

****NOT FOR PUBLICATION****

The following draft administrative rules have been prepared as a working draft for purposes of discussion. 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.

Chapter 860

Public Utility Commission

860-025-0030

Petitions for Certificate of Public Convenience and Necessity (CPCN) for Construction of Overhead Transmission Lines

(1) Petitions under ORS 758.015, for a certificate of public convenience and necessity to construct an overhead transmission line, which will necessitate a condemnation of land or an interest therein, must be filed in accordance with OAR 860-001-0170, shall contain the following information:

(2) Petitions under ORS 758.015 must contain the following information:

(a) The information required under ~~OAR 860-025-0005~~ ORS 758.015 and the additional information set forth in this rule.

(b) A thorough detailed description and the purpose of the information listed in subsection (c) of this rule, including but not limited to the proposed transmission line which shall include but not be limited to a general description of the proposed route, voltage and capacity of the line. The project description should be in must include a comprehensive narrative that provides sufficient detail to enable a full understanding of the public convenience, necessity and justification in the public interest for the proposed transmission line and the benefits to be derived therefrom, and to enable a determination of its safety and practicability under normal and emergency conditions, as well as the foreseeable or potential consequences of not building the proposed transmission line.

(c) Petitioner's comprehensive narrative of the transmission line project must be accompanied by a A map or maps that are drawn to appropriate scale showing the general location and boundaries of petitioner's service area to be connected or served by the proposed transmission line and that utilize show by appropriate distinguishing colors and symbols, ~~but not limited~~ to depict the following information:

(A) A general location and boundaries of petitioner's service area to be connected or served by the proposed transmission line.

(B) Proposed route, voltage, and capacity of the proposed transmission line.

(C) Available alternate transmission line routes analyzed by petitioner, if any.

(D) Other transmission lines and substations of petitioner connecting, serving, or capable of being adopted to connect or serve the areas covered by the proposed transmission line, if any.

(E) The terminals, substations, sources of energy, and load centers, existing or proposed, related to the proposed transmission line and its intended operation, including the proposed transmission line itself.

(F) Each parcel of land or interest therein that the petitioner has either acquired or must acquire to construct and operate the transmission line and to be condemned.

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(d) An estimate of the cost of developing the transmission line project including:

(A) Land and interests in land for which condemnation may be necessary.

(B) Other land and interests in land-rights acquired or to be acquired.

(C) Transmission facilities, including but not limited to, poles, lines, substations, accessory and miscellaneous labor, plant, and equipment inclusive of any communication apparatus and environmental mitigations.

~~(D) Substation, accessor and miscellaneous labor, plant and equipment.~~

~~(E)~~ Indirect and overhead costs including engineering, legal expenses, taxes, interest during construction, and itemized administrative and general expenses.

~~(F)~~ Any other costs, direct or indirect, relating to the transmission line project.

~~(G)~~ Such ~~e~~Explanation of the foregoing various-cost estimates as needed to enable a full understanding of their basis and derivation.

(e) An explanation of the financial feasibility of the proposed transmission line, including the kind, nature, extent, and estimated growth of the energy requirements or reasonably anticipated need, load or demand, ~~for~~ as relevant to the proposed transmission line.

(f) A description of the property and interests ~~to be condemned,~~ for which condemnation is necessary at the time of the petition, a full explanation of the intended use, and the specific necessity and convenience for the ~~taking of said property:~~

(A) Petitioner must include ~~A a map must be included~~ whereon the ~~land to be condemned~~ parcels of land and any interests therein that petitioner must still acquire is clearly marked, and the general contour, ~~uses~~ culture, and improvements along that portion of the proposed route are clearly shown, inclusive of structures and agricultural uses.

(B) Petitioner must provide ~~the~~ names and addresses of all persons who have interests, known or of record, in the land to be affected or traversed by the proposed route from whom ~~applicant~~ petitioner has not acquired the necessary interest, rights of way or option therefor. Petitioner must include with the petition a certificate of service verifying that notice of the petition has been mailed to said persons.

(g) A statement and explanation with supporting data comparable to that described in subsections (d) and (e) of this section for possible alternative routes analyzed by petitioner.

(h) Such additional information as may be needed for a full understanding of the ~~situation~~ petition.

~~(i) Such information and supporting data needed for the Commission to satisfy the land use findings requirement described in sections (2), (3), and (4) of this rule.~~ A summary of petitioner's plan to

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ensure compliance with applicable Commission rules, including but not limited to OAR Chapter 860, Division 24, and other safety standards for the safe construction, operation and maintenance of the transmission line. Petitioner must include a certificate executed by an authorized representative of petitioner affirming that it will adhere to the applicable Commission rules and other applicable safety standards for construction operation and maintenance of the transmission line. The representative's certificate must be a sworn statement under ORS 162.055 attesting to the truth of the certification.

(j) A rate impact analysis. At a minimum, petitioner's analysis must show any projected increase, if any, in petitioner's total revenues that will be necessary if petitioner constructs and operates the transmission line. Petitioner's analysis must include but is not limited to associated capital costs and operating and maintenance costs of the project. Petitioner must also include an estimate of petitioner's overall annual revenue requirement, with and without the proposed transmission line, identifying material assumptions. Petitioner must also include a projected average monthly bill increase for its customers in each Oregon customer class that may experience a rate increase, given the estimated revenue requirement. A rate impact analysis provided under this rule is used solely for purposes of evaluating the petition.

(k) Public benefits and costs of the transmission line, if any, that are reasonably known to petitioner, including but not limited to:

(A) Costs and benefits to petitioner's Oregon ratepayers and ratepayers of other Oregon utilities and to Oregonians in general.

(B) Costs and benefits that the proposed transmission line will provide related to connection to regional and inter-regional grids.

(l) Petitioner must provide a statement of all costs incurred by petitioner to develop the transmission line prior to filing the petition.

(m) A review of and reference to regulatory approvals and reviews that concern, analyze or otherwise discuss the proposed transmission line, such as an integrated resource plan acknowledgement, other short- or long-term planning documents, construction work plans, and a site certificate issued by the Energy Facility Siting Council.

(n) Petitioner must provide the most recent load forecasts available to petitioner supporting need for the line. The load forecasts shall, when feasible, include a load forecast of at least 10 years.

(o) If the petitioner alleges that the transmission line provides needed redundancy or reliability, provide all supporting analysis conducted and prepared by or for petitioner.

(p) Petitioner must provide an evaluation of available alternatives to construction of the transmission line, such as: conservation measures, non-wires alternatives, construction of one or more lower-voltage single or multi-circuit lines, or an agreement to allocate territory or customers to another utility. The petitioner may provide this evaluation by reference to relevant sections of its most recent integrated resource plan (IRP) filed under OAR 860-027-0400, or a planning document substantially equivalent to an IRP.

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(q) Electrical engineering studies and reliability or resiliency analyses supporting the necessity of the transmission line when relevant, including those addressing single and multiple contingencies.

(r) A narrative that identifies all land use approvals and permits required for construction of the transmission line. This narrative must include information on whether petitioner has submitted an application for the approval or permit, the status of any such application, and an explanation as to why petitioner did not obtain the approval or permit before submitting a petition under this rule.

(s) When filing a petition, a petitioner must also submit its responses to the most recent version of the Standard Data Requests for Petitions for Certificates of Public Convenience and Necessity, approved by the Commission and available at [\[insert weblink\]](#).

~~(23) The Commission, as part of its approval of a Certificate of Public Convenience and Necessity, shall adopt findings which assure the proposed transmission project complies with the Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each local government where the project is to be located. The Commission's findings shall be developed under the rules and procedures in the Commission's state agency coordination program pursuant to ORS 197.180. **A petition may not be filed under this rule unless the petitioner includes with the petition all necessary documentation to support a finding under OAR 860-025-0040(2) or (4). If the petitioner cannot include documentation to support findings under OAR 860-025-0040(2) or (4), petitioner must include an explanation why it cannot do so and request that the Commission make its findings under OAR 860-025-0040(3).**~~

~~(34) **If a petition is filed that does not include the information required under this rule, or the petitioner does not provide responses to all of the Standard Data Requests for Petitions for Certificates of Public Convenience and Necessity, as required by this rule, the Commission may notify the petitioner that the filing is incomplete and will not be considered by the Commission.** The Commission's land use findings assuring the proposed project's goal compliance and plan-compatibility shall be based on the hearing record, which shall include at least one of the following:~~

~~(a) A copy of the local land use permit from each affected city or county planning agency, building department, or governing body stating that the proposed transmission project has received the jurisdiction's approval; or~~

~~(b) A copy of a letter from each affected local planning agency, building department, or governing body stating that the proposed transmission project is permitted under the jurisdiction's comprehensive plan, land use regulations, and development codes, but does not require specific approval by the jurisdiction; or~~

~~(c) Other written or oral land use information and documentation equivalent to OAR 860-025-0030(3)(a) or (b) above properly presented to the Commission from an authorized representative from each affected city or county; or~~

~~(d) Commission goal compliance findings adopted pursuant to OAR 660-030-0065(3) in situations~~

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~~when the Commission is unable to assure goal compliance by acting compatibly with one or more of the affected comprehensive plans.~~

~~(4) If a proposed transmission line is subject to the jurisdiction of the Energy Facility Siting Council (EFSC), the Commission shall adopt findings which assure the project and route have been certified by EFSC, and the requirements of OAR 860-025-0030(2) and (3) shall not apply.~~

OAR 860-025-0035

(1) The Commission may approve a petition filed under OAR 860-025-0030 by determining the necessity, safety, practicability and justification in the public interest of the proposed transmission line upon consideration of the following:

(A) Whether the transmission line will meet a demonstrated need for transmission of additional capacity or improved system reliability that enables the petitioner to provide or continue to provide adequate and reliable electricity service, and whether this need cannot be addressed using alternative facilities, means, or measures other than construction of the proposed transmission line.

(B) Whether the petitioner has demonstrated that it will ensure the transmission line is constructed, operated, and maintained in a manner that protects the public from danger and conforms with applicable Commission rules, and other applicable safety standards and practices;

(C) Whether the transmission line using petitioner's proposed route is feasible and whether it will be effectively and efficiently constructed at reasonable cost with mitigation of the impacts on affected landowners and the public, in comparison to available alternate transmission line routes, and upon consideration of the project's financial impact on petitioner's ratepayers.

(D) Whether there is sufficient reason for the project to be built considering the public benefits and costs of the project, as they relate to the land and interests in land proposed to be condemned, petitioner's existing facilities and equipment, petitioner's Oregon ratepayers, and other considerations that may be relevant, such as the benefits and costs as they relate to affected ratepayers of other Oregon utilities, connections to regional and inter-regional electricity grids and a petitioner's non-Oregon service territories, and all Oregonians.

(E) The Commission may also consider other factors it deems relevant.

(2) In evaluating a petition under this rule, the Commission will give due consideration to related regulatory reviews and permitting approvals as pertain to the proposed transmission line, if the transmission line has already been acknowledged or approved by regulatory or permitting authorities.

(3) The Commission may not condition or amend an order approving a petition, once issued, to include additional parcels of land not addressed in the petition.

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(4) In the event a CPCN is granted, the certificate shall expire ten years from date of issuance, or if construction does not begin, within five years of the date of issuance. Upon request of a petitioner, the Commission may grant an extension on the term of a certificate for good cause shown.

(5) Nothing in these rules shall prevent a petitioner from filing a petition for a CPCN at any time that condemnation of land or an interest therein becomes necessary to construct an overhead transmission line. The Commission may hold a proceeding in abeyance upon written request or its own motion.

OAR 860-025-0040

(1) The Commission, as part of its approval of a petition filed under OAR 860-025-0030, shall adopt findings which assure the proposed transmission project complies with the Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each local government where the project is to be located. The Commission's findings shall be developed consistent with the rules and procedures in the Commission's state agency coordination program pursuant to ORS 197.180.

(2) The Commission's land use findings assuring the proposed project's goal compliance and plan compatibility shall be based on the hearing record, which shall include at least one of the following:

(a) A copy of the local land use permit from each affected city or county planning agency, building department, or governing body stating that the proposed transmission project has received the jurisdiction's approval; or

(b) A copy of a letter from each affected local planning agency, building department, or governing body stating that the proposed transmission project is permitted under the jurisdiction's comprehensive plan, land use regulations, and development codes, but does not require specific approval by the jurisdiction; or

(c) Other written or oral land use information and documentation equivalent to OAR 860-025-0040(2)(a) or (b) above properly presented to the Commission from an authorized representative from each affected city or county.

(3) In the event that the Commission cannot make findings under section (2) of this rule for any of the reasons enumerated in OAR 660-030-0065(3), the Commission may adopt goal compliance findings pursuant to OAR 660-030-0065(3).

(4) If a proposed transmission line is subject to the jurisdiction of the Energy Facility Siting Council (EFSC), the Commission shall adopt findings which assure that EFSC has issued a site certificate for the transmission line, and the requirements of OAR 860-025-0040(1), (2), and (3) shall not apply.

Certificate of Public Convenience and Necessity
(CPCN) Standard Data Requests (SDR)

1. Please explain whether the petitioner is aware of any areas along the proposed route where the petitioner expects to incur incremental costs due to the following:
 - a. Hydrology mitigation;
 - b. Hardness of rock and other geology mitigations;
 - c. Elevation and directional change mitigation;
 - d. Any other route-specific factors related to topography, geology, environmental, agricultural, stream crossing, or cultural heritage mitigations, or other conditions relevant to construction costs.
 - e. Accommodation of requests by impacted communities such as parks, undergrounding, roads, sidewalks and other improvements.
 - f. For parts a through e above, please provide cost estimates of such mitigation efforts.
2. Has the petitioner acquired or filed for any of the following:
 - a. Third-party funding approvals. If so, please provide documentation of these approvals.
 - b. Applications for project funding including, but not limited to, federal grants, loan guarantees or other infrastructure stimulus. If so, please provide applications, and documentation of each such approval.
 - c. ROE adders to Federal Energy Regulatory Commission (FERC) transmission or wheeling rates.
3. For each benefit cited in a petitioner's application for federal support, has the petitioner arranged for staffing and programs to deliver said benefit?
4. What percentage of wheeling revenues will accrue to benefit ratepayers where an adder has been requested and granted by FERC? In this response, please clarify if the benefits from wheeling revenues are capped by any assumptions made by the petitioner regarding expected amount of transmission capacity available for wheeling on this proposed line or on average on broader amounts of the petitioner's transmission assets.
5. Please provide all available regional transmission planning studies or analysis that supports the need for the proposed transmission line. In your response, please identify any necessary reliability or resiliency enhancements as it pertains to the proposed line.
6. Please provide all available local transmission planning studies or analysis that supports the need for the proposed transmission line. In your response, please identify any necessary reliability or redundancy enhancements as they pertain to the proposed line.

7. Please provide a description of the petitioner's experience in managing construction and operation of overhead transmission lines. In your answer, please include the number of transmission line miles that the petitioner currently manages and maintains.
8. Regarding construction of the project, please provide:
 - a. A detailed description of the construction process timeline;
 - b. A chart detailing construction phasing and major milestones that the petitioner will employ to construct the line;
 - c. All contractors selected for the project, including any turnkey provisions;
 - d. A description of project segments that will be directly performed by the petitioner (e.g., transport and construction);
 - e. Master contracts for construction of the project;
 - f. How substation equipment will be contracted for, including: purchase, transport, rigging (cranes and lifting to load, unload and position equipment), and configuration. If all this will be the responsibility of a primary engineering, construction contractor, it is enough to say this is the case; and
 - g. Insurance, guarantees and other provisions to safeguard the petitioner and ratepayers, from mishaps, failure to perform, and accidents.
9. Please provide a detailed description of how the petitioner intends to control costs for this project, including any description of performance guarantees and risk mitigation mechanisms. In this narrative, clearly delineate the planning cost of the project itself and other loadings including legal and administrative and general (A&G) costs later assigned to the project.
10. Has the petitioner considered statewide or local economic impacts (positive or negative) as a result of construction of the transmission line? If so, please provide a detailed description of the impacts considered and any associated analysis. The petitioner may articulate what economic development is facilitated by the construction of the proposed transmission line. The petitioner may simply indicate that it chose not to respond to this SDR.
11. Has the petitioner considered reliability benefits of the project to the petitioner's transmission customers? If so, please provide a narrative description and any associated analysis.
12. Please provide the status of all regulatory permits and land use approvals necessary for construction of the transmission line. For each permit or land use approval identified in your response that has not been issued or approved, please provide an explanation as to why the Company has not yet obtained that permit or approval.


13. Please provide a narrative explaining how (if this is the case) the proposed transmission project enhances Oregon's ability to reach greenhouse gas, environmental and climate change goals by target dates for same.
14. If the transmission line is constructed, what generation resources could avoid or delay being placed in service, and for how many years, if any?
15. For each material concern raised such as impact on cultural resources; impact on environment; impact on agriculture (including high quality farmland); adjacency to irrigation and structures, impact on local residents access to farms, businesses and homes; etc. explain how the petitioner has addressed said concerns and will work to minimize materialization of same.
16. Please describe what incremental value (if any) the proposed transmission line has in emergency conditions such as a natural disaster or wildfire.
17. What provisions and features are designed into this project to prevent or minimize avian and bat harm?
18. Please provide a narrative explaining how this project was sized and why the petitioner concludes that it is neither overly large or undersized to meet expected needs. The response hereto should clearly consider queue requests (if any), and whether the line is sized to meet only capacity owner needs or also identify sub-regional and regional needs, including addressing of seasonal variations.
19. Please provide a narrative identifying expected capacity utilization in each direction along the proposed transmission line, immediately on energization, and ten years into operations.
20. Please identify what benefits this transmission line provides (if any) to other transmission already in service in terms of line ratings and congestion.
21. Please provide a graphical depiction of the expected magnitude of electricity flows over this line seasonally. Accompany this with a narrative explaining whether communities on either end of the proposed transmission line are positioned to benefit from this expected seasonal variation.

AR 626

RULEMAKING RELATED
TO CERTIFICATES OF PUBLIC
CONVENIENCE AND NECESSITY

OREGON PUBLIC UTILITY
COMMISSION

JULY 15, 2021



Workshop Goals



DESCRIBE CHANGES



ANSWER QUESTIONS



GET FEEDBACK



UNDERSTAND TRADEOFFS
AND IMPACTS

AR 626 Purpose

Update

Clarify criteria

Modernize

Streamline

AR 626 Informal Process

09/24/19 - Docket Opened

10/28/19 Workshop #1

12/09/19 Workshop #2

01/31/20 Workshop #3

06/25/20 Public Meeting

05/05/21 Updated Draft Distributed

07/15/21 Workshop #4

07/30/21 Informal Comments to Staff

TBD – SPM to Move to Formal Rulemaking

Changes

CHANGES FROM CURRENT RULES



Proposed Changes

Required Permitting

Standard Data Requests

Streamlining Decision Criteria

Timing of the filing

What it does

Tells petitioners when they should file; currently utilities can file at any time

Proposed Modification

Petitioner must file when all necessary documentation for a land use finding can be included or request a Commission determination

Required permitting prior to the filing

"A petition may not be filed under this rule unless the petitioner includes with the petition all necessary documentation to support a finding under OAR 860-025-0040(2) or (4). If the petitioner cannot include documentation to support findings under OAR 860-025-0040(2) or (4), petitioner must include an explanation why it cannot do so and request that the Commission make its findings under OAR 860-025-0040(3)."

Staff is proposing that petitioner include any local land use approval permits and EFSC site certificate to be obtained for purposes of this rule prior to filing a petition.

Standard Data Requests (SDRs)

Staff is proposing to remove certain previously suggested rule requirements into Standard Data Requests to be housed on the Commission website.

Streamlining decision criteria

Staff has streamlined decision criteria as compared to the previous draft rules.

Changes Not Made

- Reopener/Amendment Process

- Weight of prior decisions such as IRP Orders:

“In evaluating a petition under this rule, the Commission will give due consideration to related regulatory reviews and permitting approvals as pertain to the proposed transmission line, if the transmission line has already been acknowledged or approved by regulatory or permitting authorities.”

Stakeholder Suggestions

- Objection to all land use approvals being required before filing.

Change: Only land use approvals needed to support findings for land use compliance, with exceptions.

- Objection to burden of undertaking evaluation of alternatives to construction, particularly allocation of territory.

Change: Reference to evaluation in planning process such as IRP or equivalent is sufficient

- Request that substantial weight be given to other regulatory approvals.

Change: Due consideration of other regulatory approvals included in decision criteria

- Proposed edits to OAR 860-027-0035(2)(c)(F).

Change: Adopted

- Proposed change to costs and benefits submission requirement to “if known”

Change: added “reasonably known to petitioner”

Questions

CLARIFY PROPOSED
CHANGES

Feedback & Discussion

IMPACT OF CHANGES
AND TRADEOFFS TO
CONSIDER

Next Steps

- STAKEHOLDERS TO SEND COMMENTS DIRECTLY TO STAFF AND STAFF COUNSEL BY JULY 30, 2021
- MOVE TO FORMAL RULEMAKING OR HAVE ANOTHER WORKSHOP?

Thank you

PLEASE SEND COMMENTS TO NADINE HANHAN (NADINE.HANHAN@PUC.OREGON.GOV) AND
JOHANNA RIEMENSCHNEIDER (JOHANNA.RIEMENSCHNEIDER@DOJ.STATE.OR.US) BY JULY 30, 2021