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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860
PUBLIC UTILITY COMMISSION

FILED

03/29/2021 1:01 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: AR 617: Updates to Renewable Energy Portfolio Compliance Standards, Implementing Legislation

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/29/2021 4:00 PM

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.

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Salem, OR 97308

Filed By:
Diane Davis
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 04/22/2021

TIME: 1:30 PM - 2:30 PM

OFFICER: Chief ALJ Nolan Moser

ADDRESS: By Zoom

See information in Special Instructions
Salem, OR 97301

SPECIAL INSTRUCTIONS:

To Join Zoom Meeting:

<https://opuc-state-or-us.zoom.us/j/81865528893?pwd=NDhIUFBXLOJZV3IPd1Y2cXFOc2cwQTO9>

Meeting ID: 818 6552 8893

Passcode: T8**Cz6W=w

One tap mobile

+19712471195,,81865528893#,,,,*75
20183169# US (Portland)

Dial by your location

+1 971 247 1195

Meeting ID: 818 6552 8893

Passcode: 7520183169

Find your local number: <https://opuc-state-or-us.zoom.us/j/kdb7birQpB>

Also see more participation information in the "Need for the Rule(s)" section below.

NEED FOR THE RULE(S):

Amendments to this rule are needed to align the current rule regarding Renewable Portfolio Standard compliance through the use of Renewable Energy Certificates (REC) with statutory requirements in ORS 659A.140 and ORS 659A.150, including changes effected in Oregon Laws (2016) Chapter 28 and to clarify the application of the term "banked" REC for compliance purposes.

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 617 on comments and attach them to an e-mail to the Commission's Filing Center at PUC.FilingCenter@puc.oregon.gov.

Interested persons may review all filings online at <https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=22178>. 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 <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

Participants wishing to make comment at the rulemaking hearing are strongly encouraged to contact Diane Davis at diane.davis@puc.oregon.gov or (971) 375-5082 before 10:00 a.m. on April 21, 2021. Participants who present oral comment at the hearing will be asked to also submit their comments in writing before the comment period closes at 4:00 p.m. on April 29, 2021. Because PUC Commissioners may attend this rulemaking hearing, it is also being noticed as a special public meeting.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2016 SB 1547 Enrolled found at <https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureDocument/SB1547>

2007 SB 838 Enrolled found at <https://olis.leg.state.or.us/liz/2007R1/Downloads/MeasureDocument/SB838>

Chapter 28, Oregon Laws 2016 found at https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2016orlaw0028.pdf

ORS Chapter 469A found at https://www.oregonlegislature.gov/bills_laws/ors/ors469a.html

OAR Chapter 860, Division 83 found at

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4085>

Stakeholder comments submitted to Commission Staff in Commission Docket AR 617 and the Staff Report for the March 3, 2021 public meeting, available at:

<https://www.oregon.gov/puc/edockets/Pages/default.aspx>

FISCAL AND ECONOMIC IMPACT:

These amendments remove the requirement in OAR 860-083-0300(3)(b)(B) that electric utilities and energy service suppliers use banked RECs in order from first issued to last issued, aligning the rule with statutory changes to ORS 469A.140 that were enacted in 2016. Because this statutory change has been in effect for several years, no fiscal or economic impact is anticipated as a result of this amendment. These amendments also clarify that renewable energy certificates generated or acquired in the same calendar year as the compliance year for which its use is attributed are not banked renewable energy certificates. Electric utilities and energy service suppliers that have identified such certificates as banked may incur some administrative, recordkeeping and labor costs to revise records and compliance reporting. If so, such costs may ultimately be borne by the customers of such entities through electricity service rates. The amount of such costs cannot be quantified at this time, but the Commission expects any costs to be minimal. These amendments provide that the process for allocating the use of renewable energy certificates by an electric company that makes sales of electricity to retail customers in more than one state shall be informed by the most recent inter-jurisdictional allocation protocol adopted by the Commission. No fiscal or economic impact is anticipated as a result of this amendment.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No units of state or local government are likely to be economically affected by the proposed rule amendments. As stated above, an electric company or electricity service supplier subject to the rules, or its customers, may be economically affected, incurring some administrative, recordkeeping and labor costs, to revise records and compliance reporting to identify banked renewal energy certificates based on the proposed amendments, but the overall impact of any expenses incurred is expected to be minimal. Investor-owned electric utilities and electricity service suppliers regulated by the Commission are subject to the proposed rule amendments, none of which is a small business.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Commission's staff engaged in discussions and correspondence with interested stakeholders regarding the amendments, including organizations representing electricity consumers.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Commission's staff engaged in discussions and correspondence regarding the amendments with interested stakeholders.

AMEND: 860-083-0300

compliance with the Renewable Portfolio Standard (RPS) by better aligning OAR 860-083-0300 with legislative amendments to ORS 469A.140, addressing ORS 469A.150 and addressing other compliance issues.

CHANGES TO RULE:

860-083-0300

Compliance Standards ¶¶

- (1) Each electricity service supplier subject to ORS 469A.065 must meet the requirements of 469A.052 unless a limit specified in section (2) or section (3) of this rule applies.¶¶
- (2)(a) The cost limit under ORS 469A.100(6) for an electricity service supplier means four percent of the weighted average of the average retail revenues per megawatt-hour of the electric companies subject to 469A.052 in whose service areas the electricity service supplier sells electricity. The weights are the retail sales in megawatt-hours by the electricity service supplier in the service areas of electric companies subject to 469A.052 for a compliance year.¶¶
- (b) If the average cost of compliance per megawatt-hour for an electricity service supplier subject to ORS 469A.065 exceeds the cost limit for a compliance year, the electricity service supplier is not required to incur additional costs to meet section (1) of this rule.¶¶
- (3)(a) An electric company or an electric service supplier is not required to meet the renewable portfolio standards during each compliance year to the extent that:¶¶
- (A) For the electric company, the total cost of compliance to meet the renewable portfolio standard exceeds the cost limit in ORS 469A.100(1); and¶¶
- (B) For the electricity service supplier, the average cost of compliance exceeds the cost limit in section (2) of this rule.¶¶
- (b) In determining compliance with the applicable renewable portfolio standard in ORS 469A.052 or 469A.065 and the applicable cost limits under 469A.100(1) and 469A.100(6), the following apply:¶¶
- (A) For the purposes of this rule, banked renewable energy certificates do not include a renewable energy certificate generated or acquired in the same calendar year as the compliance year for which its use is attributed.¶¶
- ~~(B) Subject to the Commission's review under ORS 469A.170, an electric company or electricity service supplier may elect to use alternative compliance payments to comply with the applicable renewable portfolio standard. The Commission may also require an electric company or electricity service supplier to use alternative compliance payments to comply with the applicable renewable portfolio standard if the alternative compliance payments would not cause the electric company or electric service supplier to exceed the applicable cost limits in ORS 469A.100(1) and 469A.100(6).¶¶~~
- ~~(B) Each electric company and electricity service supplier must use, in chronological order from first issued to last issued, its banked renewable energy certificates under ORS 469A.140(2)(a) and (2)(b), subject to the limitations under 469A.145, before using certificates issued in the compliance year or between January 1 through March 31 of the year following the compliance year.¶¶~~
- (C) Subject to the limitations under ORS 469A.145 and the cost limit under 469A.100, if the banked renewable energy certificates each electric company or electricity service supplier uses are not sufficient to achieve compliance with the applicable renewable portfolio standard, the electric company or electricity service supplier must use renewable energy certificates issued or acquired in the compliance year or between January 1 through March 31 of the year following the compliance year, or make an alternative compliance payment, up to the amount required for compliance with the applicable standard. Bundled renewable energy certificates must be used in chronological order from first issued to last issued.¶¶
- (D) If the total cost of compliance exceeds the cost limit under ORS 469A.100, the electric company or electricity service supplier is not required to use additional renewable energy certificates or make an alternative compliance payment to meet the applicable standard.¶¶
- (c) The costs of renewable energy certificates used to determine whether the cost limit has been reached must be from the applicable compliance report.¶¶

(4) For purposes of this rule, the electric company's multi-state allocation of renewable energy certificates shall be informed by the most recent inter-jurisdictional allocation protocol adopted by the Commission.

Statutory/Other Authority: ORS 756.0460, ~~757.659~~, ORS 469A.150, ORS 469A.065, 170

Statutes/Other Implemented: ORS ~~469A.050, 469A.052, 469A.065, 469A.070, 756.040, ORS 469A.1040, 469A.140, ORS 469A.1450~~