

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

February 7, 2023

Re: Testimony in favor of SB 54

Dear Chair Sollman, Vice Chair Findley, and Committee Members Golden, Hayden and Lieber:

I have been invited to testify to you today by Sunthurst Energy, LLC and the Oregon Clean Power Cooperative¹ in support of SB 54. My testimony will describe the conditions creating a need for SB 54, provide historic context for SB 54, and describe what the bill will and will not do.

Why is SB 54 needed?

In 2016, SB 1547 authorized the Community Solar Program (CSP) to expand solar generation access to retail electric customers who are unable to Net Meter. Reasons for this include, but are not limited to, shaded or inadequate roofs, lease restrictions, ineligibility for the federal Investment Tax Credit, and lack of capital. Under the Community Solar Program:

1. Customers subscribe to a Program-certified (under 3 MW) solar project of their choosing;
2. Generation from the solar project is delivered to PGE, PacifiCorp, or Idaho Power;
3. Subscribers receive a credit on their utility bill for their portion of project generation;
4. At least 10% of project generation is reserved to be subscribed by low-income ratepayers.

The Community Solar Program provides a unique opportunity in Oregon for businesses, schools, churches, homeowners' associations, non-profits, and state agencies, as well as individuals, to produce their own clean energy at or below their current retail cost of electricity.

Unfortunately, the Program is not performing as intended, due largely to unrealized assumptions about the costs of project development. At the time Oregon implemented the Community Solar Program, the Public Utility Commission prescribed a fixed payment rate for CSP project generation, calculated to attract investors and developers. However, subsequent extraordinary increases in developer costs, including rising interest rates, high inflation, and winding down of federal tax credits, have rendered the fixed rate inadequate to attract adequate private investment.

¹ <https://oregoncleanpower.coop/our-team/>

A snapshot published by the Oregon Community Solar Program manager shows that, as of December 1, 2022, only 9.6 MW of 161 MW authorized Program capacity has been built. 47.7 MW of capacity remains un-allocated due to lack of developer interest. **See Attachment 1.** Changes to current project economics are needed, else the Community Solar Program will continue to languish.

What is the historical context in which SB 54 arises?

One practical way to improve project economics is to exempt projects from property taxation. The Oregon legislature has, on at least two previous occasions, exempted similar projects from property taxation to encourage small scale, non-utility owned, renewable generation. In 2011, cities, individuals, schools, and developers asked their legislators to exempt net metering systems owned by third parties from property taxes. Oregon responded by passing HB 2563, which created such an exemption, thereby allowing many schools, cities, and businesses to finance rooftop, net metered, solar systems using a third-party owner model. In 2022, developers and non-governmental organizations sought legislative help for the struggling Community Solar Program by lowering its tax burden. Oregon responded by passing SB 1519, which exempted CSP projects from ad valorem property tax, *but only to the extent that they were subscribed by residential customers*. Both measures enjoyed overwhelming legislative support, and both instances are precedent for SB 54.

What SB 54 would do.

SB 1519 has not jumpstarted the Community Solar Program, in part because over 80% of the capacity of projects initiated in the first year of the Program was subscribed to non-residential subscribers², and therefore ineligible for SB 1519's exemption. SB 54 would amend ORS 307.175 to exempt *all* new CSP projects completed from state ad valorem taxation.

Extending the exemption to *all* CSP projects will likely lead to a sharp rise in completed projects, and thereby greatly broaden the scope of benefited Oregon residents. Sunthurst Energy's non-residential subscribers include small and large businesses, a hospital, an Oregon agency seeking to shrink its carbon footprint, and a federally-recognized Indian tribe. These are representative examples of the Oregonians that will benefit from SB 54, in addition to low-income residents and other residential subscribers.

What SB 54 would not do.

SB 54 does not impose an unreasonable burden on affected taxing districts because (a) CSP projects minimally burden local services; (b) but for the bill's passage, these projects likely will not be built; and (c) total Program size is limited to 161 MW. The Revenue Impact of SB 54 will be similar to the Revenue Impact of SB 1519 (2022) which the Legislative Revenue Office estimated to be less than \$1.3 Million annually, statewide.³

² September 21, 2021 OPUC Staff slide presentation on Community Solar Program, Docket No. UM 1930, <https://edocs.puc.state.or.us/efdocs/HAH/um1930hah16927.pdf>, Slide 8. (**Attachment 2**). The Slide shows the following breakdown of Current Subscriptions (as of July 16, 2021) by Customer Type:

Commercial:	81%
Residential:	5%
Low Income:	14%

³ <https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureAnalysisDocument/64541>

In past testimony to the Legislature, one solar developer summarized the situation as follows:

From a county's perspective, any additional revenue that would be provided from assessing a property tax on these systems is insignificant. However, if a property tax is levied on solar installations, many projects will not get developed in the first place. Essentially there are two options and in both of them, the County will not receive any tax revenue. In the first scenario, under a property tax exemption, projects will get built and there will be associated benefits including jobs created, lower CO2 emissions, and capital investment. In the second scenario, if there is no property tax exemption, projects will not get built, the County will receive no revenue and there will be no associated benefits. Under both scenarios, the County does not receive any revenue but in the latter scenario, jobs, investment and environmental benefits are also erased. (June 1, 2011, House Revenue Committee testimony re HB 2563 by SolarCity).

SolarCity's testimony applies equally to SB 54 today. In sum, SB 54 will provide badly needed support to Oregon's Community Solar Program in a timely, narrowly tailored fashion, calculated to provide a benefit where it is needed and to not impact taxing district revenues.

Conclusions

For the foregoing reasons, Sunthurst Energy, LLC and Oregon Clean Power Cooperative support SB 54. I urge your strong support for SB 54 and its associated benefits for Oregonians. Thank you for your time and attention.

Sincerely,



Kenneth Kaufmann
Attorney for Sunthurst Energy, LLC

Attachments:

- Attachment 1—Oregon Community Solar Program Capacity Snapshot
- Attachment 2—Current Subscriptions by Customer Type

Oregon Community Solar Program Capacity Snapshot
 Date Updated: 12/01/2022
 All numbers are in units of MW-AC.



Initial Offering				
	PGE	PAC	IPC	Total
Total Program Capacity				
General	33,967	21,340	3,280	58,587
Carve-out	0,040	2,373	-	2,413
Total	34,007	23,713	3,280	61,000
Capacity Allocated to Projects				
General	33,967	21,340	2,950	58,257
Carve-out	0,040	2,373	-	2,413
Total	34,007	23,713	2,950	60,670
Capacity of Projects in Operation				
General	9,052	-	-	9,052
Carve-out	0,040	0,490	-	0,530
Total	9,092	0,490	-	9,582
Unallocated Program Capacity Remaining				
General	-	-	0,330	0,330
Carve-out	-	-	-	-
Total	-	-	0,330	0,330
Capacity of Waitlisted Projects				
General	-	-	-	-
Carve-out	-	-	-	-
Total	-	-	-	-

Second Offering				
	PGE	PAC	IPC	Total
Total Program Capacity				
General	35,883	27,110	-	62,993
Carve-out	23,250	13,777	-	37,027
Total	59,133	40,887	-	100,020
Capacity Allocated to Projects				
General	26,163	25,878	-	52,041
Carve-out	0,300	-	-	0,300
Total	26,463	25,878	-	52,341
Capacity of Projects in Operation				
General	-	-	-	-
Carve-out	-	-	-	-
Total	-	-	-	-
Unallocated Program Capacity Remaining*				
General	9,720	1,232	-	10,952
Carve-out	22,950	13,777	-	36,727
Total	32,670	15,009	-	47,679
Capacity of Waitlisted Projects				
General	-	5,925	-	5,925
Carve-out	-	-	-	-
Total	-	5,925	-	5,925

* In PAC service territory, the size of the first waitlisted general market project exceeds the amount of available capacity remaining. Any subsequent general market project applications received in PAC will be added to the waitlist regardless of size.

CURRENT SUBSCRIPTIONS BY CUSTOMER TYPE

19 Projects, Total Project Capacity of 30.8 MW-AC | Data as of July 26, 2021

