



## **Comments of the Northwest & Intermountain Power Producers Coalition to the Oregon House Committee on Energy and Environment on House Bill 2021**

March 22, 2021

The Northwest & Intermountain Power Producers Coalition (NIPPC) appreciates the opportunity to submit comments on HB 2021. NIPPC represents competitive power participants in the Pacific Northwest. NIPPC members include owners, operators, and developers of independent power generation and storage, power marketers, and affiliated companies. Collectively, NIPPC represents over 4,500 megawatts of operating generation and an equal amount permitted or under development. This includes much of the clean energy that now serves Oregon consumers.

Given the many compelling moral and economic reasons to mitigate climate change, NIPPC supports adopting policies to decarbonize the power sector and broader economy in a disciplined and efficient manner. NIPPC supports the core proposal in the -1 amendment to HB 2021 to establish declining emissions-based targets on utilities and other entities in Oregon, especially given the demonstrated political constraints against adopting broader economy-wide limits on greenhouse gas emissions.

NIPPC hopes to support a bill during this session that would deeply decarbonize the power sector, but, as currently drafted, the -1 amendment is not that bill. Despite good faith efforts by many stakeholders to craft a policy that treats all market participants fairly, the -1 amendment effectively staples a series of anti-competitive measures onto a new emissions standard. Those measures would do more harm than the emissions standard would do good, and therefore NIPPC opposes the bill as currently drafted.

I urge the Committee and its members to focus on reducing carbon emissions and avoid measures that would unwind the wholesale and retail competition in the power sector that have benefited Oregon for over twenty years. This bill would tilt the playing field toward the regulated utilities in several important ways. I hope subsequent versions of the bill untilt it.

As a general matter, NIPPC believes that maintaining competition—having more than one supplier of a service to a set of more than one customers—is the best way to achieve a cleaner grid in Oregon and a solution to the global climate crisis.

First, NIPPC draws attention to the deletion in section 20 of the utility commission’s obligation to “mitigate the vertical and horizontal market power of incumbent utilities.”

This deletion, or similar changes, would be a huge step backward, affecting dozens of future decisions by the commission and the courts in Oregon. Today, they must consider and mitigate the market power of the monopoly utilities. If this bill passes, they would not.

While there is some limited retail competition in Oregon, 95 percent of electric load in Oregon is served by a utility. The utilities provide distribution service to all customers through their natural *monopoly* of the wires in their service territories. And of course the utilities are a *monopsony* as well—a sole purchaser in the market—of power on behalf of their power customers. Market power in our system is pervasive, which is more of a designed outcome than a flaw, but a fundamental job of the utility commission is to mitigate it on behalf of consumers. That role ultimately delivers cleaner energy at a lower cost to consumers.

Eliminating this role from the commission’s job description will lead to fewer choices for consumers, fewer businesses participating in the market, fewer alternatives to utilities owning everything, and, ultimately, higher prices for everyone. Section 20 should be struck.

Second, NIPPC is concerned that sections 18, 19, and 21 of this bill undermine retail competition by expanding “green tariffs” in an inappropriate way. NIPPC supports providing customers more choices, and I applaud the commitment of cities like Portland and Milwaukie and counties like Multnomah to decarbonize quickly. A green tariff is one valuable tool to get there, but the details matter.

To quote from a related utility commission staff report, depending on how the tariff is created, non-utilities “may either be unable to enter the market or forced out due to the inability to compete with a price that is enhanced by monopolistic advantages. In the long term, such a scenario ultimately produces harm to the market in the form of fewer participants, riskier signals to investors, and subsequent higher prices” (Oregon Public Utility Commission Order No. 15-405, Appendix A, p. 13).

The utility commission has a decision pending in docket UM 1953 to possibly expand Portland General’s existing green tariff for large customers. The proceeding is based on a large record and years of experience that resulted in careful limits on utility ownership. The current version of this bill would effectively override that decision. NIPPC recommends substituting a version of the green tariff in SB 784 for this section of the bill. An opt-in- or opt-out program that a city or county approves for smaller customers who aren’t able to participate in the competitive retail market would provide an important additional tool to decarbonize without undermining retail competition.

Third, it is unclear why a clean energy bill has the “nonbypassable charge” language in section 28. Since this bill directly applies its emissions standard and other provisions to electricity service suppliers, why is this language here? NIPPC is concerned that nonbypassable charges must be targeted carefully only to costs that all customers should be paying.

When read in combination, these provisions will harm Oregon's goal of reaching 100% clean by negatively affecting competition and reducing consumer choices. The same utility commission staff report cited above notes that the regulated utilities already have "a number of advantages, some in part due to the unique economic environment in which they operate, including access to cheaper capital, captive customers, market and customer data, name recognition, and purchasing power" (p. 12). This bill would be added to that list of advantages. NIPPC hopes the Committee reconsiders the inclusion of the provisions above.

There are other important issues to address in the -1 amendment.

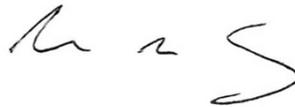
1. Electricity service suppliers (ESSs) supply power, and power only, to large, sophisticated customers based on individual negotiations with those customers. This business model is fundamentally different than that of the regulated utilities. Yet the bill currently treats ESSs as equivalent to utilities with respect to their emissions baseline, compliance metrics, planning documents submitted to the utility commission, and cost caps (Sections 3-5 and 9). NIPPC supports comparable emissions targets for all load serving entities, but these other provisions should be adjusted somewhat to reflect the unique nature of ESSs, just as the current state renewable portfolio standard does.
2. Conversely, the bill entirely excludes ESSs from the reliability safety valve that it creates (Section 8). This provision should include ESSs, again with a slight adjustment to reflect their unique nature as load-serving entities.
3. NIPPC recommends adding a more proactive reliability review by the utility commission than the reactive safety valve in the current bill (Section 8).
4. Some renewable power plants that are "qualifying facilities" under the Public Utility Regulatory Policies Act are likely to be negatively affected by the bill's proposed treatment of renewable energy certificates under Section 6. This negative effect should be mitigated.
5. NIPPC looks forward to engaging on further updates to labor standards that have broader industry and labor consensus than what is in the bill under Section 23.
6. NIPPC does not support a siting ban on new natural gas plants (Section 30). Oregon should not add natural gas to nuclear on the list of prohibited generation in the state, particularly as we enter a period of resource inadequacy as the region's coal plants retire. If the legislature does intend to move forward with a siting ban, then it should at least ensure that the ban addresses the emissions of future gas plants rather than the fuel source. Given the billions of dollars that the federal government has invested in carbon capture, sequestration, and utilization, and the possibility of emerging new technologies, it is conceivable that

carbon emissions from future natural gas plants will be controllable at an affordable cost. Foreclosing that possibility in Oregon is not in the public interest.

Finally, I note that a key part of any clean energy bill has to be a clear procurement signal to investors and developers of new clean energy. Perhaps the emissions standards proposed here would lead to prompt procurement by load-serving entities of new clean energy. But an alternative bill with a procurement compliance requirement, such as an increase of the existing renewable portfolio standard and expansion to cover all non-emitting technology, could accomplish this goal as well. In fact, many independent power producers would prefer that approach. NIPPC stands ready to assist and advise the Legislature should it choose to move in that direction.

NIPPC appreciates the Legislature's hard work on these complex matters and the Committee's consideration of these comments. NIPPC looks forward to further revisions of HB 2021 and a final bill that it can support.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Gray', with a large, stylized flourish at the end.

Spencer Gray  
Executive Director