

ITEM NO. RM 1

PUBLIC UTILITY COMMISSION OF OREGON
AHD REPORT
PUBLIC MEETING DATE: May 21, 2019

REGULAR CONSENT RULEMAKING EFFECTIVE DATE Upon Filing

DATE: May 15, 2019

TO: Public Utility Commission

FROM: Sarah Rowe *SR*

THROUGH: *dbol* Diane Davis, *Nolan* Nolan Moser

SUBJECT: OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE HEARINGS DIVISION: (Docket No. AR 621) Adopt Rules Regarding Energy Efficiency Avoided Costs Reporting

AHD RECOMMENDATION:

The rules attached to this memo are the same rules that the Commission adopted at its January 29, 2019 Public Meeting, and the Administrative Hearings Division (AHD) recommends the Commission again adopt the rules now that they have been properly noticed in the Secretary of State Bulletin. After the January 29, 2019 Public Meeting, AHD became aware of the Secretary of State's requirement for a match between the division the rules are noticed in, and the division the rules are adopted in. To meet this requirement, AHD re-noticed the rules explaining that they will be placed in Chapter 860, Division 030, rather than in a new Division 090 as originally noticed. The rules now need to be formally adopted.

BACKGROUND:

Although AHD has not made any changes to the attached rules since the January 29, 2019 Public Meeting, for reference this memo summarizes: all key events in this rulemaking, the edits made to the rules at the January 29, 2019 Public Meeting, and the substance of the revised rules attached to this memo. In the Discussion section below, this memo reviews comments received from Cascade Natural Gas Corporation (Cascade), explains AHD's responses to the comments, and recommends no further changes to the rules.

1. Relation to UM 1893, Staff's Investigation into the Methodology and Process for Developing Avoided Costs Used in Energy Efficiency Cost-Effectiveness Tests

An energy efficiency (EE) measure's avoided cost generally represents the largest quantifiable benefits in a cost-effectiveness test. EE avoided costs are comprised of several individual values including forward market prices for energy, line losses, transmission & distribution deferral value, and several other elements.¹ Staff and stakeholders are participating in a separate investigation in docket no. UM 1893 on the methodology and process for developing EE avoided costs.

In UM 1893, Staff and stakeholders have updated data collection forms, analyzed the data, and discussed potential improvements to the EE avoided cost calculation.² Currently, Staff and stakeholders are updating the data collection forms that will be presented to the Commission this summer and used by utilities to submit data for use by the Energy Trust of Oregon (ETO) in its 2021 budget. ETO is the current nongovernmental entity approved to administer EE programs.

One of the process improvements that stakeholders identified in UM 1893 is to have the utilities report EE avoided cost data first to the Commission, rather than the past practice of reporting the data directly to the ETO. Staff determined that a rulemaking was necessary, and the two main purposes of this rulemaking were: (1) to require annual submission of data to the Commission, and (2) to avoid conflicts and redundancies with the existing avoided cost data rules in OAR 860-029-0040, OAR 860-030-0007, and OAR 860-030-0010.

2. Process and Development of the Rules

Per the Commission's normal rulemaking process, Staff and stakeholders worked in an informal rulemaking process to develop an initial draft of the rules. Throughout 2018, Staff conducted workshops and edited the rules, as explained in the Staff Report dated October 19, 2018. The Commission began the formal rulemaking process when it

¹ Staff Memo, Docket No. UM 1893 (Oct 4, 2017).

² Staff Memo, Docket No. AR 621 (Oct 16, 2018).

approved issuance of a notice of proposed rulemaking at the October 23, 2018 Public Meeting.

In the formal rulemaking process, AHD held a hearing on December 27, 2018. Staff presented a brief summary and no stakeholder comment was submitted. AHD edited the rules and presented the edits to the Commission at the January 29, 2019 Public Meeting. The Commission took action to adopt permanent rules at that Public Meeting, but the adoption was not completed because the scope of notice did not match the final OAR division.

AHD issued a new notice of rulemaking with the Secretary of State that was published on February 21, 2019. In response to the new notice, only Cascade filed comments (discussed below).

3. Summary of Rule Requirements

The key purpose of the rules is to establish a process whereby the utilities will report avoided costs annually by October 15 to the Commission via a reporting form. Separately, Commission Staff is working with stakeholders to develop the reporting form that will serve as a template for the annual reporting process in UM 1893.

The rules provide that the utilities may use avoided cost components from their integrated resource plans (IRP), a rate case, or a more updated source with an explanation. The rules state that the utilities are to provide supporting data to allow stakeholders and Staff to verify the avoided costs. Finally, the rules provide that the Commission will consider approval of the avoided costs within 60 days and that ETO may not use the avoided costs until the Commission approves the EE avoided costs.

4. AHD's Edits Adopted at the January 29, 2019 Public Meeting

The Commission adopted AHD's recommendation that instead of having a separate section, these rules would be put into Division 30. This section includes older rules for energy efficiency. The applicability language in Division 30 (OAR 860-030-0000(1)) exempts utilities that are using ETO, and Division 30 needs other updates that will be addressed at a later date. For purposes of the EE avoided costs reporting rules, the new language in OAR 860-030-0011 contains its own applicability language. The

utilities subject to the rules are Avista Corporation, dba Avista Utilities; Cascade; Northwest Natural Gas Company, dba NW Natural; PacifiCorp, dba Pacific Power; and Portland General Electric Company (PGE).

The Commission also adopted AHD's proposal to clarify that gas utilities will continue to include proposed avoided costs and avoided cost methodology in their IRP, but will no longer be required to update those avoided costs 30 days after IRP acknowledgement. For consistency, the Commission also agreed to remove the second sentence of OAR 860-030-0007 that requires natural gas utilities to submit updated avoided cost information within 30 days of Commission acknowledgement of an IRP.

Finally, the Commission noted that Staff would report back in a public meeting this summer with the proposed EE avoided cost reporting form template, which could be combined with Staff's informational update on UM 1893, which is every 6 months.

DISCUSSION:

Cascade filed comments with three questions about the intent or scope of the rules. This memo responds with clarifications but does not recommend changes to the rules. Regarding scope, Cascade asks whether the rules are intended to apply only to ETO conservation measures, or whether the rules also apply to the Low Income Weatherization Assistance Program. AHD can clarify that the current rules would only apply to ETO programs. Staff's memo from October 18, 2018 addresses this point and explains that the rules were designed to support ETO's existing methodology and while other agencies could use the data, the rules do not address other agencies. This scope has not changed in the January 29, 2019 edits to the rules.

Cascade also states that, by specifying that the utilities must file data by October 15 of each year, the timing supports ETO budgeting but may not align with another agency. AHD understands Cascade's point, but notes that because these rules have been specifically designed for ETO's budget cycle, the October 15 date should remain, and the Commission may change the date if it is necessary in the future.

Lastly, Cascade requests clarification of the portion of the rule providing that ETO may not use the data until it is approved by the Commission. Cascade states that the Conservation Potential Assessment (CPA), a study in Integrated Resource Plans (IRP) is typically when the utilities introduce new avoided cost data and begin collaborating

with ETO with the new data. Cascade would like to be able to use new data in its CPA, and requests clarification that the restriction for Commission approval of EE avoided cost data only applies to ETO's budget process. Cascade's explanation is correct, the intent is clearer when the rules are read together (OAR 860-030-0011 and OAR 860-030-0013). Because OAR 860-030-0011 states that the data must be submitted by October 15 *to be used in the EE program budget cycle*, the rules do not apply to the utilities' development of IRPs and foundational studies such as the CPA.

In sum, the EE reporting rules create a reporting process that will increase transparency and accuracy for updating and developing EE avoided costs. Any remaining questions or implementation details may be addressed in Staff's ongoing investigation in UM 1893.

PROPOSED COMMISSION MOTION:

Adopt new permanent rules as attached to this memo, with no modifications from the January 29, 2019 version.

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 integrated resource plans pursuant to Order No. 89-507. 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 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.

Stat. Auth.: ORS 183, 469, 756, 757

Stats. Implemented: ORS 756.040, 469.631 - 469.645

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. 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.

Stat. Auth.: ORS 756.060

Stats. Implemented: ORS 756.040, 756.070

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.

Stat. Auth.: ORS 756.060

Stats. Implemented: ORS 756.040, 756.070