

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 651

In the Matter of

OREGON PUBLIC UTILITY
COMMISSION,

Rulemaking Regarding Direct Access
Including 2021 HB 2021 Requirements.

STAFF COMMENTS ON NOTICE
OF PROPOSED RULEMAKING

The Public Utility Commission of Oregon Staff (Staff) files these comments in Docket No. AR 651, Rulemaking Regarding Direct Access Including 2021 HB 2021 Requirements. These comments address aspects of the Notice of Proposed Rulemaking in the docket as well as the most recent stakeholder engagement focusing on provider of last resort and preferential curtailment at the rulemaking hearing on April 4, 2023. Additionally, these comments propose which topics should be prioritized in the upcoming contested case process in Docket No. UM 2024. For reference, Attachment A of these comments provides the Notice of Proposed Rulemaking from February 24, 2023.

Returning Consumer Charges - 860-038-0290(11) and 860-038-0290(14)

During the April 4, 2023, rulemaking hearing, multiple stakeholders expressed that the language in 860-038-0290 subsections (11) and (14) was unclear. Parties felt that the rule offered two options to serve returning customers (utility supply or market supply) but appeared to specify that the customer would be charged the market rate regardless of supply type. Parties also highlighted that some of the rules' phrasing should be clearer. Staff intended for the rules to ensure that cost-of-service (COS) customers do not lose the benefits of selling utility generation into the market should the returning customer be served with utility supply. Additionally, the rule should not prevent the utility from using market supply if it is a lower price alternative to the utility's generation and capacity. Staff hopes to clarify that a customer that is supplied with utility generation is charged the higher market price at which the generation could have been sold. However, the rule should not force the utility to charge the customer for generation and capacity if there is market supply at a lower cost. Staff proposes the following edits to clarify the rule language and ensure it reflects Staff's intentions.

(11) If a returning preferentially curtailable consumer is served with Uncommitted Supply, the consumer will be charged ~~the greater~~ of the incremental capacity and

energy costs or a Commission-approved market rate ~~the retail energy market costs~~ required to serve on less than the required notice of return in the electric company's direct access program tariff. If the market rate is greater than the incremental cost of the electric company's capacity and energy supplied to the consumer, the consumer will be charged the market rate.

(14) If a non-curtable consumer returns to the electric company's service without the required notice of return under an electric company's direct access program tariff, the electric company shall charge the non-curtable consumer ~~the greater of the incremental capacity and energy costs or a Commission-approved market rate~~ the retail energy market costs required to serve on less than the required notice of return. If the market rate is greater than the incremental cost of the electric company's capacity and energy supplied to the consumer, the consumer will be charged the market rate.

Staff has replaced 'tgvckl'gpgti {'o ctngv'equu' with -e'Eqo o kulkqp-crrtqxf 'o ctngv'tcvø for clarity and to account for any differences in the indices and exchanges each electric company includes in a market supply option.

Contested Case Issues in UM 2024

The following issues will be further explored in the contested case in UM 2024. Staff believes that these issues require fact-finding and additional detail that would be over-prescriptive to include in rules. Staff also believes that prioritizing certain topics first will inform deliberations for later topics, primarily, the issue of caps on Direct Access Programs. The following issues are listed in the order that Staff recommends they are addressed in UM 2024.

1. F ghlpki 'ōkōlgcukldk{ō'qñEwtvckō gpv and Limitations on Utility Liability

Representatives of Portland General Electric (PGE) and PacifiCorp (PAC) recommend defining what classifies a customer load as infeasible to curtail.¹ PGE continues to request that critical facilities, such as hospitals, be considered in that definition.² Staff believes that the requirements for a customer to be curtable will need to be verified in contested case findings. Staff does not disagree that a size threshold and time limit to curtail a customer are likely parameters in this definition, but those requirements should be fact-based and not limit a customer's access to preferential curtailment without legitimate reason. Regarding critical facilities, Staff has previously supported allowing such customers to opt for preferential curtailment provided that these facilities have backup generation and/or other emergency preparedness procedures in place. Depending on the findings in UM 2024, Staff maintains that a waiver process for customers could be useful in some circumstances. For example, a customer that does not meet some of the criteria to be curtable could demonstrate through a waiver that they have additional resiliency measures in place, such as backup generation. This type of waiver could be extended to certain critical facilities to mitigate risk or liability associated with their curtailment. Staff recommends

¹ PacifiCorp's Comments for the Commission's April 4, 2023 Workshop at 2. (March 31, 2023).

² PGE Comments on Direct Access Rulemaking at 6. (March 31, 2023).

that the criteria and process for determining feasibility of curtailment should ultimately be described through utility tariffs.

Additionally, defining when an electric company has made “best efforts to serve” a returning customer should be addressed early in the contested case. These requirements can help guide the development of utility tariffs and provides a baseline for utility obligations when making other contested case determinations related to the preferential curtailment framework.

2. Identifying Curtailment Infrastructure Costs

A method for identifying the costs a preferentially curtailable customer will incur for system upgrades should be prioritized early in the contested case. Customers will require an estimate of such costs to make their curtailment election, and an understanding of the range of costs may help inform other contested case deliberations. The scale of upgrades could impact customers’ motivations, which could inform the level of space that remains under a potential cap or the number of elections during initial election windows.

3. Caps on Direct Access and Other Issues

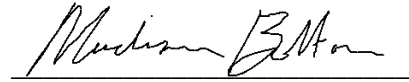
Staff believes that determinations regarding caps on Direct Access load will be better informed after resolving the issues discussed previously in these comments. Understanding which customers can and cannot be curtailed allows for a cap on non-curtaillable load to be more accurate. Without knowing which customers qualify for curtailment, it is possible the cap could be set too low or too high, either creating unnecessary limitation or inadequate mitigation of the risks associated with electric service supplier (ESS) default. While Staff is not proposing any recommendations on caps for overall Direct Access load in these comments, understanding the requirements for preferential curtailment can inform those deliberations as well.

Staff believes that the time period for a customer to return to an ESS or remain on default supply, as outlined in 860-038-0290(15), should also be determined later in the contested case. This time period will need to be set based on what a Direct Access customer will consider at that time, including space under a cap on non-curtaillable load, curtailment elections, and the costs of becoming preferentially curtaillable. These considerations should be fully identified prior to setting the time frame in subsection (15).

Lastly, these comments have not addressed any other potential contested issues stemming from the Chapter 860, Division 038 rules, such as determining a list of non-bypassable charges. Staff believes these issues can be addressed after the preferential curtailment topics have been resolved, as they do not directly inform arguments regarding caps, provider of last resort, and risk mitigation of returning customers. Staff will provide additional scoping recommendations for these issues as AR 651 continues to be finalized.

This concludes Staff's comments.

Dated this 25th day of April, 2023.

A handwritten signature in black ink, appearing to read "Madison Bolton", written over a horizontal line.

Madison Bolton
Senior Energy and Policy Analyst
Strategy & Integration
503-508-0722

ATTACHMENT A: Notice of Proposed Rulemaking

OFFICE OF THE SECRETARY OF STATE
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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860
PUBLIC UTILITY COMMISSION

FILED

02/24/2023 4:51 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Direct Access Rulemaking (AR 651)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/25/2023 4:00 PM

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

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PO Box 1088
Salem, OR 97302

Filed By:
Diane Davis
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 04/04/2023

TIME: 1:30 PM

OFFICER: Christopher J. Allwein

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-254-5252

CONFERENCE ID: 1605134000

NEED FOR THE RULE(S)

These rules are needed to assist with implementation of House Bill (HB) 2021 (2021) sections 5, 14, and 25 as well as to update the rules for Direct Access (DA). Updates include housekeeping measures, word changes for clarification and the elimination of redundancies. The proposed rules outline the criteria for charges that cannot be bypassed by taking DA service, require disclosures of emissions information for ESSs, direct utilities to implement preferential curtailment in certain emergency default service scenarios, and codifies the requirements for ESS emissions planning reports addressed in HB 2021 now Oregon Laws 2021, Chapter 508.

Any person may file comments by April 25, 2023. The Commission encourages participants to file written comments concerning the proposed rule revisions as early as practicable in the proceeding so that other participants can consider and respond to the comments before the deadline.

Participants who present oral comment at the April 4, 2023, hearing will be asked to also submit written comments before the comment period closes on April 25, 2023.

Please reference Docket No. AR 651 on comments and attach them as a Word or pdf file to an e-mail to the Commission's Filing Center at PUC.FilingCenter@puc.oregon.gov.

Interested persons may review all filings online at <https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=23063>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and OAR 860-001-0200 through 860-001-0250 found online at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 2021 (Oregon Laws 2021, Chapter 508) available online at https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2021orlaw0508.pdf

ALJ Christopher J. Allwein's Memorandum available online at <https://edocs.puc.state.or.us/efdocs/HDA/um2024hda165613.pdf>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rules are expected to have little to no direct impact on racial equity in the state of Oregon and only apply to Direct Access. Indirectly, allowing large utility customers with high energy demand to shop for direct access to energy supplies may assist certain customers to remain or become more competitive in a global economy, and thus facilitate job retention and economic growth and the potential alleviation of some economic inequity exacerbating racial inequity.

FISCAL AND ECONOMIC IMPACT:

Staff time will need to be dedicated to the implementation of the rules, but the Commission anticipates that no additional FTE will be required. The Commission does not anticipate that these rules will impose costs on other state agencies.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) It is unlikely that agencies and units of local government will be impacted, however, Energy Service Suppliers (ESS) will be impacted to the extent that they are required to provide additional reporting. The rules apply to Electric Utilities and Electricity Service Suppliers who serve Direct Access customers whose relatively high energy demand is indicative of larger businesses.

(2)(a) Small businesses are unlikely to be impacted by the rules.

(b) Small businesses are unlikely to be impacted by the rules.

(c) Small businesses are unlikely to be impacted by the rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not specifically targeted during the rule development process. PUC stakeholders from the UM 2024 service list were invited to participate in all informal processes for the AR 651 rulemaking.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

These rules adopt in part the requirements of HB 2021 and provide additional detail around requirements for Direct Access in Oregon. PUC Staff held workshops and rounds of written comments with stakeholders prior to opening this

formal stage of rulemaking.

RULES PROPOSED:

860-038-0005, 860-038-0170, 860-038-0290, 860-038-0300, 860-038-0405, 860-038-0590, 860-038-0740

AMEND: 860-038-0005

RULE SUMMARY: This rule adds a definition for "Preferential Curtailment," deletes unnecessary definitions, arranges the definitions alphabetically, and renumbers the rule provisions.

CHANGES TO RULE:

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) "Portfolio Options Committee" means a group appointed by the Commission, consisting of representatives from Commission Staff, the Oregon Department 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 operations" means any electric company's activities involving the sale or marketing of electricity services or directly related products in an Oregon retail market. Competitive operations include, but are not limited to, the following:¶¶

(a) Energy efficiency audits and programs;¶¶

(b) Sales, installation, management, and maintenance of electrical equipment that is used to provide generation, transmission, and distribution related services or enhances the reliability of such services; and¶¶

(c) Energy management services, including those services related to electricity metering and billing. Services or products provided by the electric company as part of its electric service to its non-direct access customers within its allocated service territory, or transmission and distribution services to its direct access customers are not competitive operations.¶¶

(9) "Constructing and operating," as used in ORS 757.612(3)(b)(B), means constructing, or operating, or both.¶¶

(a) As used in ORS 757.612(3)(b)(B), "constructing" includes the following activities:¶¶

(A) Pre-development project studies, activities or costs that are related to the planned development of a new renewable energy resource that a developer or owner would reasonably expect to incur; and¶¶

(B) Activities or costs directly related to the building of a new renewable energy resource.¶¶

(b) As used in ORS 757.612(3)(b)(B), "operating" includes the activities and costs necessary for a new renewable energy resource to function and to be maintained in good working order.¶¶

(10) "Consumer-owned utility" means a municipal electric utility, a people's utility district, or an electric cooperative.¶¶

(11) "Cost-of-service consumer" means a retail electricity consumer who is eligible for a cost-of-service rate under ORS 757.603.¶¶

(12) "Default supplier" means an electric company that has a legal obligation to provide electricity services to a

consumer, as determined by the Commission.¶

(135) "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.¶

(146) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.¶

(15) "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.¶

(16) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.¶

(17) "Divestiture" means the sale of all or a portion of an electric company's ownership share of a generation asset to a third party.¶

(187) "Economic utility investment" means all Oregon allocated investments made by an electric company that 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 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.¶

(19) "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.¶

(208) "Electric company operational information" means information obtained by an electric company as part of its provision of services or products, as long as such products or services are not defined as "competitive operations." Such information includes, but is not limited to, data 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, processes, operations, or plans or strategies for expansion.¶

(21) "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.¶

(22) "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.¶

(23) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity, measured in kilowatts, or both.¶

(24) "Electricity services" means electricity distribution, transmission, generation, or generation-related services.¶

(259) "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.¶

(2610) "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.¶

(2711) "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.¶

(128) "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.¶

(2913) "Joint marketing" means the offering (including marketing, promotion, 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 Oregon affiliate, or through contact initiated by the consumer.¶

(3014) "Large nonresidential consumer" means a nonresidential consumer whose kW demand at any point of delivery is greater than 30 kW during any two months within a prior 13-month period.¶

(31) "Load" means the amount of electricity delivered to or required by a retail electricity consumer at a specific point of delivery.¶

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

(33) "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.¶

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

(315) "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.¶

(316) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.¶

(37) "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.¶

(38) "New renewable energy resource," as used in ORS 757.612(3)(b)(B), has the meaning provided in 757.600(2) and references a specifically identified project that has, or is planned to have after construction, a nominal electric generating capacity, as defined in 469.300, of 20 megawatts or less.¶

(3917) "Non-energy attributes" means the environmental, economic, and social benefits of generation from renewable energy facilities. These attributes are normally transacted in the form of Tradable Renewable Certificates.¶

(40) "Nonresidential consumer" means a retail electricity consumer who is not a residential consumer.¶

(418) "Ongoing valuation" means the process of determining transition costs or benefits for a generation asset by comparing the value of the asset output at projected market prices for a defined period to an estimate of the revenue requirement of the asset for the same time period.¶

(4219) "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.¶

(4320) "One average megawatt" means 8,760,000 kilowatt-hours (8,784,000 in a leap year) of electricity per twelve consecutive month period.¶

(44) "Oregon affiliate" means an affiliate engaged in the sale or marketing of electricity services or directly related products in an Oregon retail market.¶

(4521) "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.¶

(4622) "People's utility district" has the meaning given that term in ORS 261.010. Non-bypassable Charges" are costs that are directed by the legislature to be recovered by all customers or charges that retail consumers served by electricity service suppliers otherwise may avoid by obtaining electric power through direct access that are determined by the Commission to be appropriate for recovery from all customers.¶

(4723) "Portfolio" means a set of product and pricing options for electricity.¶

(4824) "Portfolio Options Committee" means a group appointed by the Commission, consisting of representatives from Commission Staff, the Oregon Department 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.¶

(25) "Preferential Curtailment" refers to the electric company's obligation to curtail eligible direct access consumers that return to the electric company service without providing the electric company with the full period of notice required by the electric company's direct access program tariff. The electric company must curtail such consumers as necessary to protect cost-of-service customers from the impacts of the returning consumer's unplanned load.¶

(26) "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.¶

(4927) "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 Oregon Department of Energy may establish by rule a limit on the maximum above-market cost for renewable energy that is allowed as a credit.¶

(5028) "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 Section but is not the subject of a formal complaint.¶

(51) "Regulated charges" means charges for services subject to the jurisdiction of the Commission.¶

(52) "Regulatory assets" means assets that result from rate actions of regulatory agencies.¶

~~(5329)~~ "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.¶

~~(5430)~~ "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.¶

~~(5531)~~ "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 utility on or after July 23, 1999, whether or not each end user purchases the electricity from the electric utility. 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.¶

~~(5632)~~ "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 Oregon Department 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.¶

~~(57)~~ "Serious injury to person" has the meaning given in OAR 860-024-0050.¶

~~(58)~~ "Serious injury to property" has the meaning given in OAR 860-024-0050.¶

~~(5933)~~ "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.¶

~~(60)~~ "Small nonresidential consumer" means a nonresidential consumer that is not a large nonresidential consumer.¶

~~(61)~~ "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.¶

~~(6234)~~ "Structural separation" means separating the electric company's assets by transferring assets to an affiliated interest of the electric company.¶

~~(635)~~ "Total transition amount" means the sum of an electric company's transition costs and transition benefits.¶

~~(364)~~ "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.¶

~~(6537)~~ "Transition benefits" means the value of the below-market costs of an economic utility investment.¶

~~(6638)~~ "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic utility investment.¶

~~(6739)~~ "Transition costs" means the value of the above-market costs of an uneconomic utility investment.¶

~~(6840)~~ "Transition credit" means a credit that returns to consumers all or a portion of the benefits from an economic utility investment.¶

~~(6941)~~ "Transmission grid" means the interconnected electrical system that transmits energy from generating sources to distribution systems and direct service industries. Unbundling means the process of assigning and allocating a utility's costs into functional categories.¶

~~(42)~~ "Uncommitted Supply" is generation reasonably available to the electric company in the market or through the electric company's own resources. Uncommitted Supply excludes any generation needed to meet the electric company's firm load service obligations, anticipated near-term load obligations, contractual obligations, and

federal reliability standards.¶

(7043) "Unbundling" means the process of assigning and allocating a utility's costs into functional categories.¶

(71) "Economic Cost of Implementing a Public Policy Goal" means the difference between the cost of implementing the public policy goal and the regulated costs that are avoided as a result of implementing the public policy goal.¶

(44) "Uneconomic utility investment" means all Oregon allocated investments made by an electric company that 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 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.¶

(7245) "Unspecified Market Purchase 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 Oregon Department of Energy.

Statutory/Other Authority: ORS 183, ~~756~~, ORS 756, ORS 757

Statutes/Other Implemented: ORS 756.040, ~~ORS~~ 757.600 - 757.667

ADOPT: 860-038-0170

RULE SUMMARY: This rule articulates criteria used in Commission determinations on whether a charge should not be able to be bypassed as a result of taking Direct Access service.

CHANGES TO RULE:

860-038-0170

Non-bypassable Charges

(1) In determining whether a cost is appropriate for recovery as a non-bypassable charge, the Commission shall consider the following factors:

(a) whether it is required by statute;

(b) whether it is an uneconomic cost of implementing a public policy goal such as those identified in ORS 469A.465 or similar public policy goals related to reliability, equity, decarbonization, resiliency or other public interest for which retail consumers served by electricity service suppliers otherwise would not meaningfully contribute;

(c) whether or not it confers a demonstrable electric system benefit on some customers over others;

(d) whether it is in the public interest;

(e) whether it is necessary to be non-bypassable under the Commission's discretion in order to establish fair, just and reasonable rates and prevent unwarranted cost shifting.

(2) All retail electricity consumers served by Direct Access are responsible for paying Non-bypassable Charges as determined by the Commission.

Statutory/Other Authority: ORS 183, ORS 756, ORS 757

Statutes/Other Implemented: ORS 756.040, ORS 757.600-757.667

