



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

TO: Commissioners Helgeson, Brown, Mital, Simpson and Carlson  
FROM: Frank Lawson, General Manager and Jason Heuser, Policy/Government Affairs  
Program Manager  
DATE: November 22, 2017  
SUBJECT: EWEB's 2018 State Legislative Agenda  
OBJECTIVE: Approval of Resolution No. 1736, EWEB's 2018 Legislative Agenda

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## **Issue Statement:**

The Oregon Legislature convenes annually – for approximately six months in odd numbered years and almost 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 2018 Oregon Legislative Session will begin Feb. 5, 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. These directives are approved by a resolution, after a presentation and discussion with the Board. 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 their 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 typically 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:

## SB 1040 – State Cap and Trade Legislation

Since 2013, EWEB has had in place a Board resolution supporting carbon pricing that is 1) direct; 2) efficient; 3) economy-wide; 4) technology-neutral; and 5) market-based. In that 2013 resolution, EWEB staff and the Board, hypothesized that carbon pricing would be the best “triple-bottom-line” approach to achieving Oregon’s greenhouse gas (GHG) reduction goals. Since then EWEB has identified or participated in analysis that further supports the conclusion that a state carbon cap and trade program (or tax) is the policy that can reduce GHG emissions in the electric sector by Oregon’s statutory GHG target – a reduction of 80 percent from 1990 levels by 2050 – at the least cost to Oregonians and Oregon businesses.

In addition to advocating for this least-cost approach to decarbonizing the electric sector, EWEB staff are continuing with analysis that may demonstrate cap and trade is also the least-cost approach for other sectors, including transportation. Additionally, EWEB staff recommend that EWEB engage in monitoring and influencing key design elements of cap-and-trade legislation, including the following matters:

### 1) Regional Considerations:

#### a) Linkage to other programs:

Connecting cap-and-trade markets across multiple states and Canadian provinces would likely provide a broader and more diverse trading program that would offer more places to find the most cost effective emission reductions and increase liquidity in a cap and trade program while reducing volatility. EWEB supports efforts to evaluate and pursue linkage opportunities with cap and trade programs in other jurisdictions such as California’s existing program and a possible program in Washington state. The Canadian province of Ontario conducted an evaluation of multiple cap-and-trade options and concluded that linking with existing programs in California and Quebec would result in a lower and more stable carbon price.

#### b) Consistency between jurisdictions:

To the extent possible, EWEB will recommend not only linkage to other jurisdictions, but also recommend achieving as much consistency and compatibility as possible with cap and trade programs in other states and provinces, with or without linkage. Maintaining healthy, efficient, and stable power markets in the West should be an important priority. If states and provinces enact policies that differ greatly, this may result in inconsistent carbon prices across different jurisdictions, instead of a common carbon price. In turn, multiple carbon prices could impact the regional power markets resulting in multiple “products” in power markets instead of one or two, which could reduce power market liquidity.

### 2) Point of Regulation:

#### a) Source Based Preference:

Generally, EWEB will recommend regulating emissions attributed to electric generation as close to the source as possible, in order for Oregon’s program to transmit a carbon price signal most effectively. An approach of regulating in-state electric generating units at the source combined with a “first jurisdictional deliver” approach using NERC e-tags for electricity imported into Oregon would seem to be the most optimal way to regulate electric sector emissions closest to the source.

However, EWEB acknowledges this may not be feasible across the board in the electric sector, at least initially. EWEB may recommend that legislation to enact a cap and trade bill that could codify a general directive to regulate emissions in the electric sector as far upstream as possible, but delegate the exact mechanics, such as a hybrid variant of the “first jurisdictional deliver” approach that might be necessary for a segment of imported electricity, to a state agency rulemaking process.

b) Role of the Bonneville Power Administration (BPA):

It has been averred in preliminary legislative hearings on cap and trade legislation that BPA cannot play an upstream role as a “first jurisdictional deliverer” due to its federal status that precludes it from being compelled by a state program to incur the costs of procuring carbon allowances to cover emissions. EWEB does not see BPA’s status as static or insurmountable, if it is determined there is a broad benefit to avoid less optimal point of regulation further downstream in the electric sector. First, there is precedent for a federal power marketing agency to obtain a waiver from Congress in order to incur costs to comply with a state cap and trade program, as the Western Area Power Administration (WAPA) did for the California program. EWEB believes that once Oregon signals its firm intent through legislation to regulate GHG emissions, a similar waiver could be obtained for BPA. Second, BPA does not have any carbon emitting sources in its generation fleet. The emissions in BPA’s energy mix emanate from a small amount of unspecified wholesale power market purchases BPA makes when customer demand for electricity is greater than the federal power system’s output. Even with these market purchases blended into BPA’s energy mix, BPA’s system mix emission factor is on average only 5 percent of the regional average. BPA’s emissions are less than 1 percent of the total emissions in Oregon’s electric sector, and only a fraction of a percent of Oregon’s economy wide emissions. Given how miniscule the emissions are for BPA system energy, EWEB believes a workaround can be found if necessary to achieve the most optimal point of regulation in the electric sector.

3) Allowance Allocations:

EWEB will recommend that any free allocation of carbon allowances that is made to individual load serving utilities should allocate to all utilities that will be subject to a compliance obligation in Oregon (likely EWEB will have a compliance obligation). EWEB is cognizant that not all utilities are in the same starting point in emission levels (i.e. investor owned utilities compared to consumer-owned utilities). EWEB is mindful that the purpose of freely allocated allowances is to mitigate increased costs and adverse impacts due to carbon pricing and any allocation method should not create “windfalls” of more allowances than needed to cover a utilities emissions. EWEB will recommend that some consideration be made, in an allocation method or in some other way, to provide credit for early GHG reduction efforts by utilities, if a reasonable mechanism can be found to do so.

4) Addressing Hydropower Variability:

EWEB will request that Oregon’s program should allow some combination of allowance banking and/or multi-year averaging of GHG accounting to give utilities flexibility to work with variance in hydropower generation conditions and other variations such as weather.

5) Revenue Recycling

EWEB supports returning revenues raised by the state under a carbon pricing policy to the electric sector to mitigate higher costs to Oregon ratepayers. This helps ensure that electricity ratepayers are not required to pay a carbon price twice: first for the cost of investments in GHG reduction measures and second for the emissions that remain. Revenue recycling is a common feature of carbon pricing

programs adopted in other jurisdictions.

**Recommendation and Requested Board Action**

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

If you have any questions prior to the Dec. 5 Board Meeting, please contact Jason Heuser at 541-685-7425 or [jason.heuser@eweb.org](mailto:jason.heuser@eweb.org).

**RESOLUTION NO. 1736  
DECEMBER 2017**

**EUGENE WATER & ELECTRIC BOARD  
2018 LEGISLATIVE SESSION**

**WHEREAS**, the 2018 Oregon Legislative Session will convene on February 5th, 2018;  
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. Support a Carbon Pricing Policy to meet Oregon's adopted greenhouse gas reduction goals that is direct, efficient, economy-wide; technology-neutral; market-based, upstream, and regionally-linked/consistent.

**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 5<sup>th</sup> day of December 2017.

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

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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 5th, 2017 Regular Board Meeting.

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Assistant Secretary