



# Comments on Thermal Renewable Energy Certificates Draft Rules

**October 2016**

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September 16, 2016

Rebecca Smith  
Oregon Department of Energy  
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Salem, OR 97301-3737

**RE: Comments of Renewable Northwest on the Oregon Department of Energy's Thermal Renewable Energy Certificates Second Draft Rules published August 31, 2016**

Renewable Northwest is grateful for the opportunity to comment on the second draft of Oregon Administrative Rules ("OAR") on Renewable Energy Certificates for Generation of Thermal Energy ("T-RECs") prepared by the Oregon Department of Energy ("ODOE") and published on August 31, 2016. In a Companion Issues Document, also published August 31, 2016, ODOE identified six discussion points raised by stakeholders along with explanations as to how they were incorporated into the second draft of the rules.

- ISSUE 1: Fuel displacement requirements for "secondary purpose".
- ISSUE 2: Exclusion of processing the facility's fuel from eligible secondary purposes.
- ISSUE 3: Retroactive crediting for thermal energy.
- ISSUE 4: Definition of "station service".
- ISSUE 5: Geographical boundaries for facilities generating T-RECs.
- ISSUE 6: Metering, Monitoring, and Reporting

These comments focus on issues 1, 2, 4 and 5.

ISSUE 1: Fuel displacement requirements for "secondary purpose"

Thermal energy generated for a secondary purpose should displace electricity that would otherwise have been consumed—not fuel. However, the second draft of the rules, like the first, includes displacement of fuel or electricity in the definition of secondary purpose. Renewable Northwest is sympathetic to ODOE's argument that "the addition of thermal energy to the Renewable Energy Certificate (REC) system necessitates some accommodation of the technical differences between thermal energy and electricity"<sup>1</sup>; however, we do not accept ODOE's argument that "secondary purpose" should be extended beyond electricity to fuel because "there are a number of facilities using thermal energy for secondary purposes for which electricity would never be substituted."<sup>2</sup> ODOE goes on to state that:

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<sup>1</sup> ODOE T-RECs Issues Document—Aug. 2016, p1

<sup>2</sup> ODOE T-RECs Issues Document—Aug 2016, p1

...given the large share of renewables in Oregon’s electricity mix, requiring displacement of only electricity would, at facilities located in Oregon, represent the displacement of a relatively renewable power source.<sup>3</sup>

Renewable Northwest notes that the share of renewables and/or Renewable Portfolios Standard (“RPS”) eligible renewables is very much utility-dependent. Furthermore, if a T-REC is generated by the displacement of fuel and then used to comply with the RPS, it will displace demand for a REC generated by RPS-eligible renewable electricity and therefore displace demand for a renewable resource. The RPS is primarily intended to encourage the development of renewable electricity.

#### ISSUE 2: Exclusion of processing the facility’s fuel from eligible secondary purposes

Renewable Northwest supports ODOE’s proposed exclusion of “processing of fuel to be used on-site” from the eligible secondary purposes for which T-RECs can be issued<sup>4</sup>. However, ODOE’s proposal that any “thermal energy used to process a product, including fuel, to be sold is eligible for crediting” raises issues of RPS and REC market integrity.

Renewable Northwest notes the definition of REC in OAR 330-160-0015(15):

“Renewable Energy Certificate” (REC or Certificate) means a unique representation of the environmental, economic, and social benefits associated with the generation of electricity from renewable energy sources that produce Qualifying Electricity. One Certificate is created in association with the generation of one MegaWatt-hour (MWh) of Qualifying Electricity. While a Certificate is always directly associated with the generation of one MWh of electricity, transactions for Certificates may be conducted independently of transactions for the associated electricity.[<sup>5</sup>]

In accordance with this definition, if the T-REC generated during the processing of a product is sold separately, the product will not have any environmental attributes associated with it (as those would be wholly contained in the REC or T-REC). Consequently, such a product—stripped of its associated T-REC—would not be able to be described or marketed as made using renewable energy. To make any environmental claims, the T-REC and the product would have to be sold together.<sup>6</sup>

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<sup>3</sup> ODOE T-RECs Issues Document—Aug 2016, p1

<sup>4</sup> ODOE T-RECs Issues Document—Aug 2016, p2

<sup>5</sup> Oregon Department of Energy, Division 160, Establish a Renewable Energy Certificate System for the Oregon RPS

[http://arcweb.sos.state.or.us/pages/rules/oars\\_300/oar\\_330/330\\_160.html](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_330/330_160.html)

<sup>6</sup> See for example, Federal Trade Commission, Green Guides, <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguides.pdf>

### ISSUE 3: Retroactive crediting for thermal energy

Renewable Northwest has no comment on this section.

### ISSUE 4: Definition of “station service”

Renewable Northwest supports ODOE’s proposal that, “Any end uses of thermal energy that are in support of the generation of electricity are included within the definition of station service and are not eligible for T-RECs”.<sup>7</sup>

### ISSUE 5: Geographical Boundaries for facilities generating T-RECs

In our August 12, 2016, comments, Renewable Northwest made the case that the exemption to the 20% unbundled REC limit in the RPS only applied to RECs issued for electricity from Oregon PURPA facilities, as currently stated in ORS 469A.145(3). In the second draft of the proposed T-REC rules, ODOE adds:

“Thermal Renewable Energy Certificate” (T-REC) means a REC created association with the generation of 3,412,000 British thermal units of qualifying thermal energy, *which is equivalent to one REC created in association with generation of one mega-watt hour of qualifying electricity.*<sup>8</sup>

However, there is no basis upon which to support incorporating such an equivalence into the OARs. Renewable Northwest is concerned that stating the equivalence between a REC associated with the generation of electricity and a T-REC associated with thermal energy may affect the integrity of RECs from qualifying renewable electricity generation. RECs used across the WECC region for RPS compliance are currently tracked in WREGIS and require meter data and third-party verification in order to provide certainty and integrity of tracked generation. While ODOE’s proposed rules for large biomass cogeneration facilities (one or more T-RECs per hour of operation) require “[a]ll parameters needed to determine thermal energy to the secondary purpose must be directly measured and not estimated”,<sup>9</sup> some parameters from small facilities “may be evaluated on an annual basis and used in the calculation methodology as a constant”.<sup>10</sup> While such approximation for small facilities may be warranted for practical reasons, the number of T-RECs generated from those small facilities would essentially be estimated. Allowing these estimated T-RECs from small biomass co-generation facilities to be treated as

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<sup>7</sup> ODOE T-RECs Issues Document—Aug 2016, p3

<sup>8</sup> ODOE, Second Draft Proposed T-REC Rules, August 31, 2016, 330-160-0015(24)

<sup>9</sup> ODOE, Second Draft Proposed T-REC Rules, August 31, 2016, 330-160-0090(1)(a)

<sup>10</sup> ODOE, Second Draft Proposed T-REC Rules, August 31, 2016, 330-160-0090(1)(b)

equivalent to RECs from qualifying renewable electricity subject to existing WREGIS operating rules could undermine the integrity of the latter.

Renewable Northwest has been participating in similar discussions around how RECs from rooftop solar can be registered with WREGIS given the lack of appropriate metering and tracking. In that context, concerns have been raised that estimating the number of RECs from rooftop solar could undermine the integrity of RECs that follow the WREGIS Operating Rules. Renewable Northwest continues to work with stakeholders to see how the environmental attributes from such rooftop solar systems could potentially be used for RPS compliance, without stating an equivalency with RECs generated from third-party-verified metered data.

#### ISSUE 6: Metering, Monitoring, and Reporting

Renewable Northwest has no comment on this section.

This concludes Renewable Northwest's comments on ODOE's second version of the proposed rule. Renewable Northwest looks forward to the Public Hearing on November 2<sup>nd</sup>, 2016.

Sincerely,

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September 11, 2016

Ms. Rebecca Smith  
Senior Policy Analyst  
Oregon Department of Energy  
625 Marion Street, N.E.  
Salem, Oregon 97301

Dear Ms. Smith:

## Comments on Thermal REC Second Regulation Draft

Please accept these written comments from OFIC on the second draft of the Thermal REC Regulations as a follow up to our participation in the September 7, 2016 workshop in Portland.

In providing these comments, we will follow the order of your suggested changes to Division 160, which were posted ahead of the 9/7/16 meeting.

### OAR Section

#### 330-160-0015 - Definitions

(24) Thermal Renewable Energy Certificate - In the last line, strike " in association with" and replace with "by".

#### 330-160-0080

(2) Facility Requirements - (a) In the last line, add "simultaneously" between "also" and "generate". Add at the end, "as a byproduct of the electricity generation process". In this case, we are attempting to add more specificity to the types of cogeneration units that would qualify for the program.

(4)(a) - Add at the end, "unless the Department has approved a unique or innovative station service use as qualifying during the application process." In this case, we would like to have an opportunity for an applicant to make the case that a certain secondary thermal use should qualify even though the use resides within the steam/power facility due to its uniqueness or energy efficiency.

(4)(b) - Add at the end, "and the residual thermal energy is not subtracted from the gross thermal energy supplied to secondary purposes." The point here is to clarify that the thermal energy content is the deduction and not the mass returned.

330-160-0090

(1) Metering: (a) Add at the end, "unless an estimation has been approved by the Department during the application process." Even large systems may have certain parameters that could be considered constants and not need metering.

(3) WREGIS currently has in its protocols a provision for self reporting of electrical generation for certain classes of generators. OFIC would urge the Department to follow a similar path and create one or more classes of thermal energy generators for which self reporting is allowed. As a minimum, self reporting should be extended to small facilities as defined in (1)(b) of this section, but it may be appropriate to extend to larger facilities. OFIC would be pleased to assist the Department in defining these classes.

In terms of the geographic limits on thermal REC's, we were pleased with your explanation regarding the application of the same language in ORS 469A.145 to both REC's and TREC's when determining whether the TREC's are bundled or unbundled. As you know, the extent to which out-of-state projects can supply TREC's has been one of our larger issues. Your interpretation gets us most of the way to where we would like to end up, and so we will seek no further changes through this process. We may, however, revisit the Legislature for a clarification as to their original intent.

It has been a pleasure to participate in this rulemaking process and we believe the Department has done a good job in bringing the proposed regulations to their current state. OFIC would be pleased to participate in the development of the Application Packet that was mentioned at the 9/7/16 workshop.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Carlson".

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

cc: Linc Cannon, OFIC