

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING\***  
 A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission	860
Agency and Division	Administrative Rules Chapter Number
Diane Davis	(503) 378-4372
Rules Coordinator	Telephone

PO Box 2148, Salem, OR 97308

Address

**RULE CAPTION**

In the Matter of Corrections to OAR 860-039-0005.

**Not more than 15 words that reasonably identify the subject matter of the agency's intended action.**

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing  
**ADOPT:**

**AMEND:** 860-039-0005

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

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

Other Auth.:

Stats. Implemented: ORS 756.040 & 757.300

**RULE SUMMARY**


The Commission adopted changes to the definitions found in OAR 860-039-0005 by Order No. 11-338 (Docket AR 548). The rule changes adopted in AR 548 were filed with the Secretary of State and became effective on September 7, 2011. On September 8, 2011, the Commission adopted general waiver provisions to nearly all divisions of its rules by Order No. 11-346 (Docket AR 554). When the proposed rules for AR 554 were drafted, the changes to OAR 860-039-0005 had not yet been adopted and were not reflected in the proposed rules. When the Commission adopted the AR 554 changes, due to a scrivener error, it failed to capture in the adopted rule language the definition changes adopted on the previous day. This rulemaking proposes to reinstate the changes to the definitions that were previously adopted by the Commission but inadvertently removed by the subsequent adoption of changes in AR 554.

The Commission encourages participants to file written comments as early as practicable in the proceeding so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 562 on comments and file them by e-mail to the Commission's Filing Center at [PUC.FilingCenter@state.or.us](mailto:PUC.FilingCenter@state.or.us) and also send a signed hard copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online by querying AR 562 the Commission's eDockets search page at <http://apps.puc.state.or.us/edockets/search.asp>.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

January 23, 2012, Close of business

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

	Diane Davis	<a href="mailto:diane.davis@state.or.us">diane.davis@state.or.us</a>	11/18/11
Signature	Printed name	Email address	Date Filed

\*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Corrections to OAR 860-039-0005

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Corrections to OAR 860-039-0005

Statutory Authority: ORS Ch. 183, 756 &amp; 757

Other Authority:

Stats. Implemented: ORS 756.040 &amp; 757.300

Need for the Rule(s):

This rule change reinstates language inadvertently changed.

Documents Relied Upon, and where they are available:

Order No. 11-338 found online at <http://apps.puc.state.or.us/orders/2011ords/11-338.pdf>

Fiscal and Economic Impact:

There is not an anticipated negative fiscal or economic impact. This rulemaking corrects an inadvertent scrivener's error. Any fiscal and economic impact resulted from changes adopted in a previous rulemaking docket (AR 548).

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

There is not an economic or human resource impact to state agencies, units of local government or the public as a result of this rule change.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Retail suppliers of qualifying generating equipment and retail customers of utilities who might buy such equipment are subject to the rule. There are a few dozen such suppliers.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

This correction does not impact reporting, recordkeeping or other administrative activities required for compliance.

c. Equipment, supplies, labor and increased administration required for compliance:

This correction does not impact the equipment, supplies, labor, or administration required for compliance.

How were small businesses involved in the development of this rule?

This rule change corrects only a scrivener error; therefore, small businesses were not involved in the development of this rule change. Several small businesses participated in the AR 548 docket in which the rule changes were originally adopted.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

This proposed change corrects a scrivener error.

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<i>Diane Davis</i>	Diane Davis	<a href="mailto:diane.davis@state.or.us">diane.davis@state.or.us</a>	11/18/11
Signature	Printed name	Email Address	Date Filed

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

**860-039-0005**

**Scope and Applicability of Net Metering Facility Rules**

(1) OAR 860-039-0010 through 860-039-0080 (the "net metering rules") establish rules governing net metering facilities interconnecting to a public utility as required under ORS 757.300. Net metering is available to a customer-generator only as provided in these rules. These rules do not apply to a public utility that meets the requirements of ORS 757.300(9).

(2) Upon request or its own motion, the Commission may waive any of the Division 039 rule for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

(a) A public utility and net metering applicant may mutually agree to reasonable extensions to the required times for notices and submissions of information set forth in these rules for the purpose of allowing efficient and complete review of a net metering application.

(b) If a public utility unilaterally seeks waiver of the timelines set forth in these rules, the Commission must consider the number of pending applications for interconnection review and the type of applications, including review level and facility size.

(3) As used in OAR 860-039-0010 through 860-039-0080:

(a) "ANSI C12.1 standards" means the standards prescribed by the 2001 edition of the American National Standards Institute, Committee C12.1 (ANSI C12.1), entitled "American National Standard for Electric Meters - Code for Electricity Metering," approved by the C12.1 Accredited Standard Committee on July 9, 2001.

(b) "Applicant" means a person who has filed an application to interconnect a net metering facility to an electric distribution system.

(c) "Area network" means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit in order to provide high reliability of service. This term has the same meaning as the term "secondary grid network" as defined in IEEE standard 1547 Section 4.1.4 (published July 2003).

**(d) "Contiguous" means a single area of land that is 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) are not considered contiguous.**

**(de) "Customer-generator" means a customer-generator as defined in ORS 757.300(1)(a) the person who is the user of a net metering facility and who has applied for and been accepted to receive electricity service at a premises from the serving public utility.**

**(ef)** "Electric distribution system" means that portion of an electric system which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises.

**(fg)** "Equipment package" means a group of components connecting an electric generator with an electric distribution system, and includes all interface equipment including switchgear, inverters, or other interface devices. An equipment package may include an integrated generator or electric production source.

**(gh)** "Fault current" means electrical current that flows through a circuit and is produced by an electrical fault, such as to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase.

**(hi)** "Generation capacity" means the nameplate capacity of the power generating device(s). Generation capacity does not include the effects caused by inefficiencies of power conversion or plant parasitic loads.

**(ij)** "Good utility practice" means a practice, method, policy, or action engaged in or accepted by a significant portion of the electric industry in a region, which a reasonable utility official would expect, in light of the facts reasonably discernable at the time, to accomplish the desired result reliably, safely and expeditiously.

**(jk)** "IEEE standards" means the standards published in the 2003 edition of the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, entitled "Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 12, 2003, and in the 2005 edition of the IEEE Standard 1547.1, entitled "IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 9, 2005.

**(kl)** "Impact study" means an engineering analysis of the probable impact of a net metering facility on the safety and reliability of the public utility's electric distribution system.

**(lm)** "Interconnection agreement" means an agreement between a customer-generator and a public utility, which governs the connection of the net metering facility to the electric distribution system, as well as the ongoing operation of the net metering facility after it is connected to the system. An interconnection agreement will follow the standard form agreement developed by the public utility and filed with the Commission.

**(mn)** "Interconnection facilities study" means a study conducted by a utility for the customer-generator that determines the additional or upgraded distribution system facilities, the cost of those facilities, and the time schedule required to interconnect the net metering facility to the utility's distribution system.

**(no)** "Net metering facility" means a net metering facility as defined in ORS 757.300(1)(d).

**(op)** "Non-residential customer" means a retail electricity consumer that is not a residential customer, except "non-residential customer" does not include a customer who would be a residential customer but for the residency provisions of subsection (r) of this rule.

**(pq)** "Point of common coupling" means the point beyond the customer-generator's meter where the customer-generator facility connects with the electric distribution system.

**(qr)** "Public utility" has the meaning set forth in ORS 757.005 and is limited to a public utility that provides electric service.

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

**(st)** "Spot network" means a type of electric distribution system that uses two or more inter-tied transformers protected by network protectors to supply an electrical network

circuit. A spot network may be used to supply power to a single customer or a small group of customers.

**(u)** "Written notice" means a required notice sent by the utility via electronic mail if the customer-generator has provided an electronic mail address. If the customer-generator has not provided an electronic mail address, or has requested in writing to be notified by United States mail, or if the utility elects to provide notice by United States mail, then written notices from the utility shall be sent via First Class United States mail. The utility shall be deemed to have fulfilled its duty to respond under these rules on the day it sends the customer-generator notice via electronic mail or deposits such notice in First Class mail. The customer-generator shall be responsible for informing the utility of any changes to its notification address.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.300

Hist.: PUC 8-2007, f. & ef. 7-27-07 (Order No. 07-319); PUC 5-2011, f. & ef. 9-7-11 (Order No. 11-338); PUC 6-2011, f. & cert. ef. 9-14-11 (Order No. 11-346)