

SB 838-2
(LC 3152-3)
3/15/07 (DH/ps)

**PROPOSED AMENDMENTS TO
SENATE BILL 838**

1 In line 2 of the printed bill, after "electricity" insert "; creating new
2 provisions; amending ORS 757.612 and 757.687; and declaring an
3 emergency".

4 After line 2, insert:

5 "Whereas the Legislative Assembly finds that it is in the interest of the
6 state to promote research and development of new renewable energy sources
7 in Oregon; and

8 "Whereas the Legislative Assembly finds that it is necessary for Oregon's
9 electric utilities to decrease their reliance on fossil fuels for electricity
10 generation and to increase their use of renewable energy sources; and

11 "Whereas this 2007 Act may be cited as the Oregon Renewable Energy
12 Act; and

13 "Whereas the Oregon Renewable Energy Act provides a comprehensive
14 renewable energy policy for Oregon, enabling industry, government and all
15 Oregonians to accelerate the transition to a more reliable and more afford-
16 able energy system; now, therefore,".

17 Delete lines 4 through 12 and insert:
18

"DEFINITIONS

19
20
21 **"SECTION 1. Definitions. As used in sections 1 to 24 of this 2007**

22 **Act:**

1 “(1) ‘Banked renewable energy certificate’ means a bundled or un-
2 bundled renewable energy certificate that is not used by an electric
3 utility to comply with a renewable portfolio standard in a calendar
4 year and that is carried forward for the purpose of compliance with a
5 renewable portfolio standard in a subsequent year.

6 “(2) ‘BPA electricity’ means electricity provided by the Bonneville
7 Power Administration, including all electricity from the Federal
8 Columbia River Power System hydroelectric projects and other elec-
9 tricity acquired by the Bonneville Power Administration by contract.

10 “(3) ‘Bundled renewable energy certificate’ means a renewable en-
11 ergy certificate for qualifying electricity that is acquired by an electric
12 utility by:

13 “(a) Trade, purchase or other transfer of electricity that includes
14 the certificate that was issued for the electricity; or

15 “(b) Generation by the utility of the electricity for which the cer-
16 tificate was issued.

17 “(4) ‘Compliance year’ means the calendar year for which the elec-
18 tric utility seeks to establish compliance with the renewable portfolio
19 standard applicable to the utility in the compliance report submitted
20 under section 19 of this 2007 Act.

21 “(5) ‘Consumer-owned utility’ means a municipal electric utility, a
22 people’s utility district organized under ORS chapter 261 that sells
23 electricity or an electric cooperative organized under ORS chapter 62.

24 “(6) ‘Electric company’ has the meaning given that term in ORS
25 757.600.

26 “(7) ‘Electricity service supplier’ has the meaning given that term
27 in ORS 757.600.

28 “(8) ‘Electric utility’ has the meaning given that term in ORS
29 757.600.

30 “(9) ‘Qualifying electricity’ means electricity described in section 2

1 of this 2007 Act.

2 “(10) ‘Renewable energy source’ means a source of electricity de-
3 scribed in section 4 of this 2007 Act.

4 “(11) ‘Retail electricity consumer’ means a retail electricity con-
5 sumer, as defined in ORS 757.600, that is located in Oregon.

6 “(12) ‘Unbundled renewable energy certificate’ means a renewable
7 energy certificate for qualifying electricity that is acquired by an
8 electric utility by trade, purchase or other transfer without acquiring
9 the electricity for which the certificate was issued.

10

11

“QUALIFYING ELECTRICITY

12

13 “SECTION 2. Qualifying electricity. (1) Except as provided in sub-
14 section (2) of this section, and subject to section 15 of this 2007 Act,
15 electricity generated from a renewable energy source may be used to
16 comply with a renewable portfolio standard only if the facility that
17 generates the electricity meets the requirements of section 3 of this
18 2007 Act.

19 “(2) Any electricity that the Bonneville Power Administration has
20 designated as environmentally preferred power, or has given a similar
21 designation for electricity generated from a renewable resource, may
22 be used to comply with a renewable portfolio standard.

23 “SECTION 3. Qualifying electricity; age of generating facility. (1)
24 Except as provided in this section, electricity may be used to comply
25 with a renewable portfolio standard only if the electricity is generated
26 by a facility that becomes operational on or after January 1, 1995.

27 “(2) Electricity from a generating facility, other than a hydroelec-
28 tric facility, that became operational before January 1, 1995, may be
29 used to comply with a renewable portfolio standard if the electricity
30 is attributable to capacity or efficiency upgrades made on or after

1 January 1, 1995.

2 “(3) Electricity from a hydroelectric facility that became opera-
3 tional before January 1, 1995, may be used to comply with a renewable
4 portfolio standard if the electricity is attributable to efficiency up-
5 grades made on or after January 1, 1995. If an efficiency upgrade is
6 made to a Bonneville Power Administration facility, only that portion
7 of the electricity generation attributable to Oregon’s share of the
8 electricity may be used to comply with a renewable portfolio standard.

9 “(4) Subject to the limit imposed by section 4 (5) of this 2007 Act,
10 electricity from a hydroelectric facility that is owned by an electric
11 utility and that became operational before January 1, 1995, may be
12 used to comply with a renewable portfolio standard if the facility is
13 certified as a low-impact hydroelectric facility on or after January 1,
14 1995, by a national certification organization recognized by the State
15 Department of Energy by rule.

16 “SECTION 4. Renewable energy sources. (1) Electricity generated
17 utilizing the following types of energy may be used to comply with a
18 renewable portfolio standard:

19 “(a) Wind energy.

20 “(b) Solar photovoltaic and solar thermal energy.

21 “(c) Wave, tidal and ocean thermal energy.

22 “(d) Geothermal energy.

23 “(2) Except as provided in subsection (3) of this section, electricity
24 generated from biomass and biomass byproducts may be used to com-
25 ply with a renewable portfolio standard, including but not limited to
26 electricity generated from:

27 “(a) Organic human or animal waste;

28 “(b) Spent pulping liquor;

29 “(c) Forest or rangeland woody debris from harvesting or thinning
30 conducted to improve forest or rangeland ecological health and to re-

1 duce uncharacteristic stand replacing wildfire risk;

2 “(d) Wood material from hardwood timber grown on land described
3 in ORS 321.267 (3);

4 “(e) Agricultural residues;

5 “(f) Dedicated energy crops; and

6 “(g) Biogas produced from organic matter, wastewater, anaerobic
7 digesters or municipal solid waste.

8 “(3) Electricity generated from combustion of biomass may not be
9 used to comply with a renewable portfolio standard if any of the
10 biomass used in generating the electricity includes:

11 “(a) Municipal solid waste; or

12 “(b) Wood that has been treated with chemical preservatives such
13 as creosote, pentachlorophenol or chromated copper arsenate.

14 “(4) Electricity generated by a hydroelectric facility may be used to
15 comply with a renewable portfolio standard if:

16 “(a) The facility is located outside any protected area designated
17 by the Pacific Northwest Electric Power and Conservation Planning
18 Council as of July 23, 1999, or any area protected under the federal
19 Wild and Scenic Rivers Act, Public Law 90-542, or the Oregon Scenic
20 Waterways Act, ORS 390.805 to 390.925; or

21 “(b) The facility is in operation on the effective date of this 2007
22 Act and the electricity is attributable to efficiency upgrades made to
23 the facility on or after January 1, 1995.

24 “(5) Up to 50 average megawatts of electricity per year generated
25 by an electric utility from certified low-impact hydroelectric facilities
26 described in section 3 (4) of this 2007 Act may be used to comply with
27 a renewable portfolio standard, without regard to the number of cer-
28 tified facilities operated by the electric utility or the generating ca-
29 pacity of those facilities.

30 “(6) Electricity generated from hydrogen gas derived from any

1 source of energy described in subsections (1) to (5) of this section may
2 be used to comply with a renewable portfolio standard.

3 “(7) If electricity generation employs multiple energy sources, that
4 portion of the electricity generated that is attributable to energy
5 sources described in subsections (1) to (6) of this section may be used
6 to comply with a renewable portfolio standard.

7 “(8) The State Department of Energy by rule may approve energy
8 sources other than those described in this section that may be used
9 to comply with a renewable portfolio standard. The department may
10 not approve petroleum, natural gas, coal or nuclear fission as an en-
11 ergy source that may be used to comply with a renewable portfolio
12 standard.

13 14 “RENEWABLE PORTFOLIO STANDARDS

15
16 “SECTION 5. Applicable standard. (1) Electric utilities must comply
17 with the applicable renewable portfolio standard described in section
18 6 or 7 of this 2007 Act.

19 “(2) Electricity service suppliers must comply with the renewable
20 portfolio standard established under section 9 of this 2007 Act.

21 “SECTION 6. Large utility renewable portfolio standard. (1) The
22 large utility renewable portfolio standard imposes the following re-
23 quirements on an electric utility that makes sales of electricity to re-
24 tail electricity consumers in an amount that equals one percent or
25 more of all electricity sold to retail electricity consumers:

26 “(a) At least five percent of the electricity sold by the utility to
27 retail electricity consumers in each of the calendar years 2011, 2012,
28 2013 and 2014 must be qualifying electricity;

29 “(b) At least 15 percent of the electricity sold by the utility to retail
30 electricity consumers in each of the calendar years 2015, 2016, 2017, 2018

1 and 2019 must be qualifying electricity;

2 “(c) At least 20 percent of the electricity sold by the utility to retail
3 electricity consumers in each of the calendar years 2020, 2021, 2022, 2023
4 and 2024 must be qualifying electricity; and

5 “(d) At least 25 percent of the electricity sold by the utility to retail
6 electricity consumers in calendar year 2025 and subsequent calendar
7 years must be qualifying electricity.

8 “(2) If, on the effective date of this 2007 Act, an electric utility
9 makes sales of electricity to retail electricity consumers in an amount
10 that equals less than one percent of all electricity sold to retail elec-
11 tricity consumers, but in any three consecutive calendar years there-
12 after makes sales of electricity to retail electricity consumers in
13 amounts that average one percent or more of all electricity sold to
14 retail electricity consumers, the utility is subject to the renewable
15 portfolio standard described in subsection (3) of this section. The util-
16 ity becomes subject to the standard described in subsection (3) of this
17 section in the calendar year following the three-year period during
18 which the utility makes sales of electricity to retail electricity con-
19 sumers in amounts that average one percent or more of all electricity
20 sold to retail electricity consumers.

21 “(3) An electric utility described in subsection (2) of this section
22 must comply with the following renewable portfolio standard:

23 “(a) Beginning in the fourth calendar year after the calendar year
24 in which the utility becomes subject to the standard described in this
25 subsection, at least five percent of the electricity sold by the utility
26 to retail electricity consumers in a calendar year must be qualifying
27 electricity;

28 “(b) Beginning in the 10th calendar year after the calendar year in
29 which the utility becomes subject to the standard described in this
30 subsection, at least 15 percent of the electricity sold by the utility to

1 retail electricity consumers in a calendar year must be qualifying
2 electricity;

3 “(c) Beginning in the 15th calendar year after the calendar year in
4 which the utility becomes subject to the standard described in this
5 subsection, at least 20 percent of the electricity sold by the utility to
6 retail electricity consumers in a calendar year must be qualifying
7 electricity; and

8 “(d) Beginning in the 20th calendar year after the calendar year in
9 which the utility becomes subject to the standard described in this
10 subsection, at least 25 percent of the electricity sold by the utility to
11 retail electricity consumers in a calendar year must be qualifying
12 electricity.

13 “SECTION 7. Small electric utilities. (1) Except as provided in this
14 section, an electric utility that makes sales of electricity to retail
15 electricity consumers in an amount that equals less than one percent
16 of all electricity sold to retail electricity consumers is not subject to
17 sections 1 to 24 of this 2007 Act.

18 “(2) Beginning in calendar year 2025, at least five percent of the
19 electricity sold to retail electricity consumers in a calendar year by
20 an electric utility described in subsection (1) of this section must be
21 qualifying electricity.

22 “(3) The exemption provided by subsection (1) of this section ter-
23 minates if an electric utility, or a joint operating entity that includes
24 the utility as a member, acquires electricity from an electricity gen-
25 erating facility that uses coal as an energy source or makes an in-
26 vestment in a new electricity generating facility that uses coal as an
27 energy source. This subsection does not apply to:

28 “(a) A wholesale market purchase by an electric utility for which
29 the energy source for the electricity is not known;

30 “(b) BPA electricity; or

1 “(c) A renewal or replacement contract for a contract for purchase
2 of electricity entered into before the effective date of this 2007 Act.

3 “(4) The exemption provided by subsection (1) of this section ter-
4 minates if at any time after the effective date of this 2007 Act a
5 consumer-owned utility acquires service territory of an electric com-
6 pany without the consent of the electric company.

7 “(5) Beginning in the calendar year following the year in which an
8 electric utility’s exemption terminates under subsection (3) or (4) of
9 this section, the utility is subject to the renewable portfolio standard
10 described in section 6 (3) of this 2007 Act and related provisions of
11 sections 1 to 24 of this 2007 Act.

12 “(6) The provisions of this section do not affect the requirement
13 that electric utilities offer a green power rate under section 23 of this
14 2007 Act.

15 “SECTION 8. Exemptions from compliance with renewable portfolio
16 standard. (1) Electric utilities are not required to comply with the
17 renewable portfolio standards described in sections 6 and 7 of this 2007
18 Act to the extent that:

19 “(a) Compliance with the standard would require the utility to ac-
20 quire electricity in excess of the utility’s projected electrical load re-
21 quirements in any calendar year; and

22 “(b) Acquiring the additional electricity would require the utility
23 to substitute qualifying electricity for electricity derived from an en-
24 ergy source other than coal, natural gas or petroleum.

25 “(2)(a) Electric utilities are not required to comply with the large
26 utility renewable portfolio standard to the extent that compliance
27 would require the utility to substitute qualifying electricity for elec-
28 tricity available to the utility under contracts for electricity from
29 dams that are owned by Washington public utility districts and are
30 located between the Grand Coulee Dam and the Columbia River’s

1 junction with the Snake River. The provisions of this subsection apply
2 only to contracts entered into before the effective date of this 2007 Act
3 and to renewal or replacement contracts for contracts entered into
4 before the effective date of this 2007 Act.

5 “(b) If a contract described in paragraph (a) of this subsection ex-
6 pires and is not renewed or replaced, the utility must comply, in the
7 calendar year following the expiration of the contract, with the
8 renewable portfolio standard applicable to the utility under section 6
9 of this 2007 Act.

10 “(3) A consumer-owned utility is not required to comply with a
11 renewable portfolio standard under section 6 of this 2007 Act to the
12 extent that compliance would require the utility to reduce the utility’s
13 purchases of the lowest priced electricity from the Bonneville Power
14 Administration pursuant to section 5 of the Pacific Northwest Electric
15 Power Planning and Conservation Act of 1980, P.L. 96-501, as in effect
16 on the effective date of this 2007 Act. The exemption provided by this
17 subsection applies only to firm energy commitments of BPA electricity
18 that the Bonneville Power Administration has assured will be available
19 to a utility to meet agreed portions of the utility’s load requirements
20 for a defined period of time.

21 “SECTION 9. Renewable portfolio standard for electricity service
22 suppliers. An electricity service supplier must meet the requirements
23 of the renewable portfolio standards that are applicable to the electric
24 utilities that serve the territories in which the electricity service sup-
25 plier sells electricity to retail electricity consumers. The Public Utility
26 Commission shall establish procedures for implementation of the
27 renewable portfolio standards for electricity service suppliers that sell
28 electricity in the service territory of an electric company. If an elec-
29 tricity service supplier sells electricity in territories served by more
30 than one electric company, the commission may provide for an ag-

1 gregate standard based on the amount of electricity sold by the elec-
2 tricity service supplier in each territory. Pursuant to ORS 757.676, a
3 consumer-owned utility may establish procedures for the implementa-
4 tion of the renewable portfolio standards for electricity service sup-
5 pliers that sell electricity in the territory served by the
6 consumer-owned utility.

7 “SECTION 10. Manner of complying with renewable portfolio stan-
8 ards. (1) Except as provided in subsection (2) of this section, an
9 electric utility must comply with the renewable portfolio standard ap-
10 plicable to the utility in each calendar year by:

11 “(a) Using bundled renewable energy certificates issued or acquired
12 during the compliance year;

13 “(b) Subject to the limitations described in sections 16 and 17 of this
14 2007 Act, using unbundled or banked renewable energy certificates; or

15 “(c) Making alternative compliance payments as described in sec-
16 tion 20 of this 2007 Act.

17 “(2) Bundled or unbundled renewable energy certificates that are
18 issued or acquired by an electric utility on or before March 31 in a
19 calendar year may be used by the utility to comply with the renewable
20 portfolio standard applicable to the utility for the preceding calendar
21 year.

22 “SECTION 11. Implementation plan for electric companies; annual
23 reports. (1) An electric company that is subject to a renewable port-
24 folio standard shall develop an implementation plan for meeting the
25 requirements of the standard and file the plan with the Public Utility
26 Commission. Implementation plans must be revised and updated at
27 least once every two years.

28 “(2) An implementation plan must at a minimum contain:

29 “(a) Annual targets for acquisition and use of qualifying electricity;
30 and

1 “(b) The estimated cost of meeting the annual targets, including
2 costs of transmission, firming, shaping, alternative compliance pay-
3 ments and acquisition of renewable energy certificates.

4 “(3) The commission shall acknowledge the implementation plan
5 no later than six months after the plan is filed with the commission.
6 The commission may acknowledge the plan subject to conditions
7 specified by the commission.

8 “(4) The commission shall adopt rules:

9 “(a) Establishing requirements for the content of implementation
10 plans;

11 “(b) Establishing the procedure for acknowledgement of implemen-
12 tation plans under this section, including provisions for public com-
13 ment; and

14 “(c) Providing for the integration of the implementation plan with
15 the integrated resource planning guidelines established by the com-
16 mission and in effect on the effective date of this 2007 Act.

17 “(5) The implementation plan filed under this section may include
18 procedures that will be used by the electric company to determine
19 whether the costs of constructing a facility that generates electricity
20 from a renewable energy source, or the costs of acquiring bundled or
21 unbundled renewable energy certificates, are consistent with the
22 standards of the commission relating to least-cost, least-risk planning
23 for acquisition of resources.

24 “SECTION 11a. An electric company shall develop and file with the
25 Public Utility Commission an initial implementation plan under sec-
26 tion 11 of this 2007 Act no later than January 1, 2010.

27

28

“COST LIMITATION

29

30 “SECTION 12. Limits on cost of compliance with renewable portfo-

1 lio standard. (1) Electric utilities are not required to comply with the
2 renewable portfolio standards described in sections 6 and 7 of this 2007
3 Act during a compliance year to the extent that the incremental cost
4 of compliance, the cost of unbundled renewable energy certificates and
5 alternative compliance payments made under section 20 of this 2007
6 Act exceed four percent of the utility's annual revenue requirement
7 for the compliance year.

8 “(2) For each electric company, the Public Utility Commission shall
9 establish the annual revenue requirement for a compliance year no
10 later than January 1 of the compliance year. The governing body of
11 a consumer-owned utility shall establish the annual revenue require-
12 ment for the consumer-owned utility.

13 “(3) The annual revenue requirement for an electric utility shall be
14 calculated based only on the operations of the utility relating to elec-
15 tricity. The annual revenue requirement does not include any amount
16 expended by the utility for energy efficiency programs for customers
17 of the utility or for low income energy assistance, the incremental cost
18 of compliance, the cost of unbundled renewable energy certificates or
19 alternative compliance payments under section 20 of this 2007 Act. The
20 annual revenue requirement does include:

21 “(a) All operating expenses of the utility during the compliance
22 year, including depreciation and taxes; and

23 “(b) For electric companies, an amount equal to the total rate base
24 of the company for the compliance year multiplied by the rate of re-
25 turn established by the commission for debt and equity of the com-
26 pany.

27 “(4) For the purposes of this section, the incremental cost of com-
28 pliance is the difference between the levelized annual delivered cost
29 of the qualifying electricity and the levelized annual delivered cost of
30 an equivalent amount of reasonably available electricity that is not

1 qualifying electricity. For the purpose of this subsection, the commis-
2 sion shall use the net present value of delivered cost, including:

3 “(a) Capital, operating and maintenance costs of generating facili-
4 ties;

5 “(b) Financing costs attributable to capital, operating and mainte-
6 nance of generating facilities;

7 “(c) Transmission and substation costs;

8 “(d) Load following and ancillary services costs; and

9 “(e) Costs associated with using other assets, physical or financial,
10 to integrate, firm or shape renewable energy sources on a firm annual
11 basis to meet retail electricity needs.

12 “(5) The commission shall establish limits on the cost of compliance
13 with the renewable portfolio standard for electricity service suppliers
14 under section 9 of this 2007 Act that are the equivalent of the cost
15 limits applicable to the electric companies that serve the territories in
16 which the electricity service supplier sells electricity to retail elec-
17 tricity consumers. If an electricity service supplier sells electricity in
18 territories served by more than one electric company, the commission
19 may provide for an aggregate cost limit based on the amount of elec-
20 tricity sold by the electricity service supplier in each territory. Pur-
21 suant to ORS 757.676, a consumer-owned utility may establish limits
22 on the cost of compliance with the renewable portfolio standard for
23 electricity service suppliers that sell electricity in the territory served
24 by the consumer-owned utility.

25 “SECTION 12a. The Public Utility Commission shall establish the
26 methodology for determining the annual revenue requirement of an
27 electric company for purposes of section 12 of this 2007 Act no later
28 than July 1, 2008.

29

30

“COST RECOVERY

1 “SECTION 13. Cost recovery by electric companies. (1) Except as
2 provided in section 20 (5) of this 2007 Act, all prudently incurred costs
3 associated with compliance with a renewable portfolio standard are
4 recoverable in the rates of an electric company, including intercon-
5 nection costs, costs associated with using physical or financial assets
6 to integrate and shape renewable energy sources on a firm annual
7 basis to meet retail electricity needs and other costs associated with
8 transmission and delivery of qualifying electricity to retail electricity
9 consumers.

10 “(2) Costs associated with compliance with a renewable portfolio
11 standard are not an above-market cost for the purposes of ORS 757.600
12 to 757.687.

13 “(3) The Public Utility Commission shall establish an automatic
14 adjustment clause as defined in ORS 757.210 or another method that
15 allows timely recovery of costs prudently incurred by an electric
16 company to construct or otherwise acquire facilities that generate
17 electricity from renewable energy sources or associated electricity
18 transmission. An electric company must make a filing with the com-
19 mission for approval of the use of an automatic adjustment clause or
20 other method for timely recovery of costs established under this sub-
21 section. The commission shall provide opportunity for public comment
22 on the filing.

23 “SECTION 13a. The Public Utility Commission shall establish the
24 automatic adjustment clause or another method for recovery of costs
25 as required by section 13 of this 2007 Act no later than January 1, 2008.
26 The automatic adjustment clause or other method shall apply to all
27 costs described in section 13 (1) of this 2007 Act incurred by an electric
28 company since the date of the company’s last general rate case that
29 was decided by the commission before the effective date of this 2007
30 Act.

1 "RENEWABLE ENERGY CERTIFICATES

2
3 "SECTION 14. Renewable energy certificates system. (1) The State
4 Department of Energy shall establish a system of renewable energy
5 certificates that can be used by an electric utility to establish compli-
6 ance with the applicable renewable portfolio standard. The department
7 shall consult with the Public Utility Commission before establishing a
8 system of renewable energy certificates under this section. The de-
9 partment may allow use of renewable energy certificates that are is-
10 sued, monitored, accounted for or transferred by or through a regional
11 system or trading program, including but not limited to the Western
12 Renewable Energy Generation Information System. The system estab-
13 lished by the department shall allow issuance, transfer and use of
14 renewable energy certificates in electronic form.

15 "(2) The validity of a bundled renewable energy certificate for pur-
16 poses of compliance with the applicable renewable portfolio standard
17 is not affected by the substitution of any other electricity for the
18 qualifying electricity at any point after the time of generation.

19 "SECTION 15. Renewable energy certificates that may be used to
20 comply with standards. (1) A bundled renewable energy certificate may
21 be used to comply with a renewable portfolio standard if:

22 "(a) The facility that generates the qualifying electricity for which
23 the certificate is issued is located in the United States and within the
24 geographic boundary of the Western Electricity Coordinating Council;
25 and

26 "(b) The qualifying electricity for which the certificate is issued is
27 delivered to the Bonneville Power Administration, to the transmission
28 system of an electric utility or to another delivery point designated
29 by an electric utility for the purpose of subsequent delivery to the
30 electric utility.

1 “(2) An unbundled renewable energy certificate may be used to
2 comply with a renewable portfolio standard if the facility that gener-
3 ates the qualifying electricity for which the certificate is issued is lo-
4 cated within the geographic boundary of the Western Electricity
5 Coordinating Council.

6 “(3) Renewable energy certificates issued for any electricity that the
7 Bonneville Power Administration has designated as environmentally
8 preferred power, or has given a similar designation for electricity
9 generated from a renewable resource, may be used to comply with a
10 renewable portfolio standard without regard to the location of the
11 generating facility.

12 “SECTION 16. Use, transfer and banking of certificates. (1)
13 Renewable energy certificates may be traded, sold or otherwise trans-
14 ferred.

15 “(2) Renewable energy certificates that are not used by an electric
16 utility to comply with a renewable portfolio standard in a calendar
17 year may be banked and carried forward indefinitely for the purpose
18 of complying with a renewable portfolio standard in a subsequent year.
19 For the purpose of complying with a renewable portfolio standard in
20 any calendar year:

21 “(a) Banked renewable energy certificates must be used before
22 other certificates are used; and

23 “(b) Banked renewable energy certificates with the oldest issuance
24 date must be used to comply with the standard before banked
25 renewable energy certificates with more recent issuance dates are
26 used.

27 “(3) An electric utility is responsible for demonstrating that a
28 renewable energy certificate used to comply with a renewable portfolio
29 standard is derived from a renewable energy source and that the util-
30 ity has not used, traded, sold or otherwise transferred the certificate.

1 “(4) The same renewable energy certificate may be used by an
2 electric utility to comply with a federal renewable portfolio standard
3 and a renewable portfolio standard established under sections 1 to 24
4 of this 2007 Act. An electric utility that uses a renewable energy cer-
5 tificate to comply with a renewable portfolio standard imposed by any
6 other state may not use the same certificate to comply with a
7 renewable portfolio standard established under sections 1 to 24 of this
8 2007 Act.

9 “SECTION 17. Limitations on use of unbundled certificates to meet
10 renewable portfolio standard. (1) Except as otherwise provided in this
11 section, unbundled renewable energy certificates, including banked
12 unbundled renewable energy certificates, may not be used to meet
13 more than 20 percent of the requirements of the large utility
14 renewable portfolio standard described in section 6 of this 2007 Act for
15 any compliance year.

16 “(2) The limitation imposed by subsection (1) of this section does
17 not apply to renewable energy certificates issued for electricity gen-
18 erated in Oregon from a renewable energy source by a net metering
19 facility as defined in ORS 757.300, or another generating facility that
20 is not directly connected to a distribution or transmission system.

21 “(3) The limitation imposed by subsection (1) of this section does
22 not apply to renewable energy certificates issued for electricity gen-
23 erated in Oregon by a qualifying facility under ORS 758.505 to 758.555.

24 “(4) The limitation imposed by subsection (1) of this section does
25 not apply to an electricity service supplier.

26 “SECTION 17a. Notwithstanding section 17 (1) of this 2007 Act, for
27 compliance years before 2020, a consumer-owned utility subject to the
28 large utility renewable portfolio standard described in section 6 of this
29 2007 Act may use unbundled renewable energy certificates, including
30 banked unbundled renewable energy certificates, to meet up to 50

1 percent of the requirements of the standard.

2 “SECTION 18. Multistate electric companies. The Public Utility
3 Commission by rule shall establish a process for allocating the use of
4 renewable energy certificates by an electric company that makes sales
5 of electricity to retail customers in more than one state.

6
7 **“COMPLIANCE REPORTS**

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9 “SECTION 19. Compliance reports. (1) Each electric utility and
10 electricity service supplier that is subject to a renewable portfolio
11 standard shall make an annual compliance report for the purpose of
12 detailing compliance, or failure to comply, with the renewable portfo-
13 lio standard applicable in the compliance year. An electric company
14 or electricity service supplier shall make the report to the Public
15 Utility Commission. A consumer-owned utility shall make the report
16 to the members or customers of the utility.

17 “(2) The commission shall review each compliance report filed un-
18 der this section for the purposes of determining whether the electric
19 company or electricity service supplier has complied with the
20 renewable portfolio standard applicable to the company or supplier and
21 the manner in which the company or supplier has complied. In re-
22 viewing the reports, the commission shall consider:

23 “(a) The relative amounts of renewable energy certificates and
24 other payments used by the company or supplier to meet the applica-
25 ble renewable portfolio standard, including:

26 “(A) Bundled renewable energy certificates;

27 “(B) Unbundled renewable energy certificates;

28 “(C) Banked renewable energy certificates; and

29 “(D) Alternative compliance payments under section 20 of this 2007

30 Act.

1 “(b) The timing of electricity purchases.

2 “(c) The market prices for electricity purchases and unbundled
3 renewable energy certificates.

4 “(d) Whether the actions taken by the company or supplier are
5 contributing to long term development of generating capacity using
6 renewable energy sources.

7 “(e) The effect of the actions taken by the company or supplier on
8 the rates payable by retail electricity consumers.

9 “(f) Good faith forecasting differences associated with the projected
10 number of retail electricity consumers served and the availability of
11 electricity from renewable energy sources.

12 “(g) For electric companies, consistency with the implementation
13 plan filed under section 11 of this 2007 Act, as acknowledged by the
14 commission.

15 “(h) Any other factors deemed reasonable by the commission.

16 “(3) The commission by rule may establish requirements for com-
17 pliance reports submitted by an electric company or electricity service
18 supplier.

19

20

“ALTERNATIVE COMPLIANCE PAYMENTS

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22 “SECTION 20. Electric companies; electricity service suppliers. (1)

23 The Public Utility Commission shall establish an alternative compli-
24 ance rate for each compliance year for each electric company or elec-
25 tricity service supplier that is subject to a renewable portfolio
26 standard. The rate shall be expressed in dollars per megawatt-hour.

27 “(2) The commission shall establish an alternative compliance rate
28 based on the cost of qualifying electricity, contracts that the electric
29 company or electricity service supplier has acquired for future delivery
30 of qualifying electricity and the number of unbundled renewable en-

