

Attached is staff's *draft* proposed rule to address the effect of the SB 838, Section 27, amendment to ORS 757.612(3)(b)(B).<sup>1</sup> Staff's counsel advises that funds spent under this portion of the public purpose statutes must be spent on *specific* renewable energy projects. Staff's counsel further advises that other renewable energy program costs, such as market development activities, are allowable public purpose expenditures that should be addressed in the Commission's grant agreement with the Energy Trust of Oregon. In a public process separate from the AR 518 rulemaking, staff will work with the Energy Trust and interested parties to incorporate such expenditures into the grant agreement.

This Section 27 amendment goes into effect January 1, 2008. Staff plans to file with the Secretary of State's Office its Notice of Proposed Rulemaking Hearing on this amendment by October 15, 2007. That will allow the Commission time to receive formal comments, to hold a public comment hearing and to issue an order on this matter by the end of this year.

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<sup>1</sup> Nineteen percent for the above-market costs of [*new renewable energy resources*] **constructing and operating new renewable energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20 megawatts or less.**

860-038-0005

Definitions for Direct Access Regulation

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(9) “Constructing and operating,” as used in ORS 757.612(3)(b)(B), means constructing, or operating, or both.

(a) As used in ORS 757.612(3)(b)(B), “constructing” includes the following activities:

(A) Pre-development project studies, activities or costs that are related to the planned development of a new renewable energy resource that a developer or owner would reasonably expect to incur; and

(B) Activities or costs directly related to the building of a new renewable energy resource.

(b) As used in ORS 757.612(3)(b)(B), “operating” includes the activities and costs necessary for a new renewable energy resource to function and to be maintained in good working order.

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(3839) “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 July 23, 1999. “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 July 23, 1999. as used in ORS 757.612(3)(b)(B), has the meaning provided in ORS 757.600(21) and references a specifically identified project that has, or is planned to have after construction, a nominal electric generating capacity, as defined in ORS 469.300, of 20 megawatts or less.

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