

PacifiCorp
Oregon Renewable Portfolio Standard
Implementation Plan and Compliance Rules

Oregon Administrative Rule (OAR) 860-083-0010
Definitions (as used in division 083)

- (1) “Aggregate costs” means costs included in ORS 469A.100(4)(c), (d), and (e) that are applicable to more than one generating facility. Aggregate costs also include physical or financial costs for assets to replace interruptions of generation or deliveries of short-term or long-term qualifying electricity, short-term electricity that is not qualifying, or electricity from proxy plants.
- (2) “Alternative compliance rate” has the meaning given that term in ORS 469A.180(2).
- (3) “Amortization” means spreading the initial estimates of capital costs of long-term qualifying electricity or a proxy plant at the discount rate over an initial amortization period. For replacement costs that were not included in the initial estimate of capital or operating costs for qualifying electricity, amortization means spreading such replacement costs at the discount rate over the remainder of the current amortization period for the associated qualifying electricity. For significant investments in facilities producing qualifying electricity, amortization means spreading such significant investment costs and the remaining unamortized investment of the facility at the discount rate over the expected useful life of the facility.
- (4) “Annual revenue requirement” has the meaning given that term in ORS 469A.100(3).
- (5) “Applicable filing for an electric company” means an implementation plan under ORS 469A.075, a filing for a change to rates for retail electricity consumers that includes costs of qualifying electricity in rates for the first time, or a compliance report under ORS 469A.170. Applicable filing does not include filings to change rates before 2011.
- (6) “Applicable filing for an electricity service supplier” means a compliance report under ORS 469A.170.
- (7) “Average cost of compliance” for an electricity service supplier means its total cost of compliance divided by its retail sales in megawatt-hours in the service areas of electric companies subject to ORS 469A.052 for a compliance year.
- (8) “Average retail revenue” for an electric company means the annual revenue requirement for a compliance year as determined in OAR 860-083-0200 divided by the forecast of retail sales in megawatt-hours used to determine the annual revenue requirement.
- (9) “Banked renewable energy certificate” has the meaning given that term in ORS 469A.005(1).
- (10) “Bundled renewable energy certificate” has the meaning given that term in ORS 469A.005(3).
- (11) “Compliance year” has the meaning given that term in ORS 469A.005(4).
- (12) “Cost of bundled renewable energy certificates” means the levelized incremental cost of the qualifying electricity associated with the bundled renewable energy certificate.
- (13) “Cost limit for an electric company” has the meaning given that term in ORS 469A.100.
- (14) “Discount rate” means the nominal after-tax marginal weighted-average cost of capital.
- (15) “Electric company” has the meaning given that term in ORS 757.600.

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- (16) “Electricity service supplier” has the meaning given that term in ORS 757.600.
- (17) “Extended amortization period” means the period or periods after an initial amortization period where a facility will continue to provide qualifying electricity.
- (18) “Implementation plan” has the meaning given that term in ORS 469A.075.
- (19) “Incremental cost of compliance” means the cost of bundled renewable energy certificates used for compliance for a compliance year as calculated pursuant to OAR 860-083-0100.
- (20) “Initial amortization period for an electric company ” means the amortization period for new long-term qualifying electricity or a corresponding proxy plant established in the beginning year of new long-term qualifying electricity. If the qualifying electricity is acquired through a contract, the length of the amortization period is the term of the agreement. For facilities owned by an electric company and the proxy plant, the initial amortization period is based on the electric company’s most recent depreciation study approved by the Commission for the type of generating facility.
- (21) “Initial amortization period for an electricity service supplier” for facilities that produce qualifying electricity means a period based on the expected useful lifetime of the facility. If the qualifying electricity is acquired through a contract, the length of the amortization period is the term of the agreement. For proxy plants for an electricity service supplier, the initial amortization period means the period for a proxy plant used by the electric company subject to ORS 469A.052 in whose service area it made the most retail sales in megawatt-hours over the five calendar years preceding the compliance year.
- (22) “Integrated resource plan” means the long-term resource plan filed by an electric company that is subject to Commission acknowledgment as is generally set forth in Commission Order Nos. 07-002, 07-047 and 08-339. Integrated resource plan does not include an implementation plan filed under ORS 469A.075.
- (23) “Interruptions of generation or deliveries” include, but are not limited to, planned and unplanned generating and transmission facility outages and derates, natural gas delivery interruptions, and reduced generation due to weather or curtailments.
- (24) “Levelized cost for long-term qualifying electricity and the corresponding proxy plant” means the present value of amortized capital costs and all other costs amortized at the discount rate over the time horizon of the qualifying electricity. Levelized cost also includes an estimate of the net present value of costs and benefits for the qualifying electricity and the corresponding proxy plant likely to occur after the end of the applicable time horizon, amortized over the time horizon at the discount rate.
- (25) “Levelized cost for short-term qualifying electricity” means costs levelized over the term of the contract.
- (26) “Levelized cost for short-term non-qualifying electricity” means costs levelized over a term consistent with the duration of the contract for qualifying electricity.
- (27) “Long-term qualifying electricity” means electricity from facilities owned by an electric company or electricity service supplier that generate qualifying electricity and qualifying electricity purchased pursuant to contracts of five years or more in duration.
- (28) “New qualifying electricity for an electric company” means qualifying electricity when the costs are first included in an applicable filing for a compliance year. New qualifying electricity may be from new generating facilities, generating facilities with significant new investments, or new contracts to purchase electricity.

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

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

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

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

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

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

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

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

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

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

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

(a) The incremental cost of compliance;

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

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

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

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Oregon Administrative Rule (OAR) 860-083-0050
Renewable Energy Certificates Eligible for Compliance With a Renewable Portfolio Standard

An electric company or an electricity service supplier may use a renewable energy certificate to comply with a renewable portfolio standard contained in ORS 469A.052, 469A.055, or 469A.065 in a calendar year as follows:

- (1) The electric company or electricity service supplier has not previously used, sold or otherwise transferred the renewable energy certificate;
- (2) The electric company has not previously used the renewable energy certificate to comply with requirements set forth in its own tariff that is in effect in Oregon or in another state, that are not related to an ORS 469A renewable portfolio standard or similar standard in another state;
- (3) A renewable energy certificate that has been traded, sold or otherwise transferred is not eligible to become a banked renewable energy certificate; and
- (4) The renewable energy certificate complies with OAR 330-160-0005 through 330-160-0030 (effective September 3, 2008).

Oregon Administrative Rule (OAR) 860-083-0100
Incremental Costs

- (1)(a) For amortization and levelization calculations, an electric company must use the discount rate used in its most recently filed or updated integrated resource plan, unless otherwise specified by the Commission.
- (b) For amortization and levelization calculations, an electricity service supplier must use the discount rate applicable to the electric company in whose service area it made the most retail sales in megawatt-hours over the five calendar years preceding the compliance year.
- (c) The incremental cost under ORS 469A.100(4) for long-term qualifying electricity is the difference between the levelized annual cost of qualifying electricity delivered in a compliance year and the levelized annual cost of an equivalent amount of electricity delivered from the corresponding proxy plant.
- (d) The time horizon for long-term qualifying electricity and for the corresponding proxy plant must be no longer than the amortization period of the qualifying electricity and must be at least as long as the lesser of:
 - (A) The amortization period of the qualifying electricity; or
 - (B) The period from the beginning year of the amortization period of the qualifying electricity until 20 years after the current compliance year.
- (e) The incremental cost under ORS 469A.100(4) for short-term qualifying electricity is the difference between the levelized annual cost of qualifying electricity delivered in a compliance year and the levelized annual cost of an equivalent amount of delivered market purchases with a consistent term that is not qualifying electricity. The cost of non-qualifying electricity must be based on published prices for a nearby electricity trading hub. When choosing among nearby hubs, the one with transmission costs most similar to the short-term qualifying electricity must be used. Specific costs must be adjusted to account for the differences in all transmission-associated costs.
- (f) Levelized annual delivered costs for qualifying electricity and non-qualifying electricity are specific costs plus applicable shares of aggregate costs.

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- (g) Aggregate and specific costs for interstate electric companies must reflect interstate allocations of costs.
 - (h) Incremental cost estimates for an electric company must be based on the likely impacts on the rates of its Oregon retail electricity consumers.
 - (i) Incremental costs are deemed to be zero for qualifying electricity from generating facilities or contracts that became operational before June 6, 2007 and for certified low-impact hydroelectric facilities under ORS 469A.025(5).
- (2) Each electric company must forecast the levelized incremental cost of long-term qualifying electricity in the following manner:
- (a) For each generation source of qualifying electricity, the electric company must estimate the delivered cost of qualifying electricity for each year over the time horizon of the qualifying electricity. Delivered cost includes aggregate costs and costs specific to a generating facility or contract. Costs include, but are not limited to, those specified in ORS 469A.100(4). Capital costs must be amortized.
 - (b) The levelized annual cost of qualifying electricity delivered in the compliance year must be based on all costs that will be included in rates through the qualifying electricity's time horizon.
 - (c) Aggregate costs must be estimated as the incremental cost to the utility system for all qualifying electricity.
 - (d) Aggregate transmission costs must be allocated proportionately to existing and planned generating facilities that will reasonably be served by the transmission facilities.
 - (e) If an electric company anticipates that it will have firming and shaping services available for sale for a compliance year, the company may not use rates in its Open Access Transmission Tariff approved by the Federal Energy Regulatory Commission as the basis for the firming or shaping portion of aggregate costs. In such case, the electric company should use the actual or forecasted cost of supplying or purchasing firming and shaping services as the basis for such costs. If an electric company anticipates it will not be able to sell firming and shaping services due to its use of such services, the company may use its approved Open Access Transmission Tariff as the basis for such costs.
- (3) Each electricity service supplier must forecast the cost of long-term qualifying electricity it plans to use to serve the service areas of electric companies subject to ORS 469A.052 consistent with section (2) of this rule.
- (4) Updates of amortization periods are required for compliance reports described in ORS 469A.170 and implementation plans described in ORS 469A.075 under any of the following circumstances:
- (a) If a generation facility that was previously included in a compliance report has significant investment costs in a compliance year, all qualifying electricity from the facility is new qualifying electricity under this rule with an amortization period based on the expected useful life of the facility, considering such investments. Except as provided in subsections (13)(a) and (b) of this rule, costs for each such facility must be updated in the next regularly scheduled compliance report and implementation plan.
 - (b) Except as provided in subsections (13)(a) and (b) of this rule, if a generating facility produces qualifying electricity after all capital costs have been amortized, the electric company must update the next regularly scheduled compliance report and implementation plan to establish an extended amortization period. The extended amortization period must be based on the expected remaining useful life of the facility. Qualifying electricity from the facility

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must be treated in the same manner as new qualifying electricity. Additional extended amortization periods may be added.

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

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

(6) For each compliance year, except as provided in subsections (13)(a) and (b) of this rule, each electric company must establish a new proxy plant for use in estimating the cost of non-qualifying electricity corresponding to new long-term qualifying electricity with the same beginning amortization year. New proxy plant costs must be based on relevant information in the most recently filed or updated integrated resource plan unless there have been material changes since the most recent of such filings. Proxy plant costs must be estimated in the following manner:

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

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

(B) Initial capital costs must be amortized.

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

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

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

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

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

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

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associated with the qualifying electricity must be amortized over the new amortization period. Qualifying electricity from the facility must be treated in the same manner as new qualifying electricity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The amortization periods for the qualifying electricity in subsections (13)(a) and (b) of this rule must begin at the same time as the latest operational date for the qualifying electricity. Costs must be adjusted for price escalation or de-escalation based on the beginning amortization year and actual initial years for such qualifying electricity. Adjustments may be based on applicable construction costs indexes or other published sources.

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

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Oregon Administrative Rule (OAR) 860-083-0200
Electric Company Revenue Requirements

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

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

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

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

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

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

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

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

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

(3) On or before December 1, 2010, and annually thereafter, each electric company must amend its filing made under section (2) of this rule for any updated renewable adjustment clause filing and retail electricity consumer loads that will be served through direct access in the compliance year.

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

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Compliance Standards

(1) Each electricity service supplier subject to ORS 469A.065 must meet the requirements of 469A.052 unless a limit specified in section (2) or section (3) of this rule applies.

(2)(a) The cost limit under ORS 469A.100(6) for an electricity service supplier means four percent of the weighted average of the average retail revenues per megawatt-hour of the electric companies subject to 469A.052 in whose service areas the electricity service supplier sells electricity. The weights are the retail sales in megawatt-hours by the electricity service supplier in the service areas of electric companies subject to 469A.052 for a compliance year.

(b) If the average cost of compliance per megawatt-hour for an electricity service supplier subject to ORS 469A.065 exceeds the cost limit for a compliance year, the electricity service supplier is not required to incur additional costs to meet section (1) of this rule.

(3)(a) An electric company or an electric service supplier is not required to meet the renewable portfolio standards during each compliance year to the extent that:

(A) For the electric company, the total cost of compliance to meet the renewable portfolio standard exceeds the cost limit in ORS 469A.100(1); and

(B) For the electricity service supplier, the average cost of compliance exceeds the cost limit in section (2) of this rule.

(b) In determining compliance with the applicable renewable portfolio standard in ORS 469A.052 or 469A.065 and the applicable cost limits under 469A.100(1) and 469A.100(6), the following apply:

(A) Subject to the Commission's review under ORS 469A.170, an electric company or electricity service supplier may elect to use alternative compliance payments to comply with the applicable renewable portfolio standard. The Commission may also require an electric company or electricity service supplier to use alternative compliance payments to comply with the applicable renewable portfolio standard if the alternative compliance payments would not cause the electric company or electric service supplier to exceed the applicable cost limits in ORS 469A.100(1) and 469A.100(6).

(B) Each electric company and electricity service supplier must use, in chronological order from first issued to last issued, its banked renewable energy certificates under ORS 469A.140(2)(a) and (2)(b), subject to the limitations under 469A.145, before using certificates issued in the compliance year or between January 1 through March 31 of the year following the compliance year.

(C) Subject to the limitations under ORS 469A.145 and the cost limit under 469A.100, if the banked renewable energy certificates each electric company or electricity service supplier uses are not sufficient to achieve compliance with the applicable renewable portfolio standard, the electric company or electricity service supplier must use renewable energy certificates issued or acquired in the compliance year or between January 1 through March 31 of the year following the compliance year, or make an alternative compliance payment, up to the amount required for compliance with the applicable standard. Bundled renewable energy certificates must be used in chronological order from first issued to last issued.

(D) If the total cost of compliance exceeds the cost limit under ORS 469A.100, the electric company or electricity service supplier is not required to use additional renewable energy certificates or make an alternative compliance payment to meet the applicable standard.

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(c) The costs of renewable energy certificates used to determine whether the cost limit has been reached must be from the applicable compliance report.

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Compliance Reports by Electric Companies and Electricity Service Suppliers

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (A) The name of the facility;
- (B) The county and state where the facility is located;
- (C) The type of renewable resource;
- (D) The total nameplate megawatt capacity of the facility;
- (E) For an electric company, the Oregon share of the nameplate megawatt capacity of the facility;
- (F) The year of the first delivery of qualifying electricity or the first year of the contract for the purchase of unbundled renewable energy certificates; and
- (G) The duration of the contract or the amortization period of a facility owned by the electric company or the planned lifetime of a facility owned by the electricity service supplier.
- (i) The amount of alternative compliance payments the electric company or electricity service supplier elected to use or was required to use to comply with the applicable renewable portfolio standard.
- (j) For an electric company, sufficient data, documentation, and other information to demonstrate that any voluntary alternative compliance payments were a reasonable compliance method.
- (k) Documentation of use of renewable energy certificates from the system under OAR 330-160-0020 established for compliance with the applicable renewable portfolio standard.
- (l) For each electric company, a detailed explanation of any material deviations from the applicable implementation plan filed under OAR 860-083-0400, as acknowledged by the Commission.
- (m) As specified in OAR 860-083-0100, the total number and cost of bundled renewable energy certificates used for compliance.
- (n) For each electric company, its projected annual revenue requirement as calculated in OAR 860-083-0200 and its total cost of compliance.
- (o) For each electricity service supplier, its total cost of compliance, its average cost of compliance, and its cost limit as specified in OAR 860-083-0300(2), including all calculations.
- (p) For each electric company, an accounting of the use of the renewable energy certificates and alternative cost payments consistent with OAR 860-083-0300(3) if the cost limit in ORS 469A.100(1) is reached for the compliance year.
- (q) For each electricity service supplier, an accounting of the use of the renewable energy certificates and alternative cost payments consistent with OAR 860-083-0300(3) if the cost limit in OAR 860-083-0300(2) is reached for the compliance year.
- (r) As specified in OAR 860-083-0100, the number and total cost of all bundled renewable energy certificates issued.

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

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

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

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

(6) Each electric company subject to ORS 469A.052 and each electricity service supplier subject to 469A.065 must post on its web site the public portion of the four most recent annual compliance reports required under this rule and provide a copy of the most recent such report to any person upon request. The public portions of the most recent compliance report must be posted within 30 days of the Commission decision in section (5) of this rule. The posting must include any Commission determinations under section (5) of this rule.

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

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

Oregon Administrative Rule (OAR) 860-083-0400
Implementation Plans by Electric Companies

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

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

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

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

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

(A) The renewable energy source;

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

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

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

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

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

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

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

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

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

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

(5) Under the following circumstances, the electric company must, for the applicable compliance year, provide sufficient documentation or citations to demonstrate how the implementation plan appropriately balances risks and

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expected costs as required by the integrated resource planning guidelines in 1.b. and c. of Commission Order No. 07-047 and subsequent guidelines related to implementation plans set forth by the Commission:

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

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

(A) Unbundled renewable energy certificates;

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

(C) Alternative compliance payments; or

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

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

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

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

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

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

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

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

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

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(10) Consistent with Commission orders for disclosure under OAR 860-038-0300, each electric company must provide information about the implementation plan to its customers by bill insert or other Commission-approved method. The information must be provided within 90 days of final action by the Commission on the plan or coordinated with the next available insert required under 860-038-0300. The information must include the URL address for the implementation plan posted under subsection (9)(a) of this rule.

Oregon Administrative Rule (OAR) 860-083-0500
Alternative Compliance Payments

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

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

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

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

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

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

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

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

(ii) Banked renewable energy certificates; and

(iii) Alternative compliance payments;

(B) The timing of electricity purchases;

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

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

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

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

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

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

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

(A) Forecasts of the costs of renewable resources;

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

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

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

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

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

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

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

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

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

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

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

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

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- (b) Timeliness of the proposed use of such funds compared to other funding opportunities.
 - (c) The amount of such funds in the electric company's holding accounts.
 - (d) The likely impacts of using such funds for the acquisition of long-term qualifying electricity.
 - (e) Whether there are opportunities to fund cost-effective energy conservation programs within the electric company's service area beyond a level that might not otherwise be achieved.
 - (f) Whether there are opportunities to fund cost-effective efficiency upgrades to the electricity generating facilities owned by the electric company beyond a level that might not otherwise be achieved.
 - (g) Whether the impacts in subsections (5)(e) and (f) of this rule might occur earlier with the use of such funds.
- (6) The Commission will adopt an alternative compliance rate for the compliance year for each electricity service supplier subject to ORS 469A.065 no later than 15 months before each compliance year in the following manner:
- (a) The alternative compliance rate for an electricity service supplier will be the weighted average of the alternative compliance rates for the electric companies subject to ORS 469A.052 in whose service areas the electricity service supplier provides electricity.
 - (b) The weights for subsection (6)(a) of this rule will be the retail sales in megawatt-hours by the electricity service supplier in each electric company service area for the year prior to the applicable compliance year.
- (7)(a) The Commission may approve expenditures of the alternative compliance funds in the holding accounts described in ORS 469A.180(6) for the purposes stated therein through a proceeding as directed by the Commission.
- (b) An electricity service supplier may request that the Commission direct that current or prospective alternative compliance funds in the holding accounts described in ORS 469A.180(6) be paid directly to the nongovernmental entity receiving funds under 757.612(3)(d). The nongovernmental entity must use the funds to acquire energy conservation for the customers of the electricity service supplier.

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Oregon Revised Statutes (ORS)
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2013 EDITION

RENEWABLE PORTFOLIO STANDARDS

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DEFINITIONS

469A.005 Definitions. As used in ORS 469A.005 to 469A.210:

(1) “Banked renewable energy certificate” means a bundled or unbundled renewable energy certificate that is not used by an electric utility or electricity service supplier to comply with a renewable portfolio standard in a calendar year and that is carried forward for the purpose of compliance with a renewable portfolio standard in a subsequent year.

(2) “BPA electricity” means electricity provided by the Bonneville Power Administration, including all electricity from the Federal Columbia River Power System hydroelectric projects and other electricity acquired by the Bonneville Power Administration by contract.

(3) “Bundled renewable energy certificate” means a renewable energy certificate for qualifying electricity that is acquired:

(a) By an electric utility or electricity service supplier by a trade, purchase or other transfer of electricity that includes the certificate that was issued for the electricity; or

(b) By an electric utility by generation of the electricity for which the certificate was issued.

(4) “Compliance year” means the calendar year for which the electric utility or electricity service supplier seeks to establish compliance with the renewable portfolio standard applicable to the utility or supplier in the compliance report submitted under ORS 469A.170.

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- (5) “Consumer-owned utility” means a municipal electric utility, a people’s utility district organized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS chapter 62.
- (6) “Electric company” has the meaning given that term in ORS 757.600.
- (7) “Electric utility” has the meaning given that term in ORS 757.600.
- (8) “Electricity service supplier” has the meaning given that term in ORS 757.600.
- (9) “Qualifying electricity” means electricity described in ORS 469A.010.
- (10) “Renewable energy source” means a source of electricity described in ORS 469A.025.
- (11) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon.
- (12) “Unbundled renewable energy certificate” means a renewable energy certificate for qualifying electricity that is acquired by an electric utility or electricity service supplier by trade, purchase or other transfer without acquiring the electricity for which the certificate was issued. [2007 c.301 §1]

QUALIFYING ELECTRICITY

469A.010 Qualifying electricity. (1) Except as provided in this section, and subject to ORS 469A.135, electricity generated from a renewable energy source may be used to comply with a renewable portfolio standard only if the facility that generates the electricity meets the requirements of ORS 469A.020.

(2)(a) Any electricity that the Bonneville Power Administration has designated as environmentally preferred power, or has given a similar designation for electricity generated from a renewable resource, may be used to comply with a renewable portfolio standard.

(b) Any electricity generated from a renewable energy source by a facility may be used to comply with a renewable portfolio standard, subject to ORS 469A.135, if the facility:

- (A) Burned coal as a fuel source;
- (B) Completely ceases to burn coal as a fuel source; and
- (C) Converts to a renewable energy source after January 1, 2012.

(3) The Legislative Assembly finds that hydroelectric energy is an important renewable energy source and electricity from hydroelectric generators may be used to comply with a renewable portfolio standard as provided in ORS 469A.005 to 469A.210. [2007 c.301 §2; 2011 c.225 §1]

469A.020 Qualifying electricity; age of generating facility. (1) Except as provided in this section, electricity may be used to comply with a renewable portfolio standard only if the electricity is generated by a facility that becomes operational on or after January 1, 1995.

(2) Electricity from a generating facility, other than a hydroelectric facility, that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

(3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power Administration facility, only that portion of the electricity generation attributable to Oregon’s share of the electricity may be used to comply with a renewable portfolio standard.

(4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization recognized by the State Department of Energy by rule, and if the facility is either:

- (a) Owned by an electric utility; or
- (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such license.

(5)(a) Electricity from a generating facility located in this state that uses biomass and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) on March 4, 2010, regardless of whether the facility qualifies under the requirements of the Public Utility Commission.

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(b) Renewable energy certificates derived from electricity generated by a facility that qualifies under paragraph (a) of this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

(6) A facility located in this state that generates electricity from direct combustion of municipal solid waste and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar year. Renewable energy certificates derived from electricity generated by a facility described in this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026. [2007 c.301 §3; 2010 c.17 §1; 2010 c.71 §1]

469A.025 Renewable energy sources; rules. (1) Electricity generated utilizing the following types of energy may be used to comply with a renewable portfolio standard:

- (a) Wind energy.
- (b) Solar photovoltaic and solar thermal energy.
- (c) Wave, tidal and ocean thermal energy.
- (d) Geothermal energy.

(2) Except as provided in subsection (3) of this section, electricity generated from biomass and biomass by-products may be used to comply with a renewable portfolio standard, including but not limited to electricity generated from:

- (a) Organic human or animal waste;
- (b) Spent pulping liquor;
- (c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;
- (d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);
- (e) Agricultural residues;
- (f) Dedicated energy crops; and
- (g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or municipal solid waste.

(3) Electricity generated from the direct combustion of biomass may not be used to comply with a renewable portfolio standard if any of the biomass combusted to generate the electricity includes wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.

(4) Electricity generated by a hydroelectric facility may be used to comply with a renewable portfolio standard only if:

(a) The facility is located outside any protected area designated by the Pacific Northwest Electric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805 to 390.925; or

(b) The electricity is attributable to efficiency upgrades made to the facility on or after January 1, 1995.

(5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities operated by the electric utility or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

(b) Up to 40 average megawatts of electricity per year generated by certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

(6)(a) Direct combustion of municipal solid waste in a generating facility located in this state may be used to comply with a renewable portfolio standard. The qualification of a municipal solid waste facility for use in compliance with a renewable portfolio standard has no effect on the qualification of the facility for a tax credit under ORS 469B.130 to 469B.169.

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(b) The total amount of electricity generated in this state by direct combustion of municipal solid waste by generating facilities that became operational in this state on or after January 1, 1995, may not exceed nine average megawatts per year for the purpose of complying with a renewable portfolio standard.

(7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable portfolio standard if:

(a) The electricity is derived from:

(A) Any source of energy described in subsection (1) or (2) of this section; or

(B) A hydroelectric facility that complies with subsection (4) of this section and that is certified as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

(b) The output of the original source of energy is not also used to comply with a renewable portfolio standard.

(8) If electricity generation employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in this section may be used to comply with a renewable portfolio standard.

(9) The State Department of Energy by rule may approve energy sources other than those described in this section that may be used to comply with a renewable portfolio standard. The department may not approve petroleum, natural gas, coal or nuclear fission as an energy source that may be used to comply with a renewable portfolio standard. [2007 c.301 §4; 2010 c.17 §3; 2010 c.71 §2]

RENEWABLE PORTFOLIO STANDARDS

469A.050 Applicable standard. (1) Electric utilities must comply with the applicable renewable portfolio standard described in ORS 469A.052 or 469A.055.

(2) Electricity service suppliers must comply with the renewable portfolio standard established under ORS 469A.065. [2007 c.301 §5]

469A.052 Large utility renewable portfolio standard. (1) The large utility renewable portfolio standard imposes the following requirements on an electric utility that makes sales of electricity to retail electricity consumers in an amount that equals three percent or more of all electricity sold to retail electricity consumers:

(a) At least five percent of the electricity sold by the utility to retail electricity consumers in each of the calendar years 2011, 2012, 2013 and 2014 must be qualifying electricity;

(b) At least 15 percent of the electricity sold by the utility to retail electricity consumers in each of the calendar years 2015, 2016, 2017, 2018 and 2019 must be qualifying electricity;

(c) At least 20 percent of the electricity sold by the utility to retail electricity consumers in each of the calendar years 2020, 2021, 2022, 2023 and 2024 must be qualifying electricity; and

(d) At least 25 percent of the electricity sold by the utility to retail electricity consumers in calendar year 2025 and subsequent calendar years must be qualifying electricity.

(2) If, on June 6, 2007, an electric utility makes sales of electricity to retail electricity consumers in an amount that equals less than three percent of all electricity sold to retail electricity consumers, but in any three consecutive calendar years thereafter makes sales of electricity to retail electricity consumers in amounts that average three percent or more of all electricity sold to retail electricity consumers, the utility is subject to the renewable portfolio standard described in subsection (3) of this section. The utility becomes subject to the standard described in subsection (3) of this section in the calendar year following the three-year period during which the utility makes sales of electricity to retail electricity consumers in amounts that average three percent or more of all electricity sold to retail electricity consumers.

(3) An electric utility described in subsection (2) of this section must comply with the following renewable portfolio standard:

(a) Beginning in the fourth calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least five percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity;

(b) Beginning in the 10th calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least 15 percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity;

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(c) Beginning in the 15th calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least 20 percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity; and

(d) Beginning in the 20th calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least 25 percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity. [2007 c.301 §6]

469A.055 Small electric utilities. (1) Except as provided in this section, an electric utility that makes sales of electricity to retail electricity consumers in an amount that equals less than three percent of all electricity sold to retail electricity consumers is not subject to ORS 469A.005 to 469A.210.

(2) Beginning in calendar year 2025, at least five percent of the electricity sold to retail electricity consumers in a calendar year by an electric utility must be qualifying electricity if the electric utility makes sales of electricity to retail electricity consumers in an amount that equals less than one and one-half percent of all electricity sold to retail electricity consumers.

(3) Beginning in calendar year 2025, at least 10 percent of the electricity sold to retail electricity consumers in a calendar year by an electric utility must be qualifying electricity if the electric utility makes sales of electricity to retail electricity consumers in an amount that equals or is more than one and one-half percent, and less than three percent, of all electricity sold to retail electricity consumers.

(4) The exemption provided by subsection (1) of this section terminates if an electric utility, or a joint operating entity that includes the utility as a member, acquires electricity from an electricity generating facility that uses coal as an energy source or makes an investment on or after June 6, 2007, in an electricity generating facility that uses coal as an energy source. This subsection does not apply to:

(a) A wholesale market purchase by an electric utility for which the energy source for the electricity is not known;

(b) BPA electricity;

(c) Acquisition of electricity under a contract entered into before June 6, 2007;

(d) A renewal or replacement contract for a contract for purchase of electricity described in paragraph (c) of this subsection;

(e) A purchase of electricity if the electricity is included in a contract for the purchase of qualifying electricity and is necessary to shape, firm or integrate the qualifying electricity;

(f) Electricity provided to an electric utility under a contract for the acquisition of an interest in an electricity generating facility that was entered into by the utility before June 6, 2007, or entered into before June 6, 2007, by an electric cooperative organized under ORS chapter 62 of which the electric utility is a member, without regard to whether the electricity is being used to serve the load of the electric utility on June 6, 2007; or

(g) Investments in an electricity generating facility that uses coal as an energy source if the investments are for the purpose of improving the facility's pollution mitigation equipment or the facility's efficiency or are necessary to comply with requirements or standards imposed by governmental entities.

(5) The exemption provided by subsection (1) of this section terminates for a consumer-owned utility if at any time after June 6, 2007, the utility acquires service territory of an electric company without the consent of the electric company.

(6) Beginning in the calendar year following the year in which an electric utility's exemption terminates under subsection (4) or (5) of this section, the utility is subject to the renewable portfolio standard described in ORS 469A.052 (3) and related provisions of ORS 469A.005 to 469A.210.

(7) The provisions of this section do not affect the requirement that electric utilities offer a green power rate under ORS 469A.205. [2007 c.301 §7]

469A.060 Exemptions from compliance with renewable portfolio standard. (1) Electric utilities are not required to comply with the renewable portfolio standards described in ORS 469A.052 and 469A.055 to the extent that:

(a) Compliance with the standard would require the utility to acquire electricity in excess of the utility's projected load requirements in any calendar year; and

(b) Acquiring the additional electricity would require the utility to substitute qualifying electricity for electricity derived from an energy source other than coal, natural gas or petroleum.

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(2)(a) Electric utilities are not required to comply with a renewable portfolio standard to the extent that compliance would require the utility to substitute qualifying electricity for electricity available to the utility under contracts for electricity from dams that are owned by Washington public utility districts and are located between the Grand Coulee Dam and the Columbia River's junction with the Snake River. The provisions of this subsection apply only to contracts entered into before June 6, 2007, and to renewal or replacement contracts for contracts entered into before June 6, 2007.

(b) If a contract described in paragraph (a) of this subsection expires and is not renewed or replaced, the utility must comply, in the calendar year following the expiration of the contract, with the renewable portfolio standard applicable to the utility.

(3) A consumer-owned utility is not required to comply with a renewable portfolio standard to the extent that compliance would require the utility to reduce the utility's purchases of the lowest priced electricity from the Bonneville Power Administration pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection applies only to firm commitments for BPA electricity that the Bonneville Power Administration has assured will be available to a utility to meet agreed portions of the utility's load requirements for a defined period of time. [2007 c.301 §8]

469A.065 Renewable portfolio standard for electricity service suppliers. An electricity service supplier must meet the requirements of the renewable portfolio standards that are applicable to the electric utilities that serve the territories in which the electricity service supplier sells electricity to retail electricity consumers. The Public Utility Commission shall establish procedures for implementation of the renewable portfolio standards for electricity service suppliers that sell electricity in the service territory of an electric company. If an electricity service supplier sells electricity in territories served by more than one electric company, the commission may provide for an aggregate standard based on the amount of electricity sold by the electricity service supplier in each territory. Pursuant to ORS 757.676, a consumer-owned utility may establish procedures for the implementation of the renewable portfolio standards for electricity service suppliers that sell electricity in the territory served by the consumer-owned utility. [2007 c.301 §9]

469A.070 Manner of complying with renewable portfolio standards. (1) Except as provided in subsection (2) of this section, an electric utility or electricity service supplier must comply with the renewable portfolio standard applicable to the utility or supplier in each calendar year by:

(a) Using bundled renewable energy certificates issued or acquired during the compliance year;
(b) Subject to the limitations described in ORS 469A.140 and 469A.145, using unbundled or banked renewable energy certificates; or
(c) Making alternative compliance payments as described in ORS 469A.180.

(2) Bundled or unbundled renewable energy certificates that are issued or acquired by an electric utility or electricity service supplier on or before March 31 in a calendar year may be used by the utility or supplier to comply with the renewable portfolio standard applicable to the utility or supplier for the preceding calendar year. [2007 c.301 §10]

469A.075 Implementation plan for electric companies; annual reports; rules. (1) An electric company that is subject to a renewable portfolio standard shall develop an implementation plan for meeting the requirements of the standard and file the plan with the Public Utility Commission. Implementation plans must be revised and updated at least once every two years.

(2) An implementation plan must at a minimum contain:
(a) Annual targets for acquisition and use of qualifying electricity; and
(b) The estimated cost of meeting the annual targets, including the cost of transmission, the cost of firming, shaping and integrating qualifying electricity, the cost of alternative compliance payments and the cost of acquiring renewable energy certificates.

(3) The commission shall acknowledge the implementation plan no later than six months after the plan is filed with the commission. The commission may acknowledge the plan subject to conditions specified by the commission.

(4) The commission shall adopt rules:

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- (a) Establishing requirements for the content of implementation plans;
 - (b) Establishing the procedure for acknowledgment of implementation plans under this section, including provisions for public comment; and
 - (c) Providing for the integration of the implementation plan with the integrated resource planning guidelines established by the commission and in effect on June 6, 2007.
- (5) The implementation plan filed under this section may include procedures that will be used by the electric company to determine whether the costs of constructing a facility that generates electricity from a renewable energy source, or the costs of acquiring bundled or unbundled renewable energy certificates, are consistent with the standards of the commission relating to least-cost, least-risk planning for acquisition of resources. [2007 c.301 §11]

COST LIMITATION

469A.100 Limits on cost of compliance with renewable portfolio standard. (1) Electric utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year.

(2) For each electric company, the Public Utility Commission shall establish the annual revenue requirement for a compliance year no later than January 1 of the compliance year. The governing body of a consumer-owned utility shall establish the annual revenue requirement for the consumer-owned utility.

(3) The annual revenue requirement for an electric utility shall be calculated based only on the operations of the utility relating to electricity. The annual revenue requirement does not include any amount expended by the utility for energy efficiency programs for customers of the utility or for low income energy assistance, the incremental cost of compliance with a renewable portfolio standard, the cost of unbundled renewable energy certificates or the cost of alternative compliance payments under ORS 469A.180. The annual revenue requirement does include:

- (a) All operating expenses of the utility during the compliance year, including depreciation and taxes; and
- (b) For electric companies, an amount equal to the total rate base of the company for the compliance year multiplied by the rate of return established by the commission for debt and equity of the company.

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

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

(5) For the purposes of this section, the governing body of a consumer-owned utility may include in the incremental cost of compliance with a renewable portfolio standard all expenses associated with research, development and demonstration projects related to the generation of qualifying electricity by the consumer-owned utility.

(6) The commission shall establish limits on the incremental cost of compliance with the renewable portfolio standard for electricity service suppliers under ORS 469A.065 that are the equivalent of the cost limits applicable to the electric companies that serve the territories in which the electricity service supplier sells electricity to retail electricity consumers. If an electricity service supplier sells electricity in territories served by more than one electric company, the commission may provide for an aggregate cost limit based on the amount of electricity sold by the electricity service supplier in each territory. Pursuant to ORS 757.676, a consumer-owned utility may establish limits on the cost of compliance with the renewable portfolio standard for electricity service suppliers that sell electricity in the territory served by the consumer-owned utility. [2007 c.301 §12]

COST RECOVERY

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469A.120 Cost recovery by electric companies. (1) Except as provided in ORS 469A.180 (5), all prudently incurred costs associated with compliance with a renewable portfolio standard are recoverable in the rates of an electric company, including interconnection costs, costs associated with using physical or financial assets to integrate, firm or shape renewable energy sources on a firm annual basis to meet retail electricity needs, above-market costs and other costs associated with transmission and delivery of qualifying electricity to retail electricity consumers.

(2) The Public Utility Commission shall establish an automatic adjustment clause as defined in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an electric company to construct or otherwise acquire facilities that generate electricity from renewable energy sources and for associated electricity transmission. Notwithstanding any other provision of law, upon the request of any interested person the commission shall conduct a proceeding to establish the terms of the automatic adjustment clause or other method for timely recovery of costs. The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral argument. The commission shall issue a written order with findings on the evidentiary record developed in the proceeding.

(3) An electric company must file with the commission for approval of a proposed rate change to recover costs under the terms of an automatic adjustment clause or other method for timely recovery of costs established under subsection (2) of this section. Notwithstanding any other provision of law, upon the request of any interested person the commission shall conduct a proceeding to determine whether to approve a proposed change in rates under the automatic adjustment clause or other method for timely recovery of costs. The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral argument. The commission shall issue a written order with findings on the evidentiary record developed in the proceeding. A filing made under this subsection is subject to the commission's authority under ORS 757.215 to suspend a rate, or schedule of rates, for investigation. [2007 c.301 §13; 2010 c.79 §1]

RENEWABLE ENERGY CERTIFICATES

469A.130 Renewable energy certificates system. (1) The State Department of Energy shall establish a system of renewable energy certificates that can be used by an electric utility or electricity service supplier to establish compliance with the applicable renewable portfolio standard. The department shall consult with the Public Utility Commission before establishing a system of renewable energy certificates under this section. The department may allow use of renewable energy certificates that are issued, monitored, accounted for or transferred by or through a regional system or trading program, including but not limited to the Western Renewable Energy Generation Information System. The system established by the department shall allow issuance, transfer and use of renewable energy certificates in electronic form.

(2) The validity of a bundled renewable energy certificate for purposes of compliance with the applicable renewable portfolio standard is not affected by the substitution of any other electricity for the qualifying electricity at any point after the time of generation. [2007 c.301 §14]

469A.135 Renewable energy certificates that may be used to comply with standards. (1) A bundled renewable energy certificate may be used to comply with a renewable portfolio standard if:

(a) The facility that generates the qualifying electricity for which the certificate is issued is located in the United States and within the geographic boundary of the Western Electricity Coordinating Council; and

(b) The qualifying electricity for which the certificate is issued is delivered to the Bonneville Power Administration, to the transmission system of an electric utility or to another delivery point designated by an electric utility for the purpose of subsequent delivery to the electric utility.

(2) An unbundled renewable energy certificate may be used to comply with a renewable portfolio standard if the facility that generates the qualifying electricity for which the certificate is issued is located within the geographic boundary of the Western Electricity Coordinating Council.

(3) Renewable energy certificates issued for any electricity that the Bonneville Power Administration has designated as environmentally preferred power, or has given a similar designation for electricity generated from a

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renewable resource, may be used to comply with a renewable portfolio standard without regard to the location of the generating facility. [2007 c.301 §15]

469A.140 Use, transfer and banking of certificates. (1) Renewable energy certificates may be traded, sold or otherwise transferred.

(2) Renewable energy certificates that are not used by an electric utility or electricity service supplier to comply with a renewable portfolio standard in a calendar year may be banked and carried forward indefinitely for the purpose of complying with a renewable portfolio standard in a subsequent year. For the purpose of complying with a renewable portfolio standard in any calendar year:

(a) Banked renewable energy certificates must be used, up to the limit imposed by ORS 469A.145, before other certificates are used; and

(b) Banked renewable energy certificates with the oldest issuance date must be used to comply with the standard before banked renewable energy certificates with more recent issuance dates are used.

(3) An electric utility or electricity service supplier is responsible for demonstrating that a renewable energy certificate used to comply with a renewable portfolio standard is derived from a renewable energy source and that the utility or supplier has not used, traded, sold or otherwise transferred the certificate.

(4) The same renewable energy certificate may be used by an electric utility or electricity service supplier to comply with a federal renewable portfolio standard and a renewable portfolio standard established under ORS 469A.005 to 469A.210. An electric utility or electricity service supplier that uses a renewable energy certificate to comply with a renewable portfolio standard imposed by any other state may not use the same certificate to comply with a renewable portfolio standard established under ORS 469A.005 to 469A.210. [2007 c.301 §16]

469A.145 Limitations on use of unbundled certificates to meet renewable portfolio standard. (1) Except as otherwise provided in this section, unbundled renewable energy certificates, including banked unbundled renewable energy certificates, may not be used to meet more than 20 percent of the requirements of the large utility renewable portfolio standard described in ORS 469A.052 for any compliance year.

(2) The limitation imposed by subsection (1) of this section does not apply to renewable energy certificates issued for electricity generated in Oregon from a renewable energy source by a net metering facility as defined in ORS 757.300, or another generating facility that is not directly connected to a distribution or transmission system.

(3) The limitation imposed by subsection (1) of this section does not apply to renewable energy certificates issued for electricity generated in Oregon by a qualifying facility under ORS 758.505 to 758.555.

(4) The limitation imposed by subsection (1) of this section does not apply to an electricity service supplier. [2007 c.301 §17]

Note: Section 17a, chapter 301, Oregon Laws 2007, provides:

Sec. 17a. Notwithstanding section 17 (1) of this 2007 Act [469A.145 (1)], for compliance years before 2020, a consumer-owned utility subject to the large utility renewable portfolio standard described in section 6 of this 2007 Act [469A.052] may use unbundled renewable energy certificates, including banked unbundled renewable energy certificates, to meet up to 50 percent of the requirements of the standard. [2007 c.301 §17a]

469A.150 Multistate electric companies; rules. The Public Utility Commission by rule shall establish a process for allocating the use of renewable energy certificates by an electric company that makes sales of electricity to retail customers in more than one state. [2007 c.301 §18]

COMPLIANCE REPORTS

469A.170 Compliance reports; rules. (1) Each electric utility and electricity service supplier that is subject to a renewable portfolio standard shall make an annual compliance report for the purpose of detailing compliance, or failure to comply, with the renewable portfolio standard applicable in the compliance year. An electric company or electricity service supplier shall make the report to the Public Utility Commission. A consumer-owned utility shall make the report to the members or customers of the utility.

(2) The commission shall review each compliance report filed under this section by an electric company or electricity service supplier for the purposes of determining whether the company or supplier has complied with the

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renewable portfolio standard applicable to the company or supplier and the manner in which the company or supplier has complied. In reviewing the reports, the commission shall consider:

(a) The relative amounts of renewable energy certificates and other payments used by the company or supplier to meet the applicable renewable portfolio standard, including:

- (A) Bundled renewable energy certificates;
- (B) Unbundled renewable energy certificates;
- (C) Banked renewable energy certificates; and
- (D) Alternative compliance payments under ORS 469A.180.

(b) The timing of electricity purchases.

(c) The market prices for electricity purchases and unbundled renewable energy certificates.

(d) Whether the actions taken by the company or supplier are contributing to long term development of generating capacity using renewable energy sources.

(e) The effect of the actions taken by the company or supplier on the rates payable by retail electricity consumers.

(f) Good faith forecasting differences associated with the projected number of retail electricity consumers served and the availability of electricity from renewable energy sources.

(g) For electric companies, consistency with the implementation plan filed under ORS 469A.075, as acknowledged by the commission.

(h) Any other factors deemed reasonable by the commission.

(3) The commission by rule may establish requirements for compliance reports submitted by an electric company or electricity service supplier. [2007 c.301 §19]

ALTERNATIVE COMPLIANCE PAYMENTS

469A.180 Electric companies; electricity service suppliers. (1) The Public Utility Commission shall establish an alternative compliance rate for each compliance year for each electric company or electricity service supplier that is subject to a renewable portfolio standard. The rate shall be expressed in dollars per megawatt-hour.

(2) The commission shall establish an alternative compliance rate based on the cost of qualifying electricity, contracts that the electric company or electricity service supplier has acquired for future delivery of qualifying electricity and the number of unbundled renewable energy certificates that the company or supplier anticipates using in the compliance year to meet the renewable portfolio standard applicable to the company or supplier. The commission shall also consider any determinations made under ORS 469A.170 in reviewing the compliance report made by the electric company or electricity service supplier for the previous compliance year. In establishing an alternative compliance rate, the commission shall set the rate to provide adequate incentive for the electric company or electricity service supplier to purchase or generate qualifying electricity in lieu of using alternative compliance payments to meet the renewable portfolio standard applicable to the company or supplier.

(3) An electric company or electricity service supplier may elect to use, or may be required by the commission to use, alternative compliance payments to comply with the renewable portfolio standard applicable to the company or supplier. Any election by an electric company or electricity service supplier to use alternative compliance payments is subject to review by the commission under ORS 469A.170. An electric company or electricity service supplier may not be required to make alternative compliance payments that would result in the company or supplier exceeding the cost limitation established under ORS 469A.100.

(4) The commission shall determine for each electric company the extent to which alternative compliance payments may be recovered in the rates of the company. Each electric company shall deposit any amounts recovered in the rates of the company for alternative compliance payments in a holding account established by the company. Amounts in the holding account shall accrue interest at the rate of return authorized by the commission for the electric company.

(5) Amounts in holding accounts established under subsection (4) of this section may be expended by an electric company only for costs of acquiring new generating capacity from renewable energy sources, investments in efficiency upgrades to electricity generating facilities owned by the company and energy conservation programs within the company's service area. The commission must approve expenditures by an electric company from a holding account established under subsection (4) of this section. Amounts that are collected from customers and spent by an electric company under this subsection may not be included in the company's rate base.

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(6) The commission shall require electricity service suppliers to establish holding accounts and make payments to those accounts on a substantially similar basis as provided for electric companies. The commission must approve expenditures by an electricity service supplier from a holding account established under this subsection. The commission may approve expenditures only for energy conservation programs for customers of the electricity service supplier. [2007 c.301 §20]

469A.185 Consumer-owned utilities. The governing body of a consumer-owned utility shall establish an alternative compliance rate for the utility. To the extent possible, the alternative compliance rate shall be determined by the governing body of the consumer-owned utility in a manner similar to that used by the Public Utility Commission in establishing alternative compliance rates under ORS 469A.180. Amounts collected as alternative compliance payments by a consumer-owned utility may be used for the purposes specified in ORS 469A.180 (5) and for the purpose of paying expenses associated with research, development and demonstration projects related to the generation of qualifying electricity by the utility. [2007 c.301 §21]

PENALTY

469A.200 Penalty. If an electric company or electricity service supplier that is subject to a renewable portfolio standard under ORS 469A.005 to 469A.210 fails to comply with the standard in the manner provided by ORS 469A.005 to 469A.210, the Public Utility Commission may impose a penalty against the company or supplier in an amount determined by the commission. A penalty under this section is in addition to any alternative compliance payment required or elected under ORS 469A.180. Moneys paid for penalties under this section shall be transmitted by the commission to the nongovernmental entity receiving moneys under ORS 757.612 (3)(d) and may be used only for the purposes specified in ORS 757.612 (1). [2007 c.301 §22]

GREEN POWER RATE

469A.205 Green power rate. (1) Electric utilities shall allow retail electricity consumers to elect a green power rate. A significant portion of the electricity purchased or generated by a utility that is attributable to moneys paid by retail electricity consumers who elect the green power rate must be qualifying electricity, and the utility must inform consumers of the sources of the electricity purchased or generated by the utility that is attributable to moneys paid by consumers who elect the green power rate. The green power rate shall reasonably reflect the costs of the electricity purchased or generated by the utility that is attributable to moneys paid by retail electricity consumers who elect the green power rate. All prudently incurred costs associated with the green power rate are recoverable in a green power rate offered by an electric company.

(2) Any qualifying electricity procured by an electric utility to provide electricity under a green power rate under subsection (1) of this section or ORS 757.603 (2)(a) may not be used by the utility to comply with the requirements of a renewable portfolio standard.

(3) The provisions of subsection (1) of this section do not apply to electric companies that are subject to ORS 757.603 (2)(a).

(4) An electric utility may comply with the requirements of subsection (1) of this section by contracting with a third-party provider. [2007 c.301 §23]

COMMUNITY-BASED RENEWABLE ENERGY PROJECTS

469A.210 Goal for community-based renewable energy projects. The Legislative Assembly finds that community-based renewable energy projects, including but not limited to marine renewable energy resources that are either developed in accordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential element of Oregon's energy future, and declares that it is the goal of the State of Oregon that by 2025 at least eight percent of Oregon's retail electrical load comes from small-scale renewable energy projects with a generating capacity of 20 megawatts or less. All agencies of the executive department as defined in ORS 174.112 shall establish policies and procedures promoting the goal declared in this section. [2007 c.301 §24; 2010 c.68 §1]

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JOB IMPACT STUDY

Note: Sections 25 and 26, chapter 301, Oregon Laws 2007, provide:

Sec. 25. (1) The State Department of Energy shall periodically conduct a study to evaluate the impact of sections 1 to 24 of this 2007 Act [469A.005 to 469A.210] on jobs in this state. The study shall assess the number of new jobs created in the renewable energy sector in this state and the average wage rates and the provision of health care and other benefits for those jobs. In addition, the study shall investigate the extent to which workforce training opportunities are being provided to employees to prepare the employees for jobs in the renewable energy sector.

(2) The department shall conduct the first study under this section not later than two years after the effective date of this 2007 Act [June 6, 2007]. [2007 c.301 §25]

Sec. 26. Section 25 of this 2007 Act is repealed January 2, 2026. [2007 c.301 §26]

HYDROGEN POWER STATIONS

469A.300 Hydrogen power stations; compliance with renewable portfolio standard; cost recovery for prudent energy investments. To facilitate the creation of hydrogen power stations using anhydrous ammonia as a fuel source to comply with a renewable portfolio standard under ORS 469A.005 to 469A.210, the Public Utility Commission may allow full recovery of costs by public utilities in prudent energy investments related to the planning, financing, construction and operation of hydrogen power stations. These investments may include, but need not be limited to:

(1) Systems designed to synthesize anhydrous ammonia fuel using electricity generated from renewable energy sources listed in ORS 469A.025;

(2) Infrastructure designed to store anhydrous ammonia generated from renewable energy sources as a nonpolluting fuel for electricity generation and any other purpose;

(3) Energy systems designed to use anhydrous ammonia generated from renewable energy sources as a fuel to generate electricity; and

(4) Electronic control and management systems designed to effectively integrate hydrogen power station processes into the electricity transmission grid. [2010 c.17 §2]