

**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form

**FILED**

8-8-14 11:30 AM

ARCHIVES DIVISION  
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Public Utility Commission of Oregon

860

Agency and Division

Administrative Rules Chapter Number

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**RULE CAPTION**

In the Matter of Rulemaking to Implement 2013 Senate Bill 844: Voluntary Emissions Reduction Program

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
9-23-14	9:30 a.m.	Public Utility Commission, 3930 Fairview Industrial Drive SE, Salem, OR	Sarah Rowe

**RULEMAKING ACTION**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

860-085-0500 through 860-085-1000

**AMEND:****REPEAL:****RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.**Statutory Authority:**

ORS Ch. 183, 756, 757

**Other Authority:****Statutes Implemented:**

ORS 757.539

**RULE SUMMARY**

As required by ORS 757.539, the rules propose to establish a voluntary emission reduction program to provide incentive for a utility furnishing natural gas to invest in projects that reduce emissions and provide benefits to the customers of that utility.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 580 on comments and file them by e-mail to the Commission's Filing Center at [PUC.FilingCenter@state.or.us](mailto:PUC.FilingCenter@state.or.us) and also send a signed paper copy to the Filing Center at PO Box 1088, Salem, Oregon 97308-1088.

Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=18862>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_001.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html).

Participants wishing to monitor the hearing by telephone must contact Diane Davis at [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372 by close of business September 19, 2014, to request a dial -in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

10-07-2014 5:00 p.m.

Diane Davis

diane.davis@state.or.us

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Last Day (m/d/yyyy) and Time  
for public comment

Rules Coordinator Name

Email Address

\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form

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Administrative Rules Chapter Number

In the Matter of Rulemaking to Implement 2013 Senate Bill 844: Voluntary Emissions Reduction Program

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Rulemaking to Implement 2013 Senate Bill 844: Voluntary Emissions Reduction Program

**Statutory Authority:**

ORS Ch. 183, 756, 757

**Other Authority:**

**Statutes Implemented:**

ORS 757.539

**Need for the Rule(s):**

ORS 757.539, (Senate Bill 844, 2013), requires the PUC to establish a voluntary emission reduction program to provide incentive for a utility furnishing natural gas to invest in projects that reduce emissions and provide benefits to the customers of that utility.

**Documents Relied Upon, and where they are available:**

2013 Senate Bill 844 found online at <https://olis.leg.state.or.us/liz/2013r1/Measures/Text/SB844/Enrolled>,

ORS 757.539 found online at [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ors757.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors757.html)

**Fiscal and Economic Impact:**

As required by ORS 757.539, the rules propose a cap to limit the overall costs of projects approved under this program. The project expenditure cap for the three natural gas utilities is set at 4 percent of total retail revenue (Avista Utilities - \$4 million, Cascade Natural Gas - \$3 million, and Northwest Natural - \$30 million). When filing the project proposal, the utility must demonstrate the benefits received by each affected customer class. In its approval of an emission reduction project proposal, the PUC must allocate project costs based on benefits received by the customer class. In proposing these rules, the PUC Staff and stakeholders envision that the utilities will be looking to share costs with project participants. For example if a emission reduction measure includes the purchase and installation of a new gas furnace in a customer home, the utility will be looking to the customer installing the measure to also cover a portion of the measure cost, much the same way in which energy efficiency measures are conducted. Because the program is voluntary and projects may vary, the potential magnitude of positive or negative impacts cannot be quantified at this time.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

The enabling legislation, ORS 757.539, which establishes the Voluntary Emission Reduction Program, creates a potential for impact on ratepayers of the three subject natural gas utilities by allowing for recovery in rates of investments made in and costs for a voluntary emission reduction program. The proposed rules provide further guidance to the subject utilities and establish a rate cap. Ratepayers will be impacted only if a voluntary emission program is conducted and only to the extent allowed by rule. The general public should experience benefits from emission reduction projects through increased air quality and lowered carbon emissions within the state borders.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

It is possible that a small business that participates in an emissions reduction project may voluntarily contribute to the cost of the project. Otherwise, other small businesses may see a small rate increase in proportion to the benefits received by the projects undertaken that can be tracked back to the small business or customer. Because the program is voluntary, and no programs have been proposed, the potential magnitude of any additional costs cannot be quantified at this time. Small businesses will have opportunity to comment on the development of the rule before and at the hearing scheduled with this notice. Additionally, ORS 757.039 requires that the utility proposing an emissions reduction project provide proof of stakeholder involvement in the project development in its application to the Commission for approval. Small businesses will then have another opportunity to comment on the proposed project and its costs when the utility submits the project proposal for determination by the Commission.

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

A subject utility will have recordkeeping and reporting requirements if the utility chooses to develop an emissions reduction program. This recordkeeping and reporting will have associated costs, the potential magnitude of which will be dependent upon the project, cannot be determined at this time. It is anticipated that these requirements would be accomplished as part of regular business operations.

**c. Equipment, supplies, labor and increased administration required for compliance:**

Emission reduction projects are new to the state and will require measurement and verification. The proposed rules require that the utility conducting the project monitor the site to ensure that the emission reductions originally contemplated materialize and the emission abatement continue for the life of the measure. Monitoring may require installation of equipment to verify emission reductions. Monitoring and the equipment needed for monitoring will be specific to the project undertaken.

Additionally, it is possible that in the course of an emission reduction project, a natural gas utility may install new equipment that may require electric service. For example, the natural gas utility conducting the project may install a compressor unit that compresses gas for transport. The compressor used in this example would run on electric current thereby increasing demand on the electricity grid and the electricity utility serving the customer where the compressor is housed.

**How were small businesses involved in the development of this rule?**

The Northwest Industrial Gas Users, whose members include small businesses, attended each of the stakeholder meetings held during the development of the proposed rule language.

**Administrative Rule Advisory Committee consulted?: No**

**If not, why?:**

PUC Staff conducted several stakeholder workshops and informal rounds of comments to develop the proposed rule language.

<u>10-07-2014 5:00 p.m.</u>	<u>Diane Davis</u>	<u>diane.davis@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

## VOLUNTARY EMISSION REDUCTION PROGRAM

### 860-085-0500

#### Definitions

As used in OAR 860-085-0500 through 860-085-1000:

(1) “Ordinary course of business” means the set of conditions reasonably expected to occur within the Emission Reduction Project Boundary in the absence of the financial incentives and other inducements provided by this program, taking into account all current laws and regulations, as well as current economic and technological trends.

(2) “Direct emission reduction” means emissions reductions resulting from project emission sources that are controlled by the proposed activity or activities.

(3) “Emission Reduction Project” means a single measure or a set of interrelated measures, all equipment, materials, items or actions that comprise a voluntary coordinated action which lead to anthropogenic greenhouse house gas emission reductions within the project boundary that are additional to any reductions that would occur in the absence of the emission reduction project.

(4) “Emission Reduction Project Plan” sets forth the specific details of a proposed Emission Reduction Project meeting the requirements set forth in these rules.

(5) “Emission Reduction Project Report” means the report prepared by the utility each year that provides the information and documentation required under OAR 860-085-0800.

(6) “Emission reduction verification” means a systematic evaluation process for calculating and reporting project baseline emissions, project emissions, and emissions reductions.

(7) “Indirect emission reduction” means emissions reductions from sources not directly controlled by the proposed activity but are a related consequence of the emission reduction project activities.

(8) “Leakage” means the net change of anthropogenic emissions by sources of greenhouse gases which occurs outside the project boundary, and which is measurable and attributable to the project activity.

(9) “Monitoring” means the ongoing collection and archiving of all relevant and required data for determining the project baseline, project emissions, and quantifying emissions reductions or that are attributable to the emission reduction project.

(10) “Project baseline” means an estimate of ordinary course of business emission reductions.

(11) “Project benefits” means those quantifiable benefits that accrue to the ratepayers of the utility conducting the Emission Reduction Project when such benefits can reasonably be attributed to the emissions reduction work.

(12) “Project boundary” includes a projects geographical implementation area encompassing all anthropogenic emission by sources of greenhouse gases under the control of the project participants that are significant and reasonable to the project activity during its duration.

(13) “Project costs” means the sum total of all costs incurred in the pursuit and implementation of a voluntary emission reduction project. When a project is undertaken as additive to an existing project because an emission reduction opportunity is present, project costs are all those associated costs incurred to capture emission reductions opportunities.

(14) “Project emissions” means any emissions attributable to the implementation of an Emission Reduction Project that must be accounted for in the Emission Reduction Project Report.

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW

### **860-085-0550**

#### **Project Eligibility Criteria**

To be eligible for a Commission determination, the project must satisfy the minimum criteria set forth in ORS 757.539(3)(a)-(f) and the project must be related by similar type of measure and emission reduction strategy undertaken within the project boundary.

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW

### **860-085-0600**

#### **Project Application Requirements**

The utility must submit an Emission Reduction Project Plan which includes:

- (1) The information required by ORS 757.539(4)(a) – (k) and:
- (2) A description of how the project satisfies the minimum criteria set forth in the OAR 860-085-0550;
- (3) A showing of the project benefits received and of the apportionment of benefits by the each type of ratepayer; and
- (4) A discussion of all project measures being employed to reduce emissions;
- (5) Project measure life;
- (6) The project boundary (only one project boundary may be included in the application);
- (7) A discussion of the emission reduction strategy being utilized, why the approach is appropriate, timely and merits approval;
- (8) Any tariffs, if necessary;
- (9) An Emissions Reduction Verification Plan that satisfies the criteria set forth in OAR 860-085-0750;

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW

### **860-085-0650**

#### **Project Threshold**

- (1) A Tier 1 project is one that has costs equal to or less than one million dollars and has an overall project cost per metric ton of reduced emissions less than \$85.
- (2) A Tier 2 project is one that has costs greater than one million dollars or has an overall project cost per metric ton of reduced emissions greater than \$85.

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW

### **860-085-0700**

#### **Project Cap**

Projected costs to ratepayers of an Emission Reduction Project when combined with a utility's previously authorized Emission Reduction Projects must not exceed four percent of the utility's retail revenue requirement, inclusive of all revenue collected under adjustment schedules (e.g. the Purchased Gas Adjustment). The costs of incentives the utility proposes to recover under this rule will be included in the determination of the costs to ratepayers under this cap.

Stat. Auth.: ORS Ch. 183, 756, 757

Stats. Implemented: ORS 757.539

Hist.: NEW

### **860-085-0750**

#### **Emission Reduction Verification Plan**

(1) Each project application must be accompanied by an Emission Reduction Verification Plan, tailored to the size and other characteristics of each project, that must include;

(a) The methodology used by the utility to calculate the projected emission reductions, which include:

(A) A project baseline,

(B) Identification of emission leakage, which must be deducted from the emission reductions generated by the project activity;

(C) A description of how the emission reduction verification methodology was developed,

(b) A monitoring plan, which includes:

(A) A description of the monitoring methods employed,

(B) Monitoring equipment used; and

(C) Anticipated costs of monitoring and emission reduction verification.

(2) The Commission may require third party emission reduction verification as it determines necessary.

Stat. Auth.: ORS Ch. 183, 756, 757

Stats. Implemented: ORS 757.539

Hist.: NEW

### **860-085-0800**

#### **Emission Reduction Project Report**

(1) Each year after the utility has commenced work on Emission Reduction Projects approved by the Commission, the utility must submit to the Commission an Emission Reduction Report which includes information on all currently approved emissions reduction projects:

(a) Updated information contained in the project application and OAR 860-085-0600 and OAR 860-085-0750; and

(b) Updated information on emission reductions achieved and anticipated.

(c) Updated information regarding how the aggregate of all project costs, including incentives received by the utility will affect the project cap outlined in OAR 860-085-0700.

(2) The Commission, upon acknowledgement of the utility's first Emission Reduction Project Report, may modify the interval for the submission of future Emission Reduction Project Reports for that utility.

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW

#### **860-085-0850**

##### **Ownership and Transferability of Emission Credits When Realized**

In instances when a utility participates in an emission reduction credit market related to its Emission Reduction Project:

- (1) The utility must retain for the benefit of its ratepayers the emission reduction credits realized through emission reduction project activity.
- (2) The utility must retire the emission reduction credits it owns or of which it retains control.
- (3) The utility must ensure an unbroken chain of ownership of emission reduction credits.
- (4) If split ownership arises, such that the ratepayer or project owner or project participant may be owner of some of or all of the emissions reduction credits, the utility must work with the ratepayer or project owner/participant to ensure proper retirement, registration and an unbroken chain of custody.

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW

#### **860-085-0900**

##### **Ineligibility Due to Noncompliance**

If an Emission Reduction Project is, or has been, out of compliance with the requirements of OAR 860-085-0500 through 860-085-850, the Commission may discontinue or reduce the incentives to be paid to the utility.

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW

#### **860-085-0950**

##### **Treatment of Emission Reduction Project for Purpose of the Utility Earnings Test**

- (1) The utility must include the costs, revenues and incentives associated with an emission reduction project in its annual Results of Operation Report. The Commission may exclude incentives received from an Emission Reduction Project in an earnings test associated with the Purchased Gas Adjustment, deferrals and any other mechanism.
- (2) The utility must include all incentives earned from emissions reduction projects in their year annual results of operations report to the Commission.

Stat. Auth.: ORS Ch. 183, 756, 757  
Stats. Implemented: ORS 757.539  
Hist.: NEW



**860-085-1000**

**Utility Incentives for Applicable Projects**

(1) The utility may propose a method to recover costs and incentives in accordance with ORS 757.539(8)(b)(A) – (D);

(2) Incentives received by a utility under this rule must be in part tied to the unit of emissions reduced;

(3) The incentives received by the utility conducting an emission reduction project may not exceed 25 percent of the project cap as outlined in 860-085-0700;

(4) One half of the net present value of the incentive amount projected to be allowed for the proposed emission reduction project is recoverable within a year of project implementation;

(5) The remainder of the incentive will be recoverable within five years of full project implementation at such time as the emissions reductions are confirmed through appropriate monitoring and verification, consistent with the projects approved Emission Reduction Reports and projected emission reductions.

(6) The commission may structure incentives based on a project's rate base capital intensity; a capital intensive project may receive a lower incentive than those projects that require less rate base capital.

(7) A utility may propose an incentive structure with its initial project proposal that can then be applied to all subsequent approved proposed projects.

Stat. Auth.: ORS Ch. 183, 756, 757

Stats. Implemented: ORS 757.539

Hist.: NEW