

Requirements for the filing, review, and update of Integrated Resource Plans (IRPs) are provided in OAR 860-027-0400. Per OAR 860-027-0400(2), IRPs must satisfy the requirements of Commission Order Nos. 07-002, 07-047, and 08-339. Under OAR 860-027-0400(5), Commission staff and parties must file comments and recommendations within six months of IRP filing.

In Order No. 07-002 the Commission first adopted guidelines for the development of utility IRPs that included Guideline 2(c), which states that, “The utility must provide a draft IRP for public review and comment prior to filing a plan with the Commission.”¹

Under OAR 860-027-0400(1), the Commission may waive any obligations imposed on the utility under this rule upon application by an entity subject to the rule for a showing of good cause. In addition, under OAR 860-027-0000(2), upon written request or the Commission’s own motion, any of the Division 27 rules may be waived upon a showing of good cause.

House Bill (HB) 2021 from 2021, as codified at ORS 469A.415, requires large electric IOUs to “develop a clean energy plan for meeting the clean energy targets set forth in ORS 469A.410 concurrent with the development of each integrated resource plan” and file the plan with the Commission with the IRP or no later than 180 days after the IRP is filed. In Docket No. UM 2225, Order No. 22-206, the Commission directed PGE to file the CEP with the utility’s next IRP, as a chapter, appendix or accompanying filing.

Analysis

Background

In Order No. 21-422, the Commission granted PGE a waiver and extended the filing deadline for the Company’s next IRP to March 31, 2023. On November 22, 2022, PGE filed a request for a waiver of IRP Guideline 2(c) to allow the company to file its IRP and associated CEP by the March 31, 2023, deadline without having first provided a draft IRP for public review and comment.

House Bill 2021 imposed new requirements on large, electric utilities, including the obligation to file a Clean Energy Plan (CEP). The Commission subsequently directed PGE to file its first CEP with its next IRP as a chapter, appendix, or accompanying filing.²

¹ See UM 1056, Order No. 07-002, January 8, 2007.

² See UM 2225, Order No. 22-206, June 3, 2022, page 1.

Justification for PGE's Waiver Request

PGE notes in its waiver request that while the Commission has been moving expeditiously to clarify the procedural rules in light of HB 2021, there remain unresolved issues that complicate the development and filing of its current IRP and associated CEP. The Commission has issued additional guidance on these topics in Commission Orders 22-390 and 22-446, issued on October 25, 2022, and November 14, 2022, respectively. As a result, PGE states that some CEP materials will not be sufficiently developed to provide a full draft IRP and CEP for public comment and still meet its March 31, 2023, filing deadline.

PGE asserts that the stakeholder engagement process it has undertaken over the last year substantially fulfills the requirements of Guideline 2(c) to provide a venue for public input in the process of drafting its IRP. As PGE notes in its filing, the Company hosted ten monthly IRP Roundtable meetings and three Learning Labs in 2022 as of the filing date.³ These meetings have allowed a wide pool of stakeholders to receive information on the upcoming IRP and CEP and to provide feedback to the Company.

Stakeholder Comments

Renewable Northwest (Renewable NW) submitted a response to PGE's request on November 29, 2022. In its comments, Renewable NW acknowledges the legitimate procedural issues raised by PGE in its filing. Renewable NW concurs with the Company that the fluid planning environment due to HB 2021 implementation presents a set of unique circumstances.⁴

In its response, Renewable NW states, "Moving from Draft to Final IRP concurrent with a public process overseen by the Commission is a more meaningful exercise for non-utility parties than utility-run workshops, however robust."⁵ Renewable NW opines that while PGE's Roundtable system has been welcome, it does not and cannot meet the intent of Guideline 2(c).

While Renewable NW does not object to PGE's waiver request, it does caution the Commission to narrowly tailor any waiver to the current IRP based upon the unique and extenuating circumstances presented by HB 2021 compliance.

³ See LC 73, PGE's Motion Requesting Waiver of Integrated Resource Plan Guideline 2(c), November 22, 2022, page 3.

⁴ See LC 73, Renewable Northwest's Response to PGE's Motion Requesting Waiver of Integrated Resource Plan Guideline 2(c), November 29, 2022, page 2.

⁵ Ibid, page 4.

NewSun Energy (NewSun) submitted comments opposing PGE's request to waive IRP Guideline 2(c). Like Renewable NW, NewSun asserts that PGE's ongoing stakeholder engagement process does not meet the intent of IRP Guideline 2(c).

NewSun also states that the current IRP and its corresponding CEP should be subject to more, not less, public scrutiny given the importance of these plans to overall implementation of HB 2021. NewSun offers that given the importance of this planning cycle to HB 2021 implementation, the Commission should err on the side of more, not fewer, opportunities for public engagement and input on the IRP.⁶

Staff's Position on PGE's Waiver Request

Staff recognizes the unique procedural issues raised by PGE in its waiver request. The new requirement to file a CEP, and the evolving initial guidance on CEPs and their relationship to the IRP, have created a unique set of circumstances surrounding PGE's 2023 IRP filing. Staff is aware that PGE plans to file its IRP and CEP in late March and may not have the resources to produce a thorough IRP and CEP, while also producing a preliminary draft IRP. In Staff's view, these issues combine to justify a partial waiver of OAR 860-027-0400(2), with its requirement to comply with Order No. 07-002, containing IRP Guideline 2(c), for the 2023 IRP filing.

However, Staff agrees with much of the feedback provided by stakeholders. Circulation of a draft IRP, especially under the circumstances created by HB 2021, provides an important opportunity for public input and to provide additional feedback that can greatly impact Oregon's path to decarbonization of the electric sector. With this in mind, Staff sees the IRP process as sufficiently flexible to accommodate an amended public comment process once PGE is able to timely file the IRP in March 2023. Staff's suggested approach will result in a process designed to largely mirror the draft IRP process, but by allowing time for initial review and adjustment after the initial filing.

Require an Initial Round of Stakeholder Comments Upfront in the IRP Process

Staff requests a waiver of the six-month comment period requirement in OAR 860-027-0400(5) on condition that the six-month comment period be supplemented by an initial comment period of approximately 30 days upon PGE filing its IRP. This initial window will allow Staff, stakeholders, and the public at large to raise concerns that ordinarily could have surfaced in the draft stage. Staff's request is further conditioned on allowing the Company an additional 30 days to file reply comments as well as any associated amendments or additions to the IRP. Like a comment period associated with a draft IRP, the insertion upfront of this initial comment period on the filed IRP is intended to allow stakeholders to seek clarification on aspects of the plan,

⁶ See LC 73, Opposition to PGE Waiver Request, December 27, 2022, page 3.

highlight immediate concerns, and suggest reasonable changes the utility may be able to undertake in a short time frame.

Staff's expectations for responses and changes by the utility during this initial comment period are consistent with the expectations for a draft IRP process, which can be somewhat limited given the progressive nature of compiling a finalized IRP. This initial comment period is a complement to, not a replacement for, the substantive comment process found in past IRPs. The normal course of substantive discussion, engagement, and review will still have the space to occur throughout the subsequent rounds of comments in this IRP process.

After this initial round of stakeholder comments and utility reply of approximately 60 days has concluded, the ordinary six-month public comment period will commence and a more thorough and substantive discussion of outstanding issues in the IRP will proceed.⁷

Staff finds good cause for both requests as they maintain the IRP process of multiple opportunities for stakeholder input without compromising PGE's current efforts to file a complete IRP and CEP by March 2023. Further, it does not substantially extend the ordinary timeline for a Commission decision on acknowledgement of the plans, allowing for completion of the entire review by December 2023.

Staff believes its waiver request and associated conditions balance the need for focus by PGE over the next few months to produce a high-quality IRP and CEP with the public interest—found in the rule, guidelines and echoed strongly by stakeholders—in ensuring adequate opportunities for public review and comment on the IRP.

Stakeholder Input Process and Draft IRPs

Staff finds that PGE's current stakeholder process, consisting of its IRP Roundtables and Learning Labs, has provided an important and welcome venue for public review of, and comment on, some components of its upcoming IRP. However, they do not provide the same levels of transparency and accountability in the IRP process as providing a draft IRP.

Going forward, as HB 2021 implementation proceeds, Staff understands the public benefit of the PUC IRP guidelines evolving to reflect changes in public policy and technology, while still meeting the public's need and desire for meaningful input. Staff looks forward to that discussion, but at this time and in this docket, Staff finds continuing to have stakeholder input via a process largely similar to a draft IRP is best.

⁷ See UM 1056, Order No. 07-002, January 8, 2007, Guideline 3(c), page 9.

Conclusion

Staff finds good cause to grant PGE's partial waiver request by waiving OAR 860-027-0400(2). Granting this partial waiver will provide the procedural flexibility required for PGE to timely file its IRP and CEP by late March. However, it is Staff's view that this waiver is a response to a unique set of circumstances resulting from the first instance of the Company filing a CEP in addition to its IRP. Staff does not intend to indicate that IRP Guideline 2(c) will not apply to future IRPs.

Furthermore, Staff requests a waiver of OAR 860-027-0400(5) conditioned upon supplementing the six-month review and comment schedule with a roughly 30-day window for public comments, followed by a roughly 30-day window for the Company to file reply comments and incorporate any changes resulting from this initial comment period. The six-month review period will commence only after this initial comment period has ended.

PROPOSED COMMISSION MOTION:

Waive OAR 860-027-0400(2) to the extent it requires compliance with Order Nos. 07-002's IRP Guideline 2(c) requirement to submit a draft IRP for public review prior to filing its next IRP with the Commission.

Waive OAR 860-027-0400(5), requiring comments and recommendations to be filed within six months of IRP filing, with the condition that this six-month docket schedule for the filed IRP be augmented to include an additional initial stakeholder comment period followed by utility responses and associated IRP changes to be completed roughly 60 days from filing the IRP.