ORDER NO. 26-402

ENTERED Oct 28 2026

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 682

In the Matter of Rulemaking to Update Resource Adequacy Rules.	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 27, 2026, 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:

Alison Lackey
Chief Administrative Law Judge

ITEM NO. RM1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 27, 2026

RULEMAKING X CONSENT __ EFFECTIVE DATE N/A

DATE: September 8, 2026

TO: Public Utility Commission

FROM: Jean Falconer

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

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. AR 682)
Resource Adequacy Rulemaking.

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 95 of OAR Chapter 860, which prescribe the filing requirements for provision of Resource Adequacy information, and the filing requirements and binding elements for the Commission-administered Resource Adequacy program.

DISCUSSION:

Issue

Whether the Commission should initiate a formal rulemaking process to consider changes to the Resource Adequacy administrative rules in OAR Chapter 860, Division 95.

Applicable Rule or Law

Under ORS 756.040, the Commission has authority to supervise and regulate every public utility in Oregon, and to do all things necessary and convenient within its jurisdiction to obtain for customers adequate service at fair and reasonable rates. ORS 757.659 provides the Commission with the authority to "adopt such rules as are necessary" to implement direct access regulation.

Pursuant to ORS 756.060, the Commission "may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission and may adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and telecommunications utilities and other parties before the commission."

ORS 756.990(2) provides that, unless a penalty is otherwise provided by law, any public utility, telecommunications utility or other person subject to the jurisdiction of the Commission shall forfeit a sum of not less than $100 nor more than $10,000 for each time that the person:

(a) Violates any statute administered by the commission;
(b) Does any act prohibited, or fails to perform any duty enjoined upon the person;
(c) Fails to obey any lawful requirement or order made by the commission; or
(d) Fails to obey any judgment made by any court upon the application of the commission.

OAR 860-095-0040 establishes the State Program. OAR 860-095-0040(1) states that an electric company or ESS that is not a member of a regional RA program must comply with the requirements of the State Program. Under OAR 860-095-0040(2), State Program participants will make a compliance filing no later than April 1 of every odd-numbered year.

OAR 860-095-0040(10) states that if the Commission determines that a State Program participant's forward showing does not meet the criteria for approval, the Commission shall identify deficiencies and give the participant 60 days to remedy their forward showing to meet the criteria for approval.

OAR 860-095-0040(11) states that a State Program participant whose forward showing is not approved 60 days after the Commission identified deficiencies shall be subject to an appropriate penalty as determined by the Commission.

Analysis

Background
On May 8, 2024, the Commission established an Oregon resource adequacy program (State Program) with rules codified as OAR Chapter 860, Division 95.[1] Any electric company or electricity service supplier (ESS) that is not part of a Qualified Regional

[1] *In the Matter of Adoption of Rules Relating to Resource Adequacy*, Docket No. AR 660, Order No. 24-133 (May 8, 2024).

Program is a State Participant and must comply with State Program requirements.[2] To date, the only Qualified Regional Program available to Oregon load-serving entities (LSEs) is the Western Resource Adequacy Program (WRAP).

By design, many State Program requirements and methodologies mirror those used by WRAP. However, one notable difference between these programs is the timing of forward showings. State Program forward showings, due on April 1 of every odd-numbered year, include monthly demonstration of RA-compliant generation and transmission for the two-year period beginning on July 1 of that same year.[3] WRAP forward showings, on the other hand, are submitted twice per year, each demonstrating monthly compliance for a single binding season of a few months, Summer or Winter.[4] State Program forward showings include every month of the year, whereas WRAP forward showings exclude shoulder months.

The State Program also differs from WRAP in terms of penalties. For the State Program, OAR 860-095-0040(11) specifies that participants "shall be subject to an appropriate penalty as determined by the Commission" if they do not cure deficiencies identified in their forward showings within 60 days. WRAP participants incur deficiency charges calculated using a participant's maximum monthly deficiency, the Cost of New Entry (CONE), and seasonal CONE factors.[5]

In August 2024, the Commission waived penalties for all State Program participants for the first (2025-2027) compliance process following an announced delay in WRAP binding operations from Summer 2026 to Winter 2027/2028.[6]

In October 2025, PacifiCorp, Portland General Electric Company (PGE), and Calpine Energy Solutions (Calpine) provided formal notice to the Western Power Pool (WPP), which administers WRAP, of their intent to exit WRAP. These LSEs may rejoin WRAP and commit to the Winter 2027/2028 binding season as late as September 15, 2026.[7] If they do not rejoin WRAP, they are required to demonstrate compliance with the State Program requirements unless an alternate Qualified Regional Program becomes

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2 OAR 860-095-0010(14); OAR 860-095-0010(18); *OAR 860-095-0040(1).*

3 OAR 860-095-0040(2); OAR 860-095-0040(6)-(9).

4 Western Resource Adequacy Program (WRAP) Tariff of Northwest Power Pool D/B/A Western Power Pool at 12-13 (Effective Date: December 12, 2022). Summer is defined as June 1-September 15 and Winter is defined as November 1-March 15.

5 *Id*.

6 *In the Matter of Public Utility Commission of Oregon, Request for Waiver of OAR 860-095-0040(10) and OAR 860-095-0040(11)*, Docket No. UM 2337, Order No. 24-303 (August 29, 2024); Letter from the Members of the Resource Adequacy Participant Committee (RAPC), April 22, 2024; Notice to members of the WRAP RAPC, October 31, 2025.

7 Notice to members of the WRAP RAPC, October 31, 2025.

available. These same three entities are currently engaged in developing an alternate program with other balancing authorities (BAs) associated with the Extended Day-Ahead Market (EDAM).[8] This group intends to present a program proposal to the Regional Organization for Western Energy (ROWE) Board for consideration and implementation in Spring 2027.[9]

Staff understands, based on conversations with WPP representatives, that LSEs exiting WRAP have withdrawal dates set for two years after their withdrawal notifications, approximately October 31, 2027, for PacifiCorp, PGE, and Calpine. These LSEs will continue to submit forward showings to WRAP for the first year of the two-year withdrawal period, with a final forward showing for Summer 2027 due by October 31, 2026. The fact that PacifiCorp, PGE, and Calpine have WRAP withdrawal dates in October 2027 but are not required to submit forward showings after October 2026 raises questions about their obligation to submit forward showings to the State Program for its 2027-2029 compliance process, which has a forward showing deadline of April 1, 2027.

In September 2025, the Northwest & Intermountain Power Producers Coalition (NIPPC) submitted a motion to the Commission asking it to 1) adopt a penalty framework for the State Program, and 2) develop an alternative compliance pathway for ESSs, preferably a capacity backstop charge paid by direct access (DA) customers to a utility. This was docketed as UM 2404. In its motion, NIPPC emphasized the difficulty ESSs are having obtaining RA-compliant generation and, in particular, transmission. It said that uncertainty about ESSs' ability to comply with RA requirements or reasonably limit non-compliance penalties could irreparably harm the DA market by leaving DA customers with "no reasonable choice" but to return to utility service. Although WRAP and State Program penalties were not scheduled to apply until 2027, NIPPC stressed the urgency of clarifying State Program penalties, noting that DA customers must typically provide at least two years' notice to return to their incumbent utilities.[10]

In response to NIPPC's motion, in November 2025 the Commission waived State Program penalties for ESSs for the 2027-2029 compliance process. Penalties will take effect for ESSs beginning with the 2029-2031 compliance process. The Commission did not waive penalties for utilities for the 2027-2029 compliance process, meaning they will

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8 Regional Resource Adequacy Program | ROWE Western Energy.
9 Regional Resource Adequacy Workshop #10: Technical Design (August 11, 2025).
10 Docket No. UM 2143, NIPPC Motion to Adopt State Program Penalty Guidance and Alternative Compliance Option For Electricity Service Suppliers, pages 1-3 (August 26, 2025).

take effect for utilities during that compliance process.[11] Once they are in effect, penalties would be incurred by participants that fail to meet State Program requirements approximately 150 days after the April 1 forward showing submission deadline, following a 90-day review period by Staff and 60-day cure period.[12]

In addition to waiving ESS penalties for the 2027-2029 compliance process, the Commission directed the Administrative Hearings Division to work with Staff to open an informal rulemaking or investigation docket to consider amendments to the Commission's Division 95 Resource Adequacy rules. This docket, AR 682, is the first phase of that investigation, a narrowly-scoped rulemaking focusing on two items highlighted by Staff as urgent and targeted:

1. Whether LSEs that have notified WRAP of their intent to withdraw are required to submit forward showings to the State Program for the 2027-2029 compliance process; and
2. State Program non-compliance penalties.

Staff plans to request to open a separate investigation at a later date to consider broader changes to the State Program, such as possible changes to the timing of forward showings, methodologies for calculating planning reserve margins and resource capacity contributions, and alignment with any new Qualified Regional Programs.

On April 7, 2026, Staff published a straw proposal in AR 682 with suggested Resource Adequacy rule amendments, followed by a workshop with interested stakeholders on April 21, 2026. 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 May 7, 2026. As discussed below, the first round of stakeholder comments motivated a significant change in Staff's proposal, reflected in the proposed rule amendments published on July 23, 2026. Staff held another workshop on August 5, 2026, and stakeholders submitted final comments for the informal rulemaking process on August 27, 2026. Comments were received from NIPPC, Calpine, Brookfield Renewable Energy Marketing US (Brookfield), PacifiCorp, PGE, Alliance of Western Energy Consumers (AWEC), and NewSun Energy (NewSun).

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[11] *In the Matter of the Northwest & Intermountain Power Producers Coalition Request for Investigation into Penalty Guidance Framework for State Resource Adequacy Requirements and Alternative Compliance Options for Electricity Service Suppliers*, Docket No. UM 2404, Order No. 25-474 (November 25, 2025).

[12] OAR 860-095-0040(5); OAR 860-095-0040(10).

UM 2024 and Implications for This Rulemaking
Multiple decisions relevant to the State Program have occurred in Docket No. UM 2024, the investigation into long-term DA programs. In May 2026, the Commission required utilities to develop a capacity backstop product through which DA customers can pay to be included in a utility's RA load for a three-year period ending on October 1, 2029.[13] Following the submission of an application for reconsideration by NIPPC and AWEC, in August 2026 the Commission extended the capacity backstop product by two years, until October 1, 2031.[14]

As mentioned, a capacity backstop charge is NIPPC's preferred alternative compliance pathway for ESSs in the State Program. Staff's impression, based on discussions with ESSs, is that the extension of the capacity backstop charge is, by itself, sufficient to address their current RA compliance challenges. The extension of the capacity backstop charge, which happened after Staff published its proposed rule amendments in this docket, should therefore alleviate some of the near-term RA compliance issues this limited rulemaking is intended to address.

Staff's Goals in AR 682
Throughout all filings and workshops, Staff has reiterated its desired outcome in this limited rulemaking:

1. Maintain the rigor of the State Program.
2. Incentivize compliance with State Program requirements.
3. Incentivize actions that support reliability.
4. Promote consistency between RA programs.
5. Encourage participation in regional RA programs and continued discussion of alternate regional RA programs.
6. Provide enough specificity for LSEs to reasonably assess and plan for the consequences of non-compliance while also maintaining some flexibility to modify penalties if warranted.
7. Acknowledge existing compliance challenges in a manner that is as targeted and limited as possible.
8. Ensure that the Commission maintains visibility into the RA positions of LSEs and the potential for impacts on all retail customers.

Given the narrow scope and restricted timeline of this rulemaking, proposed rule changes are limited to those Staff views as necessary to address near-term compliance

[13] *In the Matter of the Alliance of Western Energy Consumers, Petition for Investigation Into Long-Term Direct Access Programs*, Docket No. UM 2024, Order No. 26-153 (May 7, 2026).
[14] *In the Matter of the Alliance of Western Energy Consumers, Petition for Investigation Into Long-Term Direct Access Programs*, Docket No. UM 2024, Order No. 26-306 (August 24, 2026).

issues. Staff envisions that all rules, including those Staff proposes to amend in this first phase, can be reevaluated in phase two. In particular, Staff recognizes stakeholder concerns about modifying the State Program while discussions about a new, EDAM-based RA program are ongoing. Staff emphasizes that the changes it proposes in this rulemaking are not intended to preclude or otherwise limit changes that may be considered in the second phase of the investigation.

Overview of Staff's Proposal
Staff proposes to amend two Resource Adequacy rules:

- OAR 860-095-0010(16), which defines a Regional Participant; and
- OAR 860-095-0040(9)(e), which limits the use of transmission requirement waiver conditions (9)(a) and (9)(b).

In addition, Staff proposes a process to aid the Commission in determining non-compliance penalties under the existing language in OAR 860-095-0040(11).

A clean version of the rules incorporating Staff's proposed rule amendments is included as Appendix 1 of this filing. Redline changes to the specific rules Staff proposes to amend are included and discussed below. Proposed rule additions are bolded and proposed deletions are stricken through.

Staff's proposed changes to OAR 860-095-0010(16) implement its recommendation for the first item in the rulemaking scope, whether LSEs exiting WRAP are required to participate in the State Program for the next compliance process. This piece of Staff's proposal has not changed over the course of this docket and did not generate much discussion from stakeholders.

The proposed changes to OAR 860-095-0040(9)(e) and proposed process for OAR 860-095-0040(11) implement Staff's recommendations for the second item in the rulemaking scope, State Program non-compliance penalties. Most of the discussion in this docket has centered on non-compliance penalties, and Staff's preferred approach changed considerably due to stakeholder feedback between its straw proposal and proposed rule amendments.

Staff will separately discuss the three pieces of its proposal, beginning with proposed changes to OAR 860-095-0010.

1. OAR 860-095-0010

Overview

Staff proposes to amend OAR 860-095-0010 (Definitions for this Division) as follows:

> (16) "Regional Participant" means a Load Serving Entity that is a **binding** participant in or is officially committed to becoming a **binding** participant in a Qualified Regional Program at least 30 days prior to the Binding Forward Showing filing date of the State Program**.**

This amendment implements one piece of Staff's straw proposal, that LSEs withdrawing from WRAP be required to participate in the State Program for the compliance process that begins on April 1, 2027. Since the Commission waived penalties for ESSs but not for utilities for the 2027-2029 compliance process, non-compliance penalties would not be incurred by Calpine during that compliance period, but they could be incurred by PacifiCorp and PGE.

Requiring LSEs exiting WRAP to participate in the State Program helps maintain Commission visibility into their RA positions, Staff goal 8. OAR-860-095-0020(4) requires, in part, that Regional Participants make their most recent Qualified Regional Program forward showings available to Commission Staff, and Staff periodically summarizes these forward showings for the Commission. PacifiCorp, PGE, and Calpine are not required to submit forward showings to WRAP after October 2026, and if they are exempt from the State Program's 2027-2029 compliance process, they would not be required to submit a forward showing to that program until April 1, 2029. The Commission may therefore lack important insight on their RA positions for two and a half years, at a time in which concerns about resource adequacy are growing.

Staff's proposed rule amendment would also result in PacifiCorp and PGE, which serve most of Oregon's load, being subject to non-compliance penalties beginning in 2027. Penalties incentivize compliance with RA requirements and are an important mechanism for supporting resource adequacy, consistent with Staff goals 1-3. Maintaining penalties for utilities also better aligns the State Program with WRAP, Staff goal 4, and provides an incentive for these LSEs to continue expedient discussion of alternate Qualified Regional Programs, Staff goal 5. Indeed, the coalition developing the EDAM-based RA program has pointed to the State Program as creating urgency for an "EDAM-aligned RA solution."[15]

Stakeholder Comments

In comments, PGE said it "supports requiring all LSEs that have provided notice of

[15] Regional Resource Adequacy Workshop EDAM Resource Adequacy Workshop #1: Program Overview, Slide 6 (April 28, 2026).

withdrawal from WRAP, and that are not participating in an alternative Qualified Regional Program, to participate in and comply with the State RA Program for the next compliance period."[16] NewSun expressed support for requiring that LSEs not participating in WRAP file a binding forward showing for the 2027-2029 compliance process and for only waiving penalties for ESSs for that compliance process.[17] Similarly, NIPPC said it supports Staff's recommendation that LSEs exiting from WRAP be required to participate in the State Program and submit forward showings for the 2027-2029 compliance process.[18]

PacifiCorp did not comment specifically on whether LSEs exiting WRAP should be required to participate in the State Program for the 2027-2029 compliance process. Aside from indicating support for the Commission retaining flexibility to administer reduced penalties where appropriate, the only recommendation Staff received from the Company in this rulemaking is to waive State Program penalties for all LSEs until there is a viable alternative RA program to WRAP.[19]

PGE also expressed concern about the way in which Staff proposes to implement its recommendation, by adding the word "binding" to OAR 860-095-0010(16). The Company "supports Staff's underlying objective," but is concerned about "whether terminology associated with one regional program should be incorporated into a generally applicable State RA rule."[20] It explained that "'[b]inding' reflects terminology associated with WRAP and may not translate to future Commission-approved regional RA programs." PGE prefers that the rules "establish durable, program-neutral requirements…" and "recommends that the Commission address the specific circumstances of the 2027 compliance period through an order or declaratory ruling rather than incorporating the term 'binding' into OAR 860-095-0010(16)."[21]

From Staff's perspective, the State Program, as it currently exists, is explicitly modeled on WRAP. That dependence is reflected throughout the rules, where the word "binding" appears thirteen times.[22] Staff does not believe it would be appropriate to modify core elements of the State Program in this limited-in-scope rulemaking; its focus is on addressing near-term RA compliance issues. Staff's proposed changes to OAR 860-095-0010(16) implement its recommendation in a simple manner using terminology consistent with the existing rules. Its suggested use of the word "binding" should not be interpreted as a promotion of WRAP over other prospective regional RA programs. This

16 PGE Comments, page 9.
17 NewSun Comments, page 3.
18 NIPPC Comments, page 27.
19 PacifiCorp Comments, page 2.
20 PGE Comments, page 8.
21 *Id.* at 8 and 9.
22 OAR 860-095.

terminology may be reconsidered in the second phase of this investigation, whose purpose is, in part, to better align the State Program with other regional RA programs. Staff does not believe there is sufficient reason to change this aspect of its proposal based on PGE's concerns.

2. Non-Compliance Penalties - OAR 860-095-0040

Overview

Staff proposes to amend OAR 860-095-0040 (State Program Requirements) as follows:

> (9)(e) **Following the first two-year compliance period in which a State Participant uses waiver condition (9)(a) or (9)(b), the** ~~A~~ State Participant cannot use waiver condition (9)(a) or (9)(b) for the same path for consecutive compliance periods if the Qualified Regional Program would preclude use of such **subsequent** waiver.

As mentioned, Staff's preferred approach to non-compliance penalties has evolved over the course of this rulemaking in response to stakeholder feedback. Staff will therefore begin with a summary of its straw proposal before explaining how it transformed into the current proposal, which modifies the existing transmission exception language and outlines a penalty determination process rather than adding or modifying penalty-specific rule language.

Staff's Straw Proposal

Under Staff's straw proposal, baseline State Program penalties would be set equal to WRAP deficiency charges, but penalties caused by transmission deficiencies could be reduced for LSEs that cure deficiencies after the official cure period but before a given deficient month. This penalty reduction provision was intended to be temporary, and LSEs would be required to be in a long-term transmission queue to be eligible for a reduction. In addition, Staff solicited input from stakeholders on the possibility of treating WRAP deficiency charges as penalty *caps*, with the Commission maintaining discretion to lower penalties on a case-by-case basis.[23]

Staff proposed to base State Program penalties on WRAP deficiency charges for a number of reasons. First, doing so better aligns the State Program with the only existing Qualified Regional Program (Staff goal 4). It also mitigates the potential disadvantages of having lower penalties than other RA programs, which could negatively impact the rigor of the State Program (Staff goal 1); disincentivize compliance with State Program requirements and actions that support reliability (Staff goals 2 and 3); and discourage participation in a regional RA program and continued discussion of alternate RA programs (Staff goal 5). Lastly, tying State Program penalties to WRAP deficiency

[23] Staff Straw Proposal.

charges gives LSEs greater clarity on penalties while also allowing penalties to change if, for example, WRAP's deficiency charges change, consistent with Staff goal 6.

The penalty reductions in Staff's proposal were intended to acknowledge and address existing compliance challenges (in particular, difficulty obtaining RA-compliant transmission), but in a targeted and limited manner that preserves the rigor of the State Program (Staff goals 7, 1, 2, and 3). Specifically, penalties caused by generation deficiencies could not be reduced, penalties caused by transmission deficiencies could not be fully eliminated, and penalty reductions would be sunset once transmission constraints ease. In addition, LSEs would be required to take action to support reliability (Staff goals 2 and 3), curing transmission deficiencies and entering a long-term transmission queue, in order to lower penalties.

Stakeholder Comments on Staff's Straw Proposal
In initial comments, stakeholders were generally unsupportive of tying State Program penalties to WRAP deficiency charges. NIPPC stated that it "is very concerned with Staff's proposal to continue to mirror the WRAP penalty framework, which has already led to an exodus from the WRAP itself by Oregon's LSEs," a sentiment echoed by Calpine and Brookfield.[24] Brookfield pointed out that since no Commission-regulated LSEs in Oregon are expected to participate in WRAP in the coming years, neither they nor the Commission would have an opportunity to critically evaluate changes to WRAP deficiency charges (and therefore State Program penalties), which "could lead to unfair and imprudent outcomes."[25] PGE voiced concern about the reliance of WRAP deficiency charges on a CONE based on a natural gas-fired peaking facility, which it says does not align with Oregon's decarbonization policies. PGE believes that penalties should "reflect the actual cost of developing reliable capacity within Oregon's regulatory and market environment."[26]

For the most part, stakeholders expressed support for the Commission maintaining the discretion to lower penalties. Brookfield stated that "the rules should ensure that the Commission retains discretion to reduce penalties when it finds doing so is appropriate… [T]his level of flexibility combined with the certainty afforded by a penalty cap will be beneficial…"[27] Similarly, NIPPC stated that "while a formulaic approach to calculate penalties provides LSEs with certainty, the Commission should still retain its discretion to lower penalties if the LSE made a good faith effort to comply with State Program requirements."[28] PacifiCorp said it "supports the Commission retaining

[24] NIPPC Comments, page 4; Calpine Comments, page 2; Brookfield Comments, page 3.
[25] Brookfield Comments, pages 3 and 4.
[26] PGE Comments, page 4.
[27] Brookfield Comments, pages 5.
[28] NIPPC Comments, page 22

flexibility to administer reduced penalties where appropriate," whereas PGE said it "support[s] a formulaic baseline penalty framework to promote predictability, transparency, and administrative efficiency," but also "recognizes that limited Commission discretion may be appropriate in narrowly defined circumstances…."[29] NewSun, in contrast with other stakeholders, "does not support allowing the Commission discretion to lower penalties beyond the amount calculated" because "[s]uch a practice would not provide LSEs with sufficient certainty."[30]

Lastly, ESSs indicated that Staff's proposed penalty reductions, in particular the requirement that LSEs be in a long-term transmission queue to be eligible for a reduction, would not meaningfully ease RA compliance challenges given the existing transmission exception process. NIPPC pointed out that "it is not clear why an LSE willing to enter the long-term transmission queue would not just use the transmission exception and thereby incur no deficiency that would be subject to penalty or cure. The ability to cure a transmission deficiency under Staff's proposal may not be utilized because the LSE can just use the less restrictive exception instead." Similarly, Calpine noted that "Staff's proposed transmission cure requires the LSE to be in the long-term transmission queue to be eligible to achieve a penalty through the cure-much the same as the WRAP transmission exceptions procedure that already exists in the Commission's State Program."[31] NIPPC did acknowledge that proposed penalty reductions "may ultimately be useful to some LSEs in some limited circumstances," but said that Staff's penalty reductions are "certainly not the type of option that provides the type of certainty needed to risk exposure to the exorbitant WRAP-style penalties."[32]

Changes to Staff's Proposal Following Comments on its Straw Proposal
Initial stakeholder comments inspired numerous changes to Staff's proposal reflected in its proposed rule amendments. First, there was nearly unanimous agreement that the Commission should maintain some discretion in setting penalties; many stakeholders highlighted the value of a more flexible approach while also acknowledging the increased uncertainty that would create. Staff was also sympathetic to concerns about setting baseline State Program penalties equal to WRAP deficiency charges. Ultimately, Staff was convinced that a more conservative approach, keeping the existing penalty language instead of specifying explicit, formula-based penalties tied to a particular Qualified Regional Program, is warranted until the State Program can be evaluated more holistically in the second phase of this investigation.

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29 PGE Comments, page 6.
30 NewSun Comments, page 6.
31 Calpine Comments, page 2.
32 NIPPC Comments, page 26.

The current penalty language, OAR 860-095-0040(11), states that

> A State Participant whose plan is not approved 60 days after the Commission identified deficiencies shall be subject to an appropriate penalty as determined by the Commission.

The Commission already has flexibility in setting penalties under the existing rule. However, Staff recognizes that LSEs would prefer to have additional information about penalties to help them assess and plan for the consequences of non-compliance. For that reason, Staff is proposing a process the Commission could use to determine penalties under OAR 860-095-0040(11). Staff believes this process, if adopted, would reduce compliance uncertainty for LSEs and enhance the transparency of the State Program. Maintaining the current penalty language while also clarifying the penalty determination process, in Staff's view, strikes a reasonable balance between flexibility and specificity, consistent with Staff goal 6. Staff returns to its proposed penalty process below.

Stakeholder comments made it clear that Staff's proposed penalty reductions, intended to acknowledge and provide relief from ongoing RA compliance challenges, would likely not work as intended. Indeed, the requirement that LSEs be in a long-term transmission queue to receive a reduction appears to render them largely redundant in light of the existing transmission exception process. Staff discussed modifying the eligibility requirement, but it struggled to think of a reasonable alternative given its belief that penalty reductions should be conditioned on LSEs taking concrete action to develop RA-compliant transmission (consistent with Staff goal 3). Instead, stakeholders' emphasis on the transmission exception process led Staff to shift its focus and consider whether changes to the transmission exception rule language could address current RA compliance challenges. Staff ultimately decided, after meeting with stakeholders, that clarifying the existing transmission exception language would provide ESSs with sufficient relief through the end of the 2029-2031 State Program compliance process and give the new EDAM-based RA program space to develop.

Before turning to the transmission exception language, Staff reiterates that the Commission's recent decision to extend the capacity backstop charge happened after Staff published its AR 682 proposed rule amendments. Staff believes that extension lessens the need to address near-term RA challenges in this rulemaking. Nevertheless, Staff sees value in implementing its proposed transmission exception rule changes because of confusion and uncertainty created by the existing language, and because the capacity backstop charge is still in development.

OAR 860-095-0040(9) – Transmission Exceptions
OAR 860-095-0040(9)(e), as currently written, specifies that a State Participant cannot use transmission exceptions related to enduring constraints or the expectation of future firm available transfer capacity for the same transmission path for consecutive compliance periods if the Qualified Regional Program would preclude use of such waiver. Staff's proposed rule amendment clarifies that a single transmission exception applies to an entire two-year compliance period rather than a single month within a given compliance period. This change was motivated by stakeholder confusion about WRAP's transmission exception process in light of that program's use of monthly transmission exceptions, and concerns about needing to be in a long-term transmission queue to receive repeated exceptions for the same transmission path.[33] Under Staff's proposal LSEs would, in essence, receive twenty-four months of consecutive exceptions for a given transmission path before limitations apply. Staff notes that this idea is already captured by the existing rule language, which emphasizes limitations across consecutive compliance periods rather than across consecutive months. Staff's intent with this rule change is to provide LSEs with additional clarity to help them plan for RA compliance (Staff goal 6) rather than change how the rule functions.

Staff originally proposed, in rule amendments published on July 23, 2026, to modify OAR 860-095-0040 in the following way:[34]

> (9)(e) A State Participant ~~cannot~~ **may only** use waiver condition (9)(a) or (9)(b) for ~~the same~~ **a given** path for ~~consecutive~~ **one two-year** compliance period.~~s if the Qualified Regional Program would preclude use of such waiver.~~

In addition to clarifying that a given transmission exception applies to an entire compliance period, Staff proposed to remove reference to the Qualified Regional Program, and to prevent LSEs from receiving transmission exceptions for a given transmission path across multiple compliance periods. Staff recommended removing language related to the Qualified Regional Program to help clarify and simplify the transmission exception process, but it recognized that doing so would remove limits on the use of repeated transmission exceptions, the primary purpose of this rule. Staff therefore proposed to reestablish a limit by preventing the use of consecutive transmission exceptions.

Staff believes its initial proposal for limiting transmission exceptions was reasonable in light of its intent to use the first phase of this investigation to address near-term RA compliance issues. Repeated transmission exceptions would not be relevant to ESSs, the only LSEs that have expressed concern about the specific RA compliance

[33] WRAP Tariff, page 10.
[34] Staff Proposed Rule Amendments.

challenges this rule change is intended to ease, until the 2031-2033 compliance process. In Staff's view, the limit on transmission exceptions could be reconsidered in the second phase of this investigation, which should be well underway by the time repeated exceptions would be of particular concern to ESSs.

In comments, Brookfield and NIPPC both expressed concern about Staff's proposal to restrict the use of transmission exceptions for a given transmission path to a single compliance period. Brookfield said that Staff's proposed amendment would "reduce [transmission] waiver availability relative to [WRAP]."[35] It also pointed out that in AR 660, which established the Resource Adequacy rules, the rule now codified as OAR 860-095-0040(9)(e) was initially proposed by Staff as "[a] State Participant cannot use waiver condition (A) or (B) for the same path for consecutive compliance periods."[36] In comments submitted in that docket, Brookfield argued that "[t]he WRAP tariff does limit continued use of transmission forward showing exceptions but only in a very limited circumstance," and recommended that "[t]he Commission should remove the blanket restriction on claiming transmission forward showing exceptions…."[37] The rule ultimately adopted by the Commission included Brookfield's proposed modification specifying that waiver conditions (A) or (B) may not be used for the same path for consecutive compliance periods *if the Qualified Regional Program would preclude use of such waiver*, be adopted.[38]

Brookfield suggested that OAR 860-095-0040 be modified as follows:

> (9)(e) **Following the first two-year compliance period in which a State Participant uses waiver condition (9)(a) or (9)(b), the** ~~A~~ State Participant cannot use waiver condition (9)(a) or (9)(b) for the same path for consecutive compliance periods if the Qualified Regional Program would preclude use of such **subsequent** waiver.

NIPPC also recommended removing Staff's proposal to limit transmission exceptions to a single compliance period.[39] It stated its belief that "eligibility for an exception should be based on whether qualifying transmission conditions for an exception continue to exist," and pointed out that "the beginning of a new compliance period does not itself cause firm transmission to become available."[40] Lastly, it said that "[i]f the Commission believes additional safeguards are necessary for subsequent reliance on an exception,

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35 Brookfield, Comments, page 3.
36 AR 660 Staff Report Attachment A, page 5.
37 AR 660 Brookfield Comments, pages 7 and 8.
38 Commission Order No. 24-133.
39 NIPPC Comments, page 2.
40 *Id.* at 2 and 3.

it could require the State Participant to demonstrate that the qualifying condition continues to exist and that the State Participant has undertaken commercially reasonable efforts to address the transmission limitation."[41]

Although Staff believes its initial proposal for OAR 860-095-0040(9)(e) better clarifies and simplifies the existing language by removing reference to the Qualified Regional Program, it was ultimately persuaded that Brookfield's proposed rule language clarifies the transmission exception process as intended by Staff while also maintaining the current limit on repeated transmission exceptions. This allows for a more targeted approach to easing near-term RA compliance challenges that better aligns the State Program with WRAP (Staff goals 7 and 4). Staff therefore recommends that the Commission adopt Brookfield's proposed changes to this rule.

Other Stakeholder Comments on Staff's Proposed Amendments to OAR 860-095-0040(9)(e)
NIPPC said it "appreciates Staff's revisions to OAR 860-095-0040(9)(e) to clarify that the transmission exceptions to the transmission requirements in the State Program apply for the full two-year compliance period…."[42] Similarly, Calpine said it "appreciates Staff's efforts to address certain discrete concerns raised in prior comments regarding the State Program's transmission requirement waiver conditions in OAR 860-095-0040(9)."[43] However, ESSs expressed a number of concerns about transmission exceptions in comments.

NIPPC and Calpine expressed concern about language in OAR 860-095-0040(9) that states that "[a] State Participant *may request* a waiver of a portion of the transmission requirement if it can demonstrate that" certain conditions apply (emphasis added). NIPPC requested "further clarification on whether the exception will be automatically granted if the conditions are met," and said it is unclear in the current rule "if the Commission retains the discretion to review and deny the request even after the applicable criteria have been demonstrated."[44] Calpine echoed NIPPC's concerns, stating that "the Commission should provide assurance in the rule or its order than the waiver will in fact be granted if the LSE demonstrates the applicable criteria in the waiver rule are met."[45]

Staff appreciates stakeholder concerns about uncertainty created by the use of the word "may" in OAR 860-095-0040(9), but it does not believe these concerns warrant a rule

41 *Id.* at 2.
42 NIPPC Comments, page 1.
43 Calpine Comments, pages 1-2.
44 NIPPC Comments, page 3.
45 Calpine Comments, page 3.

change. In Staff's view, if an LSE demonstrates that it meets the transmission exception criteria, it should receive an exception. That said, Staff does not support the use of an automated process that grants exceptions without Commission review. Indeed, Staff questions the feasibility of such a process given the complexity, nuance, and unique circumstances inherent to each State Program forward showing. The forward showing process is not automated, and Staff believes the same should be true for the transmission exception process.

Lastly, Calpine (incorrectly) characterized Staff as expressing, at the August 5, 2026, workshop, its "intent to untether the State Program's four transmission wavier [*sic*] conditions from WRAP's criteria for qualification of WRAP's four transmission exceptions," which Calpine interpreted as meaning that "Staff and the Commission would not look to WRAP's criteria for evaluating qualification for the analogous waiver under the State Program."[46] It said, further (and incorrectly), that "Staff stated it does not intend to require the LSE to be in the long-term transmission queue to qualify under any of the State Program's transmission waiver conditions." Calpine requested clarification on these points.

At the August 5 workshop, Staff stated its intent to reduce confusion about limitations on the use of repeated transmission exceptions by removing reference to the Qualified Regional Program in OAR 860-095-0040(9)(e).[47] Staff did not say it intends to untether the entire transmission exception process from WRAP. In fact, it said that "in general, our desire is to mimic WRAP to the extent possible…" Staff went on to say that it proposed to remove reference to the Qualified Regional Program in OAR 860-095-0040(9)(e) to solve a specific issue created by mention of the program in that specific language. Lastly, Staff said that further discussion of the rest of the transmission exception language is necessary before it can determine whether untethering it from WRAP is warranted.[48] As Staff has emphasized throughout this rulemaking, it is not interested in modifying core elements of the State Program until phase two of the investigation; its current focus is on addressing near-term RA compliance issues.

It is also incorrect to say that Staff does not intend to require LSEs to be in a long-term transmission queue to qualify under any of the State Program's transmission waiver conditions. The purpose of Staff's proposal, which clarifies that a single transmission exception applies to an entire two-year compliance period, is to ease concerns about WRAP's monthly transmission exceptions and the potential requirement to be in a long-term transmission queue to receive *repeated* transmission exceptions for a given path. Staff's intent, by clarifying that a single exception applies to a full compliance period,

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46 Calpine Comments, page 2.
47 AR 682 Second Workshop, starting at 21:00.
48 *Id.*

was to eliminate concerns about LSEs having to enter a long-term transmission queue in order to receive multiple exceptions within a single compliance period. Staff does not recommend that the Commission modify the requirements for receiving an initial exception in this rulemaking.

3. Non-Compliance Penalties - Process for Determining Non-Compliance Penalties Under OAR 860-095-0040(11)

Overview

In order to reduce uncertainty about non-compliance penalties while maintaining flexibility in penalty amounts (Staff goal 6), Staff proposes a process to help aid the Commission in determining penalties under OAR 860-095-0040(11). In particular, Staff proposes that when a participant incurs a penalty, Staff will calculate the deficiency charge the participant would receive if it were in WRAP. In most instances, Staff views this as an appropriate maximum penalty for the Commission to consider. Staff will present the WRAP deficiency charge to the Commission along with the following information:

- The number of customers and load served by the participant;
- The participant's current compliance position;
- The participant's compliance history, including previously incurred penalty amounts;
- Progress made by the participant towards curing identified deficiencies;
- The size of WRAP's deficiency charge relative to available financial metrics for the participant, such as annual costs and revenues;
- Penalties incurred by other participants in prior compliance periods; and
- WRAP deficiency charges calculated for other participants in the current compliance period (if applicable).

In addition, Staff proposes that the participant be allowed to provide a written statement and supporting documentation to the Commission with information they view as relevant to the determination of a penalty.

Presenting WRAP deficiency charges to the Commission as a reference point and possible maximum penalty amount is not dissimilar to Staff's initial straw proposal, which set baseline penalties equal to WRAP deficiency charges but left open the possibility of the Commission lowering penalties based on LSEs' unique circumstances. Staff's updated proposal continues to encourage alignment between the State Program and Qualified Regional Program (Staff goal 4), which helps maintain the rigor of the program (Staff goal 1). At the same time, it allows for penalty adjustments that could be used, for example, to acknowledge existing compliance challenges in a targeted manner (Staff goal 7). It also enhances the transparency of the penalty determination

process and specifies a role for State Program participants to help inform that process.

Stakeholder Comments on Non-Compliance Penalties
In its initial comments, PGE recommended non-binding "shadow penalties" for the 2027-2029 State Program compliance process.[49] In its second set of comments, the Company stated its belief that "[d]uring the transitional [2027-2029] period, financial accountability should be equitable across LSE types," and suggested that its "proposed interim Capacity Backstop Charge (CBC) provides one mechanism for creating that prospective accountability."[50] It went on to say that the capacity backstop charge is "not intended to predetermine the Commission's ultimate penalty determination or establish the permanent penalty construct for the State Program."[51]

It is unclear to Staff, based on its comments, whether PGE has a specific penalty recommendation. The Company appears to suggest that the capacity backstop charge serve as a sort of penalty (one that presumably only ESSs would pay), while simultaneously emphasizing the importance of equitable financial accountability across LSE types and preserving the Commission's discretion to determine penalty amounts.

As mentioned, PacifiCorp's primary message in this rulemaking has been that penalties should be waived for all LSEs until a viable regional RA program is in place. It its initial comments, it stated that "penalties should be equitably applied across jurisdictional entities," and argued that "the inconsistent applicability of penalties in Staff's straw proposal could result in increased costs for utility customers."[52] In its second set of comments, the Company stated that "[d]elaying a decision on penalties for investor-owned utilities until Phase II gives utilities little time to prepare for the impacts before the compliance period starts," and that "[u]tilities would likely need to plan for the ceiling price to apply and procure accordingly, if needed."[53] PacifiCorp did not provide a specific penalty recommendation.

Among other stakeholders, NIPPC said it "continues to support the recommendations in its [initial] comments, including a good faith efforts cap on penalties and decoupled treatment of transmission and capacity penalties," a sentiment echoed by Calpine.[54] In its initial comments, NewSun said it "tentatively supports Staff's Proposal 1a reliance on WRAP as a basis for State Program deficiency charges," but that "Staff should consider whether the penalty amounts are sufficiently punitive…."[55] In its second-round

49 PGE Comments, page 2.
50 PGE Comments, page 2.
51 PGE Comments, page 5.
52 PacifiCorp Comments, pages 1 and 2.
53 PacifiCorp Comments, page 1.
54 NIPPC Comments, page 1; Calpine Comments, page 1.
55 NewSun Comments, page 5.

comments, it stated that "[t]he procedural pathway used to establish penalty calculations should be the result of a contested case," and that "penalty calculations must quantify the cost of reliability failings, including economic harm and the loss of life."[56]

Staff reasserts its position that maintaining the current penalty language while also clarifying the penalty determination process strikes a reasonable balance between flexibility and specificity. Staff's proposal reflects the desire expressed by most stakeholders for the Commission to retain discretion in setting penalty amounts while also encouraging alignment with WRAP. It also enhances transparency and specifies a role for State Program participants to help inform the process.

Conclusion

Staff appreciates stakeholders' engagement in a collaborative process to identify rule amendments that clarify the State Program compliance process and address near-term RA compliance challenges. Staff recommends that the Commission move AR 682 to the formal stage by issuing a notice of proposed rulemaking based on the proposed rules outlined in Attachment 1.

PROPOSED COMMISSION MOTION:

Issue a notice of proposed rulemaking to consider adoption of changes to the administrative rules in Division 95 of OAR Chapter 860, which prescribe the filing requirements for provision of Resource Adequacy information, and the filing requirements and binding elements for the Commission-administered Resource Adequacy program.

RM1 – AR 682

[56] NewSun Comments, pages 2 and 3.

Attachment 1 – Proposed Resource Adequacy Rules, Division 95 of OAR Chapter 860

****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.

860-095-0000
Scope and Applicability of Rules

(1) The rules in this division prescribe the filing requirements for provision of Resource Adequacy information, and the filing requirements and binding elements for the Public Utility Commission of Oregon (Commission) - administered Resource Adequacy program.

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

860-095-0010
Definitions for this Division

(1) "Advisory Forecast" means any modeling outputs created by a Qualified Regional Program that are presented but not used as part of the Qualified Regional Program's binding elements.

(2) "Binding Forward Showing" means a filing used by a State Participant to show compliance with the State Program.

(3) "Compliance Resource" means the resource(s) or resource-specific contracts used by a State Participant to meet the load requirements of the Binding Forward Showing.

(4) "Electric Company" has the same meaning as ORS 757.600(11).

(5) "Electricity Service Supplier" has the same meaning as ORS 757.600(16).

(6) "Emissions Planning Report" means a filing made by an Electricity Service Supplier to show compliance with ORS 757.649(1)(f).

(7) "Informational Filing" means a written explanation of a Load Serving Entity's strategy to address Resource Adequacy.

(8) "Integrated Resource Plan" means an Electric Company's written plan to satisfy the requirements of OAR 860-027-0400 and Commission Order Nos. 07-002, 07-047, and

any future orders impacting filing requirements.

(9) “Load Serving Entity” means an Electric Company or Electricity Service Supplier.

(10) “P50 Peak Load Forecast” means a peak load forecast prepared on a basis, such that the actual peak load is statistically expected to be as likely to be above the forecast as it is to be below the forecast.

(11) “Planning Reserve Margin” means an increment of supply needed to meet conditions of high demand in excess of the applicable peak load forecast and other conditions such as higher resource outages, or lower availability of resources, expressed as a percentage of the applicable peak load forecast.

(12) “Qualified Capacity Contribution” means the portion of the nameplate capacity of a compliance resource that can be expected to provide capacity to meet customer demand calculated using a Commission or Qualified Regional Program approved methodology.

(13) “Qualified Parties” means Commission Staff and Oregon Citizens’ Utility Board employees who execute a modified protective order.

(14) “Qualified Regional Program” means a Commission-approved regional reliability planning and compliance program that addresses Resource Adequacy through processes and conditions established in a FERC-approved tariff.

(15) “Regional Forward Showing” means any data, forecasts, or submittals required by a Qualified Regional Program to support planning program compliance by a Regional Participant.

(16) “Regional Participant” means a Load Serving Entity that is a binding participant in or is officially committed to becoming a binding participant in a Qualified Regional Program at least 30 days prior to the Binding Forward Showing filing date of the State Program.

(17) “Resource Adequacy” means the expected ability of a Load Serving Entity to supply aggregate electric power and energy to meet the requirements of their consumers with a sufficient degree of reliability and plan to meet future demand with sufficient supply-side and demand side resource.

(18) “State Participant” means a Load Serving Entity that is not a Regional Participant.

(19) “State Program” means the Resource Adequacy compliance program administered by the Commission applicable to State Participants.

860-095-0020
Electric Company Resource Adequacy Informational Filing Requirements

(1) Electric Companies must provide an Informational Filing to the Commission as a part of their Integrated Resource Plan. The Electric Company's Informational Filing must be included as a chapter to the Integrated Resource Plan that incorporates the Advisory Forecast from a Qualified Regional Program and contains a discussion about how the overall resource strategy interacts with Resource Adequacy concerns.

(2) The Informational Filing for an Electric Company must include:

(a) Qualified Regional Program data as provided by the Regional Participant that was developed for utilization in the Qualified Regional Program's Advisory Forecast and mirrors the number of years of information provided in the Advisory Forecast.

(b) A high-level discussion, not to include confidential information, of the transmission rights necessary to serve P50 load, the transmission rights currently owned or used, the steps that will be taken to procure transmission rights to fill in any open position, and any expected constraints or difficulties in filling any open positions. The information supplied should cover the time period of the two forthcoming Qualified Regional Program operating seasons.

(c) A description of information supplied to produce the Advisory Forecast and explanation of any differences between that information and comparable inputs to the Electric Company's Integrated Resource Plan analysis and associated action plan.

(d) Commercially and Competitively-sensitive information and data provided in the Informational Filing may be redacted or provided only to Qualified Parties.

(3) All outputs of a Qualified Regional Program's most recent Advisory Forecast must be included with the Informational Filing. These may be included in the Informational Filing or as an Appendix chapter to the Integrated Resource Plan.

(4) A Regional Participant's most recent Regional Forward Showing submission to its Qualified Regional Program must be made available to Qualified Parties upon request pursuant to a Modified Protected Order.

860-095-0030
Electricity Service Supplier Resource Adequacy Informational Filing Requirements

(1) Electricity Service Suppliers must submit an Informational Filing with the Commission every other year.

(a) The Informational Filing may be filed as a part of the Emissions Planning Report filing.

(b) The Informational Filing must contain a discussion about how the overall resource strategy interacts with Resource Adequacy concerns.

(2) The Informational Filing for an Electricity Service Supplier must include:

(a) A monthly P50 Peak Load Forecast and Effective Load Carrying Capability curve over a period of the greater of four years or the longest available timeline from a Qualified Regional Program using methods consistent with outputs of the Qualified Regional Program's Advisory Forecast.

(b) A discussion covering at least four years of the transmission rights necessary to serve P50 load, the transmission rights currently owned or used, the steps that will be taken to procure transmission rights to fill in any open position, and any expected constraints or difficulties in filling any open positions.

(3) All publicly available outputs of a Qualified Regional Program's most recent Advisory Forecast must be included with the Informational Filing. These may be included as an appendix chapter.

(4) Availability of Information:

(a) A Regional Participant's most recent Regional Forward Showing submission to its Qualified Regional Program must be made available for review only to Qualified Parties and only upon request pursuant to a Modified Protective Order.

(b) The following information shall be available for review only by Non-market Participants that have executed a Modified Protective Order:

(A) A discussion about how the overall resource strategy interacts with Resource Adequacy concerns, as required by section (1)(b)of this rule;

(B) A monthly P50 Peak Load Forecast and Effective Load Carrying Capability curve, as required by section (2)(a) of this rule; and

(C) A discussion covering at least four years of the transmission rights necessary to serve P50 load, the transmission rights currently owned or used, the steps that will be taken to procure transmission rights to fill in any open position, and any expected constraints or difficulties in filling any open positions, as required by section (2)(b) of this rule.

(c) For purposes of this rule, Non-market Participants includes Commission Staff, the Oregon Citizens' Utility Board, and nonprofit organizations engaged in environmental advocacy that do not otherwise participate in electricity markets.

(5) As part of the forecast of monthly P50 Peak Load Forecast and monthly forecast of transmission requirements, an Electricity Service Supplier must use current load levels

or provide reasonable substitutes of the load forecast. An Electricity Service Supplier is responsible for demonstrating that the substitute load forecast is reasonable.

860-095-0040
State Program Requirements

(1) Any Electric Company or Electricity Service Supplier that is not a Regional Participant must comply with the State Program requirements.

(2) State Participants must file a Binding Forward Showing with the Commission for approval no later than April 1 of every odd-numbered year. A State Participant's initial Binding Forward Showing must be filed no later than April 1, 2025.

(3) State Participants must use a 1 event-day in 10-year Loss of Load Expectation standard when submitting their Binding Forward Showing.

(4) State Participants must use a Planning Reserve Margin and Qualified Capacity Contribution consistent with a Qualified Regional Program or other Commission-approved methodology.

(5) The Commission Staff and Parties should complete its compliance review for each State Participant within 90 days of filing the Binding Forward Showing. A State Participant's Binding Forward Showing submission to the Commission will be available for review only by Qualified Parties and only upon request pursuant to a Modified Protective Order.

(6) A State Participant shall provide its monthly P50 Peak Load Forecast for the two-year period beginning July 1 of the filing year as part of their Binding Forward Showing.

(7) A State Participant must demonstrate that its Compliance Resources meet 95 percent of its monthly forecasted P50 load for twelve months beginning July 1 of the filing year and 80 percent of the monthly forecasted P50 load for the following twelve months plus a Planning Reserve Margin each month. A State Participant is not bound to meet its load with its Compliance Resources in actual operations.

(8) As part of the forecast of monthly P50 Peak Load Forecast and monthly forecast of transmission requirements, an Electricity Service Supplier must use current load levels or provide reasonable substitutes of the load forecast. An Electricity Service Supplier is responsible for demonstrating that the substitute load forecast is reasonable.

(9) A State Participant must demonstrate that it has NERC Priority 6 or NERC Priority 7 firm point-to-point transmission service or network integration transmission service rights to deliver 75 percent of the Compliance Resources from generation source to load sink. A State Participant may request a waiver of a portion of the transmission requirement if it can demonstrate that at least one of the following conditions applies:

(a) The State Participant is experiencing enduring transmission constraints;

(b) Future firm Available Transfer Capability is expected;

(c) An applicable portion of the State Participant's existing transmission service rights is expected to be derated or out-of-service; or

(d) Expected counterflow directly between two balancing authority areas from another entity supports the State Participant's transmission of energy from generation source to load sink. This counterflow cannot already be offsetting transmission of energy for another State Participant or Regional Participant. The State Participant requesting the exception shall include a written acknowledgement from the other entity that it is aware of such an exception request.

(e) Following the first two-year compliance period in which a State Participant uses waiver condition (9)(a) or (9)(b), the State Participant cannot use waiver condition (9)(a) or (9)(b) for the same path for consecutive compliance periods if the Qualified Regional Program would preclude use of such subsequent waiver.

(10) If the Commission deems that a State Participant's Binding Forward Showing does not meet the criteria for approval, the Commission shall identify deficiencies and give the State Participant 60 days to remedy their Binding Forward Showing to meet the criteria for approval.

(11) A State Participant whose plan is not approved 60 days after the Commission identified deficiencies shall be subject to an appropriate penalty as determined by the Commission.