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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860
PUBLIC UTILITY COMMISSION

FILED

02/24/2023 10:49 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Rulemaking Regarding Filing, Review, and Update of Clean Energy Plans, revising OAR 860-027-0400.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/05/2023 4:00 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.

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Filed By:
Diane Davis
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 03/22/2023

TIME: 9:30 AM

OFFICER: John Mellgren

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 669-254-5252

CONFERENCE ID: 1616312241

NEED FOR THE RULE(S)

Oregon House Bill (HB) 2021, codified as ORS 469A.400 to 469A.475, requires the state's large investor-owned utilities (IOUs) and electricity service suppliers (ESSs) to decarbonize their retail electricity sales by 2040 with consideration for direct benefits to local communities. ORS 469A.415(1) and (2) requires IOUs to, "develop a clean energy plan for meeting the clean energy targets set forth in ORS 469A.410 concurrent with the development of each integrated resource plan," and file the plan with the OPUC and Oregon Department of Environmental Quality (DEQ). The Public Utility Commission of Oregon (OPUC) is authorized under Section 14 of HB 2021, codified at ORS 469A.465, to adopt administrative rules as necessary to implement HB 2021.

Oregon Administrative Rule (OAR) 860-027-0400 provides requirements for the filing, review, and update of Integrated Resource Plans (IRPs). These rule changes are necessary to incorporate rules for the filing, review, and update of Clean Energy Plans (CEP) that are developed concurrently with the IRP. These rule changes are needed to provide clarity into the process and timelines for public input into the CEP and the Commission acknowledgment process.

Any person may file comments by April 5, 2023. The Commission encourages participants to file written comments concerning the proposed rule revisions as early as practicable in the proceeding so that other participants can consider and respond to the comments before the deadline.

Participants who present oral comment at the March 22, 2023, hearing will be asked to also submit written comments before the comment period closes on April 5, 2023.

Please reference Docket No. AR 655 on comments and attach them as a Word or pdf file to an e-mail to the Commission's Filing Center at PUC.FilingCenter@puc.oregon.gov. Although email comments are preferred, comments may be submitted by mail, but must be received by April 5, 2023. Written comments may be sent to: Oregon Public Utility Commission, Attn: Filing Center, PO Box 1088, Salem, OR 97308-1088.

Interested persons may review all filings online at

<https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=23559>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and OAR 860-001-0200 through 860-001-0250 found online at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

2021 Oregon House Bill 2021 found online at:

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2021/Enrolled>

ORS 469A.400 to ORS 469A.475 found online at: https://www.oregonlegislature.gov/bills_laws/ors/ors469a.html

Commission Order No. 22-477 found online at: <https://apps.puc.state.or.us/orders/2022ords/22-477.pdf>

OPUC Staff's Initial Draft Rule Changes (October 11, 2022) and stakeholder comments received on that draft, found online in Docket UM 2255, accessible at:

<https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=23160>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

These rule amendments apply to investor-owned electric utilities regulated by OPUC, specifically electric companies that must file a CEP under ORS 469A.415. The Commission anticipates that rule amendments as described in this notice will have little to no impact on racial equity in Oregon. To ensure that racial equity issues were considered, prior to issuing this Notice, the Commission engaged in an informal rulemaking process prior to its decision to open a formal rulemaking process and order this Notice of Proposed Rulemaking to be filed. As part of that informal process, the Commission provided notice to the Docket No. UM 2225 service list, which includes a broad range of stakeholders.

Among those notified are:

- Coalition of Communities of Color
- Community Action Partnership of Oregon
- Community Energy Project
- Northwest Energy Coalition
- Rogue Climate
- Spark Northwest
- Verde

No party provided comments that the Commission's proposed Division 27 rules would have a negative effect on racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

The proposed rule changes identify filing requirements for CEPs and IRP updates, and processes for OPUC review of these filings. Electric companies subject to the rules are responsible for the professional services, labor, reporting and administrative expense associated with preparing these filings and engaging in the OPUC review process but may request to include all or a portion of those expenses in customer rates, thereby passing the expense on to the customers of the electric company. Such expenses are not anticipated to be excessive, given that the electric companies currently are required to prepare IRPs and IRP updates and engage in a review process for those filings. The amount of such expenses in any particular circumstance cannot be quantified.

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).

No state agencies or units of local government are likely to be affected by the proposed rule changes. An electric company subject to the rule changes may incur some labor and administrative expense, which may ultimately be borne by the customers of the electric company. These expenses cannot be quantified.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s);

Electric companies subject to the requirements of ORS 469A.415 are subject to the rule changes, neither of which is a small business.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

Electric companies subject to the proposed changes must prepare and file a CEP and IRP update and engage in processes for OPUC review of these filings. As a result, the companies will likely incur some reporting and administrative expense associated with preparing these filings and engaging in the OPUC review process. An electric company may request to include all or a portion of those expenses in customer rates, thereby passing the expense on to the customers of the electric company. Such expenses are not anticipated to be excessive, as the electric utilities must already prepare IRPs and IRP updates under the current rule. The amount of such expenses in any particular circumstance cannot be quantified.

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

Electric companies subject to the proposed changes must prepare and file a CEP and IRP update and engage in processes for OPUC review of these filings. As a result, the companies will likely incur some expense associated with professional services, and labor in preparing these filings and engaging in the OPUC review process. An electric company may request to include all or a portion of those expenses in customer rates, thereby passing the expense on to the customers of the electric company. Such expenses are not anticipated to be excessive, as the electric utilities must already prepare IRPs and IRP updates under the current rule. The amount of such expenses in any particular circumstance cannot be quantified.

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

In Docket UM 2225, OPUC conducted a series of workshops open to the public on HB 2021 implementation, circulated a draft of rule changes for informal comment, and engaged in discussions with a broad range of stakeholders, some of which may include small businesses. Stakeholders included individual utility customers, utilities, state agencies, and

organizations representing independent power producers, renewable energy advocates, consumer interests and environmental interests.

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

OPUC engaged in an informal process to solicit comments and feedback on the rule changes from a number of interested stakeholders.

AMEND: 860-027-0400

RULE SUMMARY: The changes to this rule specify the content and filing requirements for a Clean Energy Plan (CEP) required under ORS 469A.415, additional content and filing requirements for Integrated Resource Plan (IRP) updates related to the CEP, provide additional changes to the process for review of IRP, CEP, and IRP update filings, and specify the actions the Commission may take on review of a CEP.

CHANGES TO RULE:

860-027-0400

Integrated Resource Plan and Clean Energy Plan Filing, Review, and Update ¶

- (1) Scope and Applicability: This rule applies to investor-owned energy utilities. Upon application by an entity subject to this rule and for good cause shown, the Commission may relieve it of any obligation under this rule.¶
- (2)(a) As used in this rule, "Integrated Resource Plan" or "IRP" means the energy utility's written plan satisfying the requirements of Commission Order Nos. 07-002, 07-047 and 08-339, detailing its determination of future long-term resource needs, its analysis of the expected costs and associated risks of the alternatives to meet those needs, and its action plan to select the best portfolio of resources to meet those needs.¶
- (b) As used in this rule, "Clean Energy Plan" or "CEP" means the plan that an electric company subject to ORS 469A.415 is required to develop concurrently with the development of the IRP.¶
- (3) An energy utility must file an IRP within two years of its previous IRP acknowledgment order or as otherwise directed by the Commission. If the energy utility does not intend to take any significant resource action for at least two years after its next IRP is due, the energy utility may request an extension of its filing date from the Commission.¶
- ~~(4)~~ An electric company subject to ORS 469A.415 must explain how it will make continual progress toward towards meeting the clean energy targets in ORS 469A.410 during the period of extension when making a request.¶
- ~~(4)~~ An electric company that is subject to ORS 469A.415 must file a CEP 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". 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.¶
- (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. The CEP must contain the information required by ORS 469A.415 and present annual goals for actions that balance expected costs and associated risks and uncertainties for the utility and its customers, including a demonstration of making continual progress toward meeting the clean energy targets, the pace of greenhouse gas emissions reductions, and community impacts and benefits.¶
- (6) The energy utility must present the results of its filed IRP, and, when applicable, its CEP, to the Commission at a public meeting prior to the deadline for written public comment.¶
- ~~(5)~~ Commission staff and parties must file their comments and recommendations within six months of IRP, and when applicable, their CEP comments and recommendations, generally 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.¶
- ~~(6)~~ The Commission must consider comments and recommendations on an energy utility's IRP, and, when applicable, CEP, at a public meeting before issuing an order on acknowledgment. ¶ Except as provided in section (9), the Commission may provide the energy utility an opportunity to revise the IRP before issuing an acknowledgment order.¶
- ~~(7)~~ For an electric company that is subject to ORS 469A.415, the Commission will issue an order memorializing its decision on acknowledgment for CEP, which may be combined with the IRP acknowledgment order. The

Commission may provide the electric company an opportunity to revise the IRP or CEP or both before issuing an acknowledgment order. The Commission may, at its discretion, take one of the following actions for the CEP portion of the acknowledgement order:

(a) Acknowledge a CEP as filed;

(b) Acknowledge a CEP with conditions; or

(c) Not acknowledge the CEP and require that the utility revise and resubmit all or certain elements of the CEP within the procedural timeline directed in the order.

(10) The Commission may provide direction to an energy utility regarding any additional analyses or actions that the energy utility should undertake in its next IRP, and, when applicable, its CEP.

(811) Each energy utility must submit an annual update on its most recently acknowledged IRP. The update is due on or before the acknowledgment order anniversary date. The energy utility must summarize the annual update at a Commission public meeting. The energy utility may request acknowledgment of changes, identified in its update, to the IRP action plan. The annual update is an informational filing that:

(a) Describes what actions the energy utility has taken to implement the action plan to select best portfolio of resources contained in its acknowledged IRP;

(b) Provides an assessment of what has changed since the acknowledgment order that affects the action plan to select best portfolio of resources, including changes in such factors as load, expiration of resource contracts, supply-side and demand-side resource acquisitions, resource costs, and transmission availability; and

(c) Justifies any deviations from the action plan contained in its acknowledged IRP.

~~9~~, or, where applicable, CEP.

(d) Includes an update that summarizes the utility's actions implementing the annual goals in the CEP filed with the most recently acknowledged IRP. The update will include, on an informational basis, an assessment of what has changed since the acknowledgment order that affects the utility's progress toward the clean energy targets in ORS 469A.410, reporting of measured impacts across the metrics that were presented in the most recently acknowledged CEP, and the electric company's two most recent annual emissions reports filed with the Oregon Department of Environmental Quality under ORS 469A.420(4)(a).

(12) As soon as an energy utility anticipates a significant deviation from its acknowledged IRP, or, where applicable, its CEP, it must file an update with the Commission, unless the energy utility is within six months of filing its next IRP. This update must meet the requirements set forth in section (8) of this rule.

(103) If the energy utility requests Commission acknowledgement of its proposed changes to the action plan contained in its acknowledged IRP, or, where applicable, its CEP:

(a) The energy utility must file its proposed changes with the Commission and present the results of its proposed changes to the Commission at a public meeting prior to the deadline for written public comment;

(b) Commission staff and parties must file any comments and recommendations with the Commission and present such comments and recommendations to the Commission at a public meeting within six months of the energy utility's filing of its request for acknowledgement of proposed changes;

(c) The Commission may provide direction to an energy utility regarding any additional analyses or actions that the utility should undertake in its next IRP, or, where applicable, its CEP.

Statutory/Other Authority: ORS 183, ORS 756.040, ORS 757.262

Statutes/Other Implemented: ORS 756.040, ORS 757.262