ORDER NO. 09-299

ENTERED 08/03/09

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 518 -- Phase III

In the Matter of a Rulemaking to Implement SB 838 Relating to Renewable Portfolio Standard.	ORDER

DISPOSITION: MODIFIED RULES ADOPTED AND RULE AMENDED

I. INTRODUCTION

The purpose of this proceeding is the implementation of the Oregon Renewable Energy Act (the Act, ORS 469A.005 through 469A.210). In Phase I the Public Utility Commission of Oregon (Commission) amended OAR 860-038-0005 and 860-038-0480 pursuant to portions of the Act related to the public purpose charge for energy efficiency and renewable resources. In Phase II the Commission adopted rules relating to the use of renewable energy certificates (RECs) for compliance with the Act and retail disclosure requirements under OAR 860-038-0300. In this Phase the Commission considers seven proposed rules:[1]

- Incremental costs (OAR 860-083-0100)
- Electric Company Revenue Requirements (OAR 860-083-0200)
- Compliance Standards (OAR 860-083-0300)
- Compliance Reports by Electric Companies and Electricity Service Suppliers (OAR 860-083-0350)
- Implementation Plans by Electric Companies (OAR 860-083-0400), and
- Alternative Compliance Payments (OAR 860-083-0500)

On April 15, 2009, the Commission filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact with the Secretary of State in Phase III. Notice was provided to certain legislators specified in ORS 183.335(1)(d) and to all

[1] The proposed rules also modify existing Rule 860-083-0005, by moving definitions of several terms to 860-083-0010.

interested persons on the service lists maintained pursuant to OAR 860-011-0001 on April 17, 2009. Notice of the rulemaking hearing was published in the May 2009 *Oregon Bulletin.* The hearing was held on May 18, 2009.

Participants appearing at the hearing included the Commission Staff (Staff), Portland General Electric Company (PGE), PacifiCorp, d.b.a. Pacific Power (Pacific Power), Renewable Northwest Project (RNP), the Citizens' Utility Board of Oregon (CUB), and the Oregon Department of Energy (ODOE).

Staff filed opening comments on May 8, 2009. PGE filed comments on May 14, 2009. Staff filed reply comments on May 19, 2009. After the hearing (before close of business on May 21), comments were received from Pacific Power, the Industrial Customers of Northwest Utilities (ICNU), and RNP, filing with CUB. Also on May 21, 2009, PGE filed reply comments, and Staff filed supplemental comments.

II. BACKGROUND

The Act requires electric utilities and electricity service suppliers (ESSs) to comply with a Renewable Portfolio Standard (RPS). The RPS requires an electric utility or ESS to sell to its retail electricity consumers specified (minimum) percentages of "qualifying electricity" in a calendar year, with the percentages increasing over time. The primary means by which an electric utility or ESS may meet its RPS requirement is through the use of RECs.

The Act provides for ODOE to establish a system of RECs, in consultation with the Commission. To that end, ODOE promulgated rules set out in OAR 330-150-0005 to 330-150-0030.

As specified in ODOE's rules, RECs that are issued, monitored, accounted for and transferred by or through the regional renewable energy certificate system and trading mechanism known as the Western Renewable Energy Generation Information System (WREGIS) are the only RECs that can be used by an electric utility or ESS to establish compliance with the Oregon RPS.

All entities that wish to demonstrate compliance or participate in the REC system associated with the Oregon RPS must establish and maintain accounts in good standing with the WREGIS REC system.

A bundled or unbundled REC may be used to comply with the RPS when it is issued through the WREGIS REC system, is identified within the WREGIS as Oregon-eligible, and is otherwise consistent with the rules and requirements of the Oregon RPS. ODOE, acting through the appropriate WREGIS protocol, will identify those generating facilities eligible for creation of RECs that can be used to satisfy the Oregon RPS.

A bundled REC must include documentation that one megawatt-hour of energy was associated with the transfer of the WREGIS REC to the electric utility or ESS.

The system of RECs established through ODOE's rules may be used to comply with or participate in the Oregon RPS through the use of RECs with a vintage of January 1, 2007, or later. RECs with a vintage of January 1, 2007, or later, both bundled and unbundled, may be held for future use within the WREGIS REC system to comply with the Oregon RPS.

A REC that derives from the WREGIS REC system with a vintage before January 1, 2007, is not eligible for compliance with the Oregon RPS.

III. THE PROPOSED RULES

The proposed rules (as modified by Staff in its filing of May 19, 2009) are attached as Appendix A. As stated in the Notice of Proposed Rulemaking Hearing, the proposed new rules are required to establish compliance by electric companies and ESSs with their applicable RPS under the Act. As stated in the Rule Summary of the Notice of Proposed Rulemaking Hearing, the new rules implement estimation of the incremental cost of compliance with ORS 469A.100(4); estimation of electric company annual revenue requirement under ORS 469A.100(2) and (3); compliance standards under the cost limits in ORS 469A.100(1) and (6); compliance reports under ORS 469A.170; implementation plans under ORS 469A.075; and alternative compliance rates and the use of such funds under ORS 469A.180.

IV. COMMENTS

A. Staff's Initial Comments

1. Incremental Costs

The proposed rule would implement the cost limits in ORS 469A.100(1) and (4).

Incremental costs are the difference between the levelized cost of qualifying electricity and the levelized cost of an equivalent amount of electricity that is not qualifying electricity. In the proposed rule, incremental costs are calculated differently for short-term and long-term qualifying electricity.

Short-term qualifying electricity is from power purchase contracts of less than five years duration. Incremental costs for short-term qualifying electricity are based on a comparison with published wholesale power prices for a nearby electricity pricing hub.

Incremental costs for qualifying electricity from long-term contracts or owned-facilities are based on a comparison with a corresponding proxy plant. Unless the Commission were to specify otherwise, the proxy plant is a gas-fired combined-cycle combustion turbine (CCCT). When a proxy plant is assigned to a long-term contract or generation facility, its initial capital, operation and maintenance costs are based on the most recently filed or updated integrated resource plan (IRP).

Section (13) of the proposed rule exempts those years with only small amounts of new qualifying electricity from the requirement to add a new proxy plant. Instead, the qualifying electricity is carried forward until there is enough to justify creating a new proxy plant.

Once assigned, the initial capital costs of a proxy plant do not change. Fuel cost forecasts for all proxy plants must be from the most recently filed or updated integrated resource plan – unless there is a material change or avoided cost update since the filing.

The second most important assumption for incremental cost estimates (after fuel costs) is the discount rate. Renewable resources are usually capital intensive, compared to proxy plants. A higher discount rate favors the proxy plants.

Section (1) of the proposed rule requires that an electric company use the discount rate from the most recently filed integrated resource plan to estimate incremental cost – unless the Commission has specified a different rate. An ESS must use the discount rate from the company in whose service area is made the most retail sales for the preceding five years.

Section (7) of the proposed rule requires that forecasts of fuel costs and biomass plants include costs to reduce fuel price risks, as much as can be reasonably achieved.[2]

Section (6) of the proposed rule (and the proposed amendments to section (9)) require that fuel cost forecasts for proxy plants must include cost adders based on reasonable expectations for the regulation of greenhouse gas emissions.

Section (10) of the proposed rule requires that, if an electric company or an ESS discovers an error, it must correct the error in the next applicable filing.

If the cost limit in ORS 469A.100 is binding in either a compliance report, or for a year forecasted in the implementation plan, the rule requires an examination for, and correction of, systematic errors.[3]

Sections (11) and (12) of the proposed rule are parallel applications of the requirement to correct for systematic errors in compliance reports and implementation plans. Staff notes that PGE informally suggested deleting section (12) and amending section (11).

Staff's proposed section (12) would require a review of methodologies in an implementation plan if the cost limit is expected to be binding in one of the five future years forecasted in the plan.

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[2] Measures to reduce risks include long-term fixed-price fuel contracts or hedges.

[3] Systematic errors are primarily errors in the forecasts of the output of qualifying electricity or in operation and maintenance costs of qualifying electricity and proxy plants.

Subsection (5)(a) requires an electric company to explain how the implementation plan is consistent with the IRP guidelines. That explanation might be used in future ratemaking proceedings to justify the prudency of costs. If the Commission acknowledged that portion of the implementation plan, that explanation also could be used in a ratemaking proceeding.

According to Staff, the cost of a CCCT is a good approximation of the long-run equilibrium wholesale power price and is a more transparent methodology than year-by-year forecasts of wholesale spot power prices. Staff notes that, at some future time, a CCCT may not be the incremental non-renewable generating plant in the West. At such time, the rules allow for a different type of proxy plant through a Commission order.

2. Electric Company Revenue Requirements

The proposed rule would implement ORS 469A.100 sections (2) and (3).

Staff notes that the proposed rule is the same as the consent item adopted at the June 10, 2008, Commission public meeting, except for the treatment of Bonneville Power Administration (BPA) Residential Exchange costs. Whereas in the earlier version BPA residential exchange payments reduced revenue requirements, in this proposed rule, the revenue requirement estimate is made before deducting the credit.

Staff believes that the proposed rule better reflects the language and intent of the Act.

3. Compliance Standards

The proposed rule would implement ORS 469A.050, 469A.052, 469A.065, 469A.070, 469A.100, 469A.140 and 469A.145.

Under the proposed rule, the cost limit for an ESS compares its average cost of compliance in dollars per MWh with four percent of the average retail revenue requirement for the compliance year of the electric utility in whose service area it sells.[4] The electric company revenue and sales values are from the estimates required under OAR 860-083-0200.

The proposed compliance standard requires an electric company and an ESS to use RECs or alternative compliance payments until the cost limit is reached. The incremental cost of compliance is the cost of bundled RECs used. The cost of a bundled REC is the levelized incremental cost of the associated qualifying electricity. All of the RECs from a generating facility or contract have the same incremental cost, regardless of the year issued.

[4] If an ESS sells electricity in the service areas of more than one electric company, its average cost of compliance is compared to the weighted average of the average retail revenues.

The proposed rule requires that the bundled RECs, whether banked or not, be used on a first-in/first-out (FIFO) basis. FIFO treatment is required because the costs of the bundled RECs from different facilities and contracts can vary widely.

4. Compliance Reports by Electric Companies and ESSs.

The proposed rule would implement ORS 469A.050, 469A.052, 469A.055, 469A.070, and 469A.170.

The rule is intended to balance the needs of the Commission to conduct the review required by ORS 469.170(2), while minimizing the administrative costs to electric companies and ESSs.

5. Implementation Plans by Electric Companies

The proposed rule would implement ORS 469A.055 and 469A.075.

An electric company must file an implementation plan January 1 of each even-numbered year. The plan must cover the next even-numbered year and each of the four subsequent years. The proposed rule is intended to balance the needs of the Commission to conduct an acknowledgement process within six months, while minimizing costs to electric companies.

6. Alternative Compliance Payments

The proposed rule would implement ORS 469A.055 and 459A.180.

The rule provides for setting a different alternative compliance rate for each electric company. The rate for an ESS is the weighted average of the rates of the electricity companies in whose service areas it sells.

Under the proposed rule, the Commission would set the rate for each electric company no later than October 1 of each even-numbered year. Except for the weights, each ESS will know its alternative compliance rate at least 15 months before the start of the implementation year.

B. Staff Comments on Proposed Amendments

1. Introduction

Based on comments received at informal workshops, Staff proposed certain amendments to the proposed rules. Staff filed the proposed amendments as redline edits to the original filing.

2. Definitions

Staff notes several proposed changes to definitions. The proposed changes clarify the proposed rules. They are not substantive in nature.

3. Incremental Costs

Staff denotes a number of changes made to the proposed rule regarding incremental costs. The changes serve to clarify the rule.

4. Compliance Standards

Staff deleted a provision that required an electric company to seek approval for selling bundled RECs. In its place, a disclosure requirement was added to the Implementation Plan rule.

That new subsection (5(c) in OAR 860-083-0400) requires an electric company that plans to sell bundled RECs to provide or cite documentation showing consistency with applicable IRP guidelines. The electric company would have to explain how the future sale of bundled RECs would "appropriately balance cost and risk."

5. Compliance Reports by Electric Companies and ESSs

A subsection was added to require that an electric company provide the characteristics of a generating facility if it sold a REC associated with the facility.[5]

6. Implementation Plans by Electric Utilities

The heading was changed to substitute "by" in place of "for."

Staff notes that PGE proposed to delete the requirements for forecasting the expected components of total cost of compliance. These components are the incremental cost of compliance, the cost of unbundled RECs, and the cost of alternative compliance payments.

Staff supports keeping this requirement. Staff notes how the components are useful.

C. PGE's Initial Comments

1. Applicability of ODOE Rules

PGE suggests that, "for clarity sake," the final order in this docket or the final rules should confirm that ODOE regulations will apply to any filing at the Commission pursuant to the proposed AR 518 rules.

[5] This is required only for RECs that already were included in retail rates.

2. Incremental Cost of Compliance

PGE notes that the proposed rules contemplate that the incremental cost of compliance for long term qualifying electricity may be less than zero. While it does not propose a specific change to the rule, PGE questions whether the incremental cost of compliance ever should be less than zero.

PGE "doubts" whether the rules adequately capture the resource planning decisions that would be made in the scenarios where the incremental cost of compliance would be negative. Noting that the rules calculate the incremental cost based on a CCCT in circumstances where use of a CCCT yields a negative incremental cost, PGE suggests that the CCCT is the wrong resource against which the cost of qualifying electricity should be measured. "If it is cheaper to generate electricity from a renewable resource than a CCCT or market purchase, then the utilities will not build CCCTs or make market purchases but rather generate electricity from renewable resources." According to PGE, in that case the incremental cost of compliance is zero because the cost of qualifying electricity is being compared against itself.

3. Proposed Changes

PGE cites language in sections (4) and (5) of the implementation plan rule that would require, under certain circumstances, that the electric company demonstrate "how the implementation plan is consistent with the integrated resource planning guidelines established by the Commission in Order Nos. 07-200, 07-047 and 08-339 and other planning guidelines set forth by the Commission." PGE believes that this language is overly broad and imprecise.

According to PGE, many of the planning guidelines that apply to integrated resource plans do not apply to implementation plans. PGE cites IRP guidelines concerning demand response, distributed generation, transmission, and conservation as matters that have no relevance to implementation plans. PGE also finds the reference to "other planning guidelines" to be vague.

PGE proposes that the rule identify the precise guideline that will be applied to the implementation plans:

> … the company must provide sufficient documentation to demonstrate how the implementation plan <u>appropriately balances cost and risk as required by the IRP guideline in 1.C. of OPUC Order No. 07-047, as amended from time to time.</u> ~~is consistent with the integrated resource planning guidelines established by the Commission in Orders Nos. 97-002-07-027l, and 08-339 and other planning guidelines set forth by the Commission.~~

PGE also proposes clarifying language regarding the incremental cost rule:

> In its compliance reports, an electric company must use the amounts of actual qualifying electricity and the actual fuel prices for the period since ~~from~~ the most recently filed implementation plan unless Section (10) or (11) of this rule applies.

PGE believes this change is consistent with the intent of the proposed rule.

D. Pacific Power's Comments

Pacific Power believes that the proposed rules generally acknowledge an objective of avoiding duplicative or unnecessary requirements relating to the Company's IRP and avoided cost processes.

Pacific Power is encouraged by Staff's willingness to work with interested parties to develop standard formats and practices relating to reporting obligations. According to Pacific Power, the complexity of the subject matter demands that interested parties develop standard compliance formats to minimize the cost of compliance. The Company looks forward to working with Staff and other interested parties in developing workable compliance methods.

Pacific Power appreciates Staff's reconsideration of the requirement that the Commission approve the sale of bundled RECs.

Pacific Power supports clarifying language from Staff and PGE that clarifies the precise IRP guidelines that will be applied to implementation plans. However, Pacific Power notes that the IRP and the IRP guidelines do not address the disclosure of REC sales. The Company understands that Staff did not propose to establish a new IRP guideline in this proceeding.

Pacific Power supports Staff's position on the chronological use of bundled RECs, with the clarification that the rule intends "monthly chronological order."

E. CUB/RNP

According to CUB/RNP, pursuant to statute (ORS 469A.100(4)), the cost of qualifying electricity cannot be compared against the cost of other qualifying electricity resources to calculate the incremental cost of compliance. Thus the incremental cost of compliance may be less than zero, for example, if natural gas prices are high (because a qualifying generator has no fuel costs).

F. ICNU

1. Commission Approval of Bundled REC Sales

Until May 8, 2009, the proposed rules required that an electric company receive approval from the Commission before selling bundled RECs included in the rates of Oregon retail customers. ICNU notes that Staff now proposes to delete that provision and direct electric companies simply to inform the Commission of REC sales in a biennial Implementation Plan. ICNU states that Staff's proposed change likely will result in a less thorough review of the utility's actions.

ICNU notes that Staff claims that the proposed change will benefit electric companies. However, ICNU questions whether it will benefit consumers. ICNU warns that electric companies may be able to avoid prudency and accountability questions altogether.

2. Applicability of ODOE Rules

ICNU argues that the adopted rules should not reference ODOE promulgated OAR 330-160-0030 relating to the vintage date for qualifying electricity that may be used for compliance with an RPS. ICNU has challenged ODOE's rule before the Oregon Court of Appeals.

ICNU notes that the proposed rules do not include any reference to OAR 330-160-0030. ICNU opposes PGE's recommendation that the rules explicitly incorporate the ODOE rules.

G. ODOE

ODOE supports the position of Staff and CUB/RNP concerning the incremental costs of qualifying electricity.

H. Staff's Reply Comments

1. Incremental Costs Less than Zero

Staff argues that PGE's view that the incremental cost of qualifying energy cannot be less than zero is inconsistent with the Act. Nothing in the Act implies that the incremental cost of compliance is the market price of the REC associated with the qualifying electricity.

Under the Act, 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.

According to Staff, excluding projects with negative incremental costs would bias the average of incremental costs because of errors in forecasting incremental costs. Average incremental cost is key because the Act provides a cost limit that compares the actual annual cost of compliance with annual revenues. Staff provides a table illustrating this point.

2. PGE's Proposed 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. Staff amended its proposed rules to make the appropriate changes.

3. Chronological Order

Staff notes Pacific Power's concern regarding the use of RECs in chronological order. Staff notes that RECs currently indicate only the month and year of issuance. If more detailed information is added in later years, such information should be used.

I. PGE Reply Comments

PGE offered reply comments intended to clarify its position regarding incremental cost.

PGE believes that the Commission should have the flexibility to use proxy plants other than a CCCT (or other fossil fuel generating facilities) in determining the cost of non-qualifying electricity. PGE argues that the Commission should use as a proxy plant the resource that best reflects least cost planning principles, whether that is a fossil fuel plant or a renewable resource.

According to PGE, the argument that a proxy plant must be a fossil fuel plant "finds little support in the language of the statute." PGE cites examples of other non-qualifying electricity resources that also may serve as proxy plants.

J. Staff's Supplemental Comments

As a supplement to its comments, Staff provided a draft list of monthly events for administration of the RPS program. Staff's draft timeline is attached as Appendix B.

V. DISCUSSION

A. "Use" of RECs

At the time of the hearing in this Phase, the Commission had not yet issued its order in Phase II. Consequently, in their Comments many participants addressed the question of what constitutes the "use" of a REC, an issue then pending in Phase II. That matter having been decided, those comments are not cited in the body of this order and are not further addressed in this decision.

B. Incremental Cost

Regarding whether incremental costs may be negative, we appreciate PGE's concerns. However, Staff explained how incremental cost could be negative under the provisions of the Act and how negative incremental costs are incorporated into the analysis required under the Act. Staff's position is adopted.

C. Advance Approval of Bundled REC Sales

As noted above, Staff deleted a provision that required an electric company to seek approval for selling bundled RECs. In its place a disclosure requirement was added to the Implementation Plan rule. An electric company that plans to sell bundled RECs would be required to provide or cite documentation showing consistency with applicable IRP guidelines. The electric company would have to explain how the future sale of bundled RECs would "appropriately balance cost and risk."

ICNU opposes this change. ICNU believes that the result will be that electric companies will avoid prudency and accountability questions.

We concur with Staff that there should not be advance approval. An after-the-fact reasonableness rule for such transactions is sufficient.

D. ODOE Rules

As noted by PGE, the rules do not explicitly incorporate the ODOE rules. The ODOE rules were adopted pursuant to the Act and are part of the fabric of the implementation of the Act, whether they are cited in our rules or not. Accordingly, we see no need to modify the rules proposed by Staff in its reply comments to explicitly reference the ODOE rules. ICNU's position is noted but is not the basis for our decision. If ICNU were to prevail in the Court of Appeals, the contested rule would change without any further action from this Commission.

VI. CONCLUSION

The rules, modified to conform to the decision in Phase II and as proposed by Staff in its reply comments, are adopted.[6]

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[6] The adopted rules incorporate non-substantive editorial changes that have been made in the course of our final review of the document.

ORDER

IT IS ORDERED that:

1. Oregon Administrative Rules, 860-083-0010, 860-083-0100, 860-083-0200, 860-083-0300, 860-083-0350, 860-083-0400, and 860-083-0500 are adopted, as shown in Appendix C.

2. Oregon Administrative Rule 860-083-0005 is amended as shown in Appendix C.

3. The rules become effective upon filing with the Secretary of State.

Made, entered, and effective AUG 0 3 2009.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A person may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

*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 corresponding~~a~~ 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.

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(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 ~~commission~~Commission, 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.~~

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(40~~1~~) "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).

(41~~2~~) "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.

(42~~3~~) "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:

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(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.

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(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

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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.

(i~~h~~) Each electricity service supplier must forecast the cost of proxy plants consistent with subsections (6)(a) through (~~g~~h) 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.

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(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

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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.

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(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.

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(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.

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(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 Nos. ~~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 Nos. ~~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:~~

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(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.

AR 518
Monthly Timeline 2009-2014
OPUC Staff DRAFT
May 13, 2009

2009	Jan.	
	Feb.	
	March	
	April	Utility files renewable adjustment clause
	May	
	June	Commission sets ACP rates for 2011
	July	
	Aug.	
	Sept.	
	Oct.	
	Nov.	
	Dec.	Commission approves renewable adjustment clauses
2010	Jan.	Utility files implementation plan that forecasts incremental costs 2011 through 2015
	Feb.	
	March	
	April	Utility files renewable adjustment clause
	May	
	June	
	July	Implementation Plan Acknowledgement Order
	Aug.	
	Sept.	Commission sets ACP rate for 2012 and 2013
	Oct.	
	Nov.	Utility files proposed revenue requirement
	Dec.	Commission approves renewable adjustment clauses and revenue requirements estimates
2011	Jan.	Compliance year begins; renewable adjustment clause in effect
	Feb.	
	March	
	April	Utility files renewable adjustment clause
	May	
	June	
	July	
	Aug.	
	Sept.	
	Oct.	
	Nov.	Utility files proposed revenue requirement
	Dec.	Commission approves renewable adjustment clauses and revenue requirements estimates

2012	Jan.	Utility files implementation plan that forecasts incremental cost though 2017
	Feb.	
	March	Utility completes true-up for 2011 renewable portfolio standard
	April	Utility files renewable adjustment clause
	May	
	June	Compliance report due
	July	Implementation Plan Acknowledgement Order
	Aug.	
	Sept.	Commission sets ACP rate for 2014 and 2015
	Oct.	
	Nov.	Utility files proposed revenue requirement
	Dec.	Commission approves renewable adjustment clauses and revenue requirements estimates
2013	Jan.	
	Feb.	
	March	Utility completes true-up for 2012 renewable portfolio standard
	April	Utility files renewable adjustment clause
	May	
	June	Compliance report due
	July	
	Aug.	
	Sept.	
	Oct.	
	Nov.	Utility files proposed revenue requirement
	Dec.	Commission approves renewable adjustment clauses and revenue requirements estimates
2014	Jan.	Utility files implementation plan that forecasts incremental cost though 2019
	Feb.	
	March	Utility completes true-up for 2013 renewable portfolio standard
	April	Utility files renewable adjustment clause
	May	
	June	Compliance report due
	July	Implementation Plan Acknowledgement Order
	Aug.	
	Sept.	Commission sets ACP rate for 2016 and 2017
	Oct.	
	Nov.	Utility files proposed revenue requirement
	Dec.	Commission approves renewable adjustment clauses and revenue requirements estimates

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

(1) OAR 860-083-0005 through 860-083-~~0050~~**0500** (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).**~~

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.065
Hist.: PUC 7-2009, f. & cert. ef. 6-25-09

860-083-0010
Definitions
As used in Division 083:

(1) "Aggregate costs" means costs included in ORS 469A.100(4)(c), (d), and (e) that are applicable to 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 bundled renewable energy certificates" means 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) "Discount rate" means the nominal after-tax marginal weighted-average cost of capital.

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

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

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

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

(19) "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.

(20) "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.

(21) "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.

(22) "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.

(23) "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.

(24) "Levelized cost for long-term qualifying electricity and the corresponding 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. 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.

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

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

(27) "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.

(28) "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.

(29) "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.

(30) "Proxy plant" means, unless otherwise specified by the Commission, 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.

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

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

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

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

(35) "Retail electricity consumer" has the meaning given that term in ORS 469A.005(11).

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

(37) "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.

(38) "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.

(39) "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.

(40) "Unbundled renewable energy certificate" has the meaning given that term in ORS 469A.005(12).

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.005 – 469A.210
Hist.: New

OAR 860-083-0100
Incremental Costs

(1)(a) For amortization and levelization calculations, an electric company must use the discount rate used in its most recently filed or updated integrated resource plan, unless otherwise specified by the Commission.

(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.

(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 until 20 years after the current compliance year.

(e) 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) 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) 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) 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.

(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 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 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 aggregate and specific costs for the corresponding proxy plant must be levelized over the time horizon of the qualifying electricity.

(e) The average cost per megawatt-hour for each year of the applicable 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 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 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.

(i) Each electricity service supplier must forecast the cost of proxy plants consistent with subsections (6)(a) through (h) 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 for amounts of actual qualifying electricity.

(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 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-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.

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.100
Hist.: New

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).

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.100
Hist.: New

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 in the compliance year or between January 1 through March 31 of the year following the compliance year.

(C) Subject to the limitations under ORS 469A.145 and the cost limit under 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 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.

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.050, 469A.052, 469A.065, 469A.070, 469A.100, 469A.140, & 469A.145
Hist.: New

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 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 (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 total number and cost of bundled renewable energy certificates used for 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 (s) 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.

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.050, 469A.052, 469A.055, 469A.070 & 469A.170
Hist.: New

OAR 860-083-0400
Implementation Plans by 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 include 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 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.

(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 (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 the integrated resource planning guidelines in 1.b and c. of Commission Order No. 07-047 and subsequent guidelines related to implementation plans 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 include 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.

(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, the electric company must, for the applicable compliance year, provide sufficient documentation or citations to demonstrate how the implementation plan appropriately balances risks and expected costs as required by the integrated resource planning guidelines in 1.b. and c. of Commission Order No. 07-047 and subsequent guidelines related to implementation plans set forth by the Commission:

(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;

(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:

(A) Unbundled renewable energy certificates;

(B) Bundled renewable energy certificates issued between January 1 through 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 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 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 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-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.

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.055 & 469A.075
Hist.: New

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.

(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 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.

(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.

(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.

Stat. Auth.: ORS 756.040, 757.659, 469A.065
Stats. Implemented: ORS 469A.055 & 469A.180
Hist.: New