

## **NOTICE OF PROPOSED RULEMAKING**

CHAPTER 860  
PUBLIC UTILITY COMMISSION

FILING CAPTION: In the Matter of Small Scale Renewable Energy Projects Rulemaking.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/21/2019 5:00 PM

HEARING(S):

DATE: 02/14/2019

TIME: 1:00 PM

OFFICER: ALJ Sarah Rowe

ADDRESS: Public Utility Commission

Hearing Room

201 High Street SE

Salem, OR 97301

NEED FOR THE RULE(S):

These rules are needed to implement Section 14 of 2016 Senate Bill 1547 codified at ORS 469A.210 establishing a renewable energy project standard for electric companies that serve more than 25,000 customers in Oregon.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 622 on comments and attach them as a Word or PDF document to an e-mail addressed to the Commission's Filing Center at [PUC.FilingCenter@state.or.us](mailto:PUC.FilingCenter@state.or.us).

Interested persons may review all filings online at

<https://apps.puc.state.or.us/edockets/docket.asp?DocketID=21555>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

Participants wishing to monitor the hearing by telephone must contact Diane Davis at [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372 by close of business February 13, 2019, to request a dial-in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

## DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 469A.200 - 469A.210 available online at

[https://www.oregonlegislature.gov/bills\\_laws/ors/ors469a.html](https://www.oregonlegislature.gov/bills_laws/ors/ors469a.html)

Oregon Utility Statistics, 2017 available online at <https://www.puc.state.or.us/docs/statbook2017.pdf>

## FISCAL AND ECONOMIC IMPACT:

The rules are proposed to implement the renewable energy project standard outlined in Section 14 of 2016 SB 1547 (now codified in ORS 469A.210). Portland General Electric Company (PGE) and PacifiCorp, dba Pacific Power, are the electric companies subject to these rules. The law requires that by the year 2025, PGE and PacifiCorp must have 8 percent of electric capacity come from small-scale renewable energy projects or facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose. Procurement of these resources, if the standard is not already met, would most likely begin in 2023 or 2024 and accordingly there is not an appreciable fiscal or economic impact anticipated before that time. Utility ratepayers will likely see the impact of any necessary procurements in their rates. However, this impact is the result of the law setting the standard, and not the rules implementing the standard. The potential magnitude of the fiscal impact cannot be estimated at this time because it is not yet known what procurements, if any, will be needed for compliance in 2025.

## COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Electric companies that serve more than 25,000 customers (PGE and PacifiCorp) are subject to the renewable energy project standard set in ORS 469A.210. While qualifying projects require a non-trivial amount of time to identify, design, and build, it is not yet known what procurements, if any, will be needed for compliance in 2025. Accordingly, there should be little economic impact to anyone in the state before any required procurement begins, likely between 2023 and 2024. The costs associated with procuring eligible projects for this mandate will be paid by electric company ratepayers, including any state agency, unit of local government, or member of the public purchasing electricity from either PGE or PacifiCorp. Any increased prices due to this mandate will carry through to other sectors of the economy. As electricity use is very inelastic in the short-term (generally individuals use similar quantities of electricity, regardless of the price), consumption may decrease in other more elastic areas. Individually, this effect will be small, but aggregated across all ratepayers, this could have important effects on the economy as a whole.

(2) (a) According to the Oregon Utility Statistics 2017, available on the PUC's website, PacifiCorp and PGE had 76,860 and 108,122 commercial and industrial customers. As small businesses represent the overwhelming majority of commercial and industrial firms in Oregon (as well as the United States), most of these firms are considered small businesses. Each of them could potentially see small increases in electricity rates.

(2)(b) The potential magnitude of costs for administrative activities or other professional services cannot be quantified at this time. However, these costs will only fall on PacifiCorp and PGE; there are no expected changes to administrative or professional costs to small businesses from these rules.

(2)(c) The potential magnitude of costs for professional services, equipment, supplies, labor and increased administration for compliance cannot be quantified at this time. However, these costs will only fall on PGE and PacifiCorp; there are not expected changes to these costs for compliance to small businesses as a result of these rules.

**DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

PUC Staff invited participation in this rulemaking through a wide distribution list. All who wanted were able to fully participate with equal access to PUC Staff and all other information in the rulemaking docket. PUC Staff worked with the diverse group of participating stakeholders over the past six months to develop proposed rules to implement section 14 of 2016 Senate Bill 1547. Stakeholders included electric companies, electricity service suppliers, ratepayer groups, and environmental advocates.

**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?** PUC Staff allowed the opportunity for stakeholder participation through multiple rounds of informal written comments. PUC Staff also held an informal workshop where stakeholders shared comments and concerns about the draft proposed rules.

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**RULES PROPOSED:**

860-091-0000, 860-091-0010, 860-091-0020, 860-091-0030, 860-091-0040, 860-091-0050, 860-091-0060, 860-091-0070

**ADOPT:** 860-091-0000

**RULE TITLE:** Applicability of Rules

**RULE SUMMARY:** This rule clarifies that the rules in this division implement the standard in ORS 469A.210.

**RULE TEXT:**

(1) These rules implement ORS 469A.210.

(2) The rules contained in this division apply only to an electric company that makes sales of electricity to 25,000 or more retail electricity customers in this state.

(3) Upon request or its own motion, the Commission may waive any of the division 091 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A.200, 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.20

ADOPT: 860-091-0010

RULE TITLE: Definitions for Division 091 Rules

RULE SUMMARY: This rule adopts definitions for purposes of implementing the standard in ORS 469A.210.

RULE TEXT:

For purposes of OAR 860-091-0000 through 860-091-0070:

(1) “Electric company” has the meaning in ORS 756.005.

(2) “Nameplate capacity” means the full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts, or other appropriate units. Nameplate capacity is usually indicated on a nameplate attached to the individual machine or device.

(3) “Renewable attributes” means the environmental attributes associated with energy generation represented by a renewable energy certificate that can be used to comply with Oregon’s renewable portfolio standards in ORS 469A.050 and ORS 469A.055. Renewable attributes do not include greenhouse gas offsets from methane capture not associated with generation of electricity and do not include environmental attributes represented by a thermal renewable energy certificate created under ORS 469A.132.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A.200, 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210

ADOPT: 860-091-0020

RULE TITLE: Aggregate Electrical Capacity

RULE SUMMARY: This rule clarifies the meaning of aggregate electrical capacity for purposes of complying with ORS 469A.210

RULE TEXT:

(1) For purposes of compliance with the standard in ORS 469A.210(2), each electric company's aggregate electrical capacity is the total nameplate capacity of the electric company's generation resources to serve Oregon load.

(2) For electric companies making retail sales in multiple jurisdictions, the nameplate capacity of generation resources to serve Oregon load is the total nameplate capacity of the electric company's system generation multiplied by Oregon's generation allocation factor.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A.200, 469.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210

ADOPT: 860-091-0030

RULE TITLE: Eligible Renewable Energy Projects

RULE SUMMARY: This rule sets the eligibility requirements for projects used to comply with the ORS 469A.210 standard.

RULE TEXT:

(1) Renewable energy projects used to comply with the standard in ORS 469A.210 must be located in the State of Oregon.

(2) For each renewable energy project used to comply with the standard in ORS 469A.210(2), the electric company must show ownership of the renewable attributes of the energy generated by the project during the compliance year. A renewable energy project for which the electric company does not own the renewable attributes during the compliance year may not be used to comply with the electrical capacity standard in ORS 469A.210(2).

(3) Notwithstanding section (2), if the electric company owns the renewable attributes for only a portion of the energy generated by the renewable energy project, a share of the project's capacity that is proportionate to the electric company's ownership interest in the renewable attributes of the project's output can be used for compliance with the standard in ORS 469A.210.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A.200, 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210

ADOPT: 860-091-0040

RULE TITLE: Compliance Reports

RULE SUMMARY: This rule requires electric companies to file a compliance report starting in 2025 and every year thereafter.

RULE TEXT:

(1) No later than June 1, 2025, and no later than June 1 for each year thereafter the electric company must file a report with the Commission demonstrating compliance or explaining in detail any failure to comply, with the standard in ORS 469A.210.

(2) The report required in section (1) of this rule must include the following information associated with each owned or contracted qualifying and eligible renewable energy project:

(a) The name of the facility;

(b) The location of the facility;

(c) The in-service date of the facility;

(d) The manufacturer's nameplate capacity rating;

(e) The execution date of any associated power purchase agreement; and

(f) The contracted capacity and output delivery period of any associated power purchase agreement; and

(g) Proof of the subject electric company's ownership interest in the renewable attributes of the project output during the compliance period.

(3) The report required in section (1) of this rule must include the following information regarding the electric company's generation:

(a) The total nameplate capacity of the electric company's generating resources.

(b) The total contracted capacity of all power purchase agreements.

(c) For an electric company making retail sales in multiple jurisdictions, the Oregon generation allocation factor from the most recently concluded Oregon general rate case.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A.200, 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210



ADOPT: 860-091-0050

RULE TITLE: Renewable Energy Attributes

RULE SUMMARY: This rule clarifies that renewable energy credits (RECs) for generation of renewable energy projects used to comply with the Standard in ORS 469A.210(2) may be used to comply with the Renewable Portfolio Standard (RPS).

RULE TEXT:

(1) Use of a qualifying project's capacity to meet the standard of ORS 469A.210 does not prevent the electric company from using the renewable energy certificates associated with qualifying projects' output for purposes of meeting a renewable portfolio standard established under ORS 469A.050 during the compliance year.

(2) Use of a qualifying project's capacity to meet the standard of ORS 469A.210 does not prevent the electric company from banking otherwise eligible renewable energy certificates associated with qualifying projects' output for purposes of meeting a renewable portfolio standard established under ORS 469A.050 in a subsequent year.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A.200, 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210

ADOPT: 860-091-0060

RULE TITLE: Implementation Plans

RULE SUMMARY: This rule requires electric companies to file implementation plans starting in 2021.

RULE TEXT:

Starting in 2021 and every year thereafter, an electric company must incorporate its plan to achieve or exceed, and maintain, the standard in ORS 469A.210 into its renewable portfolio standard implementation plans filed pursuant to OAR 860-083-0400.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A.200, 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.200, 469A.210

ADOPT: 860-091-0070

RULE TITLE: Cost Recovery

RULE SUMMARY: This rule specifies the mechanism for cost recovery.

RULE TEXT:

An electric company may request recovery of its prudently incurred costs to comply with the Standard in ORS 469A.210 in an automatic adjustment clause proceeding filed at the Commission pursuant to ORS 469A.120.

STATUTORY/OTHER AUTHORITY: ORS 756.060, 469A. 200, 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.200, 469A.210