

ORDER NO. 25-434

ENTERED Oct 29 2025

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 674

In the Matter of

Small-Scale Renewable Energy
Project Standard.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 28, 2025, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.



BY THE COMMISSION:

A handwritten signature in blue ink, appearing to read "Alison Lackey".

Alison Lackey
Chief Administrative Law Judge

ITEM NO. RM1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 28, 2025

REGULAR	<u>X</u>	CONSENT	<u> </u>	EFFECTIVE DATE	<u> N/A </u>
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DATE: October 21, 2025

TO: Public Utility Commission

FROM: Jean Falconer

THROUGH: Caroline Moore, Scott Gibbens, and Curtis Dlouhy **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. AR 674)
Division 91 Rulemaking Small Scale Renewable Energy Amendments.

STAFF RECOMMENDATION:

Staff recommends that the Oregon Public Utility Commission (Commission) issue a notice of proposed rulemaking to consider adoption of changes to the administrative rules in Division 91 of OAR Chapter 860, which implement the standard in ORS 469A.210.

DISCUSSION:

Issue

Whether the Commission should initiate a formal rulemaking process to consider changes to the administrative rules in OAR Chapter 860, Division 91, implementing the standard in ORS 469A.210.

Applicable Rule or Law

ORS 469A.210, as currently enacted, mandates that by 2030 at least 10 percent of the aggregate electrical capacity of all electric companies that make sales of electricity to 25,000 or more retail electricity consumers in this state be composed of electricity generated by one or both of the following sources:

- a. Small-scale renewable energy projects with a generating capacity of

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- 20 megawatts or less that generate electricity utilizing a type of energy described in ORS 469A.025 (Renewable energy sources); or
- b. Facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose.

The Commission first adopted administrative rules related to electric companies' compliance with ORS 469A.210 in OAR 860-091-0000 through 860-091-0040 in Docket No. AR 622, with Commission Order No. 21-464.

Under ORS 756.060, the Commission may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the Commission.

Analysis

Background

[Commission Order No. 21-464](#) in Docket No. AR 622, entered December 15, 2021, memorializes the Commission's adoption of rules OAR 860-091-0000 through OAR 860-091-0040 related to companies' compliance with the small-scale renewable (SSR) energy project standard codified as [ORS 469A.210](#). First enacted in 2007, ORS 469A.210 has been amended a number of times, most recently under Section 37 of 2021's [HB 2021 \(2021\)](#). ORS 469A.210(2) currently specifies that by the year 2030, at least 10 percent of the aggregate electrical capacity of all electric companies that serve more than 25,000 retail customers in Oregon must come from SSR energy projects or biomass co-generation facilities. The SSR standard can be written as:

$$\left(\frac{\text{eligible small-scale project capacity}}{\text{aggregate electrical capacity}} \right) \geq 10\%$$

where the numerator measures the capacity of all eligible projects used by a company to meet the standard and the denominator measures that company's aggregate electrical capacity.

With Order No. 21-464, the Commission adopted administrative rules to implement the SSR standard and established, among other things,

- The use of nameplate capacity to calculate the SSR standard numerator and denominator,¹
- That project eligibility does not require that an electric company hold or retire any associated renewable energy certificates (RECs),² and

¹ [Commission Order No. 21-464](#), page 8.

² [Commission Order No. 21-464](#), page 12.

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- That net-metered projects are not part of a utility's aggregate electrical capacity.³

On May 2, 2025, PacifiCorp filed a [petition](#) to the Commission in Docket No. DR 58 requesting a declaratory ruling on several SSR compliance scenarios, including:⁴

- Whether Community Solar Program (CSP) projects are eligible to be used to meet the SSR project standard;
- Whether a project's eligibility is impacted by its use of a surplus interconnection agreement or a shared interconnection agreement;
- Whether energy storage resources should be excluded from aggregate electrical capacity;
- Whether the capacity of SSRs acquired during a particular compliance year should be included in the calculation of aggregate electrical capacity for that year.

In [Order No. 25-232](#), entered June 26, 2025, the Commission declined to substantively consider PacifiCorp's petition at the time and instead opened a rulemaking docket, AR 674, to address outstanding questions about SSR compliance by considering changes to the administrative rules in Division 91 of OAR 860. The Commission stated its intent to limit the scope of the rulemaking to addressing clarifications regarding the SSR compliance obligation calculation and SSR project eligibility.⁵

Following this meeting, Staff published a [straw proposal](#) to Docket No. AR 674 with suggested rule amendments on August 5, 2025, followed by a workshop with interested stakeholders on August 21, 2025. During the workshop, Staff provided an overview of its straw proposal, answered clarification questions, and solicited feedback about the proposal from attendees. Stakeholders submitted initial comments on Staff's straw proposal on September 11, 2025,⁶ and on September 25, 2025, Staff published [draft proposed rule amendments](#) to the administrative rules in Division 91 of OAR 860. Staff met one-on-one with interested stakeholders about its proposed rule amendments, and stakeholders submitted final comments for the informal process on October 13, 2025.⁷

³ [Commission Order No. 21-464](#), page 13.

⁴ [PacifiCorp's Petition for Declaratory Ruling on Small-Scale Renewable Issues](#), page 5.

⁵ [Commission Order No. 25-232](#), page 1.

⁶ Initial comments were submitted by [PacifiCorp](#), [PGE](#), and jointly by the [Oregon Solar + Storage Industries Association and Community Renewable Energy Association](#).

⁷ Comments from [PGE](#), the [Alliance of Western Energy Consumers \(AWECC\)](#), [PacifiCorp](#), [OSSI/CREA/Renewable Energy Coalition](#).

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PGE and PacifiCorp SSR Compliance Positions Under the Current Rules

PacifiCorp included an estimate of its current SSR compliance position as part of its 2025 IRP, Docket No. LC 85. It calculates that it has 3,784 MW of existing generation resources allocated to Oregon, implying a corresponding SSR requirement of 378 MW, and 403 MW of existing SSR capacity. Based on existing resources and its understanding of the current SSR compliance rules, PacifiCorp has an estimated SSR surplus of 25 MW.⁸

In Docket No. LC 80, PGE's 2023 IRP, the Company was unwilling to calculate its SSR compliance position as requested by Staff.⁹ However, Staff calculated PGE's existing owned and contracted resources as 5,085 MW, implying a corresponding SSR requirement of 509 MW.¹⁰ PGE then provided estimates of current and future SSR capacity:¹¹

Table 9. Small-Scale Renewables Forecast

Resource Type	Current Capacity per 2023 CEP/IRP	2030 Forecast as updated in CEP/IRP Addendum
Community Solar Program	27 MW	93 MW
PURPA QF < 20 MW	271 MW	281 MW
CBRE	0 MW	155 MW
Customer DERs (AdopDER forecast)	183 MW (not SSR-eligible per Order 21-464)	739 MW of solar 121 MW of storage ¹⁹³
TOTAL SSR ELIGIBLE CAPACITY	298 MW	529 - 1,268 MW

Under the existing rules, it may be unclear whether Community Solar Program (CSP) projects are SSR eligible. Consequently, PGE estimates it has between 271-298 MW of eligible SSR capacity in 2023. Taken together, PGE's 2023 aggregate electrical capacity as calculated by Staff and its estimated SSR capacity imply an eligible SSR capacity deficit between 211-238 MW.

Summary of Staff's Proposed Draft Rules

Attachment 1 contains Staff's proposed changes to the administrative rules in Division 91 of OAR Chapter 860. Staff developed and refined its proposal with the guidance of stakeholders and motivated by the following principles and goals:

- 1) Continue to treat the SSR standard as a generating capacity standard.

⁸ [PacifiCorp 2025 IRP](#), Appendix P – Clean Energy Update, page 496.

⁹ PGE responses to OPUC Request Nos. 135 and 197 in Docket No. LC 80.

¹⁰ [OPUC Staff Round 2 Comments and Recommendations in Docket No. LC 85](#), page 28.

¹¹ [PGE Response Comments in Docket No. LC 80](#), Clean Energy Plan and Integrated Resource Plan 2023, page 88.

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- 2) Preserve the value proposition of resources with system and community value (e.g., dispatchability, flexible use of transmission, resiliency benefits, low-income benefits).
- 3) Create clear criteria for calculating compliance that can be planned for by utilities and project developers, and that align with the intent of the laws and state policy.

Staff's proposal amends OAR 860-091-0000, OAR 860-091-0020, and OAR 860-091-0030 while leaving OAR 860-091-0010 and OAR 860-091-0040 unchanged. The proposal makes explicit a number of Commission determinations in Order No. 21-464, modifies an existing rule related to SSR eligibility, and adds new language related to SSR eligibility and the calculation of aggregate electrical capacity. Below is a summary of Staff's proposed changes to the current rules; the proposed rule language is included in Attachment 1.

Proposed Rules that Reflect Commission Order No. 21-464

- Nameplate capacity is used to calculate the SSR requirement numerator.
- Companies are not required to obtain or retain for retirement purposes the renewable energy certificates that may be associated with a project used to meet the SSR standard.
- Behind-the-meter resources are not included in aggregate electrical capacity and may not be used to comply with the SSR standard.

Proposed Modification to an Existing Rule

- Resources and project types that use RPS-eligible generation types are SSR eligible (under the current rules, eligibility depends on being an RPS-approved generator).

Additional Proposed Rules

- Community Solar Program (CSP) projects and front-of-meter resources incorporated into a microgrid/other resilience project configuration may be used to comply with the SSR standard, provided they comply with ORS 469A.210(2).
- Energy storage systems may not be used to comply with the SSR standard.
- Storage resources and the small-scale energy projects used to meet the standard are excluded from aggregate electrical capacity.
- Aggregate electrical capacity shall be calculated one year prior to a given compliance date.

Staff also sought to err on the side of being explicit in its proposed rule updates. This was in response to the declaratory ruling and concerns about the impact of further lack of clarity this close to 2030.

Primary Issues Discussed in Informal Phase

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Staff and stakeholders have worked collaboratively to develop the proposed draft rule amendments in Attachment 1, and there is consensus on the following aspects of Staff's proposal:

- 1) Standalone storage resources are not SSR eligible.¹²
- 2) Aggregate electrical capacity is calculated one year prior to a given compliance date.¹³
- 3) Use of surplus and shared interconnection agreements does not impact SSR eligibility.¹⁴

Staff notes that its proposed rule amendments do not include explicit language related to Item 3 since it views such language as unnecessary, but there was a significant amount of discussion on this matter over the course of the informal process, as described below in Staff's summary of issues raised in its straw proposal that did not result in proposed changes to the rules in Attachment 1.

Although there is support among stakeholders on many parts of the draft changes to the Division 91 rules, there are still areas where consensus was not reached, as well as a few issues raised later in the rulemaking process that have not received feedback from all stakeholders:

- 1) Whether storage nameplate capacity should be included in aggregate electrical capacity;
- 2) Whether SSR nameplate capacity should be included in aggregate electrical capacity;
- 3) Whether flexible load/demand response program capacity should be included in aggregate electrical capacity;
- 4) Whether behind-the-meter resources are SSR eligible;
- 5) Whether storage paired with an SSR eligible resource is itself SSR eligible; and
- 6) Whether resources need to be operational to be used for compliance in a particular compliance year.

On review of the comments and discussion during the informal process, Staff developed the proposed changes in Attachment 1 and does not believe further informal process is necessary before soliciting public comment on the draft proposed rules with a Notice of

¹² [Joint Comments of OSSIA, CREA, and Renewable Energy Coalition](#), page 2; [PacifiCorp Comments on Staff's Straw Proposal](#), page 3; and [PGE's comments on Staff's proposed Division 91 amendments](#), page 3.

¹³ [Joint Comments of OSSIA, CREA, and Renewable Energy Coalition](#), page 4; [PacifiCorp Comments on Staff's Straw Proposal](#), page 1; and [PGE's comments on Staff's proposed Division 91 amendments](#), page 1.

¹⁴ [PacifiCorp Comments on Staff's Straw Proposal](#), page 1; and [PGE Comments on Staff's Straw Proposal](#), page 3.

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Proposed Rulemaking. Below, Staff summarizes its position and comments received thus far on each of the six items listed above.

1) Exclusion of Storage from Aggregate Electrical Capacity

Staff's initial straw proposal stated that storage resources are not eligible SSRs, and that a subset of storage resources decrease aggregate electrical capacity (the denominator subtractions that were subsequently removed from Staff's proposal, as discussed below).¹⁵ However, the proposal did not explicitly address whether storage resources more generally should be included in the calculation of aggregate electrical capacity, the SSR standard denominator.

Staff believes that *all* storage resources should be excluded from aggregate electrical capacity for the same reason it believes they are not eligible SSRs: they do not generate electricity. This is consistent with the application of ORS 469A.210 as a generating capacity standard, and also results in symmetric treatment of the SSR standard numerator and denominator. From a policy perspective, excluding storage resources from aggregate electrical capacity supports Staff's goal of preserving the value proposition of resources with system value. Including storage resources in aggregate electrical capacity would impact batteries' value proposition in helping utilities efficiently and reliably transition to a non-emitting system. Excluding them removes this disincentive while better aligning their treatment under the generating capacity standard in ORS 469A.210.

The current SSR compliance rules implicitly exclude storage resources from aggregate electrical capacity, stating that "each electric company's aggregate electrical capacity is the total nameplate capacity of the company's *generation* resources to serve Oregon load" (emphasis added).¹⁶ Staff has not changed its position on this matter and is simply proposing to clarify this issue by making the exclusion of storage from the SSR standard denominator explicit in the rules. Specifically, Staff's proposed rule amendments state that aggregate electrical capacity does not include the nameplate capacity of storage resources.

PacifiCorp and PGE submitted informal comments in support of the exclusion of storage capacity from aggregate electrical capacity.¹⁷ Oregon Solar + Storage Industries Association (OSSIA), Community Renewable Energy Association (CREA), and the Renewable Energy Coalition (the Coalition) submitted informal comments expressing opposition to this exclusion, which they argue departs from the plain language of the law and risks diluting the procurement obligation the legislature intended.¹⁸

¹⁵ [Staff straw proposal](#), page 2.

¹⁶ OAR 860-091-0020(1).

¹⁷ [PacifiCorp Comments on Staff's Straw Proposal](#), page 7; [PGE Comments on Staff's Straw Proposal](#), page 2; and OSSIA/CREA.

¹⁸ [Join Comments of OSSIA, CREA, and Renewable Energy Coalition](#), page 3.

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For the Commission's consideration, Staff notes that including storage in aggregate electrical capacity could have a notable impact on PacifiCorp and PGE's SSR requirements. PacifiCorp lists only three MW of current storage capacity in its 2025 Integrated Resource Plan (IRP)¹⁹ but recently procured more than 1,073 MW of storage,²⁰ of which it estimates approximately 232 MW is allocated to serve Oregon retail customers.²¹ Its 2025 IRP calls for an additional 2,072 MW of storage through 2035, of which it says 1,257 MW is allocated to Oregon.²² Including PacifiCorp's recently-procured, Oregon-allocated storage, 232 MW, in aggregate electrical capacity would increase PacifiCorp's SSR requirement by 23.2 MW relative to its current estimated requirement of 378 MW, an increase of six percent. If the Company follows through with its plan to acquire an additional 1,257 MW of Oregon-allocated storage through 2035, its requirement would increase by an additional 126 MW, a 33 percent increase relative to its current target.

It is also worth emphasizing that PacifiCorp's clean energy transition requires not only storage but also clean generation to charge that storage. The Company's IRP calls for at least 6,810 MW of non-emitting generation resource additions through 2035.²³ Using 2025 allocation factors,²⁴ approximately 1800 MW of those additions would be assigned to Oregon, which would increase its SSR requirement by 180 MW. Together, PacifiCorp's planned storage and non-emitting generation resource additions would increase its SSR requirement by 306 MW through 2035, an increase of 81 percent relative to its current estimated requirement of 378 MW. Staff also notes that inclusion of this context for the SSR rulemaking is not an endorsement of the 2025 IRP's procurement needs assessment or Oregon allocation approach.²⁵

PGE reported 530 MW of storage in its 2023 Clean Energy Plan (CEP)/IRP Update.²⁶ Including this storage in aggregate electrical capacity would increase its SSR requirement by 53 MW relative to its current estimated requirement of 509 MW, an increase of 10 percent.

2) Exclusion of SSRs from Aggregate Electrical Capacity

Staff included two items in its initial straw proposal to help create a clear compliance

¹⁹ Table 9.12 in [PacifiCorp's 2025 IRP](#), page 245.

²⁰ [PacifiCorp Comments on Staff's Straw Proposal](#), page 8.

²¹ PacifiCorp Response to OPUC AR 674 Informal Data Request 1.

²² [PacifiCorp Comments on Staff's Straw Proposal](#), page 8.

²³ [PacifiCorp's 2025 IRP](#), pages 6-8.

²⁴ [PacifiCorp's 2026 Transition Adjustment Mechanism](#), Exhibit PAC/101 Mitchell/1

²⁵ More information about the shortcomings of this analysis can be found in [PacifiCorp's 2025 IRP](#), Docket No. LC 85.

²⁶ PGE 2023 CEP/IRP Update, page 7.

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target: (1) aggregate electrical capacity is measured one year prior to the compliance date, and (2) SSR nameplate capacity should be excluded from aggregate electrical capacity.²⁷ Item 1 locks in the SSR requirement one year in advance to prevent new resource additions from simultaneously generating additional SSR obligations, which could create planning challenges for utilities and project developers. Similarly, Item 2 prevents new SSR additions from simultaneously generating additional SSR obligations and was motivated in part by a desire to facilitate planning by utilities and project developers. It was also, however, motivated by concerns about fairness in relation to the feedback loop caused by SSR additions.

This feedback loop can be understood through a simple example: suppose that a utility initially has an aggregate electrical capacity of 1000 MW, a corresponding SSR requirement of 100 MW, and 90 MW of current SSR nameplate capacity. The utility is 10 MW short of meeting the SSR standard, but it will fall short of the standard if it acquires an additional 10 MW of SSRs since that 10 MW addition will itself generate a one MW SSR obligation. If the utility anticipates that and instead acquires 11 MW of additional SSR capacity, it will *still* fall short of the standard by .1 MW, because that extra one MW of SSR capacity will itself generate an additional .1 MW SSR obligation. The utility in this hypothetical example, by taking action to meet the SSR requirement, initiates an infinite number of SSR obligation increases, each smaller than the last, that will ultimately total $1.1\overline{1}$ MW.

At first glance, excluding SSR capacity from aggregate electrical capacity may seem redundant given Staff's proposal to lock in a company's SSR requirement one year prior to the compliance date. This was noted by OSSIA/CREA in their joint comments.²⁸ However, that piece of Staff's proposal merely delays the SSR feedback loop rather than eliminating it; it addresses the planning challenges created by the feedback loop but does not address Staff's concerns about the fairness of mandated SSR acquisitions generating additional SSR obligations.

Staff recognizes that excluding SSR nameplate capacity from aggregate electrical capacity lowers the SSR requirement. To use a modified version of the example above, suppose that a utility's aggregate electrical capacity is 1000 MW *including* SSR capacity, and that it has 100 MW of current SSR nameplate capacity. Since the SSR requirement is 10 percent of aggregate electrical capacity, 100 MW, the company just meets the SSR standard. Removing SSR capacity from aggregate electrical capacity lowers its value from 1000 MW to 900 MW and correspondingly lowers the SSR requirement from 100 MW to 90 MW. In other words, removing SSR capacity lowers both aggregate electrical capacity and the SSR requirement by 10 percent. To the extent that the utilities subject to ORS 469A.210 intend to just meet the SSR standard,

²⁷ [Staff straw proposal](#), page 2.

²⁸ [Joint Comments of OSSIA/CREA](#), page 6.

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Staff expects the exclusion of SSR nameplate capacity from aggregate electrical capacity to lower their SSR requirements by approximately 10 percent. Staff further notes that while the exclusion of SSR resources from aggregate electrical capacity reduces the overall requirement, it increases the compliance value of each individual SSR which may be considered in administratively set compensation frameworks.

Recognizing the impact of Staff's proposal on the SSR requirement, Staff asked stakeholders for their input on whether and to what extent SSR capacity should be excluded from the SSR requirement denominator. Staff noted that one alternative would be to include existing SSR capacity prior to some date in the denominator but exclude future added SSR capacity; this would eliminate the SSR feedback loop while also limiting the impact on the SSR requirement.

PacifiCorp and PGE support Staff's proposal to exclude all SSR capacity from aggregate electrical capacity whereas OSSIA/CREA oppose it.²⁹ OSSIA/CREA argue that Staff's proposal "departs from the plain language of the law and risks diluting the procurement obligation the legislature intended."³⁰ They go on to say that the SSR feedback loop is only a problem if a company intends to achieve minimum compliance in every compliance year, and that "the utility can ensure it will achieve compliance in future years by simply acquiring the necessary buffer of SSR capacity in the first compliance year to overtake the relatively minor incremental compliance obligation the new SSR resources themselves create."³¹ Indeed, the utility with a 10 MW SSR shortfall in the example above could simply calculate the total SSR obligation resulting from a 10 MW SSR addition and plan accordingly. Acquiring 12 MW of additional SSR capacity would enable it to meet the SSR standard with room to spare.

As reflected in Attachment 1, Staff maintains its initial position that excluding SSR capacity from aggregate electrical capacity helps create a clear compliance target for utilities and project developers and also ensures that utilities do not create a compliance feedback loop when procuring SSRs for compliance purposes. However, Staff is cognizant of the impact this exclusion has on the SSR requirement and believes that including SSRs in the denominator is still sound policy. Should the Commission wish to issue a Notice of Proposed Rulemaking with proposed rules that include SSR capacity in aggregate electrical capacity, Staff reiterates that there are two different paths that the Commission could take to include them in aggregate electrical capacity in the draft proposed rules:

- Alternative Option A: Include all SSRs as if they were a typical generation resource by deleting OAR 860-091-0020(1)(b)(B) from the draft proposed rules

²⁹ [PacifiCorp Comments on Staff's Straw Proposal](#), page 9; [PGE Comments on Staff's Straw Proposal](#), page 3; [Joint Comments of OSSIA/CREA](#), page 4.

³⁰ [Joint Comments of OSSIA/CREA](#), page 5.

³¹ [Joint Comments of OSSIA/CREA](#), page 5.

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in Attachment 1.

- Alternative Option B: Include only SSRs that were in service prior to some cutoff date determined by the Commission by directing modification of OAR 860-091-0020(1)(b)(B) to include that service date in the draft proposed rules in Attachment 1.

Both options have tradeoffs that have been previously discussed. The first option more directly addresses concerns raised by OSSIA while the second option better avoids the feedback loop problem previously discussed by Staff. Staff also recognizes that the Commission may continue to consider these options in the formal rulemaking.

3) Exclusion of Demand Response and Flexible Load Program Capacity from Aggregate Electrical Capacity

In its initial straw proposal Staff included “denominator subtractions” to recognize and enhance the community and system value of certain storage resources and demand response/flexible load programs. Staff decided to remove this piece of its proposal in response to stakeholder feedback and because it believes its impact on utilities’ compliance positions would be minimal. However, under the current rules as well as Staff’s draft proposed rules, demand response/flexible load program capacity is excluded from aggregate electrical capacity. Its exclusion is required by the existing definition of aggregate electrical capacity, the total nameplate capacity of an electric company’s *generation resources* used to serve Oregon load.³² This program capacity is excluded from the SSR standard denominator for the same reason storage is excluded: demand response/flexible load programs are not generating resources.

In comments, OSSIA, CREA and the Coalition expressed opposition to the exclusion of demand response/flexible load program capacity from aggregate electrical capacity. They argue that “Staff’s proposal to create exclusions from the denominator departs from the plain language of the law and risks diluting the procurement obligation the legislature intended.”³³ Staff disagrees with the idea that it is *creating* an exclusion in its proposed draft rule amendments. Indeed, there is no mention of demand response/flexible load programs anywhere in the proposed rules; the exclusion of this program capacity is implied by the current rules. Staff also views the QF Trade Groups’ agreement that the SSR standard is a *generating* capacity standard as inconsistent with its argument that demand response/flexible load program capacity should be included in aggregate electrical capacity.³⁴ Lastly, Staff feels that it is worth highlighting that in many instances, including the Western Resource Adequacy Program, demand response/flexible load programs will be modeled as peak load augmentations rather than resources.

³² OAR 860-091-0020(1).

³³ [Join Comments of OSSIA, CREA, and Renewable Energy Coalition](#), page 3.

³⁴ [Join Comments of OSSIA, CREA, and Renewable Energy Coalition](#), page 1.

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Again, to aid the Commission's consideration of this issue, Staff offers that the inclusion of demand response/flexible load program capacity in aggregate electrical capacity would have a minimal impact on PacifiCorp and PGE's SSR requirements. As mentioned, in 2024 PacifiCorp had approximately 28 MW of demand response capacity³⁵ and PGE had approximately 105 MW of demand response/flexible load program capacity.³⁶ PacifiCorp's SSR requirement would increase by 2.8 MW if its demand response capacity were included in aggregate electrical capacity, an increase of less than 1 percent relative to its current estimated SSR requirement of 378 MW. Similarly, PacifiCorp's SSR requirement would increase by 10.5 MW, an increase of approximately two percent relative to its recently estimated SSR requirement of 509 MW.

4) Eligibility of Behind-the-Meter Resources

In Attachment 1, OAR 860-091-0030 is amended to state that behind-the-meter resources are ineligible to be used to meet the SSR standard. This proposed amendment makes explicit the Commission's determination in Order No. 21-464 that net-metered projects are not reasonably considered part of a utility's aggregate electrical capacity. The Commission's reasoning was that these projects are generally viewed as customer-owned and their generation is therefore treated as a reduction in capacity need rather than something a utility can use to meet its generation needs.³⁷ Staff notes that while the Commission's Order referred specifically to net-metered projects, its justification for their ineligibility was based on the fact that these projects exist behind the meter and the implications of this fact for how they are accounted and planned for by utilities. That, combined with Staff's understanding of ORS 469A.210 as basing SSR eligibility on a resource's type rather than its compensation scheme, led Staff to propose clarifying amendments that behind-the-meter resources are ineligible rather than net-metered resources.

PGE opposes the insertion of language stating that behind-the-meter projects are not SSR eligible. The Company argues that the eligibility of a resource should depend solely on two factors: 1) whether it is less than 20 MW, and 2) whether it generates electricity from one of the qualifying energy resources described in ORS 469A.025.³⁸ In addition, PGE claims that "SSRs, in all forms, represent ratepayer funded capacity"³⁹ and notes that the Commission "reasoned that using the nameplate capacity of 'resources serving Oregon customers' for both numerator and denominator best accords with the plan language of the statute."⁴⁰

³⁵ PGE Flexible Load Customer Programs 2024 End of Year Report.

³⁶ PGE Flexible Load Customer Programs 2024 End of Year Report.

³⁷ [Commission Order No. 21-464](#), page 13.

³⁸ [PGE Comments on Staff's Straw Proposal](#), pages 1-2.

³⁹ [PGE Comments on Staff's Straw Proposal](#), page 2.

⁴⁰ [PGE Comments on Staff's Straw Proposal](#), page 4.

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PGE believes that behind-the-meter facilities are SSR eligible resources since they pass the “two-pronged test” described above, “clearly serve Oregon customers” by exporting to the grid, and are paid for, in part, by utility customers.⁴¹ It also views the legislative history as “unambiguous” about behind-the-meter projects not being excluded from consideration by the statute.⁴² Lastly, PGE believes “it is ‘presumptive to decide’ that these resources don’t count simply because of their current operational capabilities, as they have future potential to be utilized in a VPP,” where VPP refers to a virtual power plant.⁴³ The Company argues that preventing behind-the-meter resources from being used to meet the SSR standard could negatively impact the value proposition of these resources, deter investment in rooftop solar, and hinder the ability of customer-owned resources to be considered part of a utility’s supply portfolio.⁴⁴

In Order No. 21-464, the Commission indicated a willingness to revisit its determination on net-metered projects if utilities can demonstrate that their approach to these projects has changed “in ways that make customer-owned resources part of a utility’s supply portfolio.” It provided two examples of potentially relevant changes, one in which utilities more actively account for and track larger commercial net-metered projects, and another in which utilities modify planning and procurement practices to explicitly increase supply from and actively solicit net-metered projects.⁴⁵

PGE believes its approach to behind-the-meter resources has changed sufficiently to warrant reconsideration of their SSR eligibility by the Commission. It notes that net-metered facilities enrolled on its system have increased substantially to approximately 358 MW, which it says requires significant planning on its part to “serve all customers in a manner that reflects the understanding of the energy that comes from this significant amount of dispersed energy resources.”⁴⁶ It states further that behind-the-meter resources may play a more significant role in serving load moving forward and highlights its VPP program as an opportunity for it to use behind-the-meter, customer-owned resources to serve load.⁴⁷

Other stakeholders have provided input on whether behind-the-meter resources should be eligible to be used to meet the SSR standard. PacifiCorp commented that the Commission should decline to formally exclude behind-the-meter-resources from eligibility in the SSR compliance rules, which it views as being outside the scope of this rulemaking and a conclusion that is not supported by the law or facts. It believes the explicit exclusion of these resources from SSR eligibility “unnecessarily resolves an

⁴¹ [PGE Comments on Staff’s Straw Proposal](#), page 4.

⁴² [PGE Comments on Staff’s Straw Proposal](#), page 10.

⁴³ [PGE Comments on Staff’s Straw Proposal](#), page 10.

⁴⁴ [PGE Comments on Staff’s Straw Proposal](#), pages 4 and 11.

⁴⁵ [Commission Order No. 21-464](#), page 13.

⁴⁶ [PGE Comments on Staff’s Straw Proposal](#), page 5.

⁴⁷ [PGE Comments on Staff’s Straw Proposal](#), page 6.

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issue by rule that is better left to the Commission's discretion."⁴⁸ The Alliance of Western Consumers (AWEC) believes that net-metered resources should count for compliance because they meet the legislature's broad definition of SSRs and effectuate the purpose of ORS 469A.210.⁴⁹ OSSIA, CREA, and the Coalition are firmly opposed to allowing behind-the-meter resources to count for SSR compliance, noting that the Commission has "repeatedly and consistently held this position" and arguing that it is expressly outside the scope of this rulemaking.⁵⁰

When it opened the rulemaking at the June 24, 2025, public meeting, the Commission expressed a strong desire to limit the scope of the docket and provided guidance on the "narrowness" of scope it envisioned.⁵¹ It stated its intent that the issues considered be limited to "what is unclear or undefined in [the] rules right now,"⁵² and directed Staff to "get folks honed in on what's changed since 2021, and only answer the questions that are about that piece, not relitigating the broader context."⁵³ The Commission's position on net-metered resources was clearly stated in Order No. 21-464, and Staff does not believe it warrants additional consideration as part of this rulemaking. Staff emphasizes that it is not proposing changes to the eligibility of behind-the-meter resources in this rulemaking; it is merely making the Commission's previous determination on the issue explicit in the rules.

PGE suggests including a provision allowing utilities to propose a rationale for making generating, behind-the-meter resources SSR eligible sometime prior to 2030. As noted above, the Commission recognized in Order No. 21-464 that circumstances surrounding the utilities approach to behind-the-meter resources may change and the Commission would be willing to reconsider its policy position. Nothing in Attachment 1 will prevent PGE from proposing its rationale to the Commission in the future, such as in a petition for a change to the Division 091 rules under ORS 183.390.

Staff appreciates PGE raising the implications for the development of VPPs and other managed behind-the-meter projects that are planned for like generating resources down the line. It is Staff's view that the way in which utilities approach to behind-the-meter resources has not meaningfully changed since the Commission signed Order No. 21-464. Staff recognizes that behind-the-meter resources integrated into a managed VPP that is treated like a generating resource in planning may provide a range of system and community benefits. Creating certainty for this aspect of the VPP value proposition

⁴⁸ [PacifiCorp's Comments on Staff's Straw Proposal](#), page 2.

⁴⁹ [AWEC's Comments on Staff's Draft Proposed Rule](#), page 2.

⁵⁰ [Join Comments of OSSIA, CREA, and Renewable Energy Coalition](#), page 2.

⁵¹ [June 24 Public Meeting](#), 47:36.

⁵² [June 24 Public Meeting](#), 47:53.

⁵³ [June 24 Public Meeting](#), 49:06.

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would be useful in informing resource and grid planning activities; however, this will come with a tradeoff of reducing the in front of the meter additionality of the SSR requirement.⁵⁴ As mentioned above, Staff does not propose an explicit provision for future behind-the-meter resource types at this point but looks forward to further discussion of refinement of the proposed OAR 860-091-0030(3)(b) or other draft rules in the formal stage.

5) Eligibility of Storage Paired with Eligible SSRs

In Attachment 1, Staff recommends clarifying amendments to OAR 860-091-0030 that energy storage systems as defined in OAR 860-082-0015 may not be used for compliance. PacifiCorp agrees that storage resources are not SSR eligible because they do not generate electricity.⁵⁵ However, in response to Staff's request for stakeholder feedback on co-located storage the Company noted its support for counting the nameplate capacity of storage resources paired with an eligible SSR towards the SSR requirement numerator, with a 20 MW cumulative nameplate capacity cap. It argued that storage resources increase the nameplate capacity of the attached SSR-eligible resource and should therefore have compliance value.⁵⁶ In comments, AWEK expressed support for allowing storage resources paired with eligible SSRs to count towards the SSR standard numerator, arguing that storage resources collocated with RPS-eligible generation effectively enhances the generating capacity of the renewable resource it is collocated with.⁵⁷

Staff acknowledges the value co-located storage brings to a utility's system. However, allowing co-located storage to impact the SSR requirement numerator suggests the same should be true of the denominator, which reduces the value proposition of eligibility for co-located storage resources. Additionally, Staff feels that excluding all storage resources from aggregate electrical capacity results in a clearer compliance target and emphasizes generation resources.

6) Eligibility of SSRs that Have Not Achieved Commercial Operation

In initial comments, PacifiCorp raised the issue of eligible SSRs that have been procured but have not yet achieved commercial operation by a particular compliance date. It says that it typically takes 2-4 years for resources to become operational after agreements are executed, and that it would need to find replacement SSRs for compliance purposes if contracted SSRs take too long to become operational.⁵⁸ The Company therefore believes that SSRs that have been procured but not achieved commercial operation should count for compliance in a given year. Other stakeholders

⁵⁴ Staff estimates that inclusion of behind-the-meter resources in SSR compliance would increase PAC's current surplus from 25 MW to 230 MW and PGE's current deficit from 238 MW to 55 MW.

⁵⁵ [PacifiCorp Comments on Staff's Straw Proposal](#), page 3.

⁵⁶ [PacifiCorp Comments on Staff's Straw Proposal](#), page 4.

⁵⁷ [AWEK's Comments on Staff's Draft Proposed Rule](#), page 2.

⁵⁸ [PacifiCorp Comments on Staff's Straw Proposal](#), page 9.

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have not expressed positions on this issue.

Though the proposed draft rules in Attachment 1 do not include changes to allow for the use of such resources for compliance purposes, Staff is interested in preserving the value proposition of executed contracts and sees merit in allowing SSRs that have not achieved commercial operation to count for compliance. Staff also wants to encourage developers and utilities to process interconnections and contracts expediently. Further comment on refinements to Staff's proposed OAR 860-091-0020(1)(a)(A) or other draft rules may be of value in the formal rulemaking.

Evolution of Staff's Proposal

Many of the items presented in Staff's initial straw proposal are reflected in Staff's proposed draft rule amendments. However, Staff removed the following changes from its initial proposal to the current proposal over the course of the informal rulemaking phase:

- 1) Storage and demand response/flexible load program capacity are no longer subtracted from aggregate electrical capacity (i.e., "denominator subtractions" have been removed from Staff's proposal).
- 2) The draft rules no longer include explicit language related to interconnection.

Though Staff does not recommend issuance of a Notice of Proposed Rulemaking that includes these changes, further comment may be submitted on these topics during the upcoming rulemaking. Therefore, each change is discussed below.

1) Denominator Subtractions

Staff initially felt that compliance value should be given to small-scale, community-sited storage resources; grid-connected, customer-sited storage resources; and demand response/flexible load programs, all of which Staff views as having system and community value and embodying the spirit of small-scale renewable resources.⁵⁹ However, Staff does not believe these projects are SSR eligible because they are not generating resources, a key requirement of a generating capacity standard. Instead, Staff's initial straw proposal gave these projects indirect compliance value through their impact on aggregate electrical capacity, the SSR standard denominator.

Specifically, Staff proposed to not only exclude the nameplate capacity of these projects from aggregate electrical capacity, but to *subtract* their nameplate capacity from it. That means, for example, that acquiring 10 MW of one of these project types would have a similar impact on an electric company's compliance position as acquiring 1 MW of eligible SSRs. The latter would increase the capacity counted towards the requirement

⁵⁹ [Staff straw proposal](#), page 2. Staff notes that its straw proposal did not include the descriptor "small-scale" in reference to these storage resources, which was an error.

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by 1 MW, whereas the former would decrease the requirement by 1 MW. It is Staff's impression that there was some confusion among stakeholders as to how Staff's proposed denominator subtractions would have worked. Initial comments suggest that many understood Staff's proposal as merely excluding small-scale storage and demand response/flexible load program capacity from aggregate electrical capacity, rather than excluding them *and also* decrementing aggregate electrical capacity by their capacity. In addition, stakeholders expressed a number of concerns about adjusting aggregate electrical capacity based on small-scale storage and demand response/flexible load program capacity. PacifiCorp cited challenges in defining "community-sited" storage resources and suggested that the Commission exclude all storage resources from aggregate electrical capacity (which was already a feature of Staff's proposal),⁶⁰ and PGE similarly argued that these particular Staff proposals "raise unnecessary complications as phrased."⁶¹ OSSIA/CREA stated their opposition to any adjustment to aggregate electrical capacity that reduces the SSR requirement, which they argue "departs from the plain language of the law and risks diluting the procurement obligation the legislature intended."⁶²

Staff ultimately decided to omit the denominator subtractions from its proposed draft rule changes in response to stakeholder concerns and following its determination that the denominator subtractions are unlikely to meaningfully impact compliance positions.

2) Eligibility of Resources with Surplus or Shared Interconnection Agreements

In DR 58, PacifiCorp asked the Commission to make a determination on whether the use of surplus interconnection or a shared interconnection agreement impacts a project's eligibility to be used to meet the SSR standard.⁶³ Staff believes that under a generating capacity standard it is the characteristics of the resource or project that determine its eligibility rather than the details of its interconnection agreement. In addition, Staff generally supports the use of surplus and shared interconnection agreements, which take advantage of existing capacity and may facilitate faster interconnection at a lower cost, but does not see a need for rule language that may inadvertently confuse or dilute the statutory criteria for eligible SSR resources. For example, 15 MW of capacity added to a 100 MW project under the same ownership through surplus interconnection likely should not be treated as a 15 MW SSR.

Staff's initial straw proposal included language stating that the use of either surplus or shared interconnection agreements do not impact a project's eligibility to be used to comply with the SSR standard.⁶⁴ It also included mention of Public Utility Regulatory Policies Act of 1978 (PURPA) aggregation rules as a way of ensuring that eligible

⁶⁰ [PacifiCorp Comments on Staff's Straw Proposal](#), page 7.

⁶¹ [PGE Comments on Staff's Straw Proposal](#), page 3.

⁶² [Joint Comments of OSSIA and CREA](#), page 5.

⁶³ [PacifiCorp's Petition for Declaratory Ruling on Small-Scale Renewable Issues](#), pages 12-18.

⁶⁴ [Staff straw proposal](#), page 2.

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projects are truly small-scale as required by the statute. However, Staff ultimately omitted mention of interconnection in its proposed draft amendments because it believes the current rules allow eligible SSRs to use different interconnection configurations and did not want to cause confusion about interconnection requirements.

In their initial comments, OSSIA/CREA said they support the idea that interconnection logistics should not disqualify otherwise eligible projects. However, they also expressed concern about gaming by large projects as well as possible “unintended anticompetitive outcomes.” Specifically, they say that smaller, independent project developers may have limited access to surplus interconnection since the “incumbents” holding interconnection agreements have control over whether and how surplus interconnection capacity is used.⁶⁵ Staff believes that OSSIA/CREA’s concerns about gaming by larger projects are addressed by PURPA aggregation rules. Staff is also sympathetic to OSSIA/CREA’s concerns about possible anticompetitive outcomes, but believes these concerns should be addressed in a different venue as they relate more to the implementation of surplus interconnection agreements than they do SSR eligibility and calculation of compliance obligations, the focus of this rulemaking.

PacifiCorp agrees with Staff’s conclusion that a generating capacity standard would count the full nameplate capacity of an SSR eligible resource that uses surplus interconnection or shares an interconnection agreement with other resources. However, the Company thinks it would be beneficial for the Commission to include language capturing this idea in its final rulemaking order to “provide additional certainty around surplus interconnection opportunities for SSR compliance.”⁶⁶

Conclusion

Staff appreciates all stakeholders’ thoughtful participation in a collaborative process to identify draft rule amendments that reflect key policy principles for small-scale renewables. Staff recommends that the Commission move AR 674 to the formal stage by issuing a notice of proposed rulemaking based on the changes outlined in Attachment 1.

PROPOSED COMMISSION MOTION:

Issue a notice of proposed rulemaking to consider adoption of changes to the administrative rules in Division 91 of OAR Chapter 860, which implement the standard in ORS 469A.210.

⁶⁵ [Joint Comments of OSSIA/CREA](#), pages 2-3.

⁶⁶ [PacifiCorp’s Comments on Staff’s Straw Proposal](#), page 1.

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Attachment 1 – Proposed Changes to Division 91 of OAR Chapter 860

Proposed additions to the rules are bolded and deletions are stricken through.

****NOT FOR PUBLICATION****

The following draft administrative rules have been prepared as a working draft for purposes of deliberation. These rules have not been approved for publication or for any other use by Staff or the Public Utility Commission of Oregon. A notice of proposed rulemaking has not been issued on this subject.

OAR 860-091-0000 *Applicability of Rules*

(1) The provisions of this Chapter apply to electric companies subject to ORS 469A.210.

(2) Upon request or its own motion, the Commission may waive any of the division 091 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

OAR 860-091-0010 *Definitions*

For purposes of OAR 860-091-0000 through 860-091-0040:

(1) "Electric company" has the meaning in ORS 756.005.

(2) "Nameplate capacity" means the full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts, or other appropriate units. Nameplate capacity is usually indicated on a nameplate attached to the individual machine or device.

OAR 860-091-0020 *Aggregate Electrical Capacity*

(1) For purposes of compliance with the standard in ORS 469A.210(2), each electric company's aggregate electrical capacity is the total nameplate capacity of the electric company's generation resources to serve Oregon load. ~~These resources include:~~

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(a) Aggregate electrical capacity includes:

(Aa) The nameplate capacity of all owned generation resources used to serve Oregon load; and

(Bb) The annual average nameplate capacity of all generation resources used to serve Oregon load under a power purchase agreement with a term of at least five years.

(b) Aggregate electrical capacity does not include:

(A) The nameplate capacity of storage resources;

(B) The nameplate capacity of small-scale energy resources that the electric company applies to meeting the standard in a compliance period, consistent with OAR 860-091-0030(3); and

(C) The nameplate capacity of behind-the-meter resources.

(2) For electric companies making retail sales in multiple jurisdictions, the nameplate capacity of generation resources to serve Oregon load is the total nameplate capacity of the electric company's system generation allocated to Oregon retail customers.

(3) For purposes of establishing compliance with the standard in ORS 469A.210(2), an electric company shall calculate its aggregate electrical capacity based on a measurement taken 12 months prior to the date on which it is required to file a compliance report under OAR 860-091-0040.

*OAR 860-091-0030
Eligible Renewable Energy Projects*

(1) For purposes of compliance with the standard in ORS 469A.210(2), the contribution of each eligible renewable energy project towards an electric company's compliance with the standard is its total nameplate capacity.

(2)(1) An electric company may use one or more of the following resources and project types Projects used to comply with the standard in ORS 469A.210(2) when they also meet the criteria in ORS 469A.210(2)(a) or (b):

(a) must be an An Oregon Renewable Portfolio Standard-eligible approved generation type. An electric company is not required to obtain or retain for

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retirement purposes the renewable energy certificates that may be associated with a project;

(b) Community Solar Program projects that are certified by the Commission under OAR Chapter 860, Division 088 and to which the electric company's customers are eligible to subscribe; and

(c) Front-of-meter resources incorporated into a microgrid or other resilience project configuration.

(3) Resources and project types that may not be used to comply with the standard in ORS 469A.210(2) include:

(a) Behind-the-meter resources; and

(b) Energy storage systems as defined in OAR 860-082-0015.

(4) ~~(2)~~ The eligible portion of a project's capacity used to comply with the standard in ORS 469A.210(2) is the percentage of annual project costs paid for by Oregon retail customers.

OAR 860-091-0040
Compliance Reports

(1) No later than July 1, 2029, and no later than July 1 for each year thereafter, the electric company must file a report with the Commission demonstrating compliance or explaining in detail any failure to comply, with the standard in ORS 469A.210(2).

(2) The report required in section (1) of this rule must include the following information associated with each owned or contracted eligible renewable energy project:

(a) The name of the facility;

(b) The type of renewable resource

(c) In-service date of the facility;

(d) The nameplate capacity rating;

(e) For multi-jurisdictional utilities, the percentage of each eligible small-scale facility's costs paid for by the electric company's Oregon retail customers; and

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(f) Contracted resources should also include the delivery period and output of contracts.

(3) The report required in section (1) of this rule must include the following information regarding the electric company's aggregate electrical capacity that serves Oregon load during the reporting year:

(a) The names of the facilities;

(b) The nameplate capacity of the electric company's generating resources;

(c) The percentage of electric company generating resources allocated to meet Oregon load;

(d) The average total contracted capacity of all power purchase agreements over five years with delivery during the reporting year.