ORDER NO. 05-1229

ENTERED 11/28/05

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 495

In the Matter of	)	
	)	
PUBLIC UTILITY COMMISSION OF	)	
OREGON	)	ORDER
	)	
Rulemaking to Adopt and Amend Rules	)	
Related to Ownership of the Non-energy	)	
Attributes of Renewable Energy (Green	)	
Tags), Energy Service Supplier Certification	)	
Requirements, and Use of Terms "Electric	)	
Utility" and "Electric Company."	)	

DISPOSITION: NEW RULE ADOPTED; EXISTING RULES AMENDED

This rulemaking addresses three separate matters. We add a new rule to Division 022 of the Oregon Administrative Rules (OAR), as well as amend existing rules in Division 038, to clarify the ownership of the non-energy attributes of renewable energy generation that is sold to a utility under a net metering or other retail power production tariff. We also amend rules to enhance electricity service supplier (ESS) certification requirements. Finally, we amend numerous rules in order to ensure that use of the terms, "electric utility" and "electric company," in our administrative rules, conforms to the statutory definitions of these terms.

PROCEDURAL BACKGROUND

On August 2, 2005, the Public Utility Commission of Oregon (Commission) opened this rulemaking at a public meeting. On August 3, 2005, Notice of the Rulemaking and a Statement of Need and Fiscal Impact were filed with the Secretary of State. Notice of the Rulemaking Hearing was published in the September 2005 edition of the *Oregon Bulletin*. On August 10, 2005, Notice of the Rulemaking Hearing was served to various lists of interested persons. On September 20, 2005, a comment hearing was held. Written comments were received through September 21, 2005. Comments were heard or received from the following participants: Citizens' Utility Board (CUB), Commission Staff (Staff), PacifiCorp, Portland General Electric Company (PGE), Renewable Northwest Project (RNP), Sherman County, Western Wind Power, Weyerhaeuser Company (Weyerhaeuser) and Crown Hill Farm. All comments addressed the proposed new rule to clarify the ownership of green tags.

OWNERSHIP OF NON-ENERGY ATTRIBUTES OF RENEWABLE ENERGY (GREEN TAGS)

Every unit of energy has certain defining attributes. The particular attributes of renewable energy include environmental, economic and social benefits. Recognition of these benefits has resulted in renewable energy facilities being valued for the energy they generate, as well as for the non-energy benefits they create. Increasingly, the non-energy attributes of renewable energy are discretely identified and valued in energy markets as "green tags," "Tradable Renewable Certificates (TRCs)" or "Renewable Energy Credits (RECs)."

This unbundling of green tags has created ambiguity, however, about the ownership of the tags. When a renewable power facility sells energy to an electric company under a net metering contract, a Qualifying Facilities (QF) contract executed pursuant to the Public Utility Regulatory Policies Act (PURPA)[1], or any other form of a retail power production tariff, a question may arise as to whether the green tags transfer with the purchase of energy or whether the tags remain with the owner of the facility to be separately sold. Recognition of this ambiguity gave rise to this rulemaking.

Parties' Positions

Staff argues that renewable energy and the associated green tags are discrete products to be separately contracted for. Staff asserts that the United States Congress did not envision green tags when PURPA was enacted and that the Federal Energy Regulatory Commission (FERC) has recently concluded that contract pricing based on avoided costs do not compensate renewable energy power producers for the transfer of green tags.[2] Staff notes that Oregon's calculation of avoided costs is based on

[1] The United States Congress passed PURPA in 1978, as codified in the United States Code (USC) at 16 USC 824a-3.

[2] *See American Ref-Fuel Company*, 105 FERC ¶ 61,004 at 61,007. (October 1, 2003). In a docket addressing a petition for a declaratory ruling that "avoided cost contracts entered into pursuant to PURPA, absent express provisions to the contrary, do not inherently convey to the purchasing utility any renewable energy credits or similar tradable certificates (RECs)," FERC ruled:

> Section 292.304 sets forth what factors are to be considered in determining avoided costs. *See 18 C.F.R. § 292.304(e)* (2003) . . . .
>
> Significantly, what factor is *not* mentioned in the Commission's regulations is the environmental attributes of the QF selling to the utility. This is because avoided costs were intended to put the utility into the same position when purchasing QF capacity and energy as if the utility generated the energy itself or purchased the energy from another source. In this regard, the avoided cost that a utility pays a QF does not depend on the type of QF, i.e., whether it is a fossil-fuel-cogeneration facility or a renewable-energy small power production facility. The avoided cost rates, in short, are not intended to compensate the QF for more than capacity and energy.
>
> . . . RECs are relatively recent creations of the States . . . What is relevant here is that the RECs are created by the States. They exist outside the confines of PURPA.

costs associated with a natural gas-fired plant that does not produce associated green tags.[3] Staff further observes that Oregon's net metering law,[4] and the associated electric company tariffs, are silent on the ownership of green tags from net-metered facilities.

Staff proposes adding a rule to Division 022 to clarify that the owner of the renewable energy facility owns the non-energy attributes associated with the generation of electricity and that a sale of power to an electric company would not convey title to the green tags without an express clause doing so. Staff proposes that the rule apply prospectively to all green tags created, under either existing or new contracts, as of the rule's effective date. Staff also proposes to amend OAR 860-038-0300 to clarify that the resources of an electric company do not include green tags that are associated with purchases of energy under a net metering tariff, a PURPA contract or any other retail power production tariff, unless the electric company separately contracts for the purchase of the green tags. Additionally, Staff proposes to define the term "non-energy attributes" in Divisions 022 and 038.

Staff does not believe that owners of energy facilities that create green tags receive a "windfall" by retaining the green tags instead of transferring them with the energy sold. Staff argues that an owner of an energy production facility owns *all* the value produced from the facility and that avoided cost rates, as currently calculated, recompense owners only for the energy that is generated, not for any associated environmental benefits that might have value on the market. Staff observes that requiring owners to transfer environmental benefits with energy at current avoided cost rates alone would result in windfalls to purchasing electric companies.

Weyerhaeuser supports the new rule, and the amendment to OAR 860-038-0300, as proposed, for the reasons set forth by Staff. Weyerhaeuser adds that the retention of green tags by the owners of the facilities that create the tags provides appropriate incentives to encourage the development of environmentally beneficial generation. Weyerhaeuser also cautions that QFs should not be required to sell green tags to electric companies, but rather should have a full opportunity to negotiate the sale of green tags.

> PURPA thus does not address the ownership of RECs. And the contracts for sales of QF capacity and energy, entered into pursuant to PURPA, likewise do not control the ownership of the RECs (absent an express provision in the contract). States, in creating RECs, have the power to determine who owns the REC in the initial instance, and how they may be sold or traded; it is not an issue controlled by PURPA.
>
> . . . contracts for the sale of QF capacity and energy entered into pursuant to PURPA do not convey RECs to the purchasing utility (absent an express provision in a contract to the contrary). While a state may decide that a sale of power at wholesale automatically transfers ownership of the state-created RECs, that requirement must find its authority in state law, not PURPA.

[3] *See* Order No. 05-584 at 27.
[4] *See* ORS 757.300.

RNP also concurs with Staff's positions and endorses the rules as proposed. RNP adds that renewable energy projects may be made economic by recognizing the additional value added by green tags as discrete products. RNP recognizes, however, that under the proposed rules and ORS 757.612(3), implementation of a Renewable Portfolio Standard (RPS) in the future will be problematic to the extent that electric companies face conflicting requirements to hold green tags but to not pay rates greater than avoided costs. RNP recommends that this issue be revisited, however, should an RPS be instituted in Oregon.

PacifiCorp, PGE and CUB criticize, in differing degrees, Staff's proposed new rule. PacifiCorp most strongly challenges the proposed rule, asking the Commission to reject it. PacifiCorp contends that the non-energy attributes associated with renewable energy that is already under contract passed to the electric companies and may not be reallocated. With regard to future contracts for renewable generation, PacifiCorp argues that facility owners should be deemed to own the non-energy attributes of power produced from the facility, under two conditions: 1) that the power produced from the facility is assessed to cost more than avoided costs; and 2) that an RPS is not in effect in the state of Oregon. To implement its position, PacifiCorp recommends that the Commission adopt the following rule:

(1) As used in this rule: "Non-energy attributes" means the environmental, economic and social benefits of generation from renewable energy facilities. These attributes are normally transacted in the form of Renewable Energy Credits ("RECs").

(2) Existing contracts: For contracts entered into in Oregon between energy utilities and qualifying facilities ("QFs") pursuant to the Public Utility Policies Act of 1978 ("PURPA") prior to the effective date of this rule, the energy utility purchasing electrical output from the QF shall have ownership of all RECs associated with energy and capacity produced and delivered by the QF.

(3) Future contracts:
  (a) For contracts entered into in Oregon between energy utilities and QFs pursuant to PURPA after the effective date of this rule, ownership of all RECs associated with energy and capacity produced and delivered by a QF is governed by the provisions of the contract pursuant to which the energy is purchased.
  (b) Unless otherwise agreed to by contract, the developer of the QF shall have ownership of all RECs associated with energy and capacity produced and delivered by the QF, but only if and only while the following conditions are met:

(i) The reasonable cost of output of the QF determined in accordance with standards to be established by the Commission, which shall include a cost analysis performed by a third party, is greater than the avoided cost to be paid by the energy utility, and

(ii) The energy utility is not subject to a Renewable Portfolio Standard or other requirement pursuant to which it is required to purchase a portion of its output from renewable resources.

In all other cases, ownership of the RECs will remain with the energy utility purchasing the electrical output from the QF.

(4) The energy utility shall not resell RECs obtained under existing or future QF contracts, as set out in this rule, and must retain all RECs for ratepayer benefit, including the ability to count power purchased from renewable QFs as renewable energy in the utility generation mix.

PacifiCorp finds it necessary to clarify the definition of green tags, observing that green tags are not synonymous with the tradable emissions allowances or credits that are recognized by federal and state environmental agencies. Rather, PacifiCorp indicates that the "tag" associated with the term, "green tags," is "the right to claim the attributes of the electricity."[5] PacifiCorp states that this right is valuable in two markets: 1) a compliance market created by a state RPS; and 2) a customer choice market that allows customers to pay a premium to be served by renewable energy. In the latter market, PacifiCorp observes, green tags confer "bragging rights."

PacifiCorp argues that under existing PURPA contracts, these bragging rights have already been transferred to the electric companies. Although not identified as green tags in the past, electric companies that purchased power under PURPA contracts received attestations from supplying facilities about compliance with PURPA's requirements regarding the type of power produced by the facility. PacifiCorp observes that PURPA compliance is the reason that a renewable energy facility qualifies for avoided cost rates, and that a renewable energy facility must, therefore, certify its status when executing a sale of power. PacifiCorp concludes that this certification under past PURPA contracts effectively resulted in the transfer of non-energy attributes of QF power to utilities. Indeed, PacifiCorp notes that electric companies have traditionally reported purchases from renewable QFs in various reporting programs, including corporate environmental reports. The recent identification and naming of these non-energy attributes as green tags, PacifiCorp argues, should not change their treatment

[5] Comments of PacifiCorp at 3, citing Resolution Adopting Environmental Marketing Guidelines for Electricity, National Association of Attorneys General, Winter Meeting, 1999, p. 6.

under existing contracts. Staff responds that the proposed new rule does not address past ownership of non-energy attributes of renewable generation.

With regard to future contracts, PacifiCorp contends that renewable generation facility owners should not be presumed to own the non-energy attributes of energy produced from facilities if avoided costs compensate the facility owners for all reasonable costs. To ensure that renewable generation facility owners are not overcompensated, PacifiCorp proposes that the Commission develop proxy resource for the various types of renewable facilities and to compare such proxy costs against avoided costs. If avoided costs equaled or were greater than the proxy cost of a particular facility, the non-energy attributes of generation from that facility would be deemed to be paid for and would transfer to the purchaser of the energy. If avoided costs were less than the proxy cost of a particular facility, the facility owner would retain the green tags.

PacifiCorp also expresses concern that under Staff's proposed rule, QFs will be free to sell green tags to out-of-state buyers, resulting in other states receiving the actual benefits of the non-energy attributes of energy produced in the state of Oregon. PacifiCorp warns that Oregon ratepayers will be severely disadvantaged under the proposed rules if a national or state RPS is adopted.

CUB criticizes Staff's proposed rules as "inflexible." CUB challenges the appropriateness of always allocating green tags to the owners of renewable energy facilities and CUB argues that it is no longer correct to assume that the construction of a renewable energy facility is always at a premium cost. CUB posits that if costs to build a wind generation facility are the same to build a natural gas plant, then avoided costs, which are based on the latter, are sufficient to compensate a renewable energy facility for all the value that it produces. CUB agrees with PacifiCorp that the proxy cost of building the facility should be compared to avoided costs in order to determine whether an owner of a renewable facility should have the opportunity to be separately compensated for green tags. CUB recommends that the facility owner retain the green tags only if proxy development costs would not be fully recovered through payment of avoided cost rates. CUB acknowledges that implementing this approach will require further work and urges the Commission to reject Staff's proposed rules in favor of undertaking additional development of appropriate rules.

Envisioning future situations that would render the rule inadequate, such as changing how avoided costs are calculated, PGE also calls for more flexibility. PGE also recommends that section 2(c) of the proposed new rule be modified to include the term, "retail," in order to clarify the inapplicability of the rule to wholesale power production tariff contracts. Staff agrees with inclusion of this term. Finally, should the proposed rules be adopted, PGE indicates that clarity will be needed about how purchases from renewable resources should be identified in various reports and calls for parties to work together on such implementation issues.

Resolution

FERC recently determined that "green tags" exist under state law and outside of federal PURPA law. In so doing, FERC indicated that states have the exclusive authority to determine their ownership.[6] In opening this rulemaking, we exercised this authority.

The recent development of "green tags" as a commodity in energy markets has arguably unbundled renewable energy into two products: megawatts of electricity and the non-energy attributes associated with each megawatt. Staff endorses this position, proposing a new rule, and associated rule amendments, that would allow owners of a renewable generation facility to sell green tags independently from the underlying energy. Under a contract to sell electricity that is entered into under a net metering, PURPA or other retail power production tariff, the proposed rules would designate the owner of the renewable generation facility as the owner of the non-energy attributes of each unit of electricity sold, absent a contractual clause providing otherwise.

Staff contends that the new rules should apply on a prospective basis, as of the effective date of the rules, to both existing and new contracts. Although Staff does not address past ownership of green tags, Staff asserts that the proposed rules, as written, would assign ownership of green tags associated with electricity that is sold in the future, but under existing contracts, to the owners of the generation facilities. PacifiCorp strongly opposes application of the new rules to existing contracts, in any manner, on a number of grounds.

We decline to evaluate arguments regarding the ownership of green tags under existing contracts in this rulemaking, as this issue raises questions of contract interpretation that are outside the scope of this proceeding. Consequently, we find that it is appropriate to evaluate Staff's proposed rules as applied to future contracts only. In order to review the proposed rules on these terms, we find it necessary to clarify the proposed applicability of the rules, by modifying section (1) of the proposed new rule, as follows (added language in *italics*): "This rule applies to non-energy attributes associated with energy generated *and sold under an applicable contract, as identified in section (2) of this rule, that is executed* on or after the effective date of this rule." As modified, this rule would recognize any green tag produced under a future energy purchase contract as a discrete commodity to be owned and managed by the owner of the generating renewable energy facility.

Putting aside concerns about the existence of green tags under contracts already in effect, no participant in this rulemaking disputed the perception that markets increasingly value, on an independent basis, the non-energy attributes that are associated with the generation of renewable energy. Consequently, we conclude that it is reasonable to acknowledge this market reality by instituting a rule that identifies green tags that are

[6] *American Ref-Fuel Company*, *supra* note 3.

produced under future contracts as discrete products to be sold or traded in markets separately from the underlying energy.

In addition to identifying green tags as a commodity, Staff's proposed rules would assign ownership. There is a dispute among the participants as to who should own the green tags. While Staff, Weyerhaeuser, Sherman County, Western Wind Power and Crown Farm argue that the owner of the renewable energy facility should always be deemed to be the owner of any green tags generated by the facility, PacifiCorp, PGE and CUB contend that the rules should have more flexibility, as it may be inappropriate in some circumstances to assign ownership of green tags to the facility owner. In particular, these participants express concern that if calculations of avoided costs incorporate compensation for non-energy attributes of renewable energy, green tags should transfer to the purchasing parties under renewable energy contracts. Additionally, PacifiCorp speculates that Staff's proposed rules may be rendered outdated should the state of Oregon adopt an RPS.

Our intent in this rulemaking is to adopt rules that are appropriate under current circumstances and existing law. As the Commission's rules may be modified at any time, changes in circumstances, or the law, can be addressed in subsequent rulemakings, as needed. Consequently, we do not find it necessary to address participants' concerns about the suitability of the proposed rules under potential scenarios, such as the adoption of an RPS in Oregon or a fundamental change in the methodology used to calculate avoided costs. Rather, we evaluate Staff's proposed rules in context of current circumstances and observe that the appropriateness of the proposed rules in such circumstances is not challenged.[7]

As to existing law, we conclude that Staff's proposed rules are consistent with state and federal law. Indeed, we find that the proposed rules simply clarify the law by making it clear that, absent a clause providing otherwise, contracts to purchase renewable electricity do not transfer the green tags associated with the purchased electricity. Although not explicitly stated in Order No. 05-584, this conclusion follows from our determination there, that rates based on avoided costs do not include compensation for any social and environmental benefits that may be associated with a particular facility's generation of electricity.[8] This conclusion is also consistent with

[7] No participant directly challenges implementation of the rule under existing circumstances—i.e., in the absence of an RPS in Oregon and under the calculation of avoided costs. Although it is unclear whether CUB alleges that renewable facilities are currently being built for less than avoided cost rates, or whether this may be the case in the future, CUB's position misunderstands the function of avoided cost rates. Avoided cost rates provide QFs with compensation based not on the costs of the suppliers, but on the costs that electric companies avoid by purchasing QF power.

[8] In the first phase of UM 1129, a proceeding to develop policies and procedures to implement PURPA, the Fair Rate Coalition (FRC), which represented a class of very small QFs with installed generation capacities of less than 500 kilowatts each, requested payment of an "adder" above avoided costs to compensate class members for, among other things, certain social and environmental benefits provided by very small generation facilities. We determined that compensation paid to QFs may not exceed avoided costs and that the calculation of avoided costs did not reflect costs associated with social and environmental benefits. *See* Order No. 05-584 at 30-31.

FERC's determination that avoided cost rates under PURPA are not intended to compensate a QF for more than capacity and energy.[9]

For these reasons, we adopt Staff's proposed new rule, with the modification we outlined above, as well as Staff's proposed rule amendments. We also adopt the modification proposed by PGE, which Staff supports, that would insert the word, "retail," before the term, "power production tariff," in section (2)(c) of the new rule. Should the law or circumstances change, we will reevaluate the rules as necessary. Any interested person may separately raise any issues regarding ownership of green tags under existing contracts. Moreover, revenue issues associated with the purchase or sale of green tags by an electric company should be addressed, as appropriate, in future rate cases.

CERTIFICATION REQUIREMENTS FOR ELECTRICITY SERVICE SUPPLIERS

ORS 757.649 sets forth statutory requirements related to ESS certification. Administrative rules implementing this statute were originally promulgated in AR 380 and became effective as of September 29, 2000, pursuant to Order No. 00-596. Based on past experience with these rules, Staff recommends two substantive modifications that Staff characterizes as enhancements, as well as one technical correction to OAR 860-038-0410 to update the name, "Western Systems Coordinating Council," to "Western Electricity Coordinating Council." The first proposed enhancement to the ESS certification rules is the addition of specific criteria to demonstrate an applicant's creditworthiness and technical competence. The second proposed enhancement is the identification of procedural steps to review ESS applications. No person commented on Staff's proposed rule changes.

We find that Staff's proposed rule changes enhance the ESS application process. Consequently, we adopt Staff's proposed rule changes in their entirety.

USE OF TERMS "ELECTRIC UTILITY" AND "ELECTRIC COMPANY"

Staff has discerned discrepancies between how certain terms are statutorily defined and how they are used in the Commission's administrative rules. Under ORS 757.600, the term, "electric utility" is defined to be "an electric company or consumer owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state. Under the same statute, "electric company" is defined as "an entity engaged in the business of distributing electricity to retail electricity consumers in this state, but does not include a consumer-owned utility" whereas "consumer-owned utility" means "a municipal electric utility, a people's utility district or an electric cooperative." Thus, the statutory definition of "electric utility" encompasses both investor-owned and consumer-owned electric utilities. The Commission's

[9] *American Ref-Fuel Company*, *supra* note 3.

administrative rules, however, use the term, "electric utility," to exclusively refer to investor-owned utilities.

Staff reviewed all of the Commission's administrative rules, other than Divisions 023 and 029, and made revisions to these rules, as needed, to align the use of the terms, "electric utility" and "electric company," with the statutory definitions of these terms. Staff did not address rules in Divisions 023 and 029 because these rules are being reviewed in separate proceedings.

No person commented on Staff's proposed rule changes.

We deem it appropriate to align the use of words in our administrative rules with statutory definitions. Consequently, we adopt all of Staff's proposed rule changes.

ORDER

IT IS ORDERED that:

1. The modifications to Oregon Administrative Rules 860, Divisions 021, 022, 025, 026, 027, 030 and 038, as set forth in Appendix A, are adopted.

2. The amended rules shall become effective upon filing with the Secretary of State.

Made, entered, and effective NOV 2 8 2005.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A person may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

860-011-0080
Schedule of Fees and Charges

Unless otherwise provided, the Commission will impose the following fees and charges:

(1) Photocopies:

(a) No charge for 20 pages or less, in excess of 20 pages, per page: 25 cents (for example, if 21 pages requested, charge would be $5 minimum plus 25 cents, for a total of $5.25).

(b) Other government agencies, per page from first page: 05 cents.

(2) Certification of true copies of public documents (per document certification): $10.

(3) Maps of specific area boundaries: $15.

(4) Hearing transcripts: At cost. A copy of a public hearing transcript shall be supplied to a party without cost upon the filing with the Commission of a satisfactory affidavit of indigency, pursuant to ORS 756.521. Such a request shall be filed on a form supplied by the Commission and contain information for the Commission to use to determine the eligibility of the requesting party.

(5) Statistical reports (second and subsequent copies): $15.

(6) Facsimile transmission (FAX) charges: No charge for first 15 pages transmitted; additional pages, per page: $1.

(7) Audio recordings: $5 per package.

(8) Staff research time: At cost.

(9) Annual subscription to all Commission orders or notices of specific hearings will be provided under the following schedule. Subscribers will be notified of renewal requirements on a yearly basis.
Orders: $100; Hearing Notices: $50.
Administrative Rules update service: $75.

(10) Computer services: At cost.

(11) Billing: The Commission may require cash payment before honoring any request. Billings for unpaid balances may accompany mailed copies.

(12) Waiver of fees: No fee shall be charged or collected for copies of published documents furnished to or provided for routine requests for one copy of a Commission order, administrative rules, and general publications. Requests for additional copies will be subject to applicable charges.

(13) Late Fees and Penalties:

(a) Check Returned for Non-Sufficient Funds: $25.

(b) Costs Incurred by the Commission to Collect Past-Due Amounts: At Cost.

(14) Late Payments:

(a) Interest on Annual Fees: None.

(b) Interest on Residential Service Protection Fund (RSPF): 9 percent per Annum.

(c) Penalty on Annual Fees: 2 Percent per Month.

(d) Penalty on RSPF: 9 percent of Unpaid Fee, up to $500 maximum per reporting period.

(15) Late Statements and Reports:

(a) Electric ~~Utility~~**Company** Annual Fee Statement: $100.

(b) Gas Utility Annual Fee Statement: $100.
(c) Telecommunications Providers Annual Fee Statement: $100.
(d) Water Utility Annual Fee Statement: $25.
(e) RSPF Report: $100.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 756.040 & 756.500 through 756.575
Hist.: PUC 10-1994, f. & ef. 7-21-94 (Order No. 94-1127); PUC 1-1996, f. & ef. 2-21-96 (Order No. 96-043); PUC 3-1996, f & ef. 7-19-96 (Order No. 96-181); PUC 15-1997, f. & ef. 11-20-97 (Order No. 97-443); PUC 16-1998, f. & ef. 10-12-98 (Order No. 98-410); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

860-012-0040
Public Meetings

Except in cases of emergency, for all votes of the Public Utility Commission of Oregon at a public meeting that approve a major rate change for an electric **company** or natural gas utility under ORS 757.205, a quorum is the full commission. For purposes of this rule, a major rate change is an increase of two percent or more for any customer class.

Stat. Auth.: ORS Ch. 183, 192, 756 & 757
Stats. Implemented: ORS 192.610 et seq. & 757.205
Hist.: PUC 6-2003, f. & ef. 4-28-03 (Order No. 03-238)

860-021-0008
Definitions for Regulation of Utility Services

(1) "Applicant" means a person who:
(a) Applies for service with an energy or large telecommunications utility;
(b) Reapplies for service at a new or existing location after service has been discontinued; or
(c) Has not satisfied the requirements of OAR 860-021-0205 or OAR 860-021-0335(2) within the required time period, if either rule is applicable.

(2) "Co-customer" means a person who meets the definition of "customer" and is jointly responsible with another person for utility service payments on an account with the energy or large telecommunications utility. If only one co-customer discontinues service in his/her name, the remaining co-customer shall only retain customer status if s/he reapplies for service in his/her own name within 20 days of such discontinuance, provided the energy or large telecommunications utility contacts the remaining co-customer or mails the remaining co-customer a written request for an application within one business day of the discontinuance.

(3) "Customer" means a person who has applied for, been accepted, and is currently receiving service. Notwithstanding section (1) of this rule, a customer who voluntarily disconnects service and later requests service with the same utility at a new or existing location within 20 days after disconnection retains customer status.

(4) “Energy utility” has the meaning given to a public utility in ORS 757.005, except water and wastewater. An energy utility can be an “electric ~~utility~~**company**,” “gas utility,” or “steam heat utility.”

(5) “Large telecommunications utility” means any telecommunications utility, as defined in ORS 759.005, that is not partially exempt from regulation under ORS 759.040.

(6) “Local exchange service” has the meaning given to “local exchange telecommunications service” in ORS 759.005(1)(c).

(7) “OTAP” has the meaning given to “Oregon Telephone Assistance Program” in OAR Chapter 860, Division 033.

(8) “Registered dispute” means an unresolved issue between a customer or applicant and an energy or large telecommunications utility that is under investigation by the Commission’s Consumer Services Division but is not the subject of a formal complaint.

(9) “Regulated charges” means charges for services delivered in Oregon and subject to the jurisdiction and approval of the Commission.

(10) “Utility” means all large telecommunications and energy utilities, as defined in sections (4) and (5) of this rule, except when a more limited scope is explicitly stated.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 756.010, 757.005 & 759.005

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 5-1998, PUC 17-1997 (Temp), f. 12-11-97, ef. 1-1-98 (Order No. 97-469); f. & ef. 3-13-98 (Order No. 98-058); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488); PUC 16-488, f. & ef. 6-21-01 (Order No. 01-488)

860-021-0010
Information for Utility Customers and Applicants

(1) Each energy utility and large telecommunications utility shall, upon request, furnish each customer and applicant with such information as is reasonable to permit him/her to secure efficient service and select appliances properly adapted to their service needs. Gas utilities shall, upon request, inspect and adjust customer-owned appliances and facilities for safe and efficient operation.

(2) Each energy utility or large telecommunications utility providing metered service shall, upon request, inform its customers and applicants how to read meters, either in writing or by explanation at the utility’s offices.

(3) Each energy utility or large telecommunications utility shall keep on file and open for public inspection at its offices, complete rate schedules, contract forms, rules and regulations of the utility, and a copy of the Commission’s rules and regulations.

(4) Each energy utility or large telecommunications utility shall supply, upon request, a copy of the tariffs applicable to the type or types of service furnished to the customer by the utility.

(5) Upon application for new service, or upon later request, the energy or large telecommunications utility shall assist the customer or applicant in selecting the most advantageous rate to meet individual service requirements. The customer or applicant shall be responsible for making the final selection of a rate schedule.

(6) When service is initiated and not less than once each year thereafter, every energy or large telecommunications utility shall give its residential customers a written summary of their rights and responsibilities, as they relate to the utility providing service. If service is initiated without a personal visit between the energy or large telecommunications utility and the customer, the utility shall mail the summary to the customer no later than when the first bill statement is mailed. Large telecommunications utilities satisfy the annual notification requirement by prominent publication of the information in a telephone directory distributed to their customers annually. The summary shall include the text of a summary reviewed and approved by the Commission's Consumer Services Division and describe:

(a) The customer's option to designate a third party to receive bills and notices and the availability of notices in languages other than English;

(b) Applicable financial assistance programs, such as the Energy Assistance Fund for gas **utilities** and electric ~~utilities~~**companies** and Link-Up America for telecommunications utilities;

(c) The availability of medical certificates;

(d) Special payment options such as equal-payment plans. Late-payment charges, if any, shall be explained, along with the availability of any preferred billing date option;

(e) Procedures for conflict resolution, including how to register a dispute with the energy or large telecommunications utility and with the Commission and the toll-free number of the Commission's Consumer Services Division;

(f) Listings of consumer organizations that participate in Commission proceedings, including addresses and telephone numbers, may be requested from the Commission's Consumer Services Division; and

(g) The Commission's telephone solicitation rules (telecommunications utilities only) as defined in OAR 860-021-0610(1)(a).

(7) When service is initiated, the energy or large telecommunications utility shall inquire whether the customer would like to receive notices in a language other than English and will inform the customer of the type of notices and translations currently available. If the language chosen is not available, the energy or large telecommunications utility will tell the customer the translated version does not yet exist but the customer's interest will be recorded for the Commission. Each energy or large telecommunications utility shall report to the Commission the number of requests for notices and summaries in non-English languages. The reports shall specify the number of requests for each language.

(8) Each energy or large telecommunications utility shall post notices approved by the Commission in a conspicuous place in each utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The notices shall be printed in large boldface type and shall be written in language that is easy to understand.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stat. Implemented: ORS 756.040
Hist.: PUC 164, f. 4-18-74. ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)

860-021-0033
Annual Fees Payable to the Commission by an Electric ~~Utility~~Company

(1) By September 1, 1998, the Commission must determine the following for each electric ~~utility~~**company**:

(a) The gross revenue fees per kilowatt-hour delivered to retail electric customers paid by the ~~utility~~**electric company** in 1997 relative to the gross revenue fees per kilowatt-hour paid by all electric ~~utilities~~**companies**; and

(b) The average gross revenue for each retail customer class designation, calculated using 1997 loads and revenues and expressed on a per kilowatt-hour basis.

(2) By February 1 of each year, each electric ~~utility~~**company** must provide the Commission with the amount of kilowatt-hours delivered during the prior calendar year to each retail customer class designation.

(3) By March 1 of each year, the Commission must determine the average rate per kilowatt-hour to be charged each electric ~~utility~~**company**. The determination must maintain the same approximate fee relationships established in section (1)(a) of this rule between each electric ~~utility~~**company**. The average annual fee paid by each electric ~~utility~~**company** must not exceed eighteen-hundredths of one mill per kilowatt-hour applied to kilowatt-hours delivered to retail electric customers in the preceding calendar year.

(4) On statement forms prescribed by the Commission, each electric ~~utility~~**company** provide the requested information for the subject year.

(5) Each electric ~~utility~~**company** must pay to the Commission an annual fee determined by orders entered on or after March 1 of each year. Each ~~utility~~**electric company** must pay the annual fee on or before the date specified in a notice, which date must be at least 15 days after the mailing of the notice.

(6) Each electric ~~utility~~**company** must pay to the Commission:

(a) A minimum annual fee of $10. The annual fee is due on or before April 1 of the year after the calendar year on which the annual fee is based.

(b) A late statement fee in accordance with OAR 860-011-0080, if the Commission has not received the ~~utility~~**electric company**'s statement form, completed in compliance with section (4) of this rule, on or before 5 p.m. Pacific Time on the fifth business day following the due date.

(c) A penalty fee for failure to pay the full amount when due, as required under ORS 756.350.

(d) A service fee in accordance with OAR 860-011-0080 for each payment returned for non-sufficient funds.

(e) All costs incurred by the Commission to collect a past-due annual fee from the ~~utility~~**electric company**.

(7) The annual fee payment must be received by the Commission no later than 5 p.m. Pacific Time on the due date. A payment may be by cash, money order, bank draft, sight draft, cashier's check, certified, or personal check. A payment made by check will be conditionally accepted until the check is cleared by the bank on which it is drawn.

(8) For any year in which an electric ~~utility~~**company**'s statement form was due, the Commission may audit the ~~utility~~**electric company** as the Commission deems necessary and practicable:

(a) The Commission's audit must begin no later than three (3) years after the statement form's due date.

(b) If the Commission determines that the ~~utility~~**electric company** has underreported its subject kilowatt hours delivered, the Commission may assess an additional annual fee, along with a penalty fee for failure to pay under ORS 756.350.

(c) If the Commission determines that the ~~utility~~**electric company** has overpaid its annual fee, the Commission may, at its discretion, recompense the ~~utility~~**electric company** with a refund or a credit against annual fees subsequently due.

(9) Rate filings made by an electric ~~utility~~**company** pursuant to ORS 757.210 must allocate the ~~utility~~**company**'s total annual fees so that fees collected among different retail customer classes bear the same approximate relationship as the information developed by the Commission pursuant to section (1)(b) of this rule.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.310, 756.320 & 756.350

Hist.: PUC 14-1998, f. & ef. 7-15-98 (Order No. 98-276); PUC 11-99, f. 11-18-99 (Order No. 99-708); PUC 15-2003, f. & ef. 7-24-03 (Order No. 03-409); PUC 18-2004, f. & ef. 12-30-04 (Order No. 04-753)

860-021-0045
Installation of Electric Service

(1) For the connection of its distribution system to the customer's premises, an electric ~~utility~~**company** shall, with the exceptions provided under its extension rules, furnish service connections to the customer's service entrance.

(2) The electric ~~utility~~**company** shall furnish, own, operate, maintain, and replace the service connections with the exceptions as may be listed in these rules or its tariff for line extensions.

(3) The service entrance on a customer's premises shall be so located as to make the meter and service easily accessible from the electric ~~utility~~**company**'s distribution lines and convenient for the installation, operation, and maintenance of the ~~utility~~**company**'s meters and equipment.

(4) The electric ~~utility~~**company** will not be required to install or maintain more than one service connection directly from its distribution lines to the premises of any customer. Each customer may be required to install and maintain, at his/her own expense, all wiring and equipment needed to be installed on his/her premises to enable the ~~utility~~**company** to furnish and meter, at a single point on the customer's premises, all

service to be used by the customer. If conditions make it advisable for the ~~utility~~**company** to use a single connection from its distribution line to furnish service to two or more customers on the same or different premises, the service connection shall be of adequate capacity for the purpose, and the service furnished to each customer shall be metered and billed separately.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0205
Deposit Payment Arrangements for Residential ~~Electric and Gas~~Energy Utility Service

(1) When a**n energy** ~~gas or electric~~ utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment. Except for the last payment, installments shall be the greater of $30 or one-third of the deposit.

(2) When an installment payment or a deposit is made with a payment for ~~gas or electric~~**energy** utility service, the amount paid shall first be applied toward payment of the amount due for deposit.

(3) When the ~~gas or electric~~**energy** utility requires the customer or applicant to pay an additional deposit, the customer shall pay one-third of the total deposit, or at least $30, whichever is greater, within five days. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has an existing deposit installment agreement, the remaining installment payments will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) When a customer or applicant enters into an installment agreement for payment of a deposit under section (1) of this rule, the ~~gas or electric~~**energy** utility shall provide written notice explaining its deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the customer or applicant that utility service will be disconnected if the ~~gas or electric~~energy utility does not receive the payment when due. The notice shall also set forth the name and telephone number of the appropriate unit within the Department of Human Services or other agencies which may be able to help the customer obtain financial aid.

(5) If a customer fails to abide by the terms of a deposit installment agreement, the ~~gas or electric~~**energy** utility may disconnect service after a five-day notice. The notice shall contain the information set forth in OAR 860-021-0405(2)(a), (b), (c), (e), (f), and (g) and shall be served as required by OAR 860-021-0405(5).

(6) When good cause exists, the Commission or the ~~gas or electric~~**energy** utility may provide more liberal arrangements for payment of deposits than those set forth in

this rule. The ~~gas or electric~~**energy** utility shall keep a written record of the reasons for such action.

(7) If disconnection for nonpayment of a deposit occurs, the customer disconnected shall pay the full amount of the deposit, any applicable reconnection fee, late-payment fee, and one-half the past due amount before service is restored. The customer shall pay the balance of the past-due amount within 30 days of the date service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments, the full deposit, and other applicable fees.

Stat. Auth.: ORS 183, 756, 757 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040 & Ch. 290, OL 1987
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284), PUC 12-1983 f. & ef. 10-7-83 (Order No. 83-623); PUC 5-1987, f. & ef. 7-2-87 (Order No. 87-723); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488); PUC 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-021-0326
Disconnection of Gas or Electric Service to Tenants

(1) When a**n energy** ~~gas or electric~~ utility's records show that a residential billing address is different from the service address, the utility must provide a duplicate of the five-day disconnect notice required under OAR 860-021-0405(6) for gas and electric service to the occupants of the premises in the manner described in OAR 860-021-0405(6) unless the utility has reason to believe that the service address is occupied by the customer. This requirement is satisfied by serving a notice addressed to "Tenants" in the same manner provided for in OAR 860-021-0405. The notice to occupants need not include the dollar amount owing.

(2) When a**n energy** ~~gas or electric~~ utility's records show that a residence is a master-metered multi-family dwelling (including rooming houses), the utility must notify the Commission's Consumer Services Division at least five business days before disconnecting the service. The utility will use reasonable efforts to notify occupants of the impending disconnection and alternatives available to them.

Stat. Auth.: ORS Ch. 183, 756, 757 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 757.760 & Ch. 290, OL 1987
Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188)

860-021-0335
Refusal of Utility Service

(1) Except as provided in section (2) of this rule, an ~~electric or gas~~**energy** utility may refuse to provide service to a customer or applicant until the utility receives full

payment of any overdue amount of an Oregon tariffed or price-listed charge and any other like obligation related to an Oregon prior account.

(2) Except for a residential customer or applicant who was disconnected for theft of service, an ~~electric or gas~~**energy** utility shall provide service to a residential customer or applicant upon receiving payment equal to at least one-half of any overdue amount of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account, except deposits which must be paid in full, provided the customer or applicant has made reasonable partial payment on the account during the time service has been discontinued. The customer shall pay the balance of the amount owed to the ~~gas or electric~~**energy** utility within 30 days of the date service is initiated. Upon failure to pay, the ~~gas or electric~~**energy** utility may disconnect service after providing a five-day notice to the customer. The notice shall contain the information set forth in OAR 860-021-0405(2)(a),(b), (c), (f), and (g) and shall be served as required by OAR 860-021-0405(5). If a customer or applicant whose service was terminated applies for service within 20 days of the termination, the provisions of this rule apply.

(3) If electric or gas service is disconnected for a residential customer's failure to comply with the payment terms in section (2) of this rule, the utility may refuse to restore service until the utility receives full payment of any overdue obligation of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account, including any reconnection fee, late payment fee, and past due bill.

(4) Refusal of service by a large telecommunications utility:

(a) A large telecommunications utility may refuse to provide service to a customer or applicant until the utility receives full payment of any overdue amount of an Oregon tariffed or price-listed charge and any other like obligation related to a prior account except for telecommunications service applicants who are eligible for OTAP.

(b) A large telecommunications utility may refuse to provide service to a residential customer or applicant who is eligible for OTAP until the utility receives full payment of any overdue amount relating to a prior account for tariffed local exchange and price-listed services, excluding any toll charges.

(5) An energy or large telecommunications utility may refuse to provide service until the utility receives payment when all the following circumstances exist:

(a) An overdue balance has been incurred by a residential customer or applicant at a service address;

(b) A residential applicant for service resided at the service address described in subsection (5)(a) of this rule during the time the overdue balance was incurred; and

(c) The residential customer or applicant described in subsection (5)(a) of this rule will reside at the location to be served under the new application.

(6) Any energy or large telecommunications utility shall refuse to provide service if a customer or applicant has not complied with state and city codes and regulations governing service and with the utility's rules and regulations.

(7) An energy or large telecommunications utility shall reject an application for service or materially change service to a customer or applicant if, in the best judgment of the utility, the utility lacks adequate facilities to render the service applied for or if the desired service is likely to unfavorably affect service to other customers.

(8) An energy or large telecommunications utility shall refuse to serve a customer or applicant, if, in the best judgment of the utility, the facilities of the customer or applicant cannot provide safe and satisfactory service.

(9) When an energy or large telecommunications utility refuses to provide service, the utility shall notify the customer or applicant of the reasons for refusal and of the Commission's complaint process.

Stat. Auth.: ORS Ch. 183, 756, 757, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 757.035, 757.225 & Ch. 290, OL 1987

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0060 and 860-021-0100; PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 13-1997, f. & ef. 11-12-97 (Order No. 97-434); PUC 17-1997, f. 12-11-97 (Temp), ef. 1-1-98 (Order No. 97-469); PUC 5-1998, f. & ef. 3-13-98 (Order No. 98-058); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488); PUC 22-2002, f. & ef. 12-9-02 (Order No. 02-723)

Disconnection Rules -- Residential
Electric or Gas ~~Utility~~ Service

860-021-0405
Notice of Pending Disconnection of Residential Electric or Gas ~~Utility~~ Service

(1) When a written notice is given under these rules:

(a) The notice shall conform to the requirements of OAR 860-021-0010 concerning multilingual requirements and service on any designated representative; and

(b) The notice shall conform to the requirements of OAR 860-021-0326 if the ~~electric or gas~~**energy** utility's records show the billing address is different than the service address or the residence is a master-metered multi-family dwelling. The notice may be addressed to "tenant" or "occupant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

(2) The notice shall be printed in boldface type and shall state in easy to understand language:

(a) The reason for the proposed disconnection;

(b) The amount to be paid to avoid disconnection;

(c) The earliest date for disconnection;

(d) An explanation of the time-payment agreement provisions of OAR 860-021-0415;

(e) An explanation of the medical certificate provisions of OAR 860-021-0410;

(f) The name and telephone number of the appropriate unit of the Department of Human ~~Resources~~**Services** or other agencies which may be able to provide financial aid; and

(g) An explanation of the Commission's complaint process and toll-free number.

(3) At least 15 days before an ~~electric or gas~~**energy** utility may disconnect a residential customer for nonpayment for services rendered, the ~~electric or gas~~**energy** utility must provide written notice to the customer. A 15-day notice is not required when disconnection is for failure to establish credit or theft of service.

(4) The ~~electric or gas~~**energy** utility may not send a notice of disconnection before the due date for payment of a bill.

(5) The ~~electric or gas~~**energy** utility may serve the 15-day notice of disconnection in person or send it by first-class mail to the customer's last known address. Service is complete on the date of personal delivery or, if the notice is delivered by U S Mail, service is complete on the day after the date of the U S Postal Service postmark or on the day after the date of postage metering.

(6) At least five business days before the proposed disconnection date, the ~~electric or gas~~**energy** utility must mail or deliver a written disconnection notice to the customer. Service is complete on the date of personal delivery or, if the notice is delivered by U S Mail, service is complete on the day after the date of the U S Postal Service postmark or on the day after the date of postage metering.

(a) The disconnection notice shall inform the customer that service will be disconnected on or after a specific date and shall explain the alternatives and assistance that might be available as required in section (2) of this rule; or

(b) If notification is delivered to the residence, the ~~electric or gas~~**energy** utility shall attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the ~~electric or gas~~**energy** utility shall leave the notice in a conspicuous place at the residence.

(7) On the day the ~~electric or gas~~**energy** utility expects to disconnect service and before disconnection, the utility must make a good-faith effort to personally contact the customer or an adult at the residence to be disconnected:

(a) If the contact is made, the ~~electric or gas~~**energy** utility shall advise the customer of the proposed disconnection; or

(b) If contact is not made, the ~~electric or gas~~**energy** utility must leave a notice in a conspicuous place at the residence informing the customer that service has been, or is about to be, disconnected.

(8) When an ~~electric or gas~~**energy** utility makes personal contact under this rule, and the circumstances are such that a reasonable person would conclude the customer does not understand the consequences of disconnection, the utility must:

(a) Notify the Department of Human ~~Resources~~**Services** and the Commission; and

(b) Delay the proposed disconnection date for five additional business days.

(9) When the ~~electric or gas~~**energy** utility makes personal contact under this rule, the utility's representative making contact shall be empowered to accept reasonable partial payment of the overdue balance under the time-payment provisions of OAR 860-021-0415.

(10) An ~~electric or gas~~**energy** utility must document its efforts to provide notice under this rule and shall make that documentation available to the customer and the Commission upon request.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0085; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 4-1999, f. & ef. 8-16-99 (Order No. 99-488); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)

860-021-0410

Emergency Medical Certificate for Residential Electric and Gas ~~Utility~~ Service

(1) An ~~electric or gas~~**energy** utility shall not disconnect residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) The oral certification to the ~~gas or electric~~**energy** utility must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. Written certifications must include:

(a) The name of the person to whom the certificate applies and relationship to the customer;

(b) A complete description of the health conditions;

(c) An explanation of how the person's health will be significantly endangered by terminating the service;

(d) A statement indicating how long the health condition is expected to last;

(e) A statement specifying the particular type of utility service required (for example, electricity for respirator); and

(f) The signature of the qualified medical professional prescribing medical care.

(3) If a medical certificate is not submitted in compliance with sections (1) and (2) of this rule, the ~~electric or gas~~**energy** utility may disconnect service after providing a five-day notice to the customer. The notice shall comply with the requirements of OAR 860-021-0405, except subsection (1)(b), subsection (2)(e), and section (4) of this rule shall not be applicable.

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal for certificates not specifying chronic illnesses and no longer than twelve months for certificates specifying illnesses identified as chronic by a "Qualified Medical Professional" as defined in this rule. At least 15 days before the certificate's expiration date, an ~~electric or gas~~**energy** utility will give the customer written notice of the date the certificate expires unless it is renewed with the utility before that day arrives.

(5) A customer submitting a medical certificate is not excused from paying for electric or gas ~~utility~~ service:

(a) Customers are required to enter into a written time-payment agreement with the ~~electric or gas~~**energy** utility when an overdue balance exists. Terms of the time-payment agreement shall be those in OAR 860-021-0415 or such other terms as the parties agree upon in writing;

(b) When financial hardship can be shown, a customer with a medical certificate may renegotiate the terms of a time-payment agreement with the ~~electric or gas~~**energy** utility; and

(c) Time-payment arrangements in effect when a medical certificate terminates remain in effect for the balance then owing. If a customer fails to pay charges incurred after the certificate terminates, the provisions of OAR 860-021-0415 (standard time-payment provisions) shall apply to payment of the arrearage incurred after the medical certificate expires. The terms of the medical certificate time-payment plan continue to apply to the arrearage accrued during the disability.

(6) If a medical certificate customer fails to enter into a written time-payment agreement within 20 days of filing the certificate, or to abide by its terms, the ~~electric or gas~~**energy** utility shall notify the Commission's Consumer Services Division of its intent to disconnect service and the reason for the disconnection. The ~~electric or gas~~**energy** utility may disconnect service after providing a notice 15 days in advance of disconnection for nonpayment, or five days before disconnection for failure to enter into a written time-payment agreement. The notice shall comply with the requirements of OAR 860-021-0405, except subsection (2)(e) shall not be applicable. A hearing may thereafter be held to determine whether the ~~electric or gas~~**energy** utility should be permitted to disconnect service to the customer.

(7) An ~~electric or gas~~**energy** utility may verify the accuracy of a medical certificate. If the ~~electric or gas~~**energy** utility believes a customer does not qualify, or no longer qualifies for a medical certificate, the utility may apply to the Commission to terminate the service of the customer.

Stat. Auth.: ORS Ch. 183, 756, 757 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 757.750, 757.755 & 757.760
Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0095; PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)

860-021-0414
Equal-Payment Plans for Residential Electric and Gas Service

Electric **companies** and gas utilities will make equal-payment plans available to residential customers. A customer with no outstanding balance who agrees to remain on an equal-payment plan for 12 months may enter into equal-payment agreement at any time during the year. The plan will provide for an annual adjustment between the estimated charge and the actual charges. If a customer changes residences during the term of the agreement, the payments may be adjusted to reflect the anticipated change in usage. Nothing in this rule is intended to restrict a utility's right to adopt additional payment options.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040, 757.750 & 757.760
Hist.: PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105)

860-021-0415
Time-Payment Agreements for Residential Electric and Gas ~~Utility~~ Service (Nonmedical Certificate Customers)

(1) An ~~electric or gas~~**energy** utility may not disconnect residential service for nonpayment if a customer enters into a written time-payment plan. An ~~electric or gas~~**energy** utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a levelized payment plan and an equal-pay arrearage plan.

(2) A customer who selects a levelized payment plan will pay a down payment equal to the average annual bill including the account balance, divided by 12, and a like payment each month for 11 months thereafter:

(a) The ~~electric or gas~~**energy** utility shall review the monthly installment plan periodically. If needed due to changing rates or variations in the amount of service used by the customer, the installment amount may be adjusted to bring the account into balance within the time specified in the original agreement;

(b) If a customer changes service address at any time during the period of a time-payment agreement, provided that payments are then current and the customer pays other tariff charges associated with the change in residence, the ~~electric or gas~~**energy** utility shall recalculate the customer's deposit and/or monthly installment. The recalculated amount shall reflect the balance of the account at the previous service address and the average annual bill at the new service address for the months remaining in the original time-payment agreement. When installments on a time-payment agreement have not been kept current, a customer shall pay all past-due installments and any other applicable charges before service is provided at the new residence.

(3) A customer who selects an equal-pay arrearage plan will pay a down payment equal to one-twelfth the amount owed for past electric or gas ~~utility~~ service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer)~~.~~ each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for utility service. If a customer changes service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the ~~electric or gas~~**energy** utility provides service at the new address.

(4) The ~~electric or gas~~**energy** utility and customer may agree in writing to alternate payment arrangement, provided the utility first informs the customer of the availability of the payment terms in sections (2) and (3) of this rule.

(5) If a customer fails to abide by the time-payment agreement, the ~~electric or gas~~**energy** utility may disconnect service after serving 15 days' notice. The notice shall comply with OAR 860-021-0405, except subsection (2)(d) of this rule shall not be applicable. If a medical certificate is in effect, OAR 860-021-0410(6) shall apply.

Stat. Auth.: ORS Ch. 183, 756, 757 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 757.750 & 757.760

Hist.: PUC 5-1983. f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)

860-021-0420
Field Visit Charge

A Commission approved fee may be charged whenever a**n energy** ~~gas or electric~~ utility visits a residential service address intending to reconnect or disconnect service, but due to customer action, the ~~gas or electric~~**energy** utility is unable to complete the reconnection or disconnection at the time of the visit**.**

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.225
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & ef. 5-7-98 (Order No. 98-188); PUC 16-2003, f. & ef. 10-1-03 (Order No. 03-550); PUC 16-2004, f. & ef. 12-01-04 (Order No. 04-695)

860-022-0001
Definitions for Utility Rates

For purposes of this Division, except when a different scope is explicitly stated:

(1) "Consumer-owned utility" has the meaning given to the term under ORS 757.270(2).

(2) "Energy utility" means a public utility as defined in ORS 757.005 except a water utility or wastewater utility. An energy utility can be an "electric ~~utility~~**company**," "gas utility," or "steam heat utility."

(3) "Large telecommunications utility" means any telecommunications utility, as defined in ORS 759.005 that is not partially exempt from regulation under ORS 759.040.

(4) "Non-energy attributes" means the environmental, economic, and social benefits of generation from renewable energy facilities. These attributes are normally transacted in the form of Tradable Renewable Certificates.

(**45**) "Utility" means all energy utilities and large telecommunications utilities, as defined in sections (2) and (3) of this rule.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 759.005
Hist.: PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 4-2001, f. & ef. 1-24-01 (Order No. 01-117); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-022-0017
Announcement of Utility Tariff Changes

(1) Within 15 days of filing with the Commission new or revised tariff schedules which constitute a general rate revision, an energy or large telecommunications utility

shall inform its customers of the filing. A "general rate revision" is a filing by an energy or large telecommunications utility which affects all or most of a utility's rate schedules. "General rate revision" excludes changes in an automatic adjustment clause under ORS 757.210(1), changes in the credit reflected on certain electric ~~utility~~**company** rate schedules relating to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, or similar changes in one rate schedule, such as for an amortization, that affects other rate schedules.

(2) The energy or large telecommunications utility shall inform its customers by:

(a) Inserting a display announcement, not less than a three column standard advertising unit (SAU) by ten-inch advertisement, at least once in a newspaper of general circulation in the communities served by the energy or large telecommunications utility;

(b) Inserting an announcement in the energy or large telecommunications utility's regular billing to its customers; or

(c) Mailing an announcement to each customer.

(3) The energy or large telecommunications utility's announcement shall include:

(a) The approximate annualized amount of the proposed total change, expressed both in dollar and in percentage terms; and the approximate amount of the proposed change for an average residential customer's monthly bill, expressed in dollar terms;

(b) A brief statement of the reasons why the energy or large telecommunications utility seeks the change;

(c) A statement that copies of the energy or large telecommunications utility's testimony and exhibits are available for inspection at its main and district offices;

(d) The mailing address and telephone number of the energy or large telecommunications utility's office that customers may contact for additional information about the filing;

(e) The mailing address and toll-free telephone number of the Commission to which requests to receive notice of the time and place of any hearing on the matter may be directed; and

(f) A statement that the purpose of the announcement is to provide the energy or large telecommunications utility's customers with general information about the utility's proposals and their effects on its customers, but that the calculations and statements contained in the announcement are not binding on the Commission.

(4) Within 20 days of issuing the announcement, the energy or large telecommunications utility shall file an affidavit that notice has been given and a copy of the notice.

(5) An energy or large telecommunications utility may submit to the Commission, and request approval of, a list of the newspapers of general circulation in the communities served by the utility. The utility may revise the list by written request to the Commission.

(6) The Commission may waive the requirements of this rule upon a showing by the energy or large telecommunications utility that the notice required by this rule has been given with respect to a particular general rate revision, and upon a further showing that additional notice with respect to that rate revision would be duplicative, confusing to customers, and burdensome to the utility.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 757.205 through 757.220 & 759.175 through 759.190
Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 11-1990 (Temp), f. & cert. ef. 6-21-90 (Order No. 90-968); PUC 22-1990, f. & cert. ef. 12-31-90 (Order No. 90-1917); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-022-0040
Relating to City Fees, Taxes, and Other Assessments Imposed Upon Electric Companies, Gas Utilities, and Steam Heat Utilities

(1) The aggregate amount of all business or occupation taxes, license, franchise or operating permit fees, or other similar exactions or costs, excepting volumetric-based fees in section (3) of this rule, imposed upon ~~gas~~ **utilities**~~, electric~~ **companies**~~, or steam heat~~**energy** utilities by any city in Oregon for engaging in business within such city or for use and occupancy of city streets and public ways, which does not exceed 3 percent for gas utilities or 3.5 percent for electric **companies** and steam heat utilities, applied to gross revenues as defined herein, shall be allowed as operating expenses of such utilities for rate-making purposes and shall not be itemized or billed separately. All other costs not allowed as operating expenses shall be itemized or billed separately.

(2) Except as otherwise provided herein, "gross revenues" means revenues received from utility operations within the city less related net uncollectibles. Gross revenues of a**n energy utilitie**~~s~~**y shall** include revenues from the use, rental, or lease of the utility's operating facilities other than residential-type space and water heating equipment. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the utility purchasing the service is not the ultimate customer, or revenue from joint pole use.

(3) Each electric ~~utility~~**company** subject to volumetric-based privilege taxes or fees shall determine for each city imposing such volumetric charges a base volumetric rate for each customer class calculated as 3.5 percent of the class 1999 gross operating revenues within the city divided by the amount of electric energy in kilowatt-hours delivered to the class in 1999. In cases where 1999 data is not available for a particular city and/or class, the utility's total 1999 Oregon revenues and kilowatt-hour deliveries for the customer class shall be used to calculate the base volumetric rate. An amount equal to the base volumetric rates multiplied by the corresponding amount of electric energy in kilowatt hours delivered in the 12-month period used to determine the ~~utility~~**electric company**'s revenue requirement shall be allowed as operating expenses and shall not be itemized or billed separately. The privilege tax shall be allocated across an electric company's customer classes in the same proportional amounts as levied by cities against the electric company.

(4) Permit fees or similar charges for street opening, installations, construction, and the like to the extent such fees or charges are reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers, and the value of any utility services or use of facilities provided on November 6, 1967, to a city without charge, shall not be considered in computing the percentage levels set forth in sections

(1) and (3) of this rule. Any such services may be continued within the same category or type of use. The value of any additional category of utility service or use of facilities provided after November 6, 1967, to a city without charge shall be considered in computing the percentage levels herein set forth.

(5) This rule shall not affect franchises existing on November 6, 1967, granted by a city. Payments made or value of service rendered by a**n energy** utility under such franchises shall not be itemized or billed separately. When compensation different from the percentage levels in section (1) of this rule is specified in a franchise existing on November 6, 1967, such compensation shall continue to be treated by the affected utility as an operating expense during the balance of the term of such franchise. Any tax, fee, or other exaction set forth in section (1) of this rule, unilaterally imposed or increased by any city during the unexpired term of a franchise existing on November 6, 1967, and containing a provision for compensation for use and occupancy of streets and public ways, shall be charged pro rata to local users as herein provided.

(6) Except as provided in section (5) of this rule, to the extent any city tax, fee, or other exaction referred to in sections (1) and (3) of this rule exceeds the percentage levels allowable as operating expenses in sections (1) and (3) of this rule, such excess amount shall be charged pro rata to ~~utility~~**energy** customers within said city and shall be separately stated on the regular billings to such customers.

(7) The percentage levels in sections (1) and (3) of this rule may be changed if the Commission determines after such notice and hearing, as required by law, that fair and reasonable compensation to a city or all cities should be fixed at a different level or that by law or the particular circumstances involved a different level should be established.

(8) The amount allowed as an operating expense may be described on customers' bills in a manner determined by the energy utility.

Stat. Auth.: ORS 183,756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 3-1990, f. & cert. ef. 4-6-90 (Order No. 90-417); PUC 14-1990, f. & cert. ef. 7-11-90 (Order No. 90-1031); PUC 7-1998, f. & cert. ef. 4-8-98; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 17-2000, f. & cert. ef. 9-29-00 (Order No. 00-596); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488); PUC 15-2002, f. & cert. ef. 6-14-2002 (Order No. 02-366); PUC 14-2003, f. & ef. 7-24-03 (Order No. 03-394)

860-022-0046

Forced Conversion of Electric and Communication Facilities

(1) As used in this rule:

(a) "Convert," "converting," or "conversion" means the removal of overhead electric or communication facilities and the replacement of those facilities with underground electric or communication facilities at the same or different locations;

(b) "Conversion cost" means the difference in cost between constructing an underground system and retaining the existing overhead system. This difference is generally equal to the cost of all necessary excavating, road crossings, trenching, backfilling, raceways, ducts, vaults, transformer pads, other devices peculiar to

underground service, and "overhead retirement costs." However, if the conversion is required in conjunction with a public project which would necessitate the relocation of the electric **company's** or large telecommunications utility's facilities at the utility's expense, "conversion costs" shall not include any "overhead retirement costs;"

(c) "Electric or communication facilities" means any works or improvements used or useful in providing electric or communication service, including but not limited to poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, cross-arms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, and all related facilities required for the acceptance of electric or communication services. However:

(A) "Electric facilities" excludes any facilities used or intended to be used for the transmission of electric energy at nominal voltage in excess of 35,000 volts;

(B) "Communication facilities" excludes facilities used or intended to be used for the transmission of intelligence by microwave or radio apparatus cabinets or outdoor public telephones;

(C) "Electric or communication facilities" excludes any electric or communication facilities owned or used by or provided for a railroad or pipeline and located upon or above the right-of-way of the railroad or pipeline.

(d) "Local government" includes cities; counties; authorities and agencies created pursuant to ORS Chapters 456 and 457; special districts of the type described in ORS 198.010, 198.180; and all other political subdivisions of Oregon;

(e) "Overhead electric or communication facilities" means electric or communication facilities located above the surface of the ground;

(f) "Overhead retirement cost" means the original cost, less depreciation, less salvage value, plus removal costs, of existing overhead distribution facilities no longer used or useful by reason of the conversion;

(g) "Underground electric or communication facilities" means electric or communication facilities located below the surface of the ground exclusive of those facilities such as substations, transformers, pull boxes, service terminals, pedestal terminals, splice closures, apparatus cabinets, and similar facilities which normally are above the surface in areas where electric **company** or large telecommunications utility facilities are underground in accordance with standard underground practices.

(2) This rule does not apply if the total conversion cost incurred by the electric **company** or large telecommunications utility during one calendar year does not exceed five-one hundredths of 1 percent (.05 percent) of the utility's annual revenues derived from customers residing within the boundaries of the local government.

(3) When a local government requires an energy or large telecommunications utility to convert electric or telecommunications facilities at the utility's expense, the utility shall collect the conversion costs from customers located within the boundaries of the local government.

(4) The local government may direct the electric **company** or large telecommunications utility to collect conversion costs from only a portion of the customers located within the boundaries of the local government.

(5) Conversion costs incurred by the electric **company** or large telecommunications utility shall be accumulated in a separate account in the electric **company** or large telecommunications utility's books. Interest shall accrue from the date the electric **company** or large telecommunications utility incurs the cost. The rate of such interest shall be equal to the effective cost of the senior security issue which most recently preceded the incurrence of the cost.

(6) The electric **company** or large telecommunications utility shall collect the conversion costs and interest over a reasonable period of time subject to the Commission's approval. However, the pay-back period shall not exceed the depreciable life of the facilities. Collection shall begin as soon as practical after the end of the year in which the conversion costs are incurred.

(7) The conversion cost to be recovered from each customer shall be calculated by applying a uniform percentage to each customer's total monthly bill for service rendered within the boundaries of the local government. The amount collected shall be separately stated and identified on each bill.

(8) This rule applies to conversions upon which construction began on or after August 13, 1984.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 756.040
Hist.: PUC 17-1984, f. & ef. 8-14-84 (Order No. 84-615); PUC 20-1984, f. & ef. 9-19-84 (Order No. 84-737); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-022-0075
Ownership of Non-Energy Attributes of Generation from Renewable Energy Facilities

(1) This rule applies to non-energy attributes associated with energy generated and sold under an applicable contract, as identified in section (2) of this rule, that is executed on or after the effective date of this rule.

(2) Unless otherwise agreed to by separate contract, the owner of the renewable energy facility retains ownership of the non-energy attributes associated with electricity the facility generates and sells to an electric company pursuant to:

(a) The provisions of a net metering tariff;

(b) An Oregon contract with the electric company entered into pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978; or

(c) Another retail power production tariff.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.205, 757.210
Hist.: New

860-023-0001
Definitions for Service Standards

For purposes of this Division, except when a different scope is explicitly stated:

(1) "Energy utility" means a public utility as defined in ORS 757.005 except a water utility or wastewater utility. An energy utility can be an "electric ~~utility~~**company**," "gas utility," or "steam heat utility."

(2) "Large telecommunications utility" means any telecommunications utility, as defined in ORS 759.005, that is not partially exempt from regulation under ORS 759.040.

(3) "Local exchange service" has the meaning given to "local exchange telecommunications service" in ORS 759.005(1)(c).

(4) "Telecommunications carrier" has the meaning provided in ORS 759.400.

Stat. Auth.: ORS Ch. 183 & 756
Stats. Implemented: ORS 756.040 & 759.005
Hist.: PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-023-0005
Maintenance of Plant and Equipment by Energy Utilities and Large Telecommunications Utilities

Each energy and large telecommunications utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each energy and large telecommunications utility shall inspect its plant distribution system and facilities in such manner and with such frequency as may be needed to ensure a reasonably complete knowledge about their condition and adequacy at all times. Each energy utility and large telecommunications utility shall keep such records of the conditions found as the utility considers necessary to properly maintain its system, unless in special cases the Commission specifies a more complete record.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stat. Implemented: ORS 757.020 & 759.035
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488); PUC 13-2002, f. & ef. 3-26-02 (Order No. 02-179)

Electric Service Standards

860-023-0020
Quality of Electric Service

(1) Every electric ~~utility~~**company** shall adopt a set of normal standard voltages at the point of delivery for the different classes of service in its service areas. The nominal standard voltages applicable to residential and commercial customers shall be specified in the tariffs filed by the electric ~~utility~~**company**. Except as may be caused by the customer's operation of apparatus in violation of the electric ~~utility~~**company**'s rules, or by conditions beyond the electric ~~utility~~**company**'s control, every electric

~~utility~~**company** shall maintain the adopted standard secondary voltages so the same shall not normally vary more than plus or minus 5 percent of the standard at the service entrance.

(2) Each electric ~~utility~~**company** shall make a sufficient number of voltage surveys to indicate the service furnished is in compliance with the standard as indicated under section (1) of this rule.

(3) Each electric ~~utility~~**company** shall keep a complete record of each test of voltage and service conditions, as made under these rules, and this record shall be accessible to the Commission or its authorized representatives. Each record of tests of voltage or service conditions so kept shall contain complete information concerning the test, including such items as the Commission may from time to time require.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.020
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169)

Electric Service Reliability

860-023-0080
Definitions for Electric Service Reliability
The following terms apply to OAR 860-023-0090 through 860-023-0160:

(1) "Electric ~~utility~~**company**" means a public utility, as defined in ORS 757.005, that supplies electricity.

(2) "Interruption duration" means the period (measured in seconds, minutes, or hours) from the initiation of an interruption to a metering point until service has been restored to that metering point.

(3) "Interruption, momentary" means a single interruption with a duration limited to five minutes.

(4) "Interruption event, momentary" means:

(a) A momentary interruption; or

(b) A series of momentary interruptions that is restored by an automatic interruption device, is limited to a single relay sequence, and does not exceed five minutes, such as when an auto-reclose breaker operates two or more times in a single relay sequence and then holds.

(5) "Interruption, sustained" means an interruption with a duration greater than five minutes.

(6) "Interruption" means the loss of service to one or more metering points.

(7) "Loss of service" means a complete loss of voltage to one or more metering points, but does not include power quality issues such as transients, sags, swells, flickers, harmonics, and other waveform distortions.

(8) "MAIFE" means momentary average interruption event frequency index. This index is the number of times that a metering point experiences momentary interruption events during a year. It is determined by dividing the total annual number of metering

point momentary interruption events by the total number of metering points. Note that this index does not include the events immediately preceding a sustained interruption.

(9) "Major event" means a catastrophic event that:

(a) Exceeds the design limits of the electric power system;

(b) Causes extensive damage to the electric power system; and

(c) Results in a simultaneous sustained interruption to more than 10 percent of the metering points in an operating area.

(10) "Metering point" means an electric point of service to a customer where there is a meter and for which an electric ~~utility~~**company** renders a bill.

(11) "Metering points, total number of" means the number of metering points as of the last day of the calendar year.

(12) "Operating area" means a geographic subdivision of an electric ~~utility~~**company**'s Oregon service territory that functions under the direction of an electric ~~utility~~**company** office and as a separate entity used for reliability reporting. These areas may also be referred to as regions, divisions, or districts.

(13) "Reliability" means the degree that electric service is supplied without interruptions.

(14) "SAIDI" means system average interruption duration index. This is the sustained interruption duration time (in hours) that an average metering point experiences during the year. It is determined by dividing the annual sum of all metering point sustained interruption durations by the total number of metering points.

(15) "SAIFI" means system average sustained interruption frequency index. This index is the number of times that an average metering point receives sustained interruptions during a year. It is determined by dividing the total annual number of sustained interruptions by the total number of metering points.

(16) "System-wide" means pertaining to and limited to the electric ~~utility~~**company**'s metering points in Oregon.

(17) "Threshold" means a performance level, excluding major events, that requires appropriate electric ~~utility~~**company** action.

(18) "Underperforming circuit" means a circuit characterized by substandard performance. A circuit has this designation if it has a SAIDI, SAIFI, or MAIFIE index that exceeds its designated threshold level.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0090
Electric Service Continuity

(1) An electric ~~utility~~**company** shall use reasonable means in design, operations, and maintenance to ensure reliable service to each customer. Such means shall include, but not be limited to, programs to prevent service interruptions.

(2) An electric ~~utility~~**company** shall have a program with written standards and written schedules to maintain appropriate reliability levels.

(3) When interruptions occur, each electric ~~utility~~**company** shall reestablish service with the shortest possible delay consistent with the safety of its employees, customers, and the general public.

(4) An electric ~~utility~~**company** shall have a program for analyzing, and where appropriate, for correcting underperforming circuits.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0100
Electric Interruption Records

(1) Except as provided in section (3) of this rule, an electric ~~utility~~**company** shall keep an accurate record of each interruption of service that affects one or more customers. Each record shall contain at least the following information:

(a) The operating area where the interruption occurred;
(b) The name of the substation involved;
(c) The name of the circuit involved;
(d) The date and time the interruption occurred (if the exact time is unknown, the beginning of an interruption is recorded as the earlier of an automatic alarm or the reported initiation time);
(e) The date and time service was restored;
(f) The duration of the interruption;
(g) The number of metering points affected by the interruption;
(h) The cause of the interruption;
(i) The weather conditions at the time of the interruption;
(j) Whether the interruption was planned or unplanned;
k) The protective device that made the interruption; and
(l) The component involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer, etc.).

(2) For interruptions where customers are not simultaneously restored, an electric ~~utility~~**company** shall keep records that document the step-restoration operations.

(3) For major events where an electric ~~utility~~**company** cannot obtain accurate data, the electric ~~utility~~**company** shall make reasonable estimates.

(4) An electric ~~utility~~**company** shall retain for ten years the records associated with sections (1) and (2) of this rule.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0110
Electric Reliability Calculations

(1) Except as provided in section (3) of this rule, an electric ~~utility~~**company** at year-end shall calculate SAIDI, SAIFI, and MAIFIE indices, with and without major events:

(a) On a system-wide basis;
(b) For each operating area; and
(c) For each circuit.
(2) Data included in the above calculations shall include all interruptions associated with or related to high voltage components (above 600 volts).
(3) For each circuit an electric ~~utility~~**company** shall be required to calculate only indices with major events excluded.
(4) If an electric ~~utility~~**company** estimates MAIFIE, it shall specify the method that it used for making the estimate.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0120
Electric Threshold Levels
(1) An electric ~~utility~~**company** shall establish threshold levels for SAIDI, SAIFI, and MAIFIE for system-wide operations, each operating area, and each circuit. The Commission recommends that the following factors be used to guide the setting of the levels:
(a) Past reliability information;
(b) Demographic, geographic, and electrical characteristics; and
(c) The relative performance of the circuits to each other.
(2) An electric ~~utility~~**company** shall file with the Commission its threshold values and any revision to the values.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0130
Customer Inquiries about Electric Reliability
(1) A customer may request a report from an electric ~~utility~~**company** about the service reliability of the circuit supplying the customer's own meter. Within 20 working days, the electric ~~utility~~**company** shall supply the report to the customer at no cost. However, if a customer requests an additional reliability report for the same meter within one year of the date of the first request, the electric ~~utility~~**company** may require a deposit from the customer to recover the cost of the report. The electric ~~utility~~**company** shall return the deposit if the additional report indicates that the circuit has become an underperforming circuit, with major events excluded.
(2) The report shall include:
(a) The name of the customer;
(b) The date of the request;
(c) The address where the meter is installed;
(d) The meter number involved;

(e) The circuit involved; and

(f) A chronological listing, covering at least 36 months up to the date of the request, of all interruption data as required by OAR 860-023-0100 affecting the customer's meter, stating the beginning time, date, duration, and cause for each interruption.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0140
Public Inquiries about Electric Reliability

Any person may request from an electric ~~utility~~**company** a report about the service reliability for any circuit. The report shall be supplied to the person within 20 working days. A reasonable fee may be charged for each report.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0150
Annual Report on Electric Reliability

(1) On or before May 1 of each year, an electric ~~utility~~**company** shall file with the Commission a report that includes reliability information pertaining to the previous calendar year. The electric ~~utility~~**company** shall make copies available to the public upon request.

(2) In accordance with sections (3) and (4) of this rule, the report shall contain:

(a) SAIDI, SAIFI, and MAIFIE indices and thresholds compared to the most recent four years, both with and without major events:

(A) On a system-wide basis; and

(B) For each operating area.

(b) SAIDI, SAIFI, and MAIFIE indices and thresholds for each circuit, with major events excluded.

(c) A summary of the system-wide interruption causes compared to the previous four-year performance. Categories to be evaluated shall include:

(A) Adverse environment;
(B) Adverse weather;
(C) Customer equipment;
(D) Equipment failure;
(E) Foreign interference;
(F) Human element;
(G) Lightning;
(H) Loss of supply;
(I) Major events;
(J) Scheduled outages;
(K) Tree contacts;

(L) Unknown; and

(M) Other (if used, the electric ~~utility~~**company** shall be specific as to the cause involved).

(d) A listing of the major events to impact the electric ~~utility~~**company** along with the major event filings to the Commission as required in OAR 860-023-0160.

(3) An electric ~~utility~~**company** shall present the SAIDI, SAIFI, and MAIFIE indices and thresholds in both a tabular and a graphical format. For the graphical format for circuits, an electric ~~utility~~**company** shall compare the SAIDI, SAIFI, and MAIFIE indices for each circuit with other circuits in descending order of performance:

(a) On a system-wide basis; and

(b) On an operating-area basis.

(4) For historical information prior to January 1, 1998, the electric ~~utility~~**company** shall provide the best information available.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-023-0160
Major Event Filing by Electric ~~Utilities~~Companies

(1) Within 20 working days after a major event, an electric ~~utility~~**company** shall submit a report to the Commission that includes:

(a) A description of the event;

(b) A discussion of why the electric ~~utility~~**company** considers it to be a major event;

(c) The total number of metering points affected, the number of metering points without service at periodic intervals, and the longest service interruption;

(d) The number of crews assigned to restore service at periodic intervals;

(e) The estimated SAIDI and SAIFI impact to metering points on a system-wide and an operating-area basis;

(f) The damage cost estimates to the electric ~~utility~~**company**'s facilities;

(g) The reason timely restoration was beyond the electric ~~utility~~**company**'s control; and

(h) A listing of circuits that were affected with sustained interruptions lasting more than four hours.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 757.020
Hist.: PUC 16-1997, f. 12-11-97, ef. 1-1-98 (Order No. 97-465)

860-025-0001
Definitions for Territory Allocated to Electric Utilities, Gas Utilities and Large Telecommunications Utilities

For purposes of this Division, except when a different scope is explicitly stated:

(1) "Electric utility" means a**n electric** ~~public~~ utility as defined in ORS 757.~~005~~**600(13)** ~~that supplies electricity~~.

(2) "Gas utility" means a public utility as defined in ORS 757.005 that supplies natural gas.

(3) "Large telecommunications utility" means any telecommunications utility as defined in ORS 759.005 that is not partially exempt from regulation under ORS 759.040.

(4) "Utility service" means utility service as defined for electric and gas utilities in ORS 758.400(3) and telecommunications utility service as defined in ORS 759.500(3).

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 756.040, 757.005, 758.400, 759.005 & 759.500

Hist.: PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 13-2002, f & ef. 3-26-02 (Order No. 02-179)

860-026-0005
Definitions for Utility Sales Promotion

As used in OAR 860-026-0005 through 860-026-0045, unless the context requires otherwise:

(1) "Affiliate" means "affiliated interest," as defined in ORS 757.015 and ORS 759.010.

(2) "Appliance or equipment" includes any device which consumes electric and/or gas energy and any ancillary device required for its operation.

(3) "Consideration" includes any cash, donation, gift, allowance, rebate, bonus, merchandise (new or used), property (real or personal), labor, service, conveyance, commitment, right, or other thing of more than token value.

(4) "Energy efficiency" means any installation or action intended to reduce the amount of energy required to achieve a given purpose or to shift the timing of the use of energy to achieve greater efficiency in the use of a public utility system.

(5) "Energy utility" means a public utility as defined in ORS 757.005 except a water utility or wastewater utility. An energy utility can be an "electric ~~utility~~**company**," "gas utility," or "steam heat utility."

(6) "Financing" includes acquisition of equity or debt interests, loans, advances, sale and repurchase agreements, sale and leaseback agreements, sales on open account, conditional or installment sales contracts, or other investments or extensions of credit.

(7) "Large telecommunications utility" means a telecommunications utility, as defined in ORS 759.005, that is not partially exempt from regulation under ORS 759.040.

(8) "Person" includes any individual, group, firm, partnership, corporation, association, organization, or public or private entity.

(9) "Utility" means all energy and large telecommunications utilities, as defined in sections (5) and (7) of this rule.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 757.005 & 757.015
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 9-1995, f. & ef. 8-30-95 (Order No. 95-861); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & cert. ef. 6-21-01 (Order No. 01-488)

860-027-0001
Definitions for Utility Budgets, Finance, Accounting, and Annual Reports

For purposes of this Division, except when a different scope is explicitly stated:

(1) "Energy utility" means a public utility as defined in ORS 757.005 except a water utility or wastewater utility. An energy utility can be an "electric ~~utility~~**company**," "gas utility," or "steam heat utility."

(2) "Large telecommunications utility" means any telecommunications utility, as defined in ORS 759.005, that is not partially exempt from regulation under ORS 759.040.

(3) "Utility" means all energy utilities and telecommunications utilities, as defined in sections (1) and (2) of this rule.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 756.040 & 759.005
Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185); PUC 4-1995, f. & ef. 6-19-95 (Order No. 95-516); PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488)

860-027-0045
Uniform System of Accounts for Electric ~~Utilities~~Companies – Major and Nonmajor

(1) The Uniform System of Accounts prescribed for Public Utilities and Licensees, Part 101, Chapter 1, 18 Code of Federal Regulations (April 1, 2001, edition) is hereby adopted and prescribed by the Commission for each electric ~~utility~~**company**.

(2) Each electric ~~utility~~**company** having multistate operations shall maintain records in such detail that the cost of property located in and business done in Oregon in accordance with geographic boundaries can be readily ascertained.

(3) Each electric ~~utility~~**company** having multistate operations shall file annually with the Commission, on or before April 1 of the ensuing year, its Oregon allocated results of operations for the calendar year reported, on the basis of allocation methods acceptable to the Commission.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.105, 757.120, 757.125 & 757.135
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1985, f. & ef. 4-24-85 (Order No. 85-355); PUC 5-1992, f. & ef. 2-14-92 (Order No. 92-246); PUC 9-

2001, f. & ef. 3-21-01 (Order No. 01-248); PUC 19-2001, f. and ef. 6-21-01 (Order No. 01-487)

860-027-0120
Preservation and Destruction of Records

(1) Electric ~~Utilities~~**Companies**. Preservation of Records of Public Utilities and Licensees, Part 125, Chapter 1, 18 Code of Federal Regulations (April 1, 2001, edition) is hereby adopted and prescribed by the Commission for each electric ~~utility~~**company** with the following exception: Corporate and General, Organizational documents – An electric ~~utility~~**company** shall retain minute books of stockholders', directors', and directors' committee meetings for twenty-five years.

(2) Gas Utilities. The Preservation of Records of Public Utilities and Licensees, Part 225, Chapter 1, 18 Code of Federal Regulations (April 1, 2001, edition) is hereby adopted and prescribed by the Commission for each gas utility with the following exception: Corporate and General, Organizational documents – A gas utility shall retain minute books of stockholders', directors', and directors' committee meetings for twenty-five years.

(3) Steam Heat Utilities. The Preservation of Records of Public Utilities and Licensees, Part 125, Chapter 1, 18 Code of Federal Regulations (April 1, 2001, edition) is hereby adopted and prescribed by the Commission for each steam heat utility with the following exception: Corporate and General, Organizational documents – A steam heat utility shall retain minute books of stockholders', directors', and directors' committee meetings for twenty-five years.

(4) Large telecommunications Utilities. The Regulations to Govern the Preservation of Records of Communication Common Carriers, Part 42, 47 Code of Federal Regulations Chapter 1 (October 1, 2003, edition) is hereby adopted and prescribed by the Commission for each large telecommunications utility.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 756.040, 756.105, 759.045 & 759.225
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 12-1985, f. & ef. 8-20-85 (Order No. 85-751); PUC 15-1986, f. & ef. 11-10-86 (Order No. 86-1144); PUC 1-1998, f. & ef. 1-12-98 (Order No. 98-016); PUC 8-2000, f. & ef. 5-26-00 (Order No. 00-262); Renumbered from 860-028-0010 by PUC 19-2001, f. & ef. 6-21-01 (Order No. 01-487, PUC 15-2004, f. & ef. 10-28-04 (Order No. 04-636)

860-027-0300
Use of Deferred Accounting by Energy and Large Telecommunications Utilities

(1) As used in this rule:

(a) “Amortization” means the inclusion in rates of an amount which has been deferred under ORS 757.259 or 759.200 and which is designed to eliminate, over time,

the balance in an authorized deferred account. Amortization does not include the normal positive and negative fluctuations in a balancing account;

(b) "Deferred Accounting" means recording the following in a balance sheet account, with Commission authorization for later reflection in rates:

(A) Electric **companies**, gas **utilities**, and steam heat utilities: a current expense or revenue associated with current service, as allowed by ORS 757.259; or

B) Large telecommunications utilities: an amount allowed by ORS 759.200.

(2) Expiration: Any authorization to use a deferred account shall expire 12 months from the date the deferral is authorized to begin. If a deferral under ORS 757.259 or 759.200 is reauthorized, the reauthorization shall expire 12 months from the date the reauthorization becomes effective.

(3) Contents of Application: Application for deferred accounting, by an energy or large telecommunications utility or a customer, shall include:

(a) A description of the utility expense or revenue for which deferred accounting is requested;

b) The reason(s) deferred accounting is being requested and a reference to the section(s) of ORS 757.259 or 759.200 under which deferral may be authorized;

(c) The account proposed for recording of the amounts to be deferred and the account which would be used for recording the amounts in the absence of approval of deferred accounting;

(d) An estimate of the amounts to be recorded in the deferred account for the 12-month period subsequent to the application; and

(e) A copy of the notice of application for deferred accounting and list of persons served with the notice.

(4) Reauthorization: Application for reauthorization to use a deferred account shall be made not more than 60 days prior to the expiration of the previous authorization for the deferral. Application for reauthorization shall include the requirements set forth in subsections (3)(a) through (3)(e) of this rule and, in addition, the following information:

(a) A description and explanation of the entries in the deferred account to the date of the application for reauthorization; and

(b) The reason(s) for continuation of deferred accounting.

(5) Exceptions: Authorization under ORS 757.259 or 759.200 to use a deferred account is necessary only to add amounts to an account, not to retain an existing account balance and not to amortize amounts which have been entered in an account under an authorization by the Commission. Interest, once authorized to accrue on unamortized balances in an account, may be added to the account without further authorization by the Commission, even though authorization to add other amounts to an account has expired.

(6) Notice of Application: The applicant shall serve a notice of application upon all persons who were parties in the energy or large telecommunications utility's last general rate case. If the applicant is other than an energy or large telecommunications utility, the applicant shall serve a copy of the application upon the affected utility. A notice of application shall include:

(a) A statement that the applicant has applied to the Commission for authorization to use deferred accounting; or for an order requiring that deferred accounting be used by an energy or large telecommunications utility;

(b) A description of the utility expense or revenue for which deferred accounting is requested;

(c) The manner in which an interested person can obtain a copy of the application;

(d) A statement that any person may submit to the Commission written comment on the application by the date set forth in the notice, which date may be no sooner than 25 days from the date of the application; and

(e) A statement that the granting of the application will not authorize a change in rates, but will permit the Commission to consider allowing such deferred amounts in rates in a subsequent proceeding.

(7) Public Meetings: Unless otherwise ordered by the Commission, applications for use of deferred accounting will be considered at the Commission's public meetings.

(8) Reply Comments: Within ten days of the due date for comments on the application from interested persons, the applicant, and the energy or large telecommunications utility if the utility is not the applicant, may file reply comments with the Commission, and shall serve those comments on persons who have filed the initial comments on the application.

(9) Amortization: Amortization in rates of a deferred amount shall only be allowed in a proceeding, whether initiated by the energy or large telecommunications utility or another party. The Commission may authorize amortization of such amounts only for utility expenses or revenues for which the Commission previously has authorized deferred accounting. Upon request for amortization of a deferred account, the energy or large telecommunications utility shall provide the Commission with its financial results for a 12-month period or for multiple 12-month periods to allow the Commission to perform an earnings review. The period selected for the earnings review will encompass all or part of the period during which the deferral took place or must be reasonably representative of the deferral period. Unless authorized by the Commission to do otherwise:

(a) An ~~electric, gas, or steam heat~~**energy** utility shall request that amortizations of deferred accounts commence no later than one year from the date that deferrals cease for that particular account; and

(b) In the case of ongoing balancing accounts, the ~~electric, gas, or steam heat~~ **energy** utility shall request amortization at least annually, unless amortization of the balancing account is then in effect; or

(c) A large telecommunications utility shall request amortization of deferred accounts as soon as practical after the deferrals cease but no later than in its next rate proceeding.

(10) An electric ~~utility~~**company** customer may prepay under ORS 757.259(11) all or a portion of its obligation of deferred power supply expense. The obligation must be calculated as the customer's pro rata share of the utility's total energy usage within the state of Oregon during 2001, multiplied by the unrecovered deferral balance at the time of prepayment. When such customer has prepaid its obligation in full, the customer may no longer be charged the power supply adjustment related to the deferral.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759
Stats. Implemented: ORS 756.040, 756.105, 757.259 & 759.200

Hist.: PUC 11-1988, f. & ef. 6-9-88 (Order No. 88-597); PUC 2-1990, f. & ef. 3-2-90 (Order No. 90-235); PUC 12-1997, f. & ef. 10-30-97 (Order No. 97-413); PUC 4-1998, f. & ef. 2-24-98 (Order No. 98-057); PUC 16-2001, f. & ef. 6-21-01 (Order No. 01-488); PUC 6-2004 (Temp), f. & ef. 3-24-04 (Order No. 04-152); PUC 14-2004, f. & ef. 9-7-04 (Order No. 04-414)

860-030-0005
Energy Information and Audit Services

(1) As used in Division 030, the terms "cash payment," "commercial lending institution," "Commission," "cost-effective," "director," "dwelling," "dwelling owner," "energy audit," "energy conservation measure," "investor-owned utility," "residential customer," "space heating," and "tenant" shall have the meanings set forth in ORS 469.631.

(2) Investor-owned energy utilities shall notify their customers annually of the availability of energy audits without direct charge to the customers. Such notification shall be made:

(a) In a bill insert or other direct mailing; and

(b) Stating the types of assistance and technical advice available.

(3) Energy audits:

(a) Except as provided in section (5) of this rule, each energy utility shall provide energy audits to eligible customers upon request. The audit shall be performed in accordance with the provisions of ORS 469.631(8) and 469.633(2). The energy utility may set a schedule of reasonable charges for residential energy audits performed beyond the first energy audit for an individual customer in a particular residence;

(b) If an energy utility's records do not contain sufficient data to establish a normal consumption for the customer in the dwelling (for example, a newly-established residence or a residence using a supplemental fuel, maintained at approximately 70 degrees F.), the energy utility shall make a reasonable estimate of such consumption for the purpose of completing the audit; and

(c) If the dwelling requested to be audited is a rental unit, the audit shall include a heating cost estimate using average temperatures and typical lifestyles. A statement shall be included to the effect that a household's energy bill will contain charges for uses in addition to space heating. Such heating cost estimate and statement shall be displayed on the audit or a separate document suitable for conspicuous posting.

(4) An eligible customer is any customer of the energy utility receiving residential electric or natural gas service.

(5) Primary responsibility for furnishing an energy audit lies with the energy utility providing the primary source of home heating energy, and an energy utility, not a primary supplier, may discharge its energy audit obligation by arranging for the primary supplier of space heating to perform the energy audit.

(6) Any residential customer using a space-heating fuel other than electricity or natural gas who receives service from an electric ~~energy utility~~**company** shall be eligible for an energy audit from that utility if no other audit is obtainable. The ~~energy utility~~ **electric company** may set a schedule of reasonable charges for these audits which shall be separate from the periodic utility bill.

Stat. Auth.: ORS Ch. 183, 469, 756 & 757
Stats. Implemented: ORS 756.040 & 469.631 through 469.645
Hist.: PUC 11-1981(Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619); PUC 14-1985, f. & ef. 9-27-85 (Order No. 85-891); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 1-1998, f. & ef. 1-12-98 (Order No. 98-016)

860-030-0010
Cost Effectiveness

(1) "Cost-effective," as defined in ORS 469.631(4), relates an energy conservation measure's cost, life cycle, and the cost of alternative energy facilities. An energy utility's cost-effectiveness calculations should be consistent with the utility's most recently acknowledged least-cost plan pursuant to Order No. 89-507.

(2) Unless otherwise demonstrated in an acknowledged energy utility least-cost plan, the following energy conservation measures are deemed to be in all installations:

(a) Caulking;

(b) Weather stripping;

(c) Timed (set-back) thermostats (except when used with heat pumps); and

(d) Water heater, steam pipe, and hot and cold water pipe wraps.

(3) Unless otherwise demonstrated in an acknowledged energy utility least-cost plan, the following energy conservation measures are deemed to be cost-effective when installed along with certain other energy conservation measures, as indicated:

(a) Ground cover, when installed in conjunction with under-floor insulation;

(b) Vapor barrier materials, when installed in conjunction with wall, ceiling, or under-floor insulation;

(c) Dehumidifiers, when installed in conjunction with storm windows and doors, and caulking and weather stripping of all openings allowing infiltration; and

(d) Attic ventilation, excluding power ventilators, when installed in conjunction with ceiling or attic insulation.

(4) The following energy conservation measures shall be deemed to have the indicated life cycles:

(a) Attic, ceiling, wall and under-floor insulation – 30 years.

(b) Insulation of walls in heated basements – 30 years.

(c) Insulation of heating system supply and return air ducts – 30 years.

(d) Thermal doors – 30 years.

(e) Storm windows – 15 years.

(f) Windows meeting the requirements of Chapter 53 of the Oregon Residential Energy Code, and window replacements – 25 years.

(g) Storm doors – 7 years.

(h) Electronic furnace ignition (gas) – 10 years.

(5) Within 30 days after approval of an ~~electric or gas~~**energy** utility's avoided-cost filing submitted in compliance with OAR 860-029-0040 or 860-030-0007, such utility shall submit for the Commission's approval the computations used to determine the cost

effectiveness of weatherization measures. The computations shall include present worth of energy and capacity saved per unit for different life cycles, recognizing, where appropriate, line losses, administrative costs of conservation programs, and revenues from additional wholesale sales made possible by the conservation activity. At the same time, such utility shall file tariffs relating to payments for weatherization measures using the new cost-effectiveness computations, to become effective 30 days after submission.

(6) Energy and capacity savings due to conservation shall be considered firm for purposes of the calculations in OAR 860-030-0010(5). The calculated costs as specified in section (5) of this rule shall be multiplied by 1.1 to determine the cost effectiveness of the conservation alternative.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

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

Stats. Implemented: ORS 756.040 & 469.631 through 469.645

Hist.: PUC 11-1981 (Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619); PUC 11A-1985 (Temp), f. & ef. 7-16-85 (Order No. 85-639); PUC 14-1985, f. & ef. 9-27-85 (Order No. 85-891); PUC 15-1985, f. & ef. 10-1-85 (Order No. 85-896); PUC 2-1993, f. & ef. 1-8-93 (Order Nos. 92-1793 & 93-035); PUC 3-1993, f. & ef. 1-8-93 (Order No. 92-1792); PUC 1-1998, f. & ef. 1-12-98 (Order No. 98-016)

860-030-0015
Residential Energy Conservation Financing

(1) An eligible dwelling owner may obtain a loan or a cash payment from or through the energy utility for energy conservation measures.

(2) Financing:

(a) The loan shall be made in accordance with the following terms, conditions, and limitations:

(A) A principal amount of up to $5,000;

(B) On a loan from or through an electric ~~utility~~**company**, an interest rate that does not exceed 6.5 percent annually;

(C) On a loan from or through a gas utility, an annual interest rate 10 percentage points lower than the rate published by the Federal Housing Administration for Title I property improvement loans (24 Code of Federal Regulations (CFR), subsection 201.4(a)) on the date of the loan application, but not lower than 6.5 percent or higher than 12 percent;

(D) A repayment period of not more than ten years;

(E) Unless waived by the energy utility, a minimum monthly payment of not less than $15; and

(F) To eligible dwelling owners with approved credit.

(b) The cash payment shall be in the amount of:

(A) Twenty-five percent of the cost-effective portion of the energy conservation measures recommended under subsection (2)(c) of this rule, including installation (but not including the dwelling owner's own labor), not to exceed the cost of the measure; or

(B) $350, whichever is less.

(c) Any dwelling owner is eligible for financing under this rule, provided:

(A) A valid energy audit preceded the work and established the cost-effective portion of the recommended measures;

(B) The measures installed are those recommended by the energy utility; and

(C) The dwelling has a space-heating system, installed and operational, which is designed to heat the living space of the customer's dwelling, and which draws its energy for operation from the energy utility from which financing is sought.

(d) A dwelling owner who acquires a dwelling for which a previous loan was obtained under this rule may obtain a loan or a cash payment for energy conservation measures for the newly acquired dwelling under circumstances including, but not necessarily limited to, when there remain cost-effective energy conservation measures to be undertaken with regard to the dwelling.

(3) An energy utility shall not make a loan or a cash payment for the installation of urea-formaldehyde wall insulation.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

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

Stats. Implemented: ORS 756.040 & 469.631 through 469.645

Hist.: PUC 11-1981 (Temp), f. & ef. 10-30-81 (Order No. 81-778); PUC 2-1982, f. & ef. 2-26-82 (Order No. 82-130); PUC 10-1985, f. & ef. 7-5-85 (Order No. 85-619); PUC 14-1985, f. & ef. 9-27-85 (Order No. 85-891); PUC 11A-1985 (Temp), f. & ef. 7-16-85 (Order No. 85-639); PUC 11B-1985 (Temp), f. 7-16-85, ef. 9-20-85 (Order No. 85-639); PUC 28-1985, f. & ef. 12-20-85 (Order No. 85-1212); PUC 15-1989, f. & cert. ef. 11-3-89 (Order No. 89-1465); PUC 2-1993, f. & ef. 1-8-93 (Order No. 92-1793); PUC 3-1993, f. & ef. 1-8-93 (Order No. 92-1792); PUC 1-1998, f. & ef. 1-12-98 (Order No. 98-016)

860-030-0018
Rental Unit Additional Financing

(1) After December 31, 1985, ~~gas and electric~~**energy** utilities, upon request of final certification from the Department of Energy, under ORS Chapter 469, shall offer additional financing as described in section (3) of this rule for energy conservation measures installed by a dwelling owner who rents the dwelling to a tenant whose dwelling unit receives energy for space heating from an ~~gas or electric~~**energy** utility.

(2) Upon being notified by the Department of Energy that it has committed all available tax credits for rental unit additional financing for a given calendar year, an energy utility shall stop offering additional financing until it is notified that tax credits are available.

(3) The dwelling owner may select one of the following types of financing:

(a) The dwelling owner may select a low-interest loan pursuant to OAR 860-030-0015(2)(a). In such case, the dwelling owner shall be liable to repay to the energy utility the loan minus the present value to the utility of the tax credit received, as established pursuant to ORS 469.185 to 469.225;

(b) The dwelling owner may select a cash payment pursuant to OAR 860-030-0015(2)(b). In such case, the cash payment shall be supplemented by an amount equal to the present value to the energy utility of the tax credit received, as established pursuant to ORS 469.185 to 469.225.

(4) Investor-owned ~~gas and electric~~**energy** utilities shall notify their customers annually of the availability of the financing options with regard to the tax credit established pursuant to ORS 469.185 to 469.225 and of the option to apply directly to the State of Oregon for a tax credit.

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

Stats. Implemented: ORS 756.040 & 469.631 through 469.645

Hist.: PUC 28-1985, f. & ef. 12-20-85 (Order No. 85-1212); PUC 1-1998, f. & ef. 1-12-98 (Order No. 98-016)

860-038-0005

Definitions for Direct Access Regulation

As used in this Division:

(1) “Above-market costs of new renewable energy resources” means the portion of the net present value cost of producing power (including fixed and operating costs, delivery, overhead, and profit) from a new renewable energy resource that exceeds the market value of an equivalent quantity and distribution (across peak and off-peak periods and seasonality) of power from a nondifferentiated source, with the same term of contract.

(2) “Portfolio Options Committee” means a group appointed by the Commission, consisting of representatives from Commission Staff, the Department of Energy, and the following:

(a) Local governments;

(b) Electric companies;

(c) Residential consumers;

(d) Public or regional interest groups; and

(e) Small nonresidential consumers.

(3) “Affiliate” means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a public utility.

(4) “Aggregate” means combining retail electricity consumers into a buying group for the purchase of electricity and related services. “Aggregator” means an entity that aggregates.

(5) “Ancillary services” means those services necessary or incidental to the transmission and delivery of electricity from resources to retail electricity consumers, including but not limited to scheduling, frequency regulation, load shaping, load

following, spinning reserves, supplemental reserves, reactive power, voltage control and energy balancing services.

(6) “Commission” means the Public Utility Commission of Oregon.

(7) “Common costs” means costs that cannot be directly assigned to a particular function.

(8) “Competitive operation” means any activities related to the provision of electricity services conducted by the electric company’s nonregulated operation or the electric company’s affiliate.

(9) “Consumer-owned utility” means a municipal electric utility, a people’s utility district or an electric cooperative.

(10) "Cost-of-service consumer" means a retail electricity consumer who is eligible for a cost-of-service rate under ORS 757.603.

(11) “Default supplier” means an electric company that has a legal obligation to provide electricity services to a consumer, as determined by the Commission.

(12) “Direct access” means the ability of a retail electricity consumer to purchase electricity and certain ancillary services directly from an entity other than the distribution utility.

(13) “Direct service industrial consumer” means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.

(14) “Distribution” means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.

(15) “Distribution utility” means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.

(16) “Divestiture” means the sale of all or a portion of an electric company’s ownership share of a generation asset to a third party.

(17) “Economic utility investment” means all Oregon allocated investments made by an electric company that offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation or conservation, that were prudent at the time the obligations were assumed but the full benefits of which are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition credits. “Economic utility investment” does not include costs or expenses disallowed by the Commission in a prudence review or other proceeding, to the extent of such disallowance, and does not include fines or penalties authorized and imposed under state or federal law.

(18) “Electric company” means an entity engaged in the business of distributing electricity to retail electricity consumers in this state but does not include a consumer-owned utility.

(19) “Electric company operational information” means information relating to the interconnection of customers to an electric company’s transmission or distribution systems, trade secrets, competitive information relating to internal processes, market analysis reports, market forecasts, and information about an electric company’s transmission or distribution system, operations, or plans or strategies for expansion.

(20) “Electric cooperative” means an electric cooperative corporation organized under ORS Chapter 62 or under the laws of another state if the service territory of the electric cooperative includes a portion of this state.

(21) “Electric utility” means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state.

(22) “Electricity” means electric energy, measured in kilowatt-hours, or electric capacity, measured in kilowatts, or both.

(23) “Electricity services” means electricity distribution, transmission, generation, or generation-related services.

(24) “Electricity service supplier” or “ESS” means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. “Electricity service supplier” does not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.

(25) “Emergency default service” means a service option provided by an electric company to a nonresidential consumer that requires less than five business days’ notice by the consumer or its electricity service supplier.

(26) “Fully distributed cost” means the cost of an electric company good or service calculated in accordance with the procedures set forth in OAR 860-038-0200.

(27) “Functional separation” means separating the costs of the electric company’s business functions and recording the results within its accounting records, including allocation of common costs.

(28) “Joint marketing” means the offering (including marketing, promotion, and/or advertising) of retail electric services by an electric company in conjunction with its competitive operation to consumers either through contact initiated by the electric company, its affiliate, or through contact initiated by the consumer.

(29) “Large nonresidential consumer” means a nonresidential consumer whose kW demand at any point of delivery is greater than 30 kW during any two months within a prior 13-month period.

(30)“Load” means the amount of electricity delivered to or required by a retail electricity consumer at a specific point of delivery.

(31) “Local energy conservation” means conservation measures, projects, or programs that are installed or implemented within the service territory of an electric company.

(32) “Low-income weatherization” means repairs, weatherization and installation of energy efficient appliances and fixtures for low-income residences for the purpose of enhancing energy efficiency.

(33) “Market transformation” means a lasting structural or behavioral change in the marketplace that increases the adoption of energy efficient technologies and practices.

(34) “Multi-state electric company” means an electric company that provided regulated retail electric service in a state in addition to Oregon prior to January 1, 2000.

(35) “Municipal electric utility” means an electric distribution utility owned and operated by or on behalf of a city.

(36) "Net system power mix" means the mix of all power generation within the state or other region less all specific purchases from generation facilities in the state or region, as determined by the Department of Energy.

(37) "New" as it refers to energy conservation, market transformation and low-income weatherization means measures, projects or programs that are installed or implemented after the date direct access is offered by an electric company.

(38) "New renewable energy resource" means a renewable energy resource project or a new addition to an existing renewable energy resource project, or the electricity produced by the project, that was not in operation on or before July 23, 1999. "New renewable energy resource" does not include any portion of a renewable energy resource project under contract to the Bonneville Power Administration on or before July 23, 1999.

(39) "Non-energy attributes" means the environmental, economic, and social benefits of generation from renewable energy facilities. These attributes are normally transacted in the form of Tradable Renewable Certificates.

(~~39~~**40**) "Nonresidential consumer" means a retail electricity consumer who is not a residential consumer.

(~~40~~**41**) "Department of Energy" means the Oregon Department of Energy created under ORS 469.030.

(~~41~~**42**) "Ongoing valuation" means the process of determining transition costs or benefits for a generation asset by comparing the value of the asset output at projected market prices for a defined period to an estimate of the revenue requirement of the asset for the same time period.

(~~42~~**43**) "One-time administrative valuation" means the process of determining the market value of a generation asset over the life of the asset, or a period as established by the Commission, using a process other than divestiture.

(~~43~~**44**) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

(~~44~~**45**) "Oregon share" means, for a multi-state electric company, an interstate allocation based upon a fixed allocation or method of allocation established in a Resource Plan or, in the case of an electric company that is not a multi-state electric company, 100 percent.

(~~45~~**46**) "People's utility district" has the meaning given that term in ORS 261.010.

(~~46~~**47**) "Portfolio" means a set of product and pricing options for electricity.

(~~47~~**48**) "Proprietary consumer information" means any information compiled by an electric company on a consumer in the normal course of providing electric service that makes possible the identification of any individual consumer by matching such information with the consumer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, or any other information that the consumer has expressly requested not be disclosed. Information that is redacted or organized in such a way as to make it impossible to identify the consumer to whom the information relates does not constitute proprietary consumer information.

(~~48~~**49**) "Qualifying expenditures" means those expenditures for energy conservation measures that have a simple payback period of not less than one year and not more than 10 years and expenditures for the above-market costs of new renewable energy resources, provided that the Department of Energy may establish by rule a limit on the maximum above-market cost for renewable energy that is allowed as a credit.

(~~49~~**50**) "Registered dispute" means an unresolved issue affecting a retail electricity consumer, an ESS, or an electric company that is under investigation by the Commission's Consumer Services Division but is not the subject of a formal complaint.

(~~50~~**51**) "Regulated charges" means charges for services subject to the jurisdiction of the Commission.

(~~51~~**52**) "Regulatory assets" means assets that result from rate actions of regulatory agencies.

(~~52~~**53**) "Renewable energy resources" means:

(a) Electricity-generation facilities fueled by wind, waste, solar or geothermal power or by low-emission nontoxic biomass based on solid organic fuels from wood, forest and field residues;

(b) Dedicated energy crops available on a renewable basis;

(c) Landfill gas and digester gas; and

(d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.

(~~53~~**54**) "Residential consumer" means a retail electricity consumer that resides at a dwelling primarily used for residential purposes. "Residential consumer" does not include retail electricity consumers in a dwelling typically used for residency periods of less than 30 days, including hotels, motels, camps, lodges, and clubs. As used in this section, "dwelling" includes but is not limited to single-family dwellings, separately metered apartments, adult foster homes, manufactured dwellings, recreational vehicles, and floating homes.

(~~54~~**55**) "Retail electricity consumer" means the end user of electricity for specific purposes such as heating, lighting, or operating equipment and includes all end users of electricity served through the distribution system of an electric utility on or after July 23, 1999, whether or not each end user purchases the electricity from the electric utility. For purposes of this definition, a new retail electricity consumer means a retail electricity consumer that is unaffiliated with the retail electricity consumer previously served after March 1, 2002, at the site.

(~~55~~**56**) "Self-directing consumer" means a retail electricity consumer that has used more than one average megawatt of electricity at any one site in the prior calendar year or an aluminum plant that averages more than 100 average megawatts of electricity use in the prior calendar year, that has received final certification from the Department of Energy for expenditures for new energy conservation or new renewable energy resources and that has notified the electric company that it will pay the public purpose charge, net of credits, directly to the electric company in accordance with the terms of the electric company's tariff regarding public purpose credits.

(~~56~~**57**) "Serious injury to person" has the meaning given in OAR 860-024-0050.

(~~57~~**58**) "Serious injury to property" has the meaning given in OAR 860-024-0050.

(~~58~~**59**) "Site" means:

(a) Buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter; or

(b) A single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, such that:

(A) Each building or structure included in the site is no more than 1,000 feet from at least one other building or structure in the site;

(B) Buildings and structures in the site, and land containing and connecting buildings and structures in the site, are owned by a single retail electricity consumer who is billed for electricity use at the buildings and structures; and

(C) Land shall be considered to be contiguous even if there is an intervening public or railroad right of way, provided that rights of way land on which municipal infrastructure facilities exist (such as street lighting, sewerage transmission, and roadway controls) shall not be considered contiguous.

(~~59~~**60**)"Small nonresidential consumer" means a nonresidential consumer that is not a large nonresidential consumer.

(~~60~~**61**) "Special contract" means a rate agreement that is justified primarily by price competition or service alternatives available to a retail electricity consumer, as authorized by the Commission under ORS 757.230.

(~~61~~**62**) "Structural separation" means separating the electric company's assets by transferring assets to an affiliated interest of the electric company.

(~~62~~**63**) "Total transition amount" means the sum of an electric company's transition costs and transition benefits.

(~~63~~**64**) "Traditional allocation methods" means, in respect to a multi-state electric company, inter-jurisdictional cost and revenue allocation methods relied upon in such electric company's last Oregon rate proceeding completed prior to December 31, 2000.

(~~64~~**65**) "Transition benefits" means the value of the below-market costs of an economic utility investment.

(~~65~~**66**) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic utility investment.

(~~66~~**67**) "Transition costs" means the value of the above-market costs of an uneconomic utility investment.

(~~67~~**68**) "Transition credit" means a credit that returns to consumers all or a portion of the benefits from an economic utility investment.

(~~68~~**69**) "Transmission grid" means the interconnected electrical system that transmits energy from generating sources to distribution systems and direct service industries.

(~~69~~**70**) "Unbundling" means the process of assigning and allocating a utility's costs into functional categories.

(~~70~~**71**) "Uneconomic utility investment" means all Oregon allocated investments made by an electric company that offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation, conservation and work-force commitments, that were prudent at the time the obligations were assumed but the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed by the

Commission in a prudence review or other proceeding, to the extent of such disallowance and does not include fines or penalties as authorized by state or federal law.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stat. Implemented: ORS 756.040 & 757.600 to 757.667
Hist.: PUC 17-2000, f. & cert. ef. 9-29-00 (Order No. 00-596); PUC 2-2001, f. & ef. 1-5-01 (Order No. 01-073); PUC 21-2001 (Temp), f. & cert. ef. 9-11-01 (Order No. 01-788); PUC 23-2001, f. & ef. 10-11-01 (Order No. 01-839); PUC 23-2001, f. & ef. 12-13-01 (Errata Order No. 01-1047); PUC 5-2002, f. & cert. ef. 2-8-02 (Order No. 02-053); PUC 11-2002, f. & ef. 3-8-02 (Order No. 02-135); PUC 18-2002, f. & cert. ef. 10-17-02 (Order No. 02-702); PUC 18-2002, f. & ef. 10-17-02 (Order No. 02-702); PUC 13-2004, f. & ef. 8-31-04 (Order No. 04-483)

860-038-0300
Electric Company and Electricity Service Suppliers Labeling Requirements

(1) The purpose of this rule is to establish requirements for electric companies and electricity service suppliers to provide price, power source, and environmental impact information necessary for consumers to exercise informed choice.

(2) For each service or product it offers, an electric company must provide price, power source, and environmental impact information to all residential consumers at least quarterly. The information must be based on the available service options. The information must be supplied using a format prescribed by the Commission. An electric company must also include on every bill a URL address, if available, for a world-wide web site where this information is displayed. The electric company must report price information for each service or product for residential consumers as the average monthly bill and price per kilowatt-hour for monthly usage levels of 250, 500, 1,000 and 2,000 kilowatt-hours, for the available service options.

(3) An electric company and an electricity service supplier must provide price, power source and environmental impact information on or with bills to nonresidential consumers using a format prescribed by the Commission. The electric company or electricity service supplier must provide a URL address, if available, for a world-wide web site that displays the power source and environmental impact information for the products sold to consumers. An electric company and an electricity service supplier must report price information for nonresidential consumers on each bill as follows:

(a) The price and amount due for each service or product that a nonresidential consumer is purchasing;

(b) The rates and amount of state and local taxes or fees, if any, imposed on the nonresidential consumer;

(c) The amount of any public purpose charge; and

(d) The amount of any transition charge or credit.

(4) For power supplied through its own generating resources, the electric company must report power source and environmental impact information based on the company's own generating resources, not the net system power mix. An electric company's own resources include company-owned resources and wholesale purchases from specific generating units, less wholesale sales from specific generating units. **An electric**

company's own resources do not include the non-energy attributes associated with purchases under the provisions of a net metering tariff or other power production tariff unless the electric company has separately contracted for the purchase of the Tradable Renewable Certificates. For net market purchases, the electric company must report power source and environmental impact information based on the net system power mix. The electric company must report power source and environmental impact information for standard offer sales based on the net system power mix.

(5) For purposes of power source and environmental impact reporting, an ESS should use the net system power mix for the current calendar year unless the ESS is able to demonstrate a different power source and environmental impact. An ESS demonstration of a different mix must be based on projections of the mix to be supplied during the current calendar year. Power source must be reported as the percentages of the total product supply including the following:

(a) Coal;

(b) Hydroelectricity;

(c) Natural gas;

(d) Nuclear; and

(e) Other fuels including but not limited to new renewable resources, if over 1.5 percent of the total fuel mix.

(6) Environmental impact must be reported for all retail electric consumers using the annual emission factors for the most recent available calendar year applied to the expected production level for each source of supply included in the electricity product. Environment impacts reported must include at least:

(a) Carbon dioxide, measured in lbs./kWh of CO2 emissions;

(b) Sulfur dioxide, measured in lbs./kWh of SO2 emissions;

(c) Nitrogen oxides, measured in lbs./kWh of NOx emissions; and

(d) Spent nuclear fuel measured in mg/kWh of spent fuel.

(7) Every bill to a direct access consumer must contain the ESS's and the electric company's toll-free number for inquiries and instructions as to those services and safety issues for which the consumer should directly contact the electric company.

(8) The ESS must provide price, power source, and environmental impact in all contracts and marketing information.

(9) The electric company must provide price, power source, and environmental impact in all standard offer marketing information.

(10) Beginning April 1, 2003, and on April 1st thereafter for the prior calendar year, each electric company, and each ESS making any claim other than net system power mix, must file a reconciliation report on forms prescribed by the Commission. The report must provide a comparison of the fuel mix and emissions of all of the seller's certificates, purchase or generation with the claimed fuel mix and emissions of all of the seller's products and sales.

(11) Each ESS and electric company owning or operating generation facilities shall keep and report such operating data about its generation of electricity as may be specified by order of the Commission.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667
Hist.: PUC 17-2000, f. & cert. ef. 9-29-00 (Order No. 00-596)

60-038-0400
Electricity Service Supplier Certification Requirements

(1) An electricity service supplier (ESS) must be certified by the Commission to sell electricity services to consumers.

(2) An ESS must be certified as either scheduling or nonscheduling as prescribed in OAR 860-038-0410.

(3) The initial certification fee is $400.

(4) The annual renewal fee is $200.

(5) ~~At a minimum, a~~**A**n ESS applicant must **file an application that** ~~provide~~**contains** the following information:

(a) Name of applicant, including owners, directors, partners, and officers, with a description of the work experience of key personnel in the sale, procurement, and billing of energy services or similar products;

(b) Name, address, and phone number of the ESS applicant's regulatory contact;

(c) Proof of authorization to do business in the state of Oregon;

(d) Dun and Bradstreet number, if available;

(e) Confirmation that the applicant (including owners, directors, partners, and officers) has not violated consumer protection laws or rules in the past three years;

(f) **Audited f**~~F~~inancial statements **of the ESS applicant (and its guarantor, if applicable)** and credit reports **consisting of**:

(A) A balance sheet, income statement, and statement of cash flow for each of the three years preceding the filing and for the interim quarters between the end of the last audited year and the filing date; or

(B) For an applicant that has been in operation for less than three years, the audited balance sheets, income statements, and statements of cash flow for each of the years the company was in operation and for the interim quarters between the end of the last audited year and the filing date; or

(C) For an applicant that has been in operation for less than 12 months on the date the application is filed, such financial statements as are kept in the regular course of the applicant's business operations and pro-forma financial statements for a period of not less than 36 months.

(D) If audited financial statements are unavailable, the applicant may submit unaudited financial statements for each of the three years preceding the filing and for the interim quarters between the end of the last unaudited year and the filing date. The applicant must also submit a statement explaining why audited statements are not available.

(g) A showing of creditworthiness through documentation of tangible assets in excess of liabilities (i.e., tangible net worth) of at least $1,000,000 on its most recent balance sheet and demonstration of either its own investment grade credit rating pursuant to (A) or fulfillment of bond/guaranty requirements pursuant to (B):

(A) Investment grade rating means a suitable rating on the long term, senior unsecured debt, or if this rating is unavailable, the corporate rating, of a major credit rating agency.

(B) An applicant may use any of the financial instruments listed below, in an amount commensurate with the services and products it intends to offer, to satisfy the credit requirements established by this rule.

(i) Cash or cash equivalent (i.e., cashier's check);

(ii) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 18 months;

(iii) A bond in a form acceptable to the Commission, irrevocable for a period of at least 18 months; or

(iv) A guaranty in a form acceptable to the Commission issued by a principal of the applicant or a corporation holding controlling interest in the applicant, which is irrevocable for at least 18 months. To the extent the applicant relies on a guaranty, the applicant must provide financial evidence sufficient to demonstrate that the lender or guarantor possesses the cash or cash equivalent needed to fund the guaranty.

(~~g~~**h**) **A showing of** ~~Information documenting~~ technical competence **in energy procurement and delivery, information systems, billing & collection, and if subject to the requirements of section 16 of this rule, safety & engineering**;

(~~h~~**i**) **A showing that its financial and technical competence is consistent with** ~~Identification of~~ the services and products **it intends to offer, and the targeted customer class(es) and geographical areas**~~intended to be offered~~; and

~~(i) Identification of targeted customer class(es) and geographical area;~~

(j) A statement as to whether the ESS is applying for certification as a scheduling or nonscheduling ESS and information documenting an ability to comply to the requirements of OAR 860-038-0410; and

(k) The authorized representative of the **applicant**~~ESS~~ must state that all information provided is true and correct and sign the application.

(6) At a minimum, an ~~ESS~~ applicant must attest that it will:

(a) Furnish to consumers a toll-free number or local number that is staffed during normal business hours to enable a consumer to resolve complaints or billing disputes and a statement of the ESS's terms and conditions that detail the customer's rights and responsibilities;

(b) Comply with all applicable laws, rules, Commission orders, and electric company tariffs;

(c) Maintain insurance coverage, security bond, or other financial assurance commensurate with the types and numbers of consumers and loads being served, meet any other credit requirements contained in the electric company's tariffs, and cover creditors for a minimum of 90 days from the date of cancellation; and

(d) Adequately respond to Commission information requests within 10 business days.

(7) As conditions for certification, an ESS must agree to:

(a) Enter into an agreement or agreements with each respective electric company to assign to the electric companies any federal system benefits available from the

Bonneville Power Administration to the residential and small-farm customers who receive distribution from an electric company and are served by the ESS; and

(b) Not enter into a Residential Sale and Purchase Agreement with the Bonneville Power Administration pursuant to Section 5(c) of the Pacific Northwest Power Act concerning federal system benefits available to residential and small farm customers receiving distribution from an electric company.

(8) Staff will notify interested persons of the application, allow 14 days from the date of notification for the filing of protests to the application (through submission of an email or letter to the staff), review the application, and make a recommendation to the Commission whether the application should be approved or denied.

(9) An applicant or a protesting party may request a hearing within seven calendar days of the date of the staff recommendation. Upon determining the appropriateness of the request, the Commission will conduct a hearing as provided for in Division 014 of the Commission's rules.

(10) The Commission may issue an Order granting the applicant's request for certification upon a finding that:

(a) The applicant paid the initial certification PUC fee, as required by OAR 860-038-0400(3);

(b) The applicant filed an application containing accurate, complete and satisfactory information that demonstrates it meets the requirements to be certified as an ESS.

(11) If the Commission grants the application, the Commission may include any conditions it deems reasonable and necessary. Further, upon granting the application, the Commission will certify the ESS for a period of one year from the date of the order.

(~~8~~**12**) An ESS must take all reasonable steps, including corrective actions, to ensure that persons or agents hired by the ESS adhere at all times to the terms of all laws, rules, Commission orders, and electric company tariffs applicable to the ESS.

(~~9~~**13**) An ESS must notify the Commission that it will not be renewing its certification or it must renew its certification each year as follows:

(a) An ESS must submit its application for renewal 30 days prior to the expiration date of its current certificate;

(b) In its application for renewal the ESS must include the renewal fee, update the information specified in subsections (5)(a), (b), ~~(h),~~ (i), and (j) of this rule, and state whether it violated or is currently being investigated for violation of any attestation made under the current certificate. The ESS must state that it continues to attest that it will meet the requirements of sections (6) and (7) of this rule. The authorized representative of the ESS must state that all information provided is true and correct and sign the renewal application;

(c) If the Commission takes no action on the renewal application, the renewal is granted for a period of one year from the expiration date of the prior certificate;

(d) If a written complaint is filed, or if on the Commission's own motion, the Commission has reason to believe the renewal should not be granted, the Commission

will conduct a revocation proceeding per section (14) of this rule. The renewal applicant will be considered temporarily certified during the pending revocation proceeding.

(~~10~~**14**) Upon review of a written complaint or on its own motion the Commission may, after reasonable notice and opportunity for hearing, revoke the certification of an ESS for reasons including, but not limited to, the following:

(a) Material misrepresentations in its application for certification or in any report of material changes in the facts upon which the certification was based;

(b) Material misrepresentations in customer solicitations, agreements, or in the administration of customer contracts;

(c) Dishonesty, fraud, or deceit that benefits the ESS or disadvantages customers;

(d) Demonstrated lack of financial, or operational capability; or

(e) Violation of agreements stated in sections (6) and (7) of this rule.

(~~11~~**15**) An ESS must promptly report to the Commission any circumstances or events that materially alter information provided to the Commission in the certification or renewal process or otherwise materially impacts their ability to reasonably serve electricity consumers in Oregon.

(~~12~~**16**) Each ESS that owns, operates, or controls electrical supply lines and facilities subject to ORS 757.035 must have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each such ESS must inspect its lines and facilities in such a manner and with such frequency as may be needed to ensure a reasonably complete knowledge about their condition and adequacy at all times. Such record must be kept of the conditions found as the ESS considers necessary to properly maintain its system, unless in special cases the Commission specifies a more complete record. The ESS must have written plans describing its inspection, operation, and maintenance programs necessary to ensure the safety and reliability of the facilities. The written plans and records required herein must be made available to the Commission upon request. The ESS must report serious injuries to persons or property in accordance with ORS 860-024-0050.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 9-29-00 (Order No. 00-596); PUC 23-2001, f. & ef. 10-11-01 (Order No. 01-839)

860-038-0410
Scheduling

(1) Each ESS shall be certified as either scheduling or nonscheduling.

(2) Each scheduling ESS shall schedule the resources to serve the direct access loads for which it has scheduling responsibility with the appropriate control area operators. Scheduling shall be in accordance with all generally accepted regional and Western ~~Systems~~**Electricity** Coordinating Council rules and guidelines.

(a) Only a single scheduling ESS may schedule all the resources and other services for any single direct access consumer. Multiple ESSs may provide services to any individual direct access consumer, but only through a single scheduling ESS;

(b) Each scheduling ESS shall be responsible for ensuring that all necessary point-to-point transmission services have been acquired across the facilities of third parties, above and beyond the network integration transmission service provided on the facilities of the electric company to serve the direct access loads for which it has scheduling responsibility;

(c) Each scheduling ESS shall be responsible for forecasting the requirements for serving the direct access loads for which it has scheduling responsibility and arranging for resources;

(d) Each scheduling ESS shall be responsible for settling imbalances with electric companies for the total resources and direct access loads for which it has scheduling responsibility.

(3) A nonscheduling ESS must contract with a scheduling ESS or control area operator for all scheduling services.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.600 through 757.667
Hist.: PUC 17-2000, f. & cert. ef. 9-29-00 (Order No. 00-596)