



Oregon

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Public Utility Commission

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Staff's revised AR 651 Process and Scope

On November 23rd, 2021, Staff held a workshop to propose a timeline and scope for the rulemaking approach to AR 651. Thank you to all parties that attended and provided important feedback on this process. Staff discussed internally, taking parties' input under advisement, and will proceed with the informal rulemaking phase with some minor revisions to the initial proposal.

First, Staff has updated a few dates in the schedule for wider availability and to provide more time for discussion. The workshop initially scheduled for January 27 has been moved to the **morning of January 26**. The deadline for party comments on Staff's straw proposal has been moved from February 10 to **February 14**. The April 6th workshop will now take place the following week, on **April 11**. Finally, at the request of parties, an additional workshop has been added for **May 12**.

After the May 12 workshop, Staff will bring a recommendation to open a formal rulemaking to the June 14, 2022 public meeting. The length of the formal rulemaking process will be at least 90 days, but will depend on the need for hearings, comments, and other discussion. All phase 2 processes will be discussed in the spring of 2022, and preparation may occur concurrent with the formal rulemaking or at a different time.

Staff discussed party feedback on whether certain topics within the scope should be handled through the rulemaking or considered as part of a contested case process. At this time, Staff will proceed with the rulemaking process utilizing the scope presented in the Commission's memorandum filed October 1, 2021 under UM 2024.¹ Although an issue may be listed in the AR 651 scope, discussion and consideration of the issue may not lead to rule language pertaining to each specific issue. The scope is intended to identify a list of issues which may be appropriate and pertinent to address through a rulemaking process, but ultimately a rule may be unnecessary or the issue may be better considered through a different process.

Staff also considered party feedback on whether the proposed informal and formal rulemaking process is appropriate given the scope and complexity of the issues presented. Staff has no

¹ October, 1, 2021, UM 2024, Memorandum, ALJ Christopher J. Allwein:

<https://apps.puc.state.or.us/edockets/edocs.asp?FileType=HDA&FileName=um2024hda165613.pdf&DocketID=21962&numSequence=120>

modifications to its proposed informal and formal phases of the rulemaking at this time. Staff's objective in the informal stage is to move examination of these policy issues as far along as is reasonable before bringing draft rules to the Commission for the formal stage. We decline to make assumptions about how much progress can be made in the informal stage or recommend a process for the formal stage at this time. However, as workshops, comments, and discussion take place in the informal rulemaking process, Staff will work to adjust the process accordingly. This can include recommending a more robust formal rulemaking process, if necessary.

Staff's approach to the informal rulemaking is to allow for robust exchange of positions and ideas with the goal of creating draft rules that represent as much consensus as possible. Although consensus on all items may not be possible, Staff also intends the process utilized as part of the formal rulemaking to allow for robust discussion of party positions in order to facilitate the Commission's decision on permanent rules, while being mindful of the Commission's direction to adopt Phase I rules in Q2 of 2022.

The next workshop is scheduled for December 15, 2021 from 9:30-11:30 AM, and the discussion will center on parties' initial policy positions on each topic. Parties will have the opportunity to present and discuss their positions for the entire scope of issues.

Please view the following revised schedule for AR 651, as well as the revised scoping language (Staff made small revisions to sub-bullets A3 and A4 for clarity) included with this filing.

Thank you all for you continued feedback and cooperation during this process. Please contact Madison Bolton at Madison.bolton@puc.oregon.gov with any questions about future workshops and scheduling.

/S/ Scott Gibbens
Manager of Policy and Economic Analysis
Strategy and Integration
Oregon Public Utility Commission

AR 651 Phase 1 Process Proposal

Timeline	Activity	Description
November 23, 2021 2:30p – 4p	Workshop	Workshop to discuss Staff’s proposal for the informal rulemaking process and confirm scope.
December 3, 2021	Filing	Staff circulates informal rulemaking process and schedule and confirmed scope based on 11/23 discussion.
December 15, 2021 (morning)	Workshop	Workshop to discuss initial policy positions and other concepts (e.g., how to structure the HB 2021 reports). Parties to present currently filed straw proposals which address Phase 1 issues. Discussion will cover the entire rulemaking scope.
January 12, 2022	Filing	Staff circulates straw proposal regarding Phase 1 issues.
January 26, 2022 (morning)	Workshop	Workshop to discuss Staff straw proposal, identify areas of agreement and areas that need to be further discussed.**
February 14, 2022	Comments	Party comments on Staff straw proposal.
March 23, 2022	Draft Rules	Staff circulates draft rule language based on the positions refined through straw proposals, workshops, and comments.
April 11, 2022	Workshop	Workshop to discuss draft proposed rules and comments.
April 21, 2022	Comments	Party comments on draft proposed rule language. Can include redlines and written comments. (Additional redlines can be circulated via email with Staff and parties following the workshop, if desired)
May 12, 2022	Workshop	Workshop to discuss party comments on draft rule language.
June 14, 2022	Public Meeting	Staff Public Meeting recommendation to open a formal rulemaking using Staff’s final draft rules.
≥90 days	Formal rulemaking	Formal rulemaking process dependent on need for continued discussion through hearings, comments, etc.
Phase 2 launch process will be discussed spring 2022 i.e., begin preparing concurrent with formal rulemaking or at a different time.		

**Option to identify additional workshops if need to explore specific issues becomes clear

Anticipated Phase 1 issues²:

A. Reporting and regulatory issues, including but not limited to:

1. HB 2021 Section 5, which requires ESS filings to include greenhouse gas emissions, projected reductions and progress actions toward clean energy goals. Review of this requirement would also determine when these initial filing requirements will commence.
2. HB 2021, Section 25 introduces a new and required, aggregated supply mix disclosure summary, along with associated emissions of the power sources that serve the direct access retail electricity consumers of electricity service suppliers, and other similar aggregated information as determined by the Commission.
3. Publicly available information on Utility and ESS websites regarding prices and costs for potential DA customers.
4. Firmness and application of caps (i.e. given issues such as behind the meter load growth).

B. Non-bypassability: public policy & other programs that parties have suggested may be non-bypassable, including but not limited to:

1. Community solar and net metering;
2. Coal or fossil fuel resource decommissioning;
3. Low-income rates & weatherization (and pilot and other non-cost-effective energy efficiency programs);
4. Commission fees;
5. Demand response programs;
6. PURP A generation resources;
7. Tariffs required by HB 2021, HB 2475, HB 3141, HB 2165, and HB 2739.

C. Provider of last resort preliminary issues:

²October, 1, 2021, UM 2024, Memorandum, ALJ Christopher J. Allwein:
<https://apps.puc.state.or.us/edockets/edocs.asp?FileType=HDA&FileName=um2024hda165613.pdf&DocketID=21962&numSequence=120>

1. Provider of last resort obligations of utilities.
2. Fees and return notice for customers choosing to return to standard service.
3. Issues around planning for capacity to provide service for returning customers.
4. The potential for preferential curtailment to be operationalized.