

ORDER NO. 20-095

ENTERED Mar 26 2020

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 632

In the Matter of

Rulemaking Regarding the 2019 Senate Bill  
98 Renewable Natural Gas Programs.

ORDER

**DISPOSITION: STAFF’S RECOMMENDATION ADOPTED WITH TWO MODIFICATIONS  
TO THE PROPOSED RULES**

This order memorializes our decision, made and effective at our March 19, 2020 Special Public Meeting, to adopt Staff’s recommendation in this matter, with two modifications to Staff’s proposed rules. One change adds section (e) to OAR 860-150-0050(4) to allow the future designation of an alternative methodology to estimate the carbon intensity of renewable gas, and the second change adds section (15) to OAR 860-150-0050 to allow the future designation of a renewable thermal certificate tracking system instead of the M-RETS system.

The Staff Report, with Staff's recommendation and Staff's proposed rules is attached as Appendix A. Staff's proposed rules with the approved changes, for which we will issue a notice of proposed rulemaking, are attached as Appendix B.

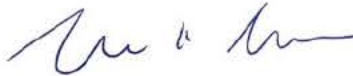
Made, entered, and effective Mar 26 2020.



**Megan W. Decker**  
Chair



**Letha Tawney**  
Commissioner



**Mark Thompson**  
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ORDER NO. 20-095

ITEM NO. RM1

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
SPECIAL PUBLIC MEETING DATE: March 19, 2020**

**REGULAR**   X   **CONSENT**        **EFFECTIVE DATE**       March 19, 2020      

**DATE:** March 10, 2020

**TO:** Public Utility Commission

**FROM:** Nicholas Colombo

**THROUGH:** Bryan Conway and JP Batmale **SIGNED**

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. AR 632)  
Rulemaking Regarding the 2019 Senate Bill 98 Renewable Natural Gas Program.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission issue a notice of proposed rulemaking to adopt the draft rules described below.

**DISCUSSION:**

Issue

Whether the Commission should approve issuance of a notice of proposed rulemaking to implement 2019 Senate Bill 98, creating a Renewable Natural Gas (RNG) program for Oregon's natural gas utilities.

Applicable Rule or Law

Under ORS 756.060, the Commission may adopt reasonable and proper rules relative to all statutes administered by the Commission.

ORS 757.394 states, in pertinent part:

(1) The Public Utility Commission shall adopt by rule a large renewable natural gas program for large natural gas utilities pursuant to the provisions of ORS 757.396.

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(2) The commission shall adopt by rule a small renewable natural gas program for small natural gas utilities pursuant to ORS 757.398.

(3) Rules adopted by the commission under this section shall include:

(a) Rules for reporting requirements under the large renewable natural gas program and the small renewable natural gas program; and

(b) Rules for establishing a process for natural gas utilities to fully recover prudently incurred costs associated with the large renewable natural gas program and the small renewable natural gas program.

Section 7, chapter 541, Oregon Laws 2019, provides, “The Public Utility Commission shall adopt rules pursuant to sections 4 to 6 of this 2019 Act [codified at ORS 757.394 to 757.398] no later than July 31, 2020.”

ORS 183.335 specifies that a state agency must provide notice prior to adopting or revising any administrative rule and sets forth requirements for how to do so.

### Analysis

#### *Background*

In July 2019, Governor Brown signed into law Senate Bill 98, which is now codified as ORS 737.390 to 757.398. The new law creates a voluntary program under which Oregon’s natural gas utilities may fully recover prudent costs associated with the purchase of RNG for their retail natural gas customers, as well as the costs of qualified investments the natural gas utilities make in infrastructure to produce RNG and transport it to their retail customers in Oregon. Staff are not aware of any other state in the nation that has established a similarly aggressive program. The Legislature intended the RNG program to encourage the development of RNG to “support a smooth transition to a low carbon energy economy in Oregon,” and to, “leverage the natural gas system to reduce greenhouse gas emissions.”<sup>1</sup>

The RNG program is “voluntary” in the sense that it is not mandatory for natural gas utilities to acquire RNG for their customers in the way that the Oregon Renewable Portfolio Standard (RPS) mandates that electric utilities purchase electricity from renewable generation sources.<sup>2</sup> There is no penalty under the RNG program if a natural gas utility chooses not to purchase RNG. However, like the RPS, the program’s costs

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<sup>1</sup> ORS 757.390.

<sup>2</sup> ORS 469A.005 to ORS 469A.210.



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and benefits are shared by all ratepayers. Thus, the RNG program is not a voluntary tariff that a customer may elect to pay.

The law sets broad parameters for the RNG program and directs the Commission to promulgate administrative rules detailing the structure of the program and many specific requirements for the natural gas utilities. Individual provisions of the law are discussed in greater detail below. Of particular note, the law makes significant distinctions between a “large natural gas utility” (defined as a natural gas utility with 200,000 or more customer accounts in Oregon)<sup>3</sup> and a “small natural gas utility” (defined as one having fewer than 200,000 customer accounts in Oregon).<sup>4</sup> ORS 757.396 outlines the RNG program for large natural gas utilities, including annual targets for the volume of RNG to be purchased, expressed as a percentage of the total volume of gas purchased during a given year. ORS 757.398 outlines the RNG program for small natural gas utilities, with more program requirements left to the Commission’s discretion. At present, only NW Natural meets the definition of a large natural gas utility, while both Avista and Cascade meet the definition of a small natural gas utility in Oregon.

Staff’s draft rules are attached hereto as Attachment 1. Staff greatly appreciate the broad and sustained participation of numerous stakeholders throughout the informal rule drafting process. Staff held four public workshops, which were well-attended. Thirty-five to fifty participants took part in each workshop, either in-person or via phone, as follows:

- A “kickoff” workshop October 22, 2019, in Salem,
- A scoping workshop December 13, 2019, in Portland,
- A workshop January 24, 2020, in Portland to discuss an outline of the rules, and
- A workshop February 20, 2020, in Portland to discuss a first draft of the rules.

In addition, stakeholders submitted comprehensive written comments January 13, 2020, in response to Staff’s scoping questions, again on February 4, 2020, in response to Staff’s outline, and again March 2, 2020, in response to Staff’s draft rules. These comments were detailed, thorough, and extremely helpful to Staff in understating the complex issues related to the emerging RNG market and how best to structure the rules governing this new, large-scale program.

Staff appreciate the input received from the following organizations and individuals, whom participated in person or via phone during one or more workshops, submitted written comments, or helped answer Staff’s questions informally during the rule drafting process: 3 Degrees, Avista, AWEA, Blue Planet Energy Law, Bonneville Environmental Foundation, California Public Utility Commission, California Air Resources Board (CARB), Cascade Natural Gas Co., Citizens’ Utility Board, City of Eugene, City of

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<sup>3</sup> ORS 757.392(3).

<sup>4</sup> ORS 757.392(9).

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Portland, City of Springfield, Clean Energy Transportation Fuel, Coalition for Renewable Natural Gas, Energy Trust of Oregon, M-RETS, NW Alliance for Clean Transportation, NW Gas Association, NW Natural, Oregon Association of Clean Water Agencies (ACWA), Oregon Department of Energy (ODOE), Oregon Department of Environmental Quality (DEQ), Metro Regional Government, Sustainable Energy Ventures, Washington Utilities and Transportation Commission, Williams Northwest Pipeline, and Mr. Christopher Williams. In particular, Staff are grateful for the consistent and thoughtful participation by Oregon DEQ staff, whose understanding of the potential parallels and overlap between DEQ's Clean Fuels Program and the PUC's RNG program has proven invaluable.

To implement the RNG program and fulfill the requirements of the law, Staff believe it will be necessary for the Commission to adopt an entire new Division (to be numbered "150") within Chapter 860 of the OAR. The new rules need to address many distinct topics and they do not fit well within other divisions of the Commission's existing rules. The following sections summarize Staff's reasoning, and key inputs received from stakeholders, behind the drafting of key rule sections by main topic or issue.

The draft rules are lengthy, and they address all the provisions required by statute. However, some issues that were the topic of lengthy discussion during public workshops are not included. Based upon stakeholder comments and internal Staff discussions, some provisions included in earlier drafts of these rules have now been relegated to the proverbial cutting room floor. These include provisions addressing gas quality, interconnection, and safety standards, which seem to be sufficiently addressed in existing OAR provisions or Commission orders.

Specifically, during public workshops as well as in the scoping questions that many stakeholders responded to, Staff explored the challenges presented by gas quality standards for a product (RNG) that could differ chemically from the typical composition of geologic natural gas transported in pipelines. One potential concern is that there is no single national or regional standard for the heat content of biomethane or RNG. NW Natural already has a Commission-acknowledged specification in its tariff for biomethane,<sup>5</sup> which is not identical to Cascade's biomethane tariff.<sup>6</sup> Avista has yet not filed a biomethane tariff with the Commission. Staff heard two distinct concerns: 1) that RNG producers might "forum shop" for the utility with the least stringent standard, or 2) that one utility's standard might be unnecessarily stringent and thus anti-competitive. To address such concerns and provide consistency and predictability, NW Natural, Avista, and Cascade confirmed to Staff that they are working with industry representatives to

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<sup>5</sup> Docket No. ADV 614, Advice No. 17-14, effective September 13, 2017, Third Revision of General Rule 24 Gas Quality Standards and Determination of Thermal Units, Northwest Natural tariff, PUC OR No. 25.

<sup>6</sup> Advice No. 017-04-01, effective June 1, 2017, Schedule 800, Biomethane Receipt Services, PUC OR No. 10.

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develop a single consensus RNG specification that all three utilities will file with both the Commission and the Washington Utilities and Transportation Commission. That specification is anticipated to be filed later in 2020.

A separate concern, expressed by AWEC, is that a large RNG producer might inject into a relatively small-volume pipeline, nearby to a large industrial customer whose machinery or processes might be highly sensitive to variations in gas quality or energy content. If the RNG does not have the same chemical properties as other natural gas, the industrial customer could be adversely affected. After discussing this scenario during public workshops and internally, Staff believe that the existing gas service standards in the Commission's rules provide adequate protection to utility customers.<sup>7</sup> If a customer believes the natural gas utility has violated a Commission rule or a tariff specification regarding gas quality or heat value, the customer may file a complaint for Commission action, if necessary.

Finally, the draft rules do not address quality or safety standards for hydrogen, but a future rulemaking might be needed to do so. The statutory definition of "renewable natural gas" includes hydrogen produced from renewable sources of electricity.<sup>8</sup> The concentrations of hydrogen allowed under existing biomethane specifications are very low: 0.10 percent in NW Natural's tariff<sup>9</sup> and 0.04 percent in Cascade's tariff.<sup>10</sup> A different specification would be necessary to allow a facility producing pure hydrogen to inject it safely into a natural gas pipeline. NW Natural reported that they are testing the effects of higher concentrations of hydrogen on some of their equipment, including whether hydrogen would cause the steel pipes to become unacceptably brittle. At this time, there is no consensus safety standard to refer to in the rules, and the utilities reported to Staff that they are not prepared to file a proposed standard for hydrogen yet, and are not likely to do so during 2020. As the RNG and hydrogen markets develop nationally and regionally, one or several utilities are likely to petition the Commission to establish pipeline safety and gas standards specific to hydrogen.

### *Greenhouse Gas Emissions*

Three significant, and interrelated, issues that emerged during the informal rule drafting process are: 1) the stated purpose and intent of the law is to "support a smooth transition to a low carbon energy economy in Oregon," and to, "leverage the natural gas system to reduce greenhouse gas emissions," though the law establishes no specific

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<sup>7</sup> See OAR 860-023-0025, 830-023-0030, 860-023-0035, 860-023-0040, 860-023-0045, and 860-023-0050.

<sup>8</sup> ORS 757.392.

<sup>9</sup> Docket No. ADV 614, Advice No. 17-14, effective September 13, 2017, Third Revision of General Rule 24 Gas Quality Standards and Determination of Thermal Units, Northwest Natural tariff, PUC OR No. 25.

<sup>10</sup> Advice No. 017-04-01, effective June 1, 2017, Schedule 800, Biomethane Receipt Services, PUC OR No. 10.

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emissions reduction targets or mechanisms; 2) an existing, and lucrative, market for RNG already exists in the form transportation fuels credit programs administered by DEQ, CARB, and the U.S. Environmental Protection Agency (USEPA); and 3) there is a potential risk for entities to make “double claims” of the environmental attributes of RNG under multiple programs or in multiple jurisdictions.

After lengthy discussions with stakeholders, Staff believe the most effective way to address these issues will be to define the environmental attributes of RNG in terms of the carbon intensity (the lifecycle greenhouse gas emissions) of a specific source of RNG and its pathway to Oregon retail natural gas customers. This is the same methodology utilized by DEQ and CARB for their respective renewable fuels programs. Because Oregon natural gas utilities may be competing to purchase RNG from producers who wish to sell their product to vehicle fueling stations and receive lucrative fuels program credits, use of a similar carbon accounting methodology creates a more seamless and transparent market.

The difference in carbon intensity between one source of RNG and its pathway to end users and another source of RNG with a different pathway can be significant. As a larger market for RNG develops it is possible that RNG with a particularly low carbon intensity might fetch a higher value on the market than RNG that represents a more modest reduction in lifecycle greenhouse gas emissions. Nothing in ORS or these draft rules requires a natural gas utility to purchase or produce RNG with a particular carbon intensity value. All RNG that meets the statutory definition, and otherwise is compliant with these rules, counts equally toward a large natural gas utility’s annual target or a small gas utility’s program, regardless of its carbon intensity. The carbon intensity of the RNG will be reported and tracked with all other environmental attributes of the RNG. In this way, a natural gas utility might make prudent investments in RNG projects or purchase RNG in the near term based upon what is available in a somewhat nascent market. Over time, a larger and more diverse market for RNG may develop. This could afford the natural gas utilities greater opportunity to pursue various prudent investments and realize greater carbon reduction benefits for their customers.

Under the program structure set forth in the draft rules, the environmental attributes of each dekatherm of RNG, including its carbon intensity, will be represented by a “renewable thermal certificate (RTC),” and RTCs will be issued, tracked, traded, and retired through the M-RETS electronic system. This system is similar to the system of RECs that electric utilities in Oregon and neighboring states track in WREGIS. The tracking system is described in greater detail below.

#### *Definitions*

Most of the terms in the draft rules that need to be defined are provided in ORS or elsewhere in OAR. Staff revised definitions of “environmental attributes” and “renewable

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thermal certificates” several times to best fit the program’s intent. In particular, the comments submitted by the Coalition for Renewable Natural Gas, NW Natural, and 3 Degrees had the most to say about environmental attributes and were very helpful. Staff also had many conversations with DEQ to ensure these definitions aligned with the comprehensive work DEQ has already undertaken to create a transparent and clear market for renewable fuels (including RNG) in Oregon.

*Environmental Attributes and Renewable Thermal Certificates*

Senate Bill 98 was essentially silent regarding the definition, tracking, transfer, and legitimate claims for the environmental attributes of RNG. However, these attributes are what distinguishes pipeline-quality biogas or “biomethane” (as opposed to hydrogen that meets the statutory definition of RNG) from any other methane in the natural gas pipeline system. With little to no statutory guidance, and no other operating RNG program for retail natural gas utility customers in the nation, Staff relied on public workshop discussions and the written comments of stakeholders to find a suitable way forward. Staff appreciate the comments and feedback from many stakeholders on these topics. Input received from DEQ, Avista, the Coalition for Renewable Natural Gas, the Citizens’ Utility Board, and NW Natural was particularly insightful and useful to staff in addressing these issues. Staff revised the outline and draft provisions regarding RTCs several times in response to stakeholder feedback, the resultant draft rules included herein as Attachment 1 differ significantly from the Oregon RPS rules regarding electric RECs.

For those familiar with REC markets and the RPS, these draft RNG rules differ notably regarding “banked,” and “bundled” or “unbundled” RTCs. The draft rules do not define any of these terms, and instead specify how natural gas utilities must utilize RTCs, as well as what the utilities may not do with RTCs. Banking and unbundling of electric utility RECs under Oregon’s (and other states’) RPS rules have led to complex situations and sometimes unintended consequences. Staff sought to avoid some of those pitfalls, while establishing a regulatory structure that will hopefully foster a robust and competitive market for RNG.

The draft rules do not distinguish between “bundled” or “unbundled” RTCs. Instead, the draft rules establish a “book-and-claim” accounting system, whereby RTCs and the associated attestations regarding environmental claims about the RNG the RTCs were originally associated with can be tracked electronically from the point in time when the RNG is injected into a common carrier pipeline, with no need to track the physical gas itself. The chain of custody of the RTCs – which represent all of the environmental attributes of the RNG and the rights to all environmental claims – is the lynchpin of this methodology. Although they do not yet utilize an electronic tracking system, Oregon’s Clean Fuels Program and California’s LCFS both utilize a similar book-and-claim accounting. This system has proven successful to date for a separate, but parallel and

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competing, market for RNG. Thus, staff believe it would prove successful in this RNG program, as well.

Rather than mirror the Oregon RPS rules, which allow electric utilities to amass REC banks that exceed those utilities' compliance needs for many years in the future, these draft RNG rules follow the model of Washington State's REC bank rules. Avista originally suggested such a model, and other stakeholders seem comfortable with it. Specifically, the draft RNG rules allow a natural gas utility to retire an RTC during the same year it was generated, apply it towards the preceding year's target and retire the RTC, or retire the RTC in the year after it was generated. This should avoid the possibility of unnecessarily large (and unusable) RTC "banks," while still allowing the utilities flexibility to meet annual volumetric targets. For example, weather that is much milder or much colder than forecast for a long period during the winter can significantly change demand for natural gas. For comparison, California's LCFS rules use a quarterly reporting system and allow a claim to be made on natural gas delivered to a CNG vehicle fueling station up to three quarters after the quarter in which it the RNG was injected into a common carrier pipeline. Effectively, an LCFS credit can be "banked" in this manner for up to one year after the associated gas was delivered to the pipeline system. DEQ may soon revise the Oregon Clean Fuels Program rules to extend the period to usability to match California's.

The draft rule OAR 860-150-0050 describes how RTCs will be used to represent and track the environmental attributes – and thus the claims made – of RNG under this program. The draft rules specify use of the M-RETS system by the natural gas utilities and any RNG producer or intermediary the utilities wish to acquire RNG from. This is similar to the RPS for electric utilities, where ODOE's rules specify use of WREGIS. M-RETS is a non-profit corporation that also operates a REC tracking platform for electric utilities in the Midwestern states.

The draft rules specify use of M-RETS for several reasons. Electronic tracking of RTCs by a third party, and a requirement for natural gas utilities to retire RTCs in the platform once an associated quantity of gas has been delivered to customers, reduces the potential for double claims of a quantity of RNG or its environmental attributes. RNG producers would be able to upload the carbon intensity calculator and value for each RTC they generate, as well as attestation language regarding claims for the RNG and its attributes. This process makes it feasible for the natural gas utilities to establish chain of custody for the RNG's attributes and for the Commission and DEQ to verify that no one has improperly claimed the same attributes in both agency's programs. Further, staff believe that an electronic tracking system is more efficient and less burdensome than any paper tracking system. At present, M-RETS is the only operational third-party electronic tracking platform available for RTCs.

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Additionally, Staff believe it is highly beneficial, if not imperative, that all natural gas utilities in Oregon use the same tracking system for the environmental attributes of RNG. The benefits of a single, third-party platform that is used and easily accessible by all parties outweighs more tailored, individual-company solutions. Furthermore, although Oregon will be the first state with a program of this nature in place, it is possible that other agencies and other jurisdictions would allow participants in their own RNG programs to utilize M-RETS, and some might also specify use of the platform.

#### *Incremental Costs*

The draft rules describe a process for calculating the annual incremental costs of the RNG program, based upon a cost effectiveness calculation to be approved the Commission separate proceedings (see below). ORS 757.398(2) directs the Commission to set an annual cap on incremental costs for each small natural gas utility, once that utility has made an initial filing with the Commission requesting to participate in the RNG program. ORS 757.396(5) establishes a cap on annual incremental costs for a large natural gas utility of 5 percent of total revenue requirement. The cap can be raised so that the utility may make additional investments that year if the Commission explicitly allows the utility to do so.

The natural gas utility's total annual incremental cost could be described broadly as the following:

- The net cost of all RNG purchases above the price of geologic natural gas; plus
- The levelized cost of investments made in RNG infrastructure that cost more than buying geologic natural gas; minus
- Any savings the utility realized for customers by RNG purchases or the levelized costs of investments that were less expensive than acquiring a comparable quantity of geologic natural gas; minus
- Any revenues the utility receives from resale of RNG to other parties (i.e. not retail customers).

In the near term, nearly all RNG is likely to be significantly more expensive than geologic natural gas. Over time, RNG could become the less-expensive resource relative to natural gas.

Regarding cost-effectiveness, the draft rules provide for the Commission to approve the appropriate cost-effectiveness methodology in separate proceedings. The Commission directed Staff to open an investigation to establish an RNG cost evaluation methodology for NW Natural.<sup>11</sup> If the Commission approves the output from that investigation (Docket No. UM 2030), NW Natural could use that methodology. Otherwise, NW Natural must use the methodology from its last IRP. The small natural gas utilities could ask the

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<sup>11</sup> Order No. 19-276, August 27, 2019.

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Commission to allow them to use the same methodology, or the Commission could direct the small natural gas utilities to use a modified version, or a different methodology on review of an IRP or in a specific order, such as the Commission's order authorizing participation in the program.

#### *Cost Recovery Mechanisms*

The most contentious provisions of the draft rules are those governing the cost recovery mechanisms, specifically regarding an automatic adjustment clause (AAC) to recover the costs of qualified investments. The draft rules provide several different methods for cost recovery, depending upon the category of costs. The cost of RNG purchased from a third party may be recovered through the natural gas utility's existing Purchased Gas Adjustment (PGA) mechanism. Practically, pipeline-quality natural gas that is purchased and scheduled by a natural gas utility is equivalent to any other pipeline-quality natural gas, regardless of how the natural gas was produced. The costs associated with registration in the M-RETS system and the costs of purchasing and retiring RTCs in the M-RETS system would also be recoverable through the PGA mechanism. Staff view these M-RETS costs as transaction costs for the utility to purchase RNG and deliver it to customers. Stakeholders seem to agree with Staff on these points.

The draft rules state that a natural gas utility may seek cost recovery for qualified investments by filing a general rate revision. Additionally, any natural gas utility may petition the Commission to establish an AAC for recovery of specified qualified investment costs. A precedent exists for Staff's proposed approach. Staff's solution is analogous to the mechanisms for electric utility recovery of costs of RPS compliance. The Renewable Adjustment Clause (RAC) is not fully described in ORS or OAR. Instead, the RAC mechanism was originally defined in Order No. 07-572, and has since been revised separately for each electric utility in individual dockets. Further, Staff believe the design of an AAC for RNG qualified investments will require longer and more detailed conversations than are possible during this rulemaking process. For example, the Commission might find certain bounds, limits, or thresholds appropriate for an AAC, such as a maximum dollar value per investment, or per year.

Finally, the draft rules separate the provisions for cost recovery by a large natural gas utility and cost recovery by a small natural gas utility. Even though most of the rule provisions are parallel, ORS 757.398 provides that a small natural gas utility must make an initial filing with the Commission before it can begin to participate in the RNG program, while a large natural gas utility may participate as soon as the rules take effect. Further, after a small natural gas utility makes its initial filing, the Commission must set a rate cap. The draft OAR 860-150-0400 describes the steps in this process for a small natural gas utility, while draft OAR 860-150-0300 sets forth the cost recovery provisions for a large natural gas utility.



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### *Competitive Bidding*

One section of the law, ORS 757.396(4), provides that, “Before making a qualified investment in biogas production that is upstream of conditioning equipment, pipeline interconnection or gas cleaning, a large natural gas utility shall engage in a competitive bidding process.” Staff drafted OAR 860-150-0500 to set forth requirements for such a competitive bidding process. The Commission’s only existing rules on competitive bidding relate to electric utility RFPs. While there are some parallels to be drawn, RNG production facility projects are likely to be less expensive than constructing a facility that generates electricity. Also, the law only applies a competitive bidding requirement to a specific subset of projects that a large natural gas utility might participate in. Other qualified investments do not require competitive bidding, nor are small natural gas utilities required to engage in competitive bidding. Thus, the electric utility RFP rules may not be the best model. During the informal public process, AWEC suggested the Oregon Department of Justice’s model public procurement rules as a potentially relevant point of reference, and Staff have drawn upon elements of those rules in drafting the RNG competitive bidding provisions. Staff’s draft rules seek to provide for a fair competitive process, giving affected stakeholders an opportunity to comment on that process, while not creating significant regulatory burdens without benefit to ratepayers.

### *Other Statutory Requirements*

The Legislature directed the Commission to adopt rules to implement the various provisions of the law no later than July 31, 2020. Given the length and complexity of these draft rules, and the likelihood the Commission will receive lengthy and nuanced comments in response to a formal rule proposal, Staff recommend that the Commission issue a Notice of Proposed Rulemaking by April 1, 2020.

Staff believe that the draft rules included in Attachment 1 meet all the requirements of the statute and will provide a robust and implementable framework for the utilities’ RNG program in Oregon. In Attachment 2, Staff include a “cross-walk” between the requirements set forth in the statute and the relevant section(s) in the draft rules that address each requirement.

### Conclusion

Staff recommends that the Commission initiate a formal rulemaking proceeding to adopt the draft rules in Attachment 1.

### **PROPOSED COMMISSION MOTION:**

Approve issuance of a notice of proposed rulemaking to adopt the draft rules in Attachment 1.

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**ATTACHMENT 1:**

**OAR Chapter 860 – Public Utility Commission  
Division 150 – Renewable Natural Gas**

**860-150-0005 Purpose, Scope, and Applicability**

- (1) The purpose of these rules is to set forth the requirements governing renewable natural gas programs for large natural gas utilities and for small natural gas utilities.
- (2) These rules apply to purchases of renewable natural gas and to qualifying investments in renewable natural gas infrastructure by large and small natural gas utilities, as defined herein.
- (3) Nothing in these rules prohibits or limits the ability of a natural gas utility to file a rate schedule under which a retail natural gas customer may elect to pay a special rate for a quantity of renewable natural gas equivalent to all or a portion of that customer's natural gas usage, consistent with the filing requirements under ORS 757.205, ORS 757.210, ORS 757.220, OAR Chapter 860, Division 22 and any other applicable requirements specified by the Commission in rule or order.
- (4) Upon request or its own motion, the Commission may waive any of the Division 150 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

**Statutory/Other Authority: ORS 183, 756 & 757**

**Statutes/Other Implemented: ORS 757.394, 757.396, & 757.398**

**860-150-0010 Definitions**

For purposes of this Division, except when a different scope is explicitly stated:

- (1) "Biogas" has the meaning given that term in ORS 757.392.
- (2) "Carbon intensity" or "CI" means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO<sub>2</sub>e/MJ).
- (3) "CFP Online System" has the meaning given that term in OAR 340-253-0040.
- (4) "DEQ" means the Oregon Department of Environmental Quality.

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- (5) “Environmental attributes” means any and all environmental claims, credits, benefits, emissions reductions, offsets, and allowances attributable to the production of renewable natural gas and its avoided emission of pollutants. The environmental attributes of renewable natural gas include, but are not limited to, the avoided greenhouse gas emissions associated with the production, transport, and combustion of a quantity of renewable natural gas compared with the same quantity of geologic natural gas. Environmental attributes do not include:
- (a) The renewable natural gas itself or the energy content of that gas;
  - (b) Any tax credits associated with the construction or operation of the renewable natural gas production facility, and any other financial incentives in the form of credits, reductions, or allowances associated with the production of renewable natural gas that are applicable to a state, provincial, or federal income taxation obligation;
  - (c) Fuel- or feedstock-related subsidies or “tipping fees” that may be paid to the seller to accept certain fuels, or local subsidies received by the renewable natural gas production facility for the destruction of particular pre-existing pollutants or the promotion of local environmental benefits; or
  - (d) Emission reduction credits encumbered or used by the renewable natural gas production facility for compliance with local, state, provincial, or federal operating and/or air quality permits.
- (6) “General rate revision” has the meaning given that term in OAR 860-022-0017.
- (7) “Geologic natural gas” means any fossil natural gas from geologic or non-renewable resources, whether extracted by conventional or unconventional means.
- (8) “Large natural gas utility” has the meaning given that term in ORS 757.392.
- (9) “M-RETS” means the regional renewable energy certificate system and trading mechanism known as the Midwest Renewable Energy Tracking System, Inc.
- (10) “Natural gas utility” has the meaning given that term in ORS 757.392.
- (11) “OR-GREET” has the meaning given that term in OAR 340-253-0040.
- (12) “Pathway” means a detailed description of all stages of renewable natural gas production and use for a source of RNG, including feedstock generation, production, cleaning or conditioning, transportation, distribution, and combustion of the renewable natural gas by the consumer. The fuel pathway is used to calculate the carbon intensity of each source of renewable natural gas.
- (13) “Production facility” means any facility at which biogas or hydrogen is produced, cleaned, conditioned, upgraded, purified, or processed to meet standards for injection to a natural gas common carrier pipeline as renewable natural gas.

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- (14) “Qualified investment” has the meaning given that term in ORS 757.392.
- (15) “Renewable natural gas” or “RNG” has the meaning given that term in ORS 757.392.
- (16) “Renewable thermal certificate” or “RTC” means a unique representation of the environmental attributes associated with the production, transport, and use of one dekatherm of renewable natural gas.
- (17) “Small natural gas utility” has the meaning given that term in ORS 757.392.
- (18) “Target year” means a calendar year, beginning with the year 2020 through and including the year 2050, for which ORS 757.396 establishes portfolio targets for the percentage of gas purchased by a large natural gas utility for distribution to retail natural gas customers in Oregon that is renewable natural gas.
- (19) “Tier 1 calculator” or “Simplified calculator” has the meaning given that term in OAR 340-253-0040.
- (20) “Tier 2 calculator” has the meaning given that term in OAR 340-253-0040.

**Statutory/Other Authority: ORS 183, 756 & 757**

**Statutes/Other Implemented: ORS 756.040, 757.020 & 757.394**

#### **860-150-0050 Environmental Attributes and Renewable Thermal Certificates**

- (1) The environmental attributes of RNG produced or purchased pursuant to these rules must include, but is not limited to, an estimated carbon intensity for the pathway utilized to produce, transport, and deliver RNG to a retail customer.
- (2) Each large natural gas utility and each small natural gas utility that is authorized by the Commission to participate in the RNG program under these rules must use RTCs to track the chain of custody of the environmental attributes of RNG that is produced or purchased for the utility’s retail natural gas customers in Oregon. RTCs used for compliance with these rules must be issued, monitored, accounted for, and transferred by or through M-RETS.
- (3) All entities that generate, acquire, purchase, sell, transfer, or broker the trade of RTCs for eventual use by a natural gas utility under these rules must register and maintain accounts in good standing with the M-RETS renewable energy certificate system. A natural gas utility may not use RTCs under these rules that are issued by, acquired from, or transferred by an entity that has not complied with all information, data reporting and verification requirements of the M-RETS system, including payment of registration and transaction costs.

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- (4) Each entity that generates RTCs pursuant to these rules must estimate the carbon intensity of the pathway for the RNG. To estimate the carbon intensity of the RNG, the RTC generator must use one of the following, as appropriate to the pathway in question:
  - (a) A Tier 1 OR-GREET calculator or simplified calculator published by DEQ for the Clean Fuels Program;
  - (b) A Tier 2 OR-GREET calculator published by DEQ for the Clean Fuels Program;
  - (c) A Tier 1 CA-GREET calculator published by the California Air Resources Board (CARB) for use in the California Low Carbon Fuel Standards (LCFS) program, with the transportation and distribution cells modified for that RNG's pathway to Oregon; or
  - (d) A Tier 2 CA-GREET calculator published by CARB for use in the LCFS program, with the transportation and distribution cells modified for that RNG's pathway to Oregon.
- (5) For any of the calculators described in section (4), entities submitting documentation to M-RETS are not required to use cells that would not apply to RNG delivered to retail natural gas utility customers, such as compression above normal pipeline pressures that would only be appropriate for compressed natural gas (CNG) vehicle fuels. In the Natural Gas Transport cells of the calculators, an entity may use the pipeline distance to a large or small natural gas utility's city gate instead of pipeline distance to a CNG station.
- (6) Each entity that generates RTCs pursuant to these rules must provide documentation to M-RETS regarding the carbon intensity of the pathway in question pursuant to section (4). That documentation must include:
  - (a) One of the calculators described in section (4), with the appropriate cells modified and values entered for the pathway in question; and
  - (b) A resultant carbon intensity value for the pathway in question.
- (7) Upon the Commission's request, each large natural gas utility and each small natural gas utility that participates in the RNG program must provide documentation to demonstrate that, for each RTC the natural gas utility purchased or otherwise acquired, one dekatherm of RNG was delivered to an injection point on a natural gas common carrier pipeline.
- (8) A large natural gas utility must retire one RTC in the M-RETS system for each dekatherm of RNG counted towards the annual targets for a large natural gas utility established in ORS 757.396.

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- (9) A small natural gas utility participating in the RNG program described in these rules must retire one RTC in the M-RETS system for each dekatherm of RNG counted towards the quantity of RNG the utility specified in its filing with the Commission pursuant to OAR 860-150-0400.
- (10) Once retired, a RTC may not be sold, transferred, or claimed again by a natural gas utility or any other entity.
- (11) A large natural gas utility or a small natural gas utility participating in the RNG program described in these rules must obtain attestations from the RTC generator and from each other entity that purchased, received, or otherwise acquired custody of each RTC prior to the natural gas utility collectively demonstrating that:
  - (a) The entity claiming the environmental attributes represented by each RTC has the exclusive right to claim environmental attributes associated with the RNG;
  - (b) The environmental attributes, and the RTC that represents those attributes, are associated with RNG produced by a specific entity, in a specific location, using a specific process and a specific pathway; and
  - (c) The environmental attributes have not been used or claimed in any other program or jurisdiction.
- (12) Each large natural gas utility and each small natural gas utility participating in the RNG program must retain the attestations described in section (11) and make them available for review by the Commission upon request.
- (13) Each large natural gas utility and each small natural gas utility participating in the RNG program described in these rules must maintain records of each RTC retired under the RNG program, as well as the attestations described in section (11), for a minimum of five (5) years after the date on which the RTC was retired.
- (14) The attestations described in section (11) of these rules may be made, stored, and transferred electronically through the M-RETS system or through another means specified by the Commission.
- (15) For a large natural gas utility, an RTC generated during the target year, the preceding year or the subsequent year may be retired to comply with the annual RNG targets established in ORS 757.396. For a small natural gas utility, an RTC may be retired during the year in which it is generated, during the subsequent year, or retired and applied to the year preceding the year the RTC was generated.
- (16) An unused RTC expires, for the purposes of these rules, at 11:59 p.m. on December 31 of the year subsequent to the year during which the RTC was generated. A natural gas utility may not use an expired RTC to comply with these rules.

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**Statutory/Other Authority: ORS 183, 756 & 757**

**Statutes/Other Implemented: ORS 757.394**

**860-150-100 Renewable Natural Gas Resource Planning**

- (1) Each large natural gas utility and small natural gas utility must, as part of an integrated resource plan filed after August 1, 2020, include information relevant to the RNG market, prices, technology, and availability that would otherwise be required under the Commission's Integrated Resource Plan Guidelines, by order of the Commission, or by administrative rules.
- (2) In addition to the information required under section (1), a large natural gas utility must also include in each integrated resource plan:
  - (a) Information about opportunities, challenges, and the natural gas utility's strategy for meeting annual RNG targets in ORS 757.396 during the period of the integrated resource plan's action plan; and
  - (b) The cost effectiveness calculation that the utility will use to evaluate RNG resources, pursuant to OAR 860-150-0200.
- (3) In addition to the information required under section (1), each small natural gas utility must also include in its integrated resource plan:
  - (a) An indication whether and when the utility expects to make a filing with the Commission, pursuant to OAR 860-150-0400, of its intent to begin participating in the RNG program described in these rules, if the utility has not already started to participate in the RNG program;
  - (b) Information about opportunities, challenges, perceived barriers, and the natural gas utility's strategy for participation in the RNG program described in these rules; and
  - (c) The cost effectiveness calculation that the utility will use, pursuant to OAR 860-150-0200, to evaluate RNG resources, if the utility has not already filed this with the Commission pursuant to OAR 860-150-0400.
- (4) The requirements of this rule are in addition to all requirements concerning integrated resource plans contained in OAR 860-027-0400 and as specified by Commission Order Numbers 07-002 and 07-047.

**Statutory/Other Authority: ORS 183, 756.040 & 757.262**

**Statutes/Other Implemented: ORS 756.040 & 757.262**

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**860-150-0200 Incremental Costs**

- (1) For the purposes of ORS 757.396, a large natural gas utility must calculate its total incremental annual cost as follows:
  - (a) A large natural gas utility must apply a cost-effectiveness calculation to all RNG that the utility acquires for its retail natural gas customers. The cost-effectiveness calculation must be consistent with the methodology used to evaluate RNG resources in the utility's most recently acknowledged integrated resource plan, or integrated resource plan update, or as the utility may otherwise be directed by order of the Commission;
  - (b) For each purchase of RNG from a third party that is not cost effective according to the calculation in subsection (1)(a) of this rule, the dollar value of the difference between the cost of the purchased RNG and a cost-effective purchase of a comparable quantity of geologic natural gas of the same vintage and contract duration represents the incremental cost of that purchased RNG. During each year, the incremental cost of all RNG purchases will be summed to calculate their contribution toward the utility's total annual incremental cost;
  - (c) For each purchase of RNG from a third party that is cost effective according to the calculation in subsection (1)(a) of this rule, the dollar value of the difference between the cost of the purchased RNG and comparable quantity of geologic natural gas of the same vintage and contract duration represents the cost savings of that purchased RNG. During each year, the cost savings of all RNG purchases will be summed and subtracted from the incremental cost of RNG purchases described in subsection (1)(c);
  - (d) For each qualified investment that is not cost effective according to the calculation in subsection (1)(a) of this rule, the dollar value of the difference between the cost of the qualified investment and a cost-effective proxy resource represents the incremental cost of that qualified investment;
  - (e) During each year, the levelized incremental cost of each qualified investment described in subsection (1)(d) must be summed to calculate a gross total annual incremental levelized cost; and
  - (f) To calculate a net total annual incremental levelized cost, a large natural gas utility must sum the value calculated according to subsection (1)(b) and the gross total annual incremental levelized cost according to subsection (1)(d), then subtract from this total any value received during that year by a large natural gas



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utility upon any resale of RNG to an entity other than a retail utility customer, including any associated RTCs.

- (2) The resultant net cost described in subsection (1)(d) will serve as a large natural gas utility's total incremental annual levelized cost for the purposes of ORS 757.396 and these rules.
- (3) If a large natural gas utility's total incremental annual levelized cost exceeds five percent of the large natural gas utility's total revenue requirement from the utility's normalized results of operations report that was most recently filed with the Commission, the large natural gas utility may not make another qualified investment during that year unless:
  - (a) The large natural gas utility immediately files a petition with the Commission to exceed its revenue requirement cap, stating that it has exceeded or expects to exceed the five percent of total revenue requirement cap;
  - (b) In its filing, the large natural gas utility shows good cause why it should continue to make qualified investments that year to meet the applicable annual RNG target volume set forth in ORS 757.396;
  - (c) In its filing, the large natural gas utility identifies the number of, and associated costs for, all qualified investments made during that year as of the date of the filing;
  - (d) In its filing, the large natural gas utility identifies all the qualified investments that it intends to make before the end of the year and the total anticipated costs associated with those additional investments;
  - (e) In its filing, the large natural gas utility requests the Commission's approval to continue making qualified investments during that year; and
  - (f) The Commission approves the utility's request to continue making qualified investments during that year.
- (4) After a large natural gas utility makes a filing pursuant to section (3), the Commission generally will consider whether to approve or deny the utility's petition, or to conduct further investigation, within thirty days of the filing. The Commission may consider comments on the petition from interested persons that are filed within fifteen days of the utility's petition.

**Statutory/Other Authority: ORS 756 & 757**

**Statutes/Other Implemented: ORS 757.396**

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**860-150-0300 Mechanisms for Recovery of Prudently Incurred Costs by Large Natural Gas Utilities**

- (1) A large natural gas utility may make a filing, consistent with the requirements of OAR 860-022-0070 and other applicable rules of the Commission, seeking to pass through prudently incurred costs associated with the purchase of RNG to meet the annual targets for a large natural gas utility established in ORS 757.396, excluding qualified investments, by means of its purchased gas adjustment mechanism. Such costs may also include the utility's cost of registration for the RTC tracking system described in OAR 860-150-0050, transaction costs for any RTCs acquired in association with the purchase of RNG from another entity, and transaction costs incurred to retire the RTCs associated with gas delivered to retail utility customers.
- (2) In filings, annual earnings reviews, and quarterly updates associated with the purchased gas adjustment mechanism, a large natural gas utility must clearly identify costs of purchased RNG and the costs associated with RTCs described in section (1) of this rule.
- (3) A large natural gas utility filing new or revised tariff schedules that constitute a general rate revision may seek to recover prudently incurred costs associated with qualified investments in its filing.
- (4) A large natural gas utility may file a request that the Commission open an investigation to establish an automatic adjustment clause for recovery of prudent costs associated with qualified investments that meet criteria to be established by the Commission.
- (5) If the Commission establishes an automatic adjustment clause pursuant to section (4), any rate adjustments made through this clause since the natural gas utility's most recent general rate revision may be incorporated in the natural gas utility's next general rate revision, as appropriate.

**Statutory/Other Authority: ORS 756 & 757**

**Statutes/Other Implemented: ORS 757.394 & 757.396**

**860-150-0400 Mechanisms for Recovery of Prudently Incurred Costs by Small Natural Gas Utilities**

- (1) Before a small natural gas utility makes a qualified investment for the first time, or purchases RNG from a third-party producer with the intent to seek cost recovery in a

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new or revised tariff schedule, the utility must file a petition to participate in the RNG program with the Commission. In addition to the information required under ORS 757.398, the small natural gas utility's petition must include:

- (a) The total volume of RNG to be procured per year over a period concluding at the end of the last month of the test year used in the general rate revision filing, expressed as a percentage of all natural gas expected to be delivered to the utility's retail customers in Oregon;
  - (b) Identification of qualified investments the small natural gas utility may make during the period specified in the filing, including the expected average cost and timing of those investments, and the average annual quantity of RNG those investments will produce;
  - (c) The expected value of any RTCs to be acquired by the utility during the period specified in the filing;
  - (d) The expected value of any RNG that the small natural gas utility intends to sell to a party who is not a retail utility customer, including the value of any environmental credits that the utility may acquire from the RNG producer and resell;
  - (e) Any expected savings to be achieved through the avoidance of geologic natural gas costs, to be calculated in the manner described in OAR 860-150-0200 (3);
  - (f) The costs of the identified annual RNG procurements and the levelized costs of all qualified investments expressed as a percentage of the utility's total revenue requirement, where this requirement is that approved by the Commission in the utility's most recently completed general rate revision;
  - (g) An assessment by the utility of the relative cost effectiveness of the all qualified investments it intends to make during the period concluding at the end of the last month of the test year used in the general rate revision filing. This assessment must utilize the same formula utilized by a large natural gas utility pursuant to OAR 860-150-0200 or another formula specified by the Commission;
  - (h) The utility's proposed annual rate cap limiting the cost of RNG purchases and qualified investments.
- (2) The small natural gas utility may not make RNG purchases or qualified investments in excess of the annual rate cap established by the Commission, except in an instance where the anticipated annual costs would have remained below the cost cap but for an unforeseeable increase on construction costs associated with a qualified investment.

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- (3) After a small natural gas utility has made a complete filing pursuant to section (1), and after the Commission has approved the small natural gas utility's filing and set a rate cap, the small natural gas utility may file a general rate revision to seek to recover prudently incurred costs associated with qualified investments consistent with its filing made under section (1).
- (4) If the small natural gas utility wishes to revise its participation in the RNG program at any time, renew it after the end of the time period specified in the petition, make additional RNG purchases or qualified investments beyond those described in the filing, or request that the Commission revise the rate cap described in this section, the small natural gas utility must file a petition to modify or renew its RNG program with the Commission that contains the information required under section (1).
- (5) The small natural gas utility may, as part of its petition described in section (1), include a request to pass through prudently incurred costs associated with the purchase of RNG from another entity to meet its target volumes as approved by the Commission, excluding qualified investments, by means of its purchased gas adjustment mechanism. Such costs may include the utility's cost of registration for the RTC tracking system described in OAR 860-150-0050, transaction costs for any RTCs acquired in association with the purchase of RNG from another entity, and transaction costs incurred to retire the RTCs associated with gas delivered to retail utility customers.
- (6) In filings, annual earnings reviews, and quarterly updates associated with the purchased gas adjustment mechanism, a small natural gas utility must clearly identify costs associated with the purchase of RNG and costs of compliance described in section (5) of this rule.
- (7) If the Commission has accepted a small natural gas utility's petition to participate in the RNG program, the small natural gas utility may file a request that the Commission open an investigation to establish an automatic adjustment clause for recovery of prudently incurred costs associated with certain qualified investments.

**Statutory/Other Authority: ORS 756 & 757**

**Statutes/Other Implemented: ORS 757.394 & 757.398**

#### **860-150-0500 Large Natural Gas Utility Investments in Biogas Production**

- (1) Pursuant to ORS 757.396, before making a qualified investment in biogas production that is upstream of conditioning equipment, pipeline interconnection or gas cleaning, a

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large natural gas utility must engage in a competitive bidding process as provided in this rule.

- (2) A large natural gas utility must issue a request for proposals to initiate a competitive bidding process that contains the information required by section (3) of this rule.
- (3) At a minimum, the utility's request for proposals must include:
  - (a) A description of the project, specifications, delivery or performance schedule, inspection and acceptance requirements. This description must:
    - (A) Identify the scope of the work to be performed under the resulting contract, if the large natural gas utility awards one. The scope of work must require the contractor to comply with all applicable federal, state, and local laws, standards, and permit or inspection requirements;
    - (B) Outline the anticipated duties of the contractor under any resulting contract; and
    - (C) Establish the expectations for the contractor's performance of any resulting contract.
  - (b) If the utility intends to hold a pre-offer conference:
    - (A) The time, date and location of any pre-offer conference;
    - (B) Whether attendance at the conference will be mandatory or voluntary; and
    - (C) A provision that provides that statements made by the large natural gas utility's representatives at the conference are not binding upon the large natural gas utility unless confirmed by written addendum.
  - (c) The form and instructions for submission of bids and any other special information, including whether bids may be submitted by electronic means;
  - (d) How the large natural gas utility will notify bidders of addenda and how the large natural gas utility will make addenda available;
  - (e) Any minimum bidder requirements for credit and capability;
  - (f) The time, date and place of bid opening;
  - (g) Standard form contracts to be used in acquisition of resources;
  - (h) Language to allow bidders to negotiate mutually agreeable final contract terms that are different from the standard form contracts;
  - (i) The anticipated solicitation schedule, deadlines, protest process, and bid evaluation process;
  - (j) Bid evaluation and scoring criteria;

- (k) A description of how the large natural gas utility will share information about bid scores, including what information about the bid scores and bid ranking may be provided to bidders and when and how it will be provided;
  - (l) If the large natural gas utility intends to award contracts to more than one bidder, the large natural gas utility must identify in the request for proposals how it will determine the number of contracts it will award;
  - (m) Indication of the alignment of the large natural gas utility's qualified investment to be addressed by the bidding process with:
    - (A) A need for this RNG production volume to meet current or future annual RNG targets identified in the large natural gas utility's most recently acknowledged integrated resource plan; or
    - (B) A subsequently identified need or change in circumstances with good cause shown.
- (4) A large natural gas utility will prepare and file a draft request for proposals for the Commission's review and approval.
- (5) The Commission will generally issue a decision approving or disapproving the draft request for proposals within sixty (60) days after the draft request for proposals is filed. A large natural gas utility may request an alternative review period when it files the draft RFP for approval, including a request for expedited review, upon a showing of good cause.
- (6) Once the Commission approves the draft request for proposals, the large natural gas utility may proceed with the request for proposals by issuing public notice on the utility's website or through the utility's electronic procurement system, if the company regularly uses such a system, and may further advertise the notice using additional media. This public notice must be issued and be publicly available for not less than thirty (30) days prior to closing of the opportunity to submit sealed bids.
- (7) A large natural gas utility must provide the Commission with a copy of all bid documents submitted by all bidders upon the Commission's request.
- (8) A large natural gas utility is exempt from the requirements in sections (4) through (6) of this rule if:
- (a) The large natural gas utility's procurement process requires competitive bidding, the total project cost is not anticipated to exceed \$10 million, and the large natural gas utility can provide a copy of the request for proposals and all bid documents submitted by all bidders to the Commission upon the Commission's request; or
  - (b) All of the following apply:

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- (A) A large natural gas utility is not the developer, owner, or operator of the biogas production facility;
- (B) The request for proposals or other invitation for competitive bids for the project is issued by an entity that this not the large natural gas utility;
- (C) The large natural gas utility does not receive or elevate bids nor select a winning bid; and
- (D) The large natural gas utility submits a bid in response to the request for proposals, in competition with other entities, and the utility is awarded a contract only after all eligible bids are evaluated in accordance with the procedures of the entity that issued the request for proposals.

**Statutory/Other Authority: ORS 756 & 757**

**Statutes/Other Implemented: ORS 757.396**

#### **860-150-0600 Renewable Natural Gas Compliance Reports**

- (1) A large natural gas utility or a small natural gas utility that participates in the RNG program described in these rules must file an annual compliance report for each year that the utility participates in the program by making RNG purchases or qualified investments. Each compliance report will cover a calendar year, beginning January 1 through and including December 31. The first report is due on June 30 of the year following the first compliance year, and then annually on June 30 thereafter for as long as the utility continues to participate in the program.
- (2) Each annual compliance report must include but not be limited to:
  - (a) The total volume of RNG acquired during the compliance year by type or source, including the volume as a percentage of the gas utility's sales load delivered to retail customers;
  - (b) A detailed description of the natural gas utility's expenditures that year on RNG purchases and on qualified investments;
  - (c) A summary of all transactions that year involving RTCs purchased, acquired, sold, transferred, or retired to comply with these rules;
  - (d) A list of all RTCs that the utility owned and that expired during the compliance year before the utility was able to retire them. The list must be accompanied by information about the value and source of these expired RTCs as well as an explanation for why the utility was not able to retire them prior to expiration;

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- (e) The number of unused, unexpired RTCs in the natural gas utility's possession at the end of the compliance year, and the utility's plan to fully utilize these certificates;
- (f) The range of carbon intensity values and the average intensity value associated with the RTCs retired that year;
- (g) Detailed information about qualified investments made during the compliance year, including but not limited to:
  - (A) The name of the facility where the qualified investment was made;
  - (B) The location of the facility where the qualified investment was made, including the city/town, county, and state;
  - (C) The type of facility. For example, the facility type includes but is not limited to a livestock feeding operation, a wastewater treatment plant, a food waste processing facility, a renewable-electricity-to-hydrogen, facility, and so forth;
  - (D) The total quantity of RNG produced by or procured from that facility during the compliance year;
  - (E) The expected future annual quantity of RNG to be produced by or procured from that facility;
  - (F) The average RNG output of the facility expressed in standard cubic feet per minute;
  - (G) The disposition of RNG produced by the facility but delivered to non-retail utility customers or to non-Oregon customers;
  - (H) The number and value of RTCs acquired along with the RNG produced by the facility;
  - (I) An estimate of the carbon intensity for RNG produced at the facility and using an appropriate pathway, pursuant to OAR 860-150-0050.
- (3) A large natural gas utility's annual compliance report must also include a detailed explanation of why the utility achieved, or did not achieve, that year's RNG target volume as specified in ORS 757.396, to include identifying challenges or barriers to RNG market growth.
- (4) A large natural gas utility must explain how annual RNG purchases and qualified investments made during the compliance year aligned with the actions described in the utility's most recently acknowledged integrated resource plan.
- (5) A large natural gas utility's annual compliance report must include the total annual incremental costs incurred during the compliance year, calculated as described in



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OAR 860-150-0200, and expressed as a percentage of the utility's total revenue requirement from its most recent normalized results of operations report.

- (6) A small natural gas utility's annual compliance report must include the total costs incurred during the compliance year for RNG purchases and qualified investments, expressed as a percentage of the utility's total revenue requirement approved by the Commission in its most recent general rate revision.
- (7) A small natural gas utility's annual compliance report must include the total volume of RNG acquired during the compliance year, as well as this volume expressed as a percentage of the total volume of gas delivered to customers that year.

**Statutory/Other Authority: ORS 756 & 757**

**Statutes/Other Implemented: ORS 757.394**

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**ATTACHMENT 2:**  
**Statutory (SB 98) Requirements for Rule Provisions**

<b>Statutory Requirement</b>	<b>Applicable Draft OAR Provision</b>
<b>ORS 757.394 (1)</b> "The Public Utility Commission shall adopt by rule a large renewable natural gas program for large natural gas utilities pursuant to the provisions of ORS 757.396."	See: Draft OAR 860-150-0005 Draft OAR 860-150-0010 Draft OAR 860-150-0050 Draft OAR 860-150-0100 Draft OAR 860-150-0200 Draft OAR 860-150-0300 Draft OAR 860-150-0500 Draft OAR 860-150-0600
<b>ORS 757.394 (2)</b> "The commission shall adopt by rule a small renewable natural gas program for small natural gas utilities pursuant to ORS 757.398."	See: Draft OAR 860-150-0005 Draft OAR 860-150-0010 Draft OAR 860-150-0050 Draft OAR 860-150-0100 Draft OAR 860-150-0200 Draft OAR 860-150-0400 Draft OAR 860-150-0600
<b>ORS 757.394 (3)</b> "Rules adopted by the commission under this section shall include: (a) Rules for reporting requirements under the large renewable natural gas program and the small renewable natural gas program"	See: Draft OAR 860-150-0600
<b>ORS 757.394 (3)(b)</b> "Rules for establishing a process for natural gas utilities to fully recover prudently incurred costs associated with the large renewable natural gas program and the small renewable natural gas program."	See: Draft OAR 860-150-0300 Draft OAR 860-150-0400
<b>ORS 757.394 (4)</b> "Rules adopted by the commission under this section may not prohibit an affiliated interest of a small natural gas utility or of a large natural gas utility from making a capital investment in a biogas production project if the affiliated interest, as defined in ORS 757.015, is not a public utility."	None of the draft rules make any such prohibition.
<b>ORS 757.394 (2)</b> "The commission shall adopt ratemaking mechanisms that ensure the recovery of all prudently incurred costs that contribute to the large natural gas utility's	See: Draft OAR 860-150-0300

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<p>meeting the targets set forth in subsection (1) of this section. Pursuant to the ratemaking mechanisms adopted under this subsection:</p> <p>(a) Qualified investments and operating costs associated with qualified investments that contribute to the large natural gas utility meeting the targets set forth in subsection (1) of this section may be recovered by means of an automatic adjustment clause, as defined in ORS 757.210.</p> <p>(b) Costs of procurement of renewable natural gas from third parties that contribute to the large natural gas utility meeting the targets set forth in subsection (1) of this section may be recovered by means of an automatic adjustment clause, as defined in ORS 757.210, or another recovery mechanism authorized by rule.”</p>	
<p><b>ORS 757.396(4)</b> “Before making a qualified investment in biogas production that is upstream of conditioning equipment, pipeline interconnection or gas cleaning, a large natural gas utility shall engage in a competitive bidding process.”</p>	<p>See:          Draft OAR 860-150-0500</p>
<p><b>ORS 757.396(5)</b> “If the large natural gas utility’s total incremental annual cost to meet the targets of the large renewable natural gas program exceeds five percent of the large natural gas utility’s total revenue requirement for an individual year, the large natural gas utility may no longer be authorized to make additional qualified investments under the large renewable natural gas program for that year without approval from the commission.”</p>	<p>See:          Draft OAR 860-150-0200(3) and (4)</p>
<p><b>ORS 757.396(6)</b> “The total incremental annual cost to meet the targets of the large renewable natural gas program must account for:</p> <p>(a) Any value received by a large natural gas utility upon any resale of renewable natural gas, including any environmental credits that the renewable natural gas producer chooses to include with the sale of</p>	<p>See:          Draft OAR 860-150-0200(1)</p>

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<p>the renewable natural gas to the large natural gas utility; and</p> <p>(b) Any savings achieved through avoidance of conventional gas purchases or development, such as avoided pipeline costs or carbon costs.”</p>	
<p><b>ORS 757.398(1)</b> “Upon a filing by a small natural gas utility to participate in the small renewable natural gas program adopted by rule by the Public Utility Commission under ORS 757.394 (2), the commission shall establish a rate cap limiting the small natural gas utility’s costs of procuring renewable natural gas from third parties and qualified investments in renewable natural gas infrastructure. The rate cap must be expressed as a percentage of the small natural gas utility’s total revenue requirement as approved by the commission in the public utility’s most recent general rate case. For the purposes of establishing a rate cap under this subsection, the commission shall account for:</p> <p>(a) Any value received by the small natural gas utility upon any resale of renewable natural gas, including any environmental credits that the renewable natural gas producer chooses to include with the sale of renewable natural gas to the small natural gas utility; and</p> <p>(b) Any savings achieved through avoidance of conventional gas purchases or development, such as avoided pipeline costs or carbon costs.</p>	<p>See:          Draft OAR 860-150-0400(1) and (2)</p>
<p><b>ORS 757.398(2)</b> “(a) A filing by a small natural gas utility under subsection (1) of this section must include, but need not be limited to:</p> <p>(A) A proposal to procure a total volume of renewable natural gas over a specific period; and</p> <p>(B) Identification of the qualified investments that the small natural gas utility</p>	<p>See:          Draft OAR 860-150-0400(1) and (2)</p>

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may make in renewable natural gas infrastructure.  (b) A small natural gas utility may from time to time revise the filing submitted to the commission under this section.”	
<b>ORS 757.398(3)</b> “Any prudently incurred costs incurred by a small natural gas utility pursuant to a filing submitted under this section may be recovered by means of an automatic adjustment clause, as defined in ORS 757.210.”	See: Draft OAR 860-150-0400(5), (6), and (7)

RULES PROPOSED:

**860-150-0005 Purpose, Scope, and Applicability**

RULE SUMMARY: This rule is proposed to establish the Scope, Purpose, and Applicability of this new rule Division.

TEXT OF RULE:

- (1) The purpose of these rules is to set forth the requirements governing renewable natural gas programs for large natural gas utilities and for small natural gas utilities.
- (2) These rules apply to purchases of renewable natural gas and to qualifying investments in renewable natural gas infrastructure by large and small natural gas utilities, as defined herein.
- (3) Nothing in these rules prohibits or limits the ability of a natural gas utility to file a rate schedule under which a retail natural gas customer may elect to pay a special rate for a quantity of renewable natural gas equivalent to all or a portion of that customer's natural gas usage, consistent with the filing requirements under ORS 757.205, ORS 757.210, ORS 757.220, OAR Chapter 860, Division 22 and any other applicable requirements specified by the Commission in rule or order.
- (4) Upon request or its own motion, the Commission may waive any of the Division 150 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Statutory/Other Authority: ORS 183, 756 & 757

Statutes/Other Implemented: ORS 757.394, 757.396, & 757.398

RULES PROPOSED:

**860-150-0010 Definitions**

RULE SUMMARY: This rule is proposed to define necessary terms used throughout this new rule Division.

TEXT OF RULE:

For purposes of this Division, except when a different scope is explicitly stated:

- (1) "Biogas" has the meaning given that term in ORS 757.392.
- (2) "Carbon intensity" or "CI" means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO<sub>2</sub>e/MJ).
- (3) "CFP Online System" has the meaning given that term in OAR 340-253-0040.
- (4) "DEQ" means the Oregon Department of Environmental Quality.

- (5) “Environmental attributes” means any and all environmental claims, credits, benefits, emissions reductions, offsets, and allowances attributable to the production of renewable natural gas and its avoided emission of pollutants. The environmental attributes of renewable natural gas include, but are not limited to, the avoided greenhouse gas emissions associated with the production, transport, and combustion of a quantity of renewable natural gas compared with the same quantity of geologic natural gas. Environmental attributes do not include:
- (a) The renewable natural gas itself or the energy content of that gas;
  - (b) Any tax credits associated with the construction or operation of the renewable natural gas production facility, and any other financial incentives in the form of credits, reductions, or allowances associated with the production of renewable natural gas that are applicable to a state, provincial, or federal income taxation obligation;
  - (c) Fuel- or feedstock-related subsidies or “tipping fees” that may be paid to the seller to accept certain fuels, or local subsidies received by the renewable natural gas production facility for the destruction of particular pre-existing pollutants or the promotion of local environmental benefits; or
  - (d) Emission reduction credits encumbered or used by the renewable natural gas production facility for compliance with local, state, provincial, or federal operating and/or air quality permits.
- (6) “General rate revision” has the meaning given that term in OAR 860-022-0017.
- (7) “Geologic natural gas” means any fossil natural gas from geologic or non-renewable resources, whether extracted by conventional or unconventional means.
- (8) “Large natural gas utility” has the meaning given that term in ORS 757.392.
- (9) “M-RETS” means the regional renewable energy certificate system and trading mechanism known as the Midwest Renewable Energy Tracking System, Inc.
- (10) “Natural gas utility” has the meaning given that term in ORS 757.392.
- (11) “OR-GREET” has the meaning given that term in OAR 340-253-0040.
- (12) “Pathway” means a detailed description of all stages of renewable natural gas production and use for a source of RNG, including feedstock generation, production, cleaning or conditioning, transportation, distribution, and combustion of the renewable natural gas by the consumer. The fuel pathway is used to calculate the carbon intensity of each source of renewable natural gas.
- (13) “Production facility” means any facility at which biogas or hydrogen is produced, cleaned, conditioned, upgraded, purified, or processed to meet standards for injection to a natural gas common carrier pipeline as renewable natural gas.
- (14) “Qualified investment” has the meaning given that term in ORS 757.392.
- (15) “Renewable natural gas” or “RNG” has the meaning given that term in ORS 757.392.

- (16) “Renewable thermal certificate” or “RTC” means a unique representation of the environmental attributes associated with the production, transport, and use of one dekatherm of renewable natural gas.
- (17) “Small natural gas utility” has the meaning given that term in ORS 757.392.
- (18) “Target year” means a calendar year, beginning with the year 2020 through and including the year 2050, for which ORS 757.396 establishes portfolio targets for the percentage of gas purchased by a large natural gas utility for distribution to retail natural gas customers in Oregon that is renewable natural gas.
- (19) “Tier 1 calculator” or “Simplified calculator” has the meaning given that term in OAR 340-253-0040.
- (20) “Tier 2 calculator” has the meaning given that term in OAR 340-253-0040.

Statutory/Other Authority: ORS 183, 756 & 757

Statutes/Other Implemented: ORS 756.040, 757.020 & 757.394

RULES PROPOSED:

**860-150-0050 Environmental Attributes and Renewable Thermal Certificates**

RULE SUMMARY: This rule is proposed to establish the accounting, tracking, and recordkeeping requirements and processes for renewable natural gas and its environmental attributes. It is necessary to implement the reporting requirements mandated by ORS 757.394(3). Further, the lifecycle greenhouse gas emissions accounting and reporting required by this rule provide relevant information to the Commission.

TEXT OF RULE:

- (1) The environmental attributes of RNG produced or purchased pursuant to these rules must include, but is not limited to, an estimated carbon intensity for the pathway utilized to produce, transport, and deliver RNG to a retail customer.
- (2) Each large natural gas utility and each small natural gas utility that is authorized by the Commission to participate in the RNG program under these rules must use RTCs to track the chain of custody of the environmental attributes of RNG that is produced or purchased for the utility’s retail natural gas customers in Oregon. RTCs used for compliance with these rules must be issued, monitored, accounted for, and transferred by or through M-RETS.
- (3) All entities that generate, acquire, purchase, sell, transfer, or broker the trade of RTCs for eventual use by a natural gas utility under these rules must register and maintain accounts in good standing with the M-RETS renewable energy certificate system. A natural gas utility may not use RTCs under these rules that are issued by, acquired from, or transferred by an entity



that has not complied with all information, data reporting and verification requirements of the M-RETS system, including payment of registration and transaction costs.

- (4) Each entity that generates RTCs pursuant to these rules must estimate the carbon intensity of the pathway for the RNG. To estimate the carbon intensity of the RNG, the RTC generator must use one of the following, as appropriate to the pathway in question:
  - (a) A Tier 1 OR-GREET calculator or simplified calculator published by DEQ for the Clean Fuels Program;
  - (b) A Tier 2 OR-GREET calculator published by DEQ for the Clean Fuels Program;
  - (c) A Tier 1 CA-GREET calculator published by the California Air Resources Board (CARB) for use in the California Low Carbon Fuel Standards (LCFS) program, with the transportation and distribution cells modified for that RNG's pathway to Oregon;
  - (d) A Tier 2 CA-GREET calculator published by CARB for use in the LCFS program, with the transportation and distribution cells modified for that RNG's pathway to Oregon; or
  - (e) A methodology that a natural gas utility may otherwise be directed to use by Commission order.
- (5) For any of the calculators described in section (4), entities submitting documentation to M-RETS are not required to use cells that would not apply to RNG delivered to retail natural gas utility customers, such as compression above normal pipeline pressures that would only be appropriate for compressed natural gas (CNG) vehicle fuels. In the Natural Gas Transport cells of the calculators, an entity may use the pipeline distance to a large or small natural gas utility's city gate instead of pipeline distance to a CNG station.
- (6) Each entity that generates RTCs pursuant to these rules must provide documentation to M-RETS regarding the carbon intensity of the pathway in question pursuant to section (4). That documentation must include:
  - (a) One of the calculators described in section (4), with the appropriate cells modified and values entered for the pathway in question; and
  - (b) A resultant carbon intensity value for the pathway in question.
- (7) Upon the Commission's request, each large natural gas utility and each small natural gas utility that participates in the RNG program must provide documentation to demonstrate that, for each RTC the natural gas utility purchased or otherwise acquired, one dekatherm of RNG was delivered to an injection point on a natural gas common carrier pipeline.
- (8) A large natural gas utility must retire one RTC in the M-RETS system for each dekatherm of RNG counted towards the annual targets for a large natural gas utility established in ORS 757.396.
- (9) A small natural gas utility participating in the RNG program described in these rules must retire one RTC in the M-RETS system for each dekatherm of RNG counted towards the quantity of RNG the utility specified in its filing with the Commission pursuant to OAR 860-150-0400.

- (10) Once retired, a RTC may not be sold, transferred, or claimed again by a natural gas utility or any other entity.
- (11) A large natural gas utility or a small natural gas utility participating in the RNG program described in these rules must obtain attestations from the RTC generator and from each other entity that purchased, received, or otherwise acquired custody of each RTC prior to the natural gas utility collectively demonstrating that:
  - (a) The entity claiming the environmental attributes represented by each RTC has the exclusive right to claim environmental attributes associated with the RNG;
  - (b) The environmental attributes, and the RTC that represents those attributes, are associated with RNG produced by a specific entity, in a specific location, using a specific process and a specific pathway; and
  - (c) The environmental attributes have not been used or claimed in any other program or jurisdiction.
- (12) Each large natural gas utility and each small natural gas utility participating in the RNG program must retain the attestations described in section (11) and make them available for review by the Commission upon request.
- (13) Each large natural gas utility and each small natural gas utility participating in the RNG program described in these rules must maintain records of each RTC retired under the RNG program, as well as the attestations described in section (11), for a minimum of five (5) years after the date on which the RTC was retired.
- (14) The attestations described in section (11) of these rules may be made, stored, and transferred electronically through the M-RETS system or through another means specified by the Commission.
- (15) Large natural gas utilities and small natural gas utilities may be directed by Commission order to use a generally-applicable RTC tracking system instead of the M-RETS system. In that event, all references to the M-RETS system in sections (2) through (14) of this rule shall apply to the designated RTC tracking system.
- (16) For a large natural gas utility, an RTC generated during the target year, the preceding year or the subsequent year may be retired to comply with the annual RNG targets established in ORS 757.396. For a small natural gas utility, an RTC may be retired during the year in which it is generated, during the subsequent year, or retired and applied to the year preceding the year the RTC was generated.
- (17) An unused RTC expires, for the purposes of these rules, at 11:59 p.m. on December 31 of the year subsequent to the year during which the RTC was generated. A natural gas utility may not use an expired RTC to comply with these rules.

Statutory/Other Authority: ORS 183, 756 & 757

Statutes/Other Implemented: ORS 757.394, 756.105

RULES PROPOSED:

**860-150-0100 Renewable Natural Gas Resource Planning**

RULE SUMMARY: This rule proposed to establish requirements for the types of information about renewable natural gas that each natural gas utility must include in its future integrated resource plans. This information will help PUC Staff and the Commission evaluate purchases and investments by natural gas utilities during ratemaking proceedings, pursuant to proposed OAR 860-150-0300 and OAR 860-150-0400. Later, this information will also inform the annual compliance reports specified in proposed OAR 860-150-0600, pursuant to ORS 757.394(3).

TEXT OF RULE:

- (1) Each large natural gas utility and small natural gas utility must, as part of an integrated resource plan filed after August 1, 2020, include information relevant to the RNG market, prices, technology, and availability that would otherwise be required under the Commission's Integrated Resource Plan Guidelines, by order of the Commission, or by administrative rules.
- (2) In addition to the information required under section (1), a large natural gas utility must also include in each integrated resource plan:
  - (a) Information about opportunities, challenges, and the natural gas utility's strategy for meeting annual RNG targets in ORS 757.396 during the period of the integrated resource plan's action plan; and
  - (b) The cost effectiveness calculation that the utility will use to evaluate RNG resources, pursuant to OAR 860-150-0200.
- (3) In addition to the information required under section (1), each small natural gas utility must also include in its integrated resource plan:
  - (a) An indication whether and when the utility expects to make a filing with the Commission, pursuant to OAR 860-150-0400, of its intent to begin participating in the RNG program described in these rules, if the utility has not already started to participate in the RNG program;
  - (b) Information about opportunities, challenges, perceived barriers, and the natural gas utility's strategy for participation in the RNG program described in these rules; and
  - (c) The cost effectiveness calculation that the utility will use, pursuant to OAR 860-150-0200, to evaluate RNG resources, if the utility has not already filed this with the Commission pursuant to OAR 860-150-0400.

- (4) The requirements of this rule are in addition to all requirements concerning integrated resource plans contained in OAR 860-027-0400 and as specified by Commission Order Numbers 07-002 and 07-047.

Statutory/Other Authority: ORS 183, 756.040 & 757.262

Statutes/Other Implemented: ORS 756.040 & 757.262

RULES PROPOSED:

**860-150-0200 Incremental Costs**

RULE SUMMARY: This rule is proposed to set forth the methodology for a natural gas utility to calculate its total incremental annual costs, as required by ORS 757.396.

TEXT OF RULE:

- (1) For the purposes of ORS 757.396, a large natural gas utility must calculate its total incremental annual cost as follows:
- (a) A large natural gas utility must apply a cost-effectiveness calculation to all RNG that the utility acquires for its retail natural gas customers. The cost-effectiveness calculation must be consistent with the methodology used to evaluate RNG resources in the utility's most recently acknowledged integrated resource plan, or integrated resource plan update, or as the utility may otherwise be directed by order of the Commission;
  - (b) For each purchase of RNG from a third party that is not cost effective according to the calculation in subsection (1)(a) of this rule, the dollar value of the difference between the cost of the purchased RNG and a cost-effective purchase of a comparable quantity of geologic natural gas of the same vintage and contract duration represents the incremental cost of that purchased RNG. During each year, the incremental cost of all RNG purchases will be summed to calculate their contribution toward the utility's total annual incremental cost;
  - (c) For each purchase of RNG from a third party that is cost effective according to the calculation in subsection (1)(a) of this rule, the dollar value of the difference between the cost of the purchased RNG and comparable quantity of geologic natural gas of the same vintage and contract duration represents the cost savings of that purchased RNG. During each year, the cost savings of all RNG purchases will be summed and subtracted from the incremental cost of RNG purchases described in subsection (1)(c);
  - (d) For each qualified investment that is not cost effective according to the calculation in subsection (1)(a) of this rule, the dollar value of the difference between the cost of the qualified investment and a cost-effective proxy resource represents the incremental cost of that qualified investment;

- (e) During each year, the levelized incremental cost of each qualified investment described in subsection (1)(d) must be summed to calculate a gross total annual incremental levelized cost; and
  - (f) To calculate a net total annual incremental levelized cost, a large natural gas utility must sum the value calculated according to subsection (1)(b) and the gross total annual incremental levelized cost according to subsection (1)(d), then subtract from this total any value received during that year by a large natural gas utility upon any resale of RNG to an entity other than a retail utility customer, including any associated RTCs.
- (2) The resultant net cost described in subsection (1)(d) will serve as a large natural gas utility's total incremental annual levelized cost for the purposes of ORS 757.396 and these rules.
- (3) If a large natural gas utility's total incremental annual levelized cost exceeds five percent of the large natural gas utility's total revenue requirement from the utility's normalized results of operations report that was most recently filed with the Commission, the large natural gas utility may not make another qualified investment during that year unless:
- (a) The large natural gas utility immediately files a petition with the Commission to exceed its revenue requirement cap, stating that it has exceeded or expects to exceed the five percent of total revenue requirement cap;
  - (b) In its filing, the large natural gas utility shows good cause why it should continue to make qualified investments that year to meet the applicable annual RNG target volume set forth in ORS 757.396;
  - (c) In its filing, the large natural gas utility identifies the number of, and associated costs for, all qualified investments made during that year as of the date of the filing;
  - (d) In its filing, the large natural gas utility identifies all the qualified investments that it intends to make before the end of the year and the total anticipated costs associated with those additional investments;
  - (e) In its filing, the large natural gas utility requests the Commission's approval to continue making qualified investments during that year; and
  - (f) The Commission approves the utility's request to continue making qualified investments during that year.
- (4) After a large natural gas utility makes a filing pursuant to section (3), the Commission generally will consider whether to approve or deny the utility's petition, or to conduct further investigation, within thirty days of the filing. The Commission may consider comments on the petition from interested persons that are filed within fifteen days of the utility's petition.

Statutory/Other Authority: ORS 756 & 757

Statutes/Other Implemented: ORS 757.396

RULES PROPOSED:

**860-150-0300 Mechanisms for Recovery of Prudently Incurred Costs by Large Natural Gas Utilities**

RULE SUMMARY: This rule is proposed to set forth the various methods by which a large natural gas utility may recover prudently incurred costs associated with the renewable natural gas program, pursuant to ORS 757.396.

TEXT OF RULE:

- (1) A large natural gas utility may make a filing, consistent with the requirements of OAR 860-022-0070 and other applicable rules of the Commission, seeking to pass through prudently incurred costs associated with the purchase of RNG to meet the annual targets for a large natural gas utility established in ORS 757.396, excluding qualified investments, by means of its purchased gas adjustment mechanism. Such costs may also include the utility's cost of registration for the RTC tracking system described in OAR 860-150-0050, transaction costs for any RTCs acquired in association with the purchase of RNG from another entity, and transaction costs incurred to retire the RTCs associated with gas delivered to retail utility customers.
- (2) In filings, annual earnings reviews, and quarterly updates associated with the purchased gas adjustment mechanism, a large natural gas utility must clearly identify costs of purchased RNG and the costs associated with RTCs described in section (1) of this rule.
- (3) A large natural gas utility filing new or revised tariff schedules that constitute a general rate revision may seek to recover prudently incurred costs associated with qualified investments in its filing.
- (4) A large natural gas utility may file a request that the Commission open an investigation to establish an automatic adjustment clause for recovery of prudent costs associated with qualified investments that meet criteria to be established by the Commission.
- (5) If the Commission establishes an automatic adjustment clause pursuant to section (4), any rate adjustments made through this clause since the natural gas utility's most recent general rate revision may be incorporated in the natural gas utility's next general rate revision, as appropriate.

Statutory/Other Authority: ORS 756 & 757

Statutes/Other Implemented: ORS 757.394 & 757.396

RULES PROPOSED:

**860-150-0400 Mechanisms for Recovery of Prudently Incurred Costs by Small Natural Gas Utilities**

RULE SUMMARY: This rule is proposed to establish the requirements for an initial filing by a small natural gas utility that wishes to participate in the renewable natural gas program. This rule also sets forth the various methods by which a large natural gas utility may recover prudently incurred costs associated with the renewable natural gas program, pursuant to ORS 757.398.

TEXT OF RULE:

- (1) Before a small natural gas utility makes a qualified investment for the first time, or purchases RNG from a third-party producer with the intent to seek cost recovery in a new or revised tariff schedule, the utility must file a petition to participate in the RNG program with the Commission. In addition to the information required under ORS 757.398, the small natural gas utility's petition must include:
  - (a) The total volume of RNG to be procured per year over a period concluding at the end of the last month of the test year used in the general rate revision filing, expressed as a percentage of all natural gas expected to be delivered to the utility's retail customers in Oregon;
  - (b) Identification of qualified investments the small natural gas utility may make during the period specified in the filing, including the expected average cost and timing of those investments, and the average annual quantity of RNG those investments will produce;
  - (c) The expected value of any RTCs to be acquired by the utility during the period specified in the filing;
  - (d) The expected value of any RNG that the small natural gas utility intends to sell to a party who is not a retail utility customer, including the value of any environmental credits that the utility may acquire from the RNG producer and resell;
  - (e) Any expected savings to be achieved through the avoidance of geologic natural gas costs, to be calculated in the manner described in OAR 860-150-0200 (3);
  - (f) The costs of the identified annual RNG procurements and the levelized costs of all qualified investments expressed as a percentage of the utility's total revenue requirement, where this requirement is that approved by the Commission in the utility's most recently completed general rate revision;
  - (g) An assessment by the utility of the relative cost effectiveness of the all qualified investments it intends to make during the period concluding at the end of the last month of the test year used in the general rate revision filing. This assessment must utilize the same formula utilized by a large natural gas utility pursuant to OAR 860-150-0200 or another formula specified by the Commission;
  - (h) The utility's proposed annual rate cap limiting the cost of RNG purchases and qualified investments.

- (2) The small natural gas utility may not make RNG purchases or qualified investments in excess of the annual rate cap established by the Commission, except in an instance where the anticipated annual costs would have remained below the cost cap but for an unforeseeable increase on construction costs associated with a qualified investment.
- (3) After a small natural gas utility has made a complete filing pursuant to section (1), and after the Commission has approved the small natural gas utility's filing and set a rate cap, the small natural gas utility may file a general rate revision to seek to recover prudently incurred costs associated with qualified investments consistent with its filing made under section (1).
- (4) If the small natural gas utility wishes to revise its participation in the RNG program at any time, renew it after the end of the time period specified in the petition, make additional RNG purchases or qualified investments beyond those described in the filing, or request that the Commission revise the rate cap described in this section, the small natural gas utility must file a petition to modify or renew its RNG program with the Commission that contains the information required under section (1).
- (5) The small natural gas utility may, as part of its petition described in section (1), include a request to pass through prudently incurred costs associated with the purchase of RNG from another entity to meet its target volumes as approved by the Commission, excluding qualified investments, by means of its purchased gas adjustment mechanism. Such costs may include the utility's cost of registration for the RTC tracking system described in OAR 860-150-0050, transaction costs for any RTCs acquired in association with the purchase of RNG from another entity, and transaction costs incurred to retire the RTCs associated with gas delivered to retail utility customers.
- (6) In filings, annual earnings reviews, and quarterly updates associated with the purchased gas adjustment mechanism, a small natural gas utility must clearly identify costs associated with the purchase of RNG and costs of compliance described in section (5) of this rule.
- (7) If the Commission has accepted a small natural gas utility's petition to participate in the RNG program, the small natural gas utility may file a request that the Commission open an investigation to establish an automatic adjustment clause for recovery of prudently incurred costs associated with certain qualified investments.

Statutory/Other Authority: ORS 756 & 757

Statutes/Other Implemented: ORS 757.394 & 757.398

RULES PROPOSED:

**860-150-0500 Large Natural Gas Utility Investments in Biogas Production**



RULE SUMMARY: This rule is proposed to implement the requirement in ORS 757.396 for a large natural gas utility to engage in a competitive bidding process before it may make certain qualified investments.

TEXT OF RULE:

- (1) Pursuant to ORS 757.396, before making a qualified investment in biogas production that is upstream of conditioning equipment, pipeline interconnection or gas cleaning, a large natural gas utility must engage in a competitive bidding process as provided in this rule.
- (2) A large natural gas utility must issue a request for proposals to initiate a competitive bidding process that contains the information required by section (3) of this rule.
- (3) At a minimum, the utility's request for proposals must include:
  - (a) A description of the project, specifications, delivery or performance schedule, inspection and acceptance requirements. This description must:
    - (A) Identify the scope of the work to be performed under the resulting contract, if the large natural gas utility awards one. The scope of work must require the contractor to comply with all applicable federal, state, and local laws, standards, and permit or inspection requirements;
    - (B) Outline the anticipated duties of the contractor under any resulting contract; and
    - (C) Establish the expectations for the contractor's performance of any resulting contract.
  - (b) If the utility intends to hold a pre-offer conference:
    - (A) The time, date and location of any pre-offer conference;
    - (B) Whether attendance at the conference will be mandatory or voluntary; and
    - (C) A provision that provides that statements made by the large natural gas utility's representatives at the conference are not binding upon the large natural gas utility unless confirmed by written addendum.
  - (c) The form and instructions for submission of bids and any other special information, including whether bids may be submitted by electronic means;
  - (d) How the large natural gas utility will notify bidders of addenda and how the large natural gas utility will make addenda available;
  - (e) Any minimum bidder requirements for credit and capability;
  - (f) The time, date and place of bid opening;
  - (g) Standard form contracts to be used in acquisition of resources;
  - (h) Language to allow bidders to negotiate mutually agreeable final contract terms that are different from the standard form contracts;
  - (i) The anticipated solicitation schedule, deadlines, protest process, and bid evaluation process;

- (j) Bid evaluation and scoring criteria;
- (k) A description of how the large natural gas utility will share information about bid scores, including what information about the bid scores and bid ranking may be provided to bidders and when and how it will be provided;
- (l) If the large natural gas utility intends to award contracts to more than one bidder, the large natural gas utility must identify in the request for proposals how it will determine the number of contracts it will award;
- (m) Indication of the alignment of the large natural gas utility's qualified investment to be addressed by the bidding process with:
  - (A) A need for this RNG production volume to meet current or future annual RNG targets identified in the large natural gas utility's most recently acknowledged integrated resource plan; or
  - (B) A subsequently identified need or change in circumstances with good cause shown.
- (4) A large natural gas utility will prepare and file a draft request for proposals for the Commission's review and approval.
- (5) The Commission will generally issue a decision approving or disapproving the draft request for proposals within sixty (60) days after the draft request for proposals is filed. A large natural gas utility may request an alternative review period when it files the draft RFP for approval, including a request for expedited review, upon a showing of good cause.
- (6) Once the Commission approves the draft request for proposals, the large natural gas utility may proceed with the request for proposals by issuing public notice on the utility's website or through the utility's electronic procurement system, if the company regularly uses such a system, and may further advertise the notice using additional media. This public notice must be issued and be publicly available for not less than thirty (30) days prior to closing of the opportunity to submit sealed bids.
- (7) A large natural gas utility must provide the Commission with a copy of all bid documents submitted by all bidders upon the Commission's request.
- (8) A large natural gas utility is exempt from the requirements in sections (4) through (6) of this rule if:
  - (a) The large natural gas utility's procurement process requires competitive bidding, the total project cost is not anticipated to exceed \$10 million, and the large natural gas utility can provide a copy of the request for proposals and all bid documents submitted by all bidders to the Commission upon the Commission's request; or
  - (b) All of the following apply:
    - (A) A large natural gas utility is not the developer, owner, or operator of the biogas production facility;

(B) The request for proposals or other invitation for competitive bids for the project is issued by an entity that is not the large natural gas utility;

(C) The large natural gas utility does not receive or evaluate bids nor select a winning bid; and

(D) The large natural gas utility submits a bid in response to the request for proposals, in competition with other entities, and the utility is awarded a contract only after all eligible bids are evaluated in accordance with the procedures of the entity that issued the request for proposals.

Statutory/Other Authority: ORS 756 & 757

Statutes/Other Implemented: ORS 757.396

RULES PROPOSED:

**860-150-0600 Renewable Natural Gas Compliance Reports**

RULE SUMMARY: This rule is proposed to implement natural gas utility reporting requirements, pursuant to ORS 757.394.

TEXT OF RULE:

- (1) A large natural gas utility or a small natural gas utility that participates in the RNG program described in these rules must file an annual compliance report for each year that the utility participates in the program by making RNG purchases or qualified investments. Each compliance report will cover a calendar year, beginning January 1 through and including December 31. The first report is due on June 30 of the year following the first compliance year, and then annually on June 30 thereafter for as long as the utility continues to participate in the program.
- (2) Each annual compliance report must include but not be limited to:
  - (a) The total volume of RNG acquired during the compliance year by type or source, including the volume as a percentage of the gas utility's sales load delivered to retail customers;
  - (b) A detailed description of the natural gas utility's expenditures that year on RNG purchases and on qualified investments;
  - (c) A summary of all transactions that year involving RTCs purchased, acquired, sold, transferred, or retired to comply with these rules;
  - (d) A list of all RTCs that the utility owned and that expired during the compliance year before the utility was able to retire them. The list must be accompanied by information about the value and source of these expired RTCs as well as an explanation for why the utility was not able to retire them prior to expiration;

- (e) The number of unused, unexpired RTCs in the natural gas utility's possession at the end of the compliance year, and the utility's plan to fully utilize these certificates;
- (f) The range of carbon intensity values and the average intensity value associated with the RTCs retired that year;
- (g) Detailed information about qualified investments made during the compliance year, including but not limited to:
  - (A) The name of the facility where the qualified investment was made;
  - (B) The location of the facility where the qualified investment was made, including the city/town, county, and state;
  - (C) The type of facility. For example, the facility type includes but is not limited to a livestock feeding operation, a wastewater treatment plant, a food waste processing facility, a renewable-electricity-to-hydrogen, facility, and so forth;
  - (D) The total quantity of RNG produced by or procured from that facility during the compliance year;
  - (E) The expected future annual quantity of RNG to be produced by or procured from that facility;
  - (F) The average RNG output of the facility expressed in standard cubic feet per minute;
  - (G) The disposition of RNG produced by the facility but delivered to non-retail utility customers or to non-Oregon customers;
  - (H) The number and value of RTCs acquired along with the RNG produced by the facility;
  - (I) An estimate of the carbon intensity for RNG produced at the facility and using an appropriate pathway, pursuant to OAR 860-150-0050.
- (3) A large natural gas utility's annual compliance report must also include a detailed explanation of why the utility achieved, or did not achieve, that year's RNG target volume as specified in ORS 757.396, to include identifying challenges or barriers to RNG market growth.
- (4) A large natural gas utility must explain how annual RNG purchases and qualified investments made during the compliance year aligned with the actions described in the utility's most recently acknowledged integrated resource plan.
- (5) A large natural gas utility's annual compliance report must include the total annual incremental costs incurred during the compliance year, calculated as described in OAR 860-150-0200, and expressed as a percentage of the utility's total revenue requirement from its most recent normalized results of operations report.
- (6) A small natural gas utility's annual compliance report must include the total costs incurred during the compliance year for RNG purchases and qualified investments, expressed as a

percentage of the utility's total revenue requirement approved by the Commission in its most recent general rate revision.

- (7) A small natural gas utility's annual compliance report must include the total volume of RNG acquired during the compliance year, as well as this volume expressed as a percentage of the total volume of gas delivered to customers that year.

Statutory/Other Authority: ORS 756 & 757

Statutes/Other Implemented: ORS 757.394