

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

Docket No. AR 674

In the Matter of
Rulemaking to Amend OAR 860-091,
Division 91 Rulemaking Small Scale
Renewable (SSR) Energy Amendments

JOINT COMMENTS OF
OREGON SOLAR + STORAGE
INDUSTRIES ASSOCIATION AND
COMMUNITY RENEWABLE ENERGY
ASSOCIATION

I. INTRODUCTION

The Oregon Solar + Storage Industries Association (“OSSIA”) and Community Renewable Energy Association (“CREA”) appreciate the opportunity to provide these joint comments on the Public Utility Commission of Oregon (“PUC” or “Commission”) Staff’s Straw Proposal of Amendments to the Division 91 Small Scale Renewable (“SSR”) Requirements. Below, the comments are organized as Comments in Support, Comments Based on Conditional or Nuanced Support, Comments in Opposition, and Other Comments. OSSIA and CREA thank Staff and other parties for their willingness to extend the comment deadline to allow for more time to draft comments, especially given the expedited nature of this rulemaking.

II. COMMENTS IN SUPPORT

OSSIA and CREA support the following in Staff’s straw proposal:

- Treat the SSR requirement as a generating capacity standard to be measured in nameplate capacity as this is consistent with the current administrative rules.
- Behind-the-meter resources continue to be ineligible for the numerator. The Commission has repeatedly and consistently held this position, and the issue is expressly outside of the scope of this rulemaking.¹

¹ Oregon Public Utility Commission, Public Meeting on June 24, 2025 (starting at 50:50).

- Front-of-the-meter resources incorporated into a microgrid or other resilience project are eligible for SSR compliance.
- Storage should not contribute to the numerator of the SSR compliance calculation because a storage resource is not, standing alone, compliant with the renewable portfolio standard (“RPS”).

III. COMMENTS BASED ON CONDITIONAL OR NUANCED SUPPORT

A. Otherwise SSR-Eligible Resources Should Count for SSR Compliance if They Use Surplus Interconnection

OSSIA and CREA appreciate Staff’s proposal to allow otherwise SSR-eligible projects that utilize surplus interconnection to count toward compliance. Staff’s proposal will enable projects to make efficient use of existing grid infrastructure that can reduce costs and avoid expensive upgrades while accelerating deployment of SSRs. OSSIA and CREA support the principle that interconnection logistics should not, by themselves, disqualify otherwise eligible SSR projects.

Without proper safeguards, OSSIA and CREA are concerned that Staff’s current proposal could produce unintended anticompetitive outcomes. In most cases, existing project owners holding the interconnection agreement have control over surplus interconnection capacity, and in many cases those facilities would be facilities owned by the utilities. If the rules only allow incumbents to determine whether surplus interconnection service is used, this may effectively limit market access for smaller, independent developers, concentrating SSR procurement opportunities with the utilities. To address this concern, we recommend that Staff consider conditioning surplus interconnection eligibility on fair and non-discriminatory access.

Specifically, the rules could:

- Ensure that surplus interconnection capacity is not automatically reserved for the incumbent utility resource owner;
- Require utilities and the Commission to develop a transparent process for identifying surplus interconnection opportunities at utility-owned facilities and allocating them in a competitive manner; and
- Prohibit practices that would allow the utilities, acting as interconnection incumbents, to block or unduly delay new SSR projects seeking to utilize surplus capacity.

In addition, any SSR resource that utilizes surplus interconnection capacity should still align with the clear statutory intent that only “small scale” projects be qualified. The statute requires that SSRs must be 20 MW or less, so a large 400 MW project that upgrades or adds turbines utilizing surplus interconnection should not qualify as an SSR simply because the increase in the nameplate is 20 MW or less. The use of surplus interconnection has similar aggregation concerns as the use of shared interconnection agreements, which these comments discuss below.

With these safeguards in place, surplus interconnection can serve as a valuable tool for unlocking additional SSR capacity while maintaining competitive access and alignment with the statute’s procurement intent.

B. Otherwise SSR-Eligible Resources Should Count for SSR Compliance if They Share an Interconnection Agreement and Align with PURPA Aggregation Rules

OSSIA and CREA support Staff’s proposal to allow otherwise SSR-eligible projects that share an interconnection agreement to count toward compliance, provided that such arrangements are consistent with PURPA aggregation rules. OSSIA and CREA see merit in Staff’s proposal and believe that shared interconnection can provide an efficient and

cost-effective pathway for multiple SSRs to interconnect, thereby expanding participation opportunities and lowering barriers to entry. However, the support is expressly conditioned on the inclusion of the Commission's PURPA aggregation rules for eligibility for standard rates and the standard contract, as set forth at OAR 860-029-0045. That is, commonly owned or controlled facilities using the same resource type within five miles of each other would be aggregated for purposes of measuring eligibility as a 20 MW SSR facility, but common interconnection and infrastructure not providing motive force or fuel does not result in such aggregation. Without this protection, OSSIA and CREA see a risk that large projects could be artificially segmented to qualify as multiple SSRs, undermining the procurement intent of the statute.

C. Generation Types that are RPS Eligible are SSR Eligible

OSSIA and CREA support Staff's proposal that generation types eligible under Oregon's RPS should also be eligible for SSR compliance. At the same time, we comment to reiterate the continuing disagreement with the Commission's prior decision that SSR compliance does not require retirement of the associated RECs. Consistent with our prior positions, allowing utilities to claim SSR compliance for facilities whose environmental attributes may be sold or retired elsewhere creates a double-counting problem and undermines the integrity of both the SSR and REC programs. That being said, we recognize that this rulemaking has a narrow scope focused on implementation questions not already decided in the existing rules. We do not ask to reopen this issue here, but we comment to preserve our ongoing disagreement with this issue.

IV. COMMENTS IN OPPOSITION

OSSIA and CREA are opposed to any subtraction from the denominator of the SSR compliance calculation, whether that be specified behind-the-meter storage resources or demand response or flexible load or SSRs themselves. ORS 469A.210 established that at least ten percent

of a utility’s aggregate electrical capacity must come from small-scale renewable resources. The statute does not authorize deductions or adjustments to that aggregate figure to reflect other policy objectives. Staff’s proposal to create exclusions from the denominator departs from the plain language of the law and risks diluting the procurement obligation the legislature intended. In fact, Commissioner Perkins expressly cautioned against weakening the SSR requirement during the public meeting establishing this very docket.²

Subtractions from the denominator will create significant risks to the SSR requirement. While Staff’s current proposal is limited to certain resources and programs, Staff does not include any limiting principle to prevent future rulemakings, or utility proposals in compliance filings or petitions for waiver of the rules, from introducing additional, and potentially more significant, carve-outs. Each subtraction reduces the SSR obligation and, over time, lays a foundation that could materially weaken the SSR requirement. OSSIA and CREA are concerned that opening the door to denominator adjustments will undermine compliance certainty and credibility.

Moreover, utilities already have ample policy incentives to procure storage, demand response, and flexible load outside of the SSR framework. Using denominator adjustments to purportedly encourage these resources is not consistent with the language in 469A.210 nor with the statute’s primary function: “to require procurement.”³ If the Commission wishes to incentivize storage or load flexibility, it should not do so by reducing the SSR obligation through accounting adjustments.

² *Id.* (starting at 44:50).

³ Staff’s Straw Proposal at 2.

This argument applies equally to the proposal to deduct the SSR resources themselves from the denominator. At the workshop, the concern was expressed that without deducting the existing and future SSRs from the denominator, the utility would never be able to achieve full compliance because each new MW of SSR it adds to the system also increases its compliance target by 10% of that new SSR resource(s). However, this is only a problem if the utility's objective is to achieve the minimum compliance in every single compliance year. This problem can be mitigated by adopting Staff's proposal to use the utility's "aggregate electrical capacity" as of the beginning of the compliance year to prevent an increasing compliance target during the compliance year, which we support. Once that point is adopted, the denominator is locked down for the compliance year, and the utility can easily achieve precisely 10% SSR capacity in that year or, if the utility elects, more than 10% to ensure compliance in future years too without further SSR acquisitions in those future years. Specifically, the utility can ensure it will achieve compliance in future years by simply acquiring the necessary buffer of SSR capacity in the first compliance year to overtake the relatively minor incremental compliance obligation the new SSR resources themselves create. Or the utility could acquire diminishing quantities of SSRs in the following years to ensure compliance with the new aggregate electrical capacity inclusive of SSRs at the end of each year.

In contrast, the alternative that has been initially proposed by Staff would substantially reduce the SSR requirement by removing all existing SSRs from the denominator even though the statute makes no suggestion that deduction should occur. The statute requires "at least 10 percent of the aggregate electrical capacity" be SSR resources, not "at least 10% of the aggregate non-SSR electrical capacity" or "at least 10% of the aggregate electrical capacity after deducting SSR capacity." Similarly, a load-based compliance target, like the RPS, does not typically

reduce the compliance obligation by deducting out the load that is served by 100% renewable resources. The reality is that the utility's aggregate electrical capacity is likely to move up and down from year to year due to the non-SSR acquisitions and retirements in any event, so this is going to be a moving target for that reason regardless of whether new SSRs are included in the denominator.

While Staff does not expressly name cost concerns in their straw proposal, such concerns were raised during the August 21, 2025 workshop. OSSIA and CREA remind parties that Oregon's RPS statute already includes a cost cap to address compliance affordability. OSSIA and CREA find it unnecessary and inappropriate for Staff to reduce the denominator in anticipation of potential and unconfirmed cost issues. Cost considerations should be evaluated at the time of compliance, not preemptively by altering the statutory definition of aggregate electrical capacity.

For these reasons, OSSIA and CREA respectfully recommend that Staff and the Commission decline to make subtractions from the aggregate electrical capacity and calculate the SSR requirement as a clear percentage of the full capacity base for which Oregon customers are paying.

V. OTHER COMMENTS

OSSIA and CREA caution Staff against conflating different statutory uses of the term "community based renewable energy" ("CBRE"). ORS 469A.210, which establishes the SSR requirement, references CBRE but does not provide a statutory definition except to state the 20 MW size threshold for eligibility as an SSR and the resource types that qualify. By contrast, HB 2021 codified at ORS 469A.400-469A.475, includes a specific definition for CBRE at 469A.400(2), but that definition only applies for purposes of HB 2021 and its clean energy planning framework. The definition of CBRE in HB 2021 does not directly apply to the use of

CBRE in the RPS statute. OSSIA and CREA find it critical that Staff ensures clarity around how CBRE is used in the SSR rules, so stakeholders have certainty about the scope and application of the SSR requirement. The Commission appears to agree at least in principle with this distinction between these two uses of the same term in a footnote in the draft order in UM 2273 that the SSR requirement does not count towards the HB 2021 cost cap since it is included in a portion of the statutory structure outside of the referenced sections.⁴ Further, in its hypothetical scenario attached to the UM 2273 draft order, the Commission lists CBRE resources and SSR resources as two distinct categories.⁵

VI. CONCLUSION

OSSIA and CREA thank Staff for their thoughtful work in this expedited rulemaking and for considering stakeholder input on these important issues. We encourage Staff to draft rules that preserve the integrity of the SSR requirement and to ensure draft rules do not water down the procurement intent of the statute.

Dated this 11th day of September, 2025.

Respectfully submitted,

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⁴ *In re Pub. Util. Comm'n of Or., Investigation into House Bill 2021 Implementation Issues*, Docket No. UM 2273, Notice and Memorandum at Attachment A Draft Order at fn 1 (May 27, 2025).

⁵ *Id.* at Appendix B at 2, 3.

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