

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form

AR 597

**FILED**  
7-12-16 4:23 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

Public Utility Commission of Oregon 860  
Agency and Division Administrative Rules Chapter Number  
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Rules Coordinator Telephone  
Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088  
Address

**RULE CAPTION**

Reporting Rules for Companies with a Qualified Project Determination from the Public Utility Commission

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
8-16-16	1:30 p.m.	Public Utility Commission, 201 High Street SE - Hearing Room, Salem,	Ruth Harper

**RULEMAKING ACTION**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

860-200-0200, 860-200-0250

**AMEND:**

**REPEAL:**

**RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**Statutory Authority:**

ORS 308.681, 756.040, 756.060

**Other Authority:**

**Statutes Implemented:**

ORS 308.681

**RULE SUMMARY**

The proposed rules will enable the Public Utility Commission to implement ORS 308.681(2) which requires the Commission to submit a report each year to the Legislative Assembly regarding each company whose property is granted a property tax exemption under ORS 308.677. The Commission cannot make this report without first gathering information from the companies that may be granted any exemption under ORS 308.677. The proposed rules establish an annual reporting requirement for a company that has received a qualified project determination from the Commission under ORS 308.677, which is a prerequisite for the tax exemption.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 597 on comments and file them by e-mail to the Commission's Filing Center at [PUC.FilingCenter@state.or.us](mailto:PUC.FilingCenter@state.or.us).

Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=20055>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_001.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html).

Participants wishing to monitor the hearing by telephone must contact Diane Davis at [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372 by close of business August 12, 2016, to request a dial -in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

09-09-2016 5:00 p.m.	Diane Davis	diane.davis@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form.

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Public Utility Commission of Oregon

860

Agency and Division

Administrative Rules Chapter Number

Reporting Rules for Companies with a Qualified Project Determination from the Public Utility Commission

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Reporting Rules for Companies with a Qualified Project Determination from the Public Utility Commission

**Statutory Authority:**

ORS 308.681, 756.040, 756.060

**Other Authority:**

**Statutes Implemented:**

ORS 308.681

**Need for the Rule(s):**

The proposed rules will enable the Public Utility Commission of Oregon (PUC) to implement ORS 308.681(2) which requires the PUC to submit a report each year to the Legislative Assembly regarding each company whose property is granted a property tax exemption under ORS 308.677. The PUC's report must state or describe certain capital investments made by each company in Oregon, whether the company has met the requirements for service capacity and offering service to residential customers, who is served and how by the communication infrastructure, and any other information the PUC considers necessary for a thorough analysis of the exemption. The PUC cannot report on these topics without first gathering information from the companies that may be granted any exemption under ORS 308.677. The proposed rules establish an annual reporting requirement for a company that has received a qualified project determination from the PUC under ORS 308.677, which is a prerequisite for the tax exemption. The information reported to the PUC under the proposed rules will enable the PUC to fulfill its reporting obligations as set out in ORS 308.681(2).

**Documents Relied Upon, and where they are available:**

ORS 308.677 and ORS 308.681, found online at: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors308.html](https://www.oregonlegislature.gov/bills_laws/ors/ors308.html).

OAR Chapter 860, Division 200, found online at: [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_200.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_200.html).

**Fiscal and Economic Impact:**

Under the proposed rules, each company that has received a determination from the PUC under ORS 308.677(4) that its project is a qualified project must submit a report to the Commission each year. A company that offered the qualified service in Oregon during the preceding calendar year must report the information identified in proposed OAR 860-0200-0250 and include a completed report cover sheet form. The proposed rules do not involve a significant cost of compliance for these companies. However, the proposed rules would require companies subject to the reporting requirements to allocate resources to engage in data collection and analysis, recordkeeping, reporting and other annual administrative activities associated with preparing and filing this report.

A company that did not offer the qualified service in Oregon during the preceding calendar year need only submit the declaration of a company representative that the company did not offer the qualified service during the preceding calendar year and include a completed report cover sheet form. The proposed rules would require these companies to provide annual reporting and some annual administrative activity. The proposed rules carry a minimal cost of compliance for companies that did not offer the qualified service during the preceding calendar year.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

No state agencies are subject to the proposed reporting requirements. Nor will any units of local government be affected by these reporting rules. Only a company that has received a determination from the PUC that its project is a qualified project under ORS 308.677(4) is subject to the proposed reporting rules. The general public is not subject to the reporting rules. The PUC does not anticipate there will be any indirect fiscal or economic impacts on members of the public associated with the company's cost of meeting the annual reporting requirements because prices for services or products are established competitively and the cost of complying with the reporting rules is not significant.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

The PUC does not anticipate any small businesses will be subject to these rules or incur costs as a result of these rules. The proposed rules only apply to those businesses that have received a qualified project determination from the PUC under ORS 308.677(4).

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

If a small business receives a qualified project determination and offers the qualified service, it will be subject to the proposed reporting rules. The proposed rules would require data collection and analysis if the business is offering the qualified service. Each company subject to the reporting rules must engage in some administrative activity to track and file the annual report in a timely manner.

**c. Equipment, supplies, labor and increased administration required for compliance:**

If a small business receives a qualified project determination, it will be subject to the proposed reporting rules. Under the proposed rules, a business must prepare and file an annual report, which will require a minimal amount of labor and administration. No equipment or supplies are required.

**How were small businesses involved in the development of this rule?**

The PUC did not specifically involve small businesses in the development of this rule. The PUC received informal input from businesses that would be or may be subject to the proposed rules and from other stakeholders with knowledge of the potential impact on small businesses, such as city and county representatives.

**Administrative Rule Advisory Committee consulted?: No**

**If not, why?:**

Several informal workshops on reporting requirements were held with industry representatives and other stakeholders, including companies potentially affected by the rules. Comments received during this process were considered in the development of the proposed rules.

09-09-2016 5:00 p.m.	Diane Davis	diane.davis@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

**860-200-0200**

**Report to Commission**

**(1) A company that has received a determination under ORS 308.677(4) that its project is a qualified project must submit a report to the Commission on or before November 1 each year. The information reported may be included in a report prepared by the Commission for the Legislative Assembly.**

**(2) A company submitting a report per section (1) must include a completed efile Report Cover Sheet form found on the Commission website at [www.puc.state.or.us/Pages/efiling/Reports.aspx](http://www.puc.state.or.us/Pages/efiling/Reports.aspx).**

**(3) A company submitting a report per section (1) that offered the qualified service in Oregon during the preceding calendar year must report the information required to be reported in OAR 860-200-0250.**

**(4) A company submitting a report per section (1) that did not offer the qualified service in Oregon during the preceding calendar year shall submit a declaration of a company representative that the company did not offer the qualified service during the preceding calendar year.**

**(5) Each company submitting a report under section (3) will arrange for an on-site review by Staff prior to December 31 of the current reporting year of the company's most recent Form 477 Oregon-specific broadband subscription data submitted to the Federal Communications Commission, in an electronic format acceptable to Staff, at a location convenient to Staff. Form 477 subscription data reviewed by Staff will not be included in the Commission's report to the Legislative Assembly. The company and Staff will coordinate on measures to protect Form 477 subscription data from disclosure as a result of Staff's review.**

**Stat. Auth.: ORS 308.681, 756.040, 756.060**

**Stats. Implemented: ORS 308.681**

**Hist.: NEW**

**860-200-0250**

**Report Requirements**

**A company submitting a report required under OAR 860-200-0200(3) must include all of the following in the report. A company must report information that is accurate and complete as of June 30 of the year of submission unless otherwise stated in these rules.**

**(1) A certification executed by an authorized representative of the company in which the representative affirms that the company has met the requirements for service capacity and offering service to residential customers specified in ORS 308.677(2). The representative must further affirm that all of the information in the company's report is accurate and complete. The representative's certification must be a sworn statement under ORS 162.055 attesting to the truth of the certification.**

**(2) The amount of capital investment made in the previous calendar year by the company in Oregon in newly constructed or installed real or tangible personal property constituting communication infrastructure that enables the company to offer the qualified service.**

**(3) A general description of how the company is providing the qualified service.**

**(4) A map, including county and city designations, depicting the area where the company offers qualified service and identifying, using census blocks, where residential customers of the company subscribe to broadband services indicating the highest of the following download speed tiers for each census block in which it has customers:**

- (a) Up to and including 100 Megabits per second (Mbps);**
- (b) Greater than 100 Mbps up to and including 500 Mbps; and**
- (c) Greater than 500 Mbps.**

**(d) The company may submit information regarding speed tiers in addition to those shown above. As an example, a company may choose to also submit information regarding download speed of 1 gigabit per second (Gbps) or greater.**

**(5) The quartile containing the percentage of the company's residential broadband services customers in Oregon that have access to the company's at least, approximately one gigabit per second symmetrical service.**

- (a) Quartile 1 – 0 percent to 25 percent;**
- (b) Quartile 2 – 26 percent to 50 percent;**
- (c) Quartile 3 - 51 percent to 75 percent;**
- (d) Quartile 4 – greater than 75 percent.**

**(6) The percentage, rounded up to a whole percent, of the company's residential broadband services customers with access to the company's qualified service that subscribe to broadband service in the following download speed tiers:**

- (a) Up to and including 100 Mbps;**
- (b) Greater than 100 Mbps up to and including 500 Mbps; and**
- (c) Greater than 500 Mbps.**

**(d) The company may submit information regarding speed tiers in addition to those shown above. As an example, a company may choose to also submit information regarding download speed of 1 gigabit per second (Gbps) or greater.**

**(7) The percentage, rounded up to a whole percent, of the company's residential broadband services customers in Oregon that subscribe to broadband service in the following download speed tiers:**

- (a) Up to and including 100 Mbps;**
- (b) Greater than 100 Mbps up to and including 500 Mbps; and**
- (c) Greater than 500 Mbps.**

**(d) The company may also submit information regarding speed tiers in addition to those shown above. As an example, a company may choose to also submit information regarding download speed of 1 gigabit per second (Gbps) or greater.**

**(8) A product description and a copy of the company's customer service agreement form for each qualified service offering.**

**(9) The network speed test methods, data, and results from a sample of tests conducted within six months of the date of the report, using industry-standard testing methodology, for the company's broadband service that provides at least, approximately one gigabit per second symmetrical service.**

**(10) In the previous calendar year, the percentage of households to whom the company offers its qualified service who properly placed an order requesting the equivalent of at least, approximately one gigabit per second symmetrical service and were denied that service by the company.**

**(11) In the previous calendar year, the number of complaints the company received that the company had denied access to its qualified service to a group of residential customers because of the income level of the residential customers in the local service area in which the residential customers reside, and a description of how each complaint was resolved.**

**(12) Any additional information the company wishes to report regarding benefits of any tax exemption granted to the company under ORS 308.677.**

**Stat. Auth.: ORS 308.681, 756.040, 756.060**

**Stats. Implemented: ORS 308.681**

**Hist.: NEW**