

ITEM NO. CA7

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 20, 2026**

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE  January 21, 2026

**DATE:** January 12, 2026

**TO:** Public Utility Commission

**FROM:** Joseph Abraham

**THROUGH:** Sarah Hall **SIGNED**

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. UM 1930)  
Community Solar project siting requirements and characteristics of a single development.

**STAFF RECOMMENDATION:**

Adopt Staff's clarifications of the project siting requirements in OAR 860-088-0070 for the Community Solar Program.

**DISCUSSION:**

Issue

Whether the Public Utility Commission of Oregon (Commission) should Adopt Staff's proposal to clarify project siting requirements in OAR 860-088-0070 for the Community Solar Program (Program or CSP).

Applicable Rule or Law

ORS 757.386 directs the Public Utility Commission of Oregon to establish a community solar program, including adoption of rules prescribing qualifications for a project to participate.

Order No. 17-232 established permanent rules for the CSP under OAR Division 88 including OAR 860-088-0070 for project siting and requirements.

OAR 860-088-0070 establishes project siting and requirements for projects to participate in the CSP. OAR 860-088-0070(1) allows participation of projects with a nameplate capacity of three megawatts or less. OAR 860-088-0070(2) prohibits co-location of projects within a five-mile radius, with two exceptions.<sup>1</sup>

OAR 860-088-0070(2) defines co-location as:

two or more projects that exhibit characteristics of a single development, such as common ownership structure, an umbrella sale arrangement, revenue-sharing arrangements, or common debt or equity financing. Projects are not considered co-located solely because the same person provides tax equity financing for the projects.

At the July 31, 2018,<sup>2</sup> and February 14, 2019, public meetings,<sup>3</sup> Staff presented an informational memo updating the Commission on CSP implementation activities, including a summary of the CSP implementation subgroup on project details.

Order No. 19-438 approved the CSP Program Implementation Manual (PIM), including Section 3.2 addressing project siting. Section 3.2 mirrors the language of OAR 860-088-0070 and restricts projects located within a five-mile radius that exhibit characteristics of a single development to a total of 3 MW-AC unless all are sited within a single municipality or urban area.

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<sup>1</sup> See OAR 860-088-0070(2) for two exceptions, which are when the aggregate nameplate capacity of the co-located projects is 3 MW-AC or less, or all co-located projects are sited within a single municipality or urban area as defined in the PIM.

<sup>2</sup> Docket No. UM 1930, RA4 informational filing, July 24, 2018, presented at the July 31, 2018, Public Meeting. <https://edocs.puc.state.or.us/efdocs/HAU/um1930hau17215.pdf>.

<sup>3</sup> Docket No. UM 1930, RA2 informational filing, February 8, 2018, presented at the February 14, 2019, Public Meeting. <https://edocs.puc.state.or.us/efdocs/HAU/um1930hau141250.pdf>.

## Analysis

### *Background*

CSP project siting rules in Division 88 prohibit co-location, when two or more projects within a five-mile radius exhibit characteristics of a single development. The Program assesses eligibility of a project to participate in the CSP, including confirming compliance with siting and co-location rules, during Pre-certification.

On October 21, 2025, a CSP Project Manager (PM) filed a petition for a declaratory ruling (DR) in Docket No. DR 59. The petition requested a determination that two pre-certified CSP projects within five miles do not demonstrate “characteristics of a single development” and therefore are not co-located under OAR 860-088-0070(2).<sup>4</sup> While the filing was withdrawn, Staff recognizes the need to clarify how projects are determined to exhibit characteristics of a single development.

Neither Division 88 or the PIM provides a definition of all characteristics of a single development, though OAR 860-088-0070(2) does include a list of examples.<sup>5</sup> Additionally, the process for resolving co-location questions in the Program is currently unclear. Staff observes a need for further clarity regarding “characteristics of a single development,” including whether the individual examples identified in OAR 860-088-0070(2) are independently sufficient for a determination of co-location. Since the petition filed in DR 59 is the first time a question related to “characteristics of a single development” has been raised, there is no Commission guidance on this issue. Staff also finds the rule lacks precision for the scenario in which two or more projects within five miles of each other establish a shared ownership structure at some point after Pre-certification.

Staff views the intent of the general prohibition on co-location in CSP as ensuring compliance with the nameplate capacity limitation of 3 MW-AC. The project capacity limitation is the mechanism preventing the Program from being used to support utility-scale projects inconsistent with the community-focused purpose of the Program. Allowing co-location would render the nameplate capacity limitation superfluous. OAR

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<sup>4</sup> See Docket No. DR 59, Initial Petition, October 23, 2025. The petition describes a Project Manager that owns a 2.25MW-AC pre-certified project and seeks clarification of CSP siting rules prior to purchasing a 2.75 MW-AC pre-certified project within five miles of their project. Eligibility for either project in the CSP hinges on whether the two projects exhibit characteristics of a single development. <https://edocs.puc.state.or.us/efdocs/HAA/haa341105027.pdf>.

<sup>5</sup> Co-location” means two or more projects that exhibit characteristics of a single development, *such as common ownership structure, an umbrella sale arrangement, revenue-sharing arrangements, or common debt or equity financing.* (emphasis added). OAR 860088-0070(2).

860-088-0070(2) prevents projects greater than 3 MW-AC from being pre-certified in CSP as two or more nearby projects.

As early as 2019, a CSP implementation group initially questioned if OAR 860-088-0070(2) could benefit from more clarification, observing disagreement as to whether a PM alone could trigger a co-location violation by managing two or more projects within five miles that did not otherwise meet the co-location exemption requirements. The group agreed that this may not be a black and white situation if the PM was not involved in the development of the projects (where economies of scale could be achieved). It also noted potential for administrative and transparency issues if not spelled out specifically.<sup>6</sup>

#### *Recommended Clarifications*

As a result of the needs discussed above, Staff proposes the following three recommendations in support of implementation of OAR 860-088-0070(2) and provides further explanation for each below:

1. OAR 860-088-0070(2) does not apply to certified CSP projects,
2. A determination of whether two or more projects exhibit characteristics of a single development, which do not otherwise meet the co-location exemption requirements, should be based on a totality of the circumstances, and
3. Individual characteristics of a single development listed in OAR 860-088-0070 rule are not independently sufficient to support a finding of project co-location.

Staff brings forward these recommendations to ensure that implementation of OAR 860-088-0070(2) aligns with the rule's purpose and existing Program processes, and to promote market certainty around CSP siting requirements. Staff's recommendations apply only to two or more CSP projects, which are within five miles of one another and do not otherwise meet the co-location exemption requirements.<sup>7</sup> Following a Commission decision, Staff and the CSP Program Administrator (PA) will follow up in 2026 to modify the PIM to include these clarifications.

Regarding Staff's first recommendation, CSP projects are expected to become operational within six months of Certification in the Program. Staff has found projects are constructed or nearly constructed at Certification, and as a result are developed

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<sup>6</sup> See Docket No. UM 1930, RA2 informational filing, February 8, 2019, presented at the February 14, 2019, Public Meeting. <https://edocs.puc.state.or.us/efdocs/HAU/um1930hau141250.pdf>.

<sup>7</sup> OAR 860-088-0070(2) contains exemptions where (a) the aggregate nameplate capacity of the co-located projects is three megawatts or less; or (b) The co-located projects are all sited within a single municipality or urban area as defined in the Program Implementation Manual.

independent of other projects not yet Certified. Once a project is certified, it can no longer be found to be co-located with another project. Similarly, a project not yet certified cannot be found to be co-located with a certified CSP project. In the case of the two projects associated with the petition for a declaratory ruling in DR 59, one of those projects was Certified on December 24, 2025, in Order No. 25-525.<sup>8</sup> If adopted by the Commission, Staff's first recommendation would remove any risk that the Program or the Commission would find the two CSP projects associated with DR 59 exhibit characteristics of a single development.

Staff's second recommendation clarifies that a determination of whether two or more projects not yet certified exhibit characteristics of a single development, which do not otherwise meet the co-location exemption requirements, should be based on a totality of the circumstances. Staff recognizes that the examples of characteristics provided by OAR 860-088-0070(2) are not exhaustive. Consistent with the broad definition of co-location in rule, Staff's approach preserves the Commission's discretion to address novel circumstances.

The third recommendation above clarifies that individual characteristics of a single development listed in OAR 860-088-0070(2) are not independently sufficient to support a finding of project co-location. As a result, projects with one of the characteristics listed in OAR 860-088-0070(2) (i.e., common ownership structure, an umbrella sale arrangement, revenue-sharing arrangements, or common debt or equity financing) would not automatically be deemed to exhibit characteristics of a single development.

In practice this third recommendation would result in projects that are separately sited and developed but later owned by the same parent company not exhibiting characteristics of a single development and therefore not being co-located. Staff believes this is consistent with the purpose of OAR 860-088-0070(2) in ensuring compliance with the nameplate capacity limitation of 3 MW-AC. Also, over the past five years over half of the current 83 CSP projects have been sold after Pre-certification and prior to Certification. Staff analysis shows 13 geographic clusters, outside of urban areas, where there are at least two pre-certified CSP projects within five miles of each other. While Staff is not concerned by trends in project siting or transfers, it does create more opportunity for co-location issues to arise.

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<sup>8</sup> See Docket No. UM 1930, Order No. 25-525. <https://apps.puc.state.or.us/orders/2025ords/25-525.pdf>.

### Conclusion

Staff's recommendations provide needed clarification of project siting rules for the CSP marketplace, as demonstrated by the recent DR 59 filing. In addition to broadly clarifying determinations of a single development, Staff's recommendations align with a common practice of entities controlling CSP projects. Staff appreciates the PA's analysis in support of its recommendations.

Staff's recommendations are also appropriately limited. Specifically, Staff does not seek to identify every characteristic or circumstance the Commission should consider within the context of OAR 860-088-0070. Staff's recommendations apply only to two or more CSP projects, not yet certified, within five miles of one another, and do not otherwise meet the co-location exemption requirements. These clarifications recommended by Staff ensure that implementation of OAR 860-088-0070(2) aligns with the rule's purpose and existing Program processes. Staff intends to include these clarifications in a future update of PIM Section 3.2, which includes siting rules and reflects OAR 860-088-0070(2).

### **PROPOSED COMMISSION MOTION:**

Adopt Staff's clarifications of the project siting requirements in OAR 860-088-0070 for the Community Solar Program.

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| Format changes  | 0         |
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