

PUBLIC UTILITY COMMISSION OF OREGON  
AHD REPORT  
PUBLIC MEETING DATE: November 16, 2016

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: November 16, 2016

TO: Public Utility Commission

FROM: Diane Davis *dbd*

THROUGH: <sup>*mwk*</sup> Michael Grant, Ruth Harper *RWH*

SUBJECT: OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE HEARINGS DIVISION: (Docket No. AR 599) Adopts Permanent Rules to Prescribe the Form and Manner of Applications for Programs to Accelerate Transportation Electrification to Implement Section 20(3) of SB 1547.

**AHD RECOMMENDATION:**

Adopt the proposed permanent rules in the attached draft order.

**DISCUSSION:**

This rulemaking implements section 20(3) of Senate Bill 1547, codified in Oregon Laws 2016, chapter 028, section 20. The law requires the Commission to prescribe the form and manner of applications for programs to accelerate transportation electrification.

A rulemaking hearing was held on August 22, 2016, and comments were received from Commission Staff and stakeholders through September 9, 2016. The comments are discussed in the attached draft order (Attachment A).

**PROPOSED COMMISSION MOTION:**

Adopt permanent rules 860-087-0001 through 860-087-0040 as set forth in Appendix A of the attached draft order.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 599

In the Matter of  
Rulemaking to Prescribe Application  
Requirements for Transportation  
Electrification Programs.

ORDER

DISPOSITION: NEW RULES ADOPTED

**I. INTRODUCTION**

We opened this rulemaking to implement section 20 of Senate Bill 1547 (SB 1547), which requires us to direct electric companies to file applications for programs to accelerate transportation electrification and prescribe the form and manner of these applications.<sup>1</sup>

In this order we adopt, with certain modifications, the proposed rules concerning applications for programs and the proposed rules governing electric companies' evaluation of and reporting on approved programs. We do not adopt the proposed rules regarding long-term transportation electrification plans. We establish a separate process to develop the requirements for such plans that will commence with a Commission workshop in January 2017.

Consistent with section 29 of SB 1547, the electric companies subject to the rules adopted here must file applications for programs to accelerate transportation electrification on or before December 31, 2016.<sup>2</sup>

**II. BACKGROUND**

On July 13, 2016, we filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact for this rulemaking with the Secretary of State, and we provided notice to all interested persons on the service lists established under OAR 860-001-0030(1)(b) and to legislators specified in ORS 183.335(1)(d). Notice of the rulemaking was published in the

<sup>1</sup> Oregon Laws 2016, chapter 028, section 20(3). The term "electric company" as used in SB 1547 and in these rules has the same meaning as defined in ORS 757.600.

<sup>2</sup> Oregon Laws 2016, chapter 028, section 29.

August 2016 *Oregon Bulletin*, setting a hearing date of August 22, 2016 and a final comment due date of September 9, 2016.

At the hearing, Commission Staff explained the process it used to develop the proposed rules and summarized the main issues that arose during the initial Staff-led process. Two stakeholders also offered comments. Anne Smart of ChargePoint, Inc. (ChargePoint) highlighted points made in ChargePoint's written comments filed before the hearing. Ms. Smart added that ChargePoint appreciated the attention given to customer choice, competition, and innovation. JJ McCoy of the Northwest Energy Coalition (NWECC) commented that NWECC generally supported the proposed rules but encouraged the Commission to include strategies for low-income access as a plan design requirement and to clarify the scope of net benefits that can be attributed to programs.

We received individual written comments from PacifiCorp, dba Pacific Power; ChargePoint; Portland General Electric Company (PGE); Idaho Power Company; the Natural Resources Defense Council (NRDC); NWECC; KnGrid; and Greenlots; and joint written comments from (a) Drive Oregon and the Oregon Environmental Council (Drive Oregon/OEC); and (b) the Alliance of Automobile Manufacturers, American Honda Motor Company, and General Motors (Joint Automakers).

### III. PROPOSED RULES OVERVIEW

The participants commented on the following five rules:<sup>3</sup>

- (A) Proposed OAR 860-087-0001 defines the scope and applicability of the rules.
- (B) Proposed OAR 860-087-0010 contains definitions for certain terms used in the rules.
- (C) Proposed OAR 860-087-0020 requires an electric company to file a Transportation Electrification Plan, identifies the components that must be included in the plan, sets forth the date the plan must be filed and updated, and describes the Commission's review and acknowledgment of the plan.
- (D) Proposed OAR 860-087-0030 requires an electric company to file applications for programs, and identifies what each application must include and the date by which the first application must be filed.
- (E) Proposed OAR 860-087-0040 sets forth an electric company's reporting requirements for each program approved by the Commission.

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<sup>3</sup> See Notice of Proposed Rulemaking Hearing with Proposed Rules dated July 13, 2016, Docket No. AR 599.

#### IV. COMMENTS

Rulemaking participants predominantly filed comments concerning the last three rules, which address the long-term Transportation Electrification Plan, the particular requirements for program applications, and the reporting requirements for programs approved by the Commission. Below we focus our discussion on these rules, address the related comments, and provide our resolution.<sup>4</sup>

##### **A. Proposed OAR 860-087-0020: Transportation Electrification Plan**

Proposed OAR 860-087-0020 requires each electric company to file a Transportation Electrification Plan that outlines the electric company's long-term plan to accelerate transportation electrification. Rulemaking participants' comments propose changes to components of the plan, the date the plan must be filed and updated, and the relationship between the plan and integrated resource planning.

We support establishing a requirement that the electric companies develop long-term transportation electrification plans to guide their program submittals. However, because of the lack of detail about the plans in the proposed rule, we decline to adopt proposed OAR 860-087-0020 in its entirety and related proposed OARs 860-087-0010(2), which defines "Transportation Electrification Plan," and 860-087-0030(3), which relates to programs not included in a Transportation Electrification Plan.

In lieu of requiring the electric companies to submit a full-scale transportation electrification plan with their initial program applications, in the OAR 860-087-0030 application requirements, we require each electric company to describe its long-term strategy for increasing transportation electrification in its service territory and explain how the proposed program fits within that long-term strategy.

We direct Staff to open a new docket to work with the electric companies and stakeholders to further develop the requirements for the electric companies' long-term transportation electrification plans. The docket will commence with a Commission workshop in January 2017.

##### **B. Proposed OAR 860-087-0030: Transportation Electrification Program**

Proposed OAR 860-087-0030 identifies application requirements for proposed programs and the date by which an electric company's first application must be filed.

Rulemaking participants filed comments addressing various sections of this proposed rule. We address these comments by section below.

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<sup>4</sup> We also adopt, without discussion, several proposals to make non-substantive changes to help clarify the rules or make the rules more consistent with the language used in SB 1547.

**1. *Number of Programs***

Proposed OAR 860-087-0030(2) states that an electric company must file an application for Transportation Electrification Programs on or before December 31, 2016.

Idaho Power asks that we revise this to refer singularly to “program” as electric companies may not have time to develop more than one initial program. No provision in SB 1547, Idaho Power reasons, mandates a minimum number of programs from each electric company.

Conversely, PacifiCorp asks that we clarify the language in this section to allow for electric companies to file more than one program.

*Resolution:* We revise the language in the rule to make clear that electric companies may propose a single program or multiple programs. Although SB 1547 section 20(3) instructs us to direct electric companies to file applications “for programs,” we recognize that a company may have time to develop only a single, initial program.

We make conforming changes to the first line in proposed OAR 860-087-0030, to change existing “applications” and “programs” to instead refer to “an application” and “each program.”

**2. *Requisite Information and Supporting Analysis***

Proposed OAR 860-087-0030(1) sets forth the requisite information and analysis to support a proposed program. Below, we address each requirement and discuss any proposed revisions.

**a. *Expected Utilization of Program***

Proposed paragraph (1)(a)(E) requires a program application to include, among other things, the expected utilization of the program. PacifiCorp suggests clarifying that “utilization” is intended to refer to charging infrastructure. It also suggests adding “any” before “incentive,” to clarify that incentives may only apply to certain programs.

*Resolution:* We decline to limit “utilization” to charging infrastructure. Utilization refers to use of a specific program by customers. We adopt PacifiCorp’s other suggested change.

**b. *Access in Low-Income Communities***

Several stakeholders raised the issue of increased access to electrified transit in low- and moderate-income communities. NRDC suggests adding language clarifying that a program is expected to address personal, commercial, and transit vehicle needs. Apart from the role of transit in reducing overall transportation emissions, NRDC explains, access to electrified transit is especially important to extending the net benefits of the program to low-income households. NWEC and Drive Oregon/OEC suggest that the program description include the electric

company's plan to increase access to electrified transit in low- and moderate-income communities and propose that we consider setting target percentages for installations in these communities. NWECC offers, as an example, programs to connect local social service agencies and vanpool riders with electric vehicle services, either as agency fleet vehicles or as subsidized ride share programs.

*Resolution:* We determine that we will not require, by rule, that each program must increase access in low- and moderate-income communities. SB 1547 section 20(2)(c) provides the legislative finding that widespread transportation electrification requires increased access to the use of electricity as a transportation fuel for low- and moderate-income communities, however, this finding is not among the items in section 20(4)(a)-(f) that we are to consider when evaluating a program. Early versions of the bill did incorporate by reference the legislative findings into the operative language of the bill, but the final version did not. As a result, we conclude that the legislature intended for transportation electrification to be accelerated in low- and moderate-income communities but not necessarily be a requirement of each and every program.

We will take up this issue in detail when we establish the requirements for long-term transportation electrification plans.

*c. National Standards*

Proposed OAR 860-087-0030(1)(a)(K) requires a program application to include, where applicable, a discussion of any national standards for measurement and communication.

PacifiCorp suggests clarifying the meaning of national standards for "measurement" and "communication." KnGrid suggests including adoption of the ISO/IEC 15118 communications standard in rule requirements related to charging of plug-in electric light and heavy-duty road vehicles. KnGrid cautions against fragmentation of the charging station ecosystem and urges that ISO/IEC 15118 is an open standard that is already being implemented by automakers.

*Resolution:* In response to PacifiCorp's suggestion, we substitute the term "equipment" for "measurement" to make clear that the rule refers to national standards for supply equipment and vehicle-to-grid communication.

We do not adopt KnGrid's suggestion to adopt the ISO/IEC 15118 communications standard. At this time, we will not prescribe a specific standard.

*d. Program Costs*

Proposed OAR 860-087-0030(1)(d)(C) specifies that the description of program costs should include how the electric company proposes to recover costs.

Idaho Power suggests that approval of a program is also approval of the proposed means of cost recovery, unless otherwise noted by the Commission. Idaho Power cautions that, given the rapid development of technology and the speculative nature of investments intended to accelerate transportation electrification adoption, these programs present a greater level of after-the-fact recovery risk if some form of assurance is not provided in advance of the electric company's investment. Idaho Power urges that approval should provide assurance that the electric company's prudent investment in the program is authorized for recovery.

*Resolution:* We make no change to the proposed rule language. See OAR 860-087-0030(1)(e)(C) in Appendix A. The scope of these rules is limited to the form and manner of electric companies' applications for programs to accelerate transportation electrification. We will consider the method of cost recovery and timeframe for recovery during our evaluation of specific programs.

*e. Program Benefits*

Proposed OAR 860-087-0030(e) requires an electric company to include a "description of the estimated program benefits."

PacifiCorp suggests adding "expected" before "program."

Proposed OAR 860-087-0030(e)(C) requires a discussion of how a net benefit to ratepayers is attainable. NWECC suggests adding language to clarify that "net benefits" may include reduced petroleum use, fuel cost savings, incremental net rate revenue, energy efficiency improvements, carbon emission reductions, and air quality and improvements to human health.

NRDC adds that it encourages a generous and inclusive construction of "program benefits" consistent with the expectations voiced during legislative consideration of SB 1547.

*Resolution:* We decline to adopt PacifiCorp's change as proposed. Instead, we use the term "expected program benefits" and drop "estimated." See OAR 860-087-0030(f) in Appendix A.

We do not adopt NWECC's change. We make no change to the proposed rule language. See OAR 860-087-0030(f)(C) in Appendix A. We will determine what is a "benefit" and "net benefit" in subsequent proceedings when we evaluate specific proposed programs.

*f. Program Evaluation*

Proposed OAR 860-087-0030(1)(f) requires an application to include a description of how the electric company will evaluate the proposed program, including evaluation timing, costs, and methods.

ChargePoint recommends that we consider the cost-effectiveness of a program up-front with the initial application. To allow for this, ChargePoint suggests the electric company could propose caps on total rebates, infrastructure investments, and administrative costs, and request approval up to that cap. This is preferable, ChargePoint reasons, to the alternative of relying on third-party contractors to evaluate program results.

PGE supports ChargePoint's approach and suggests clarifying in this subsection that we will indicate to the electric company when we approve an application what cost-effectiveness limits, if any, the electric company can apply to the evaluation process.

*Resolution:* We make no change to the proposed rule language. See OAR 860-087-0030(1)(g) in Appendix A. Under the proposed rule, an electric company can propose their own methods for evaluating the effectiveness of a program. Parties can weigh in on what the companies propose. Based on the record developed during program application proceedings, we will make a determination of what is cost-effective or not cost-effective.

### **C. Proposed OAR 860-087-0040: Reporting Requirements**

Proposed OAR 860-087-0040(1) requires an electric company to report the results of its evaluation for each Transportation Electrification Program and outlines the requisite information and analysis in a program evaluation. Below, we address each requirement for which comments were received and discuss the proposed revisions.

#### ***1. Information About Program Evaluation***

Proposed OAR 860-087-0040(1) requires an electric company to include in its report the information submitted pursuant to OAR 860-087-0030(1)(f)(A)-(F) that describes how the electric company will evaluate the program.

PacifiCorp suggests adding "As applicable" in the beginning of this subsection.

*Resolution:* We decline to adopt this change. Proposed OAR 860-087-0030(1)(f) requires an electric company to include in its application a description of how it will evaluate the proposed program. Paragraphs (A)-(F) list specific information to include in the description. For consistency, we find it useful for electric companies to include this background evaluation information in their filed reports.

#### ***2. Tracking Program Costs***

Proposed OAR 860-087-0040(1)(c) requires an electric company to include a tracking of program and portfolio costs over the life of the program and program portfolio.



PacifiCorp suggests removing the language referring to tracking “program portfolio” costs over the life of the “program portfolio” since the rule requires the electric company to report the results of its evaluation for each program.

*Resolution:* We adopt this change.

### **3. Updated Market Data**

Proposed OAR 860-087-0040(1)(g) requires an electric company to report updated market data, including a description of changes in the condition of the transportation electrification market within the electric company’s service territory.

ChargePoint suggests modifying this subsection to focus the electric company’s description of changes in the market on changes that have occurred as a result of the program and that can reasonably be expected to occur in the future as a result of the program.

*Resolution:* We make no change to the proposed rule. This data point concerns changes in the market, rather than the role that a particular program has played in spurring those changes. The following subsection OAR 860-087-0400(1)(h) asks how the program has accelerated transportation electrification.

### **4. Effectiveness of Program**

Proposed OAR 860-087-0040(1)(h) requires an electric company to provide an evaluation of how the program has accelerated transportation electrification; stimulated innovation, competition, and customer choice; and supported system efficiency and operational flexibility, including the ability to integrate variable resources.

PacifiCorp suggests changing “how” to “whether,” remarking that it will be difficult to conclusively evaluate that the above objectives have been achieved.

ChargePoint suggest adjusting the language in this subsection to inquire how the program has, and can reasonably be expected to continue to, achieve these ends. In response, PGE recommends that any evaluation of program success be based on how the electric company structured the program up-front to promote innovation, competition, and customer choice and not based on post-hoc analysis of marketplace health.

The Joint Automakers suggest modifying the language to focus on how the program can reasonably be expected to accelerate transportation electrification.

Greenlots comments that the legislative intent is unclear and recommends the Commission exercise caution in evaluating program success.

Idaho Power cautions that it may be difficult for it to quantify benefits of its programs given the unique rural residential nature of its service territory and that its program design will focus on education and awareness.

*Resolution:* We modify the rule to require an electric company to provide an evaluation of “whether and how” the program has met these objectives. We do not adopt ChargePoint’s modification as it could add a requirement for broader market intervention not contemplated by SB 1547 or stakeholders.

## V. ORDER

IT IS ORDERED that:

1. The new rules OAR 860-087-0001 through 860-087-0040 are adopted as set forth in Appendix A to this order.
2. The new rules will be effective upon filing with the Secretary of State.

3. The Commission Staff is directed to open a new docket to develop the requirements for the electric companies' long-term transportation electrification plans. The docket will commence with a Commission workshop in January 2017.

Made, entered, and effective \_\_\_\_\_.

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**Lisa Hardie**  
Chair

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**John Savage**  
Commissioner

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**Stephen M. Bloom**  
Commissioner

A person may petition the Public Utility Commission of Oregon for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

DIVISION 087

TRANSPORTATION ELECTRIFICATION PROGRAMS

860-087-0001

Scope and Applicability of Rules

(1) The rules in this division prescribe the application and reporting requirements for programs to accelerate transportation electrification filed by an electric company.

(2) Upon request or its own motion, the Commission may waive any of the rules in this division for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Stat. Auth.: ORS 756.040, 756.060, Oregon Laws 2016, ch. 028, sects. 20, 29 (SB 1547)

Stats. Implemented: Oregon Laws 2016, ch. 028, sects. 20, 29 (SB 1547)

Hist.: NEW

860-087-0010

Definitions

For the purpose of this division:

(1) "Electric company" means an electric company as defined in ORS 757.600.

(2) "Transportation Electrification Program" means a program proposed by an electric company to accelerate transportation electrification.

Stat. Auth.: ORS 756.040, 756.060, Oregon Laws 2016, ch. 028, sect. 20 (SB 1547)

Stats. Implemented: Oregon Laws 2016, ch. 028, sect. 20 (SB 1547)

Hist.: NEW

860-087-0030

Transportation Electrification Program Application Requirements

An electric company must file an application with the Commission for each program to accelerate transportation electrification.

(1) A Transportation Electrification Program application must include:

(a) A description of the program that includes, but is not limited to, a description of:

(A) Program elements, objectives, timeline, and expected outcomes;

(B) Market baseline assumptions;

(C) Major performance milestones;

(D) Where applicable, a description of program phases, including a proposal for when each subsequent program phase will be submitted for Commission review;

(E) Expected utilization, participation eligibility, and any incentive structures;

(F) Identification of market barriers, program implementation barriers, and program strategies to overcome the identified barriers;

(G) Description of the electric company's role and, if applicable, a discussion of how the electric company proposes to own or support charging infrastructure, billing services, metering, or customer information;

(H) Whether transportation electrification adoption attributed to the program will likely necessitate distribution system upgrades;

(I) Where applicable, a discussion of ownership structure;

(J) Where applicable, a discussion addressing interoperability of invested equipment;

(K) Where applicable, a discussion of any national standards for measurement and communication; and

(L) Any other information requested by the Commission.

(b) Data used to support the descriptions provided in paragraphs (1)(a)(A)-(L) of this rule.

(c) A description of program coordination that includes a description of:

(A) Stakeholder involvement in program development;

(B) Efforts to coordinate with related state programs;

(C) Coordination, if any, of delivery with other market actors and activities, and how the market and other market actors can leverage the underlying program or projects within the program.

(d) A description of the electric company's long-term strategy to accelerate transportation electrification in its service territory in an effective and efficient manner and how the proposed program fits within the long-term strategy. To the extent possible, the strategy description shall include, but not be limited to, a discussion of the following:

(A) The current condition of the transportation electrification market in the electric company's service territory and the outlook for development of the market in the absence of the proposed program;

(B) Near and long-term market barriers to the development of transportation electrification and how the electric company proposes specifically to address those barriers;

(C) Near and long-term opportunities for improving the operation and reliability of the electric company's power system through transportation electrification and how the electric company proposes specifically to take advantage of those opportunities; and

(D) Other factors pertinent to the electric company's plans for transportation electrification.

(e) A description of program costs that includes, but is not limited to:

(A) Estimated total program costs, including incentives, program delivery, evaluation, marketing, and administration costs;

(B) Estimated participant costs;

(C) How the electric company proposes to recover costs; and

(D) Any other information requested by the Commission.

- (f) A description of the expected program benefits that includes, but is not limited to:  
(A) Program benefits, including to whom and when benefits are accrued;  
(B) Electrical system benefits; and  
(C) A discussion of how a net benefit to ratepayers is attainable.  
(g) A description of how the electric company will evaluate the program that includes, but is not limited to:  
(A) Timeline of program evaluation and proposed evaluation reporting schedule;  
(B) Estimated cost of evaluation;  
(C) How the evaluation will be conducted and whether third-party evaluation is necessary;  
(D) How the evaluation will address identified barriers; and  
(E) A discussion of the method of data collection that is consistent with subsection (1)(b) of this rule and how the data will be used to evaluate the effectiveness of the program.  
(F) Any other evaluative information requested by the Commission.  
(h) A description of how the program addresses the considerations in Oregon Laws 2016, chapter 028, section 20(4)(a)-(f).  
(2) An electric company must file applications for one or more Transportation Electrification Programs on or before December 31, 2016.

Stat. Auth.: ORS 756.040, 756.060, Oregon Laws 2016, ch. 028, sects. 20, 29 (SB 1547)

Stats. Implemented: Oregon Laws 2016, ch. 028, sects. 20, 29 (SB 1547)

Hist.: NEW

#### 860-087-0040

##### Transportation Electrification Program Reporting Requirements

- (1) An electric company must report the results of its evaluation for each Transportation Electrification Program approved by the Commission. A program evaluation must include, but is not limited to:  
(a) The information required under OAR 860-087-0030(1)(g)(A)-(F);  
(b) An assessment of program costs and benefits realized by ratepayers and the electric company;  
(c) A tracking of program costs over the life of the program;  
(d) Progress against identified market barriers and implementation barriers;  
(e) Current risk that investment will result in stranded costs;  
(f) Whether any program modifications are recommended to help meet expected outcomes;  
(g) Updated market data, including a description of changes in the condition of the transportation electrification market within the electric company's service territory; and  
(h) An evaluation of whether and how the program has:  
(A) Accelerated transportation electrification;  
(B) Stimulated innovation, competition, and customer choice; and

**(C) Supported system efficiency and operational flexibility, including the ability to integrate variable resources.**

**(2) The Commission may request additional program updates, including milestones and progress against success indicators, to assess whether to continue, discontinue, or modify approved Transportation Electrification Programs.**

**Stat. Auth.: ORS 756.040, 756.060, Oregon Laws 2016, ch. 028, sect. 20 (SB 1547)**

**Stats. Implemented: Oregon Laws 2016, ch. 028, sect. 20 (SB 1547)**

**Hist.: NEW**