

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 10, 2018

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: April 3, 2018

TO: Public Utility Commission

FROM: Caroline Moore *CM*

THROUGH: Jason Eisdorfer and JP Batmale *JEB*

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: (Docket No. AR 610)
Request to revise the scope of AR 610 and open two additional
Renewable Portfolio Standard rulemaking dockets.

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt Staff's proposal for the informal Renewable Portfolio Standard (RPS) rulemaking process through the following actions:

- Revise the scope of AR 610 to focus solely on the incremental cost of compliance;
- Open rulemaking docket on RPS Planning Process and Reports;
- Open rulemaking docket on Renewable Energy Certificate (REC) Issues

DISCUSSION:

Issue

Whether to revise the scope of AR 610 and to open two additional rulemaking dockets related to the RPS changes adopted in SB 1547.

Applicable Law

ORS 756.060 provides the Commission authority to adopt and amend rules relative to all statutes administered by the Commission.

Chapter 301, Oregon Laws 2007 (SB 838), codified in ORS Chapter 469A as relevant here, created Oregon's Renewable Portfolio Standard by establishing incremental targets for utilities and electric service suppliers (collectively referred to as Energy Companies) to procure qualifying renewable energy. SB 838 established guidelines for

RPS compliance, including limits on the cost of compliance, requirements for planning and reporting, and standards for the use of RECs as the primary compliance instrument. The Commission's current rules to implement the RPS provisions of SB 838 are set forth in OAR Chapter 860, Division 83.

Chapter 28, Oregon Laws 2016 (SB 1547) in relevant part, increased Oregon's RPS targets to achieve 50 percent qualifying renewable electricity by 2040 and made significant changes to the mechanics of compliance.

Various RPS issues have surfaced in Commission proceedings, stemming from SB 1547 and parties' experience with RPS compliance over time. Throughout these other proceedings the Commission has instructed Staff to address RPS issues in a holistic RPS rulemaking docket.¹

Analysis

Background

The AR 610 informal RPS rulemaking docket opened on April 5, 2017, in response to new developments in the RPS compliance landscape. In Staff's Report for the December 18, 2017, public meeting, Staff requested a new docket (AR 613) to address repeal of the Solar Capacity Standard and noted, "Staff will defer all other issues pertaining to the RPS rulemaking to other, later phases of this docket. Staff will request to open formal proceedings for other issues in AR 610 separately."² Staff has two key objectives for the remainder of this proceeding: 1) update RPS rules to reflect SB 1547, and 2) address major outstanding RPS issues that Staff and stakeholders have identified throughout ongoing RPS implementation.

The current RPS administrative rules were developed when compliance targets were relatively small and low cost. With SB 1547, these targets have increased even more significantly and certain fundamental mechanics of compliance have changed. Staff and stakeholders have identified additional areas for updates or clarification throughout nearly a decade of experience with the current rules.

On January 10, 2018, Staff and stakeholders participated in an AR 610 workshop to discuss the scope and process to address the remaining RPS rulemaking issues. Workshop participants acknowledged that there is an extensive range of issues within

¹ See, e.g., *In the Matter of Portland General Electric's 2016 Revised Renewable Portfolio Standard Implementation Plan*, Order No. 17-166, Docket No. UM 1788 (May 15, 2017) and *In the Matter of PacifiCorp dba Pacific Power 2017-2021 Renewable Portfolio Standard Implementation Plan*, Order No. 17-010, Docket No. UM 1790 (January 13, 2017).

² Staff report for the December 18, 2017, public meeting, p. 2.

the scope, many of which are complex and interdependent. While participants did not reach consensus on the scope and schedule, Staff considered stakeholders' input valuable in ordering and grouping the different issues, and developed the proposal for three separate rulemakings outlined in the next section.

Staff's proposal for informal rulemakings

As noted at the January 10, 2018, workshop, the RPS issues that could be addressed through this rulemaking are broad. Staff proposes a scope and schedule that balances this breadth with the need to move quickly and consider the varied interests associated with these substantial issues. To achieve this balance, Staff proposes grouping the issues into three dockets as described below.

1. AR 610 Incremental Cost of Compliance

Electric utilities are not required to comply with the RPS to the extent that the incremental cost of compliance exceeds 4 percent of annual revenue requirement for the compliance year.³ OAR Chapter 860, Division 83 provides a detailed methodology for Electric Companies to calculate the incremental cost of compliance, and was further refined in Commission Order No. 14-034, Docket No. UM 1616. Ensuring this methodology reflects the most accurate estimation of the incremental cost of compliance will continue to increase in importance as higher RPS targets drive higher costs.

This methodology has been a point of stakeholder focus in various proceedings since adoption. For example, stakeholders have questioned the adequacy of the current proxy plant methodology⁴ and noted the disconnection between the time that ratepayers incur the cost of a MWh generated and the year when the costs are included in the incremental cost of compliance.⁵

Scope

Staff proposes the following scope for this docket:

³ ORS 469A.100(1).

⁴ For example, Industrial Customers of Northwest Utilities (ICNU) comments filed in *In the Matter of Portland General Electric's 2016 Revised Renewable Portfolio Standard Implementation Plan*, Docket No. UM 1788, at p. 18 (September 12, 2016) and *In the Matter of PacifiCorp dba Pacific Power 2017-2021 Renewable Portfolio Standard Implementation Plan*, Docket No. UM 1790 at p. 5 (September 9, 2016).

⁵ For example, Staff's initial comments filed in the pending RPIP dockets: *In the Matter of PacifiCorp dba Pacific Power 2019-2023 Renewable Portfolio Standard Implementation Plan*, Docket No. UM 1914 and *In the Matter of Portland General Electric's 2018 Renewable Portfolio Standard Implementation Plan*, Docket No. UM 1916.

- Consider the accuracy of the methodology to calculate incremental costs. Examples of questions related to compliance costs include:
 - Is the proxy plant methodology appropriate?
 - Are all of the appropriate categories of cost included in the calculation?
 - Is the methodology for including compliance costs in the incremental cost calculation appropriate?
- Consider whether the methodology to calculate annual revenue requirement is appropriate. Examples of questions related to revenue requirement are:
 - Whether the costs included and excluded are appropriate.
 - Whether additional amendments are necessary.

Timing

The incremental cost methodology is technical and complex. Staff proposes to launch the incremental cost of compliance docket first in the interest of time and resources. Staff also expects that any draft rule amendments developed under this docket will help inform the outcome of the other two RPS dockets.

2. New Rulemaking Docket on RPS Planning Process and Reports

Under the current rules, electric companies file three documents associated with RPS reporting and tracking: the Compliance Report, the Renewable Portfolio Standard Implementation Plan (RPIP) and the Integrated Resource Plan (IRP) which informs the RPIP. As the landscape evolves, RPS planning and reporting requirements have been an ongoing stakeholder focus. Specifically, the form, function and alignment of the three RPS report and tracking documents.

Scope

Staff proposes the following scope for this docket:

- Consider amendments to best align the rules with the purpose of each report. For example, Staff suggests the rulemaking docket address questions such as:
 - What is the function of the RPIP and the Compliance Report? How does one complement the other? And, how does each relate to the IRP?
 - Does the Compliance Report or RPIP (or both) signal action on the 4 percent threshold, and should the rules include more guidance about the process when 4 percent is reached?
 - Is more specific criteria for the RPIP or Compliance Report needed for acknowledgement?
- Consider updates to the schedule of planning and reporting requirements.

- For example, whether the Commission should update the rules about timing or frequency of the RPIP, or both, to more directly align with the timing of the IRP.
- Consider updates to report content.
 - For example, the RPIP template was adopted in 2011 and reflects the best understanding of planning and reporting at the time.⁶ Since then, stakeholders have gained additional experience with the template and SB 1547 changed the mechanics of compliance. Staff also notes that changes from the RPS rulemaking dockets may affect the usefulness of the 2011 template. Staff proposes that the rulemaking docket address content issues that include:
 - Is the five year planning horizon required in the RPIP appropriate given the longer-term impacts of the companies' renewable resource acquisitions and the ability to bank certain RECs beyond the compliance window?
 - Are the required scenarios and sensitivities still appropriate?
 - Are amendments required for how Electric Companies plan for and report on their REC bank management strategy to ensure RPIPs plan for least-cost, least-risk acquisition of resources?
 - Are the procedural guidelines for reviewing reports still appropriate?
- Develop a definition of "associated energy storage" per SB 1547 in this rulemaking.⁷

Timing

RPS planning and reporting relies heavily on the Electric Companies' incremental cost calculation. Staff proposes to begin addressing planning and reporting issues after the Incremental Cost of Compliance rulemaking docket has launched so that the outcomes of AR 610 can inform the planning and reporting process as much as possible.

3. New Rulemaking Docket on Renewable Energy Certificate Issues in the RPS

As the primary instrument for Electric Companies to comply with RPS, the rules provide extensive guidance for the when and how RECs can be used. The changing RPS

⁶ With Order Nos. 11-440 and 11-441, issued November 9, 2011, the Commission adopted a standardized reporting template for the RPIP for PGE and PacifiCorp.

⁷ Section 11(2)(a) of SB 1547 amends ORS 469A.120(2)(a), which authorizes cost recovery through the renewable adjustment clause, to include "costs related to associated energy storage." Staff finds that associated energy storage requires a definition in OAR 860-083-0010, but this item does not fit well within the three proposed dockets. Staff has included it in the implementation plan docket because it may be the least technical and complex rulemaking.

landscape raises several specific REC issues, which Staff proposes to address in this docket.

Scope

Staff proposes the following scope for this docket:

- Consider whether amendments to the REC banking rules are required.
 - For example, SB 1547, Section 7, removed the requirement in ORS 469A.140 that electric companies utilize banked RECs in order from first issued to last issued, and established new guidelines for the eligible life of different types of banked RECs. Are amendments required to conform to these changes?
- Consider whether amendments are necessary to address the use of bundled RECs. Examples of bundled REC issues include:
 - SB 1547, Section 10 generally caps the use of unbundled RECs by ESSs at 20 percent beginning in 2021. Are amendments to the RPS rules needed to conform to or implement this cap?
 - Are amendments required for the valuation and transfer of RECs that are no longer needed for compliance when customers move to direct access?⁸
- Consider amendments related to the allocation of RECs for multi-state utilities.
 - For example, ORS 469A.150 directs the Commission to establish a 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. What rules are needed to establish a REC allocation process for multi-state jurisdictions?

Timing

The rules governing the use of RECs for compliance are linked to the incremental cost of compliance and the planning and reporting process. Staff proposes to begin addressing these discrete REC issues after the other two dockets launch in order to effectively align the use of RECs with any resulting amendments.

Staff's Proposed Process for the RPS Rulemaking Dockets

Staff proposes to launch each docket with a scoping workshop, staggered in the following sequence:

- May 2018: Incremental Cost of Compliance Scoping Workshop
- July 2018: Planning Process and Reports Scoping Workshop

⁸ Staff notes that this issue relates to the use of bundled RECs because it raises the question of whether a bundled REC is still considered bundled once transferred from a utility to the ESS.

- August 2018: Renewable Energy Certificate Scoping Workshop

Staff proposes to work with stakeholders to develop draft proposed rules throughout the three dockets but will wait until draft rules are developed in each docket before requesting the Commission open formal rulemaking in any of the RPS dockets. This will allow greater coordination of the outcomes of the different dockets and may help to simplify the formal rulemaking process.

Issues Not Included in the Scope

Staff notes that the proposed scope does not include every issue connected with SB 1547 and ongoing RPS compliance. Most notably, SB 1547, Staff does not include Section 14, which changed the goal of eight percent small-scale community-based renewable energy to a requirement. While Staff recognizes the importance of addressing this issue, it proposes to do so through a separate rulemaking. Staff expects this approach will better support the timeline of the RPS rulemaking.

Conclusion

It is necessary to launch multiple, sequential RPS rulemaking to address changes from SB 1547 and ongoing issues that have emerged since the RPS rules were adopted over ten years ago. Staff proposes the following docket structure for the informal rulemaking:

Docket	Issue	Kick-off Workshop
AR 610	Incremental Cost of Compliance	May 2018
AR 6XX	Planning Process and Reports	July 2018
AR 6XX	Renewable Energy Certificate Issues	August 2018

PROPOSED COMMISSION MOTION:

Revise the scope of AR 610 to focus solely on the incremental cost of compliance and open two related rulemaking dockets specific to RPS Planning Process and Reports and Renewable Energy Certificate Issues, respectively.