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A Socio-Political Analysis of Policies and Incentives Applicable to Community Wind in Oregon

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A SOCIO-POLITICAL ANALYSIS OF POLICIES AND INCENTIVES
APPLICABLE TO COMMUNITY WIND IN OREGON

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Abstract

As a new type of ownership structure, community owned wind projects are becoming more and more important in today’s wind energy generation in the U.S. Unlike traditional large wind farms, community wind features local ownership and small-scale generation capacity. The goal of this paper is to identify policies, incentives, and regulations in place that are applicable to community wind projects in Oregon by interviewing project representatives and governmental officials and to depict the Oregon context from strategic, tactical, and operational perspectives for researchers, farmers, private businesses, government entities, and others who are interested in learning about the community wind in the state.

Introduction

Traditionally, the most common way for local communities to participate in commercial wind development is to enter into a lease or easement agreement with conventional, non-local, absentee corporate wind energy companies. Rather than put up, own, or operate the turbines, local people let the developers use their land for building wind projects and, in return, receive compensation from the companies (Windystry, 2011). So why does it matter for a community to own a wind project? First, local ownership can effectively reduce opposition to and increase support for new wind farms. Second, community wind tends to be at smaller scale than conventional wind companies and can take advantage of existing grid infrastructure without building new transmission lines (Bolinger, 2001). Third and most important, community wind is able to bring much greater economic
benefits to local communities, and profits received by local people are more likely to be spent locally in the community, whereas profits earned by absentee companies will leak out of the community very easily.

Following Denmark, Germany, the Netherlands, and the United Kingdom, the United States started to see community owned wind projects about a decade ago (Bolinger, 2001). Unlike traditional large wind farms, which frequently are owned by absentee owners, community wind is locally owned with smaller capacity. Although there are a variety of definitions from academia, energy industry, community development organizations, and government agencies in different states, ownership and scale are two key elements in defining community wind. We use a definition from a recent Lawrence Berkeley National Laboratory (LBNL) report for the purpose of this dissertation. According to the LBNL, community wind “consists of relatively small utility-scale wind power projects that sell power on the wholesale market and that are developed and owned primarily by local investors” (Bolinger, 2011: 1). Because most community wind projects we have encountered in Oregon are owned by local farmers with a capacity ranging from a couple of megawatts to 10 MW as a result of the 2005 Oregon Public Utility Commission (OPUC)’s ruling under the federal Public Utility Regulatory Policy Act (PURPA), and their power is typically generated for commercial sale rather than on-site use (Bolinger, 2011: 1). Although the definition from the LBNL is a good fit for this dissertation, it should be noted that larger community wind projects with a capacity of hundreds of megawatts might emerge in the future. By interviewing project representatives and government officials, we seek to identify policies and incentives in place that are applicable for community wind projects in Oregon so that
people with an interest in developing such projects or learning about the topic can familiarize themselves with the Oregon context from strategic, tactical, and operational perspectives.

**Methodology**

In December 2010, the author conducted 12 ethnographic interviews in six counties in Oregon with a focus on policies and incentives applicable to community wind energy. Despite their different perspectives, all of the interviewees had rich experiences with community wind energy development; and they included:

- one county government employee and two community wind energy developers in Sherman County
- one project developer in Lake County
- two county government employees in Hood River County
- one project developer in Gilliam County
- one project owner and one county government employee in Umatilla County
- one United States Department of Agriculture (USDA) employee in Umatilla County
- one developer and one Bureau of Land Management (BLM) employee in Baker County.

Their names were suggested by personnel at Oregon Department of Agriculture, Oregon Department of Energy, as well as the Community Renewable Energy Association. The interviews followed a semi-structured technique and were recorded using a voice recorder. The author next transcribed all the interviews from the voice recorder to texts and identified common themes and important policies and incentives in place.

In evaluating energy deployment, Stephens et al. (2008) came up with the Socio-Political Evaluation of Energy Deployment (SPEED) framework which categorized laws, regulations, institutions, and policy actors into three levels: strategic level, tactical level,
and operational level. Policies at strategic level are often long-term goals and objectives that set up the structure and the general context for the issue. Tactical policies are instruments for achieving the larger strategic goals such as government incentive programs. Operational policies are rules that target details of project implementation such as policies on land use, permitting process, electricity pricing, and so on (See Figure 1). We adopted this framework and categorized the policies and incentives identified into these three levels.

**Figure 1. Three-Level Policy Framework**

- **Strategic Level**
  - Long-term goals and visioning objectives
  - *To establish context for the issue*

- **Tactical Level**
  - Tools to carry out larger strategic goals
  - *To help realize strategic goals. For example, incentive programs.*

- **Operational Level**
  - Rules involved in details of project building and implementation
  - *To ensure it doesn't conflict with other activities. For example, permitting rules and power pricing rules.*

Lastly, the author conducted policy review and analysis through archival research to study the development of the policies and incentives, and combined the results with previous interview findings to describe Oregon’s policy context for developing community wind energy projects. Please note that the policies and incentives we studied by no means represented an exhaustive list of those applicable to community wind; our efforts were concentrated on the ones that are most talked about in the interviews by
project developers or owners in Oregon. This information could be helpful for anyone who is interested in developing such projects or improving policy designs for the future.

**Results**

**Strategic Goal One: Oregon’s Renewable Portfolio Standard (RPS)**

In 2007 the Oregon Legislature enacted the Oregon Renewable Portfolio Standard (RPS) through Senate Bill 838, which requires Oregon utilities to have a percentage of their retail electricity from renewable resources including biomass, geothermal, hydropower, ocean thermal, solar, tidal, wave, wind and hydrogen (74th Oregon Legislative Assembly, 2007). For example, Portland General Electric, PacifiCorp, and the Eugene Water and Electric Board, the three largest utilities in Oregon will need to meet the standards of 5% from renewable sources in 2011, 15% in 2015, 20% in 2020, and 25% in 2025. Other electric utilities in the state have varying standards of 5% or 10% depending on size (See Table 1).

**Table 1 Renewable Portfolio Standard Targets (Oregon Department of Energy, 2007)**

<table>
<thead>
<tr>
<th>Size</th>
<th>Affected Utilities</th>
<th>Target in 2011</th>
<th>Target in 2015</th>
<th>Target in 2020</th>
<th>Target in 2025</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large Utilities</td>
<td>Portland General Electric, PacifiCorp, Eugene Water and Electric Board</td>
<td>5%</td>
<td>15%</td>
<td>20%</td>
<td>25%</td>
</tr>
<tr>
<td>Smaller Utilities</td>
<td>Central Lincoln People’s Utility District (PUD), Idaho Power, McMinnville W &amp; L, Clatskanie PUD, Springfield Utility Board, Umatilla Electric Cooperative</td>
<td>No Interim Targets</td>
<td></td>
<td></td>
<td>10%</td>
</tr>
<tr>
<td>Smallest Utilities</td>
<td>All other utilities (31 consumer-owned utilities)</td>
<td>No Interim Targets</td>
<td></td>
<td></td>
<td>5%</td>
</tr>
</tbody>
</table>

Senate Bill 838 of 2007 also set a specific goal that by 2025 at least eight percent of Oregon’s retail electrical load comes from small-scale renewable energy projects that


are 20 megawatts or less and required that all agencies of executive department establish policies and procedures to meet the goal. Nevertheless, some community wind project developers expressed disappointment with this goal due to the fact that it does not have enough enforcement:

“Oregon has renewable portfolio standard in there that says the goal of renewable portfolio standard is a certain amount and that eight percent has to come from small community-size projects. It’s in the law, but there’s no enforcement. If there’s no will to make it happen, it will not happen.”

“My project from a financial standpoint is not as efficient as those large commercial projects that are hundreds of megawatts, but I have more benefits to bring to local community, because I live here. The investors of these projects are in Spain, in Germany, and back in east. [My community project has] less leakage, the money stays here. So Oregon needs to do something to stimulate smaller project development.”

**Strategic Goal Two: Energy Policy Act of 2005’s Goal**

The Section 211 of the Energy Policy Act of 2005 set a goal of building 10,000 MW of non-hydropower renewable energy on public lands by 2015 (109th Congress, 2005). In the same year, the Bureau of Land Management (BLM) in the U.S. Department of the Interior completed a Programmatic Environmental Impact Statement (PEIS) which “evaluated wind energy development on a large scale, established best management practices, and outlined a reasonable way to develop the nation’s wind resources” (American Wind Energy Association, 2008: 16). In addition, the BLM amended 52 land use plans to facilitate wind energy development on suitable lands (Bureau of Land Management, 2009). In 2009, Secretary of the Interior Ken Salazar issued a secretarial order establishing the development of renewable energy as a priority for the Department of the Interior and creating a Departmental Task Force on Energy and Climate Change.
This Order also amended and clarified Departmental roles and responsibilities in promoting renewable energy (The Secretary of the Interior, 2010). Currently, 20.6 million acres of public lands managed by BLM have wind potential. One hundred and ninety-two rights-of-ways have been authorized for using the lands as production sites. A total of 327 MW of wind energy has been installed on the BLM’s lands (Bureau of Land Management, 2009).

Despite the Energy Policy Act of 2005’s goal and the BLM’s efforts at the federal level, personal attitudes among district managers towards wind energy development vary from district to district in Oregon. Interviews with a number of community wind developers and/or owners whose projects are on the BLM’s land indicate that some district managers are very helpful and cooperative in working with wind project developers, while others are not as interested in developing wind:

“We are the first project they [the local BLM district office] pushed through in their district. They don’t have much experience [with wind development], but the District Manager was a great guy to work with.”

“From my experience, I don’t think the BLM is interested in developing wind. At the federal level they have a goal, but at the state level I’m not sure they are interested in wind. Sometimes top-down directives from Washington take a long time to be accepted at the state level.”

With the strategic goals set, we will next explore tactical incentives that are available to help achieve these goals at federal and state levels and identify barriers and challenges that the incentive programs are faced with.
Tactical Incentive One: The Production Tax Credit

The federal Production Tax Credit (PTC) was established by the Energy Policy Act of 1992 to promote renewable energy. At the time of writing, the incentive provides 2.2 cents per kWh for electricity produced from renewable sources, including wind, for the first ten years of operation, which serves as an important financial incentive for renewable energy development (Database of State Incentives for Renewables and Efficiency, 2011).

However, to fully take advantage of PTC, local investors often need to partner with a tax equity investor (often a corporation with large tax credits appetite) and use a “flip” financing structure. In a typical scenario, the tax equity investor provides the majority of the equity for building the project, and receives the majority of the cash and tax benefits out of the project. Once the target internal rate of return has been achieved, which often occurs after the tenth year when the PTC is no longer available, the tax equity investor flips the major ownership of the project back to the local investors and let them receive the major benefits for the remainder of the project life (See Figure 2) (Bolinger, 2011).
Figure 2. Ownership Before and After the “Flip”
Since the Oregon’s Public Utility Regulatory Policy Act provides incentives to community wind projects at 10 MW or less, while their project costs typically do not exceed 25 million dollars, it is difficult to attract large corporations with sufficient tax liability to invest in such small projects. One project developer said in our interview:

“They [the tax equity investors] are a guy in a suit with a lot of money, such as banks. [They say] bring me some 30-40 million dollar projects, don’t bring me anything less. Don’t bring me 5, or 6, or 20 million dollar projects, because nobody wants to mess with it.”

A community wind project in Umatilla County has successfully taken advantage of the PTC and used a “flip” structure by bundling a cluster of smaller projects into a large package to attract a tax equity investor. A farmer involved said:

“This wind farm consists of nine smaller projects. So there are actually nine investor groups that own this 64 MW wind farm. There are 32 MW on my farm, and 32 on my neighbor’s farm. Of those 32 MW on my farm, I own 5 MW. They [the tax equity investor] own 99% of it and we own 1% of it. After they make a certain return on their investment, internal rate on their investment, then we flip positions. At that point, we will own 95% and they will own 5%. That’ll happen in about 12 years supposedly.”

It is necessary to note that not every local investor is interested in partnering with outside tax equity investors to utilize the PTC and develop a community wind project jointly. In order to maximize their profits, many local investors want to develop it on their own:

“A lot of companies approached me and said we can develop the project for you, but what they really wanted to do was to own it. I was not interested in that at all. I know more about the project than those who are sitting in New York. I cannot see how you can manage the project being back in New York.”
Tactical Incentive Two: The Business Energy Investment Tax Credit (ITC) and Section 1603 Grants

The American Recovery and Reinvestment Act of 2009 (ARRA) allows wind energy projects eligible for the PTC to receive either the 30% investment tax credit (ITC) or a 30% Section 1603 cash grant of the total project costs in lieu of PTC for new installations (Database of State Incentives for Renewables and Efficiency, 2010). While the PTC is awarded based on the amount of electricity a project produces, the ITC and the Section 1603 grants do not have to do with the project performance but depend only on how much investors have invested into the project. Since the ARRA, especially the Section 1603 program, had been critically important to community wind projects, many project developers and/or owners were considerably nervous at the end of 2010 when we conducted our interviews, because that was the time when this program was scheduled to expire. Eventually, however, a one-year extension was passed by the Congress as part of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 and signed into law by President Barack Obama on December 17, 2010 (Internal Revenue Service, 2011). Some project developers compared the PTC and the 1603 grants and expressed that major differences lie in two areas: application process and whether or not the incentive is based on production.

“The 1603 grant is simple. You just fill out the form and send it in and say I got through building this project and just send me the money. For PTC, you not only have to find somebody who owes so many taxes, but also they got to understand your project well enough to agree to be a partner.”

“The grant is not based on production; you don’t have to be highly productive, so it kind of favors the project that doesn’t have as good resources or does not produce that many kilowatts. [For the PTC] if you have a very productive site, you produce a lot of kilowatt, and the
production tax credits went up. The more you produce, the more tax
credits you got.”

Finding a tax equity partner to take advantage of the Production Tax Credits can
be difficult for projects at a small scale, and therefore the 1603 grant option is
tremendously helpful for community wind projects to move forward.

“Having a grant option for small wind project is huge. For us, we estimate
our project to be 20 to 25 million dollars that’s 7 million dollars upfront.
That’s huge money upfront, which you don’t have to find financing for.”

“The 1603 grant allows me to go forward when it turns into a grant
without bringing in somebody with a lot of money, who is very difficult
for small projects to find. They don’t want to mess with somebody as
small as me.”

However, it should be noted that most of the 1603 grants since September 2009
have gone to large foreign corporations such as the Spanish company Iberdrola, and
many community wind project developers believe it is those smaller projects that need
the grants most (Investigative Reporting Workshop, 2010):

“It’s been a huge stimulus in the industry. Unfortunately, a good portion is
going to go to large developers. In fact the first two rounds they [the
Treasury Department] distribute it, they distributed most of the money to
foreign owned companies. It’s good to see if we can keep this grant
program for community projects, because they don’t need that grant as
much as we do.”

**Tactical Incentive Three: Rural Energy for America Program (REAP)**

The Rural Energy for America Program (REAP) was enacted by the 2008 Farm
Bill and is administered by the U.S. Department of Agriculture (USDA). The program
provides grants and/or loan guarantees for the purchase and installation of renewable energy generating systems and for energy efficiency improvements (U.S. Department of Agriculture, 2010b). The grant program provides up to 25% of the project costs with a maximum of $500,000 per project (U.S. Department of Agriculture, 2010a). The loan guarantee program does not lend but offers loan guarantees to a commercial lender who seeks it, and it can guarantee up to 75% of total project costs with a maximum loan size of $25 million (U.S. Department of Agriculture, 2011). The REAP program, as mentioned by many project developers in rural Oregon, has been of great help for community wind development. A USDA employee in Oregon commented on the grants and loan guarantees of the REAP program:

“Nationwide, on the grant side, we are overly subscribed, meaning I get more applications than I have money. On the guaranteed loan side, [it’s] not the case. I have enough money to fund all these applications in the past several years. [Since] grants are just free money, everybody wants a grant. It is competitive, and we do compete nationwide. And I try to get the money into Oregon you know. That’s my job.”

Tactical Incentive Four: The Oregon Business Energy Tax Credits (BETC)

The Oregon Department of Energy offers the Business Energy Tax Credits (BETC) to renewable resource, energy conservation, as well as renewable energy resource equipment manufacturing. For renewable energy projects, the BETC program provides 50 percent of the eligible project costs and is generally taken over five years at ten percent per year (Oregon Department of Energy, 2011a). This incentive had been historically significant in promoting renewable energy including community wind in Oregon until 2010 when the Oregon Legislature made substantial changes through HB 3680 to curtail the program. Major changes included setting tight sunset provisions,
imposing caps on overall BETC awards, placing limits on wind facilities, requiring
ODOE to develop a tier system to renewable energy facilities based on cost with a closer
scrutiny of higher-cost facilities (Eller, 2010; Stoel Rives, 2010). Almost all the
community wind project developers and/or owners in our interviews expressed their
disappointment with the current BETC.

“The BETC had been totally a given for years. But now the BETC cannot
be used for community wind. Officially the program is still there, but to
apply and qualify for it and get it [is very difficult].”

“The community wind in Oregon is dead. There’s no way to go forward.
Basically the system is a lottery system. They put your name in the hat and
they pick a couple out. So most of the projects are not going forward.”

“I think the Legislature just has a short vision. They closed the door on
BETC. They just don’t understand the value. It’s going to pay taxes for
years and years and years. And it’ll employ a lot of people over the time.
Their short sightedness is that they need the revenue now.”

A project owner felt that some decision makers in the Legislature were confused
about how the difference between tax liability and a grant incentive. He stressed that the
BETC program reduces a taxpayer’s liability, not allocating grant money to renewable
energy projects, and many politicians misunderstood the way BETC worked.

“A lot of them think BETC is going to take money out of the general fund
and give it back to you. No, you are not doing that. We are just going to
give you 50% of our tax liability instead of 100%. But isn’t 50 cents still
adding business in Oregon, hiring Oregon employees, building Oregon
things? Isn’t that a whole lot better than not having built it at all?”

In addition to commenting on existing applicable incentives, one project
developer also came up with an innovative incentive for policy makers to consider. Two
unique characteristics of the proposed incentive include an expanded local ownership and
a lower risk associated with the investment. Firstly, the incentive will allow people to buy shares of a wind farm, and they will receive a guaranteed return on their investment. However, it offers differing rates of return to investors depending on their zip codes. Essentially, the closer the investor is to the wind project, the higher rate of return he or she will receive; the further away an investor is located, the lower rate he or she is able to get. This way, the project will be more community-driven because local investment is stimulated and encouraged. Secondly, instead of letting people directly invest into the project, the incentive invites people to invest in the State, and then the State uses that money to loan the wind project, so that people will be more comfortable with the level of risks, because the government will guarantee the investment. The developer explains why it is better and easier for the incentive to be administered by the government rather than by a private company:

“It’s hard because it has to be something in the realm of securities. For us to do this on our own as a company, we’d be subject to the federal Securities and Exchange Commission. That becomes very complicated and very expensive to administer. Also, people will be more comfortable with investing with the State or a government agency, [where] they basically have no risks because the state will back the investment. [The incentive] is a good way to get local people involved, and it’s a secure way for people to invest.”

Having discussed strategic and operational policies and incentives, I will explore operational, administrative rules that will be encountered in the process of building a community wind project, such as rules about electricity pricing and permitting.

**Operational Policy One: The Public Utility Regulatory Policy Act (PURPA)**

The 1978 federal Public Utility Regulatory Policy requires that utilities purchase energy from qualifying facilities at avoided cost rates. A qualifying facility refers to a
small power production facility of 80 MW or less or a cogeneration facility (Federal Energy Regulatory Commission, 2010). An avoided cost refers to the cost the utility would incur if it were to generate or purchase the same amount of electricity from another source. In 2005, the Oregon Public Utility Commission (OPUC) issued Order 05-584 related to PURPA policies, requiring the three Investor-Owned Utilities (IOUs)- PacifiCorp, Portland General Electric (PGE), and Idaho Power-to provide standard rates and a Commission-approved 20-year standard contract for facilities up to 10 MW (Oregon Public Utility Commission, 2005). Although the Consumer-Owned Utilities (COUs) need to follow the federal PURPA, they are not bound to Order 05-584 and can file their current avoided cost at the Bonneville Power Administration (BPA) rate, which is much lower than the avoided costs filed by Investor-Owned Utilities (IOUs) (Northwest Community Energy, 2011). Since 2005, Oregon has witnessed substantial efforts in building community wind with a capacity of no more than 10 MW and selling power to the IOUs. Some project developers described:

“In the PURPA laws there’s a guaranteed power purchase agreement for projects 10 MW or under so you don’t have to go through a negotiation process. That’s very enticing. That’s just the main reason we are looking at 10 MW projects.”

“It’s good if you didn’t have the ability to insist that they buy your power. [Due to the small capacity], you may not get them even consider buying your power.”

With regard to power pricing, the OPUC Order requires the IOUs to provide three pricing options for eligible projects (with an exception that PGE has to offer a fourth one): the Fixed Price Method, the Deadband Method, and the Gas Market Method. Under the Fixed Price Method, the utility will pay a fixed price based on a single set of forecasted
natural gas prices in the utility’s last approved avoided cost filing. The other two methods based the rates on monthly natural gas price indexes, but the Deadband method bounds the rates within 90 percent and 110 percent of the natural gas price forecast used in the Fixed Price Method, whereas the Gas Market Method uses a monthly indexed price with no natural gas price forecast (Oregon Public Utility Commission, 2005). It is apparent that in Oregon the “avoided costs” are based on how much costs are avoided if the power is generated from natural gas, and thus the profitability of community wind depends on how the natural gas market functions. Two project developers felt lucky about the timing of their power purchase agreements with the IOUs.

“Oregon PUC told PGE that they had to file the avoided cost pricing based on the cost of energy from natural gas fired plant. When my agreement with [PGE] was made in 2008, natural gas price was high. Now the natural gas price is very low, and it’s projected to be low for many years. Every 2 years, PGE will re-file and update avoided costs every two years.”

“The [avoided cost] rates have set back down since the natural gas price dropped. We got the power purchase agreement when natural gas was going up. I didn’t negotiate with Idaho Power. It’s a standard rate schedule that is submitted to the OPUC for approval. That’s done every two years.”

Some project developers suggested that a feed-in tariff may work better than the PURPA payments. Feed-in tariff policies are available in more than 40 countries and have successfully stimulated renewable energy development particularly in Europe with Germany and Denmark at the forefront (Cory et al., 2009). Typically, a feed-in tariff guarantees grid access, long-term contracts, and power prices based on the cost of renewable energy generation plus a reasonable profit, instead of an avoided cost associated with another traditional source such as natural gas. Under PURPA, pricing is based on the projection of avoided costs, which oftentimes diverges greatly from actual
prices (Couture, 2009). Currently the feed-in tariff is available in Oregon only for solar energy on a limited, pilot-scale basis for projects within PGE, Pacific Power, and Idaho Power service territory, but in order to promote renewable energy, policy-makers should consider applying feed-in tariff to other renewable energy types such as wind energy.

**Operational Policy Two: Conditional Use Permit (CUP) vs. Energy Facility Siting Council (EFSC) Certificate**

Once a community wind project identifies a suitable location with good wind resources, it will need to pursue permits from the permitting authority to be allowed to build the project at the chosen site. In Oregon, county governments are authorized to approve wind energy projects up to 104 MW. Community wind projects with less than a 10 MW capacity, therefore, are typically permitted under the County’s jurisdictions. The process typically involves compliance with land use zoning regulations, applying for a Conditional Use Permit (CUP), as well as applying for building, road, and other permits (Northwest Sustainable Energy for Economic Development, 2006). To apply for the CUP, wind projects oftentimes need to submit Project Description, Project Map including transmission route, potential impacts to accepted farm and forest practices on surrounding areas, avian impact monitoring plan, Fire Protection and Emergency Response Plan, Erosion Control Plan, Weed Control Plan, impacts on affected communities or individuals, impacts to wetlands, wildlife, wildlife habitat, criminal activities, dismantling and decommissioning plan, bond or irrevocable letter of credit for the decommissioning fund, etc (Northwest Sustainable Energy for Economic Development, 2006). Then, a public hearing will be held by the County Planning Commission to solicit public feedback on the proposed project. The County will also notify other related departments
or agencies and coordinate their responses to the project (Land Conservation and Development Department, 2011). An experienced County Planner explained how the coordination works as follows. In the end, if certain conditions are met, a CUP will be issued to grant permission to build the project.

“It’s a comprehensive review of the permitting for the project. We do some coordination through the State Agency Coordination Program. We gave an educated guess on what agencies will be involved. Now we have had enough experience and a general idea as to which agency [to notify]. It varies depending on the project.”

Despite the fact that wind projects 105 MW or larger in size fall into the Oregon Energy Facility Siting Council (EFSC)’s jurisdiction to be sited, smaller projects like community wind may also opt into the state siting process, rather than pursuing a CUP through a county government (Oregon Department of Energy, 2011b). The project will then need to go through a formal process to obtain a Site Certificate issued by the EFSC. For projects facing significant public opposition, it may be safer to permit with the EFSC, because the “permitting is more objective, being standards-based rather than politically-based, and there is a clear and more expeditious appeal path” (Northwest Sustainable Energy for Economic Development, 2006: 43). However, the costs associated with the EFSC prevent small-scale community wind projects from choosing the option. Some government employees compared the costs of a CUP and an EFSC Site Certificate.

“The down side of going EFSC is that it’s a minimum of 100,000 dollars, because you have to pay for their time. What EFSC does is that they build the case, so it’s ready to go to the Oregon Supreme Court. So it’s very expensive. Legal fees, staff costs, you have to pay for them to put together a package. It is very expensive, whereas a Conditional Use Permit here is less than 1000 dollars.”
An example of a golf course was mentioned to show how tedious and lengthy the appeal process can be in the CUP process and why the EFSC is more expeditious for siting a project.

“One of the reasons is that the conditional use permit can be appealed to LUBA which is the Land Use Board of Appeals. It can go from LUBA to the Court of Appeals. If the Supreme Court wants to take it, you can go all the way to the Supreme Court. Many times it goes to the LUBA and it gets rejected and sent back to the County under remand. The County has to have a hearing over again. And then it goes back to LUBA and maybe up to the Court of Appeals. The Court of Appeals sent back to LUBA. The LUBA sends it back to the County. We did that for a golf course. It took seven years. But if you go to EFSC, there’s only one appeal that directly goes to the Oregon Supreme Court. And they [the wind projects] have never lost a case in the Supreme Court [because] they build their case so well. It’ll give you much time certainly. And much more chance to win. Especially you have an area that is not so crazing about having the project. If a Conditional Use Permit goes well, it’s much cheaper and much faster. But if you know there are people who are going to fight you for the rest of your life, and you have the money, then you probably would want the EFSC.”

The extent to which public input is involved also distinguishes the CUP and the EFSC Certificate. The CUP is issued by a County government that is held accountable to local people, whereas the Certificate is issued by the EFSC, which consists of seven members who are appointed by the governor and confirmed by the Oregon Senate (Oregon Department of Energy, 2011c). A county government employee said:

“The purpose of the Conditional Use Permit is to gather input. So it factors in citizens’ input more than any other things, whereas the EFSC they’ll hold hearings but you got to point to something very specific in the law or they’ll just discard the community. Just because people don’t like it doesn’t matter, [because] the EFSC is not elected by the local people.”
Operational Policy Three: National Environmental Policy Act (NEPA) Review

As private land suitable for developing wind energy diminishes in Oregon, community wind developers start exploring federal land for ideal locations to site their projects. Pursuant to federal law, when federal agencies site a project within their jurisdictions, they are required to evaluate the impacts of the construction, operation, and maintenance of the project on the human environment through the National Environmental Policy Act (NEPA) review before decisions are made (Stoel Rives, 2009). In Oregon, the BLM manages more than 15 million acres of public land and has been involved in permitting wind project more than other federal agencies, and efforts in building community wind have increasingly emerged on their land. A BLM employee describes the balance between renewable energy development and the NEPA process as follows:

“Our authorizations for the land disturbing activities have to go through the NEPA. So every office [at BLM] has to follow the NEPA process, which includes public input, decision making and everything. Now there are maybe a few differences in policy between districts and offices based on their Resources Management Plan as to what may be allowed in a certain area or not, but we try to be as consistent as possible.”

In the NEPA review there are two types of documents: Environmental Assessments (EAs) and Environmental Impact Statements (EISs), both of which involve public input. If certain proposed actions fall under the categories that have been determined to have insignificant effects on the human environment, they can be categorically excluded from further NEPA review and will be documented in the Categorical Exclusion (CX) review, which typically is not subject to public review (See Figure 3.4.2) (Bureau of Land Management, 2011).
application for a short-term right-of-way through a CX review for testing sites where meteorological towers are put on.

“Usually, they first file an application for testing. That’s considered a Right-Of-Way Grant, so we are giving you an authorization. It’s usually used to set up meteorological towers to test an area. But you can’t hold testing forever. Within 2 years, you either say we are going to develop it, or we are going to get out. But if you want to do a more intensive testing or disturb any land, you’ll have to go through the NEPA process.”

If the testing results turn out to be positive, the company will need to turn in a preliminary Plan Of Development (POD) to tell the BLM what they intend to do and how they are going to carry out the plan. Next, the BLM will analyze the POD to see how significant their impacts are and whether they need to do an EA or an EIS. The difference between the two documents lies in the degree of impacts the project will have on the human environment. A BLM employee explained:

“If their proposed impacts are what we call Significant Impact, which is a legal term under the NEPA, they’ll have to go through the EIS, which is a much more in-depth NEPA document. If the impact is not likely to be significant or is not certain, they’ll do the EA. The EIS takes longer and has more public involvement.”

With community wind in Oregon typically being 10 MW or less, their impacts are generally considered insignificant on the environment by the BLM standards. Therefore, they are allowed to do the EA rather than the EIS for the NEPA review (See Figure 3).

Two project developers talked about their experiences with the EA:

“Environmental Impact Study is much more detailed and much more involved. Environmental Assessment is a little bit less involved for projects with a smaller impact. The BLM has told us that they believe we’ll be able to use the Environmental Assessment for our project, but now we haven’t started the NEPA process yet.”
“The EIS is more restricted than the EA. I cannot afford to do the EIS. It is for larger projects. Generally the EA requires we study the impacts of what we would have.”
Figure 3. The National Environmental Policy Act (NEPA) Process (Bureau of Land Management, 2011)
Discussion

This paper analyzes important policies and incentives applicable to community wind in Oregon from strategic, tactical and operational perspectives using the framework developed by Stephens et al. (See Figure 4). The methodology utilizes semi-structured interviews with project developers and/or owners, as well as government officials who have profound experience with wind development at a community scale.

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<th>Strategic Level</th>
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Figure 4. Policies and Incentives Analyzed

It should be noted that this paper does not present an exhaustive list of policies and incentives in place for community wind, but is focused upon the most often recurring ones identified in the interviews. Many other important incentives and policies, which the author does not have an opportunity to discuss here, include the Renewable Energy Production Incentive (REPI), Accelerated Depreciation, Property Tax Exemptions, Oregon State Energy Loan Program (SELP), Oregon Community Renewable Energy
Feasibility Fund (CREFF), and so on. However, the results included in the paper convey some essential messages to policy makers as well as those who are interested in developing community wind. Those are:

- *The Oregon Renewable Portfolio Standard* will need more enforcement to be able to achieve its goal that eight percent of Oregon’s retail electrical load comes from small-scale renewable energy projects by 2025.

- *The Energy Policy Act of 2005* set a goal for public lands to have 10,000 MW of non-hydropower renewable energy by 2015, but local offices of federal agencies, such as the BLM, vary in attitudes towards renewable energy.

- *The Production Tax Credit* is difficult to be used by community wind projects due to the fact that tax equity investors are not very attracted by projects at a small scale.

- *The 1603 Grant* option based on the cost of a project rather than the project performance has been extremely helpful for community wind.

- *The Rural Energy for America Program* faces insufficient funding for its grant option and receives many more grant applications than it has the ability to fund.

- *The Oregon Business Energy Tax Credits* has substantially changed over the past few years from being a “given” to a “lottery system” where community wind has little or no chance of receiving the credits because other renewable energy types such as solar and geothermal are given more priority.

- *The Public Utility Regulatory Policy Act with the Oregon Order 05-584* links prices of wind power to the forecasted price of natural gas. Feed-in tariff may be a
good option to avoid inaccurate forecast and recognize positive externalities of renewable energy production by basing prices on the cost of wind generation.

- Community wind developers may prefer pursuing a *Conditional Use Permit* from their County government to applying for a *Site Certificate* from the Energy Facility Siting Council.

- Siting a project on the BLM’s land requires going through the *National Environmental Policy Act* review process, and a community wind project is likely to use the Environmental Assessment rather than the Environmental Impact Statement because of limited impacts on human environment.

In addition, allowing people to invest in community wind projects through state government and guaranteeing them with different rates of return depending on their zip codes may be an effective way to expand local ownership and increase acceptance for wind projects by local communities, because the closer a resident, the higher return he receives.

Based upon Oregon’s experience, we suggest that strategically state policy makers (e.g. Governor or Legislature) should check with the executive agencies to ensure they have adopted policies and procedures to encourage community renewable energy projects to meet the strategic goals. Tactically, state agencies that administer incentives such as BETC may want to consider prioritizing community-scale projects for receiving funding. In addition, other effective tools could include allowing community wind to receive SELP construction loan again. Federal agencies should be focused more upon increasing the availability of funding for such projects. Operationally, when permitting departments at federal or state levels are approached by community wind project
managers, it would be helpful and time-saving to share upfront the pros and cons of
different permitting options as well as the approximate timeline and costs of the process.
To summarize, if we would like to see more distributed, locally owned, small-scale wind
projects, the governments, both federal and state, will need to have more work to do with
enforcement, increase of incentives, and information sharing. Otherwise, it is difficult for
such projects to survive in today’s policy context.

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