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RULES:

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AMEND: 330-140-0010

RULE TITLE: Scope and Applicability of These Rules

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule addresses the scope and applicability of Division 140 rules. The rule amendments are to reflect changes made by House Bill 3141 (2021) which will be effective January 1, 2022, including that: going forward cost-effective energy efficiency will be paid for by a charge in retail electricity rates rather than by a portion of the public purpose charge; energy conservation projects will no longer be included as an eligible use for the public purpose charge; and investments in distribution system-connected technologies will be added as an eligible use of public purpose charges. Rule amendments also delete obsolete language relating to public purpose charges for aluminum plants.

RULE TEXT:

(1) The rules contained in this division include the criteria and procedures by which a large retail electricity consumer with a site located within the State of Oregon, using more than one average megawatt the prior year (8,760,000 kilowatt hours/year), may become a self-directing consumer of:

(a) up to 75 percent of the renewable energy resources portion of its public purpose charges as allocated under ORS 757.612(3)(b)(B), or

(b) up to 100 percent of the amount charged in rates to plan for and pursue cost-effective energy efficiency resources pursuant to ORS 757.054(4), subject to the limits under Oregon Laws 2021, chapter 547, section 2, subsection (5)(a).

(2) The rules contained in this division apply to large retail electricity consumers of electric companies and electricity service suppliers, except that these rules do not apply to retail electricity consumers of an electric company serving less than 25,000 consumers in this state unless the electric company offers direct access to any of its large retail electricity consumers in this state or offers to sell electricity services available under direct access to more than one large retail electricity consumer of another electric utility.

(3) The rules contained in this division relating to the self-direction of public purpose charges apply to large retail

electricity consumers of consumer-owned utilities and electricity service suppliers, once the consumer-owned utility governing board has elected to allow open access to a class of customers for which that electricity consumer is a member. These rules only apply to the first 1.5 percent of public purpose charges imposed upon retail electricity consumers by a consumer-owned utility.

(4) Large retail electricity consumers eligible to become self-directing consumers shall not claim a credit against public purpose charges owed for new renewable energy resource or distribution system-connected technology purchases, nor shall those customers claim a credit for purchases of cost-effective energy efficiency resources against the amount charged in rates pursuant to ORS 757.054(4), until they are issued certificates for qualifying expenditures under these rules.

(5) All information submitted to or collected by the Oregon Department of Energy or its agent under these rules shall be protected as business trade secrets to the extent permitted under the Public Records Act.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687, Oregon Laws 2021, chapter 547 (House Bill 3141), ORS 757.054

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, Oregon Laws 2021, chapter 547 (House Bill 3141), ORS 757.054

AMEND: 330-140-0020

RULE TITLE: Definitions as Used in This Division

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule contains definitions for terms used in Division 140 rules. The rule changes amend existing definitions and add definitions to implement changes in House Bill 3141 (2021), including: changing references from "energy conservation" to "cost-effective energy efficiency," and adding definitions for "distribution system-connected technologies" and "amount charged in rates pursuant to ORS 757.054(4)." The rule changes delete obsolete definitions related to market transformation and to the program startup period, and make non-substantive changes to terminology for consistency.

RULE TEXT:

- (1) "Above-market costs of new renewable energy resources" means the portion of the net present value cost of producing power (including fixed and operating costs, delivery, overhead and profit) from a new renewable energy resource that exceeds the market value of an equivalent quantity and distribution (across peak and off-peak periods and seasonality) of power from a nondifferentiated source with the same term of contract.
- (2) "Attest" means attestation services as defined in ORS 673.010(1).
- (3) "Certification of Qualifying Expenditure for Cost-effective Energy Efficiency Resources" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies the cost of an installed energy efficiency project is eligible under these rules to be claimed as a credit against the amount charged in rates pursuant to ORS 757.054(4) that is owed by the large electricity consumer
- (4) "Certification of Qualifying Expenditure for New Energy Conservation" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies the cost of an installed energy conservation project that was pre-certified prior to January 1, 2022, is eligible to be claimed as a credit against the amount charged in rates pursuant to ORS 757.054(4) owed by the large electricity consumer under these rules.
- (5) "Certification of Qualifying Expenditure for Investments in Distribution System-Connected Technologies" means a written notification from the Oregon Department of Energy to a large electricity consumer that certifies the cost of an installed distribution system-connected technologies project is eligible under these rules to be claimed as a credit against public purpose charges owed by the large electricity consumer.
- (6) "Certification of Qualifying Expenditure for New Renewable Energy Resources" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies the contracted cost of new renewable energy resource purchases is eligible under these rules to be claimed as a credit against public purpose charges owed by the large electricity consumer.
- (7) "Commission" means the Public Utility Commission of Oregon.
- (8) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.
- (9) "Cost-effective energy efficiency" means all available energy efficiency resources that are cost effective, reliable, and feasible.
- (10) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services, as determined by the Commission for an electric company or the governing body of a consumer-owned utility, directly from an entity other than the distribution utility.
- (11) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.
- (12) "Distribution" means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.
- (13) "Distribution system-connected technologies" means one of the following two technologies, connected to the distribution grid at the large electricity consumer's site, and installed for use by the large electricity consumer:
 - (a) a "smart inverter" that is part of a solar generation system and is capable of providing grid support; or
 - (b) a battery energy storage system with a smart inverter and/or integrated controls capable of providing grid support,

installed as either stand-alone storage or storage paired with a renewable energy system, and charged by either on-site renewable energy or the electric grid.

(14) "Distribution system-connected technologies project cost" means the costs of necessary features of a distribution system-connected technologies project that include but are not limited to capital costs, administrative costs, general expenses, design and engineering, shipping, materials, permits, installation, performance evaluation, and equipment operations training.

(15) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.

(16) "Electric cooperative" means an electric cooperative corporation organized under ORS Chapter 62 or under the laws of another state if the service territory of the electric cooperative includes a portion of this state.

(17) "Electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state.

(18) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

(19) "Electricity services" means electricity distribution, transmission, generation or generation-related services.

(20) "Electricity service supplier" or "ESS" means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. "Electricity service supplier" does not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.

(21) "Cost-Effective energy efficiency Project" means a capital investment in equipment that reduces the electric energy use or improves electric energy efficiency at a large electricity consumer's site or system at that site which has a simple payback of greater than one year and less than ten years. The simple payback shall be determined by using the eligible capital cost of the project divided by the first-year electric energy cost savings.

(22) "Cost-Effective energy efficiency project cost" means the costs of necessary features of a cost-effective energy efficiency project that include but are not limited to capital costs, administrative costs, general expenses, facility energy audits resulting in capital investment in an energy conservation project, design and engineering, shipping, materials, permits, installation, performance evaluation, and equipment operations training. The cost of a new cost-effective energy efficiency project may include large electricity consumer's cost of an energy analysis or study conducted by any public or private party, and any administrative costs paid.

(23) "Green Tags" refers to renewable energy certificates or RECs.

(24) "Independent certified public accountant" means a certified public accountant recognized by the State of Oregon and independent as defined by the ethics rules implemented under ORS 673.010–673.480.

(25) "Large electricity consumer" means a nonresidential consumer that is a retail electricity consumer that has used more than one average megawatt of electricity (8,760,000 kWh/year) at any one site in the prior year.

(26) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.

(27) "New renewable energy resource" means a renewable energy resource project or a new addition to an existing renewable energy resource project, or the electricity produced by the project, that was not in operation on or before January 1, 2000. "New renewable energy resource" does not include any portion of a renewable energy resource project under contract to the Bonneville Power Administration on or before January 1, 2000.

(28) "Nonresidential consumer" means a retail electricity consumer that is not a residential consumer.

(29) "Oregon Department of Energy" means the Oregon Department of Energy, an agency of the State of Oregon, created under Oregon Revised Statute (ORS) 469.030.

(30) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

(31) "People's utility district" has the meaning given that term in ORS 261.010.

(32) "Pre-certification of cost-effective energy efficiency projects" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies that a proposed cost-effective energy efficiency project will be eligible for a certificate of qualified expenditure if it is installed as described in the large electricity consumer's application for pre-certification.

(33) "Pre-certification of new investments in distribution system-connected technologies" means written notification from the Oregon Department of Energy to a large electricity consumer certifying that a proposed investment in distribution system-connected technologies will be eligible for a certificate of qualifying expenditure, if installed as described in the large electricity consumer's application for pre-certification.

(34) "Pre-certification of new renewable energy resource purchases" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies that a proposed renewable energy resource purchase will be eligible for a certificate of qualified expenditure, if contracts of commitment to purchase are established as described in the large electricity consumer's application for pre-certification.

(35) "Public purpose charge" is an amount equal to three percent of the total revenues billed to large consumers for electricity services, distribution, ancillary services, metering, billing, transition charges and other types of costs that were included in electric rates on or after March 1, 2002 and before January 1, 2022 by electric utilities offering direct access to their large electricity consumers. On or after January 1, 2022 the public purpose charge is an amount equal to one-and-a-half percent of the total revenues billed to large electricity consumers for the same services and costs that are included in electric rates as listed in this section.

(36) "Qualifying expenditures" means those expenditures for cost-effective energy efficiency measures or projects that have a simple payback period of not less than one year and not more than 10 years; investments in distribution system-connected technologies; and expenditures for the above-market costs of new renewable energy resources or renewable energy certificates, also referred to as "Green Tags."

(37) A Renewable Energy Certificate, also referred to as a REC or "Green Tag," represents one megawatt hour (MWh) of renewable energy generation delivered to the grid. RECs represent the environmental, economic and social attributes of the power produced from renewable energy projects and may be traded independently of transactions for the associated electricity.

(38) "Renewable energy resources" means:

(a) Electricity-generation facilities fueled by wind, waste, solar or geothermal power or by low-emission nontoxic biomass based on solid organic fuels from wood, forest and field residues;

(b) Dedicated energy crops available on a renewable basis;

(c) Landfill gas and digester gas; or

(d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.

(39) "Retail electricity consumer" means the end user of electricity for specific purposes such as heating, lighting or operating equipment and includes all end users of electricity served through the distribution system of an electric utility on or after January 1, 2000, whether or not each end user purchases the electricity from the electric utility. Retail electricity consumers include any direct service industrial consumer that purchases electricity without distribution services from the electric utility.

(40) "Self-directing consumer" means a large electricity consumer having a positive balance of credits for:

(a) qualifying expenditures for new renewable energy resources, renewable energy certificates or "Green Tags," or investments in distribution system-connected technologies, as compared to the amount of public purpose charges owed; or

(b) qualifying expenditures for new cost-effective energy efficiency resources or for qualifying expenditures for energy conservation pre-certified before January 1, 2022 and carried forward, as compared to the amounts charged in rates pursuant to ORS 757.054(4).

(41) "Site" means:

(a) Buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter; or

(b) a single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, such that:

(A) Each building or structure included in the site is no more than 1,000 feet from at least one other building or structure in the site;

(B) Each building or structure included in the site, and land containing and connecting buildings and structures in the site, are owned by a single retail electricity consumer who is billed for electricity use at the buildings or structures; and
(C) Land shall be considered contiguous even if there is an intervening public or railroad right of way, provided that rights of way land on which municipal infrastructure facilities exist (such as street lighting, sewerage transmission, and roadway controls) shall not be considered contiguous.

(42) "Statement of Eligibility" means a written declaration by an authorized officer of a large electricity consumer's firm that it meets the definition of a large electricity consumer under these rules and that it intends to comply with the requirements contained in these rules for self-direction and reporting of public purpose charges and amounts charged in rates pursuant to ORS 757.054(4) for a given site.

(43) "System" means any individual process or series of equipment contributing to energy end use in a large electricity consumer's site. A system may include heating, ventilating and air conditioning, domestic hot water, lighting, or a specific industrial process such as air compression, refrigeration, shredding, forging, or other such specific process described by the large electricity consumer.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

AMEND: 330-140-0030

RULE TITLE: Eligibility as a Self-Directing Consumer

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule establishes the process for a large electricity consumer to become eligible to participate in the LECPPP/Self-direct program. The rule amendments reflect changes in House Bill 3141 (2021), including adding that: the renewable energy resource portion of public purpose charges may be self-directed for investments in distribution system-connected technologies; energy conservation is no longer an eligible use of the public purpose charge; and cost-effective energy efficiency will be paid for by an amount charged in rates pursuant to ORS 757.054(4). The rule amendments also change the requirement for ODOE to notify the large electricity consumer's distribution utility of the consumer's eligibility to self-direct within 30 days of receipt of the request; instead, ODOE will be required to provide notification within 30 days of approval by ODOE. The rule amendments also make non-substantive changes to terminology for consistency.

RULE TEXT:

- (1) Large electricity consumers may apply in writing to the Oregon Department of Energy to qualify to self-direct either a portion of their public purpose charges and/or a portion of the amount the consumer is charged in rates pursuant to ORS 757.054(4) to fund cost-effective energy efficiency resources. A single application may be used to qualify a retail electricity consumer to self-direct both, or either, public purpose charges and amounts charged in rates pursuant to ORS 757.054(4).
- (2) The request for eligibility as a self-directing consumer shall include a statement that electric energy consumption at the site is over one average megawatt for the year preceding the date of request for eligibility. The consumer shall attach to the request supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly electricity usage from the prior year in kWh, for all meters associated with that site, that sums to the prior year usage amount as reported in the form described in section (3).
- (3) The written request for eligibility as a self-directing consumer shall be on a form provided by Oregon Department of Energy and include but not be limited to the following: name of the Oregon business or organization as a customer of record for the customer's electric utility; description of the site; site street and mailing addresses; business or organization contact; beginning and end dates of year for which electric energy consumption qualifies the business or organization; electric energy consumption at the site for the given prior year; name of the electric distribution utility; name of electricity service supplier(s); account numbers at the site for the electric distribution utility and each energy service supplier; and electric meter numbers at the site. The written application for eligibility to self-direct public purpose charges or amounts charged in rates pursuant to ORS 757.054(4) and statement of eligibility shall be signed and dated by a representative of the business or organization authorized by the highest-ranking officer of the business or organization.
- (4) Large electricity consumers requesting eligibility from the Oregon Department of Energy under this rule shall retain evidence of energy consumption from their energy service suppliers and distribution utility used to qualify for self-direction.
- (5) Large electricity consumers that receive Oregon Department of Energy approval of the request for eligibility for self-direction for a specific site may submit applications for pre-certification of cost-effective energy efficiency projects, investments in distribution system-connected technologies, and new renewable energy resource purchases for that site and certification of qualified expenditure for renewable energy certificates or Green Tags.
- (6) The Oregon Department of Energy may request documentation to determine the validity or accuracy of any request for eligibility to self-direct public purpose charges or amounts charged in rates pursuant to ORS 757.054(4).
- (7) The Oregon Department of Energy shall notify the large electricity consumer's electric distribution utility in writing that the large electricity consumer is recognized as eligible for self-direction within 30 days of approval by the Oregon Department of Energy.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687, Oregon Laws 2021, chapter

547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, ORS 756.054, Oregon Laws 2021, chapter
547 (House Bill 3141)

AMEND: 330-140-0040

RULE TITLE: Pre-certification of New Cost-effective Energy Efficiency Projects

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule establishes the process for an eligible large electricity consumer to apply for and receive pre-certification of qualifying costs for a cost-effective energy efficiency project. The rule changes amend rule language to reflect changes to the Self-direct program under House Bill 3141: change references from "energy conservation" to "cost-effective energy efficiency," and amend language to reflect that participants in the program may self-direct the "amount charged in rates pursuant to ORS 757.054(4)" for the purpose of funding cost-effective energy efficiency projects. The rule amendments also make non-substantive changes to terminology for consistency.

RULE TEXT:

(1) Only a large electricity consumer approved as an eligible self-direct program participant by the Oregon Department of Energy is eligible to submit an application for pre-certification of a cost-effective energy efficiency project.

(2) Large electricity consumers shall apply directly to the Oregon Department of Energy for pre-certification of new cost-effective energy efficiency project investments that have a simple payback of greater than one year and less than ten years on a form supplied by the Oregon Department of Energy.

(a) Information submitted on the form shall include but not be limited to: the name of the large electricity consumer; a description of the site; a description of the cost-effective energy efficiency project; detail of the costs of the cost-effective energy efficiency project; estimated electricity savings from the project; and calculations that support or demonstrate the electricity savings and simple payback of the project.

(b) On the application, the applicant shall: answer a "Yes/No" question whether the site's prior year electricity usage is greater than one average megawatt; include site electric usage in kWh from the prior year; and attach supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly usage amounts, for all meters associated with that site, that sum to the prior year usage. Sites that do not have greater than one average megawatt prior year usage are not eligible to self-direct the amount charged in rates pursuant to ORS 757.054(4).

(3) The Oregon Department of Energy shall determine the eligible costs for the cost-effective energy efficiency project.

(4) Pre-certification of the cost eligible for credit and a description of the cost-effective energy efficiency project shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete application.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

AMEND: 330-140-0050

RULE TITLE: Pre-certification of New Renewable Resource Purchase

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule establishes the pre-certification process for purchases of new renewable energy resources under the LECPPP/Self-direct program. The rule changes clarify that large electricity consumers are eligible to submit applications to self-direct the above-market portion of their costs to purchase new renewable energy resources and updates terminology for consistency.

RULE TEXT:

(1) Only a large electricity consumer approved as an eligible self-direct program participant by the Oregon Department of Energy is eligible to submit an application for pre-certification of the above-market costs of new renewable energy resource purchases.

(2) Large electricity consumers shall apply directly to the Oregon Department of Energy for pre-certification of new renewable energy resource purchases on a form supplied by the Oregon Department of Energy.

(a) Information submitted on the form shall include but not be limited to: the name of the electricity consumer; a description of the site; a description of the new renewable energy resource to be purchased; the electricity consumer's market price for electricity from conventional sources; costs of the new renewable energy resource; estimated electricity to be purchased from the new renewable energy resource; length of time of a proposed purchase agreement; method of certifying that the renewable energy resource purchased has not been duplicatively sold to other parties either in whole or part; and, any contract terms that would otherwise affect the cost or amount of new renewable energy resource purchased.

(b) On the application, the applicant shall: answer a "Yes/No" question whether the site's prior year electricity usage is greater than one average megawatt; include site electric usage in kWh from the prior year; and attach supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly usage amounts, for all meters associated with that site, that sum to the prior year usage. Sites that do not have greater than one average megawatt prior year usage are not eligible to self-direct their public purpose charge.

(3) The Oregon Department of Energy shall determine if the above-market cost of the proposed purchase of renewable energy resources, described in the application, are to be pre-certified as eligible self-direction costs.

(4) Pre-certification of the cost eligible for a credit and a description of the new renewable energy resource purchase shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete application.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

ADOPT: 330-140-0055

RULE TITLE: Pre-certification of Investments in Distribution System-Connected Technologies

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This new rule provides a process for pre-certification of investments in distribution system-connected technologies, which is a new eligible use for renewable energy resource portion of public purpose charges under House Bill 3141. The proposed new language includes a list of required documentation that a participating electricity consumer must provide to ODOE in its application for pre-certification. The department made minor changes to draft rule language relating to documentation requirements for consistency with Public Utility Commission staff communications relating to an interim definition for distribution system-connected technologies; specifically, the permanent rule requires documentation of participation in a utility program for grid support only if applicable.

RULE TEXT:

(1) Only a large electricity consumer approved as an eligible self-direct program participant by the Oregon Department of Energy is eligible to submit an application for pre-certification of new investments in distribution system-connected technologies.

(2) Large electricity customers shall apply directly to the Oregon Department of Energy for pre-certification of qualifying investments in distribution system-connected technologies on a form provided by the Oregon Department of Energy.

(a) Information submitted on the form shall include but not be limited to:

(A) the name of the large electricity consumer;

(B) a description of the site;

(C) a description of the new proposed investments in distribution system-connected technologies;

(D) an itemized list of major system components and associated costs that comprise the total project cost;

(E) documentation that the investments in distribution system-connected technologies will be installed such that they are capable of providing grid support; and

(F) documentation, if applicable, that the site participates in one or more utility program authorized by the Public Utility Commission that encourages or otherwise gives incentives for distribution system-connected technologies to provide grid support.

(b) On the application, the applicant shall: answer a "Yes/No" question whether the site's prior year electricity usage is greater than one average megawatt; include site electric usage in kWh from the prior year; and attach supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly usage amounts, for all meters associated with that site, that sum to the prior year usage. Sites that do not have greater than one average megawatt prior year usage are not eligible to self-direct their public purpose charge.

(3) The Oregon Department of Energy shall determine if the proposed investments in distribution system-connected technologies, described in the application, are to be pre-certified as eligible self-direction costs.

(4) Pre-certification of the cost eligible for a credit and a description of the proposed investment in distribution system-connected technologies shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete application.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 757.600- 757.687, Oregon Laws 2021, chapter 547 (House Bill 3141), ORS 756.040

STATUTES/OTHER IMPLEMENTED: ORS 757.600- 757.687, Oregon Laws 2021, chapter 547 (House Bill 3141), ORS 756.040

AMEND: 330-140-0060

RULE TITLE: Certification of Qualifying Expenditure for New Cost-effective Energy Efficiency Projects

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule provides a process for a pre-certified large electricity consumer to request that expenditures on cost-effective energy efficiency projects be certified by ODOE. The rule changes amend the rule title and language to reflect changes in House Bill 3141 (2021), including that: energy conservation is no longer an eligible use of public purpose charges, and that cost-effective energy efficiency will be funded by an amount charged in rates pursuant to ORS 757.054(4). The rule changes also provide for program continuity by allowing for the certification of energy conservation projects that were pre-certified under ODOE rules in effect prior to January 1, 2022. The rule amendments also make non-substantive changes to terminology for consistency.

RULE TEXT:

(1) Once the project has been completed and is operational, and the costs, or portion of the costs identified in the pre-certification as a component eligible for certification as an individual expense for a project, are expended, the large electricity consumer is eligible to apply to the Oregon Department of Energy for certification of qualifying expenditure on a form provided by the Oregon Department of Energy.

(2) Proof of amount paid must accompany the application for certification of qualifying expenditure.

(a) Proof of purchase for projects costing less than \$50,000 may include canceled checks, credit card statements, and binding contracts or agreements.

(b) Projects costing \$50,000 and more shall have an independent certified public accountant attest to the cost of the project.

(3) A certification of qualified expenditure for all or part of the cost of either a pre-certified new cost-effective energy efficiency project(s) or a new energy conservation project that was pre-certified under Oregon Department of Energy rules in effect before January 1, 2022, shall be approved or denied by the Oregon Department of Energy in writing within 30 days of the receipt of a complete application. Certification of qualifying expenditure may be issued for a portion of the cost of a new cost-effective energy efficiency project(s) that is an individual cost component or project phase defined in the preliminary certificate application and approved in the preliminary certificate. Qualifying expenditures include fees paid to the Oregon Department of Energy for administering the self-direct program.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687, ORS 756.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, ORS 756.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

AMEND: 330-140-0070

RULE TITLE: Certification of Qualifying Expenditure for New Renewable Resources

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule provides a process for pre-certified expenditures on new renewable energy resources to be certified by ODOE. The rule changes clarify that the above-market cost portion of a new renewable energy resource purchase is eligible for self-direction under the program, and make other non-substantive changes to terminology for consistency.

RULE TEXT:

- (1) Large electricity consumers whose above market costs of new renewable energy resource purchases have received pre-certification from the Oregon Department of Energy are eligible to apply for certification of qualified expenditure on a form provided by the Oregon Department of Energy.
- (2) A signed contract to purchase or receipt(s) for purchase of renewable energy certificates or RECs, sometimes referred to as "Green Tags," for new renewable energy describing the amount to be paid and the length of the agreement must accompany the application for certification of qualified expenditure. On the application, the applicant shall: answer a "Yes/No" question whether the site's prior year electricity usage is greater than one average megawatt; include site electric usage in kWh from the prior year; and attach supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly usage amounts, for all meters associated with that site, that sum to the prior year usage. Retail electricity consumers that do not have greater than one average megawatt prior year usage are not eligible to self-direct their public purpose charge.
- (3) Proof of amount paid must accompany the application for certification of qualifying expenditure for constructed new renewable energy resource projects.
- (4) Proof of purchase for constructed projects costing less than \$50,000 may include canceled checks, credit card statements, and binding contracts or agreements.
- (5) Constructed project costs of \$50,000 and more shall have an independent certified public accountant attest to the cost of the project.
- (6) Certification of qualified expenditure shall be approved or denied by the Oregon Department of Energy within 30 days of the receipt of a complete application. Qualifying expenditures include fees paid to the Oregon Department of Energy for administering the self-direct program.
- (7) The certification of qualified expenditure shall describe the term for which a contracted new renewable energy resource purchase is eligible for credit against public purposes charges owed.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, Oregon Laws 2021, chapter 547 (House Bill 3141)

ADOPT: 330-140-0075

RULE TITLE: Certification of Qualifying Expenditure for Investment in Distribution System-Connected Technologies

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This is a new rule to establish a process for a pre-certified investment in distribution system-connected technologies to be certified by the Oregon Department of Energy in order for a participating site to claim credit against public purpose charges owed.

RULE TEXT:

(1) Once the project has been completed and is operational, and the costs, or portion of the costs identified in the pre-certification as a component eligible for certification as an individual expense for a project, are expended, the large electricity consumer is eligible to apply to the Oregon Department of Energy for certification of qualifying expenditure on a form provided by the Oregon Department of Energy.

(2) Proof of amount paid must accompany the application for certification of qualifying expenditure.

(a) The large electricity consumer must provide an itemization of costs for individual system components in sufficient detail to enable the Oregon Department of Energy to assess the eligibility of project expenditures for self-direction.

(b) Proof of purchase for projects costing less than \$50,000 may include canceled checks, credit card statements, and binding contracts or agreements.

(c) Projects costing \$50,000 and more shall have an independent certified public accountant attest to the cost of the project.

(3) A certification of qualifying expenditure for all or part of the cost of pre-certified investments in distribution system-connected technologies shall be approved or denied by the Oregon Department of Energy in writing within 30 days of the receipt of a complete application. Certification of qualifying expenditure may be issued for a portion of the cost of an investment in distribution system-connected technologies that is an individual cost component or project phase defined in the preliminary certificate application and approved in the preliminary certificate. Qualifying expenditures include fees paid to the Oregon Department of Energy for administering the self-direct program.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 756.040, ORS 757.600- 757.687, ORS 469.165, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600- 757.687, Oregon Laws 2021, chapter 547 (House Bill 3141)

AMEND: 330-140-0080

RULE TITLE: Claiming a Credit Against Public Purpose Charges or Amount Charged in Rates Pursuant to ORS 757.054(4)

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule provides limits on the amount of credits that a participating large electricity consumer may claim against their public purpose charges as well as procedures for accounting for carryover of credits for future use. The rulemaking amends rule language to reflect changes to the Self-direct program under House Bill 3141: changes references from "energy conservation" to "cost-effective energy efficiency;" adds investment in distribution system-connected technologies as an eligible use of public purpose charge; limits self-direction credits for the renewable energy resources and distribution system-connected technologies to 75 percent of the renewable energy resources portion of the public purpose charge (reflecting that House Bill 3141 requires that 25 percent of the renewable energy resources portion of the public purpose charge benefit low and moderate income consumers); and amends language to reflect that participants in the program may claim a self-direction credit against the "amount charged in rates pursuant to ORS 757.054(4)" for the purpose of funding cost-effective energy efficiency projects. The rule amendments provide for carryover of existing credits for energy conservation that were certified or pre-certified before January 1, 2022. The amendments also make non-substantive changes to terminology for consistency.

RULE TEXT:

- (1) Large electricity consumers who are eligible for direct access, starting with the date of direct access, may claim credits against up to 75 percent of renewable energy resource public purpose charges owed or up to the full amount charged in rates pursuant to ORS 757.054(4).
- (2) Credits claimed may not exceed the amount of cost documented on certificate(s) of qualifying expenditure for that self-directing consumer's site. When qualifying expenditures are certified they may be claimed as follows:
 - (a) Credits in excess of 75 percent of the amount owed for a given month's renewable energy resource public purpose charges shall be available for future credit use (carried forward) for as long as the obligation to pay those public purpose charges exists. Should the electric usage at a self-directing consumer's site fall below one average megawatt for the prior year, the self-directing consumer may continue to claim credits which have been documented by a certification of qualified expenditure and that have been carried forward until the remaining unclaimed balance is zero. A self-directing consumer will not be eligible to submit new applications for pre-certification of the above-market costs of expenditures for a new renewable energy resource project, investments in distribution system connected technologies, Green Tag purchase, or cost-effective energy efficiency until such a time as the site's electric usage for the prior year is greater than one average megawatt.
 - (b) Credits in excess of 75 percent of the amount owed for renewable energy resource public purpose charges for a specific site may be applied to public purpose charges at other sites owned by the electricity consumer, its subsidiaries or affiliate firms in the same distribution utility service territory provided the site is also eligible as a self-directing consumer under these rules.
 - (c) Credits in excess of the amount charged in rates pursuant to ORS 754.054(4) owed for a given month shall be available for future credit use (carried forward) for as long as the obligation to pay those charges exists. Should the electric usage at a self-directing consumer's site fall below one average megawatt for the prior year, the self-directing consumer may continue to claim credits which have been documented by a certification of qualified expenditure and that have been carried forward until the remaining unclaimed balance is zero. A self-directing consumer will not be eligible to submit new applications for pre-certification of expenditures for a new cost-effective energy efficiency project until such a time as the site's electric usage for the prior year is greater than one average megawatt.
 - (d) Large electricity consumers with an existing balance of credits against energy conservation public purpose charges owed after credits are applied to the retail energy consumer's bill for the last monthly billing period beginning before January 1, 2022, may claim the credits against the amount charged in rates pursuant to ORS 757.054(4) for billing periods beginning on or after January 1, 2022. Credits for new cost-effective energy efficiency projects certified by the

Oregon Department of Energy on or after January 1, 2022 will be added to and be interchangeable with any pre-existing credit balance for new energy conservation public purpose charges.

(3) The maximum credit against public purpose charges owed by a self-directing consumer shall not exceed the following:

(a) The maximum self-direction credit for sites in electric company service territories shall be 25.5 percent of the public purpose charge owed; or

(b) The maximum credit for sites in consumer owned electric service territory shall be 25.5 percent of the first 1.5 percent of public purpose charges owed.

(4) The maximum credit against amount charged in rates pursuant to ORS 757.054 (4) is subject to the limits in Oregon Laws 2021, chapter 547, Section 2, subsection (5)(a).

(5) Large electricity consumers, who have received recognition that their site is eligible for self-direction with a certificate of qualified expenditure for credit against public purpose charges issued by the Oregon Department of Energy, may request that their electric distribution utility or energy service supplier apply their credit against public purpose charges owed.

(6) Large electricity consumers, who have received recognition that their site is eligible for self-direction with a certificate of qualified expenditure issued by the Oregon Department of Energy for credit against amounts charged in rates pursuant to ORS 757.054(4), may request that their electric distribution utility or energy service supplier apply their credit against charges in rates owed.

(7) To remain eligible to self-direct public purpose charges, large electricity consumers shall pay on a monthly basis any balance of public purpose charges and amounts charged in rates pursuant to ORS 757.054(4) owed to their electric distribution utility or energy service supplier.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

REPEAL: 330-140-0090

RULE TITLE: Exclusion from Payment of a Portion of the Public Purpose Charge

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: Repeal obsolete language from program startup.

RULE TEXT:

(1) Retail electricity consumers approved to become self-directing consumers by the Oregon Department of Energy may request exclusion from payment of a maximum of 54 percent of the public purpose charges for energy conservation for a specific site. Oregon Department of Energy shall notify the retail electricity consumer's electric distribution utility of the request for exclusion from payment of a portion of public purpose charges.

(2) To be eligible for relief from payment of public purpose charges, an independent energy audit shall determine that all new energy conservation with a simple payback of one year or greater and ten years or less has been implemented at the site or that the cost of any uninstalled new energy conservation projects identified in the independent energy audit are paid first.

(3) The independent energy audit estimated cost for the new energy conservation measure must be paid as a public purpose charge up to the amount of the energy conservation portion of the retail electricity consumer's public purpose charges. The retail electricity consumer may only be relieved of public purposes costs above the auditor's estimated cost for the new energy conservation that the electricity consumer has chosen not to install up to the maximum stated under these rules.

(4) By the second annual anniversary of the date that the Oregon Department of Energy grants exclusion from payment of a portion of public purpose charges, the retail electricity consumer shall enter into an agreement to commence another independent energy audit.

(5) The large electricity consumer shall notify their electric distribution utility that a certificate of eligibility to be relieved of a portion of public purpose charges owed has been issued for that site prior to claiming any credit allowed under this rule against public purpose charges owed.

STATUTORY/OTHER AUTHORITY: ORS 469.040, 756.040, 757.600 - 757.687

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 - 757.687

REPEAL: 330-140-0100

RULE TITLE: Independent Audit Standards and Procedures

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: Repeal obsolete rule from program startup.

RULE TEXT:

- (1) An independent energy audit shall document or identify: annual electric energy consumption history for the site, major electricity energy using systems at the site, estimated segmentation of electric energy by end use and system type, industry standard benchmark performance for each electric energy using system at the site, site system performance relative to benchmarks, all installed electric energy conservation measures, all new electric energy conservation measure opportunities at the site by end use and/or system. Industry-established Industries of the Future roadmap technologies improving electric energy efficiency shall be evaluated for applicability at each site.
- (2) A retail electricity consumer may contract with an independent energy auditor from a qualified list provided by the Oregon Department of Energy or an independent energy auditor of the retail electricity consumer's choice.
- (3) The Oregon Department of Energy shall qualify the independent energy auditor selected by the retail electricity consumer within 30 days of a request in writing for auditor approval if either (a) or (b) below apply:
 - (a) They are from the qualified auditor list; or
 - (b) If the independent energy auditor is:
 - (A) Registered to do business in Oregon; and
 - (B) Has conducted comprehensive energy use and conservation analysis or facilities design in at least three facilities of similar type and size as the site; and
 - (C) A sample audit report from the selected independent energy auditor meets the approval of the Oregon Department of Energy for technical accuracy, thorough identification of new energy conservation investment by system or end use at the reported facility, and the report documents accurate cost estimates for new energy conservation investments; and
 - (D) Documentation or evidence supporting sections (A), (B) and (C) of this rule are submitted with the written request to approve the independent auditor.
- (4) The Oregon Department of Energy shall develop a list of qualified independent energy auditors.
- (5) Large electricity consumers may select an independent energy auditor from the list of qualified independent energy auditors. The Oregon Department of Energy may use the list when requested by a large electricity consumer to direct auditors to conduct an independent audit of the large retail electricity consumer's site.
- (6) Selection of the independent energy auditor will be based on the auditor's experience auditing the type of facility, delivery date of the audit and cost.
- (7) The large electricity consumer shall directly contract with the independent energy auditor for all costs of the audit. The contract between the large electricity consumer and the independent energy auditor shall provide the Oregon Department of Energy open access to information on all aspects of the independent energy audit.
- (8) Costs for independent energy audit services under this rule are not eligible for precertification as new energy conservation unless a portion of the audit defines design elements of a new energy conservation project installed by the large electricity consumer.
- (9) A summary of findings shall be provided to the Oregon Department of Energy once on-site field work is complete and prior to the development of the audit report.
- (10) An independent energy audit report, described under subsection 1 of this rule, shall be submitted by the large electricity consumer's independent energy auditor to the Oregon Department of Energy for review.
- (11) A certificate of eligibility to be relieved of a portion of the public purpose charges, not to exceed 54 percent of the amount owed, shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete and approved independent energy audit report.
- (12) The Oregon Department of Energy may require that all or part of the independent energy audit be reevaluated and

rewritten by the independent energy auditor or the large electricity consumer at the large electricity consumer's expense if data, technical or engineering errors or omissions are identified.

STATUTORY/OTHER AUTHORITY: ORS 469.040, 756.040, 757.600 - 757.687

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 - 757.687

AMEND: 330-140-0120

RULE TITLE: Denial or Revocation of Eligibility to Participate as a Self-Directing Consumer

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule contains provisions relating to the denial or revocation of eligibility to participate in the program. The rule amendments reflect changes to the LECPPP/Self-direct program under House Bill 3141: change references from "energy conservation" to "cost-effective energy efficiency;" add investment in distribution system-connected technologies as an eligible use of public purpose charge; and amend language to reflect that participants in the program may self-direct the "amount charged in rates pursuant to ORS 757.054(4)" for the purpose of funding cost-effective energy efficiency projects. The rule amendments also make non-substantive changes to terminology for consistency.

RULE TEXT:

(1) The Director of the Oregon Department of Energy shall determine whether a large electricity consumer is eligible to participate or to continue to participate in part or at all under these rules based on the following:

(a) The large electricity consumer no longer qualifies for participation as a self-directing consumer under these rules; or

(b) The large electricity consumer fails to submit public purpose charges owed or amount charged in rates pursuant to ORS 757.054(4); or

(c) Changes in a cost-effective energy efficiency project, investment in distribution system-connected technologies or renewable energy resource purchase that are not communicated to the Oregon Department of Energy that make the project ineligible for self-direction credit; or

(d) Errors in fact or procedure under these rules go uncorrected after requests for correction are submitted to the large electricity consumer by the Oregon Department of Energy; or

(e) Any intentional commission of error or fraud in any application for participation under these rules; or

(f) It is determined by the Director of the Oregon Department of Energy that self-direction by that large electricity consumer or class of large electricity consumers cannot be accountably administrated.

(2) The Oregon Department of Energy shall notify the large electricity consumer in writing of the revocation or denial of the large electricity consumer's eligibility to participate under these rules and include:

(a) The conditions leading to the decision to deny or revoke eligibility of the large electricity consumer's right to self-direct public purpose charges or amounts charged in rates pursuant to ORS 757.054(4); and

(b) The date that the retail electricity consumer is no longer eligible to apply for project pre-certification or certification of qualified expenditure; and

(c) The previously certified qualified expenditures that the retail electricity consumer may continue to claim as credits against public purpose charges or amounts charged in rates pursuant to ORS 757.054(4) owed.

(3) The large electricity consumer may appeal the decision to the Director of the Oregon Department of Energy in writing within 30 days of the postmarked date of the notice from the Oregon Department of Energy.

(4) The Director of the Oregon Department of Energy shall approve or deny any request to appeal a revocation or denial of eligibility to self-direct public purpose charges or amounts charged in rates pursuant to ORS 757.054(4) in writing within 30 days of the postmarked date of the appeal request.

(5) The Oregon Department of Energy shall notify the large electricity consumer's electric distribution utility in writing, that is an electric company or consumer owned utility, of the revocation or denial of a large electricity consumer's eligibility to participate as a self-directing consumer under these rules.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

AMEND: 330-140-0140

RULE TITLE: Administrative Cost Recovery

NOTICE FILED DATE: 10/27/2021

RULE SUMMARY: This rule provides for fees to program participants to recover the costs of the Oregon Department of Energy to administer the LECPPP/Self-direct program. The rule amendments reflect changes to the Self-direct program under House Bill 3141: change references from "energy conservation" to "cost-effective energy efficiency;" add investment in distribution system-connected technologies as an eligible use of public purpose charge; and add "amount charged in rates pursuant to ORS 757.054(4)" as a category of utility charges that a participating large electricity consumer may self-direct. The rule amendments also make non-substantive changes to terminology for consistency.

RULE TEXT:

(1) The costs of administering the self-direct program shall be paid out of the funds collected through the public purpose charge and amounts charged in rates pursuant to ORS 757.054(4), and directed to the Oregon Department of Energy as the state agency administering the program. The Oregon Department of Energy shall collect fees from eligible self-directing consumers at the time they submit applications for the following: pre-certification of cost-effective energy efficiency projects, pre-certification of new renewable energy resource purchases, pre-certification of investments in distribution system-connected technologies, and certification of qualified expenditure for renewable energy certificates or Green Tags. Applications will not be considered complete until payment of fees is received by the Oregon Department of Energy. The fee shall be a fixed percentage of: the estimated project costs for cost-effective energy efficiency projects, the estimated project costs for investments in distribution system-connected technologies, the estimated above-market costs for new renewable energy resource purchases, or the actual contract cost for renewable energy certificates or Green Tags.

(2) The Oregon Department of Energy shall periodically review the actual and anticipated costs of administering the self-direct program, including all direct and indirect costs, as well as the actual and anticipated sum of fees collected under the program. The Oregon Department of Energy may revise the fee percentage as needed to ensure full recovery of self-direct program administration costs. The fixed percentage fee shall not exceed four percent of: the estimated project costs for cost-effective energy efficiency projects, estimated project costs for investments in distribution system-connected technologies, the estimated above market costs for new renewable energy resource purchases, or the actual contract cost for renewable energy certificates or Green Tags. Fees paid by eligible self-directing consumers are eligible costs to be included in final certificates of qualified expenditures.

STATUTORY/OTHER AUTHORITY: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 - 757.687, ORS 757.054, Oregon Laws 2021, chapter 547 (House Bill 3141)