

This is an electronic copy. Attachments may not appear.
BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

AR 401

In the Matter of a Rulemaking to Amend)
Oregon Administrative Rules Relating to) ERRATA ORDER
Safety and Attachment Standards.)

DISPOSITION: APPENDIX A TO ORDER NO. 01-839 CORRECTED

On June 15, 2001, the Commission opened a rulemaking proceeding to revise Oregon Administrative Rules relating to standards for safety and pole and conduit attachments. Proposed rule changes are contained in OAR Chapter 860, Divisions 22, 24, 28, 32, 34, 36, 37, and 38. The proposed rule amendments do not change the intent or application of the rules, but add cross-references to them and reorganize them to make related rules easier to find.

The Commission filed a Notice of the Proposed Rulemaking with the Secretary of State on June 15, 2001, and subsequently served it on all interested participants. The notice set out the amendments proposed by Commission Staff, and included a Statement of Need, Statutory Authority, Principal Documents Relied Upon, and Fiscal and Economic Impact. The notice was published in the July 1, 2001, Oregon Bulletin.

At its September 25, 2001, public meeting, the Commission adopted the proposed rules changes. The Commission’s decision was memorialized in Order No. 01-839 entered on September 28, 2001.

Order No. 01-839 amended several Commission rules, one of which was OAR-860-038-0005. The rule change amended the definitions of “serious injury to person” and “serious injury to property” by adopting the definitions of those terms listed in another Commission rule. Unfortunately, the appendix attached to Order No. 01-839 inadvertently contained an outdated version of rule OAR 860-038-0005. The version of rule OAR 860-038-0005 attached to Order No. 01-839 was the version adopted by the Commission in Order No. 00-596. However, rule OAR 860-038-0005 had subsequently been amended in Order No. 01-073 entered on January 3, 2001, and in Order No. 01-788 entered September 11, 2001. Order No. 01-839 should be corrected to show the accurate version of that rule as amended by the Commission on September 25, 2001.

The Commission filed notice of the rule changes proposed in this docket with the Secretary of State on June 15, 2001, and served the notice on a large group of interested persons on June 26, 2001. The notice adequately identified the portion of rule OAR 860-038-0005 proposed for change in this AR 401 docket. The outdated part of the rule attached as Appendix A of Order No. 01-839 was not proposed for change or at issue in this proceeding. Therefore the outdated version of the rule did not mislead any person interested in this proceeding.

This docket should contain the current, accurate version of rule OAR 860-038-0005. Appendix A to this order contains the correct version of rule OAR 860-038-0005.

ORDER

IT IS ORDERED that the appendix to Order No. 01-839 is corrected as shown on appendix A to this order. The remainder of Order No. 01-839 is unchanged.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

Ar401errata order

860-038-0005

Definitions for Direct Access Regulation

As used in this Division:

- (1) "Above-market costs of new renewable energy resources" means the portion of the net present value cost of producing power (including fixed and operating costs, delivery, overhead, and profit) from a new renewable energy resource that exceeds the market value of an equivalent quantity and distribution (across peak and off-peak periods and seasonality) of power from a nondifferentiated source, with the same term of contract.
- (2) "Advisory committee" means a group appointed by the Commission, consisting of representatives from Commission Staff, the Office of Energy, and the following:
 - (a) Local governments;
 - (b) Electric companies;
 - (c) Residential consumers;
 - (d) Public or regional interest groups; and
 - (e) Small nonresidential consumers.
- (3) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a public utility.
- (4) "Aggregate" means combining retail electricity consumers into a buying group for the purchase of electricity and related services. "Aggregator" means an entity that aggregates.
- (5) "Ancillary services" means those services necessary or incidental to the transmission and delivery of electricity from resources to retail electricity consumers, including but not limited to scheduling, frequency regulation, load shaping, load following, spinning reserves, supplemental reserves, reactive power, voltage control and energy balancing services.
- (6) "Commission" means the Public Utility Commission of Oregon.
- (7) "Common costs" means costs that cannot be directly assigned to a particular function.
- (8) "Competitive operation" means any activities related to the provision of electricity services conducted by the electric company's nonregulated operation or the electric company's affiliate.
- (9) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.
- (10) "Default supplier" means an electric company that has a legal obligation to provide electricity services to a consumer, as determined by the Commission.
- (11) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services directly from an entity other than the distribution utility.
- (12) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.
- (13) "Distribution" means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.
- (14) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.

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

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

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

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

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

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

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

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

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

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

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

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

(27) “Joint marketing” means the offering (including marketing, promotion, and/or advertising) of retail electric services by an electric company in conjunction with its

competitive operation to consumers either through contact initiated by the electric company, its affiliate, or through contact initiated by the consumer.

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

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

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

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

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

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

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

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

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

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

(38) “Nonresidential consumer” means a retail electricity consumer who is not a residential consumer.

(39) “Office of Energy” means the Oregon Office of Energy created under ORS 469.030.

(40) “Ongoing valuation” means the process of determining transition costs or benefits for a generation asset by comparing the value of the asset output at forecast market prices for a one-year period to an estimate of the revenue requirement of the asset for the same time period.

(41) “One-time administrative valuation” means the process of determining the market value of a generation asset over the life of the asset, or a period as established by the Commission, using a process other than divestiture.

(42) “One average megawatt” means 8,760,000 kilowatt-hours of electricity per year.

(43) “Oregon share” means, for a multi-state electric company, an interstate allocation based upon a fixed allocation or method of allocation established in a Resource

Plan or, in the case of an electric company that is not a multi-state electric company, 100 percent.

(44) “People’s utility district” has the meaning given that term in ORS 261.010.

(45) “Portfolio” means a set of product and pricing options for electricity.

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

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

(48) “Registered dispute” means an unresolved issue affecting a retail electricity consumer, an ESS, or an electric company that is under investigation by the Commission’s Consumer Services Division but is not the subject of a formal complaint.

(49) “Regulated charges” means charges for services subject to the jurisdiction of the Commission.

(50) “Regulatory assets” means assets that result from rate actions of regulatory agencies.

(51) “Renewable energy resources” means:

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

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

(c) Landfill gas and digester gas; and

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

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

(53) “Retail electricity consumer” means the end user of electricity for specific purposes such as heating, lighting, or operating equipment and includes all end users of electricity served through the distribution system of an electric company on or after July 23, 1999, whether or not each end user purchases the electricity from the electric company. For purposes of this definition, a new retail electricity consumer means a retail

electricity consumer that is unaffiliated with the retail electricity consumer previously served after March 1, 2002, at the site.

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

(55) “Serious injury to person” ~~means, in the case of an employee, any injury that results in hospitalization. In the case of a nonemployee, “serious injury” means any contact with an energized high voltage line, or any incident that results in hospitalization. Treatment in an emergency room is not hospitalization has the meaning given in OAR 860-024-0050.~~

(56) “Serious injury to property” ~~means damage to ESS and non-ESS property exceeding \$25,000 or failure of ESS facilities that causes or contributes to a loss of energy to consumers has the meaning given in OAR 860-024-0050.~~

(57) “Site” means:

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

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

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

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

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

(58) “Small nonresidential consumer” means a nonresidential consumer that is not a large nonresidential consumer.

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

(60) “Structural separation” means separating the electric company’s assets by transferring assets to an affiliated interest of the electric company.

(61) “Total transition amount” means the sum of an electric company’s transition costs and transition benefits.

(62) “Traditional allocation methods” means, in respect to a multi-state electric company, inter-jurisdictional cost and revenue allocation methods relied upon in such electric company’s last Oregon rate proceeding completed prior to December 31, 2000.

(63) “Transition benefits” means the value of the below-market costs of an economic utility investment.

(64) “Transition charge” means a charge or fee that recovers all or a portion of an uneconomic utility investment.

(65) “Transition costs” means the value of the above-market costs of an uneconomic utility investment.

(66) “Transition credit” means a credit that returns to consumers all or a portion of the benefits from an economic utility investment.

(67) “Transmission grid” means the interconnected electrical system that transmits energy from generating sources to distribution systems and direct service industries.

(68) “Unbundling” means the process of assigning and allocating a utility’s costs into functional categories.

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

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

Stat. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 9-29-00 (Order No. 00-596); PUC 2-2001, f. & ef. 1-5-01 (Order No. 01-073); PUC 21-2001 (Temp), f. & cert. ef. 9-11-01 thru 3-10-02 (01-788); PUC 23-2001, f. & ef. 10-11-01 (Order No. 01-839)