

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: December 18, 2018

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: December 11, 2018

TO: Public Utility Commission

FROM: <sup>NRH</sup> Nadine Hanhan

THROUGH: <sup>I</sup> Jason Eisdorfer and <sup>JPS</sup> JP Batmale

SUBJECT: OREGON PUBLIC UTILITY COMMISSION: (Docket No. AR 609)  
Request for approval to open formal rulemaking for Transportation  
Electrification Plans.

**STAFF RECOMMENDATION:**

Open a formal rulemaking to add OAR 860-087-0020.

**DISCUSSION:**

Issue

Whether to open a formal rulemaking to implement rules for transportation electrification (TE) plans.

Applicable Law

With the passage of SB 1547(20) (2016), the Oregon Legislature authorized Oregon's electric companies to participate in the electric vehicle (EV) market by designing and implementing Commission-approved programs that accelerate "transportation electrification," which is specifically defined in the law.<sup>1</sup> The law also mandates that the Commission direct Oregon investor-owned utilities (IOUs) to file proposals for

<sup>1</sup> See ORS 757.357(1)(b). Transportation electrification means: "(A) The use of electricity from external sources to provide power to all or part of a vehicle," "(B) Programs related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph," and "(C) Infrastructure investments related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph."

transportation electrification programs by December 31, 2016, and that the Commission also “direct the form and manner” of those applications.”<sup>2</sup>

Consistent with the legislative direction, in docket No. AR 599—the transportation electrification rulemaking implementing section three of ORS 757.357—the Commission adopted rules for Transportation Electrification Programs in November 2016, and subsequently, transportation electrification programs were filed with the Commission by PacifiCorp, Portland General Electric (PGE), and Idaho Power in dockets UM 1810, UM 1811, and UM 1815, respectively. These programs have since been approved, subject to modifications through settlement stipulations and the Commission, and are currently in implementation phases.

Pursuant to ORS 756.060, the Commission has the authority to adopt reasonable and proper rules relative to all statutes administered by the Commission.

## Analysis

### *Background*

In addition to implementing rules for Transportation Electrification Programs in docket No. AR 599, the Commission established a requirement that the electric companies eventually develop long-term transportation electrification plans. In lieu of requiring the electric companies to submit a full-scale transportation electrification plan with initial program applications, the Commission directed Commission Staff (Staff) to open a new docket to work with utilities and stakeholders to develop the requirements for long-term transportation electrification plans.<sup>3</sup>

Commission Staff (Staff) officially recommended that the Commission open a docket to implement rules for TE plans on September 25, 2018, initiating the informal phase of a TE plan rulemaking. On September 26, 2018, the Commission approved Staff’s recommendation to open the rulemaking.<sup>4</sup>

Staff circulated draft proposed rules to participants in the rulemaking on October 11, 2018 and received stakeholder feedback at a workshop on October 17, 2018. Participant feedback at the workshop varied, but the strongest feedback among participants was that the rules not be too prescriptive, that carbon emissions should be addressed, and that the plans should consider access to underserved communities. Participants also engaged in a discussion about “approval” vs. “acceptance” of the TE plans and asked questions about the difference between the two concepts. In particular, PacifiCorp expressed a preference for use of the term “acceptance” and filed

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<sup>2</sup> ORS 757.357(3).

<sup>3</sup> Order No. 16-447.

<sup>4</sup> Order No. 18-351.

a letter restating this preference when it filed edits.<sup>5</sup> Staff addressed this concern by defining what “approval” means in the context of this rulemaking, making use of the term “approve” contained within this rulemaking. To the extent that the parties propose different language, the Commission can make a determination when adopting its final rules.

Staff revised the draft rules based on informal feedback at the October 17, 2018 workshop and informal feedback in the form of redlines.<sup>6</sup> Staff did not request participants to file formal comments, but allowed parties to use the “comment” feature on Microsoft Word to add additional thoughts to their edits to the draft rules. Ten different rulemaking participants filed some form of redline, comment, or informal e-mail stating their preferred edits.

Staff recirculated a final draft proposal for the rules on November 21, 2018 which Staff has included as an attachment to this memo.

#### *Future Activities to Complete Formal Rulemaking*

Based on the level of collaboration found among stakeholders, Staff does not envision that there will be a need for additional workshops in the formal stage of the rulemaking. To date, Staff has not received any feedback expressing opposition to the draft proposal, except for PacifiCorp’s letter regarding use of the word “approve.”

However, the Commission may adopt a schedule allowing time for stakeholders to hold additional workshops in the formal stage of the rulemaking. Staff thus proposes two different schedules with which the Commission could move forward—one that would allow a quicker adoption of the rules and one allowing time for an additional workshop. Both schedules require comments on the proposed rules once the formal stage of the rulemaking commences:

#### *Option 1*

Notice of Proposed Rulemaking filed with Secretary of State incorporating changes from workshop: December 2018

Rulemaking Hearing: February 5, 2019

Participant comments on Staff proposed rules due: February 12, 2019

Public Meeting Memo recommending adoption of rules due: March 5 or 14 2019

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<sup>5</sup> See <https://edocs.puc.state.or.us/efdocs/HAC/ar609hac16157.pdf>.

<sup>6</sup> Redlines can be accessed here: <https://apps.puc.state.or.us/edockets/docket.asp?DocketID=20588>.

*Option 2*

Workshop in January or early February 2019

Notice of Proposed Rulemaking filed with Secretary of State incorporating changes from workshop: January 25, 2019

Rulemaking Hearing: March 5, 2019

Participant comments on Staff proposed rules due: March 12, 2019

Public Meeting Memo recommending adoption of rules due: April 2, 2019 or April 16, 2019

Conclusion

To maintain consistency with Order No. 16-447, which directed Staff to open a separate docket for TE plans, and Order No. 18-351, which approved Staff's recommendation to open the rulemaking for TE plans, Staff is requesting that the Commission open the formal rulemaking process to adopt OAR 860-087-0020, which would govern the implementation of TE plans. In the final process, the Commission should be aware of its determination on language, regarding use of the word "accept" or "approve" in the TE plans. In addition, the Commission should be aware of allowing time for additional workshops when it determines a schedule.

**PROPOSED COMMISSION MOTION:**

Approve Staff's request to open a formal rulemaking to add OAR 860-087-0020.

## DIVISION 087

### TRANSPORTATION ELECTRIFICATION PROGRAMS

#### 860-087-0020

#### Transportation Electrification Plan

(1) This rule prescribes the required elements of an electric company's Transportation Electrification Plan (TE Plan), which contains the electric company's long-term strategy to accelerate transportation electrification in its Oregon service territory. The objective of the TE Plan is to:

(a) Integrate all of the electric company's TE actions into one document. This includes, but is not limited to, analyzing the electric company's portfolio of near-term and long-term transportation electrification actions, including approved program(s), future transportation electrification actions, and other transportation electrification actions such as Clean Fuels programs.

(b) Identify a portfolio of actions, which may include investments and infrastructure for electric vehicles of various sizes, rate design, programs, and services, reasonably expected to accelerate transportation electrification in an effective and efficient manner. The TE Plan should seek to address areas most hampered by market barriers in the electric company's service territory and to provide benefits for traditionally underserved communities.

(2) An electric company must file for Commission approval of a TE Plan.

(a) As used in this rule, "approval" means the Commission finds that the TE Plan meets the criteria and requirements of this rule and does not constitute a determination on the prudence of the individual actions discussed in the TE plan. Conversely, lack of approval means that the TE Plan does not meet the criteria or requirements of the rule.

(b) An electric company must file for Commission approval of its TE Plan within two years of its previous TE Plan approval order or as otherwise directed by the Commission.

(c) The electric company must present its TE Plan to the Commission at a public meeting prior to the deadline for written public comment.

(d) The Commission staff will work with parties to propose a schedule for review of the TE Plan after it is filed. The schedule will be adopted by an administrative law judge and will provide an opportunity for written comments by Commission staff and stakeholders, and reply comments by the electric company.

(e) Commission staff will present its recommendation on the electric Company's TE plan at a public meeting. The Commission will also consider comments and recommendations on an electric company's TE Plan at the public meeting before issuing an order on approval. The Commission may provide direction to an electric company regarding any additional analyses or actions that the electric company should undertake in its next TE Plan.

(f) An electric company is not prohibited from proposing transportation electrification programs at any time.

(3) The TE Plan must include:

(a) Current condition of the transportation electrification market in the electric company's Oregon service territory, including, but not limited to:

(A) A discussion of existing state policies and programs;

(B) Market barriers, which may include charging station development and electric vehicle adoption;

(C) Existing data on the availability of charging stations;

(D) Number of electric vehicles of various sizes in the utility service territory and projected number of vehicles in the next five years;

(E) Other transportation electrification infrastructure, if applicable;

(F) Charging and vehicle technology updates; and

(G) Distribution system impacts;

(b) A summary of the electric company's approved transportation electrification program(s) and future transportation electrification concepts and actions in its Oregon service territory. The TE Plan must incorporate project learnings and any other relevant information gathered from the utility's other transportation electrification infrastructure investments, programs, and actions to ensure that lessons learned are carried forward;

(c) A discussion of how the utility's TE Plan, investments, programs, and actions are expected to accelerate transportation electrification, addresses barriers to adoption, and extend access to traditionally underserved communities;

(d) The supporting data and analysis used to develop the TE Plan, which may be derived from elements such as review of costs and benefits; rate design; energy use and consumption; overlap with other utility programs; and customer and electric vehicle user engagement;

(e) A discussion of the electric company's potential impact on the competitive electric vehicle supply equipment market, including consideration of alternative infrastructure ownership and business models, and identification of a sustainable role for the electric company in the transportation electrification market;

(f) A discussion of current and anticipated electric company system impacts resulting from increased transportation electrification and the electric company's portfolio of actions, and how the TE Plan is designed to address these system impacts; and

(g) A discussion of how programs and concepts in the TE Plan relate to the carbon reduction goals of the Clean Fuels Program and other state programs, including expected greenhouse gas emission reductions based on publicly available metrics.

(4) The Commission may direct an electric company to incorporate the TE Plan into other electric company planning documents.

**Stat. Auth.: ORS 756.040, 756.060, ORS 757.357**

**Stats. Implemented: ORS 757.357**