energy efficiency, load growth and other specific utility circumstances poorly served by one-size-fits-all policies.

WHEREAS, new and unanticipated legislation can emerge each legislative session.

BE IT FURTHER RESOLVED that the Eugene Water & Electric Board goes on record supporting legislation which generally:

1. Preserves and enhances local control;
2. Complements or improves programs that are cost-effective to our customers; and
3. Preserves, conserves, and restores our natural environment in an equitable and cost-effective manner.

BE IT FURTHER RESOLVED that the Eugene Water & Electric Board will oppose legislation which generally:

1. Withdraws the capability of the Board to best serve EWEB's customers;
2. Duplicates existing laws, therefore complicating the execution of the Board's duties by state or federal mandate;
3. Imposes fees, assessments or procedures that impede the Board's ability to provide high-quality and cost effective service.

Dated this 6TH day of December 2016.

THE CITY OF EUGENE, OREGON
Acting by and through the
Eugene Water & Electric Board

President

I, ANNE M. KAH, the duly appointed, qualified, and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its December 6, 2016 Regular Board Meeting.

Assistant Secretary