

**Oregon Administrative Rules Chapter 330**

**Division 140**

**SELF DIRECTION OF PUBLIC PURPOSES CHARGES BY LARGE RETAIL ELECTRICITY CONSUMERS**

**330-140-0010**

**Scope and Applicability of These Rules**

(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 ~~in a calendar~~the prior year (8,760,000 kilowatt hours/year), may become a self-directing consumer of a portion of its public purpose charges.

(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 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 three percent of public purpose charges imposed upon retail electricity consumers by a consumer-owned utility.

(4) ~~With regard to an aluminum plant that uses more than 100 average megawatts of electricity per year, the rules contained in this division apply to a public purpose charge equal to 4-one percent of the total revenue from the sale of electricity to large retail electricity consumers that are an aluminum the plant whose electric company's service territory abuts the greatest percentage of the site of the aluminum plant that uses more than 100 average megawatts of electricity per year.~~

(5) Large retail electricity consumers eligible to become self-directing consumers shall not claim a credit against public purpose charges owed for new energy conservation or new renewable energy resource purchases until they are issued certificates for qualified expenditure under these rules.

(6) 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, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**Commented [WS1]:** Made minor changes to wording to ensure consistency of terminology throughout program rules.

Clarifies applicability of rules to aluminum plant using over 100 average megawatts per year.

**330-140-0020**

**Definitions as Used in This Division**

(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 Qualified 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 is eligible to be claimed as a credit against public purposes charges owed by the large electricity consumer under these rules.

(4) "Certification of Qualified 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 to be claimed as a credit against public purpose charges owed by the large electricity consumer under these rules.

(5) "Commission" means the Public Utility Commission of Oregon.

(6) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.

~~(7) "Declaration of Intent to Self-Direct Public Purposes Charges" means a request in writing from a large electricity consumer that requests the Oregon Department of Energy recognize the large electricity consumer as eligible to self-direct public purpose charges under these rules.~~

~~(87) "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.~~

~~(98) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.~~

~~(409) "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.~~

~~(4410) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.~~

~~(4211) "Electric company" means an entity engaged in the business of distributing electricity to retail electricity consumers in this state but does not include a consumer-owned utility.~~

~~(1312) "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.~~

~~(4413) "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.~~

**Commented [WS2]:** Added definition of "Green Tags"

Made minor changes to wording to ensure consistency of terminology throughout program rules

Deleted unused and obsolete definitions for terms not used in program rules

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(4514) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

(4615) "Electricity services" means electricity distribution, transmission, generation or generation-related services.

(4716) "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.

(4817) "Energy Conservation 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.

(4918) "Energy conservation project cost" means the costs of necessary features of an energy conservation 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 energy conservation 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.

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

(20) "Independent Energy Audit" means an evaluation by an independent auditor of all potential electricity using systems at an electric consumer's site that identifies in a written report the characteristics of electric energy use of those systems and all energy conservation projects for each of the electric energy using systems at the site.

(21) "Independent Energy Auditor" means a provider of energy systems audits that identify potential energy conservation projects for large electricity consumers that is not in the employ of the retail electricity consumer's company or any of its subsidiary or affiliate organizations except under contract as an independent service provider that is selected to provide independent audit service under these rules. An independent auditor may include a consumer-owned utility.

(22) "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.

(23) "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 ~~calendar~~ year.

(24) "Market transformation" means a lasting structural or behavioral change in the marketplace that increases the adoption of energy efficient technologies and practices.

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

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(26) "New" as it refers to energy conservation, ~~and~~ market transformation ~~and low income weatherization~~ means measures, projects or programs that are installed or implemented after the date direct access is offered by an electric company, with the exception that "new energy conservation" also includes expenditures by large electricity consumers eligible ~~for to~~ self-directing public purpose charges that meet the following conditions:

(a) Self-directing consumers may not claim a public purpose credit for energy conservation measures that were started prior to July 23, 1999. For energy conservation measures that were started on or after July 23, 1999, but prior to the implementation of direct access, a self-directing consumer may claim a public purpose credit if either of the following conditions is met:

(A) The energy conservation measure did not receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999; or

(B) the energy conservation measure did receive funding from an electric company conservation program and the self-directing consumer repaid the amount of such funding (cost of audit and incentives plus interest) no later than 90 days following the implementation of direct access or the date they request preliminary certification under these rules. A self-directing consumer shall not be required to repay the amount of any energy conservation audit related to a conservation measure if the audit was completed prior to January 1, 2000. The cost of an audit that identifies multiple energy conservation measures shall be prorated among such measures.

(b) For purposes of this subsection, "started" means that a contract has been executed to install or implement an energy conservation measure.

(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) "Precertification of new energy conservation projects" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies that a proposed energy conservation project will be eligible for a certificate of qualified expenditure if it is installed as described in the retail electricity consumer's application for precertification.

(33) "Precertification 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 retail electricity consumer's application for precertification.

(34) "Public purpose charge" is an amount equal to ~~3~~three percent of the total revenues billed to large consumers for electricity services, distribution, ancillary services, metering, billing, transition charges and

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other types of costs that were included in electric rates on or after March 1, 2002 by electric utilities offering direct access to their large electricity consumers, except for an aluminum plant that is a retail electricity consumer and uses more than 100 average megawatts per year where the amount is equal to 4-one percent of the total revenues billed.

(35) "Qualifying expenditures" means those expenditures for new energy conservation measures or projects that have a simple payback period of not less than one year and not more than 10 years and expenditures for the above-market costs of new renewable energy resources or renewable energy certificates, also referred to as "Green Tags."

(36) 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.

(3637) "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.

(3738) "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.

~~(3839) "Self-directing consumer" means a large electricity consumer having retail electricity consumer using more than one average megawatt of electricity at any one site for the twelve billing months preceding January 15 of each year or an aluminum plant using more than 100 average megawatts of electricity for the twelve billing months preceding January 15 of each year. Consumers in electric utility service territories qualify as self-directing if they have a certification of qualified expenditure from the Oregon Department of Energy for new energy conservation, or new renewable energy resources or renewable energy certificates or "Green Tags."~~

(3940) "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.

(4041) "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 for a given site.

(4142) "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, 469.165, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 7-2015, f. & cert. ef. 12-23-15

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0030**

**Eligibility as a Self-Directing Consumer**

(1) Oregon retail electricity consumers using more than one average megawatt of electricity at one site in the ~~twelve billing months preceding January 15 of each year, beginning with 1999, prior year~~ may apply in writing to the Oregon Department of Energy to qualify to self-direct a portion of their public purpose charges, ~~starting October 1, 2001. Application must be made each year that an electricity consumer wants eligibility as a self-directing consumer.~~

(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 ~~twelve billing months preceding January 15 of the~~ year preceding the date of request for ~~initial or renewal of~~ eligibility.

(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; ~~calendar 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 ~~calendar 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 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) Retail 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.

**Commented [WS3]:** Proposed change: Consumers will no longer be required to apply for self-direction eligibility every year

Removing obsolete language from program start-up

~~(5) Retail electricity consumers are eligible for self-direction for the one calendar year following the year for which the Oregon Department of Energy has based its approval of their request for eligibility, regardless of the electricity purchases at that site in the following calendar year.~~

(56) Retail 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 precertification of new energy conservation projects and new renewable energy resource purchases for that site and certification of qualified expenditure for renewable energy certificates or Green Tags.

(67) 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.

(78) 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 receipt of the request.

**Statutory/Other Authority:** ORS 469.040, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0040**

**Precertification of New Energy Conservation Projects**

(1) Retail electricity consumers approved as eligible to become self-directing consumers by the Oregon Department of Energy may submit applications for precertification of new energy conservation projects.

(2) Retail electricity consumers shall apply directly to the Oregon Department of Energy for precertification of new energy conservation 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 retail electricity consumer; a description of the site; a description of the electricity conservation project; detail of the costs of the electricity conservation 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 their public purpose charge.

(3) The Oregon Department of Energy shall determine the eligible costs for the energy conservation project.

(4) Precertification of the cost eligible for credit and a description of the new energy conservation 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, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**Commented [WS4]:** Added requirement for applicant to include information about prior year electricity usage with application for precertification.

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04  
DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0050**

**Precertification of New Renewable Energy Resource Purchase**

(1) Retail electricity consumers approved as eligible to become self-directing consumers by the Oregon Department of Energy may submit applications for precertification of new renewable energy resource purchases.

(2) Retail electricity consumers shall apply directly to the Oregon Department of Energy for precertification 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 precertified as eligible self-direction costs.

(4) Precertification 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, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04  
DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0060**

**Certification of Qualifying Expenditure for New Energy Conservation Projects**

(1) Once the project has been completed and is operational, and the costs, or portion of the costs identified in the precertification as a component eligible for certification as an individual expense for a project, are expended, the retail electricity consumer may apply to the Oregon Department of Energy for a

**Commented [WS5]:** Added requirement for applicant to include information about prior year electricity usage with application for precertification.

Made minor changes to wording to ensure consistency of terminology throughout program rules

**Commented [WS6]:** Proposed change: Add requirement that project must be completed and operational before the consumer receives certificate of qualified expenditure from ODOE. This requirement has been understood, but not stated explicitly.

Updates obsolete reference to state Office of Energy.

Clarifying that qualified expenditures includes administrative fees paid to ODOE.

Made minor changes to wording to ensure consistency of terminology throughout program rules

certificatione of qualified expenditure on a form provided by the Oregon Department of Energy~~Office of Energy~~.

(2) Proof of amount paid must accompany the application for certificatione of qualified 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 certificatione of qualified expenditure for all or part of the cost of precertified new energy conservation project(s) shall be approved or denied by the Oregon Department of Energy in writing within 30 days of the receipt of a complete application. A ~~e~~Certificatione of qualified expenditure may be issued for a portion of the cost of a new energy conservation 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-direction program.

**Statutory/Other Authority:** ORS 469.040, 469.165, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

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DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0070**

**Certification of Qualifying Expenditure for New Renewable Energy Resources**

(1) Retail electricity consumers whose new renewable energy resource purchases have received precertification from the Oregon Department of Energy may apply for a certificatione 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 ~~resource-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 certificatione 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. Sites 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 certificateion 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.

**Commented [WS7]:** Proposed change: Correct reference to RECs and add reference to "Green Tags" to be consistent with terminology used on ODOE LECPPP webpage and by self-directing consumers.

Clarifying that qualified expenditures includes administrative fees paid to ODOE.

Made minor changes to wording to ensure consistency of terminology throughout program rules

(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-direction 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, 469.165, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

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DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0080**

**Claiming a Public Purpose Charge Credit**

(1) Large electricity consumers who are eligible for direct access, starting with the date of direct access, may claim credits against public purposes charges owed.

(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 the amount owed for a given month's conservation or renewable energy resource public purpose charges shall be available for future credit use (carried forward) for up to ten years but not past February 29, 2012 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 precertification of expenditures for a new energy conservation project, renewable energy resource project, or Green Tag purchase 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 the amount owed 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.

(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 73.8 percent of the public purpose charge owed. Self-direction credit for the new energy conservation portion shall not exceed 56.7 percent of the public purpose charge owed and 17.1 percent for the new renewable energy resource purchase portion; or

(b) The maximum credit for sites in consumer owned electric service territory shall be 68 percent of the first 3 percent public purpose charges for new energy conservation. Any remaining amount, up to the maximum of the first 3 percent public purpose charge, is limited to the portion of the public purpose charge billed for new market transformation or above market costs of purchasing renewable energy resources purchase.

**Commented [WS8]:** Clarifies that self-directing consumer whose electricity consumption falls below one average megawatt annual threshold may continue to use carried over credits for an existing project until those credits are exhausted, but is not eligible to be precertified for new projects or new Green Tag purchases until the site's average annual electricity usage again meets program eligibility requirements.

Made minor changes to wording to ensure consistency of terminology throughout program rules

(c) The maximum credit for ~~at~~ an aluminum plant site that uses more than 100 average megawatts of electricity per year shall be 68 percent of ~~4-one~~ percent of the total revenue from the sale of electricity to the ~~retail electricity consumer~~ aluminum plant for new energy conservation projects and 17.1 percent ~~for new renewable resource purchases~~ of ~~4-one~~ percent of the total revenue from the sale of electricity to the ~~retail electricity consumer~~ aluminum plant for new renewable energy resource purchases, ~~where the electric companies service territory abuts the greatest percentage of the site of the aluminum plant that uses more than 100 average megawatts of electricity per year.~~

(4) 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.

(5) To remain eligible to self-direct public purpose charges, large electricity consumers shall pay on a monthly basis any balance of public purpose charges owed to their electric distribution utility or energy service supplier.

**Statutory/Other Authority:** ORS 469.040, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0090**

**Exclusion from Payment of a Portion of the Public Purpose Charge**

Commented [WS9]: No changes proposed to this rule

(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

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04  
DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0100**

**Independent Audit Standards and Procedures**

**Commented [WS10]:** No changes proposed to this rule

(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

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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

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0110**

**Reporting Self-Direction Credits and Public Purpose Amounts Collected or Paid**

**Commented [WS11]:** No changes proposed to this rule

(1) Consumer-owned utilities providing open access to any customer class shall report annually to the Oregon Department of Energy the amount of public purpose charges collected from the consumer owned utility retail electricity consumers. The report shall be submitted no later than February 28 of each calendar year starting in the calendar year after the consumer owned utility governing board elects to provide open access for any class of its customers. Reports shall not include the self-direction public purpose charges allowed under these rules.

(2) The Oregon Department of Energy shall notify in writing large electricity consumers or consumer-owned utilities of errors in the amount of self-direction credit claimed, the amount of public purpose charges submitted to the consumer's electric utility, or other errors or omissions in reports. The notice shall recommend the corrections necessary for the large electricity consumer or the consumer-owned utility.

**Statutory/Other Authority:** ORS 469.040, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0120**

**Denial or Revocation of Eligibility to Participate as a Self-Direction Consumer**

**Commented [WS12]:** No changes proposed to this rule

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(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
- (c) Changes in an energy conservation project or renewable 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-directing 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; and
- (b) The date that the retail electricity consumer is no longer eligible to apply for project precertification 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 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 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, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**330-140-0130**

**Utility and Electricity Consumer Credits for Public Purpose Expenditures by their Energy Suppliers**

(1) Utilities may apply to the Oregon Department of Energy to claim a credit for qualifying public purpose expenditures by their energy supplier for the market transformation activities of the Northwest Energy Efficiency Alliance under the Bonneville Power Administration residential subscription rate.

(2) Application for this credit must be made by March 1 of each calendar year to begin claiming credit by October 1 and shall document the contracted amount owed.

(3) The credit may be taken against the conservation portion of the electric distribution utility payment of collected public purpose charges as directed by Oregon Administrative Rule.

(4) The Oregon Department of Energy shall propose a credit amount to the Oregon Public Utility Commission by July 1, 2002. The credit amount shall be distributed as a reduction to public purpose charges owed equitably among all the electric distribution utility's residential ratepayers whose rates include a Northwest Energy Efficiency Alliance cost component.

**Statutory/Other Authority:** ORS 469.040, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01

**Commented [WS13]:** No changes proposed to this rule

**330-140-0140**

**Administrative Cost Recovery**

~~(1) Large electricity consumers applying to be eligible as self-directing consumers shall pay actual cost of service incurred by the Oregon Department of Energy for services provided for establishing a self-direction account, reviewing request for self direction, and the electricity consumer's portion of the cost for any services or supplies for such administration.~~

~~(2) At the request for services by the self-directing consumer, the Oregon Department of Energy may estimate and request payment for the cost of service for self direction services provided. The estimated cost of service provided shall not exceed 4 percent of proposed project costs. The self-directing consumer shall submit payment of the estimated cost of certification services with all applications for precertification. An application for preliminary certification will not be considered complete without payment. The Oregon Department of Energy shall review the actual cost of service annually to assure costs of operation are recovered.~~

(1) The costs of administering the self-direction program shall be paid out of the funds collected through the public purpose charge 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: precertification of new energy conservation projects, precertification of new renewable energy resource purchases, 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 new energy conservation projects, 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-direction program, including all direct and indirect costs, as well as the actual and

**Commented [WS14]:** Proposed changes: Clarify that self-directing consumers pay the estimated program administrative costs at the time of making a precertification request, not to exceed four percent of project costs. ODOE must periodically review the annual cost of service and may periodically revise this percentage.

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-direction administration costs. The fixed percentage fee shall not exceed four percent of: the estimated project costs for new energy conservation projects, 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, 469.165, 756.040 & 757.600 - 757.687

**Statutes/Other Implemented:** ORS 756.040 & 757.600 - 757.687

**History:**

DOE 7-2015, f. & cert. ef. 12-23-15

DOE 6-2004, f. 10-14-04, cert. ef. 12-1-04

DOE 3-2001, f. 10-25-01, cert. ef. 10-29-01