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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860  
PUBLIC UTILITY COMMISSION

**FILED**  
02/21/2019 3:10 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: In the Matter of Rules Regarding Energy Efficiency Avoided Costs Reporting.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/22/2019 5:00 PM

*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.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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**NEED FOR THE RULE(S):**

These new rules and rule changes are those adopted by the OPUC at its January 29, 2019 Public Meeting. This notice does not contain any changes to the rules that the OPUC adopted at that meeting. The rule changes are being noticed again because the OPUC placed the rules in Chapter 860, Division 030 rather than in a new Division 090 as originally noticed in the Oregon Bulletin. An agency may not adopt rules in a division of rules different from the division in which the rules were noticed.

The need for the rules remains the same as previously noticed -- to improve transparency and accuracy for updating and developing energy efficiency avoided costs. The rules establish an annual reporting requirement of the subject energy utilities to allow stakeholders and the OPUC Staff to verify the avoided costs prior to their use by the third-party nongovernmental entity to administer energy efficiency programs and measures for the customers of the subject utilities (Avista Corporation, Cascade Natural Gas Company, Northwest Natural Gas Company, PacifiCorp, and Portland General Electric Company).

The OPUC encourages participants to file written comments as early as practicable to allow opportunity for other stakeholder to respond or comment. Please reference Docket No. AR 621 on comments and attach them to an e-mail addressed to PUC.FilingCenter@state.or.us.

Interested persons may review all filings online at <https://apps.puc.state.or.us/edockets/docket.asp?DocketID=21451>.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OPUC Order 17-394, Docket UM 1893, found online at: <https://apps.puc.state.or.us/orders/2017ords/17-394.pdf>

OPUC Order 18-077, Docket UM 1893, found online at: <https://apps.puc.state.or.us/orders/2018ords/18-077.pdf>

OPUC Order 18-418, Docket AR 621, found online at: <https://apps.puc.state.or.us/orders/2018ords/18-418.pdf>

OPUC Staff materials for July 6, 2018 workshop in Docket UM 1893, available at:  
<https://edocs.puc.state.or.us/efdocs/HAH/um1893hah165424.pdf>

OPUC AHD Report for January 29, 2019 Public Meeting, available at:  
<https://edocs.puc.state.or.us/efdocs/HAH/ar621hah11448.pdf>

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#### FISCAL AND ECONOMIC IMPACT:

The proposed rules, to some extent, formalize an existing process for reporting energy efficiency avoided cost data. An investor-owned energy utility that is subject to the rules may incur administrative and labor costs associated with collecting energy efficiency avoided cost data, reporting the data, and participating in any proceeding before the OPUC for approval of the avoided costs. Such expenses are not anticipated to be significant in most instances, particularly given that such utilities currently collect avoided cost data in some format and provide it to the non-governmental entity. A nongovernmental entity may incur some administrative and labor expenses adapting avoided costs approved by the OPUC for its use and participating in any proceeding before the OPUC for approval of avoided costs. The amount of such expenses in any particular circumstance cannot be quantified. Approval of updated avoided cost data by the OPUC under the proposed rules supports identification of cost-effective measures, which may benefit customers of the affected utilities to the extent it reduces the need for utility rate increases. (This is the same information provided in the Notice filed November 20, 2018.)

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#### 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).*

No state agencies or units of local government are likely to be economically affected by the proposed rules. As stated above, an energy utility subject to the rules, or its customers, may be economically affected. A nongovernmental entity approved by the OPUC to administer energy efficiency programs for the subject utilities may incur some administrative and labor expenses under the proposed rules. The overall impact cannot be quantified and is likely not significant.

No small businesses are subject to the rules. None of the energy utilities subject to the proposed rules are a small business. The nongovernmental entity currently approved by the OPUC to administer energy efficiency programs for the subject utilities is the Energy Trust of Oregon, which is not a small business.

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

The OPUC staff conducted workshops with interested parties and solicited oral and written comments from interested

persons to develop the proposed rules. One of the participating stakeholders is a membership-based organization whose membership includes some small businesses. The OPUC held a rulemaking hearing on December 27, 2018, to consider the content of these rules, and no stakeholders offered comment.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The OPUC's Staff conducted workshops with interested stakeholders and solicited oral and written comments. One of participating stakeholders is a membership-based organization whose membership includes some small businesses.

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RULES PROPOSED:

860-030-0007, 860-030-0011, 860-030-0013

AMEND: 860-030-0007

RULE SUMMARY: The changes to this rule eliminate the requirement for a subject gas utility to file avoided-cost information within 30 days of the PUC's acknowledgement of its integrated resource plan and makes a housekeeping change of changing "least-cost" plan to "integrated resource" plan.

CHANGES TO RULE:

860-030-0007

Gas Utility Avoided Costs ¶¶

(1) Investor-owned gas utilities shall file a proposed avoided-cost method and draft avoided costs with their ~~least-cost~~integrated resource plans pursuant to Order No. 89-507. ~~Final avoided-cost information shall be filed within 30 days of Commission acknowledgment of the least-cost plan to become effective 30 days after filing.~~ The avoided-cost method filed should be appropriate for determining the cost effectiveness of weatherization measures from the gas utility's perspective.¶¶

(2) A gas utility may propose or the Commission may require a gas utility to file the data described in OAR 860-030-0007(1) during the two-year period between filing ~~least-cost~~integrated resource plans pursuant to Order No. 89-507 to reflect significant changes in circumstances, such as acquisition of a major block of resources. Such a revision will become effective 90 days after filing.¶¶

(3) At least every two years, the gas utility must file with the Commission the data described in section (1) of this rule.

Statutory/Other Authority: ORS 183, 469, 756, 757

Statutes/Other Implemented: ORS 756.040, 469.631 - 469.645

ADOPT: 860-030-0011

RULE SUMMARY: This rule requires an energy utility subject to this rule to submit data necessary to calculate its energy efficiency avoided costs to the PUC on or before October 15 of each year on a report form provided by the PUC.

CHANGES TO RULE:

860-030-0011

Avoided Cost Data Reporting for Energy Efficiency

(1) An energy utility that provides customer funds to a third-party nongovernmental entity approved by the Commission to administer energy efficiency measures and programs, market transformation, or the above-market costs of new renewable energy resources in the utility's service area must submit data necessary to calculate its energy efficiency (EE) avoided costs for energy efficiency measures and programs in the manner and method specified in the Commission-approved reporting form. This form is available at:

[https://www.puc.state.or.us/Pages/electric\\_gas/formrpts.aspx](https://www.puc.state.or.us/Pages/electric_gas/formrpts.aspx). The EE avoided cost report must be submitted on or before October 15 of each year for use in the next energy efficiency program budget cycle. ¶

(2) An energy utility must include all data to support the values in its EE avoided cost form. ¶

(a) Relevant data may come from the energy utility's most recent integrated resource plan or integrated resource plan update that has been acknowledged by the Commission, or was used in the energy utility's most recent general rate case that has been resolved by a final order of the Commission; and ¶

(b) An energy utility may include more recent data with a supporting explanation as to why the Commission should approve its avoided costs based on such data. The Commission may approve the use of more recent data at its discretion. ¶

(3) At any time, the Commission may update the required data, format and methodology used to report specific values on the Commission-approved EE avoided cost reporting form. Any changes to the form that are approved by the Commission will take effect no less than 60 days following approval. ¶

(4) For purposes of this report, unless the context requires otherwise: ¶

(a) "Energy Efficiency avoided cost" or "EE avoided cost" means the value to an energy utility of avoiding the use of other resources to provide energy services to its customers through the use of an energy efficiency measure or program. ¶

(b) "Energy efficiency measure" or "energy efficiency program" refers to a measure or program that is designed to reduce energy consumption as a result of improved efficiency of energy use. ¶

(c) "Energy utility" means a public utility as defined in ORS 757.005 to which these rules apply.

Statutory/Other Authority: ORS 756.060

Statutes/Other Implemented: ORS 756.040, 756.070

ADOPT: 860-030-0013

RULE SUMMARY: This rule specifies that the third-party nongovernmental entity approved by the PUC to administer energy efficiency measures and programs on behalf of the regulated energy utilities may not use the energy efficiency avoided cost data until the data is approved by the PUC.

CHANGES TO RULE:

860-030-0013

Approval of EE Avoided Costs for Energy Efficiency Measures

The third-party nongovernmental entity identified in OAR 860-030-0011 may not use utility-specific EE avoided cost data in the administration of such measures and programs until the data is approved by the Commission. The Commission will generally consider approval of EE avoided costs for this purpose within 60 days from the filing deadline for the EE avoided cost report.

Statutory/Other Authority: ORS 756.060

Statutes/Other Implemented: ORS 756.040, 756.070