

Oregon RPS and Related Policy Legislative Package Outline

Relating Clause

Relating Clause	“Relating to Renewable Energy”
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Fundamental Architecture

Basis of Compliance	Compliance with the renewable portfolio standard (RPS) will be measured in energy units of total sales to retail customers in Megawatt-hours (MWh)
Compliance Mechanism	Renewable Energy Certificates (RECs) in units of one (1) Megawatt-hour (MWh) from the Western Renewable Energy Generation Information System (WREGIS)
Structure	One tier with new and some existing facilities eligible, but with primary and secondary RPS requirements depending on percentage of load served.
Firm FBS Power	No COU shall be required to lose its rights to firm Federal Based System power through the RPS. This guarantee does not extend to non-firm power.

Primary Renewable Portfolio Standard (RPS) for Utilities

Primary RPS Applicability Threshold	All utilities that are responsible for one (1) percent or greater of total retail electric sales in the State of Oregon (as measured by percent of MWh sales) are subject to the Primary RPS requirements as follows:
End Target	25 percent of retail load by 2025 and each year thereafter
Interim Targets	5 percent of retail load by 2011 and each year thereafter until 2015
	15 percent of retail load by 2015 and each year thereafter until 2020
	20 percent of retail load by 2020 and each year thereafter until 2025

Secondary Renewable Portfolio Standard (RPS) for Utilities

Secondary RPS Policy Threshold	All utilities in Oregon that do not fall under the Primary RPS must meet the requirements of a Secondary RPS as follows:
End Target	60 percent of retail load growth by 2025 and each year thereafter
Interim Targets	20 percent of retail load growth by 2015 and each year thereafter until 2020
	40 percent of retail load growth by 2020 and each year thereafter until 2025
Load Growth Computation	Load growth for affected entities will be measured as the difference in retail load between two five-year averages, one for the base year and one for the compliance year, with each normalized for weather conditions. The five-year average for the compliance year will consist of the compliance year and the four preceding years. The base year average will consist of the five-year average of 2002 through 2006. If the difference in retail load yields no or negative load growth, then load growth for that period will be considered to be zero for the purposes of the RPS.

Primary RPS Opt-in	Any utility may opt in to the Primary RPS if they so choose, but must stay with the Primary RPS for a minimum of five years once they have opted for the standard, regardless of whether they remain or fall below the threshold.
“Drift” into Primary Standard	Any entity that grows such that it falls or “drifts” into the Primary RPS after the RPS enactment date must meet the Primary RPS on the same timeline as if they had been under the standard at the enactment date of the RPS.

Renewable Portfolio Standard for Electricity Service Suppliers (ESSs)	
ESS RPS Obligation	The RPS requirement for ESSs serving Oregon load consists of an amount of load equal to the aggregate total of obligations that would exist as if each customer served by the ESS were instead being served by its applicable utility based on the service territory in which the customer or service location is situated.
ESS Requirements Determination	At such a time that either more than ___% or less than ___% of the non-residential load in Oregon is served by ESSs the OPUC will begin a determination process as to whether additional (or fewer) requirements should be placed on ESSs to ensure the that the competitive balance exists between energy providers in Oregon. In addition, this process will investigate whether additional determinations may be necessary and what the schedule or thresholds for triggering such future investigations should be.

Comment [BD1]:
Removed by general agreement at last meeting.

Qualifying Renewable Resources

Electricity Derived From:	Wind
	Solar photovoltaic and solar thermal generation
	Wave, tidal, and ocean thermal
	Geothermal
	Biogas from organic sources, wastewater, anaerobic digesters, or landfills.
	Biomass, and byproducts from that biomass, based on (1) organic human or animal waste; or (2) solid organic fuels from wood, forest, or field residues; or (3) dedicated energy crops. Spent pulping liquor is considered an eligible byproduct for purposes of compliance with this RPS. None of the above products may include (1) wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic or (2) municipal solid waste.
	Incremental output of non-hydro generation units using qualifying renewable sources that have demonstrably increased generation using eligible renewable resources through capital investments made after the enactment of this RPS.
	Hydroelectric facilities located outside protected areas as defined by federal law in effect on the enactment date of SB 1149.
	The increment of improvement resulting from efficiency upgrades to an existing hydropower facility. Efficiency upgrade projects on BPA facilities qualify, but only the amount proportional to Oregon’s allotted share (as measured by the aggregated load of Oregon’s consumer-owned utility BPA customers) of the FBS for the compliance year may be utilized by affected entities for compliance with the RPS.
	The incremental renewable energy proportion of a multi-fuel generation process.
Hydrogen that is reformed from or electrolyzed entirely from the qualifying renewable resources listed above.	
Additional Qualifying Resources	The determination as to whether additional qualifying resources should be made eligible for the RPS is left to the periodic task force convened by the Governor (see end of outline). Under no circumstances can electricity derived from fossil fuel resources, nuclear, or the combustion of municipal solid waste qualify for the RPS.

Comment [BD2]:
Removed as requested.

Date of Eligibility	Subject to the geographic constraints noted below, eligible facilities are those using qualifying renewable resources that were operational on or after January 1, 1995.
Bundled REC Geographic Eligibility	A bundled REC shall be considered to be created at the point when the, (1) electricity generated from a facility physically located within the WECC NERC region using a qualifying renewable resource is delivered to any affected entity’s transmission system, the transmission system of the Bonneville Power Administration, or the transmission system of any member of the Northwest Power Pool on a real time basis in combination with (2) the RECs specifically associated with that generation. To be used for compliance with the RPS the power bundled with the REC must be procured through the fulfillment of a unit specific contract by the affected entity for transmission to a designated point of delivery identified by the affected entity or their scheduling agent. However, the electrical power component of that bundled REC may be substituted for by any combination of equivalent system or other power on a real time or delayed basis between inception of the bundled REC based on the above definition and ultimate delivery of the power with its associated REC to its final destination for distribution by the affected entity.
Unbundled REC Geographic Eligibility	RECs that have been unbundled from their associated electricity must derive from facilities that are physically located within the Pacific Northwest as defined by the Pacific Northwest Electric Power Planning and Conservation Act, or those parts of California and Nevada that fall within the service territory of affected entities.
Shaping and Firming Resources	Procurement of bundled RECs as part of a combined renewable and non-renewable contractual energy products (e.g., “shaped” or “firmed” power products) is permissible but only the proportion of resources in that combination of contracted energy resources that are qualifying renewable resources – as determined upon inception of the bundled REC -- will count toward compliance with the RPS.
BPA EPP or Substantially Similar Product	Irrespective of any delivery or geographic eligibility requirement, RECs associated with BPA Environmentally Preferred Power (EPP) or a substantially similar product from BPA (i.e., “Tier II Renewable Product”) are eligible for compliance with the RPS as long as (i) no portion of the resource portfolio of such products are generated from fossil fuels, nuclear energy, or the combustion of municipal solid waste and (ii) at least 90 percent of the power associated with that product, based on the composite yearly average portfolio of the BPA EPP package offered to all of BPA’s customers, can be attributed to generation from qualifying renewable resources identified in this RPS policy. If for any reason the BPA EPP product or substantially similar product fails to meet these criteria an affected entity or its representative membership association may, at its or its membership’s discretion, petition the Oregon Department of Energy to request an exemption for the compliance year that would allow the BPA EPP product to satisfy compliance.

Comment [BD3]:
Read as “became”

Comment [BD4]:
Concern about using “real time” terminology

Comment [BD5]:
Misuse of terminology on my part.

Comment [BD6]:
Concern about using “real time” terminology

Comment [BD7]:
Gov’s Office and staff considering WECC versus Pacific NW issue (and proposed 50/50 compromise).

Comment [BD8]:
Agreed that Oregon-qualifying BPA RECs would be eligible. The rest is superfluous.

Voluntary Renewable Energy Tariff Programs

Mandatory Program	All utilities will be required to offer a voluntary green power purchasing program to their customers. Beyond some basic parameters (similar to Washington statute), program implementation details are at the discretion of the utility.
Use of Voluntary Green Energy Purchases in RPS	RECs and/or renewable energy procured by affected entities and used to satisfy voluntary customer green pricing tariff programs are not eligible for compliance with the RPS.

Comment [BD9]:
Gov’s Office likes idea of “returning” RECs from state facilities to affected entities for RPS use.

Firm FBS Power Full or Partial Exemption

Applicability	All consumer-owned utilities that receive a preference allocation of Federal Base System (FBS) power from the Bonneville Power Administration (BPA).
Firm FBS Power Exemption	No consumer-owned utility shall be required to lose its guaranteed preference power allocation of firm Federal Base System (FBS) power. This guarantee does not extend to non-firm power.
RPS Calculation Modifications	The total load of an affected entity determines the required portion of load that must satisfy RPS resource requirements for a given year. That RPS obligation may be reduced, however, if any part of that load portion would unavoidably displace firm FBS power preferentially allocated to the affected entity. This partial (or full in some cases) exemption from the RPS requirement is limited to an amount equal to the amount of firm FBS power that would have unavoidably been displaced if the full requirements of the RPS were to be applied to the affected entity.

Mid-Columbia Hydropower Obligation Deferment

Applicability	Consumer-owned utilities with historic low-cost power contracts for Mid-Columbia power from Mid-Columbia dams owned by Washington public utility districts.
Obligation Deferment	After accounting for any displacement of firm FBS power, any consumer-owned utility that would face a further displacement of power derived from an active historical low-cost, long-term power contract with a Mid-Columbia hydropower facility may, for that compliance year, reduce their RPS obligation by the equivalent amount of the power delivered that year through that historical low-cost long-term power contract. When the historical low-cost, long-term contract expires the consumer-owned utility is not allowed to defer this part of their obligation any longer and must procure the appropriate resources to meet this portion of their RPS obligation. However, if the historical low-cost, long-term contract is renewed -- with an increase in cost that does not exceed a 10 percent increase on inflation-adjusted terms -- than the deferment of this portion of the affected entity's obligation may continue through the next contract period.

Renewable Energy Certificates

Verification	RECs used for compliance must be certified by the WREGIS or its successor organization, or if necessary, another tracking mechanism designated jointly through consensus by the Oregon PUC and the Oregon Department of Energy.
Long-term Contracting Standard	Utilities that procure RECs from another party to comply with the Primary RPS requirements must acquire at least 75 percent of those RECs under long-term contracts of at least 10 years in duration. There is no contracting standard for the Secondary RPS requirement or, subject to future OPUC determination, for ESSs.
Unbundled REC Upper Limit for Primary Standard	No more than 20 percent (or a higher limit as determined by PURPA QF purchases) of an affected entity's annual compliance for the Primary RPS can be met through the use of unbundled RECs. Unbundled RECs from qualifying customer-sited or off-grid facilities are exempt from this upper limit.

Comment [BD10]:
Contracting standard to be dropped. May need some authority for PUC to step in if a problem down the line.

Unbundled REC Upper Limit for Secondary Standard	No more than 60 percent (or a higher limit as determined by PURPA QF purchases) of an affected entity’s annual compliance for the Secondary RPS can be met through the use of unbundled RECs. Unbundled RECs from qualifying customer-sited or off-grid facilities are exempt from this upper limit.
RECs from PURPA QF’s	If an affected entity purchases a bundled REC from a PURPA “Qualifying Facility” (QF) that delivers power on a real-time basis to Oregon than the computed upper limit for that compliance year on unbundled RECs for that affected entity is raised by one REC’s worth of power (1 MWh), with the upper limit on unbundled RECs increasing cumulatively for each bundled REC purchased from a PURPA QF.
RECs from Owned Facilities	Affected entities may satisfy the requirements of the RPS with generation owned by the affected entity to the extent that the RECs generated from that power are kept and retired by the affected entity (and the RECs must be WREGIS certified).
RECs from Public Purpose Charge Funded Projects	Renewable Energy Credits (RECs) that are acquired from projects funded by the public purpose charge and retired on behalf of ratepayers shall be credited to the affected entity in whose service territory the project or projects are located.
Allocation of RECs for Multi-State IOUs	For a multi-state investor-owned utility, the share of bundled RECs (associated with an owned project or a power purchase) allocated to Oregon should, at a minimum, include all RECs associated with the above-market costs paid by Oregon ratepayers for the power or project and a fair allocation of RECs for market cost purchases (or cheaper) as determined through the OPUC and its proceedings.
Multi-State RPS REC Compliance	RECs retired for compliance with the Oregon RPS must be counted toward the Oregon RPS and can not be used for compliance with any other state’s RPS.
No Disaggregation of RECs	RECs used for compliance with the RPS must include all environmental attributes associated with that REC from its inception. No environmental, emissions, or other attribute of the REC may be removed and traded, sold, or otherwise retired for use with any other compliance system or attribute financial market.
Off-grid and Customer-sited Resources	RECs from customer-sited and off-grid qualifying renewable resources located within Oregon are eligible for compliance as long as they meet the verification procedures and submittal processes set forth by the WREGIS operational rules.

Comment [BD11]:
Oops. Obviously meant those who buy the project’s power.

Resource Diversity

Set-asides or “Carve Outs”	There are no specific percentage procurement requirements for specific resources or resource types within the RPS, premised on substantive changes to the PPC.
Renewable Energy Component of the Public Purpose Charge	Focus the renewable energy portion of the Public Purpose Charge (PPC) on funding a mix of projects of 20 MW or less and exclude funding of projects larger than 20 MW. Require as part of this statute that the OPUC will ensure that implementation of public purpose charge programs reflects this change in focus.
Community-Level Renewable Energy Goal	Community-based renewable energy projects are an essential element of Oregon’s energy policy, and it is a goal of the State of Oregon that at least 8 percent of Oregon’s electrical retail load comes from a mix of small-scale renewable energy projects of by 2025. To the extent feasible, all state agencies should modify or establish relevant policies and procedures to help the state achieve this goal.

Compliance Procedures

Compliance Path	Retirement of WREGIS certified RECs by request of affected entities
Compliance Year for Primary and ESS Standard	Every calendar year from the effective date of the RPS onwards will be considered a compliance year for the Primary standard for which RECs must be retired at the request of the affected entity in order to, depending on the year in question, either meet a specified target or to maintain a minimum level of compliance with the RPS.
Compliance Year for Secondary Standard	Every calendar year from the first interim target onwards will be considered a compliance year for the Secondary standard for which RECs must be retired at the request of the affected entity in order to maintain a minimum level of compliance with the RPS as determined by the load growth methodology and applicable targets.
Compliance with “Hard” Targets for Primary Standard	Each interim target represents a plateau for which each affected entity must satisfy the RPS by retiring, at a minimum, the appropriate number of RECs to meet the target for the first year the interim target takes effect and to continue meeting this target each year thereafter until the next interim target takes effect. This process continues until the end target is reached, at which point affected entities must continue to retire at least enough RECs to meet the end target in both the year the end target takes effect and each year thereafter <i>ad infinitum</i> .
Compliance with “Soft” Targets for Primary Standard	Each affected entity must submit a compliance plan every two years (or on a schedule with IRP filings) to the appropriate reporting body providing specific plans to meet the requirements of the RPS, with specific annual renewable energy targets set by the affected entity for each year between and before the interim targets. For years between interim targets, and between the last interim target and the end target, these targets must be designated at a level above the minimum level set by the prior interim target. The PUC may establish appropriate procedures for investor-owned utilities to align this reporting process to the IRP process to the greatest degree possible so as to minimize the administrative burden created by this reporting process.
Compliance with Secondary Standard	Each affected entity must procure enough RECs to meet or exceed the proportion of load as determined by applying the load growth determination methodology and the interim target that is in effect for that compliance year. Failure to procure a sufficient quantity of RECs to meet the RPS will result in penalties being applied.
Compliance with ESS Standard	Each affected entity must procure enough RECs to meet or exceed the proportion of load as determined by the ESS load obligation methodology. Failure to procure a sufficient quantity of RECs to meet the RPS will result in penalties being applied.
Annual Compliance Update Letter	Each affected entity shall, within 4 months of the end of each compliance year, submit a letter to the appropriate reporting body reporting the quantity of RECs retired that year for purposes of compliance with the RPS. If the affected entity failed to meet the designated target or otherwise applicable load quantity for that year an explanation for that failure must be provided in the body of the letter.
Time of Compliance Determination	A compliance determination with the RPS for each affected entity will be made by the appropriate reporting body 1 to 3 month after submittal of the annual compliance letter. For compliance determinations involving interim targets and the end target in the Primary standard, the compliance determination will be made between 18 and 21 months after the compliance year in question to allow for the use of the rolling average computation methodology in the penalty determination phase.

Rolling Average Penalty Test for “Hard” Targets in Primary Standard	For the purposes of determining penalties in the Primary standard, an additional compliance test with the RPS targets will be applied for the first year of each interim target, as well as the end target year and each year thereafter. Compliance for these years will be determined by using a rolling average. Compliance with the RPS for a given compliance year in this situation will be figured by taking the total of the year before the compliance year, the total of the year after the compliance year, and the total of the compliance year. Those three years are then averaged for a one-year average to determine compliance in terms of penalty application for those years in which an interim or end target begins. In cases where insufficient RECs have been procured to meet the interim or end targets as computed penalties will be applied.
Annual Minimum Compliance Determination for Primary Standard	For years between interim targets in the Primary standard, and between the last interim target and the end target, the annual compliance update letter submitted by each affected entity will be checked to ensure that at least enough RECs were retired that year to surpass the minimum floor established by the prior interim target. If not enough RECs were retired by the affected entity to, at a minimum, surpass the minimum floor for that year penalties will be assessed accordingly.
Reporting Bodies	For investor-owned utilities and ESSs: Oregon Public Utility Commission For consumer-owned utilities: Oregon Department of Energy

Flexibility Mechanisms

Grace or “Truing Up” Period	RECs for a compliance year may be purchased and retired up to 90 days after the end of the compliance year for which the RECs are intended to satisfy.
Bundled REC Banking from Market Purchases	Bundled RECs procured from parties other than the affected entity can be held and used by the affected entity for a period of time equal to ½ of the contract period by which the RECs are procured. (e.g., a 10-year contract would equal 5 years)
Banking of RECs from Owned Sources	Bundled RECs generated by facilities owned by an affected entity and retired by the same affected entity for the sake of RPS compliance may be held and used for a period of up to 10 years.
RECs from Unbundled RECs	Unbundled RECs may not be held (banked) and used in future compliance periods. They must be purchased and used within either the compliance period or the grace period provided for in this policy.
Borrowing	No borrowing from future generation is allowed. Only banked RECs can be added to the mix computation in lieu of actually procuring RECs for a given year.

Cost Recovery

Recovery Standard (for IOUs)	All prudently incurred costs associated with RPS compliance are recoverable, including those associated with transmission and delivery of renewable energy to customers in Oregon. In addition, compliance with the RPS up to the cost cap limit is not considered an above-market cost as defined in ORS 757.612(1).
No Disincentive for Early-Stage Market Activity	Ensure that activities related to market transformation activities for early-stage renewable energy development (e.g., permitting regarding wave energy) are not discouraged or penalized by the RPS or cost recovery aspects of related policy.

Cost Cap Off-ramp Provision

Cost Cap Mechanism	There will be a cost cap as an integral part of the RPS, and that cost cap will have as its basis the electric-only portion of an affected entities total revenue requirement.
Cost Cap Procedures	The cost cap will be computed using an above market cost test at the time of the resource decision, with the test applied to the total delivered cost of the resource using a fair basis of comparison incorporating current IRP procedures and methodologies. (More details involved with the cost cap are still pending.)
Cost Cap Limit	Currently left blank.

Enforcement Mechanisms

Penalties	Any shortfall in a compliance year as determined by the OPUC or ODOE shall result in a non-recoverable penalty of at least \$45 per MWh of shortfall.
Penalty Recipient	Penalties from IOUs will be paid to the NGO sub-contracted to the OPUC to manage public purpose charge funds for the public good. Penalties from COUs will be paid to a similar entity (to be determined through rulemaking by the ODOE) for renewable energy projects in consumer-owned utility territory or territories.

Interactions with other Policies

Future Carbon Regulatory Policies	Double counting of the greenhouse gas emission attributes from a REC for any future greenhouse gas cap is not allowed (i.e., retiring a REC in two or more different systems). Double use of a REC (retiring the REC in one system only, but allowing for compliance to be met in another system) may be allowed contingent on the provisions of future regulatory policies.
People’s Utility Districts Legal Modifications	Placeholder for a number of changes to existing statute that may be required for PUDs to implement some or all portions of the RPS. Placeholder for additional modifications for other types of COUs that may be necessary as well.
Public Purpose Charge	Extend the public purpose charge (PPC) through 2025 to be consistent with and serve as a complement to the RPS policy for smaller, community-level resources.
State PURPA	Modify Public Purpose Charge Statute ORS 757.612 (4) to require PGE and Pacific Power to meet state PURPA Statute ORS 758.505 to 758.555.

Changes to the RPS

Periodic Task Force	A task force will be convened by the Governor 12 to 18 months after each of the interim target years to evaluate the progress of the RPS and report back to the Legislature if there are items that need to be addressed through legislation (e.g., additional qualifying resources) to ensure the continued success of the RPS.
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