

Enrolled
Senate Bill 242

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business, Transportation and Economic Development)

CHAPTER

AN ACT

Relating to facilities that generate electricity; creating new provisions; and amending ORS 757.522 and 757.524.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 757.522 is amended to read:

757.522. As used in ORS 757.522 to 757.536:

(1) "Additional interest" means:

(a) The acquisition, by the holder of an interest in a generating facility located in Oregon, of a separate interest in that generating facility that is producing energy and is in service for tax purposes, commercially operable or in rates on July 1, 2010; and

(b) The renewal of an existing contract of five or more years that includes the acquisition of baseload electricity for an additional term of five or more years where the expected greenhouse gas emissions profile of the contract renewal is substantially similar to that of the previous contract.

(2) "Annual plant capacity factor" means the ratio of the electricity produced by a generating facility during one year, measured in kilowatt-hours, to the electricity the generating facility could have produced if it had been operated at its rated capacity throughout the same year, expressed in kilowatt-hours.

(3)(a) "Baseload electricity" means electricity produced by a generating facility that is designed and intended, at the time a site certificate is issued to the owner of the facility **or a permit authorizing the construction and operation of the facility is issued to the owner of the facility by another state or country**, to provide electricity on a continuous basis at an annual plant capacity factor of at least 60 percent.

(b) "Baseload electricity" does not include electricity from:

(A) A qualifying facility under the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 to 2645; *[or]*

(B) A generating source that uses natural gas or petroleum distillates as a fuel source and that is primarily used to serve either peak demand or to integrate energy from a renewable energy source described in ORS 469A.025[.]; **or**

(C) A generating facility that:

(i) Previously used coal as the facility's primary fuel source;

(ii) Is owned in whole or in part by an electric company; and

(iii) Currently uses natural gas or another resource as the facility's primary fuel source.

- (4) "Construction" has the meaning given that term in ORS 469.300.
- (5) "Consumer-owned utility" has the meaning given that term in ORS 757.600.
- (6) "Electric company" has the meaning given that term in ORS 757.600.
- (7) "Electricity service supplier" has the meaning given that term in ORS 757.600.
- (8) "Generating facility" includes one or more jointly operated electricity generators that use the same fuel type, have the same in-service date and operate at the same location as described in ORS 469.300.
- (9) "Governing board" means the legislative authority of a consumer-owned utility.
- (10)(a) "Long-term financial commitment" means an investment in or upgrade of a generating facility that produces baseload electricity, or a contract with a term of more than five years, **beginning on the date on which the contract is executed**, that includes acquisition of baseload electricity.
- (b) "Long-term financial commitment" does not include:
- (A) Routine or necessary maintenance;
- (B) Installation of emission control equipment;
- (C) Installation, replacement or modification of equipment that improves the heat rate of the facility or reduces a generating facility's pounds of greenhouse gases per megawatt-hour of electricity;
- (D) Installation, replacement or modification of equipment where the primary purpose is to maintain reliable generation output capability and not to extend the life of the generating facility, and that does not increase the heat input or fuel usage as specified in existing generation air quality permits, but that may result in incidental increases in generation capacity;
- (E) Repairs necessitated by sudden and unexpected equipment failure; or
- (F) An acquisition of an additional interest.
- (11) "Output-based methodology" means a greenhouse gas emissions standard that is expressed in pounds of greenhouse gases emitted per megawatt-hour, factoring in the useful thermal energy employed for purposes other than the generation of electricity.
- (12) "Site certificate" has the meaning given that term in ORS 469.300.
- (13) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload facility.

SECTION 2. ORS 757.524 is amended to read:

757.524. (1) *[Unless modified by rule by the Public Utility Commission as provided in this section,]* The greenhouse gas emissions standard that applies to electric companies and electricity service suppliers is 1,100 pounds of greenhouse gases per megawatt-hour for a generating facility.

(2) *[Unless modified pursuant to subsection (4) of this section,]* The greenhouse gas emissions standard applies only to carbon dioxide emissions.

(3) For purposes of applying the emissions standard to cogeneration facilities, the **Public Utility Commission** shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.

[(4) The commission shall review the greenhouse gas emissions standard established under this section no more than once every three years. After public notice and hearing, and consultation with the State Department of Energy, the commission may:]

[(a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210, with the other greenhouse gases expressed as their carbon dioxide equivalent; and]

[(b) Modify the emissions standard based upon current information on the rate of greenhouse gas emissions from a commercially available combined-cycle natural gas generating facility that:]

[(A) Employs a combination of one or more gas turbines and one or more steam turbines and produces electricity in the steam turbines from waste heat produced by the gas turbines;]

[(B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordinating Council; and]

[(C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.]

[(5) In modifying the greenhouse gas emissions standard, the commission shall:]

[(a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions through cogeneration recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the generating facility in the production of both electrical and thermal energy; and]

[(b) Consider the effects of the emissions standard on system reliability and overall costs to electricity consumers.]

[(6) If upon a review conducted pursuant to subsection (4) of this section, the commission determines that a mandatory greenhouse gas emissions limit has been established pursuant to state or federal law, the commission shall issue a report to the appropriate legislative committees of the Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are no longer necessary as a matter of state law.]

[(7) Modifications to the emissions standard made pursuant to this section do not apply to long-term financial commitments entered into prior to the time of such modification. A long-term financial commitment begins upon execution of a contract for the acquisition of baseload electricity or upon construction of a generating facility.]

SECTION 3. Section 4 of this 2013 Act is added to and made a part of ORS 757.522 to 757.536.

SECTION 4. No sooner than 90 days after the enactment of a federal law, state law, regulation or rule regulating the emission of greenhouse gases from generating facilities, an electric company, electricity service supplier or the customer of an electric company or electricity service supplier may petition the Public Utility Commission to study the greenhouse gas emissions standard established under ORS 757.524. If the commission undertakes the study, the commission shall determine whether the standard is still necessary to reduce greenhouse gases emitted by electric companies and electricity service suppliers and whether the standard should be repealed or maintained in whole or in part. In making the determination, the commission shall consider whether the enacted federal law, state law, regulation or rule is inconsistent with the standard or renders the standard redundant. The commission shall report the results of the study, and shall include recommendations for legislation, to the Legislative Assembly in the manner described in ORS 192.245 no later than 12 months after receiving the petition.

Passed by Senate April 10, 2013

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 8, 2013

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

.....
Kate Brown, Secretary of State