



Oregon

Kate Brown, Governor



550 Capitol St. NE
Salem, OR 97301
Phone: 503-378-4040
Toll Free: 1-800-221-8035
FAX: 503-373-7806
www.oregon.gov/energy

To: Energy Facility Siting Council

From: Christopher M. Clark, Rules Coordinator

Date: May 8, 2020

Subject: Agenda Item I (Action Item):
2020 Carbon Offset Rate Update (R203) - Council Consideration of Proposed Rules for the May 21-22, 2020 EFSC Meeting

Attachments: 1. Recommended Findings of Economic Achievability (Supplemental Packet)
2. Draft Notice of Proposed Rulemaking (Supplemental Packet)
3. Advisory Committee Meeting Summary (Supplemental Packet)

STAFF RECOMMENDATION

Based on preliminary analysis, staff recommends that Council initiate rulemaking to increase the Monetary Offset Rate in OAR 345-024-058 from \$1.90 to \$2.85 per ton of carbon dioxide and authorize staff to issue Notice of Proposed Rulemaking. Staff recommends Council schedule a rulemaking hearing for the proposed rule change to begin at 5:00 pm on Thursday, June 25, 2020.

Staff's recommendation depends on Council's finding that the Council's Carbon Standard for natural gas-fired power plants will be economically achievable with the proposed rate increase. Staff's recommended findings and draft notice of proposed rulemaking, taking additional input from the advisory committee appointed for this project into consideration, will be provided as attachments to this report prior to the May 21-22 meeting.

BACKGROUND

At its April 24, 2020 meeting, the Council considered staff's preliminary recommendation to increase the monetary offset rate in OAR 345-024-0580 by 50%, the maximum increase authorized by statute. Council approved staff's request to initiate rulemaking and appointed an advisory committee to provide input on the potential fiscal impacts and economic achievability of the proposed increase.

This report will provide an overview of how the Carbon Monetary Offset Rate is used to determine compliance with the Council's Carbon Standard, and how the rate may be amended. As discussed below, any change in the rate must be based on empirical evidence of the cost of offsets and the council's finding that the standard will be economically achievable with the

modified rate for natural gas-fired power plants. In addition, the Council must estimate the potential fiscal impacts and costs of compliance associated with any rule change.

The Council's Carbon Standard and Monetary Offset Rate

To issue a site certificate to a fossil-fueled power plant, or certain carbon dioxide emitting nongenerating facilities, the Council must determine that the preponderance of evidence on the record supports a conclusion that the proposed energy facility complies with any applicable carbon dioxide emissions standard.¹ To meet the standard, most proposed facilities must reduce a portion of the gross carbon dioxide emissions the facility is projected to produce over an assumed 30-year life span by avoiding, displacing, or sequestering a sufficient amount of carbon dioxide or certain other greenhouse gasses.²

Most applicants have elected to use the “monetary pathway” to comply with the standard. The monetary pathway uses an assumed monetary offset rate to determine the amount of funds that is sufficient to produce the equivalent of a one ton reduction in carbon dioxide emissions.³ When the legislature enacted the Standard in 1997, it set the rate at 57 cents per short ton of carbon dioxide. The legislature authorized the Council to increase or decrease the rate by up to 50 percent in any two-year period starting in 2000. As shown in Figure 1, the Council has increased the rate three times, most recently on October 23, 2017 when the Council set the current rate of \$1.90 per ton of carbon dioxide.

Because more than two years have passed since the last change in the rate, the Council may increase or decrease the monetary offset rate by up to 50 percent. Any change in the rate must be based on empirical evidence of the cost of offsets and the council's finding that the standard will be economically achievable with the modified rate for natural gas-fired power plants.⁴

At its April 24, 2020 meeting, the Council considered staff's preliminary recommendation to increase the monetary offset rate in OAR 345-024-0580 by 50%, the maximum increase authorized by statute. The Council approved staff's request to initiate rulemaking, and appointed an advisory committee to provide input on the potential fiscal impacts and economic achievability of the proposed increase. The advisory committee is scheduled to meet on May 13, 2020. The committee's advice will also be considered in the development of the recommended findings of economic achievability and fiscal impact statements needed to initiate this rulemaking project. Those recommended findings and statements, as well as a

¹ ORS 469.503(2) provides the methodology that Council must use to establish the carbon dioxide emissions standard applicable to base load gas plants, and guidelines for adopting standards applicable to other types of fossil-fueled power plants. ORS 469.501(1)(o) authorizes the council to adopt standards to address the impacts of carbon dioxide emissions on other types of energy facilities that emit carbon dioxide. The Council has adopted standards for these types of facilities under OAR 345-024-0550; 345-024-0590; and 345-024-0620.

² Specifically, methane and nitrous oxide. See ORS 469.503(2)(e)(G).

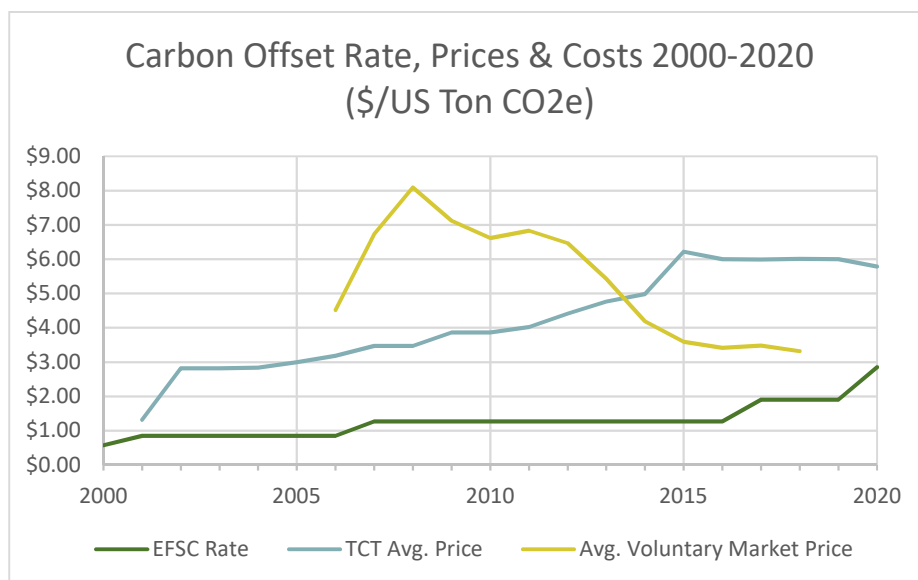
³ In discussion of reductions in emissions throughout this document, a “carbon dioxide emissions” should be understood to also include reductions in methane and nitrous oxide converted to carbon dioxide equivalent using the equivalency values associated with the applicable standard. Currently, all standards consider one ton of methane to be equivalent to 25 tons of carbon dioxide and one ton of nitrous oxide to be equivalent to 298 tons of carbon dioxide. See OAR 345-024-0550(2); 345-024-0590(2); and 345-024-0620(2).

⁴ See ORS 469.503(2)(c)(C).

summary of the advisory committee meeting will be provided to the Council prior to its May 21-22, 2020 meeting.

Empirical Evidence on the Costs of Offsets

The graph below shows the monetary rate set by Council in comparison to the average price The Climate Trust (TCT), the qualified organization which administers monetary offset funds provided by certificate holders, negotiated to secure one ton of carbon dioxide equivalent (CO2e) in Emissions Reduction Purchase Agreements since 2000. As shown in the graph, the average negotiated price of offsets negotiated by TCT as of December 31, 2019 was \$6.00 per ton of CO2e. If the monetary offset rate were increased to \$2.85 per ton of CO2e in 2020, the maximum increase allowed by statute, the rate will still be less than half of the average price negotiated by TCT. The rate would also be below the average price in the global voluntary market, which was \$3.32 per ton of CO2e in 2018.⁵



Staff recommends that these data provide sufficient empirical evidence to support the recommended increase. If current trends continue and the carbon standard remains in place, the offset rate and the average TCT price could approach parity within the next decade.

Economic Achievability

ORS 469.503(2)(c)(C) requires the Council to find that the Carbon Standard is attainable and economically achievable with the modified monetary offset rate. In previous updates to the monetary offset rate, the Council based its findings of economic achievability on the estimated increase in costs of compliance for an energy facility would be, using cost data from an energy facility that had already been issued a site certificate.

⁵ See Forest Trends' Ecosystem Marketplace (2019) Financing Emissions Reductions for the Future: State of the Voluntary Carbon Markets 2019. In personal correspondence dated March 16, 2020, Sheldon Zakreski, Executive Director of The Climate Trust noted that the prices it negotiates for carbon offsets are markedly higher than the global average price in part because The Climate Trust focuses its CO2 Standard purchases on latter vintage offsets with a strong preference for Oregon and regional projects.

The recommended increase would increase costs of compliance for a fossil-fueled power plant by \$0.95 per ton of excess carbon dioxide emissions produced by the facility over a 30-year period. Because the standard applies to new carbon dioxide emitting facilities, staff have identified available cost, performance, and emissions estimates for new generating resources and will use these data and additional input provided by the advisory committee to recommend whether the increased costs of compliance will affect the economic achievability of the Council’s Carbon Standard. The results of this analysis and staff’s recommended findings will be included in **Attachment 1**.

Proposed Rulemaking Timeline

Staff recommends Council expedite this rulemaking to the extent possible. A recommended rulemaking timeline that would allow permanent rules to be effective immediately following the Council’s June 25-26 meeting.

Permanent Rulemaking Steps	Completion Date
Council initiates permanent rulemaking process.	April 24, 2020
Staff convenes advisory committee stakeholders	May 13, 2020
Staff drafts proposed new or amended rules and issues Notice to legislators.	May 5, 2020
Council considers proposed rules and authorizes staff to issue Notice of Proposed Rulemaking	May 21-22, 2020
Staff issues Public Notice	May 25, 2020
Public Comment Period	May 25 – June 25, 2020
Rulemaking Hearing	June 25, 2020
Staff prepares draft final rules for Council	June 25, 2020
Council considers public comments and testimony and adopts, amends, or repeals permanent rules	June 26, 2020
Staff submits permanent rule filing to Secretary of State	June 29, 2020
Permanent rules are effective	July 1, 2020

Consistency with Executive Orders Related to COVID-19

On March 17, 2020, Governor Brown issued an Executive Order 20-05 prohibiting gatherings of 25 or more people to limit transmission of COVID-19. On March 23, 2020; Governor Brown further ordered Oregonians to stay at home or at their place of residence to the maximum extent possible and ordered state agencies to close to the public and provide public services by phone and online to the maximum extent possible. Consistent with these Orders, Staff recommends that any advisory committee meetings or public hearings associated with this rulemaking be conducted by telephone or other electronic means, as allowed under ORS 192.670.

RECOMMENDED COUNCIL ACTION

Based on preliminary analysis, staff recommends that Council initiate rulemaking to increase the Monetary Offset Rate in OAR 345-024-058 from \$1.90 to \$2.85 per ton of carbon dioxide and authorize staff to issue Notice of Proposed Rulemaking. Staff recommends Council schedule a rulemaking hearing for the proposed rule change to begin at 5:00 pm on Thursday, June 25, 2020.

Staff's recommendation depends on Council's finding that the Council's Carbon Standard for natural gas-fired power plants will be economically achievable with the proposed rate increase. The advisory committee appointed to provide input on such a finding is scheduled to meet on May 13, 2020, and staff will take this input into account when making its final recommendation for the proposed rules. The recommended findings, the draft notice of proposed rulemaking, and a summary of the advisory committee meeting will be provided to Council as Attachments to this report prior to the May 21-22 meeting.