Oregon
Public Utility
Commission

Request for Public Comment

October 29, 2021

HB 2165 Implementation - Draft Interim Guidance, Definitions and Pathways

Oregon Public Utility Commission Staff invites interested parties to provide feedback on draft interim guidance and definitions of new terms introduced in HB 2165. Staff intends to first establish interim guidance and definitions to begin implementation of HB 2165 effective Jan 1, 2022. Later in 2022, Staff expects to revisit and codify the interim guidance and definitions.

Staff requests feedback on the monthly meter charge budget, separate accounting, reporting, and common definitions of underserved communities. Staff also seeks stakeholder comment on two possible implementation pathways in 2022.

Feedback can be provided by completing this survey and/or by emailing written comments to puc.hearings@puc.oregon.gov by November 5, 2021.

Background

Oregon House Bill 2165[1] was signed into law on July 27, 2021. Section 2 of HB 2165 creates a dedicated funding source for TE investments by requiring PGE and Pacific Power to collect a monthly meter charge equal to 0.25 percent of total revenues. The collection will begin January 1, 2022 and applies to all retail customers and customers of electric service suppliers (ESS) connected to the utility's distribution system. The funds collected under this charge are the minimum amount that utilities must spend on TE per year. The utilities are also required to spend at least 50 percent of the funds collected by the monthly meter charge per year on "underserved communities." The statute gives examples of what could qualify as "underserved communities" but does not limit it to just those examples.

The monthly meter charge budget must be approved by the PUC every year, and must relate to elements in the utility's accepted TE Plan. Accounting for HB 2165 revenue and expenditures need to be separate from other funds and must be reported to the PUC. The PUC needs to determine both the budget approval process and the manner and timing of this reporting.

Two other sections of HB 2165 create significant changes to ORS 757.357. The new legislation creates a category of investment in TE that is distinct from TE "measures" or programs as already defined in the statute. This category is referred to as "Infrastructure Measures." These Infrastructure Measure investments are considered distinct from TE Programs and could include investments in distribution infrastructure that supports TE, communication and control technologies that support TE, and behind the meter infrastructure that supports TE and is owned by either the utility or the customer. The legislature specifically excluded education and

[1] Please note that HB 3055 was also signed into law this legislative session. HB 3055 contains identical language to HB 2165; so these changes will be referred to as HB 2165 throughout to avoid confusion.

outreach activities from the definition of infrastructure measures. Additionally, the law includes statutory factors that the Commission may consider when approving these investments. The law also re-defines TE Programs to exclude infrastructure measures, providing further confirmation that the legislature views these as different investments with distinct statutory frameworks.

HB 2165 has a direct impact on the existing PUC framework for planning and review of utility TE investments. The PUC will need to provide guidance on several elements and help determine shared understanding of definitions, as described below.

Draft Interim Guidance
Staff requests stakeholders provide comments on the following draft interim guidance for HB 2165.

1. Section 2(3) specifies **"a budget approved by the Public Utility Commission":**
   Staff proposal: PGE and Pacific Power file a monthly meter charge budget for a calendar year that covers the monthly meter charge expenditures grouped by all TE programs to be funded by the meter charge revenue.
2. The expenditures in the monthly meter charge budget must be **made on elements contained in an accepted TE Plan.**
   Staff proposal: To constitute an element for use, programs must be reflective of proposed programs in an accepted TE Plan.
3. Staff proposal: Expenditures in the monthly meter charge budget shall contain both capital expenditures and expenses. Capital expenditures on generation or distribution capacity that are attributable to new EV load created by the monthly meter charge, or attributable incremental energy costs, can be beyond the budget's scope. Expenses shall be broken down by administrative costs, O&M on investments, incentives paid to program participants, and any other unique category that may become relevant.
4. Staff proposal: The filed budget contain a forecast of expected revenue from the monthly meter charge and a forecast of expenditures by program. The budget will also need to forecast spending on underserved communities.
5. Section 2(4) directs utilities to "**account separately for all revenues and expenditures":**
   Staff proposal: Expenditures be marked at the transaction level as spent with monthly meter charge funds, to allow reporting with line item detail. Spending on underserved communities should also be identified at the transaction level.
6. Section 2(4) **"shall report the revenues and expenditures on a schedule and in the manner prescribed by the commission":**
   Staff proposal:
   a. Utilities file a compliance filing at the end of the calendar year, reporting actual revenue collection and actual spending.
   b. Utilities should provide a spending summary that matches the format of the previous year's monthly meter charge budget. This summary will be filed to the electric company's TE Plan docket in the first quarter of 2023.

   c. The report should also include a supporting spreadsheet shared through Huddle, listing all line item expenditures of the HB 2165 monthly meter charge for the previous calendar year. These reports will be reviewed in the next TE Plan and rate case. These transaction-level expenditures should also be identified by program and whether the expenditure was on underserved communities. This granularity can come in two ways: 1) it could be written into the transaction description. Or 2) the transaction description can be matched with another SQL column in the utility's data base of expenditures.

7. Staff proposal: After 2022, Commission review of the monthly meter charge budget will be part of the entire TE portfolio budget, to maximize stakeholder engagement and holistic planning.
8. Staff proposal: Utilities directly engage members of underserved communities to identify preferred spending of the earmarked 50 percent of the monthly meter charge, preferred standards for geographic designation, and to inform prioritization of populations served. For 2022, utilities can conduct this engagement before TE Plans and associated TE Plan budgets are filed. This engagement should follow the techniques of the City of Portland's Pricing Options for Equitable Mobility (POEM) model and the community engagement principles of the Greenlining Institute.

Draft Definition of Underserved Communities

Section 2 of HB 2165 defines "underserved communities" as residents of rental or multifamily housing; communities of color, communities experiencing lower incomes, tribal communities, rural communities, frontier communities, coastal communities, and other communities adversely harmed by environmental and health hazards.

Staff proposes the following working definitions:

1. Residents of rental housing are people, including a roomer, entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority.[2]
2. Residents of multifamily housing are people that reside in a structure or facility established primarily to provide housing that provides more than one living unit, and may also provide facilities that are functionally related and subordinate to the living units for use by the occupants in social, health, educational or recreational activities:
   a. This includes special care facilities:
      i. For the elderly, including but not limited to individual living units within such structures, mobile home and manufactured dwelling parks and residential facilities licensed under ORS 443.400 (Definitions for ORS 443.400 to 443.455) to 443.455 (Civil penalties) and other congregate care facilities with or without domiciliary care.

[2] ORS 90.100(47)(A)

   ii. For persons with disabilities, including, but not limited to, individual living units within such structures, mobile home and manufactured dwelling parks and residential facilities licensed under ORS 443.400 (Definitions for ORS 443.400 to 443.455) to 443.455 (Civil penalties) and other congregate care facilities with or without domiciliary care.
  b. This does not include: nursing homes, hospitals, places primarily engaged in recreational activities and single-family, detached dwellings, except manufactured dwellings situated in a mobile home and manufactured dwelling park.[3]
3. Communities of color are people who are not identified as white, emphasizing common experiences of racism.[4]
4. Communities experiencing lower incomes are residential customers whose household income is less than or equal to 120 percent of state median income adjusted for household size[5].
5. Tribal Communities are Oregon's nine recognized Native American tribes.
   a. Burns Paiute Tribe;
   b. Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians;
   c. Coquille Tribe;
   d. Cow Creek Band of Umpqua Tribe of Indians;
   e. Confederated Tribes of the Grand Ronde Community of Oregon;
   f. The Klamath Tribes;
   g. Confederated Tribes of Siletz;
   h. Confederated Tribes of the Umatilla Indian Reservation;
   i. Confederated Tribes of the Warm Springs Indian Reservation.[6]
6. Rural communities are people residing 30 or more miles by road from an urban community of 50,000 people or more.[7]
7. Frontier communities are people residing 75 miles by road from a community of less than 2,000 individuals.[8]
8. Coastal communities are people residing west of Oregon's Coastal Mountains.
9. Communities adversely harmed by environmental and health hazards are people residing in a part of Oregon that is adversely affected by criteria pollutants or climate change.

Staff proposes that spending on underserved communities can come in the form of direct expenditures on individual members of an underserved community for that individual's personal use of an EV or publicly available investments in a geographical location. How the

[3] ORS 456.515(8)
[4] City of Portland, Office of Equity and Human Rights, Shared City-Wide Definition of Racial Equity Terms.
[5] Energy Trust of Oregon definitions for the Solar Within Reach and Savings Within Reach programs.
[6] Legislative Policy and Research Office. Tribal Governments in Oregon, September 16, 2016, p 3.
[7] Executive Order 07-02, January 31, 2007, p 1.
[8] Ibid.

geographic designations are defined should be vetted by engagement with members of these communities. Rural, frontier, and coastal communities don't require vetting of the spatial boundaries, because their definitions are inherently geographic.

2022 Implementation Pathways for TE Plan Filings and Rulemaking

In response to Governor Brown's Executive Order 20-04 and several TE dockets, the PUC opened UM 2165 to develop a holistic TE investment framework. The PUC plans to integrate HB 2165 implementation with this investigation. This first set of recommendations is limited in scope to the guidance and definitions needed for a smooth implementation of HB 2165 on January 1, 2022. At the December 14, 2021 Public Meeting, Staff will make recommendations for a broader transportation electrification investment framework.

Staff seeks stakeholder input on two proposed pathways to integrate HB 2165 with TE plans. Which do you prefer?

1. OPTION 1
   Use UM 2165 to develop an interim guidance document including a TE investment framework. Use this guidance to inform utility TE Plans filed as scheduled in 2022 under existing Division 87 rules. (The current schedule is PGE filing by February 14, 2022, Idaho Power filing by May 7, 2022, and Pacific Power filing by June 18, 2022). Utilities would file budgets for the monthly meter charge based on elements in their new TE Plans. Commission review of Plans would inform rulemaking (OAR 860 Division 87). Rulemaking would begin after TE Plans are reviewed.

2. OPTION 2
   Use UM 2165 to develop an interim guidance document including TE investment framework. Use this guidance to inform Division 87 rulemaking. Start rulemaking in January 2022, to conclude in Q2. TE Plan filings would be delayed and filed after the rulemaking. This would require utilities to file 2022 budgets for the monthly meter charge based on program elements in their previously accepted TE Plans.

Next Steps for Stakeholder Feedback

Date	Activity
Nov. 5	Stakeholder written comments and/or survey responses due
TBD Week of Nov. 29	Staff presentation of interim guidance and definitions at Special Public Meeting for Commission consideration. (Please note this has been rescheduled from the Nov. 30 public meeting.)

Staff Contacts

If you have questions or comments please contact OPUC Staff Eric Shierman, Eric.Shierman@puc.oregon.gov (971) 239-3916, or Sarah Hall, Sarah.L.Hall@puc.oregon.gov (971) 273-9512.