OREGON CLEAN COMPETITIVE POWER ALLIANCE

Debunking Claims that Wildfire Liability and Mitigation is Hindering Clean Energy Development in Oregon

As advocates for the development of clean energy facilities in Oregon, it is frustrating to see misleading or false testimony and messages from stakeholders in opposition to bills that provide accountability for Oregonians harmed by wildfires caused by investor owned utilities (IOUs). This misinformation was sent to Legislators and Committees regarding several bills including SB 926, HB 3666, HB 3917, SB 1102 and likely more.

This memo seeks to provide factual information and correct the record. The claim that clean energy development in Oregon is being hindered by expenses related to wildfire mitigation and utility caused wildfires have become a convenient scapegoat for utilities to evade accountability to Oregon fire victims, and upon close examination appear to be nothing more than unsubstantiated IOU talking points.

IOU Wildfire Liability is NOT Slowing Clean Energy Development in Oregon

In opposition comments on SB 926, a bill that would prohibit utilities from charging ratepayers for any costs incurred due to their own negligence, certain stakeholders have opposed the bill on the grounds that clean energy developers are leaving the state due to wildfire liability.[1] Our organization works with clean energy developers and we are not aware of a single developer leaving the state due to IOUs' wildfire liability.

New clean energy development is, in fact, moving ahead at a rapid pace. The Energy Facility Siting Council continues to receive more applications each year than the prior. According to EFSC's April 2025 Siting Progress Update,[2] 2.7GW of solar is approved and 4.1GW is pending approval. 2.3GW of battery storage is approved and 4.3GW is pending. This is a snapshot of permit applications at the state-level only; there are many more projects in various stages of approval at the County-level and at least one project sited on Federally-owned land, which are not reflected here.

The primary barriers driving developers out of state are Oregon's difficult and lengthy siting and permitting processes and IOUs' refusal to procure clean power from independent power producers:

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[1] Letter to Oregon Senate Judiciary Committee Members, Renewable Northwest, Nicole Hughes, April 7, 2025.

[2] https://www.oregon.gov/energy/facilities-safety/facilities/Documents/General/EFSC-Project-Updates.pdf

- **Difficult and Lengthy Siting and Permitting:** It takes 18 months to achieve a Site Certificate through EFSC, or up to 3 years if the project faces appeals. Oregon is 55% Federal land, so if a clean power project undergoes the Federal NEPA process of 2-3 years in addition to the EFSC process, that project must have extremely positive financial aspects to survive.

- **IOU Anti-Competitive RFP Practices:** Pacific Power and PGE, Oregon's regulated IOUs, are not delivering clean power to Oregon customers because they largely refuse to procure power from any generation facility other than the ones they construct and own.[3][4][5] The reason is simply greed - utilities are allowed to charge customers the cost of construction plus a guaranteed rate of return typically in excess of 9% on generation facilities. No other business or industry has the luxury of a government sanctioned guaranteed rate of return greater than the market rates of return. The IOUs do not make as high of return on power they procure from independent power generators, so they do not procure it.

The bottomline is that if developers are taking their business elsewhere, as stakeholders assert, it is because Oregon's IOUs refuse to do business with them. In reality, renewable developers are building in Oregon, but they are selling to other offtakers including consumer-owned and municipal-owned utilities, many of which are out-of-state, as well as industrial customers. Furthermore, if we look across the border in California, we see IOUs making substantial investments in clean energy and spending billions in hardening the grid and proactively addressing wildfire mitigation. This includes IOUs that have faced substantial liability for igniting fires that destroyed California communities.

IOU desire for guaranteed profit greater than any other market investment opportunity is slowing clean energy development in Oregon, but risk of wildfire liability is not the problem.

IOU Wildfire Liability is NOT a Hindrance to Financing Clean Power Generation in Oregon

In testimony regarding HB 3666,[6] and now in a one-pager regarding SB 926, certain clean energy advocates assert that utilities (IOUs) need liability protection from wildfire damages otherwise they will face challenges financing new generating resources. As described above, this claim is not only incorrect it is entirely irrelevant to the policies under consideration. The

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[3] PGE initially forecast needing 3-4GW of emission-free generation to comply with emissions reductions goals in HB 2021, but in their 2021 RFP, PGE short-listed 1,131MW and ultimately procured only 311MW from the Clearwater Wind facility located in eastern Montana, a project in which PGE has over 50% ownership stake. https://apps.puc.state.or.us/orders/2022ords/22-315.pdf

[4] In PGE's 2023 RFP, the Final Shortlist (FSL) selection addresses the Company's capacity needs but only includes 85 MWa of the 753 MWa of non-emitting resources the Company was aiming for between 2025-2028 to stay on its anticipated glidepath to meet HB 2021 2030 emission reduction goals. Most of the FSL is owned by PGE. https://apps.puc.state.or.us/orders/2024ords/24-425.pdf

[5] Pacific Power issued a Clean Energy Plan where they stated their intention to supply Oregon customers with coal and natural gas energy. The PUC rejected their plan and opened a docket (UM2345) to direct Pacific Power to procure non-emitting resources. Pacific Power is suing the PUC in Circuit Court.

[6] Testimony in Support of Oregon House Bill 3666, Renewable Northwest, Diane Brandt, March 18, 2025

IOUs do not need to finance new clean energy generation facilities, they can procure clean energy from independent power producers and they can largely procure energy built in Oregon. Oregon IOUs won't make as high of a return for shareholders, so they won't do it. Importantly, the higher cost of clean power when delivered from facilities owned by IOUs is borne solely by ratepayers and so if we continue to allow IOUs to procure only clean power from facilities they own, we are assuring continued power rates increases long into the future. Oregon IOUs are falling short of the goals and direction in HB 2021 (2021) and the failure to meet these goals is not a wildfire problem.

The claim that IOUs won't be able to make investments in wildfire prevention is patently false. Wildfire prevention and mitigation costs may be passed along to customers and indeed this is one reason for Pacific Power's rates increasing by 45% since 2021. Note, rates have not risen due to risk of wildfire liability, but rather because Pacific Power did not execute Public Safety Power Shutoffs, maintained its line or retrofitted its equipment. In 2020, PacifiCorp caused or contributed to many of Oregon's massive and destructive wildfires. The company has the ability to compensate survivors, catch up on its mitigation efforts and not cause another deadly wildfire.

Understanding the Impact of Rate of Return and Cost of Capital on Consumers

Concerns regarding IOUs failure to invest in green energy development and IOUs rate of return presents a ripe policy opportunity. And, fortunately, it does not have to come at the expense of Oregon fire survivors or the climate. Currently, IOUs present to the Oregon Public Utility Commission (OPUC) their own proprietary calculations and cost basis for their cost of capital rather than seeking capital from the open market, which would spur competition and result in the lowest cost of capital and consequently the lowest rates for consumers. By manipulating cost data in this way, the IOUs have accumulated handsome returns for their shareholders and imposed astronomical rate increases on consumers.

This problem is not unique to Oregon. According to the American Economic Liberties Project, on average IOUs across the county have increased rates by 49% MORE than inflation, while consumer- and municipally-owned utilities have increased rates by 44% LESS than inflation.[7] I encourage the Oregon Legislature and OPUC to take an interest in addressing these issues at the soonest possible opportunity.

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[7] Rate of Return Equals Cost of Capital: A Simple, Fair Formula to Stop Investor-Owned Utilities From Overcharging the Public, American Economic Liberties Project
https://www.economicliberties.us/our-work/rate-of-return/