



**DEPARTMENT OF JUSTICE**  
BUSINESS SERVICES DIVISION

November 7, 2023

via E-mail

Public Utility Commission of Oregon

**Attn: Filing Center**

201 High Street SE, Suite 100

Salem, OR 97308-1088

[PUC.FilingCenter@puc.oregon.gov](mailto:PUC.FilingCenter@puc.oregon.gov)

**Re: UM 2024– Staff’s Proposed Docket Scope and Procedural Schedule**

In accordance with Administrative Law Judge (ALJ) Lackey’s October 23, 2023 Scheduling Memorandum, Staff of the Public Utility Commission of Oregon (Staff) file this scoping and scheduling proposal in Docket No. UM 2024. This proposal outlines Staff’s proposed approach for the scope of issues to be addressed in the contested case. Staff believes that a phased approach is optimal, focusing first on those issues that must be decided for customers to make service decisions in the state of Oregon.

The parties to this proceeding have been invited to confer on the attached proposal, via email to the service list on November 1, 2023. Parties have expressed concern with the amount of time allotted to each phase, inclusion of specific issues in a phase, and expressed preference not to begin the contested case until January 2024. Staff offers this proposal as a jumping off point and to facilitate discussion.

Sincerely,

/s/ Natascha Smith

Natascha Smith,  
Assistant Attorney General  
Business Activities Section

## Staff Proposal for UM 2024 Phasing and Procedural Schedule

Staff recommends using the following proposal as a starting point for discussing a scope and schedule in UM 2024. Staff does not view this proposal as a final plan for the docket and encourages parties to provide feedback and refinement on this approach. Staff is not proposing that any of the issues in this docket require preliminary determinations to be made before resolving the rest of the issue in a second phase. However, Staff has identified many issues and is interested in stakeholders' thoughts on organizing the issues into two phases in order to focus the scope.

A dedicated party's proposal is not required at this stage to resolve specific issues, but Staff recommends that AWEC provides an initial straw proposal outlining their positions on the Phase I topics after the scope and schedule are set. As the original party to petition to open an investigation into Direct Access, AWEC is positioned to provide arguments as a starting place in this proceeding.

### **Phase I: Curtailment Processes, Transitions and Elections, and Program Caps**

Staff believes that determining the fundamental process of how curtailment will work and who will be eligible should be the first phase in the contested case. This information, along with reviewing the transition and election method for customers, can help inform decisions on program caps and define Oregon's direct access landscape. Staff recommends addressing the following issues together in Phase I, as each topic is connected. Staff believes caps and transition charges should be discussed in conjunction with the other Phase I issues. An alternative to a phased approach could be to address all the topics while adding a third round of testimony and additional time between rounds.

#### Curtailment issues:

- Utility's step-by-step process for curtailing customers.
  - Defining which customers are eligible, which are not, and which require a waiver. The status of critical facilities should be discussed at this time.
  - Determining how often a customer can switch its designation as curtailable or non-curtailable.
  - Define the limits of utility liability when making curtailment decisions.
- Determining the categories and estimates of costs for infrastructure to enable curtailment.
  - Includes determining how estimates of costs and timelines should be handled.
- Explore the potential for demand response in conjunction with these new infrastructure upgrades. If there is an opportunity to utilize the upgrades beyond their use as a cost-shifting and reliability safeguard, it should be considered.

#### Elections and Transitions:

- Examine the elections process for a customer opting for direct access.
- Staff recommends starting the discussion on AWEC's resource option approach to direct access transitions included in an original straw proposal in this docket.<sup>1</sup>
- Address any changes to transition adjustments/consumer opt-out charges.

---

<sup>1</sup> [Alliance of Western Energy Consumers' Straw Proposal for Long-Term Direct Access, August 23, 2021](#)

Returning customers and default supply:

- Determining a calculation that captures the “Uncommitted Supply Rates” in OAR 860-038-0290(11) and (14).
  - What are the differences in treatment between curtailable and non-curtailable customers?
- Setting an amount of time a returning customer may remain on default supply.
  - How should customers be treated who have used “standard offer” exclusively?
- Market Rate
- Penalty Charges for Returning to Cost of Service

Program Caps:

- The structure of a cap on non-curtailable load per OAR 860-038-0290(7).
- Frequency of recalculations for cap limits.

The megawatt threshold that is appropriate for a cap, either on a specific type of load or on the overall Direct Access program.

**Phase II: Non-Bypassable Charges and Other Issues**

Staff recommends addressing these remaining issues in a later phase compared to the topics listed above since they are less connected to the implementation of curtailment and setting program caps:

- Assigning non-bypassable charges.
- Determining the process for Direct Access customers to return to cost-of-service at the conclusion of this investigation should they choose to do so.
- Potential changes to the November 15 indicative pricing and election window dates to accommodate final power cost orders.
- Issues raised as part of the Resource Adequacy investigation in Docket No. UM 2143, such as backstop capacity charges, that are better suited for this proceeding. Staff has tentatively grouped this topic into Phase II, but is open to feedback on whether this could impact program caps and structure or other Phase I issues.

Staff’s Proposed Schedule:

Staff proposes allotting approximately 10-12 weeks between straw proposals and opening testimony, and about 8 weeks between opening and reply testimony. Staff recommends two phases of testimony prior to a hearing and briefs.

<b>November 2023</b>	Phase I Straw Proposals
<b>Late February 2024</b>	Phase I All-Party Opening Testimony
<b>Late April 2024</b>	Phase I All-Party Reply Testimony
<b>May 2024</b>	Target Date for Settlement (if Applicable) <sup>2</sup>
<b>Late May 2024</b>	Phase II Straw Proposals
<b>Early August 2024</b>	Phase II All-Party Opening Testimony

---

<sup>2</sup> If parties do not reach settlement, the Phase I issues will be addressed during the evidentiary Hearing following Phase II testimony.

<b>Late September 2024:</b>	Phase II All-Party Reply Testimony
<b>October 2024</b>	Phase II Target Date for Settlement (if Applicable)
<b>Late October 2024</b>	Evidentiary Hearing
<b>Late November 2024</b>	All-Party Opening Briefs
<b>Early January 2025</b>	All-Party Closing Briefs
<b>March 2025</b>	Target Date for Commission Decision