

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

Diane Davis

(503) 378-4372

Rules Coordinator

Telephone

550 Capitol St NE – Suite 215, Salem OR 97301-2551

Address

RULE CAPTION

In the Matter of Amendments to OAR 860-012-0100 Regarding Case Certification for Grant Eligibility.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

860-012-0100

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority: ORS

ORS 756.040 & 757.072

Other Authority:

Statutes Implemented: ORS

ORS 757.072

Continued on next page

Secretary of State

Continuation of ... NOTICE OF PROPOSED RULEMAKING***RULE SUMMARY**

The proposed amendments to OAR 860-012-0100 clarify the requirements of an organization for case certification for eligibility for intervenor funding. These amendments are required to conform the rule to the language included in the First Amended and Restated Intervenor Funding Agreement approved by the Commission in its Order No. 07-564 on December 19, 2007, and effective January 1, 2008.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association 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 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.

ORS 183.335(2)(b)(G) 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.

02/25/2008	5:00 pm	Diane Davis	diane.davis@state.or.us	01/07/2008
Last Day (m/d/yyyy) and Time for Public Comment		Printed Name	Email Address	Date Filed

Please enter date as m/d/yyyy or mm/dd/yyyy

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

ARC 923-2003

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Amendments to OAR 860-012-0100 Regarding Case Certification for Grant Eligibility.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendments to OAR 860-012-0100 Regarding Case Certification for Grant Eligibility.

Statutory Authority: ORS

ORS 756.040 & 757.072

Other Authority:

Stats. Implemented: ORS

ORS 757.072

Need for the Rule(s):

The amendments are needed to clarify the eligibility requirements of an organization seeking case certification for intervernor funding. The eligibility requirements were clarified in the First Amended and Restated Intervenor Funding Agreement approved by the Commission in Order No. 07-564, on December 19, 2007.

Documents Relied Upon, and where they are available:

Commission Order No. 07-564 available online at <http://apps.puc.state.or.us/orders/2007ords/07-564.pdf>*Continued on next page*

Secretary of State

Continuation of ... STATEMENT OF NEED AND FISCAL IMPACT**Fiscal and Economic Impact:**

The proposed amendments will not fiscally or economically impact any state agencies, units of local government, industries, small businesses or other members of the public. An organization would be subject to the rule only if it chose to apply for case certification to be eligible for intervenor funding. The proposed changes do not result in any increased reporting, recordkeeping, administrative activities, equipment, supplies, labor, professional services or cost of compliance. The proposed amendments provide clarification of requirements.

Statement of Cost of Compliance:**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

The proposed amendments will not fiscally or economically impact any state agencies, units of local government, industries, small businesses or other members of the public. The proposed amendments provide clarification of requirements.

2. Cost of compliance effect on small business (ORS 183.336):**a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:**

An organization would be subject to the rule only if it chose to apply for case certification to be eligible for intervenor funding.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed changes do not result in any increased reporting, recordkeeping, or other administrative activities, including costs of professional services for compliance. The proposed amendments provide clarification of requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed changes do not result in any increased supplies, labor, or increased administration for compliance. The proposed amendments provide clarification of requirements.

How were small businesses involved in the development of this rule?

The Citizens' Utility Board of Oregon was a party to the negotiations of the First Amended and Restated Intervenor Funding Agreement, the approval of which created the need for these amendments to the rule.

Administrative Rule Advisory Committee consulted?:

 Yes No

If not, why?:

The parties to the First Amended and Restated Intervenor Funding Agreement negotiations considered and adopted the language clarifying the case certification requirements. The proposed rule amendments mirror that language.

02/25/2008 5:00 pm

Diane Davis

diane.davis@state.or.us

01/07/2008

Last Day (m/d/yyyy) and Time
for Public Comment

Printed Name

Email Address

Date Filed

Please enter date as m/d/yyyy or mm/dd/yyyy

860-012-0100

Grant Eligibility (Precertification and Case-Certification)

(1) Definitions:

(a) "Agreement" means a Commission approved agreement under ORS Ch. 234, OR Laws 2003 between a utility providing electricity or natural gas and a not-for-profit organization that represents broad customer interests in Commission regulatory proceedings.

(b) "Grant" means financial assistance to an intervenor under the terms of an agreement.

(2) General. Upon Commission approval of an agreement, the Commission shall apply the qualifications set forth in this rule to determine eligibility for a grant. Only parties that are precertified, or parties that become case-certified for a particular proceeding, will be eligible to receive grants under an agreement. The terms of an agreement will be binding on all organizations seeking a grant under that agreement and will be followed by the Commission in administering the agreement.

(3) Precertification. The Commission will precertify organizations meeting the criteria of subsection (3)(a) or (3)(b) as eligible to receive grants. Once precertified, an organization will remain precertified unless the Commission decertifies the organization under OAR 860-012-0190.

(a) The Citizens' Utility Board of Oregon (CUB), as a representative of residential customers; or

(b) Not-for-profit organizations that meet all of the following criteria:

(A) A primary purpose of the organization is to represent utility customers' interests on an ongoing basis;

(B) The organization represents the interests of a broad group or class of customers and those interests are primarily directed at public utility rates and terms and conditions of service affecting that broad group or class of customers, and not narrow interests or issues that are ancillary to the representation of the interests of customers as consumers of utility services;

(C) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent;

(D) The organization's members, who are customers of one or more of the utilities that are parties to the agreement, contribute a significant portion of the overall support and funding of the organization's activities in the state; and

(E) The organization has demonstrated in past Commission matters the ability to substantively contribute to the record on behalf of customer interests.

(4) Case-Certification. Organizations meeting the following criteria may be case-certified by the Commission to be eligible to receive a grant:

(a) The organization:

(A) Is a not for profit organization; or

(B) Demonstrates that it is in the process of becoming a nonprofit corporation;

or

(C) Is comprised of multiple customers of one or more of the utilities that are parties to the agreement and demonstrates that a primary purpose of the organization is to represent broad utility customer interests.

(**ab**) The organization represents the interests of a broad group or class of customers and its participation in the proceeding will be primarily directed at public utility rates and terms and conditions of service affecting that broad group or class of customers, and not narrow interests or issues that are ancillary to the impact of the rates and terms and conditions of service to the customer group;

(**bc**) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent;

(**ed**) The organization's members who are customers of one or more of the utilities affected by the proceeding that are parties to the agreement contribute a significant percentage of the overall support and funding of the organization;

(**de**) The organization demonstrates, or has demonstrated in past Commission proceedings, the ability to substantively contribute to the record on behalf of customer interests related to rates and the terms and conditions of service, including in any proceeding in which the organization was case-certified and received a grant;

(**ef**) The organization demonstrates that:

(A) No precertified intervenor participating in the proceeding adequately represents the specific interests of the class of customers represented by the organization related to rates and terms and conditions of service; or

(B) The specific interests of a class of customers will benefit from the organization's participation; and

(**fg**) The organization demonstrates that its request for case-certification will not unduly delay the schedule of the proceeding.

Stat. Auth.: ~~ORS Ch. 234, OR Laws 2003~~756.040 & 757.072

Stats. Implemented: ~~ORS Ch. 234, OR Laws 2003~~757.072

Hist.: PUC 1-2004, f. & ef. 1-8-04 (Order No. 04-007)