BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
May 19, 2009
AR 518 Phase III

In the Matter of a Rulemaking to Implement SB 838 Relating to Renewable Portfolio Standards	STAFF'S PHASE III REPLY TO PGE'S AND PACIFICORP'S COMMENTS

Pursuant to the Notice of Proposed Rulemaking Hearing of April 15, 2009, staff of the Public Utility Commission of Oregon (staff) replies to Portland General Electric's (PGE) comments regarding the rule on Incremental Costs (OAR 860-083-0100) that it filed on May 14, 2009.

Staff will address two aspects of PGE's comments. First, staff will discuss why it disagrees with PGE's statement at the end of section III on page 3 that "In any event the incremental cost [of qualifying electricity] should never be less than zero."

Second, staff explains why it supports the intent of PGE's other recommended amendments to the proposed rule. A discussion of staff's proposed edits is provided below.

Third staff responds to PacifiCorp's concern about information on the renewable energy certificates (RECs) needed to determine chronological order under OAR 860-083-0300(3)(b)(B) and (C).

Finally, staff includes with these reply comments its proposed rule with new edits to staff's April 15 proposed rules shown in red print (redline).

PGE's argument that incremental costs should never be negative is incorrect for three reasons:

First, PGE's "opportunity cost" concept of the market price of a renewable energy certificate (REC) as a measure of incremental cost is inconsistent with staff's reading of the intent of the law. Senate Bill 838 ("SB 838 or Act") could have included the opportunity cost concept.[1] Alternatively, SB 838 could have stated that the incremental cost of qualifying electricity cannot be less than zero. SB 838 does neither.

Instead ORS 469A.100(4) provides:

> *For the purposes of this section, the incremental cost of compliance with a renewable portfolio standard is the difference between the levelized annual delivered cost of the qualifying electricity and the levelized annual delivered cost of an equivalent amount of reasonably available electricity that is not qualifying electricity. For the purpose of this subsection, the commission or governing body of a consumer-owned utility shall use the net present value of delivered cost, including:*

[1] SB 838 is codified as ORS 469A.005 to 469A.210.

(a) Capital, operating and maintenance costs of generating facilities;
(b) Financing costs attributable to capital, operating and maintenance expenditures for generating facilities;
(c) Transmission and substation costs;
(d) Load following and ancillary services costs; and
(e) Costs associated with using other assets, physical or financial, to integrate, firm or shape renewable energy sources on a firm annual basis to meet retail electricity needs.

ORS 469A.100(4) compares "*the levelized annual **delivered cost** of the qualifying electricity and the levelized annual **delivered cost** of an equivalent amount of reasonably available electricity that is not qualifying electricity.*" (Emphasis added.) Subsections (a) though (e) refer to real costs of delivered electricity. Nothing in ORS 469.100 implies the incremental cost of compliance is the market price of the renewable energy certificate (REC) associated with the qualifying electricity.

Second, PGE is correct that, even absent SB 838, it should have acquired all renewable generation that costs less than the expected long-run cost of purchased power or other non-renewable resources. Even so, under ORS 469A.100(4) the incremental cost of compliance must be based on a comparison of the costs of delivered qualifying electricity and delivered non-qualifying electricity. Incremental cost cannot be a comparison of renewable resources with other renewable resources. Staff believes this must apply to all qualifying electricity acquired after passage of SB 838.

PGE's proposal to exclude negative incremental costs is unworkable. It is impractical to guess which MWh of renewable generation would have been acquired absent the Act. The only practical meaning of the "cost of compliance" is the incremental cost of all qualifying electricity acquired after passage of the Act, sufficient to meet the RPS.

Only resources acquired before the passage of the Act can be deemed, a priori, to have zero incremental costs. Certified low-impact hydro is deemed to have zero incremental costs in OAR 860-083-100(1)(i) because staff expects actual incremental costs will be negligible.

Third, PGE's proposal should be rejected because excluding projects with negative incremental costs would bias the average of incremental costs because of errors in forecasting incremental costs. Actual average incremental cost is key because the Act provides a cost limit that compares the actual annual cost of compliance with annual revenues.

ORS 469A.100(1) states:

> *Electric utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative*

compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year.

ORS 469A.100(1) thus creates what the is commonly-called an "off ramp" that limits the required net long-run rate impact of the Act's Renewable Portfolio Standard (RPS) to less than four percent of the utility's annual revenue requirement for the compliance year.

The expected cost of many projects that provide qualifying electricity will be close to the expected cost of the corresponding proxy plant. Actual costs will vary. Eliminating projects with actual negative incremental costs from the calculation of average incremental costs would bias the estimate of the average rate increase. The cost limit would be binding when it should not.

Staff provides the example shown in Table 1.

Table 1
Implications of Eliminating Negative Incremental Cost

The levelized cost of the proxy plant is fixed at $49.00 per MWh.
The costs of renewable plants are assumed to vary by plus or minus 10% around $50.50 per MWh

The correct incremental cost is	**3.1%**
Eliminating negative incremental costs from the average yields an incorrect incremental cost of	**4.6%**

Assume 11 renewable projects

Project Number	Renewable Cost ($/MWh)	Proxy Cost ($/MWh)	Incremental Cost ($/MWh)
1	$45.45	$49.00	($3.55)
2	$46.46	$49.00	($2.54)
3	$47.47	$49.00	($1.53)
4	$48.48	$49.00	($0.52)
5	$49.49	$49.00	$0.49
6	$50.50	$49.00	$1.50
7	$51.51	$49.00	$2.51
8	$52.52	$49.00	$3.52
9	$53.53	$49.00	$4.53
10	$54.54	$49.00	$5.54
11	$55.55	$49.00	$6.55
average	*$50.50*		

Correct sum of incremental costs: $16.50
Incremental cost sum excluding negative costs: $24.64

This simplified example sets average costs for qualifying electricity and the proxy plant at $50.50 and $49.00 per MWh, respectively.[2] In the absence of an RPS, rates would be $49 per MWh. With an RPS of 100 percent, rates would be $50.50. This is a long-run equilibrium case where all proxy/non-qualifying resources have been sold or have reached the end of their useful lives.

If the average cost of the qualifying electricity was $50.50, a reasonable interpretation of ORS 469A.100(1) would be the cost limit should not be binding. The retail rate would be 3.1 percent higher with 100 percent renewables than with 100 percent proxy plants.

Now, assume the actual costs of qualifying electricity projects vary from the costs anticipated when the utility committed to build them. This will occur for many reasons, including variations in the quality of the renewable resource on the site (e.g. wind speed), construction contingencies, changes in equipment costs after a commitment to build, etc. For any construction year, the cost of a proxy plant would not vary.

This example assumes the costs of qualifying electricity projects vary by plus or minus 10 percent from expected. For eleven projects with a uniform distribution, the costs of the projects would range from $45.45 to $55.55 with a median project cost of $50.50.

Table 1 shows that eliminating projects with negative incremental costs would produce an estimate of aggregate incremental costs of 4.6 percent when aggregate incremental costs were actually 3.1 percent. PGE's proposal would incorrectly indicate the cost limit is binding.

Negative actual incremental costs can also occur if natural gas prices for the proxy plant are higher than was expected when a qualifying resource was built. The impacts of gas price forecasting errors are likely greater than for errors in forecasting the cost of qualifying electricity.

PGE Proposed Rule Amendments

Staff agrees with the intent of PGE's proposed changes to Sections 4 and 5 of the implementation plan rule and Subsection 9(e) of the incremental cost rule.

The attached amended rule for Sections 4 and 5 of the implementation plan rule adds Commission guideline 1.b. to guideline 1.c in PGE's proposal. Guideline 1.b. also relates to risk analyses. A second amendment includes subsequent Commission guidelines for implementation plans that are not amendments to Order No. 07-047.

As intended by PGE, the attached amended rule for Subsection 9(e) of the incremental cost rule requires annual updates for actual qualifying electricity and fuel prices in compliance plans. The amended rule adds "compliance reports" to subsection 9(a) and

[2] Assuming no unbundled RECs or alternative compliance payments are used for compliance and absent an RPS, the revenue requirement would include only the cost of proxy plants.

(d). These subsections require updates for actual qualifying electricity and fuel prices. With these changes, the subsection 9(e) is no longer needed and is deleted.

PacifiCorp's Concern about Determining Chronological Order

OAR 860-083-0300(3)(b)(B) and (C) require that RECs be used in the chronological order that they were issued. At the May 18 rulemaking hearing, PacifiCorp expressed concern about what information will be on a REC to determine when it was issued. WREGIS RECs under OAR 330-160-0020 currently contain only the month and year that the RECs were issued. This is the only chronological information available for compliance.

For currently-issued WREGIS RECs, the rule intends monthly chronological order. If WREGIS adds more detailed chronological information on future RECs, such information should be used. The rule as currently drafted will accomplish this.

Amendments to the Proposed Rules

The proposed rules are included with these comments. In addition to changes related to PGE's comments, there are changes to OAR 860-083-0300(3)(b)(B) and (C). The phrase "through March 31" is used to be inclusive of RECs issued on March 31. The complete new phrase in OAR 860-083-0300(3)(b)(B) is applied to (C).

Respectfully submitted,

/s/ Phil Carver

Philip H. Carver, Ph.D.
Public Utility Commission of Oregon
Senior Policy Analyst
philip.carver@state.or.us

*Note: With the exception of rule 860-083-0005, the remainder of the rules are **NEW** proposed rules, and for ease in reading, the traditional bolded and underlined style is not used.*
Redline changes are proposed changes by the OPUC staff to the initial proposed rules of April 15, 2009. These changes are discussed in OPUC staff comments of May 8, and May 19, 2009. Proposed changes of May 19 are highlighted in yellow.

860-083-0005 **
Scope and Applicability of Renewable Portfolio Standards Rules

(1) OAR 860-083-0005 through 860-083-0~~0~~50**0** (the "Renewable Portfolio Standards rules") establish rules governing implementation of Renewable Portfolio Standards for electric companies and electricity service suppliers provided under ORS 469A.005 through 469A.210.

(2) For good cause shown, a person may request the Commission waive any of the Renewable Portfolio Standards rules.

~~(3) As used in OAR 860-083-0050:~~

~~(a) "Electric company" has the meaning given that term in ORS 757.600.~~

~~(b) "Electricity service supplier" has the meaning given that term in ORS 757.600.~~

~~(c) "Renewable energy certificate" has the meaning given that term in OAR 330-160-0015(8) (effective September 3, 2008).~~

~~(d) "To use a renewable energy certificate" means to employ, or exercise the rights to, a renewable energy certificate to meet or comply with a legal requirement in Oregon or in any other state, including, but not limited to, power source disclosure reporting under OAR 860-038-0300(8).~~

***This shows the proposed rule from Phase II as modified by Phase III proposals.*

860-083-0010
Definitions

As used in Division 083:

(1) "Aggregate costs" means all costs included in ORS 469A.100(4)(d) and (e) and those transmission costs included in 469A.100(4)(c) that can reasonably serve more than one generating facility. Aggregate costs also include physical or financial costs for assets to replace interruptions of generation or deliveries of short-term or long-term qualifying electricity, short-term electricity that is not qualifying, or electricity from proxy plants.

(2) "Alternative compliance rate" has the meaning given that term in ORS 469A.180(2).

(3) "Amortization" means spreading the initial estimates of capital costs of long-term qualifying electricity or a proxy plant at the discount rate over an initial amortization

period. For replacement costs that were not included in the initial estimate of capital or operating costs for qualifying electricity, amortization means spreading such replacement costs at the discount rate over the remainder of the current amortization period for the associated qualifying electricity. For significant investments in facilities producing qualifying electricity, amortization means spreading such significant investment costs and the remaining unamortized investment of the facility at the discount rate over the expected useful life of the facility.

(4) "Annual revenue requirement" has the meaning given that term in ORS 469A.100(3).

(5) "Applicable filing for an electric company" means an implementation plan under ORS 469A.075, a filing for a change to rates for retail electricity consumers that includes costs of qualifying electricity in rates for the first time, or a compliance report under ORS 469A.170. Applicable filing does not include filings to change rates before 2011.

(6) "Applicable filing for an electricity service supplier" means a compliance report under ORS 469A.170.

(7) "Average cost of compliance" for an electricity service supplier means its total cost of compliance divided by its retail sales in megawatt-hours in the service areas of electric companies subject to ORS 469A.052 for a compliance year.

(8) "Average retail revenue" for an electric company means the annual revenue requirement for a compliance year as determined in OAR 860-083-0200 divided by the forecast of retail sales in megawatt-hours used to determine the annual revenue requirement.

(9) "Banked renewable energy certificate" has the meaning given that term in ORS 469A.005(1).

(10) "Bundled renewable energy certificate" has the meaning given that term in ORS 469A.005(3).

(11) "Compliance year" has the meaning given that term in ORS 469A.005(4).

(12) "Cost of ~~a~~ bundled renewable energy certificates" means the ~~estimate in the applicable compliance report of the~~ levelized incremental cost of the qualifying electricity associated with the bundled renewable energy certificate.

(13) "Cost limit for an electric company" has the meaning given that term in ORS 469A.100.

(14) "Cost limit for an electricity service supplier" under ORS 469A.100(6) means four percent of the weighted average of the average retail revenues per megawatt-hour of the electric companies subject to ORS 469A.052 in whose service areas the electricity

service supplier sells electricity in a compliance year. The weights are the retail sales in megawatt-hours by the electricity service supplier in the service areas of electric companies subject to ORS 469A.052 in the compliance year.

(15) "Discount rate" means the nominal after-tax marginal weighted-average cost of capital.

(16) "Electric company" has the meaning given that term in ORS 757.600.

(17) "Electricity service supplier" has the meaning given that term in ORS 757.600.

(18) "Extended amortization period" means the period or periods after an initial amortization period where a facility will continue to provide qualifying electricity.

(19) "Implementation plan" has the meaning given that term in ORS 469A.075.

(20) "Incremental cost of compliance" means the cost of bundled renewable energy certificates used for compliance for a compliance year as calculated pursuant to OAR 860-083-0100.

(21) "Initial amortization period for an electric company " means the amortization period for new long-term qualifying electricity or a corresponding proxy plant established in the beginning year of new long-term qualifying electricity. If the qualifying electricity is acquired through a contract, the length of the amortization period is the term of the agreement. For facilities owned by an electric company and the proxy plant, the initial amortization period is based on the electric company's most recent depreciation study approved by the Commission for the type of generating facility.

(22) "Initial amortization period for an electricity service supplier" for facilities that produce qualifying electricity means a period based on the expected useful lifetime of the facility. If the qualifying electricity is acquired through a contract, the length of the amortization period is the term of the agreement. For proxy plants for an electricity service supplier, the initial amortization period means the period for a proxy plant used by the electric company subject to ORS 469A.052 in whose service area it made the most retail sales in megawatt-hours over the five calendar years preceding the compliance year.

(23) "Integrated resource plan" means the long-term resource plan filed by an electric company that is subject to Commission acknowledgment as is generally set forth in Commission Order Nos. 07-002, 07-047 and 08-339. Integrated resource plan does not include an implementation plan filed under ORS 469A.075.

(24) "Interruptions of generation or deliveries" include, but are not limited to, planned and unplanned generating and transmission facility outages and derates, natural gas delivery interruptions, and reduced generation due to weather or curtailments.

(25) "Levelized cost for long-term qualifying electricity and the correspondinga proxy plant" means the present value of amortized capital costs and all other costs amortized at the discount rate over the time horizon of the qualifying electricity. or proxy plant. Levelized cost also includes an estimate of the net present value of costs and benefits for the qualifying electricity and the corresponding proxy plant likely to occur after the end of the applicable time horizon, amortized over the time horizon at the discount rate.

(26) "Levelized cost for short-term qualifying electricity" means costs levelized over the term of the contract.

(27) "Levelized cost for short-term non-qualifying electricity" means costs levelized over a term consistent with the duration of the contract for qualifying electricity.

(28) "Long-term qualifying electricity" means electricity from facilities owned by an electric company or electricity service supplier that generate qualifying electricity and qualifying electricity purchased pursuant to contracts of five years or more in duration.

(29) "New qualifying electricity for an electric company" means qualifying electricity when the costs are first included in an applicable filing for a compliance year. New qualifying electricity may be from new generating facilities, generating facilities with significant new investments, or new contracts to purchase electricity.

(30) "New qualifying electricity for an electricity service supplier" means qualifying electricity from new generating facilities, generating facilities with significant new investments, or new contracts to purchase electricity that the supplier plans to use to serve customers of electric companies subject to ORS 469A.052 and are first operational in a compliance year.

(31) "Proxy plant" means, unless otherwise specified by the commissionCommission, a base-load combined-cycle natural gas-fired generating facility that is used to estimate the costs of non-qualifying electricity corresponding to new long-term qualifying electricity with the same beginning amortization year.

(32) "Qualifying electricity" has the meaning given that term in ORS 469A.005(9).

(33) "Renewable energy certificate" has the meaning given that term in OAR 330-160-0015(8) (effective September 3, 2008).

(34) "Renewable energy source" has the meaning given that term in ORS 469A.005(10).

(35) "Replacement costs" means capital costs that have the effect of replacing initial capital costs for long-term qualifying electricity or proxy plants.

(36) “Retail electricity consumer” has the meaning given that term in ORS 469A.005(11).

(37) “Short-term qualifying electricity” means qualifying electricity purchased pursuant to contracts of less than five years in duration.

(38) “Significant investments" means investments in a compliance year that if the investments were amortized over the remainder of the amortization period and combined with cost changes associated with such investments, they would increase the levelized cost of the facility by more than 10 percent. Such estimates do not include replacement costs that were included in the initial estimates of capital or operating costs.

(39) “Specific costs” means the costs for electricity plus the costs for transmission delivery and substations that can reasonably serve only a single generating facility or contract.

~~(40) “Time horizon” means, for long-term qualifying electricity or for a proxy plant, either its amortization period or the period from the beginning year of its amortization period up until 20 years after the current compliance year, whichever results in a shorter period.~~

(401) “To use a renewable energy certificate” means to employ, or exercise the rights to, a renewable energy certificate to meet or comply with a legal requirement in Oregon or in any other state, including, but not limited to, power source disclosure reporting under OAR 860-038-0300(8).

(412) “Total cost of compliance” for an electric company or electricity service supplier means the cumulative cost of:

(a) The incremental cost of compliance;

(b) The cost of unbundled renewable energy certificates used to meet the applicable renewable portfolio standard for a compliance year; and

(c) The cost of alternative compliance payments used to meet the applicable renewable portfolio standard for a compliance year.

(423) “Unbundled renewable energy certificate” has the meaning given that term in ORS 469A.005(12).

OAR 860-083-0100
Incremental Costs

(1) (a) For amortization and levelization calculations, ~~an electric company must use the discount rate set forth in the most recently issued Commission order for the electric company’s integrated resource plan if the order specified such a rate. If the order did not specify a rate,~~ an electric company must use the discount rate used in its~~from the~~ most recently filed or updated integrated resource plan, unless otherwise specified by the Commission. ~~For amortization and levelization calculations, an electricity service~~

~~supplier must use the same discount rate as the electric company in whose service area it made the most retail sales over the five calendar years preceding the compliance year.~~

(b) For amortization and levelization calculations, an electricity service supplier must use the discount rate applicable to the electric company in whose service area it made the most retail sales in megawatt-hours over the five calendar years preceding the compliance year.

(~~a~~c) The incremental cost under ORS 469A.100(4) for long-term qualifying electricity is the difference between the levelized annual cost of qualifying electricity delivered in a compliance year and the levelized annual cost of an equivalent amount of electricity delivered from the corresponding proxy plant.

(d) The time horizon for long-term qualifying electricity and for the corresponding proxy plant must be no longer than the amortization period of the qualifying electricity and must be at least as long as the lesser of:

(A) The amortization period of the qualifying electricity; or

(B) The period from the beginning year of the amortization period of the qualifying electricity ~~up~~ until 20 years after the current compliance year.

(e~~b~~) The incremental cost under ORS 469A.100(4) for short-term qualifying electricity is the difference between the levelized annual cost of qualifying electricity delivered in a compliance year and the levelized annual cost of an equivalent amount of delivered market purchases with a consistent term that is not qualifying electricity. The cost of non-qualifying electricity must be based on published prices for a nearby electricity trading hub. When choosing among nearby hubs, the one with transmission costs most similar to the short-term qualifying electricity must be used. Specific costs must be adjusted to account for the differences in all transmission-associated costs.

(f~~c~~) Levelized annual delivered costs for qualifying electricity and non-qualifying electricity are specific costs plus applicable shares of aggregate costs.

(g) Aggregate and specific costs for interstate electric companies must reflect interstate allocations of costs.

(h) Incremental cost estimates for an electric company must be based on the likely impacts on the rates of its Oregon retail electricity consumers.

(i~~d~~) Incremental costs are deemed to be zero for qualifying electricity from generating facilities or contracts that became operational before June 6, 2007 and for certified low-impact hydroelectric facilities under ORS 469A.025(5).

(2) Each electric company must forecast the levelized incremental cost of long-term qualifying electricity in the following manner:

(a) For each generation source of qualifying electricity, the electric company must estimate the delivered cost of qualifying electricity for each year over the time horizon of the qualifying electricity. Delivered cost includes aggregate costs and costs specific to a generating facility or contract. Costs include, but are not limited to, those specified in ORS 469A.100(4). Capital costs must be amortized.

(b) The levelized annual cost of qualifying electricity delivered in the compliance year must be based on all costs that will be included in rates through the qualifying electricity's time horizon.

(c) Aggregate costs must be estimated as the incremental cost to the utility system for all qualifying electricity.

(d) Aggregate transmission costs must be allocated proportionately to existing and planned generating facilities that will reasonably be served by the transmission facilities.

~~(e) Aggregate and specific costs for interstate electric companies must reflect interstate allocations of costs.~~

(~~e~~f) If an electric company anticipates that it will have firming and shaping services available for sale for a compliance year, the company may not use rates in its Open Access Transmission Tariff approved by the Federal Energy Regulatory Commission as the basis for the firming or shaping portion of aggregate costs. In such case, the electric company should use the actual or forecasted cost of supplying or purchasing firming and shaping services as the basis for such costs. If an electric company anticipates it will not be able to sell firming and shaping services due to its use of such services, the company may use its approved Open Access Transmission Tariff as the basis for such costs. ~~If an electric company's uses such tariff as the basis for such costs, the estimate must be based on the likely net financial impacts on its Oregon retail electricity consumers.~~

(3) Each electricity service supplier must forecast the cost of long-term qualifying electricity it plans to use to serve the service areas of electric companies subject to ORS 469A.052 consistent with section (2) of this rule.

(4) Updates of amortization periods are required for compliance reports described in ORS 469A.170 and implementation plans described in ORS 469A.075 under any of the following circumstances:

(a) If a generation facility that was previously included in a compliance report has significant investment costs in a compliance year, all qualifying electricity from the facility is new qualifying electricity under this rule with an amortization period based on the expected useful life of the facility, considering such investments. Except as provided in subsections (13)(a) and (b) of this rule, costs for each such facility must be updated in the next regularly scheduled compliance report and implementation plan,.

(b) Except as provided in subsections (13)(a) and (b) of this rule, if a generating facility produces qualifying electricity after all capital costs have been amortized, the electric company must update the next regularly scheduled compliance report and implementation plan to establish an extended amortization period. The extended amortization period must be based on the expected remaining useful life of the facility. Qualifying electricity from the facility must be treated in the same manner as a new qualifying electricity. Additional extended amortization periods may be added.

(c) Each electricity service supplier must update amortization periods for long-term qualifying electricity it plans to use to serve the service areas of electric companies subject to ORS 469A.052 consistent with subsections (4)(a) and (b) of this rule.

(5) The amortization period for a generation facility ~~that was previously included in a compliance report~~ may change as provided in subsections (4)(a) or (b) or (6)(g) of this rule. Otherwise, the amortization period of the facility may not change.

(6) For each compliance year, except as provided in subsections (13)(a) and (b) of this rule, each electric company must establish a new proxy plant for use in estimating the cost of non-qualifying electricity corresponding to new long-term qualifying electricity

with the same beginning amortization year. New proxy plant costs must be based on relevant information in the most recently filed or updated integrated resource plan unless there have been material changes since the most recent of such filings. Proxy plant costs must be estimated in the following manner:

(a) For each new proxy plant, each electric company must provide the estimated heat rate, availability factor, operation and maintenance costs per megawatt-hour, annualized capital replacement costs per megawatt-hour, and the initial capital costs per megawatt. The initial capital cost estimate must comply with the following requirements:

(A) Adjustment must be made for price escalation or de-escalation based on the initial year of the proxy plant and the applicable year of the estimate. Such adjustment may be based on applicable construction cost indexes or other published sources; and

(B) Initial capital costs must be amortized.

(b) Each electric company must estimate the costs of factors listed in subsection (6)(a) of this rule and other elements of the proxy plant that affect its costs for each year of the time horizon of the proxy plant. Estimates must account for expected degradation of the heat rate, capacity, and other elements affecting costs. Forecasts of fuel prices must include cost adders based on current regulation of greenhouse gas emissions or such regulations that are known or reasonably expected to be implemented in the relevant time frame.

(c) Each electric company must allocate aggregate costs for proxy plants in a manner consistent with the allocation of aggregate costs for qualifying electricity.

(d) For calculating the incremental cost for long-term qualifying electricity from a specific generating source, annual ~~A~~aggregate and specific costs for the ~~each~~ corresponding proxy plant must be levelized over the ~~its~~ time horizon of the qualifying electricity.

(e) The average cost per megawatt-hour for each year of the applicable ~~a proxy plant's~~ time horizon is the levelized cost in subsection (6)(d) of this rule divided by the expected base-load electricity production of the proxy plant for that year.

(f) The cost of equivalent non-qualifying electricity is the estimated average cost per megawatt-hour of the proxy plant in subsection (6)(e) of this rule for each year multiplied by the amount of corresponding long-term qualifying electricity that was produced, or is expected to be produced, in each year of ~~its~~the applicable time horizon.

(g) If corresponding long-term qualifying electricity is produced or is planned to be produced after a proxy plant's initial amortization period, a new amortization period for the qualifying electricity must be established based on the expected remaining useful life of the generating facility. Any remaining unamortized investment for the facility associated with the qualifying electricity must be amortized over the new amortization period. Qualifying electricity from the facility must be treated in the same manner as new qualifying electricity.

(h) If the initial amortization period for new long-term qualifying electricity is longer than the initial amortization period for the corresponding proxy plant, the electric company must estimate the year-by-year replacement capital, operation and maintenance expenditures necessary to extend the lifetime of the proxy plant to a period equal to or greater than the amortization period of the qualifying electricity. In such case, initial and replacement capital costs of the proxy plant must be amortized over its extended lifetime before the proxy plant costs are levelized in subsection (6)(d) of this rule. Fuel costs must

be estimated for each year of the extended lifetime of the proxy plant. A~~Such~~ proxy plant whose lifetime has been extended under this subsection may be used as the corresponding proxy plant for all new long-term qualifying electricity with the same beginning amortization year.

(~~ih~~) Each electricity service supplier must forecast the cost of proxy plants consistent with subsections (6)(a) through (~~gh~~) of this rule for plants corresponding to long-term qualifying electricity it plans to use to serve the service areas of an electric company subject to ORS 469A.052.

(7) To the extent practical, forecasts of proxy plant fuel prices in compliance reports and implementation plans must be based on the most recent forecast filed in an avoided cost proceeding under ORS 758.525(1) or filed or updated in an integrated resource planning proceeding per Commission orders. Fuel prices must include fuel transportation costs to an appropriate location for the proxy plant. Forecasts of fuel costs made by electric companies and electricity service suppliers for each new proxy plant must use one of the following methods when a new proxy plant is established:

(a) Proxy plant fuel prices may be based on financially firm, long-term fixed prices for fuel for the period such contracts are available. After such period, the method in subsection (7)(b) of this rule must be used; or~~.~~

(b) Proxy plant fuel prices may be based on forecasts of spot prices for fuel at an appropriate market trading hub plus an estimate of the cost of hedging as much fuel price risk as can be reasonably achieved for remainder of the time horizon of such plant.

(8) To the extent practical, forecasts of biomass fuel prices in compliance reports and implementation plans must be based on the most recently filed or updated integrated resource plan. Fuel costs for long-term qualifying electricity from biomass sources specified in ORS 469A.025(2) must be forecast in a manner that reduces fuel price risk as much can be reasonably achieved though long-term contracts, hedging, or other mechanisms for the time horizon of the generation resource.

(9)(a) If fuel prices for a proxy plant or biomass plant were forecasted based on a method similar to the method in subsection (7)(b) of this rule, an electric company must update plant costs for actual spot fuel prices, including actual cost adders from regulation of greenhouse gas emissions, in each implementation plan and compliance report.

(b) If fuel prices are updated as described in subsection (9)(a) of this rule, actual fuel costs must include hedging costs as described in subsection (7)(b) or section (8) of this rule.

(c) For the period fuel prices for a proxy plant or biomass plant were forecasted based on a method similar to the method in subsection (7)(a) of this rule, fuel costs are not updated, except fuel costs are updated for additional actual costs from regulation of greenhouse gas emissions if such costs were not included in the contract referenced in subsection (7)(a) of this rule.

(d) In its implementation plans and compliance reports, an electric company must update ~~cost estimates~~ for amounts of actual qualifying electricity.

~~(e) In its compliance reports, an electric company must use the amounts of actual qualifying electricity, the actual fuel prices~~(e) To the extent that forecasts of the amount

of qualifying electricity are used in a compliance report, such forecasts, to the extent practicable, should be based on ~~and the forecasts for the amounts of qualifying electricity from~~ the most recently filed implementation plan, unless section (10) or (11) of this rule applies.

(f) In its compliance reports, an electricity service supplier must include updated estimates of the incremental cost of long-term qualifying electricity at least every two years consistent with subsections (9)(a) through (e) of this rule for qualifying electricity it plans to use to serve the service areas of an electric company subject to ORS 469A.052.

(10) If an electric company or electricity service supplier discovers a significant error in its incremental cost estimates, it must update incremental cost estimates in the next applicable filing.

(11) If the number of renewable energy certificates used for compliance or the amount of alternative compliance payments is reduced due to a cost limit in ORS 469A.100, the electric company or electricity service supplier must review the methodologies used to estimate the levelized costs of proxy plants and long-term qualifying electricity. If a systematic error is discovered, all such errors must be corrected in estimates of the incremental costs of qualifying electricity in the applicable compliance report. If such a correction is made, the correct total number of certificates and amount of alternative compliance payment, if any, must be used for the compliance year.

(12) If the cost limit specified in ORS 469A.100(1) is expected to reduce the number of renewable energy certificates used for compliance or the amount of alternative compliance payments for any forecasted compliance year covered by an implementation plan, the electric company must review the methodologies used to estimate the levelized costs of proxy plants and long-term qualifying electricity. If a systematic error is discovered, all such errors must be corrected in estimates of the incremental cost of qualifying electricity in the applicable implementation plan.

(13)(a) Except as provided in section (11) of this rule, if new long-term qualifying electricity in a compliance year, including qualifying electricity treated in the same manner as new qualifying electricity in subsections (4)(b) and (6)(g) of this rule, totals less than 20 megawatts of capacity, the incremental cost for such ~~long~~ long-term qualifying electricity is not required to be included in compliance reports or implementation plans. Such long-term qualifying electricity may be included in a compliance report for purposes of determining compliance with the applicable renewable portfolio standard under ORS 469A.052 or ORS 469A.065.

(b) When the capacity of qualifying electricity described in subsection (13)(a) of this rule equals or exceeds 20 megawatts in a compliance year or the cumulative capacity of qualifying electricity in subsection (13)(a) of this rule exceeds 50 megawatts, the incremental cost of all such qualifying electricity must be included in the compliance report for the compliance year and in compliance reports and implementation plans filed after such compliance report.

(c) The amortization periods for the qualifying electricity in subsections (13)(a) and (b) of this rule must begin at the same time as the latest operational date for the

qualifying electricity. Costs must be adjusted for price escalation or de-escalation based on the beginning amortization year and actual initial years for such qualifying electricity. Adjustments may be based on applicable construction costs indexes or other published sources.

(d) A new proxy plant with the same beginning amortization year as the qualifying electricity in subsection (13)(c) of this rule must be used to estimate the non-qualifying costs corresponding to such qualifying electricity.

860-083-0200
Electric Company Revenue Requirements

(1) For the purposes of Division 083, annual revenue requirement is the amount produced from the following calculations:

(a) If the electric company is involved in a general rate proceeding using a test year that is reasonably representative of the compliance year and that results in the Commission issuing a final order no later than January 1 of the compliance year, annual revenue requirement is the total revenue the Commission authorizes an electric company the opportunity to recover in Oregon rates before the application of credits resulting from 16 U.S.C. sec. 839(c) (2008) (commonly known as the "Bonneville Power Administration Residential Exchange") adjusted for amounts and costs as needed in accordance with ORS 469A.100(3); or

(b) For a compliance year not involving a general rate proceeding under subsection (1)(a) of this rule, annual revenue requirement is the amount produced by the following calculation:

(A) Calculate the operating revenues related to net power costs, the renewable adjustment clause, updates for base rate changes relating to automatic adjustment clauses, and other adjustments authorized by the Commission subsequent to the most recent general rate proceeding and adjusted for electric company load changes as needed; and

(B) To the amount calculated under paragraph (1)(b)(A) of this rule, add the product of:

(i) The total operating revenues authorized in the most recent general rate proceeding, reduced by the amount of operating revenues related to energy efficiency programs, low income energy assistance, the incremental cost of compliance, unbundled renewable energy certificates, alternative compliance payments, and net power costs in the general rate proceeding, and increased by credits resulting from 16 U.S.C. sec. 839(c) (2008); and

(ii) The ratio of the compliance year forecasted load to the load from the most recent general rate proceeding; and

(C) In the sum calculated under subsection (1)(b) of this rule, adjust for the amounts and costs as needed in accordance with ORS 469A.100(3).

(2) For a compliance year under subsection (1)(b) of this rule, each electric company that is subject to a renewable portfolio standard in the following calendar year under ORS 469A.052 must file its proposed annual revenue requirement for the following compliance year on or before November 15, 2010, and annually thereafter.

(3) On or before December 1, 2010, and annually thereafter, each electric company must amend its filing made under section (2) of this rule for any updated renewable

adjustment clause filing and retail electricity consumer loads that will be served through direct access in the compliance year.

(4) For a compliance year involving a general rate proceeding under subsection (1)(a) of this rule, the electric company must make a compliance filing by December 1 in the year preceding the compliance year or 14 days from the entered date of the Commission's final order in the general rate proceeding, whichever is later. The compliance filing must calculate the total revenue the Commission authorized the electric company the opportunity to recover in Oregon rates in the final rate proceeding order, adjusted for amounts and costs as needed under ORS 469A.100(3).

860-083-0300
Compliance Standards

(1) Each electricity service supplier subject to ORS 469A.065 must meet the requirements of ORS 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 ORS 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 ORS 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 ORS 469A.065 and the applicable cost limits under ORS 469A.100(1) and ORS 469A.100(6), the following apply:

(A) 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 ORS 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 ORS 469A.145, before using certificates issued ~~or acquired~~ in the compliance year or between January 1 through~~on or before~~ March 31 of the year following the compliance year.

(C) Subject to the limitations under ORS 469A.145 and the cost limit under ORS 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 ~~or on or before~~ 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) An electric company must receive approval from the commission before selling bundled renewable energy certificates included in the rates of Oregon retail electricity consumers.~~

OAR 860-083-0350
Compliance Reports by Electric Companies and Electricity Service Suppliers

(1)(a) On or before June 1, 2012, and annually on or before June 1 thereafter, each electric company that is subject to a renewable portfolio standard set forth in ORS 469A.052 or 469A.055 for the previous calendar year must file a report with the Commission demonstrating compliance, or explaining in detail its failure to comply, with the applicable renewable portfolio standard.

(b) On or before June 1, 2012, and annually on or before June 1 thereafter, each electricity service supplier that is subject to a renewable portfolio standard contained in ORS 469A.065 and sells electricity to retail electricity consumers in the service territories of electric companies subject to ORS 469A.052 must file a report with the Commission demonstrating compliance, or explaining in detail its failure to comply, with OAR 860-083-0300(1) for the preceding compliance calendar year.

(2) For electric companies subject to ORS 469A.052 and electricity service suppliers subject to ORS 469A.065, the report in section (1) of this rule must include the following information related to Oregon retail electric consumers for activities of the electric company or electricity service supplier for the preceding compliance year:

(a) The total number of megawatt-hours sold to retail electricity consumers covered by ORS 469A.052 by the electric company or sold in the service areas of each electric company covered by ORS 469A.052 by the electricity service supplier.

(b) The total number of renewable energy certificates, identified as either unbundled or bundled certificates, acquired in the compliance year and used to meet the renewable portfolio standard.

(c) The total number renewable energy certificates, identified as either unbundled or bundled certificates, acquired on or before March 31 of the year following the compliance year and used to meet the renewable portfolio standard.

(d) The total number and cost of unbundled renewable energy certificates, identified as either banked or non-banked certificates, used to meet the renewable portfolio standard.

(e) The total number of banked bundled renewable energy certificates that were used to meet the renewable portfolio standard.

(f) The total number of renewable energy certificates, identified as either bundled or unbundled certificates, issued in the compliance year that were banked to serve Oregon electricity consumers.

(g) For electric companies, unless otherwise provided under subsection (2)(k) of this rule, the total number of renewable energy certificates included in the rates of Oregon retail electricity consumers that were sold since the last compliance report, including:

(A) The names of the associated generating facilities; and

(B) For each facility, the year or years the renewable energy certificates were issued.

(h) Unless otherwise provided under subsection (2)(k) of this rule, for each generating facility associated with the renewable energy certificates included in subsections (2)(b), (c), (f), or ~~and~~ (~~f~~g) of this rule the following information:

(A) The name of the facility;

(B) The county and state where the facility is located;

(C) The type of renewable resource;

(D) The total nameplate megawatt capacity of the facility;

(E) For an electric company, the Oregon share of the nameplate megawatt capacity of the facility;

(F) The year of the first delivery of qualifying electricity or the first year of the contract for the purchase of unbundled renewable energy certificates; and

(G) The duration of the contract or the amortization period of a facility owned by the electric company or the planned lifetime of a facility owned by the electricity service supplier.

(i) The amount of alternative compliance payments the electric company or electricity service supplier elected to use or was required to use to comply with the applicable renewable portfolio standard.

(j) For an electric company, sufficient data, documentation, and other information to demonstrate that any voluntary alternative compliance payments were a reasonable compliance method.

(k) Documentation of use of renewable energy certificates from the system under OAR 330-160-0020 established for compliance with the applicable renewable portfolio standard.

(l) For each electric company, a detailed explanation of any material deviations from the applicable implementation plan filed under OAR 860-083-0400, as acknowledged by the Commission.

(m) As specified in OAR 860-083-0100, ~~the incremental cost of new qualifying electricity and~~ the total number and cost of bundled renewable energy certificates used for ~~the incremental cost of~~ compliance.

(n) For each electric company, its projected annual revenue requirement as calculated in OAR 860-083-0200 and its total cost of compliance.

(o) For each electricity service supplier, its total cost of compliance, its average cost of compliance, and its cost limit as specified in OAR 860-083-0300(2), including all calculations.

(p) For each electric company, an accounting of the use of the renewable energy certificates and alternative cost payments consistent with OAR 860-083-0300(3) if the cost limit in ORS 469A.100(1) is reached for the compliance year.

(q) For each electricity service supplier, an accounting of the use of the renewable energy certificates and alternative cost payments consistent with OAR 860-083-0300(3) if the cost limit in OAR 860-083-0300(2) is reached for the compliance year.

(r) As specified in OAR 860-083-0100, the number and total cost of all bundled renewable energy certificates issued.

(s) As specified in OAR 860-083-0100, the number and total cost of bundled renewable energy certificates issued that are associated with new qualifying electricity since the last compliance report.

(3) If so prescribed by the Commission, each electric company and electricity service supplier must use established forms to provide information required under subsections (2)(a) through (r) of this rule.

(4) Commission staff and interested persons may file written comments on an electric company or electricity service supplier report in section (1) of this rule within 45 calendar days of the filing. The electric company or electricity service supplier may file a written response to any comments within 30 calendar days thereafter. After considering written comments, the Commission may decide to commence an investigation, begin a proceeding, or take other action as necessary to make a determination regarding compliance with the applicable renewable portfolio standard.

(5) Upon conclusion of the Commission review of the report in section (1) of this rule, the Commission will issue a decision determining whether the electric company or electricity service supplier complied with the applicable renewable portfolio standard and any other determinations under ORS 469A.170(2). If the Commission determines that the electric company or electricity service supplier is not in compliance with the applicable renewable portfolio standards set forth in ORS 469A.052 or 469A.065 and such non-compliance is not warranted by the cost limits set forth in ORS 469A.100, the Commission may require an alternative compliance payment to address such shortfall, impose a penalty, or both.

(6) Each electric company subject to ORS 469A.052 and each electricity service supplier subject to ORS 469A.065 must post on its web site the public portion of the four most recent annual compliance reports required under this rule and provide a copy of the most recent such report to any person upon request. The public portions of the most

recent compliance report must be posted within 30 days of the Commission decision in section (5) of this rule. The posting must include any Commission determinations under section (5) of this rule.

(7) Consistent with Commission orders for disclosure under OAR 860-038-0300, each electric company subject to ORS 469A.052 and each electricity service supplier subject to ORS 469A.065 must provide information about its compliance report to its customers by bill insert or other Commission-approved method. The information must be provided within 90 days of the Commission decision in section (5) of this rule or coordinated with the next available insert required under OAR 860-038-0300. The information must include the URL address for the compliance reports posted under section (6) of this rule.

(8) A small electric company as described in ORS 469A.055 that has the exemption provided by ORS 469A.055(1) is exempt from the rules in Division 083 except as provided by ORS 469A.055.

OAR 860-083-0400
Implementation Plans by~~for~~ Electric Companies

(1) On or before January 1, 2010, and on or before January 1 of even-numbered years thereafter, unless otherwise directed by the Commission, each electric company that is subject to ORS 469A.052 must file an implementation plan under ORS 469A.075.

(2) The implementation plan for an electric company subject to ORS 469A.052 must contain the following information for the next odd-numbered compliance year and each of the four subsequent compliance years:

(a) The annual megawatt-hour target for compliance with the applicable renewable portfolio standard based on the forecast of electricity sales to its Oregon retail electricity consumers;

(b) An accounting of the planned method to comply with the applicable renewable portfolio standard, including the number of banked renewable energy certificates by year of issuance, the numbers of other bundled and unbundled renewable energy certificates, and alternative compliance payments;

(c) Identification of the generating facilities, either owned by the company or under contract, that are expected to provide renewable energy certificates for compliance with renewable portfolio standard. Information on each generating facility must include:

(A) The renewable energy source;

(B) The year the facility or contract became operational or is expected to become operational;

(C) The ~~county and~~ state where the facility is located or is planned to be located; and

(D) Expected annual megawatt-hour output for compliance from the facility for the compliance years covered by the implementation plan;

(d) A forecast of the expected incremental costs of new qualifying electricity for facilities or contracts planned for first operation in the compliance year, consistent with the methodology in OAR 860-083-0100;

(e) A forecast of the expected incremental cost of compliance, the costs of using unbundled renewable energy certificates and alternative compliance payments for compliance, compared to annual revenue requirements, consistent with the methodologies in OAR 860-083-0100 and OAR 860-083-0200, absent consideration of the cost limit in OAR 860-083-0300; and

(f) A forecast of the number and cost of bundled renewable energy certificates issued, consistent with the methodology in OAR 860-083-0100.

(3) If so prescribed by the Commission, an electric company must use established forms to provide the information required under subsections (2)(a) through (2)(f) of this rule.

(4) If there are material differences in the planned actions in section (2) of this rule from the action plan in the most recently filed or updated integrated resource plan by the electric company, or if conditions have materially changed from the conditions assumed in such filing, the company must provide sufficient documentation to demonstrate how the implementation plan appropriately balances risks and expected costs as required by ~~is consistent with~~ the integrated resource planning guidelines in 1.b and c. of ~~established by the~~ Commission ~~in~~ Order No~~s~~. ~~07-002,~~ 07-047 and subsequent guidelines related to implementation plans ~~and 08-339 and other planning guidelines~~ set forth by the Commission. Unless provided in the most recently filed or updated integrated resource plan, an implementation plan for an electric company subject to ORS 469A.052 must provide the following information:

(a) At least two forecasts for subsections (2)(d), (e), and (f) of this rule: one forecast assuming existing government incentives continue beyond their current expiration date and another forecast assuming existing government incentives do not continue beyond their current expiration date; and

(b) A reasonable range of estimates for the forecasts in subsections (2)(d), (e), and (f) of this rule, consistent with subsection (4)(a) of this rule and the analyses or methodologies in the company's most recently filed or updated integrated resource plan.

(5) Under the following circumstances, t~~T~~he electric company must, for the applicable compliance year, provide sufficient documentation or citations to demonstrate ~~explain~~ how the implementation plan appropriately balances risks and expected costs as required by ~~is consistent with~~ the integrated resource planning guidelines in 1.b. and c. of ~~established by the~~ Commission ~~in~~ Order No~~s~~. ~~07-002,~~ 07-047 and subsequent guidelines related to implementation plans ~~and 08-339 and other planning guidelines~~ set forth by the Commission~~, or provide a citation for an explanation of consistency in the most recent filing or update of an integrated resource plan under the following circumstances~~:

(a) The sum of costs in subsection (2)(e) of this rule is expected to be four percent or more of the annual revenue requirement in subsection (2)(e) of this rule for any compliance year covered by the implementation plan; ~~or~~

(b) The company plans, for reasons other than to meet unanticipated contingencies that arise during a compliance year, to use any of the following compliance methods: ~~for reasons other than to meet unanticipated contingencies that arise during a compliance year:~~

(A) Unbundled renewable energy certificates;

(B) Bundled renewable energy certificates issued between January 1~~on or before~~ and March 31 of the year following the compliance year; or

(C) Alternative compliance payments. or

(c) The company plans to sell any bundled renewable energy certificates included in the rates of Oregon retail electricity consumers.

(6) An implementation plan must provide a detailed explanation of how the implementation plan complies, or does not comply, with any conditions specified in a Commission acknowledgment order on the previous implementation plan and any relevant conditions specified in the most recent acknowledgment order on an integrated resource plan filed or updated by the electric company.

(7) If there are funds in holding accounts under ORS 469A.180(4) and if the electric company has not filed a proposal for expending such funds for the purposes allowed under ORS 469A.180(5), the implementation plan must include the electric company's plans for expending or holding such funds. If the plan is to hold such funds, the plan should indicate under what conditions such funds should be expended.

(8) The ~~commission~~ Commission will acknowledge the implementation plan in the following manner:

(a) Commission staff and interested persons may file written comments on an implementation plan within 45 calendar days of its filing. The electric company may file a written response to any comments within 30 calendar days thereafter. Commission staff should present its recommendation at a ~~commission~~ Commission public meeting within 120 days of the implementation plan filing date.

(b) The Commission will acknowledge the plan at such public meeting, subject to any conditions specified by the Commission, unless it decides to commence an investigation or take other action as necessary to make its decision regarding acknowledgment of the plan.

(c) The Commission will acknowledge the implementation plan, subject to conditions if necessary, no later than six months after it is filed.

(9) (a) Each electric company must post on its website the public portion of its most recent implementation plan under this rule within 30 days after a Commission acknowledgement order has been issued, including any conditions specified by the ~~commission~~ Commission under ORS 469.075(3).

(b) Each electric company must provide a copy of the public portions of the most recently filed implementation plan to any person upon request, until the Commission has issued an acknowledgement order on such plan.

(10) Consistent with Commission orders for disclosure under OAR 860-038-0300, each electric company must provide information about the implementation plan to its customers by bill insert or other ~~commission~~Commission-approved method. The information must be provided within 90 days of final action by the Commission on the plan or coordinated with the next available insert required under OAR 860-038-0300.

The information must include the URL address for the implementation plan posted under subsection (9)(a) of this rule.

OAR 860-083-0500
Alternative Compliance Payments

(1) No later than October 1, 2010, and no later than October 1 of each succeeding even-numbered calendar year, the Commission will set an alternative compliance rate for the next even-numbered compliance year and the year immediately following that even-numbered compliance year for each electric company subject to renewable portfolio standards contained in ORS 469A.052.

(2) The Commission will consider the following factors, and any other factors it determines are appropriate for the circumstances, when setting an alternative compliance rate for an electric company to provide an adequate incentive for the electric company to purchase or generate qualifying electricity in lieu of using alternative compliance payments to meet the applicable renewable portfolio standard set forth in ORS 469A.052:

(a) Forecasts of the likely costs of new qualifying electricity compared to the cost of non-qualifying electricity;

(b) Likely future deliveries of qualifying electricity from contracts and generating facilities owned by the electric company, both planned and existing;

(c) The number of unbundled renewable energy certificates the electric company anticipates using to meet the applicable renewable portfolio standard; and

(d) Commission determinations made under ORS 469A.170 in reviewing compliance reports by the electric company and information from a review of the company's compliance report for the previous compliance year, including but not limited to:

(A) Past methods of compliance with the renewable portfolio standard including the use of:

(i) Bundled and unbundled renewable energy certificates that were not banked;

(ii) Banked renewable energy certificates; and

(iii) Alternative compliance payments;

(B) The timing of electricity purchases;

(C) The relevant market prices for electricity purchases and unbundled renewable energy certificates;

(D) Whether the actions taken by the electric company are contributing to long-term development of generating capacity using renewable energy sources;

(E) The effect of the actions taken by the electric company on the rates payable by retail electricity consumers;

(F) Good faith forecasting differences associated with the projected number of retail electricity consumers served and the availability of qualifying electricity; and

(G) Consistency of the compliance reports for the two previous compliance years with the applicable implementation plans filed under ORS 469A.075, as acknowledged by the Commission, including conditions specified by the Commission under ORS 469A.075(3).

(3) The Commission may consider the following additional factors when setting an alternative compliance rate for an electric company:

(a) Uncertainties associated with forecasts of the incremental cost of new qualifying electricity and the incremental cost of compliance in implementation plans required by ORS 469A.075. Uncertainties include, but are not limited to:

(A) Forecasts of the costs of renewable resources;

(B) Fuel price forecasts for proxy plants required under OAR 860-083-0100; and

(C) Whether federal tax incentives for renewable resources will be extended beyond current sunset dates;

(b) Uncertainties about future market prices for renewable energy certificates including, but not limited to:

(A) Uncertainties associated with forecasts of the incremental costs of new qualifying electricity; and

(B) The effects of current and potential policies by other states and the federal government on the availability and price of renewable energy certificates; and

(c) Plans to use alternative compliance payments in the current implementation plan of the electric company.

(4) The Commission may approve the use of the alternative compliance funds in the holding accounts described in ORS 469A.180(4) for the purposes specified in ORS 469A.180(5) upon a filed request by the electric company, in an order issued upon conclusion of the electric company's general rate case or in another proceeding as directed by the Commission.

(a) If such funds are used for the acquisition of qualifying electricity, the renewable energy certificates associated with such electricity may be used by the electric company for future compliance with the renewable portfolio standard.

(b) Upon a request by the electric company, or in response to a filing of an implementation plan by the electric company, the Commission may order that all or a portion of such funds be transferred to the nongovernmental entity receiving funds under ORS 757.612 (3)(d). The Commission may specify the proportions of transferred funds, that are to be used for acquiring qualifying electricity and for energy conservation programs within the electric company's service area.

(c) If an electric company requests or proposes to use or transfer such funds, it must notify persons appearing on the service list of the most recent implementation plan acknowledgement proceeding for the electric company. The Commission will allow an opportunity for public comment before making a decision to expend such funds.

(5) In deciding which uses to approve for alternative compliance funds in the holding accounts described in ORS 469A.180(4), the Commission may consider the following factors and any other factors it determines are appropriate for the circumstances:

(a) The findings of the Legislative Assembly in enacting the renewable portfolio standards;

(b) Timeliness of the proposed use of such funds compared to other funding opportunities;

(c) The amount of such funds in the electric company's holding accounts;

(d) The likely impacts of using such funds for the acquisition of long-term qualifying electricity;

(e) Whether there are opportunities to fund cost-effective energy conservation programs within the electric company's service area beyond a level that might not otherwise be achieved;

(f) Whether there are opportunities to fund cost-effective efficiency upgrades to the electricity generating facilities owned by the electric company beyond a level that might not otherwise be achieved; and

(g) Whether the impacts in subsections (5)(e) and (f) of this rule might occur earlier with the use of such funds.

(6) The Commission will adopt an alternative compliance rate for the compliance year for each electricity service supplier subject to ORS 469A.065 no later than 15 months before each compliance year in the following manner:

(a) The alternative compliance rate for an electricity service supplier will be the weighted average of the alternative compliance rates for the electric companies subject to ORS 469A.052 in whose service areas the electricity service supplier provides electricity.

(b) The weights for subsection (6)(a) of this rule will be the retail sales in megawatt-hours by the electricity service supplier in each electric company service area for the year prior to the applicable compliance year.

(7)(a) The Commission may approve expenditures of the alternative compliance funds in the holding accounts described in ORS 469A.180(6) for the purposes stated therein through a proceeding as directed by the Commission.

(b) An electricity service supplier may request that the Commission direct that current or prospective alternative compliance funds in the holding accounts described in ORS 469A.180(6) be paid directly to the nongovernmental entity receiving funds under ORS 757.612(3)(d). The nongovernmental entity must use the funds to acquire energy conservation for the customers of the electricity service supplier.

CERTIFICATE OF SERVICE

AR 518 Phase III

I certify that on May 19, 2009, I served the foregoing document upon all persons on the attached list by delivering a copy by electronic mail to those who provided electronic mail addresses and by mailing a copy by postage prepaid first class mail or by hand delivery/shuttle mail to the persons who have not provided electronic mail addresses.

Diane Davis

Diane Davis
Oregon Public Utility Commission
550 Capitol Street NE Suite 215
Salem, OR 97301

TOM BARROWS
CENTRAL LINCOLN PUD

CHERYL LEE
CALIFORNIA PUC

DENNIS J MAURER
DEPARTMENT OF REVENUE

DAMON S MCCAULEY
PORTLAND GENERAL ELECTRIC

BJ MOGHADAM
PACIFIC POWER & LIGHT

MARNI ZOLLINGER
COB CREATIONS, LLC

JEFF DEYETTE
UNION OF CONCERNED SCIENTISTS
TWO BRATTLE SQ
CAMBRIDGE MA 02238

LAURA K BONNICHSEN
CONSTELLATION ENERGY COMMODITIES GROUP
111 MARKET PL STE 500
BALTIMORE MD 21202

MELISSA FARMER
STATESIDE ASSOCIATES
2300 CLARENDON BLVD 4TH FL
ARLINGTON VA 22201

ERIC WINTER
ELEMENT MARKETS LLC
3555 TIMMONS LN STE 900
HOUSTON TX 77027

RICK GILLIAM
SUNEDISON
590 REDSTONE DR
BROOMFIELD CO 80020

WAYNE HART
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE ID 83720

LOUANN WESTERFIELD
IDAHO PUBLIC UTILITY COMMISSION
472 WEST WASHINGTON ST
BOISE ID 83720

AUSEY H ROBNETT III
PAINE HAMBLEN COFFIN BROOKE & MILLER LLP
PO BOX E
COEUR D'ALENE ID 83816-0328

KELLY FRANCONE
ENERGY STRATEGIES
215 SOUTH STATE ST - STE 200
SALT LAKE CITY UT 84111

GREG BASS
SEMPRA ENERGY SOLUTIONS LLC
401 WEST A STREET SUITE 500
SAN DIEGO CA 92101

THOMAS CORR
SEMPRA ENERGY
101 ASH ST - MS HQ 08 C
SAN DIEGO CA 92101

ALVIN PAK
SEMPRA ENERGY SOLUTIONS LLC
401 WEST A STREET SUITE 500
SAN DIEGO CA 92101

THEODORE E ROBERTS
SEMPRA ENERGY
101 ASH ST HQ 12B
SAN DIEGO CA 92101-3017

NOAH ECKERT
BP SOLAR INTERNATIONAL INC
1 HARBOR CTR STE 290
SUISUN CITY CA 94585-2427

JOE HENRI
SUNEDISON
5013 ROBERTS AVE STE B
MCCLELLAN CA 95652

KATHRYN VAN NATTA
NORTHWEST PULP & PAPER ASSN
2191 SW OAK CREST DR
HILLSBORO OR 97123

SARA EDDIE
CONSERVATION SERVICES GROUP
1400 SW FIFTH AVE, STE 830
PORTLAND OR 97201

REBECCA T BROWN
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST 1WTC 07
PORTLAND OR 97204

PORTLAND GENERAL ELECTRIC COMPANY
RATES & REGULATORY AFFAIRS
121 SW SALMON ST 1WTC0702
PORTLAND OR 97204

JESSE E COWELL
DAVISON VAN CLEVE
333 SW TAYLOR ST., SUITE 400
PORTLAND OR 97204

RANDALL DAHLGREN
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST - 1WTC1711
PORTLAND OR 97204

MELINDA J DAVISON
DAVISON VAN CLEVE PC
333 SW TAYLOR - STE 400
PORTLAND OR 97204

MICHAEL EARLY
INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES
333 SW TAYLOR STE 400
PORTLAND OR 97204

AMIE JAMIESON
MCDOWELL & RACKNER PC
520 SW SIXTH AVE - STE 830
PORTLAND OR 97204

DOUG KUNS
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST - 1WTC1711
PORTLAND OR 97204

PAMELA G LESH
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST 1 WTC 1703
PORTLAND OR 97204

RAUL MADARANG
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST - 1WTC1711
PORTLAND OR 97204

BRENDAN MCCARTHY
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST 1WTC0301
PORTLAND OR 97204

KATHERINE A MCDOWELL
MCDOWELL & RACKNER PC
520 SW SIXTH AVE - SUITE 830
PORTLAND OR 97204

BRAD OUDERKIRK
ECOS
309 SW 6TH AVE #1000
PORTLAND OR 97204

LISA F RACKNER
MCDOWELL & RACKNER PC
520 SW SIXTH AVENUE STE 830
PORTLAND OR 97204

DAVE ROBERTSON
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST - 1WTC1711
PORTLAND OR 97204

BOB TAMLYN
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST - 1WTC1711
PORTLAND OR 97204

DOUGLAS C TINGEY
PORTLAND GENERAL ELECTRIC
121 SW SALMON 1WTC13
PORTLAND OR 97204

JAY TINKER
PORTLAND GENERAL ELECTRIC
PORTLAND GENERAL ELECTRIC COMPANY
121 SW SALMON ST 1WTC-0702
PORTLAND OR 97204

JOHN M VOLKMAN
ENERGY TRUST OF OREGON
851 SW 6TH AVE SUITE 1200
PORTLAND OR 97204

BENJAMIN WALTERS
PORTLAND CITY OF - OFFICE OF CITY ATTORNEY
1221 SW 4TH AVE - RM 430
PORTLAND OR 97204

PETER WEST
ENERGY TRUST OF OREGON
851 SW 6TH AVE - STE 1200
PORTLAND OR 97204

MARCUS A WOOD
STOEL RIVES LLP
900 SW FIFTH AVE - STE 2600
PORTLAND OR 97204

THOMAS M GRIM
CABLE HUSTON BENEDICT ET AL
1001 SW FIFTH AVE STE 2000
PORTLAND OR 97204-1136

LINDSAY KANDRA
CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP
1001 SW 5TH AVE STE 2000
PORTLAND OR 97204-1136

JOHN W STEPHENS
ESLER STEPHENS & BUCKLEY
888 SW FIFTH AVE STE 700
PORTLAND OR 97204-2021

ROBERT JENKS
CITIZENS' UTILITY BOARD OF OREGON
610 SW BROADWAY STE 308
PORTLAND OR 97205

KATIE KALINOWSKI
RENEWABLE NORTHWEST PROJECT
917 SW OAK ST STE 303
PORTLAND OR 97205

SUZANNE LETA LIOU
RENEWABLE NORTHWEST PROJECT
917 SW OAK ST STE 303
PORTLAND OR 97205

G. CATRIONA MCCRACKEN
CITIZEN'S UTILITY BOARD OF OREGON
610 SW BROADWAY - STE 308
PORTLAND OR 97205

KEVIN LYNCH
IBERDROLA RENEWABLES, INC
1125 NW COUCH ST STE 700
PORTLAND OR 97209

DAVID TOOZE
PORTLAND CITY OF ENERGY OFFICE
721 NW 9TH AVE -- SUITE 350
PORTLAND OR 97209-3447

KEN LEWIS
2980 NW MONTE VISTA TERRACE
PORTLAND OR 97210

JEREMIAH BAUMANN
ENVIRONMENT OREGON
1536 SE 11TH AVE
PORTLAND OR 97214

AUBREY BALDWIN
PACIFIC ENVIRONMENTAL ADVOCACY CENTER
10015 SW TERWILLIGER BLVD
PORTLAND OR 97219

DANIEL W MEEK
DANIEL W MEEK ATTORNEY AT LAW
10949 SW 4TH AVE
PORTLAND OR 97219

LINDA K WILLIAMS
KAFOURY & MCDOUGAL
10266 SW LANCASTER RD
PORTLAND OR 97219-6305

OREGON DOCKETS
PACIFICORP OREGON DOCKETS
825 NE MULTNOMAH ST
STE 2000
PORTLAND OR 97232

SCOTT BOLTON
PACIFICORP
825 NE MULTNOMAH
PORTLAND OR 97232

RYAN FLYNN
PACIFICORP
825 NE MULTNOMAH, SUITE 1800
PORTLAND OR 97232

JOELLE STEWARD
PACIFIC POWER & LIGHT
825 NE MULTNOMAH STE 2000
PORTLAND OR 97232

PAUL M WRIGLEY
PACIFIC POWER & LIGHT
825 NE MULTNOMAH ST, STE 2000
PORTLAND OR 97232

JIM DEASON
ATTORNEY AT LAW
1 SW COLUMBIA ST, SUITE 1600
PORTLAND OR 97258-2014

ANN L FISHER
AF LEGAL & CONSULTING SERVICES
PO BOX 25302
PORTLAND OR 97298-0302

SVEN ANDERSON
OREGON DEPARTMENT OF ENERGY
625 MARION ST
SALEM OR 97301

PHILIP H CARVER
PUBLIC UTILITY COMMISSION
PO BOX 2148
SALEM OR 97301

BILL DRUMHELLER
OREGON DEPARTMENT OF ENERGY
625 MARION ST NE
SALEM OR 97301

DIANA ENRIGHT
OREGON DEPARTMENT OF ENERGY
625 MARION ST
SALEM OR 97301

JOHN LEDGER
ASSOCIATED OREGON INDUSTRIES
1149 COURT ST NE
SALEM OR 97301

SENATOR RICK METSGER
STATE CAPITOL
900 COURT ST NE S-307
SALEM OR 97301

SENATOR VICKI L WALKER
STATE CAPITOL
900 COURT ST NE S-210
SALEM OR 97301

KIP PHEIL
OREGON DEPARTMENT OF ENERGY
625 MARION ST NE - STE 1
SALEM OR 97301-3737

ALAN MEYER
WEYERHAEUSER COMPANY
698 12TH ST - STE 220
SALEM OR 97301-4010

JULIE BRANDIS
ASSOCIATED OREGON INDUSTRIES
1149 COURT ST NE
SALEM OR 97301-4030

PAUL GRAHAM
DEPARTMENT OF JUSTICE
REGULATED UTILITY & BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096

JASON W JONES
DEPARTMENT OF JUSTICE
REGULATED UTILITY & BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096

MICHAEL T WEIRICH
DEPARTMENT OF JUSTICE
REGULATED UTILITY & BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096

SARAH J ADAMS LIEN
ATTORNEY
520 SW SIXTH AVE - STE 830
PORTLAND OR 97304

JIM ANDERSON
JD ANDERSON ASSOCIATES
910 SAHALEE CT SE
SALEM OR 97306

ANDREA FOGUE
LEAGUE OF OREGON CITIES
PO BOX 928
1201 COURT ST NE STE 200
SALEM OR 97308

ED BUSCH
PUBLIC UTILITY COMMISSION OF OREGON
PO BOX 2148
SALEM OR 97308-2148

JUDY JOHNSON
PUBLIC UTILITY COMMISSION
PO BOX 2148
SALEM OR 97308-2148

MARK NELSON
PUBLIC AFFAIRS COUNSEL
PO BOX 12945
SALEM OR 97309

JOHN RYAN
WEYERHAEUSER COMPANY
33663 WEYERHAEUSER WAY SOUTH, CH 1K32
FEDERAL WAY WA 98003

DAVID FIFE
SEATTLE NORTHWEST SECURITIES GROUP
1420 FIFTH AVE STE 4300
SEATTLE WA 98101

SUSAN RICHTER
FORTIS PROPERTIES
139 WATER ST STE 1201
ST. JOHN'S NL A1B 3T2
CANADA

BRIAN MOGHADAM
POWEREX CORP
666 BURRARD STE 1440
VANCOUVER BC V6C2X8
CANADA

Labels: 89