

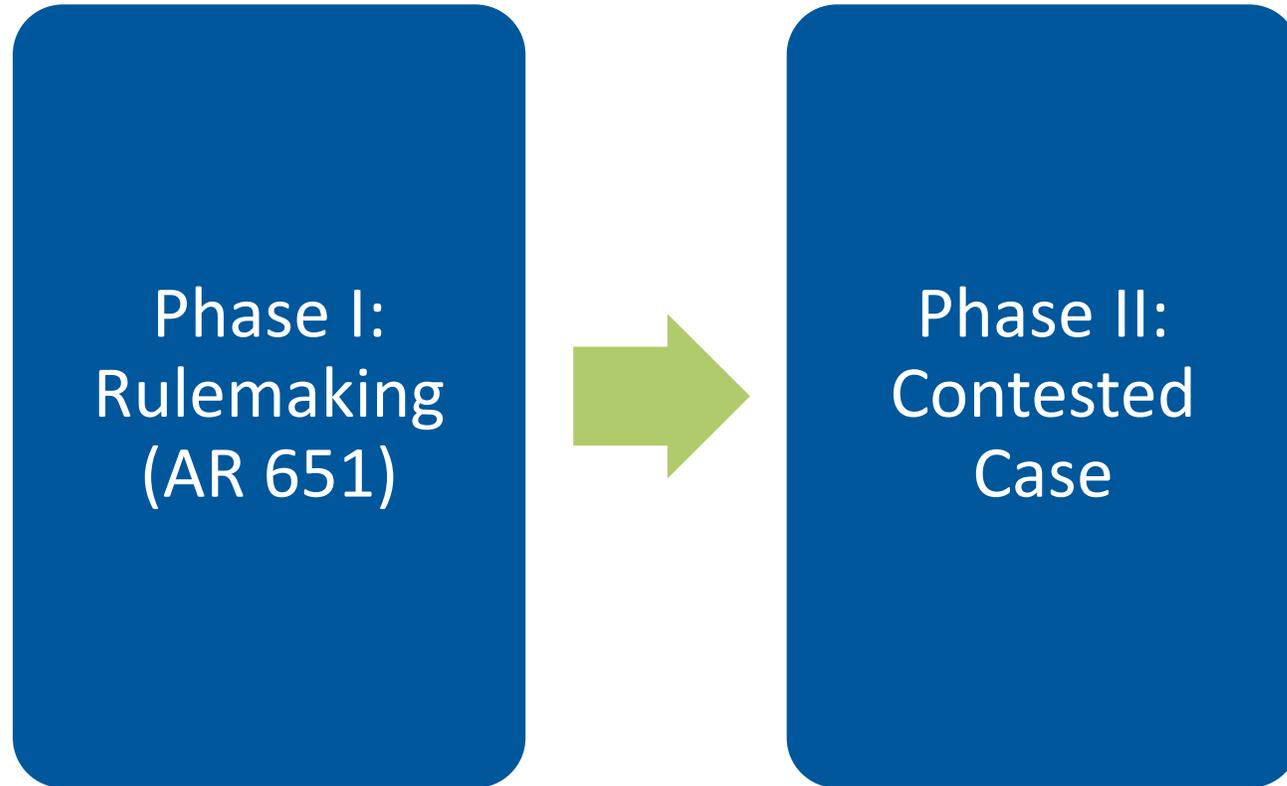


Recommendation to Move to a Formal Rulemaking

AR 651

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UM 2024: Re-scoped to a Phased Approach



AR 651 Process

- Oct. 2021 ● Open AR 651, Informal Rulemaking
- Nov. 2021 ● Kick-off Workshop
- Dec. 2021 ● Staff 's Proposed Process and Schedule
- Workshop on Policy Positions
- Jan. 2022 ● Staff's Straw Proposal
- Workshop
- Feb. 2022 ● Written Comments
- Mar. 2022 ● Staff's Draft Rule Language
- Apr. 2022 ● Workshop
- Written Comments
- May 2022 ● Final Workshop on Rule Language
- Final Draft Rules and Formal Rulemaking

AR 651

Narrowed the scope of issues in UM 2024 prior to a contested phase:

- Non-bypassability
- Provider of Last Resort
- Firmness of Caps
- HB 2021 Requirements

Staff's Approach to Developing Draft Rules

Provide a framework of policy principles to guide contested case arguments

Narrow the scope of issues

Make forward progress and adhere to the initial timeline

Staff attempted to balance the following tasks in the process of developing rule language, while ensuring the rules were broad enough to remain applicable in a changing policy landscape.

AR 651 Draft Rules and Policy Positions

Topics Staff Addressed in Proposed Rule Language

In Rules ✓

- Non-bypassable charges
- HB 2021 Utility and ESS Labeling Requirements
- ESS Emissions Planning Reports

Not Addressed In Rules ✗

- Firmness of Direct Access Caps and Behind-the-Meter Load
- Provider of Last Resort
 - Feasibility of Preferential Curtailment
 - Fees and Cost Shifting

Non-bypassable Charges

“Costs directed by legislature to be recovered by all customers or determined by the Commission to be associated with implementing public policy goals, reliability, equity, decarbonization, resiliency, or other public interests.”

The rules are broad enough to adapt to changing policies, but still set boundaries.

- All Direct Access customer are responsible for paying Non-bypassable charges as determined by the Commission.
- Possible criteria for determining if a charge is non-bypassable:
 - It is required by statute
 - It is an Uneconomic Cost of Implementing a Public Policy Goal
 - It does not confer a demonstrable electric system benefit on some customers over others
 - It is in the public interest

Stakeholder feedback ranges.

- Some concerns about the broadness of Staff’s definition.
- Other parties support, noting the level of detail is appropriate at this stage.

Utility and ESS Labeling Requirements

Staff included rules based on requirements in HB 2021 that “an electricity service provider must post a summary for the aggregated energy supply mix and associated emissions for the Direct Access load served in Oregon”

Parties generally supported this addition

- Must be posted to the ESS website, similar to current rules requiring indicative pricing transparency.
- Some stakeholders suggested specific compliance dates for this requirement.

ESS Emission Planning Reports

Staff's proposed rules outline the forward-looking reports' contents, requirements, and timing.

Reports Will Begin in 2027

- HB 2021 requires a three-year, forward-looking estimate of emissions.
- The 2030 compliance date suggests that 2027 is an appropriate initial report date.
- Some parties desire an earlier report. Staff proposed a 2025 report with a five-year outlook as a compromise, but parties did not support.

Staff and Stakeholders Continue to Discuss Confidentiality

- Specific requests to ensure that certain emissions data is publicly available.
- Not addressed in rules at this time, but continuing to work with parties on this issue and alongside the development of utilities' Clean Energy Plans.

Topics Not Addressed In Rules

Staff did not include some rules because of stakeholder feedback, the issue's contentiousness, and timeline limitations.

Firmness of Direct Access Caps and BTM Load Growth

- Staff proposed policy positions and requested feedback from stakeholders.
- Some suggested that any rule language regarding caps should be avoided at this stage to avoid a bias during future determination on caps.
- Other parties felt further information was needed to form a position.
- These factors led to a lack of discussion and feedback on Staff's proposal.
- Staff began to focus the discussion on other topics to stay within the rulemaking timeline.

Topics Not Addressed In Rules

Staff did not include some rules because of stakeholder feedback, the issue's contentiousness, and timeline limitations.

Provider of Last Resort and Preferential Curtailment

- Staff proposed that resource adequacy requirements for an ESS alleviate the need to charge for additional POLR capacity.
- Utilities had concerns with Staff's proposal, including the feasibility of preferential curtailment.
- Staff did not include rules due to parties' highly contrasting viewpoints and the rulemaking's time constraints.
- Staff suggested that developing a more formal record with discovery may help answer more technical and complex questions.

Next Steps

- Commission deliberation and decision
- Formal Rulemaking
- Begin preparations for the Phase II timeline, TBD

QUESTIONS AND OTHER TOPICS?

