

NOTICE OF PROPOSED RULEMAKING

CHAPTER 860
PUBLIC UTILITY COMMISSION

FILING CAPTION: Rulemaking related to a New Load Direct Access Program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/06/2018 5:00 PM

HEARING(S):

DATE: 06/21/2018

TIME: 9:30 AM

OFFICER: ALJ Moser

ADDRESS: Public Utility Commission
201 High Street SE - Hearing Room
Salem, OR 97301

NEED FOR THE RULE(S):

2017 ORS 757.646(1) The duties, functions and powers of the Public Utility Commission shall include developing policies to eliminate barriers to the development of a competitive retail market structure. The current long term direct access tariffs offered by utilities include transition charges that may not be appropriately applicable to new large load. This may result in a barrier to the development of a competitive retail market structure. The current tariffs may not allow for efficient direct access participation decisions by new large load customers. The proposed rules will lower the costs of direct access in a manner that continues to protect other retail electric customers.

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 614 on comments and attach them to an e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us.

Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=21226>. 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 <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

Participants wishing to monitor the hearing by telephone must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business June 19, 2018, to request a dial -in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 757.600 through 757.667 available online at

https://www.oregonlegislature.gov/bills_laws/ors/ors757.html

FISCAL AND ECONOMIC IMPACT:

The proposed program is expected to have very few participants because it is only applicable to the largest electricity customers. The rules may result in additional OPUC filings by utilities, however these new filings will not be burdensome to the OPUC or the utilities. As noted below, small businesses that provide services to large electric consumers may experience increased sales. Small businesses that provide consumer services in the local areas of any new loads may experience increased sales, if new loads are also substantial employers. Some new loads associated with these rules may not employ a substantial number of employees.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

These rules may attract electricity consumers to this state that would not otherwise locate in Oregon. Any agency that is impacted by economic growth or population growth could be affected by this rule.

In addition, the rules require three check-ins with the OPUC once threshold enrollment levels are reached. Both of these events will also result in written Staff reports. These records will have to be uploaded the online OPUC filing repository and be archived according to the current retention requirements for Staff reports and Tariffs (Tariffs have long retention requirements.) These activities are anticipated to be accomplished without additional resources

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

The number of small businesses impacted depends how many small businesses participate in the program. This program is expected to have very few participants because it is only applicable to the largest electricity consumers. Small businesses that provide services to large electricity consumers may experience increased sales.

Small businesses that provide consumer services in the local areas of any new loads may experience increased sales, if new loads are also substantial employers. Some new loads associated with these rules may not employ a substantial number of employees.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to

comply with the rule(s);

Compliance with these rules will result in an additional annual tariff filing by two utilities, which are not small businesses. In addition, the rules require three check-ins with the OPUC once threshold enrollment levels are reached. Both of these events will also result in written Staff reports. These records will have to be uploaded the online OPUC filing repository and be archived according to the current retention requirements for Staff reports and Tariffs (Tariffs have long retention requirements.) These activities are anticipated to be accomplished without additional resources.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There is no anticipated cost to state agencies for professional services, labor, or increased administration requirements. Any costs borne by the utilities subject to the proposed rules will be passed on to New Large Load Direct Access participants.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Various industry groups such as the Alliance of Western Energy Consumers and the Northwest and Intermountain Power Producers Coalition provided comments in response to the draft proposed rules. A Commission workshop, which was open to the public was held on April 23, 2018, allowing any small business impacted by the proposed rules to provide input.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?A public workshop was held on April 23, 2018, at the Commission for stakeholder input. Various stakeholder groups have also provided comment.

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RULES PROPOSED:

860-038-0700, 860-038-0710, 860-038-0720, 860-038-0730, 860-038-0740, 860-038-0750,
860-038-0760

ADOPT: 860-038-0700

RULE TITLE: Definitions for New Large Load Direct Access Program

RULE SUMMARY: This rule defines terms applicable to New Load Direct Access.

RULE TEXT:

(1) Unless otherwise defined in section (2), the definitions set forth in OAR 860-038-0005 are applicable to New Large Load Direct Access Programs.

(2) As used in the New Large Load Direct Access Program rules:

(a) “Affiliated Consumer” means a consumer, five percent or more of the voting shares of which are held by another consumer.

(b) “Cost of Service Eligible Load” means the load of a consumer that is eligible for a cost of service rate.

(c) “Cost of Service Site” means a Site that receives or has received energy in the last 5 years that is eligible for a cost of service rate.

(d) “Existing Consumer” means a consumer that is or has been a cost-of-service consumer of an electric company within the prior five calendar year period.

(e) “Existing Load Shortage” means the larger of zero or a consumer’s Historic Cost of Service Load less Cost of Service Eligible Load during the previous 12 months.

(f) “Existing Load Shortage Transition Adjustment” means a charge or credit equal to:

(A) 75 percent of fixed generation costs plus net variable power cost transition adjustments during the first five years after enrollment in the New Large Load Direct Access Program; and

(B) 100 percent of fixed generation costs plus net variable power cost transition adjustments after the first five years of enrollment in the New Large Load Direct Access program.

(g) “Historic Cost of Service Load” means the highest Cost of Service Eligible load during any 12 month period from the present to five years prior to a consumer requesting participation in the New Large Load Direct Access Program.

(h) “New Large Load” means any load associated with a new facility, an existing facility, or an expansion of an existing facility, which:

(A) Has never been contracted for or committed to in writing by a cost-of-service consumer with an electric company; and

(B) Will result in an increase in power requirements of a consumer of ten average megawatts or more in any consecutive 12 month period.

(i) “New Large Load Direct Access Program” means a direct access program offering by an electric utility that meets the requirements set forth in the New Large Load Direct Access Program section of the Division 38 rules.

(j) “New Large Load Direct Access Service Transition Rate” means a rate that is applied to load served under the New Large Load Direct Access Program.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 through 757.667

ADOPT: 860-038-0710

RULE TITLE: Requirement to Offer a New Load Direct Access Program

RULE SUMMARY: This rule requires electric companies to offer a New Load Direct Access program.

RULE TEXT:

An electric company must offer a New Load Direct Access Program to New Large Load cost-of-service consumers, subject to the requirements set forth in this New Large Load Direct Access Program section of the Division 38 rules.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 through 757.667

ADOPT: 860-038-0720

RULE TITLE: Transition Rates

RULE SUMMARY: This rule sets forth the method of calculating rates for new load direct access service. The rate includes a transition adjustment that returns a portion of the benefit of economic utility investments to cost-of-service customers, recovers administrative costs, and accounts for load shifting from cost-of service eligible loads.

RULE TEXT:

(1) In addition to all other charges applicable to a New Large Load, an electric company must charge applicable New Large Load consumers a New Large Load Direct Access Service Transition Rate that recovers the following:

(a) 25 percent of the fixed generation costs for five years; and

(b) All costs of administering the New Load Direct Access Program.

(2) Consumers receiving service under the New Large Load Direct Access program must also pay an Existing Load Shortage Transition Adjustment on the sum of the Existing Load Shortage for the consumer and the Existing Load Shortage of all of the consumer's Affiliated Consumers. This Adjustment is calculated and billed for on a monthly basis by scaling the Existing Load Shortage into a daily amount, and multiplying by the number of days in the consumer's billing cycle.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 through 757.667

ADOPT: 860-038-0730

RULE TITLE: New Large Load Eligibility Requirements

RULE SUMMARY: This rule limits eligibility to incremental loads greater than 10 MWa, requires notice for participation, requires participants opt out of cost-of-service rates, and sets notice requirements.

RULE TEXT:

(1) Only New Large Loads that meet the following requirements are eligible to participate in the New Large Load Direct Access Program:

(a) Load must be separately metered.

(b) For New Large Loads , the load must be incremental to the Historic Cost of Service Load at that Site.

(c) Load must have opted out of cost-of-service rates.

(d) Each New Large Load consumer must notify the electric company of its intent to enroll in the New Large Load Direct Access Program and opt out of cost-of-service rates at the earlier of either:

(A) A binding written agreement with the utility to receive distribution service for eligible new load, or

(B) One year prior to energizing the meter.

(2) Subsection (1)(c) is waived for eligible New Large Load that has entered into a written agreement with an electric company prior to August 31, 2018, indicating its intent to receive distribution service from an electric company and for which the electric company has not planned to provide generation supply service.

(3) If the actual load of a facility served under the New Large Load Direct Access Program is less than ten average megawatts per year in the second or third year of receiving service and the shortfall in load is not attributable to equipment failure, energy efficiency, load curtailment or load control, or other causes outside the control of the New Large Load Direct Access Program consumer, the consumer must be enrolled in the general cost-of-service opt-out program in the following direct access enrollment window.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.600 through 757.667

ADOPT: 860-038-0740

RULE TITLE: Nonresidential Standard Offer, Default Supply and Return to Cost-of-Service

RULE SUMMARY: This rule sets forth how electric companies can provide and charge for supply services to New Load Direct Access customers.

RULE TEXT:

(1) New Large Load Direct Access Program consumers are subject to the requirements set forth in OAR 860-038-0250 and OAR 860-038-0280, except as set forth in section (3).

(2) New Large Load Direct Access Program consumer may return to cost of service rates under the same rates and terms of service as the electric company's current cost of service opt-out offers, except as set forth in section (3).

(3) If the New Large Load Direct Access Program consumer's rates under OAR 860-038-0250, OAR 860-025-0280 or return to a cost-of-service rate results in an increase to existing cost-of-service rates of more than one tenth of one percent within any one year, the electric company must charge the current or former New Load Direct Access consumer a rate adder is appropriate to mitigate the rate impact to cost-of-service rates.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 through 757.667

ADOPT: 860-038-0750

RULE TITLE: New Large Load Direct Access Program Caps

RULE SUMMARY: This rule identifies enrollment limits of similar magnitude as enrollment limits of existing long term direct access programs and establishes reporting requirements.

RULE TEXT:

(1) The total annual load of New Large Load and Affiliated New Large Single Load may not exceed 12 percent of the electric company's weather normalized annual load in calendar year 2017.

(2) Section (1) of this rule sunsets following the fifth calendar year that the New Large Load Direct Access Program has been in place.

(3) Each electric company must file a status report to the Commission within two months of total enrollment in New Large Load Direct Access Programs reaching 25 MWa, 50 MWa, 100 MWa and 80 percent of the enrolment limit.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 through 757.667

ADOPT: 860-038-0760

RULE TITLE: Jurisdictional Allocations

RULE SUMMARY: This rule addresses the treatment of New Load Direct Access load in jurisdictional allocations.

RULE TEXT:

For an electric company with service territory outside of Oregon, jurisdictional allocation of transmission costs and generation costs may not be affected by New Large Load Direct Access Program participants.

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, 757.600 through 757.667

