

**Uncommon Alliance:
Understanding the Passage of Oregon's
Senate Bill 1547**

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Abstract

In 2016, the state of Oregon passed landmark legislation that doubles the state's Renewable Portfolio Standard and eliminates the use of coal-fired electricity for the state's two major electric utilities by 2030. The legislation was the first of its kind in the country to outright ban the use of a particular fossil fuel source and fits into national and global energy trends relating to coal and renewables, which in turn relate to the actions jurisdictions are taking to address climate change. The research presented here sought to find the most important factors that contributed to the passage of the legislation. To explore these factors, I interviewed 29 individuals who were intimately involved in the bill's passage or who have extensive knowledge of energy policy in the state. The findings were analyzed using the Collaboration Forming Model, which is a modification of the Multiple Streams Approach developed by Kingdon (1984) and accounts for collaborations that take place between the private and non-profit sectors to enhance the sustainability of a business. The research revealed that cooperation between the utilities and environmental groups in promoting the bill was crucial to its passage. Another key factor that led to the legislation was a threatened ballot initiative that prompted the utilities to negotiate the alternative that was eventually promoted in the legislature. The context of the passage of the bill, which took place during a five-week long legislative session that did not allow for extensive discussion and excluded certain groups, also contributed to an erosion of trust and damaged relationships. These unintended side effects have policy implications, which include attempting to ensure full discussion and full participation by interested parties in the passage of a bill. The successful collaboration between the state's two major electric utilities and environmental groups in passing the bill represents a positive example of passing environmental legislation that can be emulated in the future.

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Glossary of Acronyms

CPP – Clean Power Plan
DJ – Distributive Justice

ENGO – Environmental Non-Governmental Organization
GHG – Greenhouse Gas
IOU – Investor-Owned Utility
MSA – Multiple Streams Approach
OCEP – Oregon Clean Electricity and Coal Transition Plan
PGE – Portland General Electric
PJ – Procedural Justice
RPS – Renewable Portfolio Standard
PUC – Public Utilities Commission

1. Introduction

In 2016, Oregon passed a law that was the first of its kind in the country. The law called for the two major investor-owned electric utilities in the state to stop using coal-fired generation to provide electricity to their Oregon customers, and, among several other features, also doubled the state's renewable portfolio standard, placing it among the most ambitious renewable energy standards in the country. Oregon made national headlines with its decision to eliminate a fossil fuel from its electricity portfolio, and the move fit into a national campaign by the Sierra Club called Beyond Coal that aims to shut down coal plants nationwide. Not surprisingly, passage of the policy drew major objections, arising in part from the fact that the policy passed relatively quickly and under unique circumstances. In Oregon, the state legislature only convenes for five weeks during even-numbered years, compared to roughly six months in odd-numbered years. Passing as it did in 2016, this meant that the Oregon Clean Electricity and Coal Transition Plan (referred to below as the Oregon Clean Electricity Plan, or OCEP) moved quickly from proposed policy to a law on the books, drawing criticism from many who felt such a complex and far-reaching policy should not be passed in such a short time frame.

A key component of the passage of the bill was a threatened ballot initiative that environmental groups were preparing to put on the November 2016 ballot. The initiative would have accomplished similar goals to OCEP, but included provisions that the utilities opposed as being too costly. Instead, utilities approached the environmental groups to negotiate a compromise, which together they could pass through the legislature. The time frame for these negotiations was short – occurring in approximately six weeks prior to the start of the legislative session – and the alliance between utilities and environmental groups was an unusual one. The state's utility regulator, the Public Utilities Commission (PUC), was excluded from the

negotiations and the policy passed despite its objections, adding to the criticisms made by opponents of the policy. Despite opposition and objections from multiple parties, OCEP passed in the form of Senate Bill 1547B and was signed into law by the governor on March 8th, 2016.

The purpose of the research presented here is to investigate the major factors contributing to the passage of OCEP. Oregon broke ground with a major climate policy that was the first of its kind in the country, making national and international headlines, and since then several countries have announced their intention to phase out fossil fuels from their electricity portfolio (Carrington, 2017, November 16; Mathiesen, 2017, November 10). OCEP also fits into a growing trend as more countries and jurisdictions at all levels begin to pass climate legislation and pledge to decarbonize their economies (Connolly, 2015, June 8; Fialka, 2016, May 16). Investigating how OCEP came to pass can thus provide important insight into the growing movement toward sustainable energy use, and may also shed light on how other U.S. state could follow suit. Understanding the critiques presented by opponents of the policy can provide further insight and perhaps serve as a cautionary note for other jurisdictions seeking to implement similar policies.

To learn more about the unique circumstances surrounding the passage of OCEP, this research included interviewing 29 individuals who had been directly involved or close to the development and/or passage of the policy. These interviews represented a rich source of firsthand information and were key to understanding the circumstances surrounding passage of the policy. Respondents included members from the two major investor-owned utilities (IOUs), environmental advocates, legislators and legislative staff, lobbyists, regulators, attorneys with a specialty in energy policy, and members of other organizations. The findings from these interviews, in addition to publicly available information accessed as a part of this research, are

discussed using a modification of the Multiple Streams Approach (MSA), called the Collaboration Forming Model. Using this model allows this case of policy formation to be analyzed in light of policy theory. The latter model organizes and analyzes policymaking according to the three separate yet interrelated domains (called ‘streams’) presented in MSA, while making some modifications and adding a fourth stream. These four domains are the problem, policies, political/economic/social, and organizational streams. The Collaboration Forming Model also employs two other important MSA analytical concepts, the policy entrepreneur and the policy window. These components are discussed in the methods section of the paper.

A key finding from the research is the pivotal role of the alliance between environmental groups and utilities. This alliance formed OCEP in a short period of time and worked together to get the policy passed through the legislature. A similar bill had been introduced in the previous legislative session but did not pass, in part because of opposition from the utilities. Thus, the cooperation between these two groups was of critical importance to the successful passage of OCEP in 2016. Cooperation between environmental groups and for-profit companies to create policies that benefit the environment is known in the literature as a Green Alliance. Typically, companies voluntarily agree to change their business practices to make them more sustainable by participating in such a partnership. However, the case presented here is unique in that the participants sought to codify OCEP into law by passing it through the legislature. Possible reasons are discussed below, and include the possibility that the utilities, as regulated monopolies, faced unique circumstances that meant they sought a regulatory mandate that required them to take the actions specified in OCEP.

The Green Alliance would most likely not have formed without the pressure created by the ballot initiative put forward by environmental groups. This represents another key finding from the research. After their failed attempt to pass similar legislation in 2015, several environmental groups came together to form a grassroots campaign organization called Renew Oregon that would pool their financial resources and expertise. Renew Oregon relied on polling that showed their ballot initiatives were very popular with voters, providing confidence that the initiatives would pass. The utilities objected to the expensive and inefficient way the initiatives sought to accomplish their goal of eliminating coal from the state's electricity portfolio, but also recognized that spending millions of dollars to defeat a measure many of their customers supported would not put them in a good position. The proposed ballot initiatives were thus successful in bringing forward the utilities to negotiate with environmental groups. The tactic of using a threatened ballot initiative to bring opponents to the negotiating table was a well-known tactic among interview respondents; yet, there is a relative dearth of literature on this particular aspect of the use of initiatives. Whether Renew Oregon intended to use the initiatives in the way just described is discussed further below.

Several other factors were important in enabling the convergence of the streams represented in the Collaboration Forming Model. First, both the state of Oregon and all the parties involved in the Green Alliance acknowledged that climate change was a serious problem that needed to be addressed. This common starting point allowed the parties to negotiate the best way to address the problem. Without this shared acknowledgement of the problem it is unlikely any Green Alliance would have formed.

Another important factor that emerged from this research is the history of successful cooperation between environmental organizations and the utilities, which provided a model for

these groups in striving to create OCEP. Past positive experiences of working together – in 2007 to develop the state’s Renewable Portfolio Standard (RPS) and again in 2010 to negotiate an early shutdown of the state’s last coal plant – had built up a certain level of trust between groups that were normally adversarial. Unfortunately, accounts differ drastically as to whether the experiences surrounding passage of OCEP reinforced this trust or badly damaged it.

The literature shows that democratic control of a state legislature is the strongest predictor of the ambitiousness of the state’s RPS (Berry, Laird & Stefes, 2015). Considering OCEP doubled the state’s RPS, placing it among the most aggressive in the country, it is worth noting that this took place when Oregon enjoyed majority Democratic control. More broadly, the literature shows that Democratic control of the legislature is associated with the passage of environmental and green energy policies. This represents another important factor that emerged from the research.

Finally, the continually improving economic and technical feasibility of incorporating additional renewable resources into the electric grid proved to be another important factor in the utilities’ willingness to support OCEP (U.S. Department of Energy [DOE], 2017). In the past several years, renewable energy, especially solar and wind power, has become an economically viable energy source (DOE, 2015, November 19). Oregon’s two major utilities were thus much more willing to commit to shifting their energy portfolios away from coal. This fact was combined with the diminishing prospects for coal as an economically viable power source, which has caused utilities around the country to abandon continued investments in coal plants (DOE, 2017). Utilities also consider some form of carbon regulation to be inevitable. Agreeing to OCEP allowed them to address concerns surrounding carbon regulation and climate change on terms they considered acceptable and on which they could have some input.

The policy implications drawn from this research largely revolve around improving procedural and distributional justice, which includes the real and perceived fairness of how a policy is arrived at and how its benefits are shared, associated with policies like OCEP. This includes talking into consideration the importance of including the state-level regulators, represented in this case by the Oregon Public Utilities Commission (PUC). Another policy implication is to consider carefully the effect of passing such major, complex and far-reaching policies during a short legislative session. Opponents of OCEP lodged strong complaints about aspects of the procedural and distributional justice of the policy, and following its passage trust between parties was damaged, according to many interview respondents. Changing the conditions surrounding passage of the policy, especially giving more time for it to be discussed, and including more participants, would likely have resulted in a policy viewed as having a much higher level of procedural and distributional justice.

2. Literature Review

A number of major factors have been found to influence the likelihood that a state will adopt environmental, green energy, or climate policies. Oregon, in fact, demonstrates several of the characteristics that have been found to be important. The first section of the literature review examines the key findings about these characteristics. Key to the passage of OCEP was the coming together of two groups that were normally adversarial in the legislative process: the investor-owned electric utilities (IOUs) and environmental nonprofits. These groups formed a temporary alliance, first in the negotiations to develop the provisions that would be included in OCEP, and then during the 2016 short legislative session, when both groups lobbied aggressively

for passage of the policy. The next section of the literature review explores these collaborations between the private and nonprofit sector, which are referred to as Green Alliances. The threat of a ballot initiative that would be expensive for utilities to comply with was a crucial factor that brought the utilities forward to negotiate a legislative solution with the environmental groups that were putting forward the initiative. The history of ballot initiatives and their strategic use to create leverage over other parties is discussed in the next section of. Interestingly, there was relatively little discussion in the literature of this indirect use of initiatives. Finally, the circumstances surrounding the passage of OCEP created a great deal of controversy, causing many to claim that proper procedure had not been followed and that the policy would not result in fair nor beneficial outcomes. The final section of the literature review discusses procedural and distributive justice, which is concerned with the fairness of decisions made by government and authorities.

2.1 Factors Affecting State-Level Adoption of Environmental Regulation

A number of major factors have been shown to influence the likelihood that a state will adopt environmental, green energy, or climate policies. These variables include the strength of environmental groups, partisan control of state legislatures, state regulatory capacity, matching, state wealth, demographic characteristics, and renewable energy potential. These factors are described in more detail below.

Extensive research supports the idea that environmental advocacy groups (also called environmental nongovernmental organizations, or ENGOS) are effective at securing more environmental policies and a cleaner environment. States with higher levels of membership in environmental groups are more likely to pass renewable energy and climate policies (Bromley-

Trujillo, Butler, Poe, & Davis, 2016; Vachon & Menz, 2006), spend more on environmental and natural resource protection (Newmark & Witko, 2007), and exceed federal air quality standards (Potoski, 2001; Potoski & Woods, 2002). Campaign contributions made by environmental political action committees – such as the Sierra Club or League of Conservation Voters – have also been found to be highly effective (Riddell, 2003).

The partisan composition of state legislatures has been shown to influence the prevalence of environmental and green energy policies, with research indicating that Democrat-controlled legislatures enact more such policies (Bromley- Trujillo et al., 2016; Coley & Hess, 2012; Lyon & Yin, 2010; Vachon & Menz, 2006). Coley and Hess (2012) provide a greater level of nuance, finding that while Republicans exhibit lower support for green energy laws in general, the presence of a Democratic governor moderates this effect. Additionally, they find that a stronger alliance between the Democratic Party and environmental groups – called a Blue-Green Alliance – decreases Republican support. They speculate this may indicate Republican backlash “against liberal attitudes or interests in a state” (p. 582). Beyond the simple adoption of renewable energy policies, Berry, Laird and Stefes (2015) find that Democratic control of the state legislature is the only statistically significant variable that influences the ambitiousness of such RPS policies.

States with a greater institutional capacity to address environmental issues, including pollution and climate change, are more likely to do so. This attribute is referred to in the literature as ‘capacity.’ States with regulatory agencies that have a large number of staff dedicated to such issues, for example, will have a greater capacity (Sapat, 2004; Yi & Feiock, 2014). A larger budget dedicated to such issues will also increase a state’s capacity, and results in more programs to protect the environment (Potoski & Woods; 2002). Legislative professionalism is another factor that can affect a state’s ability to address pollution. States with

more expert policy staff in their legislature, a measure of legislative professionalism, are more likely to have higher environmental standards (Potoski, 2001).

Research has shown that states with greater pollution problems will dedicate greater resources to addressing, or ‘matching,’ the problem (Matisoff, 2008; Potoski & Woods, 2002; Sapat, 2004). Matisoff (2008) finds support for the level of six major air pollutants identified by the EPA, showing states that exceed the allowable levels of these criteria air pollutants are more likely to adopt policies that curb greenhouse gas (GHG) emissions. Not all research confirms the significance of this variable, however (Lyon & Yin, 2010; Potoski, 2001).

States with greater wealth, as measured in per capita income, will have more resources to commit to environmental cleanup and protection (Binder & Neumayer, 2005; Chandler, 2009; Elliott, Seldon, & Regens, 1997; Huang, Alavalapati, Carter, & Langholtz, 2007; Yi & Feiock, 2014). This concept is visually depicted by the Environmental Kuznets Curve. Historically, as economies develop, greater and greater levels of pollution are generated and environmental degradation increases. However, after the population reaches a certain level of prosperity, it begins to place greater value on environmental protection. At this point, the level of pollution and environmental degradation decreases as more resources are dedicated to environmental protection. A graph showing the relationship of pollution to economic growth would appear as a curve similar to an upside-down U shape.

Several demographic factors have been found to influence support for environmental policies (Huang, Alavalapati, Carter & Langholtz, 2007; Elliot, Seldon & Regens, 1997). Age negatively impacts support for environmental policies – research shows that as people age, they tend to become less supportive of such policies. Elliot et al. (1997) speculate that this may be because the present value of a cleaner environment is greater for those who expect to live longer.

Those with higher levels of education are more likely to be informed of the causes and consequences of climate change and thus support government and voluntary action to address it. Females have been found to express greater concern for environmental protection and to be more trusting of climate scientists and the International Panel on Climate Change (Rhodes, Axsen, & Jaccard, 2017). Research also shows that non-whites tend to be more supportive of spending on environmental protection. However, Zarnikau (2003) found that white respondents showed a greater willingness to pay increased electricity prices to support green energy programs. People living in urban areas are also expected to show greater support for such spending.

States differ widely in their renewable energy potential. Some states will have an abundance of wind and solar resources to access, while others may have significantly less. Research has shown that the renewable energy potential in a state is a positive indicator of its likelihood of adopting renewable energy policies (Matisoff, 2008; Lyon and Yin, 2010).

2.2 Green Alliances

Green alliances occur when businesses voluntarily collaborate with environmental groups or government bodies to address an environmental problem (Stafford & Hartman, 1996). These arrangements go by a number of names, including environmental partnerships and environmental collaborations (Glasbergen & Groenenberg, 2001; Wassmer, Paquin & Sharma, 2014). In fact, some of the literature discusses alliances and collaborations that occur between two or more private companies, or between private companies and government (see Wassmer et al., 2014, for an overview). However, the literature discussed below focuses on green alliances that occur between private companies and environmental groups. As consumers have come to demand more environmentally friendly products, businesses have come under pressure to address the

environmental harm caused by their products. Green alliances between private companies and environmental groups first began to form in the 1990s, with one early example coming from 1993 when McDonalds and the Environmental Defense Fund joined together in creating a task force to identify ways to reduce wasteful and environmentally harmful packaging.

All parties involved in a green alliance can gain from their participation. Participating companies can benefit from a greener image and reputation that gives them a competitive advantage with customers who increasingly desire and demand ecologically sustainable products (Arts, 2002; Mendleson & Polonsky, 1995; Wassmer et al., 2014). By the same token, environmental groups can also have their image burnished from successful collaboration with major businesses. Not only does an improved reputation allow a company to attract higher quality employees, but specific actions taken by a company to increase the sustainability of their operations often result in improve efficiency, thereby increasing profits (Stafford & Hartman, 1996). Companies that participate in green alliances can also enjoy greater credibility associated with the products, programs or policies created through such alliances than those they develop on their own (Crane, 1998). Green alliances also represent a proactive strategy for companies that can deflect attention away from the business as a target for attacks from environmental groups, increased government regulation, or scrutiny by the news media (Delmas & Montes-Sancho, 2010; Hartman & Stafford, 1997). Alliances can achieve change faster than attempts to go through the legislative or litigation process; thus, green alliances can further present an attractive alternative to government regulation for both environmental nongovernmental organizations (ENGOS) and businesses (Stafford & Hartman, 1996).

Green alliances can also present risks to the parties involved. Not all members of an environmental organization may agree with cooperating with a corporation, creating internal

strife that has at times resulted in major fallout, such as resignations or an executive director stepping down (Åhlström & Sjöström, 2005; Stafford & Hartman, 1996). An ENGO may also lose credibility with other environmental organizations because of its cooperation (Hartman & Stafford, 1997; Comi, Luranti & Zamparini, 2014). Other difficulties can arise because of differences between the parties involved, including power imbalances and operational style (Arts, 2002; Glasbergen & Groenenberg, 2001). For example, corporations tend to hold much greater economic power because of greater financial and capital resources, while ENGOs may hold more social power in the form of favorable public opinion or a better public image. These power differences can cause conflict and keep an alliance from working properly. Ideally, however, a green alliance can combine the powers of all parties involved. Difficulties can also arise when parties to the alliance differ in their operational style. Companies are accustomed to operating with business partners in formal arrangements governed by contracts, while ENGOs may prefer to operate in a more open and flexible cooperative manner. The inherent tension between these two operational styles can be resolved by creating clear “rules of the game” at the outset (Arts, 2002, p. 33).

2.3 Ballot Initiatives

Initiatives were first introduced in the United States during the Progressive Era (1890-1920) as part of major reforms intended to improve the responsiveness of legislative bodies and give more power to citizens to influence lawmaking. The initiative, which allows citizens to bypass the legislature and put forward a proposed law that is subject to voter approval, was introduced along with the referendum and recall mechanisms, which allow voters to repeal a law passed by the legislature and remove a legislator from office, respectively. Legislators may also

send a proposed law to receive a public vote, called a referral. In some states, Oregon included, initiatives can even be used to make amendments to the state's constitution. These reforms, which taken together are referred to as direct democracy initiatives, were initiated in response to the outsized influence wealthy interests held over state legislatures prior to the Progressive Era. In all, during the Progressive Era 24 states passed direct democracy laws (Donovan & Bowler, 1998). Although South Dakota was the first state to adopt the initiative process, in 1898, Oregon was the first state to make use of it, and in the century following introduction of this policy Oregon was also the state that used ballot initiatives the most (p. 3). As it works currently, the group putting forward an initiative must first gather enough signatures from registered voters to qualify to have their initiative listed on the ballot. In Oregon, the number of signatures must be six percent of the total number of votes cast for all candidates for governor in the last election (Oregon Secretary of State, 2016).

Corresponding to the general concern about the influence of money on politics, scholars have studied whether and how money influences ballot initiative campaigns. Research has shown that large sums of money spent to defeat a measure are more effective than large sums of money spent to promote the passage of a measure (Gerber, 1999), although not all findings support this (Stratmann, 2006). However, it is not only the quantity of money spent that affects outcomes. The kind and size of contributions, level of grassroots support, and rhetorical framing of the issue also play an important role (Smith & Harrington, 2000) Business interests may spend substantial sums to get an initiative on the ballot without expecting the initiative to pass; instead, they may be seeking to send a signal to legislators (Gerber, 1999). This indirect use of ballot initiatives will be further discussed below.

Research has shown that voters are generally competent to decide the complex issues presented on ballot initiatives (Lupia & Matsusaka, 2004; Smith & Tolbert, 2007). Voters use heuristics that help them make decisions in the context of large amounts of information, often relying on endorsements from trusted interest groups or politicians (Banducci, 1998; Bowler & Donovan, 1998; Lupia, 1994). Direct democracy also increases voter turnout (Tolbert, McNeal, & Smith, 2003), in addition to increasing confidence in government responsiveness (Frey & Stutzer, 2000).

Scholars have also investigated how the use of direct democracy affects policy outcomes. Generally, states that have the ballot initiative have lower tax rates, spend less on government programs, and decentralize more power to local governments (Matusaka, 2004). This is in line with the finding that, in recent decades, the ballot initiative has resulted in more fiscally and socially conservative policies than would occur otherwise (Gerber, 1999; Marschall & Ruhil, 2005). However, Lupia and Matsusaka (2004) note that, rather than considering direct democracy as being ideologically predisposed in one direction or another, it is better to think of it as a “median reverting” mechanism that re-centers policies when the legislature moves too far to the right or left (p. 474).

Interest groups can use initiatives not just directly to change laws, but also indirectly to influence other political actors. Interestingly, the literature is relatively lacking in this area. However, Gerber (1996, 1998) elaborates on the use of initiatives for indirect influence using the example of an interest group that wants to influence a legislature to pass or not pass a law. Gerber uses a simplified spatial model to help illustrate (see Figures 1a and 1b below). The model represents the preferred policy positions of three players – the legislature, represented by L ; an interest group, represented by I ; and the median vote, represented by V – along a spectrum.

The model is also helpful in understanding how an interest group may act in order to influence not just the legislature but other political actors as well.

Figure 1: Preferred policy positions of three players; interest group in center position

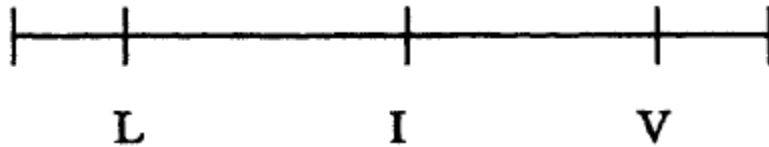
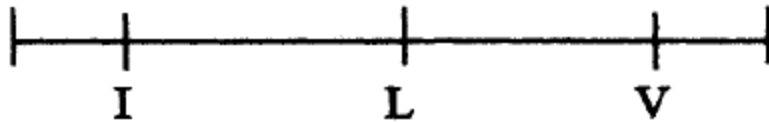


Figure 2: Preferred policy positions of three players; legislature in center position



In the configuration of preferred policy positions represented in Figure 1a, the interest group represents a moderate position in relation to the legislature and median voter. If given the choice, voters would choose in favor of an initiative proposed by the interest group rather than accept a law passed by the legislature. Knowing this, the legislature is likely to adopt a law that is closer to *I* than it is to its own position *L*. However, for the legislature to respond to the possibility of an initiative in this way, it must believe such an initiative is a credible threat posed by the interest group. For this to be the case, the legislature must perceive that public opinion – and thus the majority of votes – would side in favor of the initiative. Further, the legislature must believe the interest group possesses both sufficient resources and the will to follow through with putting forward an initiative.

In contrast, see Figure 1b, where the policy preferences of the legislature and the interest group have switched positions. Now, the legislature's position is moderate relative to the interest

group's and the median voter's. In this arrangement, there is no initiative that the interest group could propose that would be more preferable to the median voter than a law passed by the legislature in line with its preferred policy position. Gerber (1998) notes that it can be difficult to discern whether an interest group intends to act directly by actually passing an initiative or indirectly by influencing other political actors with the mere threat of an initiative.

The above scenario assumes voter preferences are known by legislative representatives. Matsusaka and McCarty (2001) make an interesting contribution to the literature by examining the efforts of the ballot initiative when voter preferences are uncertain. In such cases, the legislature may adopt a policy closer to an interest group's ideal point, even when this point may represent a more extreme position than the (unknown) actual preference of voters.

2.4 Procedural and Distributional Justice

Procedural and distributive justice are both concerned with the fairness of a decision made by an authority. Procedural justice (PJ) is concerned with the fairness of the process that leads to a decision, while distributive justice (DJ) examines the fairness of the final decision or outcome, such as punishments or rewards. Questions of fairness permeate practically all areas of society – who or what government should tax and at what rate, who benefits from government programs, or how crimes should be punished, for example, all revolve around questions of fairness. This issue is not limited to government or judicial decisions, of course, but includes those made by employers, sports referees, school administrators and others in practically every area where interpersonal actions take place and decisions are made by an authority. In fact, the experience of unfairness associated with these types of decisions has been found to evoke very powerful emotions (Miller, 2001).

As an example of procedural justice, in legal proceedings participants rated the fairness of the procedure leading to a final decision based on the level of input they were given in the process (Greenberg, 1990; Thibaut & Walker, 1975). This research found that participants who were given greater opportunity to provide input during the legal process rate the resulting decision as fairer and accept the decision more readily. In fact, even when the opportunity to provide input does not alter the final outcome, procedural justice has still be found to be an important factor when rating the overall fairness of decisions (Tyler, Rasinski, & Spodick, 1985). In general, a greater perception of procedural justice is associated with a greater willingness to comply with the law (Modde & Vermunt, 2007) and higher levels of legitimacy assigned to government (Tyler, 1994). The role of PJ and DJ as it relates to government is especially relevant to the case of OCEP, and scholars have examined the role of these two forms of justice in the perceived legitimacy of political authorities. A key finding is that higher levels of these forms of justice result in greater public trust and confidence, as well as greater acceptance of the rules and decisions made by government (Grimes, 2006; Tyler, 2001, 2006). In the employment arena, employees derive greater job satisfaction when the perceived fairness related to processes such as performance evaluations or the distribution of job tasks is greater (Alexander & Ruderman, 1987; Greenberg, 1986). Employees also exhibit greater trust in their supervisor and greater commitment to the organization they work for when processes are rated higher in procedural justice (Folger & Konovsky, 1989; Konovsky & Pugh, 1994). Satisfaction with police encounters was also found to strongly correspond with perceptions of procedural fairness regardless of the outcome of the encounter, such as receiving a traffic ticket (Tyler, 1990).

Distributive justice is concerned with the fairness of the outcomes of decisions as perceived by those who are affected by them. In a business context, employees who do not feel

that decisions made by their employer are fair experience negative emotions that reduce their productivity and lead to other behavioral changes that have an adverse impact on the company (Greenberg, 1987; Mowday, 1991). When employees do not feel the outcomes of a decision were fair, they are more likely to feel anger (Williams, 1999). While research has explored PJ and DJ independently, several scholars have argued that the two are best understood when analyzed together (Brockner & Wiesenfeld, 1996, Cropanzano & Folger, 1991). Brockner and Wiesenfeld (1996), for example, find that when a decision made by an authority is viewed favorably, procedural justice is considered less important. However, when the outcome of a decision is unpopular, a high level of procedural justice can help mitigate the negative experience of the decision's outcome. Not all research has found a statistically significant relationship when PJ and DJ are studied together, instead finding perceptions of the two to be independent (Alexander & Ruderman, 1987; Greenberg, 1986; Williams, 1999).

This literature speaks a great deal to the circumstances surrounding the passage of OCEP. Each of the topics discussed above came into play leading up to and during the passage of the policy, and help in understanding and analyzing the factors that contributed to its passage. Many individuals and parties opposed passage of OCEP, and their arguments primarily rested on the unsoundness of the procedure and disputing the supposed benefits of the legislation. These concerns are also important to take into consideration, and are part of the discussion below.

3. Methods

The investigation into the passage of the Oregon Clean Electricity Plan proceeded in three primary stages. First, a review of the publicly available information, including news articles, press released from various organizations, and legislative proceedings, was conducted to

identify potential interviewees and to gain a general sense of the important elements of the story surrounding OCEP. Initial articles were located by entering the search term “Oregon coal bill 2016” into Google search engine and Oregon’s major newspaper *The Oregonian*’s website search tool. The information accessed at this stage included:

- newspaper articles from Oregon’s largest newspaper, *The Oregonian/OregonLive*, and other news sources, including; *The Statesman Journal*, *Portland Business Journal*, *Oregon Public Broadcasting*, *Union of Concerned Scientists*, and *Solar Industry Magazine*;
- archived hearings and testimony from legislative committees and the Public Utilities Commission;
- press releases from legislative offices, environmental groups, and the state’s two largest investor owned utilities, Pacific Power and Portland General Electric; and
- analyses of the policy provided by the Oregon Global Warming Commission as well as Pacific Power and Portland General Electric.

In the second stage, individuals were interviewed. These interviews represented the most important part of the research, and provided a rich and firsthand source of information about the passage of the policy. The technique for choosing interview subjects, where available information is used to target specific individuals, is known as purposive sampling. In purposive sampling, interview subjects are selected based on the judgement of the researcher about “which ones will be the most useful or representative” (Babbie, 2007) – in this case, drawing from the publicly record to determine individuals’ relevancy and involvement in the development of the

Oregon Clean Electricity Plan. This included contacting all representatives and senators from the committees the bill had passed through with an interview request. This included all members from the House Energy and Environment committee, Senate Business and Transportation, and House Rules committees.

A total of 60 individuals were initially contacted with an interview request, resulting in 29 actual interviews (a 48 percent response rate). These individuals were affiliated with the legislature, executive branch, regulatory agencies, environmental organizations, the utilities, and other organizations. See Table 1 below for a full listing of the number of interview respondents from each stakeholder group. These semi-structured interviews were conducted both in person and via telephone. Additional interview subjects were identified using snowball sampling, a technique where each interviewee is “asked to suggest additional people for interviewing” (Babbie, 2007, p. 184). Certain names arose consistently from the snowball sampling, indicating their importance and centrality to the passage of the policy. In this research, the unit of analysis is the policy. Interviewees served as the units of observation that contributed to a greater understanding of how this type of policy is passed.

A number of respondents requested to remain anonymous, including one who asked that their affiliated job sector not be listed. This individual is listed in Table 1 only in the *Total* section and is not shown in an attributed sector. Most interview respondents requested to remain anonymous. For this reason, when quotes are used in the findings and discussion section, they will typically only be associated with the stakeholder group. However, when respondents granted permission for their names to be used, quotes will be attributed to these individuals.

Table 1: Number of interview respondents by stakeholder group

	# of Respondents
County Advocacy Group	1
Environmental Advocates	5
Green Energy Policy Institute	1
Governor’s Office	2
Investor-owned Utility	5
Legislature	7
Lobbyists	1
Public Utilities Commission	2
Renewable Energy Advocates	3
Utility Ratepayer Protection Organization	1
Total (including one anonymous not listed above)	29

In the third stage of the research, audio recordings from the interviews were transcribed and analyzed. The interview transcripts generated from these recordings were imported into Dedoose, a web-based application for analyzing qualitative and mixed methods data. Coding and analysis were conducted via this platform, and emergent themes were identified. These themes were based on explicit content from the interviews, rather than latent or implicit content. Passages were marked with a ‘code’ when they expressed an important idea related to passage of the policy. For example, passages relating to the ballot measures put forward by the environmental advocacy group Renew Oregon were marked with a code (i.e. label). Subtopics within this larger area were marked with their own codes while remaining housed under the

larger ‘ballot initiative’ parent code. Initial coding generated 144 separate codes and 474 code applications associated with 422 excerpts. This method of coding and analyzing the data relied on grounded theory. Grounded theory is an inductive analytical method that looks to the data itself for a guiding theoretical lens or lenses through which to interpret the data. Thus, no explanatory theories were selected or applied prior to collection and analysis of the data. It was only after the process of coding the data for emergent themes that a theoretical model was selected that provided the best fit for explaining and interpreting the data.

I use a theoretical framework known as the Collaboration Forming Model to analyze my findings. The collaboration forming model, which expands on the Multiple Streams Approach (MSA), was used as an organizing framework in analyzing the findings and themes that emerged from the data (Kingdon 2003; Lober, 1997). Since its introduction in 1984, MSA has become one of the most prolific and widely used policy process theories, with more than 12,000 citations of the original book (Jones et al., 2016). Kingdon developed this model to help answer the question of why certain issues become an item on the agenda of the federal government, while other equally important issues do not. Building on earlier work by Cohen, March and Olsen (1972), Kingdon proposed three metaphorical ‘streams’ to help answer the question of how agenda setting takes place in the federal government. These streams represent independent domains that are relevant to the agenda setting process. These streams, in addition to a fourth stream added in the Collaboration Forming Model that takes into account policymaking outside of government, are discussed below

First is the problem stream. At any given time, a multitude of problems demand the government’s attention, and while the government can consider and act on many of these simultaneously, it does not have an unlimited capacity to address all the issues that demand its

attention (Zahariadis, 2014). These problems may be ongoing or occur in acute or cyclical fashion. The climate warming effects caused by greenhouse gas emissions, for example, represent an ongoing problem. The government will often develop metrics and indicators for monitoring problems and determining whether policy interventions are having their intended effect. Events that arise suddenly and grab the attention of the public and policymakers are called focusing events (Birkland, 2004). Such events concentrate attention on a given problem, although often only for a short period of time. Which issues in fact constitute a problem worthy of the government's attention and action is also a matter of interpretation. In the case of climate change, for example, some policy makers assert there is no need for government action (Yusuf, Neill, John, Ash, & Mahar, 2016).

The second stream relevant to government agenda setting is the policy stream. This stream is composed of all the proposed solutions to the problems government could potentially address. Akin to the problem stream, policies can receive greater or lesser levels of attention. A particular policy approach may enjoy the favor and currency of policy makers, while proponents of less well-known policies may labor for years without their policy idea ever gaining traction. At any given time, there will typically be a large variety of proposed solutions to a given problem, ranging from minor adjustments to the creation of entirely new programs and agencies. These solutions are carried forward and advocated for by key figures known as policy entrepreneurs. These are advocates within the political system who seek to get their preferred policy solution put into law and to keep focus on their policy issue (Pralle, 2009; Solecki & Shelley, 1996). Policy entrepreneurs achieve more or less traction in promoting their policies depending on the circumstances defined by the other streams (Simon & Alm, 1995).

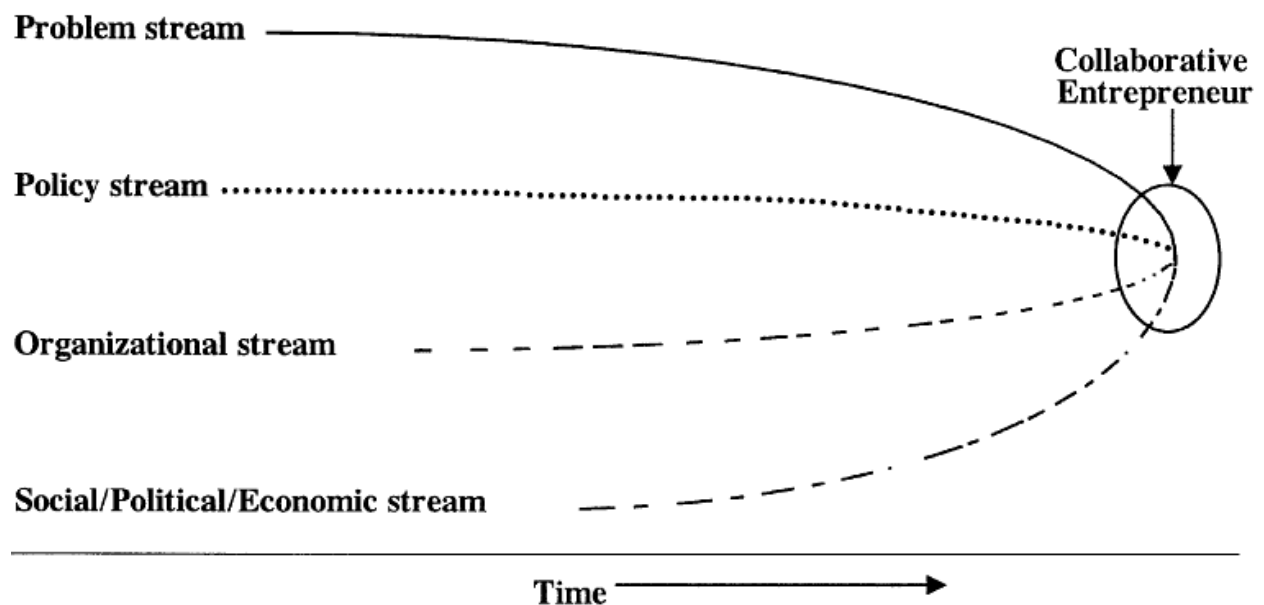
The third of the MSA is the political stream. This stream involves the political factors that shape and constrain what is possible for the government to do. For example, Congressional elections might bring in a new cohort of legislators, shifting the balance of power and bringing a new policy approach into favor. A changing national mood, or a concerted campaign by grassroots or interest groups, could also prompt legislators to act. Differences in relevant political factors can lead to widely differing policy outcomes, even when many other factors remain similar (Blankenau, 2001). Since Lober (1997) analyzes collaborations between the private and nonprofit sectors, which do not always involve formal linkages to the political system, he expands the political stream to also include social and economic circumstances, renaming it the political/economic/social stream.

The Collaboration Forming Model further develops on MSA by adding a fourth stream called the organizational process stream. Lober (1997) added this to account for collaboration and policymaking that occurs between the private sector and environmental groups, and it deals with the factors affecting a company's decision to collaborate (see also Scodanibbio, 2011; Takahashi & Smutny, 2002). These factors include the values of a company, technological feasibility of changes to its business practices, business plans that take into account environmental concerns, and government regulations. The addition of this stream is important because it allows us to analyze the dynamics that contribute to the increasing attention paid by the private sector to sustainability and environmental conservation. Within the realm of energy policy, these considerations have become more and more important in recent decades (Bernell & Simon, 2016). This change in values has been accompanied by an ever-increasing ability to produce electricity sustainably while maintaining reliability and affordability (DOE, 2017). Many companies have incorporated environmental concerns directly into their business plans, as

exemplified by practices such as Corporate Social Responsibility and Corporate Environmental Responsibility. In the case of investor-owned utilities like the two involved in OCEP, the long-term plans they submit to their state regulator contain sections on sustainability. Regulations or pending regulations also represent a factor that affects a company’s business practices.

Although these four streams usually run independently of each other, occasions arise when all the streams converge (See Figure 2). When the circumstances are just right for this to occur, a window of opportunity, called a policy window, opens. For example, a crisis that draws national attention to an issue, combined with a new cohort of legislators, may suddenly bring a certain policy into favor. At moments when a policy window opens, policy entrepreneurs seize the opportunity to advocate their favored policy. Policy entrepreneurs may also actively attempt to couple the streams (Jones & Cairney, 2016). During these periods, policy change need not only be incremental; when a policy window opens, radical policy changes are possible (Brunner, 2008).

Figure 3: Opening of the collaborative window - converging process streams



4. Findings and Discussion

A number of factors came together to allow OCEP to pass when it did. These factors are discussed below, and are organized according to the four streams of the Collaboration Forming Model – problem, policy, political/economic/social, and organizational. There is an additional section that discusses the criticisms leveled against OCEP and the circumstances surrounding its passage. This section also includes the responses given to these criticisms by various respondents.

4.1 Problem Stream

The literature suggests that states with higher levels of pollution will be more likely to implement environmental regulations. The situation in Oregon does not clearly suggest this, however. Currently, all areas of the state meet federal air quality standards, suggesting low levels of environmental pollution (Oregon Department of Environmental Quality, n.d.). This has not always not always been the case, though, as the Department of Environmental Quality notes that in the 1970s and 1980s the state experienced a great deal of air pollution. Further, the state currently has 19 Superfund sites, as designated by the Environmental Protection Agency (n.d.-a). While environmental quality issues within state boundaries may not offer clear evidence of a link between pollution and mitigating regulation, Oregon has long recognized the global problem of climate change. This recognition dates back to at least 1990, when the Task Force on Global Warming submitted a report to the governor and legislature assessing the potential effects of climate change on the state and possible steps the state could take to address the issue (Oregon Global Warming Commission, n.d.).

In keeping with a feature of the problem stream, Oregon has taken a number of steps to study and monitor the state's energy usage, greenhouse gasses (GHGs), and the effects of climate

change. In 2007, the state legislature created voluntary greenhouse gas reduction goals. The target set by House Bill 3543, which created the goals, was a 75 percent reduction below 1990 levels of GHG emissions by 2050 (Oregon Legislative Information System, n.d.-a). The same legislation also created the Oregon Global Warming Commission, which was charged with recommending ways both to reduce the state's emissions and prepare the state to deal with the effects of climate change. The Commission reports to the legislature every two years with an update about the state's progress toward its GHG reduction goals. In fact, in its latest report presented to the legislature in February of 2017, which took into account the 2016 OCEP legislation, the Commission found that the state's emissions were not decreasing on par for the state to meet its goals (Oregon Global Warming Commission, 2017). The creation of the commission represents an example of capacity, as mentioned in the literature review, which expands a state's ability to address environmental problems. House Bill 3543 also created the Oregon Climate Change Research Institute, which is housed at Oregon State University and publishes academic research, in addition to hosting several federal climate research organizations. As another example of monitoring, in 2008 the state's Department of Environmental Quality began collecting emissions data from facilities in the state in order to compile an annual statewide GHG inventory (Oregon Department of Environmental Quality, n.d.-a).

The recognized problem that OCEP sought to address was reducing Oregon's greenhouse gas emissions in order to mitigate climate change. In a speech before signing the bill into law Governor Brown stated as much, saying the bill would address climate change, "one of the most significant threats to Oregon's economy, environment, and our way of life" (Portland General Electric, 2016, March 11). Electricity generation is a major source of GHG emissions; nationally,

electricity generation accounts for approximately one third of all such emissions, while in Oregon it accounts for one quarter (Environmental Protection Agency, n.d.-b; Energy Information Administration [EIA], 2017a). The major culprit for these emissions within the electricity sector is of course the combustion of fossil fuels (coal, natural gas, and petroleum), which accounts for approximately two thirds of all U.S. electricity production, while in Oregon it accounts for roughly 45 percent (EIA, 2017b; Oregon Department of Energy, n.d.). In fact, *in-state* generation of electricity from fossil fuels in Oregon is very limited. Boardman Coal Plant is the only remaining coal plant in the state, providing less than 5 percent of total power generation, and is slated to be decommissioned by 2020 (EIA, 2016). Natural gas accounts for approximately 9 percent of total in-state electricity generation, while petroleum accounts for less than one tenth of one percent of all electricity generation (EIA, 2017c). Instead, nearly all of the fossil fuel generation used by Oregon comes from energy facilities out of state. The energy from these facilities is then imported via high-voltage transmission lines into the state for distribution to Oregon customers. The investor-owned utilities (IOUs) affected by OCEP – Pacific Power and Portland General Electric (PGE) – are Oregon’s two major IOUs, accounting for approximately two thirds of all electricity production in the state. Pacific Power’s electricity portfolio includes 63 percent coal-derived generation, while PGE’s includes 25 percent from coal-powered sources they own (Pacific Power, 2017; Portland General Electric, n.a.-a). Another 25 percent, approximately, of PGE’s electricity comes from power purchased on the wholesale market, which can include coal-derived sources.

All parties involved in the formation of OCEP acknowledged the existence of anthropogenic climate change and the need to address it. In a recent press release, PGE noted that it was “among the first energy companies to advocate for climate legislation at the national

level” (Portland General Electric, 2017). The main subject of the press release related to the company joining together with more than 1,000 governors, mayors, businesses and universities to affirm their continued commitment to addressing climate change in the face of the Trump Administration’s threatened withdrawal from the Paris Climate Accord. In its latest Integrated Resource Plan – the blueprint for long term resource planning that investor-owned utility companies must submit biennially to their state regulator – PGE further affirmed its commitment to addressing climate change (Portland General Electric, 2016). Pacific Power also publicly acknowledges its role in addressing climate change, and its most recent Integrated Resource Plan details its GHG mitigation strategies (PacifiCorp, 2017). Pacific Power has one of the largest voluntary green power programs in the country, known as Blue Sky, which includes approximately 150,000 customers (National Renewable Energy Laboratory, 2010, May 3).

So, the threat of climate change and the need to address GHG emissions from the electricity sector were both a well-recognized issue and one that continues to receive attention. Oregon has been monitoring its energy usage and GHG emissions, and continues to produce research and reports for the legislature. The state’s two largest utilities, and especially Pacific Power, relied on coal-derived generation for a significant share of the electricity they provided to their customers, making them a contributor to GHG emissions. The utilities include sustainability considerations in their long-range planning, and, in the case of Pacific Power, have one of the largest voluntary green power programs in the country. The fact that the utilities and the state’s government acknowledged climate change (and the emissions that contribute to it) as a problem were critical for a policy window to open, both in terms of the formation of a green alliance as well as for OCEP to pass through the legislature.

4.2 Policy Stream

Oregon has been developing policies to address climate change for quite some time. In fact, in 1997 Oregon became the first state in the country to regulate GHG emissions from power plants when it adopted the Oregon Carbon Dioxide Standard (Zakreski, 2014, July 9). Another major policy came in the form of the Renewable Portfolio Standard (RPS) in 2007, which passed in part thanks to the efforts of a green alliance. The process was initiated by Governor Kulongoski, who called for legislation that would create a 25 percent RPS target to be reached by 2025. A coalition of stakeholders, involving many of the same actors later involved in developing OCEP, came together and worked out the RPS policy that was brought to the legislature and passed in the form of Senate Bill 838. In fact, several respondents from this research mentioned the passage of the RPS as an exemplary collaboration between environmental groups, utilities, consumer advocates, and business associations. As one utility respondent put it, “Generally, I think most renewable energy, environmental industry stakeholders look back to Senate Bill 838 as a pretty positive, collaborative process. So, I think whenever there have been big policy ideas in Oregon, that tends to be the framework folks most want to reconstruct. In some ways, that’s what the advocates for Senate Bill 1547 were looking for” (Interview 17). This collaboration represents a successful and mutually beneficial green alliance where private, nonprofit and governmental actors came together to craft a policy. One major difference between passage of the RPS in 2007 and the passage of OCEP in 2016, though, is that the RPS was developed during a long legislative session in 2007. Long sessions, which occur in odd-numbered years, last approximately six months and provide more time for public

testimony, the introduction of amendments, and committee discussion. Another major difference is that in 2007 the utilities did not face the pressure of a ballot initiative.

This positive experience developing Oregon's RPS policy in 2007 was followed by negotiations in 2010 between PGE, environmental groups, and regulators that led to the decision to close PGE's Boardman Coal Plant by 2020 (Portland General Electric, n.d.). This was an accelerated schedule for shuttering the power plant and represented a compromise agreement. PGE had been planning to move forward with installing pollution control mechanisms for Boardman that would cost several hundred million dollars and extend the life of the plant when several members from the ENGO community came forward to contend that it would actually save PGE money to shut the plant down sooner rather than installing the pollution control equipment. After studying this possibility and consulting with the Department of Environmental Quality and the PUC, PGE agreed to this plan, which the ENGO community endorsed because it would also reduce total GHG emissions from the plant. According to one utility respondent, referring both to the 2007 RPS and the decision to close Boardman, "I think the story [of OCEP] in some respects starts back at those earlier dates because of our relationship with the environmental community and the credibility that we built with the environmental community. I don't think you can separate those two things entirely" (Interview 18). Both experiences built up a reserve of trust that was important when the stakeholders came together to develop OCEP. However, Bob Jenks of the Citizens' Utility Board (CUB) noted that, since those two experiences of positive collaboration, "consistently environmentalists have proposed legislation that the utilities oppose. There hasn't been a whole lot of 'Let's come together as stakeholders and try to solve problems'" (Interview 15).

In 2015, a coalition of environmental groups including Climate Solutions, Renewable Northwest, and Sierra Club had promoted two bills in the legislature that would have required the major IOUs to eliminate coal-derived electricity for Oregon customers by 2025. In the spring of 2015, Climate Solutions would join together with Oregon Environmental Council, the Oregon League of Conservation Voters, and eventually the Sierra club, to create Renew Oregon, the organization and collaborative entrepreneur that would push forward the 2016 ballot initiative and eventually work with the utilities to develop OCEP. However, during the 2015 legislative session, the legislation banning the use of coal-derived electricity would have further required the utilities to replace the coal-derived energy with resources that were “at least 90 percent cleaner than coal-derived generating resources” (Oregon Legislative Information System, n.d.-b). The policy, referred to as coal-to-clean, was inspired in part by the Sierra Club’s Beyond Coal campaign, which launched in 2010 and aims to replace coal-fired electricity with cleaner forms of energy (Sierra Club, n.d.). The coal-to-clean bills received preliminary hearings in committee but moved nowhere. The efforts of the Democratic leadership during that session were largely consumed by passing legislation related to the state’s low carbon fuel standard, leaving little remaining political capital for the coal-to-clean legislation. Environmental advocates also noted that utility opposition to the bill was a major factor in sinking it. The utilities argued the bill would be cost prohibitive, and they also pointed out that they had not been included in developing the proposed policy. As one utility respondent said:

“They really ran this bill without really reaching out to us or folks in the business community or large energy users that rely on utility systems. They didn’t really do that due diligence to build a coalition. I think they felt like, ‘We have really good polling; this stuff’s popular; we’re motivated. Let’s go do it.’ And what they found was their premise was right, but it wasn’t enough

to secure policy. Details matter, costs matter, and how things interact with other laws matters” (Interview 17).

After a legislative session that saw the utilities and environmental groups at odds, one utility respondent noted that “we recognized that we – not that we had ignored the relationship with [environmental groups], but we recognized that we needed to probably nurture them some more again” (Interview 24). Nevertheless, the coal-to-clean policy was an important precursor to the ballot initiatives that Renew Oregon would submit in the months following the 2015 legislative session.

Oregon led the nation when it began regulating carbon dioxide emissions, the primary form of GHG emissions, in 1997. In 2007, it joined the increasing number of states to adopt a Renewable Portfolio Standard (Carley, 2011; Durkay, 2017, August 1). The collaboration required to develop the state’s RPS policy represents a primary example of a green alliance and became a model for future attempts at collaboration. Another successful green alliance occurred in 2010 when environmental groups worked together to reach an agreement related to the sole remaining coal-fired power plant in the state in Boardman. Finally, the inspiration for the policies contained in OCEP arose in an earlier iteration of legislation in 2015. This legislation was defeated due to opposition from the utilities and because Democratic leadership was occupied with other signature legislation during that session. This discussion provides important insights into the components of the policy stream of the Collaboration Forming Model.

4.3 Political/Economic/Social Stream

In the spring of 2015, several environmental groups, including Climate Solutions, Oregon Environmental Council, and the Oregon League of Conservation Voters, joined together to create Renew Oregon (the Sierra Club would soon join as well). This new organization would be the campaign arm for the environmental community in Oregon, allowing the participating groups to pool their experience and financial resources when conducting grassroots campaigns. Following the defeat of the coal-to-clean legislation during the 2015 legislative session, Renew Oregon, the collaborative entrepreneur, adopted a new strategy and began crafting several initiatives to run on the November 2016 ballot. The initiatives contained the essential features of what would become OCEP, including the elimination of coal fired resources from the electricity supply by 2030 and increasing the RPS to 50 percent by 2040 (Renew Oregon, 2015, Oct 6). An additional provision of huge significance to the utilities involved the lifespan of renewable energy certificates (RECs). These certificates are associated with the generation of electricity from renewable resources, with each REC certifying the generation of one megawatt-hour of electricity from renewable sources. Utilities and other organizations use these certificates to meet renewable energy requirements, like the state's RPS, and the certificates can be traded or saved to meet future obligations. The proposed initiatives would have changed the law so that new RECs would no longer carry forward indefinitely, as they did under existing law, but would instead expire if they were not used within three years. This change would have had substantial impacts on how utilities complied with the RPS and the cost of renewable resources.

On Monday, October 5th, 2015, Renew Oregon filed the necessary paperwork with the Secretary of State to get their measures certified (Kullgren, 2016, Oct 6). In the following weeks, they collected far more than the 1,000 signatures needed to qualify each ballot title, and would

have then moved on to the process of collecting the approximately 88,000 signatures necessary per ballot title to get the measures listed on the November 2016 ballot. However, filing their proposed ballot measures triggered the negotiations with the utilities, causing Renew Oregon to shift its focus to a negotiated legislative solution with the utilities. By the time the groups came together in October of 2015, only a few short months remained before the 2016 short legislative session began at the start of February 2016. In fact, the groups faced a deadline in mid-January to submit their proposed bill, which required the drafting and finalization of the bill language prior to the deadline. So, as the utilities and environmental coalition worked together to craft a policy under a tight deadline, they would also be attempting to pass a major bill during a session that would last only five weeks. The members of this green alliance recognized that the 2016 legislative session presented a small but critical policy window for them to pass their negotiated policy.

The prospect of a ballot initiative put pressure on the utilities to come forward and negotiate a legislative solution. For the utilities, the important issue when negotiating an alternative to the ballot initiatives was how to address climate change in a way that was cost effective. Respondents from both utility companies referred to this topic in their interviews. As one respondent noted, “the utilities are not just inherently opposed to any sort of conversation around getting out of coal, increasing RPS obligations, etc, but it needs to happen in a way that actually makes sense. Some of the things that were in the ballot initiatives just didn't really work” (Interview 25).

One ENGO respondent referred to the strategic use of the initiative process to create leverage over an oppositional party as a ‘ballot lever,’ a phrase that seemed to capture the idea well. The strategy was referred to by other respondents in more evocative terms, including

“ballot box extortion” (Interview 23). Many respondents were familiar with the tactic of using a threatened ballot initiative to apply pressure to another organization. As one utility respondent put it, “If you get five lobbyists together, and you start talking about how you put leverage on somebody, after about 30 seconds, somebody's going to say, ‘Gee, maybe we should file a ballot measure’” (Interview 22). The tactic is used in many policy areas, including taxes, transportation, minimum wage, and others. The IOUs entered into a green alliance in order to deflect an attempt by environmental organizations to regulate them. This fits with the green alliance literature, which notes that green alliances may be used for such a purpose. The current case also represented a mutually beneficial arrangement. This case is interesting, however, because it involves the green alliance passing their policy in the legislature, while the literature primarily deals with arrangements that are reached without the involvement of government.

Opinions differed as to whether Renew Oregon intended to follow through with the process, rather than just use the threat of the ballot initiative to bring the utilities to the negotiating table. As Gerber (1998) notes, though, for the threat of an initiative to be credible, an interest group must be prepared to follow through on it. Kristen Sheeran, former director of Climate Solutions, did not necessarily view the initiatives as leverage over the utilities, but notes that when the utilities approached Renew Oregon to discuss a legislative solution, “Certainly we were open to the conversation when they broached it” (Interview 21). On the other hand, Angus Duncan, who acted as a representative for the Natural Resources Defense Council during the OCEP negotiations, noted that “We had to have a credible ballot measure and, frankly, ideally it should be one dimensional...” in the sense that it would spur the utilities to come forward to negotiate a more preferable policy (Interview 8). He went on to say “We didn’t want to have to do an initiative, but unless we were prepared to do it and we thought we had lined up at least the

first tranche of campaign funding; we had done the analysis, the public opinion surveys, to try to narrow in on a set of propositions that would draw the most support and be most easily defended. We knew that putting an end to coal on a ballot measure would be very popular...” Several respondents from both the utilities and the environmental community also pointed out that the utilities were aware that the no-coal, increased renewables policy presented by the initiative was very popular with their own customers. Spending millions of dollars to defeat a measure that their own customers supported would not be a good position for the utilities to put themselves in. This fits with the green alliance literature, which notes that a company’s green image is important to customers. Renew Oregon could also save several million dollars by avoiding a ballot fight, which provided incentive for them to move forward with a negotiated solution. Despite the high polling their initiative was receiving, as Angus Duncan pointed out, “there’s always a crapshoot quality about that, as I think we all just learned last November” (Interview 8).

Another critical factor within this stream, according to respondents, was the extremely strong polling results Renew Oregon found for its proposed ballot measures (Interview 13, 15, 18, 21, 29). They found Oregonians were strongly in favor of renewables, and strongly against coal. According to several ENGO respondents, many Oregonians were surprised and outraged when they learned that so much of their electricity derived from coal. Thus, it followed that a measure banning the use of coal and doubling the state’s RPS would do very well at the ballot box. According to ENGO respondents, the policy polled in the 70 percent range with Oregonians, well within the range that is typically required for a policy to pass as a ballot initiative. Respondents noted that polling at least above 60 percent is generally considered necessary; although this is well above the 50 percent threshold required for an initiative to pass, support often erodes in the run-up to voting, requiring a comfortable margin of support for

proponents of a ballot measure to feel confident it will pass. In addition to the remarkably high support among Oregonians, pollsters also found that the policy was popular across nearly all demographics – Democrats, Republicans, rural, urban, as well as residential, commercial and industrial electricity customers (Renew Oregon, n.d.). According to one utility respondent, “coal is unpopular no matter what. So, whether you are a downstate Republican or a Portland liberal, nobody really has any deep affection for coal” (Interview 17). The ballot initiative’s policies also polled better than policies like cap and trade. While Oregonians support doing something about climate change, complex policies like cap and trade can be difficult to grasp conceptually and require a high level of trust in government to implement successfully.

Several respondents also pointed out that legislative solutions are often preferable to an initiative because the latter can be a relatively blunt instrument. As one utility respondent put it, “So if you think of policy adoptions by ballot measure, the voters aren’t necessarily going to look at the details. They’re going to look at the broad brush stroke, and the broad brush stroke of this was close coal and build more renewables” (Interview 18). When a policy is presented in the legislature, by contrast, amendments can be made and there are opportunities for interested parties to voice their opinion and have the chance to influence the policy. This broad brushstroke quality of ballot initiatives was compounded by the fact that, in the opinion of several respondents, Renew Oregon had not designed the initiatives well. As the county advocacy respondent put it, there were “a lot of provisions that most of us wouldn't have wanted because the people that proposed it didn't really understand the issue as well as a lot of other people did. I mean, frankly. So, they proposed things that, really, most people in the energy field were concerned about, and they knew there was probably a better way to do things, so that's why they came together” (Interview 20). It is also possible, as quoted from Angus Duncan above, that

Renew Oregon deliberately adopted a one-dimensional policy for the initiative to incentivize the utilities to work collaboratively.

An important economic factor that affected both ENGO and utility thinking when negotiating an alternative to the ballot measures was the diminishing prospects nationally for coal as a fuel source and the increasing cost-competitiveness of renewables (Department of Energy, 2017 ; Stark, Pless, Logan, Zhou & Arent, 2015). Demand for coal has been decreasing both nationally and internationally, and U.S. coal plants have been shuttering at an increasing rate, largely due to the economic pressures created by the abundance of cheap natural gas as an alternative fuel source made possible by the fracking boom. The domestic natural gas boom, brought on by the use of hydraulic fracturing drilling techniques (commonly known as fracking), has allowed cheaper natural gas to push out coal as the generation fuel of choice for utilities (DOE, 2017). The price of solar and wind have also come down substantially, presenting an economically viable alternative to coal power that is also attractive for supporting the sustainability efforts of utilities. The anticipation of new regulations in the form of the Clean Power Plan, which would have required GHG emissions reductions from the power sector, further diminished the economic prospects for coal.

Economically and politically, the state's indicators suggest it would be more likely to pass environmental legislation. The state's Gross Domestic Product per capita ranks 21st in the nation, demonstrating slightly above average state wealth (Bureau of Economic Analysis, n.d.). In the last 25 years, partisan control of the state legislature has shifted multiple times. In fact, from 1992-2013 both chambers of the legislature were controlled by Republicans 36.4 percent of the time, compared to just 22.7 percent of the time for Democrats (the remaining 40.9 percent representing split control) (Ballotpedia, n.d.-a). However, the state has been becoming more

liberal, and in eight of the last ten years Democrats have enjoyed a governing trifecta, wherein they hold both chambers of the legislature and the governorship (Ballotpedia, n.d.-b). Research by Berry, Laird and Stefes (2015) showed that partisan control of the state legislature was the only statistically significant predictor of the passage of RPS policies. The passage of OCEP, which included doubling the state's RPS, during a period when Democrats held a trifecta supports this finding.

A majority of the utility respondents emphasized that the utilities occupy a political middle ground in state politics and policymaking. When environmental groups are lined up on one side of a policy and business interests are lined up on the other, “[w]hichever way the utilities fall, that tends to be the way the policy goes” (Interview 18). In the 2007 RPS negotiations, the respondents noted that the large industrial electricity consumers and business interests were opposed to an RPS, while the environmental groups were in favor; the utilities lent their support and the RPS policy passed. In 2009, when ENGOs were pressing for a cap and trade policy that would link together with California and other jurisdictions in a regional system, the utilities opposed it in favor of the federal Waxman-Markey cap and trade bill, thus siding with the industrial customers and historic industries in Oregon that were opposed to the state-level cap and trade bill, which did not pass. In 2015, opposition from the utilities prevented the coal-to-clean legislation from moving forward. Other respondents also acknowledged that the utilities have a great deal of sway in the legislature.

Politically, the fact that two interest groups who were normally adversarial in the legislative process were presenting a united front in favor of this policy made it very popular. This was a major reason cited by respondents for its success in passing the legislature, and thus represents a key component within this stream of the Collaboration Forming Model. The fact that

the two groups came together was referred to in various ways, including phrases such as “unlikely allies,” “strange bedfellows,” and “two different food groups coming together” (Interviews 26, 23, and 1). Many legislators were eager to vote for a bill supported by both groups. Former senator Chris Edwards described the policy as “political gold,” largely because Democrats, who are typically perceived as less business friendly, could vote for a bill that was supported by the large and politically influential business group represented by the utilities (Interview 19). A utility respondent used a more evocative term, describing the policy as “political catnip” (Interview 22). Several respondents also pointed out that the politics of taking a position against coal is relatively easy in Oregon, since the coal industry is virtually non-existent in the state. Legislators also saw that the policy was popular with their constituents, and were happy to vote for it for that reason.

Republican legislators opposed the idea of passing a major policy like OCEP during a short legislative session. Originally, the Oregon constitution provided for biennial legislative sessions, occurring each odd-numbered year. As the state grew, however, these biennial meetings were not sufficient to address the state’s needs. Ballot initiatives that amended the constitution to create annual sessions failed in the 1970s and 1990s, but passed with strong support in 2010 in the form of Measure 71 (Melton, 2010, November 2). The measure placed a time limit on sessions in even-numbered years – 35 days – and limited the number of policy bills that could be introduced, while the number of budget related bills that could be introduced remained unrestricted. Republican legislators in 2016 argued that the short session had not been intended to pass major policies like OCEP, but had instead been intended for addressing emergency budget issues and making minor adjustments and modifications to bills passed during the longer sessions.

Aware that the Democratic majority planned to take on a number of major bills, Republicans used several tactics available to them to slow down and defeat Democratic efforts. At the start of the session, Republicans chose not to assent to waiving a procedural requirement that each bill be read in its entirety to the convened chamber before a vote could be taken on it. This rule was typically suspended as a matter of course at the start each legislative session, since it was a time consuming requirement and a carryover from an era before technologies existed to reproduce and distribute documents; before printers, photocopiers, and the internet made such documents widely available, a reading before the convened chamber of lawmakers could be the first time a legislator became acquainted with a bill. Requiring each bill to be read in its entirety effectively slowed down the pace that the legislature could vote on bills, since some bills – like OCEP – numbered more than 20 single-spaced pages of dense, technical language. Republicans had other parliamentary techniques and tactics at their disposal, including filing minority reports, refusing to work nights and weekends, and the ability to simply walk out after a budget bill was passed. From the start, the 2016 short legislative session promised to be a contentious one.

The compromise policy developed by the utilities and environmental coalition during their negotiations prior to the start of the legislative session initially appeared in House Bill 4036. The bill received a 90 minute hearing and a two hour hearing in the House Energy and Environment Committee, chaired by then-Representative Jessica Vega Pederson. The bill also received more than 100 submissions, citing both support and opposition, by members of the public, various organizations, and elected officials. Republicans questioned the cost of the policy as measured per ton of avoided carbon dioxide emissions, and were frustrated that proponents could not answer the question in that form. Republican Representative Cliff Bentz, who opposed the policy, stated that he had previously been told costs could range from \$5 to \$200 per ton of

reduced emissions (Oregon Legislative Information System, n.d.-c). The wide range and uncertainty surrounding this cost was a major reason for his opposition. The bill was amended in committee and passed the 60-member House of Representatives receiving five Republican votes and all 34 Democratic votes, excluding one Democratic Representative who was excused. The remaining 20 House Republicans voted in opposition. The bill then proceeded to the Senate, where it passed out of the Senate Committee on Business and Transportation, chaired by Senator Lee Beyer – a former Chair of the Public Utilities Commission – on February 22nd and was subsequently referred to the Senate Health Care Committee.

At this late point in the session, the coalition of utility lobbyists and environmental groups promoting the bill realized it was in danger of dying in committee just as the earlier iteration of the policy had in 2015. So, this coalition, working with Representative Vega Pederson and Senator Beyer, who were both friendly to the bill, used a parliamentary technique known as a gut-and-stuff. The coalition identified a different bill relating to utility regulation and replaced the language of that bill with the language from the amended House Bill 4036. A minor Senate bill residing in the House Committee on Rules – having already been voted out of the relevant committee on the Senate side – became the vehicle for this maneuver. Senate Bill 1547 was a one-sentence bill that clarified a section of statute concerning the type of utility regulated by the Public Utilities Commission. The language of the bill was removed (i.e. gutted) and replaced (i.e. stuffed) with the language from House Bill 4036. In this case the language from 4036 included the one sentence change made by 1547, but interview respondents for this research still referred to the maneuver as a gut-and-stuff.

In their attempts to delay the process, House Republicans submitted a minority report for Senate Bill 1547. Members of the minority vote in a committee may submit their own version of

a bill that differs from the version approved by the voting majority. These minority reports are voted on by the chamber – either House or Senate – alongside the version that passed out of the committee with a majority vote. While minority reports rarely pass when voted on by the entire chamber, they are still entitled to receive a vote. After the defeat of the minority report, the new version of 1547 passed the House with 38 total votes, this time including four Republican representatives. Senate Bill 1547 then went back to the Senate floor for a final vote, called a concurrence vote, to approve the changes made in the House Rules committee. Senate Republicans attempted several more maneuvers to stop the policy, including a motion to delay indefinitely, but a final vote received 17 votes in favor, 12 in opposition, and one member not voting (Oregon Legislative Information System, n.d.-d). The final version of OCEP did not receive any Republican votes in favor, and one Democrat sided with the Republicans and voted in opposition. The bill passed March 2nd, 2016, the second to last day before the end of the legislative session.

The final component of this stream are the social factors that contribute to the passage of environmental policies. Oregon's demographic and social factors do not clearly point to an increased likelihood of adopting environmental policies. The state's population of 65 and older is only slightly higher than the national average, while its proportion of whites to non-whites is much higher, and the female population is on par with the national average (U.S. Census Bureau, n.d.). In education, Oregon falls in the bottom half of states for the quality of its secondary education, but ranks above average in the number of adults who hold bachelor's and advanced degrees (Hammond, 2016, January 7; National Center for Higher Education Management Systems, n.d.). In terms of environmental group membership, Oregon and the Pacific states do

enjoy relatively high membership rates, suggesting greater public support for environmental conservation and environmental policies (Straughan & Pollack, 2008).

In summary, a number of factors came together within this stream to facilitate the relatively rapid creation of a green alliance and the passage of OCEP. It began with highly popular ballot initiatives that were presented by the collaborative entrepreneur Renew Oregon. The polling for these initiatives showed that Oregonians did not want to use coal-fired electricity and supported a major increase in the amount of renewables used by the state. The utilities saw that the initiatives would likely pass, and were frustrated by some of the provisions that were included, especially surrounding the use of Renewable Energy Credits, or RECs. It seems likely that Renew Oregon deliberately crafted the initiatives to be somewhat one-sided. Indeed, the threat of the ballot initiatives put pressure on the utilities, who came to the negotiating table, and in a short span of time a policy package was agreed upon. Another important factor that contributed to the utilities' willingness to agree to OCEP was the diminishing economic prospects of coal. When the green alliance composed of Renew Oregon and the utilities presented their policy in the short legislative session, they faced stiff Republican opposition. However, Democrats, who enjoyed a political trifecta, passed the bill over criticisms and concerns from several quarters. While Democratic control of the legislature is a major predictor of the passage of environmental policies, the state's social and demographic characteristics provides a mixed picture. The relatively high membership rates in environmental organizations presents the strongest indicator that the state would favor more environmental policies.

4.4 Organizational Process Stream

Both IOUs exhibited behavior that demonstrated their willingness to include environmental considerations in their business practices. As previously mentioned, Pacific Power's voluntary green power program, where utility customers can opt to pay modestly higher prices for their electricity to support renewable energy generation, is among the largest in the country, with approximately 150,000 customers (National Renewable Energy Laboratory, 2010, May 3). Further, both Pacific Power and Portland General Electric include renewable generation in their biennial IRPs. These examples represent ways that the organizational process stream for the utilities was ready to be brought together with the other streams to form a policy window.

The main argument coming from utility respondents was not opposition to taking steps to make energy generation more sustainable, but for the need to do so in a cost-effective manner. These economic concerns relating to the ability to provide sustainable energy in an affordable and reliable way, while discussed in the previous section, are central to the decision making and long-range planning of the utilities, and thus represent an important part of the organizational process stream. One utility respondent asserted that, in their initial form, the ballot initiatives proposed by Renew Oregon would have cost hundreds of millions of dollars more to implement than the legislative policy the groups were able to arrive at through negotiations (Interview 22). With small adjustments to the timing of the stair-step increases of the RPS, the depreciation schedule of the coal plants under question, and the life of RECs, OCEP was able to accomplish the same goals in nearly the same time frame, but at dramatically lower cost, according to this respondent. As another utility respondent put it, it can be frustrating when outside groups propose a policy without fully understanding the 'book of business' of the companies they will be affecting (Interview 24). All utility respondents expressed that they believed they were able to

get a much better policy, which accomplished the same ends as the ballot measures, via the process that resulted in OCEP.

As mentioned above, the forthcoming Clean Power Plan (CPP) played a major role in the calculations of the utilities. In 2015, they opposed the coal-to-clean legislation in part because they wanted to wait for the release of the new federal policy that summer. The CPP, which would have required GHG emissions reductions from the electricity sector, was going to affect the economic prospects of generation sources that use fossil fuels, particularly coal, since these fuels are heavy emitters of greenhouse gasses. Again, these economic factors seem to belong both in the social/political/economic stream and the organizational stream, since the utilities' internal decisions about what types of energy sources to use are heavily influenced by the economic viability of those sources.

In fact, implementation of the CPP was stayed by the Supreme Court in February of 2016 due to concern the Environmental Protection Agency may have exceeded its as governed by the 1970 Clean Air Act authority to develop and implement such policies (Liptak & Davenport, 2016, February 9). However, utility respondents noted that they view more regulation surrounding GHG emissions as an inevitability. Multiple utility respondents independently offered the same phrase to describe coal's diminishing prospects, all of them saying "the writing was on the wall" for coal. From their perspective, adapting the ballot initiatives into OCEP represented a way to address GHG emissions in a cost-effective way. In fact, according to one utility respondent, "utilities saw [OCEP], frankly, as a way to avoid having to deal with cap and trade" (Interview 22). Former Senator Chris Edwards, who had promoted a cap and trade bill in the 2015 session and planned to in the 2016 session, was certain that passing OCEP took momentum away from passing other climate legislation, at least for several years.

An important factor influencing utility support of the increased use of renewables was the increasing technological feasibility of doing so (Clack et al. 2017; National Renewable Energy Laboratory, 2012). Senator Beyer recalled attending a conference in 2005, when RPS as a policy instrument were just beginning to grow in popularity (Carley, 2011), where grid engineers speculated that they *might* be able to integrate as much as 25 percent renewable energy onto the grid, at a maximum. Now such estimates, although not without debate, range from 80 percent all the way to 100 percent. Most of the difficulty in incorporating renewable energy comes from the fact that two of the most popular forms – solar and wind power – represent variable sources of energy (Department of Energy, 2017). That is to say, these forms of energy are not generated in a constant fashion, as is the case with power that comes from a coal or nuclear power plant. Solar panels do not generate electricity at night, and generation from wind mills will vary with the wind, which tends to blow more in the evening and during the night. In addition, the electric grid has historically functioned without the use of energy storage, meaning the supply of electricity must match with demand on a moment to moment basis. If supply dips below demand, brownouts or blackouts will follow. Balancing the increasing incorporation of variable renewable energy sources with existing baseload power, such as coal, nuclear, and hydroelectric, while maintaining reliability has been a challenging task, but has become more and more feasible with recent advancements in managing the grid. The technological ability to incorporate higher levels of renewable energy onto the grid made doubling the RPS a feasible idea when even ten years ago it would have been thought nearly impossible to use 50 percent renewables for electricity generation.

Certainty also played an important role in the utilities' behavior. Planning the mix of energy sources they will use to provide electricity involves planning decades into the future, and

the depreciation schedules for their investments in facilities and infrastructure likewise project decades forward. A typical coal fired power plant, for example, can be expected to operate for 30 to 50 years (Union of Concerned Scientists, 2012). The ability to secure a law that satisfied ENGOs and the public while also comporting with their long-term planning needs was a major benefit for the utilities. In fact, Senator Beyer believed that the utilities *wanted* to be told they had to disengage from their coal assets, saying “[t]he reason they would want to do that is, if they are ordered to do it they under law get full economic recovery for their stranded investment. So, you look at that and then look at the incredible amount of money and investment they were being expected to make to bring [their coal plants] up to environmental standards and it’s kind of like, ‘Hmm, not a bad deal’” (Interview 3). A utility respondent seemed to confirm this, referring to utilities taking steps toward reducing GHG emissions, saying “you need some regulatory cover to go in that direction” (Interview 22). OCEP provided the utilities with a level of certainty by requiring them to use more renewable resources to meet the state’s increased RPS. By being required to do so, the utilities could justify their actions to the state’s regulator, the Public Utilities Commission.

In the end, each of the four streams converged in the right way to allow for the passage of SB 1547, as noted in Table 2.

Table 2: Evidence and Examples for Each Stream

Streams of Collaboration Forming Model	Examples and Evidence of Streams
Problem	<ul style="list-style-type: none"> • Both of the state’s major IOUs rely on significant portions of fossil-fuel-derived electricity • Governor Brown cited climate change as a critical issue

	<ul style="list-style-type: none"> • Oregon has created commissions and issued reports studying the issue
Policy	<ul style="list-style-type: none"> • Oregon implements Carbon Dioxide Standard in 1997 to regulate emissions from the power sector • Oregon implements a Renewable Portfolio Standard in 2007 • In 2012 PGE and environmental groups reach an agreement to shut down the only remaining coal plant in the state • In 2015, a coalition of environmental groups put forward a no-coal bill inspired by the Sierra Club’s Beyond Coal campaign
Political/Economic/Social	<ul style="list-style-type: none"> • Strategic use of ballot initiative by environmental groups puts pressure on utilities to come forward and negotiate • Strong polling indicates the ballot initiatives would most likely pass • The low cost of natural gas brought on by the fracking boom undercuts the economic viability of coal • Utilities occupy a political middle ground and exercise major influence in the legislature, making their support of OCEP critical • Oregon’s legislature is Democrat-controlled, greatly increasing the likelihood of passing environmental legislation
Organizational Process	<ul style="list-style-type: none"> • PGE and Pacific Power include renewable energy and sustainability issues in the

	<p>resource plans they submit to their regulator</p> <ul style="list-style-type: none"> • Pacific Power’s voluntary green energy program demonstrates a willingness to take steps to increase sustainability • The Clean Power Plan and expectations of future carbon regulation play a major role in the planning of the utilities and how and when they will support policies like OCEP • The increasing technological feasibility of renewables was another important factor that made replacing coal a viable idea • As regulated entities, getting a policy like OCEP passed into law allowed them to justify the compliance costs to their regulator
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4.5 Distributional and Procedural Justice

The passage of OCEP was criticized on several major points. These criticisms largely centered on conceptions of procedural and distributional justice, which relate to the fairness, both real and perceived, in the way decisions are made and resources are distributed. First, many felt that passage of the policy during a short session was irresponsible. For such a complex policy to be passed during a 35-day session did not allow adequate time to clarify the many provisions included in the bill. Representative Jeff Reardon, who supported the bill, even acknowledged this, saying “It was too much for a short session, to be honest” (Interview 4). Representative Ken Helm voiced a similar concern, saying “There was a lot of buyer’s remorse about this bill, on all sides” (Interview 2). Kristen Sheeran, an ENGO respondent, also acknowledged the argument,

saying “It wouldn’t be my first choice in a perfect world” to pass the policy during the short session (Interview 21). Representative Bentz, who strongly opposed the bill, argued it is bad practice to pass such major, complex policies during a short session since they are followed several months later by elections. Politicians are put in an awkward position, because if they do not vote for a policy like OCEP they will get a “bad review from green organizations” (Interview 11). He further asserted, “The bottom line is a short session should be limited to budget issues and correcting other bad legislation, as opposed to bringing multi-billion dollar, multi-generational issues before a group of people who are just about to go up for re-election.”

A second major criticism was that the policy showed up fully formed when the legislative session began, and that the deal making to arrive at the proposed policy had occurred in private. The utilities and environmentalists further made it clear that the united support they expressed for the bill was contingent on there not being any changes. Thus, legislators were asked not to make any changes – certainly not any major ones – to the policy, but simply to pass it as it was. Both of these criticisms draw on conceptions of procedural justice and a sense that OCEP had not been passed in the appropriate way.

Supporters of the bill, however, provided several responses to the criticisms cited above. As Kristen Sheeran put it, “You heard those right. I think those were the common refrains from opponents of the law. It’s my opinion that those people would’ve opposed it whether we did it in a long session after three years of previous work or whether we did it in a short session with six weeks of work. The opponents needed a reason, a rationale for opposing and those are the two common arguments that they had” (Interview 21). A respondent from the executive branch reflected at greater length about passing such a complex policy during the short session:

“[S]ometimes having a short amount of time forces people to the table to come to a decision – having just gone through a long session that I kind of feel like was too long. Most of the stuff happened at the very end, in almost the same amount of time [as a short session]. There was a lot of work that went in before that. I don’t know. I mean I know that when short sessions were first created they were intended for budget purposes. There are limitations on the number of bills that can be introduced for that reason. There are some really strict requirements around getting through a short session. I mean if your bill doesn’t get out of committee in the first week it basically dies. So, I feel like there are protections in place to some degree. I think there has to be a policy that has a lot of work put in prior to the short session in order for it to be successful. It seems like the group really spent a lot of time doing that” (Interview 10).

As the respondent points out toward the end of the quote cited above, in a short session it is in fact necessary to have policies largely worked out prior to the session in order for there to be a hope of them passing. During a short session, there isn’t enough time for a policy to be developed from scratch. Other respondents echoed this idea as well. Further, because of the compressed time frame, there wasn’t the opportunity to bring in all the participants who would have liked to have a voice in developing the policy. Referring to the process of developing the policy before the legislative session, Sheeran noted “In a perfect world, if you had more time, you would stretch out that process and bring in more room for stakeholder engagement before you actually have the final legislation drafted. But we didn’t have a lot of time. We had less than two months from when we agreed to sit down together to when you hit the deadlines for when legislative drafts had to be in. So, we had very little time to bring others in” (Interview 21). The timing of the ballot measure and the fact that the utilities and ENGOs only began negotiating several weeks before session began constrained their ability to include more participants.

Another counterargument to the criticisms OCEP received is that it was not the first time these policies had been considered. Doubling the RPS to 50 percent built upon the existing policy that had passed in 2007. Further, moving coal-fired generation out of Oregon utility customers' rates simply involved accelerating the depreciation schedule the plants were already on. As one utility respondent noted, "There was not much in Senate Bill 1547 that was drafted from whole cloth and came from nowhere" (Interview 25).

The criticisms cited above are interesting to consider in light of Stafford and Hartman's (1996) suggestion that it is important to keep green alliances above board and transparent. They use the example of the attempted alliance between the Loblaw company and Pollution Probe, which fell apart from a lack of transparency about the collaboration process. The green alliance between the utilities and the ENGOs received criticism from legislators, the press, and entities who had not been included in the negotiations, and yet the alliance successfully implemented the policy they had crafted together. This came at the cost of damaged trust between the various parties as a result of the lack of transparency and speed at which the policy was passed. This also relates to the literature on procedural justice, which has found that trust in government decreases when decisions are not perceived to have been made fairly (Grimes, 2006; Tyler, 2001, 2006).

Several respondents expressed the view that OCEP had been crafted primarily to benefit the utilities, at the expense of ratepayers. Representative Bentz did not hesitate to express this view:

"Ok, so what happened was our two largest utilities saw an opportunity to jam through a piece of legislation that would benefit them enormously, from an economic standpoint. And the moment the two utilities got behind something and began to go around and express the need to support the bill, all of a sudden, in a short session, any of the bad parts of the bill there wasn't time to wring

those out. That was all contrived. That was a carefully thought-through approach that resulted in a piece of legislation that is bad for Oregon” (Interview 11).

As a PUC respondent put it, “So it was really, in my humble opinion, all about profit to the utilities, profit to the renewable project developers” (Interview 1). Senator Beyer also put it bluntly, referring to the utilities and saying “it’s really kind of funny, I think they snookered the environmentalists” (Interview 3). Primarily, this argument rested on the notion that the two primary parties involved were not on equal footing in the negotiating process. The utilities, naturally, are experts of their industry, which is also an extraordinarily complex and technical one, and were able to use this expertise and complexity to their advantage.

ENGO respondents countered that on their side of the negotiating table was CUB – represented by Bob Jenks – and Angus Duncan, chair of the Oregon Global Warming Commission. Both individuals brought decades of experience with energy policy and regulation. Kristen Sheeran, representing Climate Solutions, holds a PhD in economics and also has many years of experience in energy policy. Further, the ENGOs commissioned a third party to provide economic modeling and forecasts for how the proposed policy would affect the electricity sector and utility customer rates. Their modeling, according to Sheeran, largely matched the projections presented by the utilities, offering reassurance that the projections were accurate.

Another major point of contention was whether OCEP would in fact reduce GHG emissions. OCEP required the utilities to divest from their coal plants by 2035 at the latest, but it does nothing to stop these coal plants from continuing to run. Further, this divestment only applies to the accounting utilities do with the PUC in the state of Oregon. The utilities can continue to own and operate the coal plants and sell the electricity generated from them elsewhere in the region. Thus, the policy does not reduce the amount of emissions entering the

atmosphere from these plants. Representative Bentz articulated his poor opinion of the policy, saying “I think issues of the climate are far too important to be managed in the fashion that bill pretends to manage those issues” (Interview 11). As a PUC respondent put it, “I’m pretty close to certain that it has no direct impact on the dispatch of the coal plants anywhere in the United States, much less in Oregon. So it seemed to me more of a bumper sticker than actual policy” (Interview 1). Critics of the policy also claimed it had been misrepresented as a major environmental accomplishment. These criticisms revolve around conceptions of distributive justice, since respondents argue that the outcome of the policy does not accomplish what it ought to.

Proponents of the policy acceded that OCEP does not – and, for that matter, cannot, due to the interstate commerce clause of the Constitution – legislate the closure of coal plants in other states. However, they contend, the actions Oregon takes do have an effect, in part through influencing neighboring states in the region. As Jana Gastellum, Climate Director of the Oregon Environmental Council, put it, “So, it’s true, Oregon can’t legislate the closure of out-of-state coal-fired power plants, but we are demand centers for power and reducing demand for coal changes the economics. I think it is consequential legislation for that reason” (Interview 12). When Oregon removes the ability of the utilities to recover the costs of their investment in the coal plants from rates they charge to Oregon customers, several respondents maintained that this effectively shifts the financial burden and risk of maintaining those coal plants to ratepayers in other states. In this way, Oregon exempts its ratepayers from the liabilities associated with the plants, and can also model a way for other states to follow the same path. So, while the policy does not directly eliminate the GHG emissions associated with the generation of electricity from

the coal plants under consideration, it adds to the economic pressures that already exist for coal and that many of the respondents believed would only increase over time.

4.5.1 Exclusion of the Public Utilities Commission

While the legislative climate in 2016 was already a tense one due to Republican opposition, the circumstances surrounding the role of the Public Utilities Commission (PUC) added another layer to the story of the passage of OCEP. In December of 2015, regulators from the PUC met with utility representatives and learned about the provisions of OCEP. They were concerned that the policy would not result in any actual GHG emissions reductions and that certain provisions would overturn previous PUC rulings that affected the IOUs. Email exchanges were obtained by an *Oregonian* newspaper reporter through a Freedom of Information Request that captured the PUC's displeasure: "This bill is absolute crap... a shell game that will result in no actual emissions reductions.... And then the utilities get to stuff our decisions they didn't like down our throats," wrote then-Commissioner John Savage (Sickinger, 2016, February 17). PUC regulators voiced their concerns about the bill during committee hearings, while emphasizing that as regulators they would of course implement whatever policy the legislature passed. Following the 2016 legislative session, PUC Chair Susan Ackerman resigned, while Commissioner Savage served out the remainder of his term and did not seek reappointment. In her interview, Ackerman acknowledged that she stepped down because of the experiences related to the passage of OCEP, and also said that Savage concluded his tenure at OPUC for the same reason.

Partially, the PUC was concerned that the policy would overturn previous rulings that governed the operations of the two major utilities. However, respondents did not name specific

rulings that were overturned, making it difficult to determine if this in fact took place. Representative Helm, who voted in favor of OCEP, nevertheless acknowledged that the opposition to the policy from the Commission should have raised a red flag. The unified message from the utilities and environmental groups made Senate Bill 1547 too good to resist, overcoming any reservations that may have been caused by PUC opposition. Not everyone felt it was necessary to include the PUC, however. Many respondents pointed out that it is not the place of the PUC to draft policy for the legislature to pass. And, as one utility respondent put it in reference to the negotiations that took place prior to the legislative session, “You don’t put your needs, wants and desires out in front of your regulator” (Interview 17). Thus, while *The Oregonian* and some legislators and members of the PUC argued that OCEP fell short in terms of procedural justice for not including the state’s key regulator, this was not a view shared by everyone. Nevertheless, these strong disagreements resulted in damaged trust between the various parties, which is supported by the literature on procedural and distributive justice related to trust in government.

5. Policy Implications

The investigation into the passage of OCEP provides several policy implications. Although most participants felt that it was appropriate to exclude the PUC, some respondents indicated that if they could do it over again, they would include the PUC sooner. Input from the PUC, the state government’s primary resource and authority on electric utility regulation, earlier in the process could have helped the policy to be a better one. However, part of the reason the PUC was not included earlier was that the participants in the negotiations were not sure until the last minute before the legislative session that a policy would emerge that all could agree on. This

uncertainty prevented there from being time to engage with the PUC. The contention and damaged trust that resulted in part from this exclusion should encourage the inclusion, when possible, of the the state's regulator from an earlier stage in the future. This will help address concerns about procedural justice.

The green alliance that promoted OCEP successfully got their policy made into law, but trust between various parties was damaged in the process. This fact provides a mixed finding for policy implications. The green alliance worked, and similar collaborations in the future are likely to successfully produce environmental legislation. However, the relationship between the utilities and the PUC in particular was damaged, with respondents from both camps noting this. Involving the PUC earlier in the process, as mentioned above, would have helped in this regard. However, the damage to trust extended beyond the utilities and the PUC. Senator Beyer claimed that utility support of OCEP had fundamentally rearranged the dynamic between Senate republicans and the utilities. The utilities had normally been considered as part of the business community, supporting issues in line with business interests and closely reflecting republican values. However, after the passage of this policy, according to Senator Beyer, there is a greater level of mistrust held by Senate republicans toward the utilities. This may likely extend to House republicans as well, as evidenced by Representative Bentz's skepticism about the motives of the utilities. The compressed time frame seemed to be a key factor in all these effects. Given more time, all parties, both opposed and in favor of the bill, would have had the space to voice their concerns and investigate the policy further before it passed. Most respondents did not believe that the conditions surrounding the passage of OCEP were more contentious than for other big policies. When major changes are made, it seems there will invariably be ruffled feathers.

However, passing this policy during the compressed time frame of a short session seems to have damaged trust between multiple parties.

6. Limitations and Extensions

One limitation of the research presented above is that it only looks at one case of the passage of an ambitious environmental policy and therefore may not be helpful in understanding other cases. Oregon is a small state and its unique circumstances played into the passage of the Oregon Clean Electricity and Coal Transition Plan. The state's short legislative sessions during even-numbered years, the availability of the ballot initiative, and the relative lack of coal-derived energy located within state lines were all major factors that played a role in making passage of the bill possible. An extension of the research that could help address this limitation would be to compare several cases of states – both with similar and different characteristics to Oregon – that have passed environmental legislation similar to OCEP.

7. Conclusion

In 2016, a unique set of circumstances came together that resulted in the passage of a bill that was the first of its kind in the nation. The Oregon Clean Electricity Plan removes coal from the rates of utility customers by 2035 and doubles the state's renewable portfolio standard to 50 percent by 2040, among several other provisions. Environmental groups had attempted to pass similar legislation the previous year without success, largely because of opposition from the two major investor-owned utilities that would have been affected. However, conditions changed when the environmental groups began taking steps to put the policy on the November 2016 ballot as an initiative. The policy polled well among all sections of the Oregon public, and the

utilities recognized they could achieve a better policy by negotiating with the environmental groups rather than spending millions to attempt to defeat the popular ballot initiative.

Negotiations proceeded quickly, encompassing roughly a six-week period; they began in late October and by mid-December the participants had reached an agreement they were prepared to promote in the upcoming short legislative session. At the end of an acrimonious, whirlwind five-week session the policy had passed and was signed into law by the governor, making national and international headlines.

Success came at a cost, however. The policy had been passed in spite of strong concerns held by the state's regulator, the Public Utilities Commission, that the policy would not accomplish its intended effects. OCEP also faced criticisms for being passed during a short legislative session when there was not adequate time to parse the many complex provisions of the law, and even legislators who had voted in support of the law admitted that it may have been too much to take on during a short session. Certain stakeholders were excluded from the negotiations that took place to craft the policy, causing consternation among these groups. Trust between various players, especially the utilities and the PUC, was badly strained, and while the cooperation between the utilities and environmental groups built on several previous positive experiences, an adversarial atmosphere reasserted itself as soon as the policy began to be implemented by the PUC. Time will tell whether this policy will result in reduced GHG emissions with negligible rate increases, as promised, and it must also wait to be seen how the passage of this policy will affect future energy policymaking in the state.

Appendix 1 – Interview Protocol

- 1) Would you state your name, title, and place of work?
- 2) What were the circumstances by which you became aware of the bill?
- 3) What was your initial reaction to the bill?
- 4) How did your position change over time? What led you to change your position?
- 5) What was the coalition that moved the bill forward?
- 6) What were the biggest factors that contributed to its passing?
- 7) Why do you think the bill passed during the 2016 legislative session and not another time?
- 8) Why do you think the policy took the shape that it did?
- 9) Who were the winners from this bill? Why do you think that happened?
- 10) Who were the losers from this bill? Why do you think that happened?
- 11) Would you consider the circumstances of the bill's passage contentious? If so, why?
- 12) Is there anything of importance you think we haven't covered?
- 13) Is there anyone else I should be talking to?

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