Submitter: Angus Duncan

On Behalf Of: NRDC

Committee: House Committee On Climate, Energy, and Environment

Measure: HB2816

Testimony on HB 2816
Angus Duncan, PNW Consultant to Natural Resources Defense Council
February 22, 2023
Chair Marsh:
I appear to conditionally support HB 2816 as a necessary companion to HB 2021, passed through this Committee and by the Legislature two years ago, that put Oregon electricity from investor-owned utilities, on a declining carbon diet. Those limits aligned with the greenhouse gas reduction goals adopted by this Legislature in 2007.

We were able to negotiate an agreement with PGE and Pacificorp that put their power supplies on a firm -- but not rigid -- and continuously declining carbon emissions budget. With most of Oregon's Consumer-Owned Utilities already heavily reliant on BPA's hydroelectric supplies, it appeared Oregon was successfully putting the brakes on electric-sector emissions.

Of course no piece of statutory language, however carefully drafted, can anticipate the loopholes that emitting parties will search out to sidestep the combined purposes of HB 2021 and DEQ's Climate Protection Program. "High energy use facilities" as defined by this bill are increasingly significant consumers of electricity in Oregon and elsewhere. If they are served by Oregon's IOU's then the carbon they cause to be emitted will decline with those of their suppliers.

If the data centers serve themselves, or buy their power from the grid and pass it through an unregulated COU, Oregon presently has no control over the emissions. That's the loophole.

HB 2816 as introduced would plug the hole, not by unnecessarily bringing COU's into the tent but by directly requiring the data centers to meet the same allowable emissions reduction timeline allowed the IOU's under HB 2021. If Amazon aims to be 100% carbon free by 2030, as it has announced, then it should have no difficulty with such a standard. But "trust us" is not reasonable governing language. Shocking new flash: not everyone delivers on such promises.

Of the other amendments we've seen, we can generally support all but one. We have serious concerns about language allowing the high energy users to offset their fossil-generated power purchases indefinitely with Renewable Energy Certificates, or RECS. We appreciate that the data centers, like the IOU's, will benefit from flexibility in complying with the emissions reduction steps. While the IOUs are meeting their goals without the added flexibility afforded by RECS, we could support temporary – not open-ended and indefinite — use of RECs in this bill in partial and temporary compliance of emissions reductions that would lead to 100% carbon-free underlying electricity supplies. Since the data centers have less lead time from today than did

the IOU's from 2021 to comply, allowing qualified RECS in partial compliance through 2030 would not be unreasonable.

We are concerned also by another reported effort to dodge Oregon's carbon reduction policies and regulations – that of data centers bringing their own pipeline supplies of fossil gas to their facilities, then converting it via a reformation/oxidation process into what's termed "grey" hydrogen. The hydrogen is then used to generate electricity from fuel cells. The same carbon dioxide emissions occur as in combustion, but not in presently-regulated space. This cynical effort to frustrate Oregon's emissions policies and goals cannot be permitted. We urge the Committee to recognize and plug this loophole.

NRDC stands ready to work with the Committee and other willing parties to find remedies.

Perhaps some future day will see responsible businesses, households and government all entering into a collective commitment to forego near-term gain for long-term sustainability. Perhaps we'll collectively agree that we owe our children and their children a world they need not fear. The efforts to frustrate Oregon's responsible efforts to contain its share of the planet's emissions are, however, still alive and with us in this session. We rely on this Committee to guard against t