

OREGON RENEWABLE PORTFOLIO STANDARD SUMMARY

A. SUMMARY: Oregon's renewable portfolio standard (RPS) was enacted in June 2007. All electric utilities serving load in the state are required to meet the RPS, but the annual requirements depend on the size of the utility. Large utilities (serving load equal to 3 percent or more of total states sales) must derive 5 percent of total retail sales from renewable energy sources by 2011. The RPS target for large utilities then increases in steps to reach 25 percent by 2025 and each year thereafter. Depending on their size, smaller utilities must achieve either 5 percent or 10 percent of sales with renewable energy sources by 2025 (and each year thereafter), but have no interim targets. Compliance is achieved through the acquisition of renewable energy certificates that are issued and tracked through the Western Renewable Energy Generation Information System. Obligated electric service providers may also fulfill their annual requirements by making alternative compliance payments, with monies collected to be used to support new renewable energy development and energy efficiency investments. The Public Utility Commission has the authority to impose penalties for non-compliance.

B. AUTHORIZING LEGISLATION/REGULATION

- 1. Legislative/Regulatory Intent:** "Whereas the Legislative Assembly finds that it is in the interest of the state to promote research and development of new renewable energy sources in Oregon; and Whereas the Legislative Assembly finds that it is necessary for Oregon's electric utilities to decrease their reliance on fossil fuels for electricity generation and to increase their use of renewable energy sources; and Whereas this 2007 Act may be cited as the Oregon Renewable Energy Act; and Whereas the Oregon Renewable Energy Act provides a comprehensive renewable energy policy for Oregon, enabling industry, government and all Oregonians to accelerate the transition to a more reliable and more affordable energy system;"
- 2. Part of a Broader Package:** No
- 3. Applicable Legislation/Regulation**
Legislation:
6/07 – [S 838](#) A Bill for an Act establishing a renewable portfolio standard for electric utilities and electricity service suppliers.
- 4. Date Enacted:** June 6, 2007
- 5. Date Effective:** June 6, 2007

C. RULEMAKING

- 1. Implementing/rulemaking Authority:** The Oregon Public Utility Commission (PUC) has primary rulemaking authority under the RPS for regulated, investor-

owned utilities subject to the RPS. However, the Oregon Department of Energy (ODOE) is responsible for establishing a system of renewable energy certificates (REC), and for approving new energy sources as eligible under the RPS.

2. **Rulemaking Completed to Date:** None, though several dockets at the Oregon Department of Energy and the Oregon Public Utility Commission developing rules for various components of the RPS are underway.

D. TARGETS AND TIMETABLES

1. **Brief Overview:** Under the Oregon RPS, the amount of an electric utility’s power sales determines both the target level it is obligated to meet and the schedule for achieving it. The state’s three largest electric utilities—those with retail electric sales greater than 3 percent of the state total—are required to meet a 5 percent target in 2011, and continue ramping up in increments over time to 25 percent by 2025 and for each year thereafter. These electric utilities account for about three-quarters of total retail electric sales in the state. The remaining electric utilities in the state must achieve one of two lesser targets in 2025 (and thereafter), but have no interim targets to meet. An electricity service supplier must meet the RPS requirements that are applicable to the electric utilities that serve the territories in which the electricity service supplier sells electricity to retail electricity consumers.

2. **Schedule:**

Compliance Year	Large Utilities (>3% of total state retail electric sales)	Smaller Utilities* (>1.5%, but <3% of total state retail electric sales)	Smallest Utilities* (< 1.5% of total state retail electric sales)
2011-2014	5%		
2015-2019	15%		
2020-2024	20%		
2025, and thereafter	25%	10%	5%

* With some limited exceptions, 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 or makes an investment on or after June 6, 2007 in an electricity generating facility that uses coal as an energy source, that utility will be treated as a Large Utility regardless of sales. In addition, if a consumer-owned utility acquires service territory of an electric company after June 6, 2007, that utility is subject to the large utility requirement regardless of its size. Smaller utilities that grow into the 3 percent large utility classification are subject to the higher requirements, but on a delayed schedule as if they had entered the RPS initially.

3. **Treatment of Existing Capacity:** Qualifying electricity from a renewable energy source is defined as coming from a facility that becomes operational on or after

January 1, 1995. Electricity from a generating facility, other than a hydroelectric facility, that became operational before January 1, 1995, may also be used to comply with the annual targets if the electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

Electricity from hydroelectric facilities that became operational before January 1, 1995, may be used to comply with the annual targets if the electricity is attributable to efficiency upgrades made on or after January 1, 1995. In addition, up to 50 average megawatts (MW) of electricity from a hydroelectric facility that is owned by an electric utility and that became operational before January 1, 1995, may be used to comply with the annual targets if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995.

4. Sunset Clause: None

E. ELIGIBLE RESOURCES AND TECHNOLOGIES

1. Eligible Resources:

- Wind energy
- Solar photovoltaic
- Solar thermal
- Wave, tidal, and ocean energy
- Geothermal energy
- Biomass or biomass byproducts, “including but not limited to electricity generated from: organic human or animal waste; spent pulping liquor; 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; wood material from hardwood timber grown on land described in ORS 321.267 (3); agricultural residues; dedicated energy crops; and landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or municipal solid waste. 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: municipal solid waste; or wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.” Co-firing of biomass resources is permissible.
- 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 (BPA) facility, only that portion of the electricity generation attributable to Oregon's share of the electricity may be used to comply with the RPS.

Electricity generated by a hydroelectric facility may be used to comply with the RPS 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, Public Law 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.

Up to 50 average megawatts of electricity per year generated by an electric utility from certified low-impact hydroelectric facilities (certified on or after January 1, 1995, by a national certification organization recognized by the ODOE by rule) may be used to comply with the RPS, without regard to the number of certified facilities operated by the electric utility or the generating capacity of those facilities. Facilities described by this paragraph are not subject to the paragraph above.

- Hydrogen derived from eligible technologies

ODOE may, by rule, approve energy sources other than those described in the RPS legislation. However, ODOE may not approve petroleum, natural gas, coal or nuclear fission as an eligible renewable energy source.

- 2. Special Incentives/Exclusions:** Fossil fuels (petroleum, natural gas, coal) and nuclear fission are explicitly excluded. Also excluded is electricity generated from the direct combustion of municipal solid waste, or wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.
- 3. Self-generation:** Self-generation is eligible, and the RPS includes a goal of ensuring 8 percent of the state's retail electric load is from small-scale renewable energy projects with a generating capacity of 20 MW or less.
- 4. Location of Generating Facilities:** Bundled RECs that may be used to comply with the annual targets are limited to facilities that generate qualifying electricity located in the United States and within the geographic boundary of the Western Electricity Coordinating Council (WECC), and whose electricity is delivered to BPA, 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. Replacing or swapping the underlying electricity along the transmission path is eligible, allowing the shaping or firming of renewable electricity that is bundled with RECs. Unbundled RECs that may be used to comply with the annual targets are limited to facilities that generate qualifying electricity located within the geographic boundary of WECC. RECs issued for any electricity that the BPA has designated as environmentally preferred power, or has given a similar designation may be used to comply with the standard without regard to the location of the generating facility.
- 5. Eligibility of Green Pricing Programs:** Electric utilities shall allow retail electricity consumers to elect a green power rate. Any qualifying electricity

procured by an electric utility to provide electricity under a green power rate may not be used by the utility to comply with the annual RPS requirements.

F. COVERED UTILITIES

- 1. Classes of Retailers Covered:** All electric utilities and electric service suppliers serving load in Oregon are obligated to meet the RPS. However, the size of an obligated entity's electric load (in terms of percent of total state electric sales) determines the level of the targets and the schedule.
- 2. Share of State Sales/Capacity/Delivered power Covered by Program?** 100 percent of state electric sales are covered by the RPS.
- 3. Apportionment of Obligation among retailers:** The annual requirements are applied separately to each obligated utility.
- 4. Exemptions by Customer Class:** None

G. COST PROVISIONS

- 1. Cost Cap for Retailers:** Electric utilities are not required to comply with the RPS 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 exceeds four percent of the utility's annual revenue requirement for the compliance year.

For each electric company, the PUC will establish the annual revenue requirement. The PUC is instructed to establish the methodology for determining the annual revenue requirement no later than July 1, 2008. For consumer-owned utilities, its governing body is responsible for establishing the annual revenue requirement.

The incremental cost of compliance with the RPS is defined as "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."

- 2. Cost Cap for Customers:** None
- 3. Cost Recovery Mechanism:** The RPS allows for all prudently incurred costs associated with compliance to be recoverable in the rates of an electric company, including interconnection costs, costs associated with integrating, firming or shaping renewable energy sources and other transmission and delivery costs. The PUC shall establish, in conjunction with each electric utility, an automatic adjustment clause that allows timely recovery of prudently incurred costs.

To the extent that an electric utility uses the alternative compliance payment mechanism to comply with the annual requirements, the PUC shall determine whether these payments may be recovered in the rates of the company. Alternative compliance payments that are collected from customers and spent by an electric company may not, however, be included in the company's rate base.

- 4. Supply Contract Requirements:** None specified.
- 5. Special Funds:** Electric utilities that use the alternative compliance payment mechanism, and who are permitted by the PUC to recover those costs in rates, are required to deposit those recovered costs in a holding account established by the company. Monies in these holding accounts may only be expended by an electric company, after PUC approval, for 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 RPS legislation also extends the sunset date of the state's public purpose charge until January 1, 2026. In addition, the allocation of monies dedicated to the above market costs of new renewable energy resources (19 percent of the fund) is now limited to facilities that are 20 MW or less in capacity.

H. COMPLIANCE AND ENFORCEMENT

- 1. Certification, Tracking and Trading:** An electric utility or electricity service supplier must comply with the RPS by using bundled RECs (RECs combined with the associated electricity) issued or acquired during the compliance year, unbundled or banked RECs (bundled or unbundled), or by making alternative compliance payments. The issue, monitoring, accounting, transfer and use of RECs shall be conducted through the Western Renewable Energy Generation Information System (WREGIS) according to its operating rules. One renewable energy certificate is equal to one megawatt-hour of energy from a qualifying renewable energy source. A renewable energy facility may begin generating RECs on or after October 1, 2007.

Unbundled RECs (including banked unbundled RECs) may only be used to meet up to 20 percent of a large utility's annual requirements, unless the unbundled REC is associated with Oregon-based facilities that are net-metered, not directly connected to a distribution or transmission system, or PURPA qualifying facilities. Consumer-owned utilities that are subject to the large utility requirements may use unbundled RECs (including banked unbundled RECs) for up to 50 percent of the annual requirements during compliance years prior to 2020. Electric service suppliers and consumer-owned utilities not subject to the large utility requirements have no restrictions on the use of unbundled RECs.

The same REC may be used by an electric utility or electricity service supplier to

comply with a federal RPS and the Oregon RPS. However, an electric utility or electricity service supplier that uses a REC to comply with an RPS imposed by any other state may not use the same certificate to comply with the Oregon RPS.

The RPS legislation does not define the attributes that are associated with a REC.

Though not explicit in the RPS legislation, REC ownership is conveyed to the owner of the generation unit that receives designation as a renewable energy source and produces qualifying electricity, unless otherwise established by contract.

- 2. Flexibility Mechanisms:** Banked Compliance – RECs that are not used by an electric utility or electricity service supplier to comply with the RPS in a calendar year may be banked and carried forward indefinitely for the purpose of compliance in a subsequent year. Banked RECs must be used before other RECs, starting with RECs that have the oldest issuance date (following a “first-in, first-out” rule). Banked unbundled RECs count toward an electric utility’s limit on the use of unbundled RECs to comply with the large utility annual requirements with some exceptions (see “Certification, Tracking, and Trading” section).

Alternative Compliance Payment Mechanism – The PUC shall establish an alternative compliance payment (ACP) rate for each compliance year for each electric company or electricity service supplier that is subject to the RPS. The rate shall be expressed in dollars per megawatt-hour. The PUC shall set the ACP rate at a level that provides adequate incentive for the electric company or electricity service supplier to purchase or generate qualifying electricity in lieu of using ACPs to meet their annual requirements.

An electric company or electricity service supplier may elect to use (subject to PUC approval), or may be required by the PUC to use, ACPs to comply with the RPS. However, ACPs cannot be required if they would result in the company or supplier exceeding the cost limitation.

Each electric company shall deposit any amount of ACPs recovered in rates in a holding account established by the company. Monies in these holding accounts may only be expended by an electric company, after PUC approval, for 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.

Early Compliance – Generating facilities that produce qualifying electricity shall be eligible to create RECs beginning on October 1, 2007.

True-up period – Bundled or unbundled RECs 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 to comply with the RPS applicable to the utility or supplier for the preceding calendar year.

3. **Penalties:** In addition to any ACP required or elected, the PUC may impose a penalty against the company or supplier in an amount determined by the PUC. Monies paid for penalties shall be transmitted by the PUC to the Oregon Energy Trust to be spent in the same manner as the public purpose charge.
4. **Treatment of Emissions Allowances or Reduction Credits:** Not specified.
5. **Escape Clauses:** Electric utilities are not required to comply with the RPS during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled RECs and the cost of ACPs exceeds four percent of the utility's annual revenue requirement for the compliance year.

In addition, electric utilities are not required to comply with the RPS to the extent that: (a) Compliance 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.

Electric utilities are also not required to comply with the RPS 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. This exemption applies only to contracts entered into before June 6, 2007 and to renewal or replacement contracts for contracts entered into before June 6, 2007.

A consumer-owned utility is not required to comply with the RPS to the extent that compliance would require the utility to reduce its purchases of the lowest priced electricity from the BPA 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 BPA has assured will be available to a utility to meet agreed portions of the utility's load requirements for a defined period of time.

I. ADMINISTRATION

1. **Administering Entities and Contact Information:** The Oregon PUC administers the program for regulated, investor-owned utilities. The Oregon DOE establishes the renewable energy certificate system, and approves new energy sources as eligible under the RPS.

Public Utility Commission of Oregon
550 Capitol Street N.E. Suite 215
Salem, Oregon 97301-2551
<http://www.puc.state.or.us/>

Oregon Department of Energy
625 Marion St. NE
Salem, OR 97301-3737
<http://www.oregon.gov/ENERGY/>

2. Source of Administrative Funding: Not specified

J. REPORTING REQUIREMENTS and PROGRAM STATUS

- 1. Retailer Reporting Requirements:** Each electric company and electricity service supplier that is subject to the RPS shall submit to the PUC an annual compliance report for the purpose of detailing compliance, or failure to comply, with the requirements applicable in the compliance year. In addition, all electric companies subjected to the RPS are required to develop and submit to the PUC an implementation plan for meeting the annual requirements. An electric utility's first implementation plan is due to the PUC no later than January 1, 2010, and must be revised and updated at least once every two years.
- 2. Administrative Reporting Requirements:** The ODOE shall periodically conduct a study to evaluate the impact of the RPS on jobs in Oregon. The first study must be completed prior to June 6, 2009.
- 3. Cost Information:** The first year of compliance is not until 2011, so no cost data is currently available.