

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 674

In the Matter of

Rulemaking to Amend OAR 860-091,
Small-Scale Renewable Energy Project.

ORDER

DISPOSITION: ADMINISTRATIVE HEARING DIVISION'S RECOMMENDATION
ADOPTED; PERMANENT RULES ADOPTED

This order memorializes our decision, made and effective at our May 26, 2026 Regular Public Meeting, to adopt the Administrative Hearing Division's recommendation in this matter. The report with the recommendation is attached as Appendix A. The permanent rules become effective upon filing with the Secretary of State.

Made, entered, and effective May 27 2026.



Letha Tawney
Chair



Les Perkins
Commissioner



Karin Power
Commissioner



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

**PUBLIC UTILITY COMMISSION OF OREGON
AHD REPORT
PUBLIC MEETING DATE: May 26, 2026**

REGULAR ___ CONSENT ___ RULEMAKING X EFFECTIVE DATE N/A

DATE: May 20, 2026

TO: Public Utility Commission

FROM: Brent Coleman, Administrative Law Judge

THROUGH: Alison Lackey, Chief Administrative Law Judge **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE HEARINGS DIVISION (AHD): (Docket No. AR 674) Rulemaking to Amend OAR 860-091, Small-Scale Renewable Energy Project.

AHD RECOMMENDATION:

Adopt the proposed permanent rule amendments shown in Attachment 1.

DISCUSSION:

I. Issue

Whether the Public Utility Commission of Oregon (Commission) should adopt the amendments to OAR 860-091 regarding the calculation of an electric utility's Aggregate Electrical Capacity and the qualification criteria of projects as small-scale renewable energy projects for purposes of the Small-Scale Renewable (SSR) Energy Project Standard as established in Oregon law.

II. Applicable Law or Rule

ORS 469A.210(2) states, in part, that:

[B]y the year 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 customers in this state must be composed of electricity generated by one or both of the following resources:

- (a) Small-scale renewable energy projects with a generating capacity of 20 megawatts or less that generate electricity using a type of energy described in ORS 469A.025; or

- (b) Facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose.

On December 15, 2021, the Commission adopted initial rules for purposes of compliance with the standard established in ORS 469A.210(2).¹

OAR 860-091-0020 defines Aggregate Electrical Capacity as the total nameplate capacity of an electric company's generation resources used to serve Oregon load, including all owned resources and the annual average of all resources under a power purchase agreement with a term of at least five years. For electric companies making retail sales in multiple jurisdictions, Aggregate Electrical Capacity is the total nameplate capacity of the electric company's system generation allocated to Oregon retail customers.

OAR 860-091-0030 contains the eligibility criteria for projects used to comply with the standard in ORS 496A.210(2). This rule establishes that a qualifying project must be an Oregon Renewable Portfolio Standard-approved generator and the portion of the eligible project's capacity credited toward compliance is the percentage of annual project costs paid for by Oregon retail customers.

OAR 860-091-0040 details the reporting requirement regime for compliance with ORS 469A.210. This rule requires subject electric utilities to file a compliance report with the Commission no later than July 1, 2029, and July 1 for each year thereafter, demonstrating compliance or explaining any failure to comply with ORS 469A.210(2). Moreover, the rule outlines the details regarding eligible renewable projects and the electric company's Aggregate Electrical Capacity that must be included in the annual report.

III. Background

On May 2, 2025, PacifiCorp, dba Pacific Power, filed with the Commission a petition for declaratory ruling on SSR Issues (Petition).² Within the Petition, PacifiCorp presented five specific factual scenarios associated with SSR projects and requested the Commission determine, as a matter of law, whether each scenario complied with ORS 469A.210. In general, PacifiCorp's scenarios requested the Commission address:

- A. Whether Community Solar Program (CSP) projects, SSR-eligible resources interconnected under surplus interconnection agreements, or multiple separately metered SSR-eligible resources interconnected under the same or separate Large Generator Interconnection Agreement (LIGA), even if located in close proximity to each other, are each SSR-eligible; and

¹ *In the Matter of Small-Scale Renewable Energy Projections Rulemaking*, Docket No. AR 622, Order No. 21-464 (Dec. 15, 2021).

² *In the Matter of PacifiCorp, dba Pacific Power, Petition for Declaratory Ruling on Small-scale Renewable Issues*, Docket No. DR 58, Petition (May 2, 2025).

- B. Whether energy storage resources should be excluded from PacifiCorp's calculation of Aggregate Electrical Capacity, and whether the capacity provided by SSR resources should be included in the calculation of PacifiCorp's compliance obligation for the following year these resources come online.³

On June 26, 2025, the Commission issued Order No. 25-232, memorializing its decision from the June 24, 2025 Regular Public Meeting to adopt Staff's recommendation and declined to substantively consider PacifiCorp's Petition and instead open the instant rulemaking.⁴ In opening this rulemaking, the Commission specifically limited the scope of the proceedings to "addressing clarifications regarding the two categories of issues raised by PacifiCorp's filing: the SSR compliance obligation calculation; and SSR project eligibility."⁵

Staff commenced an informal rulemaking process and on August 5, 2026, Staff presented its Division 91 Rulemaking SSR Energy Amendments Straw Proposal (Straw Proposal), wherein Staff suggested to maintain the existing community-based renewable energy requirement as set forth in ORS 469A.210 as a generating capacity standard.⁶ Additionally, Staff proposed that behind the meter resources, standalone storage resources and the storage component of hybrid renewable-plus-storage systems would not be eligible to qualify as "small-scale renewable energy projects" for purposes of compliance with ORS 469A.210.⁷ Staff further suggested that projects eligible as "small-scale renewable energy projects" under ORS 469A.210 would include:

- Generation types that are RPS-eligible;
- Generating resources that are community sited or with benefits accessible by community members;
- Front-of-meter resources incorporated into a microgrid or other resilience project; and
- Small-scale renewable energy-eligible projects that share an interconnection agreement with other resources and that align with PURPA aggregation rules.⁸

Staff's proposals on these details were intended to address the numerator value in the ratio relationship established by ORS 469A.210(2).

The Straw Proposal also sought to clarify the calculation of Aggregate Electrical Capacity, the denominator of the ratio formula. Initially, Staff proffered that community-sited storage resources and grid-connected, customer-sited storage resources decrease Aggregate Electrical Capacity and, therefore, the nameplate capacity of such resources should be deducted from a utility's Aggregate Electrical

³ *Id.* at 1.

⁴ Docket No. DR 58, Order No. 25-232 at 1 (June 26, 2025).

⁵ *Id.*

⁶ Straw Proposal at 1.

⁷ *Id.*

⁸ *Id.* at 1-2.

Capacity value.⁹ Relatedly, Staff suggested that the capacity of demand response and flexible load programs should be deducted from a utility's Aggregate Electrical Capacity value.¹⁰ Further, the Straw Proposal recommended that, in order to create a clear compliance target, the nameplate capacity of SSR resources acquired for compliance purposes should be excluded from the calculation of Aggregate Electrical Capacity going forward.¹¹ No other exclusions to the Aggregate Electrical Capacity formula were identified in the Straw Proposal. Finally, Staff suggested that in order to create a clear compliance target for utilities and stakeholder, Aggregate Electrical Capacity should be measured one year prior to the compliance period for compliance purposes.¹² Portland General Electric (PGE); PacifiCorp; and the Oregon Solar + Storage Industries Association (OSSIA) and Community Renewable Energy Association (CREA) (together OSSIA/CREA) filed comments in response to Staff's Straw Proposal.

On September 25, 2025, Staff presented its draft proposed rule amendments, which maintained many of the initial elements from the Straw Proposal. However, in response to comments from stakeholders, Staff eliminated the proposed language that decremented the calculation of Aggregate Electrical Capacity by the capacity of storage resources and demand response or flexible load programs. Further, Staff removed proposed language related to surplus or shared interconnection agreements, as presented in the Straw Proposal. On October 13, 2025, PGE, PacifiCorp, AWEC, and OSSIA/CREA and the Renewable Energy Coalition (together QF Trade Groups) filed comments in response to Staff's draft proposed rule amendments.

At a regular public meeting held on October 28, 2025, the Commission opened the formal rulemaking process. The notice of proposed rulemaking commencing these proceedings appeared in the Oregon Secretary of State December 2025 Bulletin and was posted in this docket on November 25, 2025. The notice of proposed rulemaking requested that interested participants file comments on the proposed rules by January 23, 2026.

On January 13, 2026, the Commission held a rulemaking hearing to receive comments from the public, as well as provide the opportunity for participants to ask Staff questions about the proposed rules. At the hearing, the Commission received comments on the proposed rules from PacifiCorp, CREA, PGE, and OSSIA. Staff also responded to one question during the hearing. The Commission received written comments from PacifiCorp, PGE, CREA/OSSIA, and AWEC prior to the hearing, and post-hearing comments from PacifiCorp, PGE, Staff, and the QF Trade Groups.

AHD recommends that the Commission adopt Staff's proposed rules as addressed below. The proposed rules are reflected in Attachment 1.

⁹ *Id.* at 2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

IV. Rules Discussion

1. OAR 860-091-0000 – Applicability of Rules

Staff's proposed amendment to OAR 860-091-0000, clarifying the applicability of OAR Chapter 860, Division 091 to electric companies subject to ORS 469A.210, received no comment during the formal rulemaking process.

AHD Recommendation

AHD recommends the Commission adopt the proposed permanent amendment to OAR 860-091-0000 without modification and as set forth in Attachment 1 to this report.

2. OAR 860-091-0020 – Aggregate Electrical Capacity

Staff's proposed amendments to OAR 860-091-0020 clarify which resources are included in, and which are excluded from, the calculation of an electric company's Aggregate Electrical Capacity; the value that serves as the denominator in the ratio established by ORS 469A.210.

The amendments propose that Aggregate Electrical Capacity be comprised of the nameplate capacity of all generation resources used to serve Oregon load that are owned by electric companies or are under contract to serve Oregon load through a power purchase agreement with a term of at least five years. With respect to electric utilities that serve customers in multiple jurisdictions, the nameplate capacity of any such system that is allocated to Oregon retail customers is specified as the nameplate capacity of generation resources serving Oregon load.

The amendments also propose to specifically exclude the nameplate capacity of three types of resources from the calculation of Aggregate Electrical Capacity: (1) storage resource capacity; (2) small-scale energy resources acquired to meet the ORS 469A.210 standard in a prior compliance period; and (3) behind-the-meter resources. AHD discusses and provides recommendations on Staff's individual rule subpart proposals below.

A. Nameplate Capacity – OAR 860-091-0020(1)(a)(A)

Staff proposes new language to streamline the baseline calculation of Aggregate Electrical Capacity to include the nameplate capacity of all generation resources owned by electric companies that are used to serve Oregon load and the annual average of nameplate capacity of all generation resources used to serve Oregon load that are secured under a power purchase contract with a term of at least five years. There were no comments in opposition to this proposed language, nor did parties propose any alternatives.

AHD Recommendation

AHD recommends the Commission adopt the proposed permanent amendment to OAR 860-091-0020(1)(a)(A) without modification and as set forth in Attachment 1 to this report.

B. Storage Capacity – OAR 860-091-0020(1)(b)(A)

Consistent with the current Division 91 rule language focused on generation resources and Order No. 21-464, Staff proposes to explicitly exclude the nameplate capacity of storage resources from the calculation of Aggregate Electrical Capacity. Specifically, Staff seeks to “maintain [one of] its primary goals of treating the SSR requirement as a generating capacity standard”¹³ and emphasizes its position that “*all* storage resources should be excluded from aggregate electrical capacity for the same reason* * * they are not eligible SSRs: they do not generate electricity.”¹⁴

PacifiCorp and PGE support the proposal to exclude storage from the definition of Aggregate Electrical Capacity,¹⁵ while the QF Trade Groups disagree with the proposed exclusions.¹⁶ The QF Trade Groups contend that “[t]he statute does not authorize deductions or adjustments to [the] aggregate figure” and there is no textual basis to import a generation element into the denominator of the ratio equation.¹⁷ Further, the QF Trade Groups argue that the utilities include storage within their capacity portfolios for planning purposes and the proposed exclusion is inconsistent with the position presented by Staff and the utilities in docket UM 2000.¹⁸ On this point, these parties argue it is not reasonable to use standalone, grid-charged storage as the avoided capacity resource for rates related to the Public Utility Regulatory Policies Act of 1978 (PURPA) while simultaneously claiming that storage is not a part of a utility’s aggregate electrical capacity under ORS 469A.210.¹⁹

Staff notes that Aggregate Electrical Capacity is mentioned only once in ORS 469A.210 and is not defined within that sole reference.²⁰ As such, Staff asserts, “the Commission established a definition for this term and adopted the rule that defined [Aggregate Electrical Capacity] as ‘the total nameplate capacity of the electric company’s generation resources to serve Oregon load.’”²¹ Staff further states that the proposed language does not create the exclusion of storage “but instead makes explicit a previous Commission determination.”²² In response to the QF Trade Groups, Staff

¹³ Staff Draft Proposed Rule Amendments at 1.

¹⁴ Order No. 25-434, Appendix A at 7.

¹⁵ PacifiCorp Comments on Staff’s Draft Rules at 1; see PGE’s Comments on Staff Straw Proposal at 2, 6.

¹⁶ Hearing Transcript at 22-23.

¹⁷ QF Trade Groups Joint Comments, January 23, 2026 (Second Joint Comments) at 4, 7.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 5-6.

²⁰ Staff Response Comments at 3-4.

²¹ *Id.* at 4, n 10 (citing Order No. 21-464, Appendix A, page 1).

²² *Id.* at 4.

contends that different legal structures can be applied in different proceedings with different goals without creating inconsistency. Further, Staff notes that the Commission elected against an identical capacity method between determining PURPA avoided costs and SSR compliance in Order No. 21-464. Ultimately, Staff contends that the Commission has previously established the standard at issue to be a generation standard and, as such, Staff contends “that *all* storage resources should be excluded from aggregate electrical capacity* * *[because] they do not generate electricity.”²³

AHD Recommendation

AHD recommends the Commission adopt the proposed permanent amendment to OAR 860-091-0020(1)(b)(A) without modification and as set forth in Attachment 1 to this report. The proposed language consistently applies the established generation resource standard and maintains the Commission’s policy that storage resources are not generating resources for purposes of the ORS 469A.210 standard.

C. Prior-Acquired SSR Resources - OAR 860-091-0020(1)(b)(B)

As proposed by Staff, OAR 860-091-0020(1)(b)(B) would exclude from the calculation of Aggregate Electrical Capacity “[t]he nameplate capacity of small-scale energy resources that the electric company applied to meeting the standard in a compliance period.” As support for this exclusion, Staff noted its intention of avoiding a “feedback loop” wherein the addition of SSR resource generating capacity in one year results in an incremental increase in the compliance standard in a subsequent year based on this specific, initial SSR resource acquisition. Specifically, Staff notes its “concern[] about the fairness of mandated SSR acquisitions generating additional SSR obligations.”²⁴

PacifiCorp supports this exclusion from the definition of Aggregate Electrical Capacity, stating generally that this proposal, and other modifications, will facilitate more effective resource procurement and minimize customer cost impacts.²⁵

The QF Trade Groups oppose the proposed language, arguing that nothing in the statute supports excluding SSR resources from Aggregate Electrical Capacity and, in fact, the statute requires inclusion of these resources in the denominator of the ratio at issue.²⁶ These parties respond to Staff’s concern about the “feedback loop” noting that the proposed point-in-time measurement 12-months in advance of the compliance deadline obviates the concern of an unattainable goal due to incremental SSR resource capacity. Furthermore, the QF Trade Groups note that annual generation acquisitions and retirements will result in an inherently variable annual compliance standard, which will not be eliminated by excluding SSR resources from the determination of Aggregate Electrical Capacity.²⁷

²³ Order No. 25-434, Appendix A at 7.

²⁴ *Id.* Appendix A at 9.

²⁵ PacifiCorp Comments on Staff Draft Rules at 1.

²⁶ Second Joint Comments at 7-9.

²⁷ *Id.*

PGE did not present a position in the formal stage of these proceedings on the specific proposal to exclude SSR resource nameplate capacity from Aggregate Electrical Capacity. As discussed below, PGE now argues, in the context of behind-the-meter resources, that generation resources that are supported by customer rates and that support the electrical system should be included in the calculation of Aggregate Electrical Capacity.²⁸ PGE asserts that “[t]he rule’s position on aggregate electrical capacity would render a portion of the statute meaningless because it would neglect the language that *is* in the statute that describes the resources that ‘compose’ the standard.”²⁹

In response to comments from the QF Trade Groups, Staff explains that the point-in-time compliance calculation does not eliminate the feedback loop it hopes to avoid, but merely delays it to future compliance periods.³⁰ Staff further emphasizes its intention to facilitate planning by utilities and project developers by providing increased certainty regarding compliance requirements.³¹ However, Staff does recognize that excluding incremental SSR resources reduces future compliance requirements and notes that “including SSRs in the denominator is still sound policy,”³² notwithstanding Staff’s ultimate recommendation. Accordingly, Staff presents two alternatives for the Commission’s consideration that each include a portion of prior-acquired SSR resources within the definition of Aggregate Electrical Capacity. First, Staff details that elimination of the proposed rule language for OAR 806-091-0020(1)(b)(B) would treat SSR resources as if they were a typical generation resource and include all nameplate capacity within the calculation of Aggregate Electrical Capacity.³³ Staff’s second alternative option would include only SSRs that were in service prior to a specific cut-off date, to be determined by the Commission, within the definition of Aggregate Electrical Capacity on a going-forward basis.³⁴

AHD Recommendation

AHD recommends the Commission consider two of the options presented by Staff for ultimate adoption: (1) the language as initially proposed by Staff, which precludes SSR resource name plate capacity from being considered when calculating Aggregate Electrical Capacity; and (2) rejecting the proposed language.

Under the first option, which is set forth in Attachment 1, SSR resource name plate capacity would not be included when calculating Aggregate Electrical Capacity. As discussed above, excluding the name plate capacity of acquired SSR resources from inclusion in the calculation of Aggregate Electrical Capacity eliminates the incremental

²⁸ See Hearing Transcript at 25:21–26:4.

²⁹ PGE’s Comments at 11 (emphasis in original).

³⁰ Order No. 25-434, Appendix A at 9.

³¹ *Id.*

³² *Id.* at 10.

³³ *Id.* 10-11.

³⁴ *Id.* at 11.

addition of future SSR resources due to compliance with a present annual standard requirement; what Staff referred to as a “feedback loop”. Adopting Staff’s proposed language, and excluding this subset of nameplate capacity, reduces future SSR resource acquisition and, therefore, mitigates the potential rate impact of compliance efforts over time.

In the alternative, the Commission could include the nameplate capacity of SSR resources in the calculation of Aggregate Electrical Capacity. As noted by the QF Trade Groups, the statutory language does not specify a need to avoid the feedback loop that concerns Staff. Furthermore, there is nothing in the record that demonstrates these resources are incorporated in the electric utilities’ generation portfolios in a manner different than other generation capacity resources that are included within Aggregate Electrical Capacity.

Under this second option, OAR 860-091-0020(1)(b) would read:

- (b) Aggregate electrical capacity does not include:
(A) The nameplate capacity of storage resources; and
(B) The nameplate capacity of behind-the-meter resources.

AHD recommends against consideration of Staff’s third additional option discussed in the October 21, 2025 Staff Report, which proposed to include the name plate capacity of SSR resources in service prior to a cut-off date, to be established by the Commission, while excluding those in service after any such date. This option was neither explored nor developed during these proceedings and the record does not support the concept of a cut-off point distinguishing the treatment of otherwise similar SSR renewable generation resources.

D. Behind-the-Meter Resources – OAR 860-091-0020(1)(b)(C)

Staff’s final proposed exclusion from the definition of Aggregate Electrical Capacity centers on behind-the-meter resources. Specifically, the proposed rule excludes all behind-the-meter generation resources from the calculation of Aggregate Electrical Capacity.

Only PGE directly commented on the specific proposal of excluding behind-the-meter resources from Aggregate Electrical Capacity during the formal phase of these proceedings. PGE asserts that “[t]he rule’s position on aggregate electrical capacity would render a portion of the statute meaningless because it would neglect the language that *is* in the statute that describes the resources that ‘compose’ the standard” and that “[i]t is difficult to understand a definition that proposes to include everything by excluding somethings.”³⁵ Further, PGE contends that though the Legislature did not

³⁵ PGE Comments at 11 (emphasis in original).

specify what should be in the denominator, “‘aggregate’ should mean the sum total – everything.”³⁶

PacifiCorp did not comment specifically on the exclusion of behind-the-meter resources from the calculation of Aggregate Electrical Capacity. However, as discussed below, PacifiCorp opposes the exclusion of these resources from assets eligible to compliance with the ten percent standard established by ORS 469A.210.

AHD Recommendation

AHD recommends that the Commission consider two of the options presented by Staff for ultimate adoption: (1) the language as initially proposed by Staff, which precludes behind-the-meter resources from being considered when calculating Aggregate Electrical Capacity; and (2) limiting the exclusion of resources located on the customer-side of the meter to net-metered resources.

Behind-the-meter resources are fundamentally different than other resources addressed in these proceedings. Specifically, these resources are neither owned by an electric company, nor under any contractual obligation to supply energy to an electric company’s system. While net-metered behind-the-meter resources are compensated by electric companies for excess generation provided back to the grid, the owner of the resource is under no contractual obligation to provide a minimum, or specific, amount of this energy to an electric company’s system. AHD finds this characteristic critical when tasked with calculating an electric company’s Aggregate Electrical Capacity under ORS 469A.210. Further, AHD notes this exclusion is consistent with the Commission’s decision in docket AR 622.

Under the first option, as set forth in Attachment 1, OAR 860-091-0020(1)(b)(C) would exclude from Aggregate Electrical Capacity the nameplate capacity of behind-the-meter resources.

To the extent the Commission has concerns with the exclusion of all behind-the-meter resources from the calculation of Aggregate Electrical Capacity, the Commission may consider modifying the proposed language to exclude only net-metered resources, while allowing other behind-the-meter resources, with potentially different and more obligatory energy delivery requirements, to be included within the calculation. This alternative option would be accomplished through the following proposed language for OAR 860-091-0020(1)(b)(C):

(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.

³⁶*Id.*

(b) Aggregate electrical capacity does not include:

(C) The nameplate capacity of ~~behind-the-meter~~ net-metered resources. A net-metered resource shall be “net-metered facility” as that term is defined in ORS 757.300(1)(d).

E. Timing of Compliance Standard Determination – OAR 860-091-0020(3)

Staff proposes new rule language to clarify that an electric utility’s compliance standard shall be calculated annually and at a point in time 12 months prior to the date a compliance report, required by OAR 860-091-0040, must be filed. Staff stated its goal to set the annual compliance target “one year in advance to prevent new resource additions from simultaneously generating an additional SSR obligation, which could create planning challenges for utilities and project developers.”³⁷

PacifiCorp was the only party who provided comments on this proposed rule language. While expressing its support for Staff’s proposal, PacifiCorp noted that resource procurement and development efforts may take as much as 36-48 months to accomplish.³⁸ Accordingly, PacifiCorp presents an alternate recommendation to set the threshold determination 36 or 48 months prior to the compliance report deadline to support customer, developer, and utility interests, and better ensure that compliance with the SSR obligation is least-cost, least-risk. PacifiCorp contends that allowing this additional time would facilitate a deeper pool of competitive resources to accomplish compliance.³⁹

In response to PacifiCorp’s alternative proposal, Staff notes that since the proposed rules calculate AEC using the nameplate capacity of a utility’s generating fleet, utilities will likely be aware of their expected compliance in advance of 12 months as currently proposed by the rules.⁴⁰

AHD Recommendation

AHD recommends the Commission adopt OAR 860-091-0020(3) as proposed by Staff and as set forth in Attachment 1 to this report. A point-in-time calculation setting a requirement threshold to be met 12 months later provides both the electric companies and other stakeholder adequate certainty. AHD recognizes the development timelines discussed by PacifiCorp in its comments, but notes that the advanced notice provided by the current rules, requiring the initial compliance report no later than July 1, 2029, provides the electric companies and development stakeholders sufficient time to generate a suite of potential projects supporting compliance.

³⁷ Order No. 25-434, Appendix A at 9.

³⁸ PacifiCorp Comments at 3.

³⁹ Hearing Transcript at 34:17 – 35:10.

⁴⁰ See Staff Response Comments at 2.

3. OAR 860-091-0030 – Eligible Renewable Energy Projects

Staff's proposed amendments to OAR 860-091-0030 clarify, and limit, the resource types that can be used to demonstrate compliance with the 10 percent requirement established by ORS 469A.210.

The amendments first propose to clarify that the nameplate capacity of eligible projects will be credited toward an electric company's compliance with the standard. The proposed language then details and clarifies the characteristics of resources and project types that will qualify toward compliance. The proposal slightly modifies the relationship between qualifying resources and the Oregon Renewable Portfolio Standard, set forth in ORS Chapter 469A and specifically addresses the treatment of renewable energy credits from qualifying resources. Finally, the proposed rules exclude select resource types from qualification and credit toward the required standard. AHD discusses and provides recommendations on Staff's individual rule subpart proposals below.

A. OAR 860-091-0030(1) – Nameplate Capacity

Staff proposes to specify that the contribution of each eligible renewable energy project toward an electrical company's compliance with the standard set forth in ORS 496A.210 is that project's total nameplate capacity. This proposal maintains consistency between the units of measurement for both variables used to calculate the ten percent ratio established by ORS 469A.210. No party presented comment in opposition to this language proposal.

AHD Recommendation

AHD recommends the Commission adopt OAR 860-091-0030(1) as proposed by Staff and as set forth in Attachment 1 to this report. The proposed language is consistent with other proposed rules presented in these proceedings and maintains consistency between the two variables in the ratio at issue in ORS 496A.210.

B. OAR 860-091-0030(2) – Eligible Resources and Projects

Staff's proposed language for OAR 860-091-0030(2) establishes three specific criteria categories within which a project or resource must fall in order to qualify toward compliance with the ten percent standard established in ORS 496A.210. As proposed, for a project to be credited toward the compliance standard, it must be a generation type eligible under the Oregon Renewable Portfolio Standard (RPS); a Community Solar Program certified by the Commission, with eligible subscribers; or a front-of-meter resource incorporated into a microgrid or other resilience project. For projects seeking qualification under the RPS option, the proposal presents a change from the current requirement of holding approval under the RPS program to only requiring eligibility under this program. Further, the proposed rule does not require retention or possession of the associated renewable energy credits for any projects qualifying under the RPS-eligible option.

PacifiCorp supports the proposed expansion to RPS-eligible from RPS-approved, as well as the specific inclusion of community solar projects and the clarification regarding renewable energy credits for compliance purposes.⁴¹ PGE provided no comment on this issue during the formal stage of these proceedings. However, PGE explicitly supported the proposals regarding RPS-eligible projects, renewable energy certificates and community solar projects during the informal phase and incorporated those positions into its formal comments.⁴² PGE's comments during the informal phase also detailed its position that the final proposed criteria, front-of-meter resources, was an unnecessary and unhelpful revision.⁴³ Specifically, PGE takes issue with the distinction between front-of-meter and behind-the-meter resources, as discussed below. The QF Trade Groups did not present a specific position on the proposed language during the formal phase of these proceedings but note their understanding of issues decided adversely to them in the prior rulemaking, including the ability to qualify resources without possessing the RECs, as is currently proposed to be codified in the rule.⁴⁴

AHD Recommendation

AHD recommends the Commission adopt OAR 860-091-0030(2) as proposed by Staff and as set forth in Attachment 1 to this report. The modification to allow qualification for RPS-eligible projects rather than RPS-approved projects expands the options for electric companies and project developer stakeholders to accomplish and support compliance with the ORS 469A.210 standard. Additionally, the specific characteristics enunciated within the proposed rule advance the goal and standard set forth in ORS 469A.210.

C. OAR 860-091-0030(3) – Ineligible Projects and Resources

Staff's proposed language for a new OAR 860-091-0030(3) specifies that behind-the-meter resources and energy storage systems would not qualify for purposes of compliance with ORS 469A.210. The proposal maintains consistency between the denominator and the numerator of the ratio as related to energy storage. Further, as noted in Staff's October 21, 2025 Report, no party opposed excluding energy storage systems from qualification during the informal stage of these proceedings.⁴⁵ Similarly, no party provided comment on this issue during the formal process.

PacifiCorp and PGE strongly oppose the proposal to exclude behind-the-meter resources from qualification toward the ten percent standard. PacifiCorp asserts that "[e]xcluding behind-the-meter resources from contributing to Oregon's SSR mandate

⁴¹ PacifiCorp Comments at 1.

⁴² PGE Second Round Comments at 1, 2.

⁴³ *Id.* at 2.

⁴⁴ QF Trade Groups Joint Comments, October 13, 2025 (First Joint Comments), at 2.

⁴⁵ Order No. 25-434, Appendix A, n 12 at 6 (citing 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.).

will materially increase costs to Oregon customers.”⁴⁶ Specifically, PacifiCorp argues that the 248 MWs of behind-the-meter nameplate capacity currently on its system would need to be reacquired, at inflated costs, as compared with utility-scale renewable generation resources, if behind-the-meter resources are not given credit toward compliance with the standard.⁴⁷ PacifiCorp agrees with PGE’s comments at the January 12, 2026 hearing, contesting the alignment of the spirit and intent of ORS 469A.210 with the proposed rule language, and asserts that “the law does not support regulations that exclude certain generation resources that reduce utility load.”⁴⁸ As an alternative to the comprehensive exclusion recommended by Staff, PacifiCorp proposes language that would exclude “resources that are not compensated by the utility at a stated rate.”⁴⁹ As noted by PacifiCorp, this alternative would focus the exclusion on net-metered customers, while allowing other behind-the-meter resources such as non-residential qualifying facilities and other programs and compensation structures to be eligible for qualification.⁵⁰

PGE also strenuously objects to the proposed language, alleging the proposed rule is contrary to the plain meaning of the statute and is likely a misinterpretation of Commission Order No. 21-464.⁵¹ PGE asserts the Commission does not have authority to adopt rules related to ORS 469A.210, and that the Commission’s argument in support of such authority results in “virtually no limit on the Commission’s rulemaking.”⁵² PGE further argues that there is no statutory support for the proposed language and that the proposed exclusion of behind-the-meter resources as qualifying projects will only serve to increase the costs of compliance.⁵³ PGE argues that electric utilities have advanced their interface with behind-the-meter resources, including for purposes of generation and distribution systems planning, as envisioned by the Commission in Order No. 21-464, and that the proposed rule eliminates the optionality referenced by the Commission therein.⁵⁴ Further, PGE asserts that while the phrase “small-scale renewable projects” is inexact, it does not require a policy-based definition from the Commission, as ORS 469A.210 outlined it sufficiently with two statutory qualifiers: 20 MW or less, and a renewable resource as defined in ORS 469A.025.⁵⁵ PGE contests the veracity of the legislative history cited by the QF Trade Groups for support of the exclusion, arguing that the entirety of the legislative process and history of the Small Scale Renewable Resource standard supports qualification of all resources that meet the criteria of 20 MW or less and an approved renewable resource.⁵⁶

⁴⁶ PacifiCorp Comments at 1.

⁴⁷ *Id.* at 1-2.

⁴⁸ *Id.* at 2.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See PGE Second Round Comments at 1.

⁵² PGE Comments at 3.

⁵³ *Id.* at 4.

⁵⁴ *Id.* at 6-10.

⁵⁵ *Id.* at 12-13.

⁵⁶ *Id.* at 14-16.

The QF Trade Groups support the exclusion of behind-the-meter resources from qualification for the numerator of the ratio, noting its consistency with the treatment of Aggregate Electrical Capacity as the denominator.⁵⁷ Further, these parties contend the Commission's treatment of behind-the-meter resources in the original rulemaking was the product of a careful balance and should not be relitigated in this proceeding.⁵⁸ The QF Trade Groups agree with Staff that behind-the-meter resources are treated and planned for as load reduction resources and not generation assets and, therefore, should not qualify.⁵⁹ Additionally, these parties assert that the legislative history associated with ORS 469A.210 supports the exclusion of net-metered projects from qualification toward the ten percent standard.⁶⁰ Finally, the QF Trade Groups point to the Commission's desire for a limited scope to this rulemaking and contend that this issue is specifically beyond the boundaries envisioned by the Commission when these processes began.⁶¹

AHD Recommendation

AHD recommends the Commission consider two options for OAR 860-091-0030(3), and to maintain consistency with OAR 860-091-0020(1)(b)(C).

As discussed above, the characteristics of behind-the-meter resources are fundamentally different than other resources for purposes of electrical grid support. Net-metered behind-the-meter resources are neither owned nor under contract to provide a specific or minimum amount of energy to an electric company's system. While any excess energy generated by these systems may be sourced in one of the types outlined in ORS 469A.025, the electric companies view this distributed generation as a reduction to load and not as a generation capacity resource.⁶² Inclusion of these resources as qualifying for purposes of ORS 496A.210 compliance may create some potential for overstated contributions because these distributed resources are not currently obligated to provide a minimum amount of support for an electric company's system. Further, exclusion of these resources from the numerator of the ratio maintains consistency with the exclusion from the denominator, discussed above.

In the event the Commission determined to exclude all behind-the-meter resources from inclusion in the calculation of an electric company's Aggregate Electrical Capacity, the Commission should adopt the language proposed by Staff, as set forth in Attachment 1.

If the Commission determines to limit the exclusion of distributed resources to net-metered resources in the calculation of Aggregate Electrical Capacity, the Commission should also consider limiting the exclusion from qualification to the same

⁵⁷ Second Joint Comments at 9-10.

⁵⁸ *Id.* at 10.

⁵⁹ *Id.* at 10 and 13.

⁶⁰ *Id.* at 11.

⁶¹ *Id.* at 10.

⁶² *In the Matter of PacifiCorp, dba Pacific Power, 2025 Integrated Resource Plan and Clean Energy Plan*, Docket No. LC 85, Integrated Resource Plan, Vol. I, at 129.

sub-set of behind-the-meter resources, thereby allowing non-net-metered resources the potential to qualify as SSR resources. In the event the Commission determined to exclude only net-metered behind-the-meter resources from the calculation of Aggregate Electrical Capacity, AHD recommends a consistent treatment of net-metered resources for qualification toward the ten percent standard.

Under this option, the new language for OAR 860-091-0030(a) would read:

(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~~ Net-metered resources. A net-metered resource shall be “net-metered facility” as that term is defined in ORS 757.300(1)(d).; and

Finally, no party contested the proposal to exclude energy storage systems from qualification as a compliance resource and as discussed above, energy storage is not a generation resource. As such, energy storage systems are appropriately excluded for purposes of compliance with ORS 496A.210. Further, this exclusion maintains consistency with the discussion above addressing the calculation of Aggregate Electrical Capacity. Accordingly, AHD recommends the Commission adopt OAR 860-091-0030(3)(b) as proposed by Staff and as set forth in Attachment 1 to this report.

Conclusion

It is recommended that the Commission adopt the proposed rule amendments as shown in Attachment 1.

Proposed Commission Motion

Adopt the permanent rules and amendments set forth in Attachment 1 to amend OAR Chapter 860, Division 91, related to Small Scale Renewable Energy Project Standard.

ATTACHMENT 1

RULES PROPOSED:

860-091-0000, 860-091-0020, 860-091-0030

AMEND: 860-091-0000

RULE TITLE: Applicability of Rules

RULE SUMMARY: This rule change adds the applicability of the rules in division 91 by stating that they apply to certain electric companies.

RULE TEXT:

(1) The provisions of this division apply to electric companies subject 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.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.200, ORS 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210

AMEND: 860-091-0020

RULE TITLE: Aggregate Electrical Capacity

RULE SUMMARY: This rule change clarifies what “aggregate electrical capacity” includes and does not include and establishes when aggregate electrical capacity is calculated for compliance reporting purposes.

RULE TEXT:

(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~~

(a) ~~All owned resources~~ Aggregate electrical capacity includes:

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

~~(B) The annual average of all resources under a power purchase agreement with a term of at least five years.~~

~~(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~~ 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.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.200, ORS 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210

AMEND: 860-091-0030

RULE TITLE: Eligible Renewable Energy Projects

RULE SUMMARY: The changes to this rule include clarifying the contribution of each eligible renewable energy project toward compliance with the standard and specifying the resources and project types that an electric company may and may not use to comply with the standard.

RULE TEXT:

(1) Projects used to comply with the standard in ORS 469A.210(2) must be an Oregon Renewable Portfolio Standard-approved generator; and 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) An electric company may use one or more of the following resources and project types 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) An Oregon Renewable Portfolio Standard-eligible generation type. An electric company is not required to obtain or retain for 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) 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.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.200, ORS 469A.210

STATUTES/OTHER IMPLEMENTED: ORS 469A.210