



Comments on Thermal Renewable Energy Certificates Draft Rules

August 2016

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From: Grady, Danny [mailto:Danny.Grady@portlandoregon.gov]
Sent: Friday, August 5, 2016 2:53 PM
To: SMITH Rebecca * ODOE <Rebecca.Smith@oregon.gov>
Subject: comments relating to stakeholder meeting #2

Hi Rebecca,

The City of Portland would like to add written comments to this past Wednesday's T-REC Stakeholder meeting.

In regards to the definition of "Secondary purpose" (330-160-0015.20), the City of Portland supports both 20.a and 20.b as written: specifically, in subsection b, the secondary purpose is "for which **fuel or** electricity would otherwise be consumed." Renewable NW made a recommendation that only electricity offsets should be included in the definition; in many applications natural gas and other fuel types are more commonly used for the generation of thermal energy as it is more efficient to do so. Therefore, the City supports the inclusion of other fuel types in the definition.

In regards to the definition of "station service" (330-160-0015.21), there was discussion as to whether heat that cycled back into the system should be defined as station service. The City of Portland is of the opinion that the overriding value of the program is to incentivize the beneficial secondary use of thermal energy that offsets the use of conventional thermal energy sources that would otherwise be derived from the burning of fossil fuels. As such, we agree with Brendan @ PGE's comments that support the exclusion of this particular secondary use under the definition of "station service".

Finally, the City of Portland supports the inclusion of anaerobic digesters at wastewater treatment facilities as qualifying facilities.

Thank you!

Regards,
Danny G

Daniel Grady, CEM

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August 9, 2016

Ms. Rebecca Smith
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Dear Ms. Smith:

Please accept these written comments to your draft rules and discussion points for the thermal REC program that OFIC previously presented at your August 3, 2016 workshop in Portland. We appreciate the opportunity to comment.

In providing these comments, we will follow the order of your suggested changes to Division 160, which were distributed ahead of the meeting on 7/28.

OAR Section

330-160-0015 - Definitions -

(21) Station Service - While we agree that station service must be deducted to allow consistency with other WREGIS programs, we believe that a blanket deduction unduly penalizes operators who have done the most to maximize overall system efficiency. We would suggest you add to the end of the sentence that begins, "It includes" the phrase "but excludes thermal energy extracted directly from the turbine and used within the CHP facility for purposes to displace fuel or electricity". Such uses could be evaluated by ODOE during the initial project certification.

330-160-0080

2(b) - The reference to ORS469A.20 is okay, but it should be noted that the facility age references must be updated to comply with SB1547.

2(c) - We continue to believe that creating equal valued TREC's across the WECC was not the intent of the legislature in SB1547. As always, limiting programs to instate only raises interstate commerce clause issues, but that should not be a major concern here. Elsewhere in SB1547, the legislature changed REC eligibility dates for biomass plants, but only for those in Oregon, so legislative intent is fairly obvious. Both CA and NV, in their RPS programs, have instate preferences that have not been challenged.

A suggested compromise position would be similar to that taken for REC qualification for RPS purposes for large utilities in ORS469A.145. In that section, all Oregon plants are deemed to create bundled

REC's for RPS compliance purposes, regardless of interconnection or sales issues. Conversely, out-of-state facilities must meet a strict criteria in order to be considered bundled, and if that criteria cannot be met, are considered unbundled for Oregon RPS compliance purposes.

In this TREC context, all Oregon qualifying TREC's would meet the bundled REC definition, while out-of-state qualifying TREC's would be considered unbundled.

The further requirement that unbundled REC's make up a maximum of 20% of the total REC's for large utility compliance will create a future TREC value differential in favor of Oregon projects. Absent such a distinguishing difference, we believe that ODOE staff will be swamped with applications from out-of-state facilities, with limited ability to verify claims. Based on numbers and size of potentially qualifying existing biomass facilities throughout the WECC, Oregon facilities would be only 4th or 5th in terms of TREC quantity generation, greatly limiting the value of the program for Oregon entities.

2(d) - We would suggest a modification of this requirement to the following: " the facility's electric generator(s) must have a rated capacity (expressed in Btu equivalents) of at least 10% of the rated fuel Btu input of the combustion unit(s)".

4(b) - We would suggest the following rewording of this exclusion: "Thermal energy returned to the biomass conversion device in the form of condensate or hot water return must have its thermal energy value deducted from the thermal energy supplied to the qualifying uses"

330-160-0090

(1)(a) - Suggest replacement of the term "heat meter" with "thermal energy meter" throughout this section.

(1)(c)(A) - Use of a professional engineer throughout is overly restrictive. Expand to include "an individual qualified by background, training and experience" to the list of persons that can perform the services in 330-160-0090.

(1)(d)(B) - Add phrase "may be used" after "of subsection (1)(d)(A)".

(1)(e)(3)(c) - Add similar qualification of "individual qualified by background, training and experience".

Additional Comments on Material Discussion Points

2. Definition of "secondary purpose" - The secondary purpose need not displace electricity, but must displace either fuel or electricity. The fuel displaced need not be fossil fuel, as this is a distinction that would be very difficult for ODOE to determine, and is unnecessary.

3. Definition of "station service" - Though, as indicated, the draft definition does not exclude the drying of fuel, it should. Drying of fuel should not be necessary in properly designed systems and the calculation of thermal energy used in the process is difficult to measure and highly inaccurate. OFIC worries that inclusion of fuel drying as a qualifying secondary use will simply be an opportunity for

gaming of the TREC program. At the very least, the drying of fuel for the facility's own use should be part of the station service exclusion.

Program Modifications for Small Facilities

OFIC believes that small facilities should be exempted from major portions of the monitoring and reporting requirements, including the third party monitoring requirement. OFIC would suggest a definition of a small facility be the capability to generate a maximum of one TREC per hour of operation. Absent such an exemption, it is likely that small facilities would consume a major portion of potential TREC revenue in the measurement, monitoring and reporting process.

Summary

OFIC has chosen to comment on only a small fraction of the total draft program because all other provisions are acceptable. The Department has done an excellent job in this first draft and we look forward to subsequent drafts. This program is very important to Oregon's struggling biomass cogeneration industry, and we appreciate the opportunity to work with the Department towards a successful conclusion.

Sincerely,

Bill Carlson
Carlson Small Power Consultants for Oregon Forest & Industries Council

c.c. Linc Cannon

From: Tyler C. Pepple [mailto:tcp@dvclaw.com]
Sent: Friday, August 12, 2016 12:46 PM
To: rebecca.smith@state.or.us
Subject: ICNU Comments on Draft T-REC Rules

Hi Rebecca,

ICNU has a couple of comments on the draft rules for thermal RECs below. Thank you for all of your hard work on this rulemaking!

1. Section 330-160-0080(2)(b): ICNU recommends striking this section as it appears confusing as written, largely due to ambiguities in the statute. As amended by SB 1547, ORS 469A.020(5) is less about the age of the facility than its location – biomass facilities built before 1995 and located in Oregon may generate RECs for compliance. Additionally, it is not obvious that the requirements for RECs from biomass necessarily apply to T-RECs (though ICNU agrees that, in the absence of language to the contrary, this is a reasonable interpretation). Accordingly, ICNU recommends that the rule explicitly state the apparent statutory restrictions and eligibilities for facilities that may generate T-RECs. Specifically, ICNU recommends the following language:

“Unless the facility is located in Oregon, the facility must have become operational on or after January 1, 1995.”

2. Section 330-160-0080(2)(c): At the June 20, 2016 stakeholder meeting, ICNU recommended including a specific reference to ORS 469A.145(3), which exempts unbundled RECs generated from qualifying facilities certified under PURPA and located in Oregon from the 20% limit under ORS 469A.145(1). Upon further reflection, ICNU withdraws that recommendation and considers this provision to be sufficient as written. The eligibility of a facility under ORS 469A.145(3) does not need to be restated in the rules.
3. Section 330-160-0080(2)(d): ICNU recommends tying the energy content of the fuel input explicitly to biomass. This would eliminate ambiguity with respect to dual-fuel facilities.
4. Section 330-160-0080(4): ICNU recommends relaxing some of the restrictions on these exclusions. If the secondary purpose of the thermal energy is displacing the need for a facility to use additional electricity or fuel, it should count as eligible for T-RECs, regardless of what that secondary purpose is.

Thanks and please feel free to contact me with any questions.

Tyler

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August 12, 2016

Rebecca Smith
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RE: Comments of Renewable Northwest on the Oregon Department of Energy's Thermal Renewable Energy Certificates Draft Rule

Renewable Northwest is grateful for the opportunity to comment on the draft Oregon Administrative Rules ("OAR") on Renewable Energy Certificates for Generation of Thermal Energy ("T-RECs") prepared by the Oregon Department of Energy ("ODOE"). These comments focus on three areas:

- T-RECs are not issued for electricity. Therefore, T-RECs should not be exempt from the 20% limitation on unbundled RECs in Oregon's Renewable Portfolio Standard ("RPS");
- to be consistent with the RPS, the secondary purpose of the thermal energy that generates T-RECs should be tied to a process that displaces electricity, not fuel;
- to be consistent with the treatment of renewable generating facilities, thermal energy should not be eligible for T-RECs if it is being used to provide station service.

T-RECs are not exempt from the 20% limitation on the use of unbundled RECs for compliance with the RPS

Section 16 of Senate Bill 1547 ("S.B. 1547") states that ODOE "shall provide that renewable energy certificates must be issued for the generation of the thermal energy" from co-generation facilities. To this end, ODOE's draft OAR 330-0160-0015(23) proposes establishing a "T-REC" and defines it as follows:

"Thermal Renewable Energy Certificate" (T-REC) means a REC associated with the generation of qualifying thermal energy. One T-REC is created in association with the generation of 3,412,000 British thermal units of qualifying thermal energy.

Hence, a T-REC would be a type of REC associated with the generation of thermal energy. As a type of REC, a T-REC should follow any applicable REC provisions in Oregon's RPS, as modified by the REC banking structure laid out in S.B. 1547, and as applicable to the utility using the T-REC for RPS compliance. To this end, an unbundled T-REC should not be exempt from the 20% limitation on the use of unbundled RECs in ORS 469A.145(1); however, the exception to the 20% limitation provided in ORS

469A.145(3) for RECs issued from electricity generated by PURPA qualifying facilities in Oregon would not apply to T-RECs, as this exception applies to RECs issued for electricity—not RECs issued for thermal energy generation. ORS 469A.145 states, in pertinent part:

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

(...)

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

Hence, the text of ORS 469A.125(3) expressly restricts the exemption for unbundled RECs from qualifying facilities in Oregon to RECs “issued for electricity”. A T-REC is not “issued for electricity” because, as referenced above, the thermal REC “must be issued for the generation of thermal energy”.¹ As such, a T-REC cannot be exempt from the 20% limit on unbundled RECs in the RPS.

Secondary purpose for thermal energy should mean an end use that displaces electricity, not fuel

As Renewable Northwest stated in its comments of July 15, 2016, “useful thermal energy” should be thermal energy that is used for an end use for which *electricity* would otherwise be consumed. In those comments, Renewable Northwest pointed out that each and every RPS definition in ORS 469A.005(1)–(12) makes repeated and consistent reference to “electricity” and “electric”.

ODOE’s draft rule for 330-160-0015(20) proposes a definition of “Secondary purpose” for thermal energy: “... (b) for which fuel or electricity would otherwise be consumed.” However, thermal energy generated for a secondary purpose should displace “electricity” that would otherwise have been consumed, not “fuel”. The RPS is clearly focused on electricity, as can be seen from the opening rubric of Senate Bill 838 (2007), the original legislation that established the RPS: “AN ACT Relating to electricity”.²

Thermal energy should be ineligible for RECs if it is used for station service

ODOE’s draft OAR 330-160-0080(4) deals with exclusions, and proposes that thermal energy may not be used to comply with the RPS if “(a) It is used for station service as

¹ Section 16 of SB 1547 (2015)

² SB 838, 2007 <https://www.oregon.gov/energy/P-I/docs/sb0838.en.pdf>

defined in OAR 330-160-0015”. ODOE proposes that OAR 330-160-0015(21) define “Station service” as “the energy that is used to operate an electric or thermal generating plant. It includes energy consumed for plant lighting, power, and auxiliary facilities”.

Excluding thermal energy from RPS compliance if that energy is providing station service is appropriate for two reasons. Firstly, it mirrors the eligibility of electricity from qualifying facilities such as wind, solar and geothermal, which do not receive RECs for generation which provides station service. Secondly, providing RECs for station service load would discourage the minimization of station service load.

This concludes Renewable Northwest’s comments on ODOE’s current version of the proposed rule. Renewable Northwest looks forward to commenting on further iterations of the draft rule as well as participating at the third stakeholder meeting on September 7th, 2016.

Sincerely,

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