



## PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 860

PUBLIC UTILITY COMMISSION

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FILING CAPTION: Changes to Rules Regarding Certificates for Public Convenience and Necessity (CPCNs)

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#### RULES:

860-025-0030, 860-025-0035, 860-025-0040

AMEND: 860-025-0030

NOTICE FILED DATE: 06/30/2022

RULE SUMMARY: The changes to this rule specify the filing requirements for a petition for a Certificate of Public Convenience and Necessity.

#### CHANGES TO RULE:

860-025-0030

Petitions for Certificate of Public Convenience and Necessity for Construction of Overhead Transmission Lines ¶

(1) Petitions under ORS 758.015, for a certificate of public convenience and necessity to construct an overhead transmission line, ~~which that~~ will necessitate a condemnation of land or an interest therein, ~~shall contain the following information:¶~~

~~(a) The information required under OAR 860-025-0005.¶~~

~~(b) A detailed description and the purpose of the proposed transmission line which shall must be filed in accordance with OAR 860-001-0170.¶~~

~~(2) Petitions under ORS 758.015 must contain the following information:¶~~

~~(a) The information required under ORS 758.015 and the additional information set forth in this rule:¶~~

~~(b) A thorough description of the information listed in subsection (c) of this rule, including but not be limited to a general description of the proposed route, voltage and capacity of the line. The project description should be in must include a comprehensive narrative that provides sufficient detail to enable a full understanding of the public convenience, necessity and justification in the public interest for the proposed transmission line and the benefits to be derived therefrom, and to enable a determination of its safety and practicability; under normal and emergency conditions, as well as the foreseeable or potential consequences of not building the proposed transmission line:¶~~

~~(c) A map or maps that are drawn to appropriate scale showing the and show appropriate distinguishing colors and symbols to depict the following information:¶~~

~~(A) A general location and boundaries of petitioner's service area to be connected or served by the proposed transmission line and showing, by appropriate distinguishing colors and symbols, but not limited to, the following information:¶~~

(A) Proposed route, voltage and capacity of the proposed transmission line;¶

(B) Available alternate routes; transmission line routes analyzed by petitioner, if any;¶

(C) Other transmission lines and substations of petitioner connecting or, serving or capable of being adopted to connect or serve the areas covered by the proposed transmission line, if any;¶

(D) The terminals, substations, sources of energy, and load centers, existing or proposed, related to the proposed project.¶

(E) Land to be condemned.¶

(d) An estimate of the cost transmission line and its intended operation, including the proposed transmission line itself;¶

(F) Each parcel of land that the petitioner has either acquired or has determined it should acquire an interest in to construct and operate the transmission line. The parcels of land that the petitioner has determined it should acquire an interest in must be clearly marked, and must clearly show the general contour, uses, and improvements along that portion of the proposed route, inclusive of structures and agricultural uses;¶

(d) An estimate of both already incurred and forecasted costs of developing the transmission line project, including:¶

(A) Land and land rights to be condemned.¶

(B) Other Parcels of land that petitioner determines it should obtain an interest in for which condemnation is assumed to be necessary at the time of the petition;¶

(B) Other parcels of land and land rights interests therein acquired or to be acquired;¶

(C) Transmission facilities;¶

(D) S, including but not limited to, poles, lines, substations, accessory and miscellaneous labor, plant, and equipment; inclusive of any communication apparatus and environmental mitigations;¶

(E) Indirect and overhead costs including engineering, legal expense, taxes, interest during construction, and itemized administrative and general expenses;¶

(F) Any other costs, direct or indirect, relating to the project.¶

(G) Such transmission line project including but not limited to operating and maintenance costs of the project;¶

(F) Explanation of the various foregoing cost estimates as needed to enable a full understanding of their basis and derivation;¶

(e) An explanation of the financial feasibility of the proposed project, including the kind, nature, extent and estimated growth of the energy requirements or reasonably anticipated need, load or demand transmission line, including any expected costs, revenues, and financing tools;¶

(f) A description of the parcels of land that petitioner determines it should obtain an interest in and; for the proposed transmission line.¶

(f) A description of the property and interest to be condemned, a full explanation of the intended use, and the specific necessity and convenience for the taking of said property;¶

(A) A map must be included whereon the land to be condemned is clearly marked, and the general contour, culture and improvements along that portion of the route are clearly shown.¶

(B) To which condemnation is assumed to be necessary at the time of the petition, a full explanation of the intended use, and the specific necessity and convenience of each. The description must be accompanied by the names and addresses of all persons who have interests, known or of record, in the land to be affected physically impacted or traversed by the proposed route from whom applicant petitioner has not yet acquired the necessary interest, rights of way or option therefor. Petitioner must include with the petition certification verifying that notice of the petition has been mailed to said persons;¶

(g) A statement and explanation with supporting data comparable to that described in subsections (4d) and (5e) of this rule section for possible alternative routes; analyzed by petitioner;¶

(h) Such additional information as may be needed petitioner determines is necessary for a full understanding of the situation;¶

(i) Such information and supporting data needed for the Commission to satisfy the land use findings requirement described in sections (2), (3), and (4) of this rule.¶

(2) The Commission A summary of petitioner's plan to ensure compliance with applicable Commission rules, including but not limited to OAR Chapter 860, Division 24, and other safety standards for the safe construction, operation and maintenance of the transmission line. Petitioner must include a certificate executed by an authorized representative of petitioner affirming that it will adhere to the applicable Commission rules and other applicable safety standards for construction operation and maintenance of the transmission line. The representative's certificate must be a sworn statement under ORS 162.055 attesting to the truth of the certification;¶

(j) Estimated revenue requirement impact. At a minimum, petitioner must include an estimate of the levelized, annual revenue requirement of the transmission, as part of its approval of a Certificate of Public Convenience and Necessity, shall adopt findings which assure the proposed transmission project complies with the Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each

local government where the project is to be located. The Commission's findings shall be developed under the rules and procedures in the Commission's state agency coordination program pursuant to ORS 197.180.¶

(3) The Commission's land use findings assuring the proposed project's goal compliance and plan compatibility shall be based on the hearing record, which shall include at least one of the following: line as a percentage of its estimated annual revenue requirement. A revenue requirement estimate provided under this rule may be used solely for the purposes of evaluating the petition;¶

(k) Public benefits and costs of the transmission line, if any, that are reasonably known to petitioner, including but not limited to:¶

(A) Costs and benefits to petitioner's Oregon customers and customers of other Oregon utilities and to Oregonians in general;¶

(B) Costs and benefits that the proposed transmission line will provide related to connection to regional and inter-regional grids;¶

(l) A review of and reference to regulatory approvals and reviews that concern, analyze or otherwise discuss the proposed transmission line, such as an integrated resource plan acknowledgement, other short- or long-term planning documents, construction work plans filed with a regulatory body, and any relevant site certificate issued by the Energy Facility Siting Council;¶

(m) The most recent load forecasts available to petitioner supporting need for the line. The load forecasts shall, when feasible, include a load forecast of at least 10 years, and an accompanying narrative explaining the kind, nature, extent, and estimated growth of the energy requirements or reasonably anticipated need, load or demand, as relevant to the proposed transmission line;¶

(n) An evaluation of available alternatives to construction of the transmission line, including but not limited to conservation measures, non-wires alternatives, and construction of one or more lower-voltage single or multi-circuit lines. The petitioner may make reference to relevant sections of its most recent integrated resource plan (IRP) filed under OAR 860-027-0400, local transmission plans, or a planning document substantially equivalent to an IRP;¶

(o) All electrical engineering studies and reliability or resiliency analyses known to the petitioner at the time the petition is submitted, whether performed by the petitioner or other entities supporting the necessity of the transmission line when relevant, including those addressing single and multiple contingencies;¶

(ap) A copy of the local land use permit from each affected city or county planning agency, building department, or governing body stating that the proposed transmission project has received the jurisdiction's approval; or¶

(b) A copy of a letter from each affected local planning agency, building department, or governing body stating that the proposed transmission project is permitted; a narrative that identifies all land use approvals and permits required for construction of the transmission line. This narrative must include information on whether petitioner has submitted an application for each approval or permit, the status of all such applications, and an explanation as to why petitioner did not obtain any pending or outstanding approvals or permits before submitting a petition under this rule as applicable, including anticipated timelines for issuance of any pending or outstanding approvals and permits, and the section of OAR 860-025-0040 under which the petitioner seeks to demonstrate compliance with that rule;¶

(q) When filing a petition, a petitioner must also certify that it has concurrently submitted its responses to the most recent version of the Standard Data Requests for Petitions for Certificates of Public Convenience and Necessity, developed by Staff and available on the Commission's website.¶

(3) A petition may not be filed under the jurisdiction's comprehensive plan, land use regulations, and development codes, but does not require is rule unless the petitioner includes with the petition all necessary documentation to support a finding under OAR 860-025-0040(2) or (7), or files a request for a waiver as described in OAR 860-025-0030(4).¶

(4) If the petitioner cannot obtain, or has not yet obtained all necessary documentation to support a finding under OAR 860-025-0040(2) or (7), the petitioner must submit a request for a waiver of specific approval by the jurisdiction; or¶

(c) Other written or oral land use information and documentation equivalent to (3) of this rule in advance of or concurrent with the petition. If filed concurrently, the petitioner will provide notice that the petition includes a request for waiver at the time of filing. The OAR 860-025-0030(3) waiver request must include:¶

(a) The identification of whether the waiver request pertains to OAR 860-025-0030(3)(a)2) or (b) above properly presented to the Commission from an authorized representative from each affected city or county; and a list of all necessary documentation that the petitioner cannot obtain, or has not yet obtained at the time of filing;¶

(b) An explanation that clearly and comprehensively explains the grounds for the waiver, including a narrative of why the required documentation cannot be obtained, or has not yet been obtained, along with any reliable evidence to support and verify the petitioner's claim that such documentation cannot be obtained or demonstrates when the petitioner expects to obtain all land use approvals, permits or county; or¶

(d) Commission goal compliance findings adopted pursuant to equivalent before the Commission makes its final

decision on the petition, and that the petitioner is requesting that the Commission consider the petition concurrently with the identified approval and permit processes; ¶

(c) In the event that the petitioner seeks a waiver for OAR 860-030-0065(3) in situations when the Commission is unable to assure goal compliance b25-0040(2); the petitioner shall indicate clearly whether it requests that the Commission make its findings under OAR 860-025-0040(2) or (6); ¶

(d) In the event that the petitioner requests that the Commission make its finding under OAR 860-025-0040(7), the petitioner will provide information from the relevant, pending Energy Facting compatibly with one or more of thilities Siting Council (EFSC) proceeding to demonstrate that EFSC approval is being sought; ¶

(e) A case management proposal for conducting the CPCN process before the conclusion of any land use approval or permitting processes that will promote aeffected comprehensive plans.icient use of Commission resources and avoid duplicative or wasted effort. ¶

(45) If a proposed transmission line is subject to the jurisdiction of the Energy Facility Siting Council (EFSC), Staff will promptly review the waiver request: ¶

(a) If Staff finds the waiver request is reasonable and adequately supported, Staff will recommend the Commission approve the waiver request at a public meeting; or ¶

(b) If Staff finds the waiver request is not supported by good cause, Staff will recommend the Commission deny the request at a public meeting. Staff will further recommend the Commission shall adopt findings which assure the project and route have been certified by EFSC, and the requirements of OAR 860-025-0030(2) and (3) shall not applymake a finding that the petition is incomplete without the inclusion of identified information and that it will not be considered by the Commission, pursuant to OAR 860-025-0030(3).

Statutory/Other Authority: ORS 183, 756, 758

Statutes/Other Implemented: ORS 758.015

ADOPT: 860-025-0035

NOTICE FILED DATE: 06/30/2022

RULE SUMMARY: This rule sets out the criteria the Commission will consider on review of a petition for a Certificate of Public Convenience and Necessity.

CHANGES TO RULE:

860-025-0035

CPCN Review Criteria

(1) The Commission may approve a petition filed under OAR 860-025-0030 by determining the necessity, safety, practicability and justification in the public interest of the proposed transmission line upon consideration of the following:¶

(a) Whether the transmission line will meet a demonstrated need for transmission of additional capacity or improved system reliability that enables the petitioner to provide or continue to provide adequate and reliable electricity service;¶

(b) Whether the petitioner has demonstrated that it will ensure the transmission line is constructed, operated, and maintained in a manner that protects the public from danger and conforms with applicable Commission rules, and other applicable safety standards and best industry practices;¶

(c) Whether the transmission line using petitioner's proposed route is practicable and feasible, whether it will be effectively and efficiently constructed in a commercially reasonable manner;¶

(d) Whether petitioner has justified construction of the proposed transmission line as in the public interest, as compared with feasible alternatives for meeting the identified need, considering the public benefits and costs of the project, as they relate to the interests in land proposed to be condemned, petitioner's existing facilities and equipment, petitioner's Oregon customers, and other considerations that may be relevant to the public interest. Other such considerations include, but are not limited to, the benefits and costs to other Oregon utilities, their customers, and all Oregonians, the value of connections to regional and inter-regional electricity grids and to a petitioner's non-Oregon service territories, and all Oregonians;¶

(e) The Commission may also consider other factors it deems relevant to the statutory criteria.¶

(2) In evaluating a petition under this rule, the Commission will give due consideration to related regulatory reviews and permitting approvals as pertinent to the proposed transmission line, if the transmission line has already been acknowledged or approved by regulatory or permitting authorities.¶

(3) In the event a CPCN is granted, the certificate shall expire 15 years from date of issuance, except that a certificate shall expire 10 years from the date of issuance if construction has not commenced during those 10 years. Upon written request of a petitioner, the Commission may grant an extension on the term of a certificate for good cause shown. A request must be served on the service list for the associated CPCN docket, and if applicable, the docket for the petitioner's last acknowledged integrated resource plan.

Statutory/Other Authority: ORS 183, ORS 756, ORS 758

Statutes/Other Implemented: ORS 758.015

RULE SUMMARY: This rule sets forth how the Commission will make findings that issuing a CPCN for a proposed transmission line will be in compliance with statewide planning goals and land use regulations and compatibility with acknowledged plans and regulations.

CHANGES TO RULE:

860-025-0040

Petition for CPCN Compliance with Statewide Planning Goals, Land Use Regulations, and Acknowledged Plans

(1) The Commission, as part of its approval of a petition filed under OAR 860-025-0030, shall adopt findings which assure the proposed transmission project complies with the Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each local government where the project is to be located. The Commission's findings shall be developed consistent with the rules and procedures in the Commission's state agency coordination program pursuant to ORS 197.180.¶

(2) The Commission's land use findings assuring the proposed project's goal compliance and plan compatibility shall be based on the hearing record, which shall include at least one of the following:¶

(a) A copy of the local land use permit from each affected city or county planning agency, building department, or governing body stating that the proposed transmission project has received the jurisdiction's approval; or¶

(b) A copy of a letter from each affected local planning agency, building department, or governing body stating that the proposed transmission project is permitted under the jurisdiction's comprehensive plan, land use regulations, and development codes, but does not require specific approval by the jurisdiction; or¶

(c) Other written or oral land use information and documentation equivalent to OAR 860-025- 0040(2)(a) or (b) above properly presented to the Commission from an authorized representative from each affected city or county.¶

(3) In making findings under section (2) of this rule, the Commission may rely on a Land Use Compatibility Statement ("LUCS") issued by an authorized representative from an affected city or county to the extent the LUCS: ¶

(a) Confirms the city or county has issued a land use permit approving the proposed transmission project; or¶

(b) States the applicable city or county acknowledged comprehensive plan does not require specific approval of the proposed transmission project; or ¶

(c) States the proposed transmission project will be compatible with the jurisdiction's acknowledged comprehensive plan if petitioner obtains the land use permits identified in the LUCS, and the LUCS confirms the acknowledged comprehensive plan's general provisions will not be substantially affected by issuance of a certificate if those permits are obtained.¶

(4) A petitioner must notify the Commission promptly when a land use permit or land use compatibility statement submitted to support findings under this subsection has been appealed or has been modified or withdrawn before a final order has issued in a CPCN proceeding.¶

(5) If a land use compatibility statement upon which the Commission bases its land use compatibility findings is revoked or modified to include a finding that the transmission line is incompatible with an acknowledged comprehensive plan or implementing regulations after the Commission has issued a CPCN, the Commission may amend or withdraw the CPCN final order.¶

(6) In the event that the Commission cannot make findings under section (2) of this rule for any of the reasons enumerated in OAR 660-030-0065(3), the Commission may adopt goal compliance findings pursuant to OAR 660-030-0065(3).¶

(7) If a proposed transmission line is subject to the jurisdiction of the Energy Facility Siting Council (EFSC), the Commission will not take final action until EFSC has issued a site certificate for the transmission line. The Commission will adopt the findings made as a part of the EFSC-issued site certificate, and the requirements of OAR 860-025-0040 (2) - (6) shall not apply.

Statutory/Other Authority: ORS 183, ORS 756, ORS 758

Statutes/Other Implemented: ORS 758.015