

April 14, 2023
Via Electronic Filing
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Oregon Public Utility Commission
John Mellgren, Administrative Law Judge
Attn: Filing Center
PO Box 1088
Salem, OR 97038-1088

RE: AR 655: Comments of Energy Advocates on CEP Rules

Dear Judge Mellgren,

The Green Energy Institute at Lewis & Clark Law School, Climate Solutions, Coalition of Communities of Color, Metro Climate Action Team Steering Committee, Multnomah County Office of Sustainability, NW Energy Coalition, Oregon Citizens' Utility Board, Oregon Just Transition Alliance, Oregon Solar + Storage Industries Association, Renewable Northwest, Rogue Climate, and Sierra Club (the "Energy Advocates") appreciate the opportunity to provide comments on the Clean Energy Plan (CEP) Procedural Rules. The Rules fairly balance the utilities' need for clear direction with stakeholders' rights to participate in the development and evaluation of the CEP.

We submit these short comments in response to the public comment at the March 22, 2023, public hearing. We focus on sections (4), (5) and (7) of OAR 860-027-0400.

OAR 860-027-0400 (4): "An electric company that is subject to ORS 469A.415 must file a CEP [Clean Energy Plan] with the Commission concurrently with an IRP filing required under Section (3) of this rule and in the same docket. If filing the CEP concurrently with the IRP **would create an undue burden**, the electric company may file a written request to the Commission to extend the filing date for the CEP "up to 180 days after the IRP filing date".¹ If the Commission grants an extension for filing the CEP, it may establish an alternate schedule for a utility presentation and comments under Sections (6) and (7) below." (Emphasis added).

Comment: We understand from the utilities' comments at the March 22, 2023 hearing that they prefer a good cause standard rather than an undue burden standard in reviewing a request to extend the filing date for the CEP. We support the rule as drafted.

¹ Just a note that we're not certain the quotation marks around "up to 180 days after the IRP filing date" are necessary.

A utility seeking an extension of time to file its CEP must demonstrate that concurrently filing the CEP with the IRP would create an undue burden on it. The standard, suggested after a robust discussion about whether utilities should aim to file the first CEPs at the same time as their IRPs, encourages utility conformance to the expressed preference of all the parties for simultaneous filing. The May 10, 2022 comments filed by the Alliance of Western Energy Consumers aptly summarize the merits of a single process, including streamlined Commission processes that value Commission and stakeholders' limited available time, recognize the inextricably intertwined nature of the IRP and CEP, and avoid conflicting analyses in the IRP and CEP.² The benefits to the Commission, stakeholders, and the process from a single filing support the need to require an "undue burden" standard on a utility seeking to file the CEP separately from the IRP.

OAR 860-027-400 (5): "The CEP must be written in language that is ***as clear and simple as possible*** so that it may be understood by non-expert members of the public" (Emphasis added).

Comment: In prior comments on Staff's proposed rule, the Energy Advocates requested that the rule direct CEPs to be "written in language that is clear and simple," without permitting leeway to the utilities to comply with the standard as was "possible."³ Accordingly, the rule as drafted appropriately balances the perspectives of stakeholders on the one hand and of the utilities on the other; it accounts for the genesis of HB 2021,⁴ which has been described as "a model example of a bill that centers equity"⁵ and a bill requiring solicitation of feedback from a Community Benefits and Impacts Advisory Group, while also recognizing that utilities are learning how to engage with new stakeholder communities. The rule provides appropriate direction to the utilities to write their CEPs with an eye toward inclusivity.

To the extent the utilities are concerned a miscommunication might lead to months of needless debate about the meaning of this rule, the onus is on both companies to engage with stakeholders in a meaningful way to avoid misunderstandings. If stakeholders find CEPs confusing, and if the utility compliance pathways are not clear from the CEPs, the companies are in the best position to engage and educate stakeholders rather than debate whether the language of the CEP is, in fact, written in a language that is as clear and simple as possible.

OAR 860-027-400 (7): "Commission staff and parties must file their comments and recommendations, and when applicable, their CEP comments and recommendations, ***generally***

² UM 2225, Alliance of Western Energy Consumers' Comments, House Bill 2021 Investigation into Clean Energy Plans (May 10, 2022), <https://edocs.puc.state.or.us/efdocs/HAC/um2225hac9450.pdf>.

³ UM 2225, Energy Advocates' Comments on Proposed Rules (Nov. 3, 2022), <https://edocs.puc.state.or.us/efdocs/HAC/um2225hac171439.pdf>.

⁴ See HB 2021, Sec. 2(4) ("It is the policy of the State of Oregon...(4)That implementation of sections 1 to 15 of this 2021 Act be done in a manner that minimizes burdens for environmental justice communities.") available at <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2021> and codified in ORS 469A.405(4).

⁵ Department of Oregon, 2022 Biennial Energy Report, Policy Brief: Oregon's Clean Energy Opportunity Campaign Case Study 502, <https://www.oregon.gov/energy/Data-and-Reports/Documents/2022-BER-Policy-Briefs.pdf#page=127>.

within six months of IRP filing. If the CEP is not filed with the IRP, Commission staff and parties must file their comments and recommendations ***generally within six months of CEP filing.*** (Emphasis added).

Comment: The CEP rules as currently drafted provide discretion to the Commission to accommodate stakeholder engagement in examining and commenting on the utilities' CEPs. The current proposed text supports public participation in the process. Any need for clarity about deadlines can be sorted out by the Commission via order.

Thank you for considering these comments.

Sincerely,

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**Green Energy Institute at Lewis & Clark
Law School**

Joshua Basofin
Climate Solutions

Nikita Daryanani
Coalition of Communities of Color

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