

Attached are draft proposed rules and rule amendments for the first two agenda items. Following are comments on certain aspects of these draft proposed rules.

Renewable Energy Certificates Eligible for Renewable Portfolio Standard Compliance

Staff's draft proposed rule allows electric companies and electricity service suppliers (ESSs) to use RECs for RPS compliance and for labeling requirements under OAR 860-038-0300 only if both uses occur in the same calendar year. Stated differently, the proposed rule prohibits the use of a REC for RPS compliance if that REC was disclosed in a prior calendar year under OAR 860-038-0300. However, in the Oregon Department of Energy (ODOE) rulemaking on Senate Bill (SB) 838, some parties have recommended that ODOE allow the use of RECs that have a first issuance date that is prior to the adoption of SB 838 ("Historic RECs"). Should ODOE go this way, staff's attorney has advised that the Commission has discretion (but not the requirement) to apply draft rule (2)(c) on a prospective basis only. Under a prospective application of the rule, an electric company or ESS could use a Historic REC for RPS compliance even though it was previously disclosed under OAR 860-038-0300. Parties may wish to comment on this matter at the workshop. Even if ODOE allows the use of Historic RECs for RPS compliance, and the Commission decides to apply the draft proposed rule on a going-forward basis only, staff's position is that the earliest date a REC may be used for RPS compliance is the REC first issuance date chosen by ODOE.

Neither the Oregon Administrative Rules nor SB 838 define RECs. We believe ODOE should do so in its proposed rules on SB 838. We would then incorporate that definition in our rules.

Portfolio Options

The proposed addition to OAR 860-038-0220 would require electric companies to acquire RECs to match consumer purchases within 90 days of the prior calendar year. Staff recommends the same true-up period specified by SB 838 in order to facilitate reporting and verification. Further, the currently required two-year true-up (see Order No. 01-337) is not consistent with national certification standards for renewable energy products or utility practice.

Labeling

The proposed amendments to OAR 860-038-0300 would: 1) require documentation from a state-authorized entity such as the Western Renewable Energy Generation Information System (WREGIS) in lieu of the attestations currently provided and 2) extend the due date for the environmental claim reconciliation report to allow 60 days following the true-up period under the RPS and the proposed true-up period for renewable energy portfolio options.

Waiver Rule

The attached rules do not include the usual "waiver" rule that allows a person to petition the Commission for relief from a rule for good cause shown. Staff intends to propose such a rule before the conclusion of the AR 518 docket.