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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860  
PUBLIC UTILITY COMMISSION

**FILED**

11/27/2023 1:25 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Resource Adequacy Rulemaking (AR 660)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/25/2024 3:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Filed By:  
Diane Davis  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 01/11/2024

TIME: 9:30 AM

OFFICER: Christopher J. Allwein

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-254-5252

CONFERENCE ID: 1606757101

SPECIAL INSTRUCTIONS:

Passcode: 5279739124

NEED FOR THE RULE(S)

Resource Adequacy is a necessary element of a reliable electricity system. It ensures that entities regulated by the Public Utility Commission of Oregon and responsible for providing electricity to retail customers procure enough capacity and reserves to maintain a balanced supply and demand across the electric system, taking into account both planned and unplanned outages of system components.

The Public Utility Commission of Oregon regulates electric service provided by electric companies and electric service suppliers. The proposed rules establish resource adequacy requirements for these entities to ensure sufficient reliability of the electric grid in Oregon. The proposed rules are intended to make certain that electric companies and electric service suppliers are adequately planning for their capacity resource needs, which is necessary to maintain an adequate and reliable electric power system.

HOW TO COMMENT: The comment deadline is January 25, 2024 3:00 p.m. The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants can consider and respond

to the comments before the deadline. In addition to comments on the proposed rules themselves, the Commission also invites comments on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Please reference Docket No. AR 660 on comments and file them as a Word or PDF attachment to an e-mail addressed to the PUC's Filing Center at [PUC.FilingCenter@puc.oregon.gov](mailto:PUC.FilingCenter@puc.oregon.gov). Oral comment may be provided at the hearing set for January 11, 2024, at 9:30 a.m. Interested persons may review all filings online at <https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=23768>.

To be added to the AR 660 service list, send an email to [puc.hearings@puc.oregon.gov](mailto:puc.hearings@puc.oregon.gov) including your complete contact information and note you'd like to be added to the AR 660 service list.

For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OPUC Order No. 23-340 found online at: <https://apps.puc.state.or.us/orders/2023ords/23-340.pdf>

OPUC Staff's Initial Draft Rules (May 18, 2023) and stakeholder comments received on that draft, found online in Docket UM 2143, accessible at: <https://apps.puc.state.or.us/edockets/Docket.asp?DocketID=22698>

The proposed rules also rely on the public information that will be made available in the Western Resource Adequacy Program's (WRAP) Advisory Forecasts. That information is summarized on slide 29 of the slides from the stakeholder advisory committee meeting, available online at: [https://www.westernpowerpool.org/private-media/documents/2022-01-25\\_Public\\_Webinar\\_-\\_Governance.pdf](https://www.westernpowerpool.org/private-media/documents/2022-01-25_Public_Webinar_-_Governance.pdf)

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

OPUC Staff anticipates that the proposed resource adequacy rules will have a positive or neutral impact on racial equity in this state. The proposed rules are intended to maintain or improve the reliability of the electric system in Oregon, which mitigates the risk of power outages for customers of the electricity providers subject to this rulemaking. It is well known that power outages do not impact all individuals equally, and residents of underserved communities are often less prepared for power outages compared to communities that are well-resourced. Power outages may also exacerbate other sources of vulnerability that underserved communities face. An unreliable power system could have a negative impact on racial equity in Oregon.

Establishing rules that require electric companies and electric service suppliers to adequately plan for their capacity needs may mitigate the risk of power interruptions due to lack of capacity, which in turn reduces the exacerbated risk underserved communities experience during power outages.

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#### FISCAL AND ECONOMIC IMPACT:

While it is difficult to forecast the fiscal and economic impacts of the proposed rules, OPUC Staff expects that they will have an overall positive fiscal and economic impact on the public by providing for a more reliable electric power grid in Oregon. Electricity use and reliability are strongly associated with economic growth and development. The economic

costs that power interruptions impose on businesses and residences can be significant depending on their timing and duration, and these rules are intended to mitigate the risk that such power interruptions will occur.

Given the primary economic impact of the resource adequacy rules is the avoidance of power interruptions, it is not possible to estimate what the actual economic impact will be. However, it is widely recognized that a reliable electrical grid provides for positive economic benefits.

Electric companies and electric service suppliers may incur costs of compliance, and they may pass these costs onto their customers through electricity rates. However, many of the costs these entities incur under the proposed rules would be costs they would incur as part of their ordinary course of business in providing for adequate electricity service in absence such rules.

In addition, the energy industry is in an era of rapid change, and there are numerous factors that will impact the costs of acquiring capacity and other actions that may be needed for compliance with the proposed rules. The evolution of energy markets, supply chain issues, transmission capacity constraints, and many other emerging issues will all impact the cost of providing for resource adequacy. It is not feasible to accurately estimate these costs and determine which costs would not exist if the proposed rules are not adopted.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) The proposed rules are expected to have an overall positive fiscal and economic impact on the public by providing for a more reliable electric power grid in Oregon. Electricity use and reliability are strongly associated with economic growth and development. The economic costs that power interruptions impose on businesses and residences can be significant depending on their timing and duration, and these rules are intended to mitigate the risk that such power interruptions will occur.

The proposed rules would apply to only electric companies and electric service suppliers regulated by the Public Utility Commission of Oregon. These regulated entities may incur costs associated with acquiring capacity and other actions they may need to take to comply with the proposed rules. However, many of the costs these entities incur under the proposed rules would be costs they would incur as part of their ordinary course of business in providing for adequate electricity service in absence such rules.

These entities may pass on the costs of compliance to their customers through electricity rates. For electric companies, this would mean passing through the costs of compliance to their residential, commercial, and industrial customers through electricity rates.

Electric service suppliers are entities that are certified by the Public Utility Commission of Oregon and provide electric power to non-residential customers that choose to leave an electric company's regulated cost-based service. Electric service suppliers may also pass on compliance costs to their customers. State agencies, local government and members of the public may be customers of electricity providers subject to the proposed rules and may pay higher rates for electricity as a result.

It is not possible to estimate the costs of compliance for the regulated entities directly incurring costs or to estimate the costs they may pass onto customers that may include state agencies, local governments, and the public. Many of the

compliance costs that electric companies and electric service suppliers would incur under the proposed rules are the costs they would incur as part of the ordinary course of providing adequate and reliable electric service in the absence of the proposed rules. As such, it is not feasible to identify the costs that would be directly attributable to the proposed rules.

(2)(a) The compliance costs of the proposed resource adequacy rules are likely to have a negligible impact on small business. The only entities subject to the rule are electric companies and electric service suppliers.

Oregon electric companies are large investor-owned utilities that do not qualify as small businesses. Electric companies may pass costs of compliance onto their customers, which include small businesses, through their rates for electric service.

Generally, electric service suppliers are not small businesses and serve larger commercial or industrial customers that are not small businesses either. Small businesses can choose to be served by electric service suppliers, but in practice few small businesses choose to do so. Most small business would see the impacts through the electricity rates they pay to the electric companies serving them.

(b) The proposed rules would require electric companies to incorporate new information into their Integrated Resource Plans and electric service suppliers to incorporate new information into their Emissions Planning Reports, which are filed approximately every 2-3 years. No new records would need to be kept for the informational portions of the new rules.

The new state resource adequacy compliance program would create a new set of records that would be created and filed by OPUC-regulated entities that are not part of an approved regional program every other year. Thus, each non-regional member will incur the administrative and reporting costs associated with preparing a new compliance filing. Entities that participate in the state program could be subject to a monetary penalty for failure to comply with the proposed rules.

(c) No additional equipment is expected to be needed to administer these rules. All entities subject to the rules will likely incur some additional costs in professional services, labor and administration to address the planning requirements in the proposed rules. Additionally, each non-regional member entity subject to the rules will incur the administrative and reporting costs associated with preparing a new compliance filing.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

OPUC Staff developed the proposed resource adequacy rules through an extensive public process, primarily in OPUC Docket No. UM 2143. OPUC Staff undertook numerous rounds of public comments and held dozens of public workshops since OPUC Docket No. UM 2143 was opened. Any stakeholder or member of the public could participate. Numerous stakeholders, including electric companies, individual electric service suppliers, residential customer advocacy groups, and electric industry groups provided significant feedback in the creation of the proposed rules. There were no specific small business advocates who participated in the development of the proposed rules, but the process was open to all members of the public and other ratepayer advocates did participate.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

OPUC Staff engaged in an extensive, multi-year public informal process to solicit comments and feedback on the new proposed rules from numerous interested stakeholders. This process provided ample participation opportunities for entities likely to be affected by the rules.

RULES PROPOSED:

860-095-0000, 860-095-0010, 860-095-0020, 860-095-0030, 860-095-0040

ADOPT: 860-095-0000

RULE SUMMARY: Provides the purpose of the Division 860-095 rules establishing resource adequacy filing requirements and a resource adequacy state-level compliance program administered by the Public Utility Commission of Oregon.

CHANGES TO RULE:

860-095-0000

Scope and Applicability of Rules

(1) The rules in this division prescribe the filing requirements for provision of Resource Adequacy information, and the filing requirements and binding elements for the Public Utility Commission of Oregon (Commission) - administered Resource Adequacy program.¶

(2) Upon request or its own motion, the Commission may waive any of the rules in this division for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Statutory/Other Authority: ORS 183, ORS 756

Statutes/Other Implemented: ORS 756.040, ORS 757.649, ORS 757.659

ADOPT: 860-095-0010

RULE SUMMARY: Establishes definitions for the purposes of these rules.

CHANGES TO RULE:

860-095-0010

Definitions for this Division

- (1) "Advisory Forecast" means any modeling outputs created by a Qualified Regional Program that are presented but not used as part of the Qualified Regional Program's binding elements.¶
- (2) "Binding Forward Showing" means a filing used by a State Participant to show compliance with the State Program.¶
- (3) "Compliance Resource" means the resource(s) or resource-specific contracts used by a State Participant to meet the load requirements of the Binding Forward Showing.¶
- (4) "Electric Company" has the same meaning as ORS 757.600(11).¶
- (5) "Electric Service Supplier" has the same meaning as ORS 757.600(16).¶
- (6) "Emissions Planning Report" means a filing made by an Electric Service Supplier to show compliance with ORS 757.649(1)(f). ¶
- (7) "Informational Filing" means a written explanation of a Load Serving Entity's strategy to address Resource Adequacy and all underlying or related data needed to support such explanation.¶
- (8) "Integrated Resource Plan" means an Electric Company's written plan to satisfy the requirements of OAR 860-027-0400 and Commission Order Nos. 07-002, 07-047, and any future orders impacting filing requirements.¶
- (9) "Load Serving Entity" means an Electric Company or Electric Service Supplier.¶
- (10) "P50 Peak Load Forecast" means a peak load forecast prepared on a basis, such that the actual peak load is statistically expected to be as likely to be above the forecast as it is to be below the forecast.¶
- (11) "Planning Reserve Margin" means an increment of supply needed to meet conditions of high demand in excess of the applicable peak load forecast and other conditions such as higher resource outages, or lower availability of resources, expressed as a percentage of the applicable peak load forecast. ¶
- (12) "Qualified Capacity Contribution" means the portion of the nameplate capacity of a compliance resource that can be expected to provide capacity to meet customer demand calculated using a Commission or Qualified Regional Program approved methodology.¶
- (13) "Qualified Parties" means Commission Staff and Citizens' Utility Board employees who execute a modified protective order.¶
- (14) "Qualified Regional Program" means a Commission-approved regional reliability planning and compliance program that addresses Resource Adequacy through processes and conditions established in a FERC-approved tariff.¶
- (15) "Regional Forward Showing" means any data, forecasts, or submittals required by a Qualified Regional Program to support program compliance by a Regional Participant.¶
- (16) "Regional Participant" means a Load Serving Entity that is a participant in or is officially committed to becoming a participant in a Qualified Regional Program at least 30 days prior to the Binding Forward Showing filing date of the State Program.¶
- (17) "Resource Adequacy" means the expected ability of a Load Serving Entity to supply aggregate electric power and energy to meet the requirements of their consumers with a sufficient degree of reliability and plan to meet future demand with sufficient supply-side and demand side resource.¶
- (18) "State Participant" means a Load Serving Entity that is not a Regional Participant.¶
- (19) "State Program" means the Resource Adequacy compliance program administered by the Commission applicable to State Participants.

Statutory/Other Authority: ORS 183, ORS 756

Statutes/Other Implemented: ORS 756.040, ORS 757.649, ORS 757.659

ADOPT: 860-095-0020

RULE SUMMARY: Establishes resource adequacy filing requirements for Electric Companies regulated by the Public Utility Commission of Oregon.

CHANGES TO RULE:

#### 860-095-0020

##### Electric Company Informational Filing Requirements

(1) Electric Companies must provide an Informational Filing to the Commission as a part of their Integrated Resource Plan. The Electric Company's Informational Filing must be included as a chapter to the Integrated Resource Plan that incorporates the Advisory Forecast from a Qualified Regional Program and contains a discussion about how the overall resource strategy interacts with Resource Adequacy concerns.

(2) The Informational Filing for an Electric Company must include:

(a) A monthly P50 Peak Load Forecast and Effective Load Carrying Capability curve over a period of the greater of four years or the longest available timeline from a Qualified Regional Program using methods consistent with outputs of the Qualified Regional Program's Advisory Forecast.

(b) A discussion covering at least four years of the transmission rights necessary to serve P50 load, the transmission rights currently owned or used, the steps that will be taken to procure transmission rights to fill in any open position, and any expected constraints or difficulties in filling any open positions.

(c) A description of any notable deviations between the load forecast, Qualified Capacity Contributions, or Planning Reserve Margin contained in a Qualified Regional Program's Advisory Forecast and what is used in the Electric Company's Integrated Resource Plan analysis and associated action plan.

(3) All outputs of a Qualified Regional Program's most recent Advisory Forecast must be included with the Informational Filing. These may be included in the Informational Filing or as an Appendix chapter to the Integrated Resource Plan.

(4) A Regional Participant's most recent Regional Forward Showing submission to its Qualified Regional Program must be made available to Qualified Parties upon request pursuant to a Modified Protected Order.

Statutory/Other Authority: ORS 183, ORS 756

Statutes/Other Implemented: ORS 756.040, ORS 756.070, ORS 756.105, ORS 757.659

ADOPT: 860-095-0030

RULE SUMMARY: Establishes resource adequacy filing requirements for Electric Service Suppliers regulated by the Public Utility Commission of Oregon.

CHANGES TO RULE:

860-095-0030

Electric Service Supplier Informational Filing Requirements

(1) Electric Service Suppliers must submit an Informational Filing with the Commission every other year.

(a) The Informational Filing may be filed as a part of the Emissions Planning Report filing.

(b) The Informational Filing must contain a discussion about how the overall resource strategy interacts with Resource Adequacy concerns.

(2) The Informational Filing for an Electric Service Supplier must include:

(a) A monthly P50 Peak Load Forecast and Effective Load Carrying Capability curve over a period of the greater of four years or the longest available timeline from a Qualified Regional Program using methods consistent with outputs of the Qualified Regional Program's Advisory Forecast.

(b) A discussion covering at least four years of the transmission rights necessary to serve P50 load, the transmission rights currently owned or used, the steps that will be taken to procure transmission rights to fill in any open position, and any expected constraints or difficulties in filling any open positions.

(3) All publicly available outputs of a Qualified Regional Program's most recent Advisory Forecast must be included with the Informational Filing. These may be included as an appendix chapter.

(4) A Regional Participant's most recent Regional Forward Showing submission to its Qualified Regional Program must be made available to Qualified parties upon request pursuant to a Modified Protected Order.

(5) As part of the forecast of monthly P50 Peak Load Forecast and monthly forecast of transmission requirements, an Electric Service Supplier must use current load levels or provide reasonable substitutes of the load forecast. An Electric Service Supplier is responsible for demonstrating that the substitute load forecast is reasonable.

Statutory/Other Authority: ORS 183, ORS 756

Statutes/Other Implemented: ORS 756.040, ORS 756.649, ORS 757.659



RULE SUMMARY: Establishes a resource adequacy compliance program.

CHANGES TO RULE:

860-095-0040

State Program Requirements

(1) Any Electric Company or Electric Service Supplier that is not a Regional Participant must comply with the State Program requirements.

(2) State Participants must file a Binding Forward Showing with the Commission for approval no later than April 1 of every odd-numbered year. A State Participant's initial binding forward showing must be filed no later than April 1, 2025.

(3) State Participants must use a 1 event-day in 10-year Loss of Load Expectation standard when submitting their Binding Forward Showing.

(4) State Participants must use a Planning Reserve Margin and Qualified Capacity Contribution consistent with a Qualified Regional Program or other Commission-approved methodology.

(5) The Commission Staff and Parties should complete its compliance review for each State Participant within 90 days of filing the Binding Forward Showing.

(6) A State Participant shall provide its monthly P50 Peak Load Forecast for the two-year period beginning July 1 of the filing year as part of their Binding Forward Showing.

(7) A State Participant must demonstrate that its Compliance Resources meet 95 percent of its monthly forecasted P50 load for twelve months beginning July 1 of the filing year and 80 percent of the monthly forecasted P50 load for the following twelve months plus a Planning Reserve Margin each month. A State Participant is not bound to meet its load with its Compliance Resources in actual operations.

(8) As part of the forecast of monthly P50 Peak Load Forecast and monthly forecast of transmission requirements, an Electric Service Supplier must use current load levels or provide reasonable substitutes of the load forecast. An Electric Service Supplier is responsible for demonstrating that the substitute load forecast is reasonable.

(9) A State Participant must demonstrate that it has firm or conditional firm transmission rights to deliver 75 percent of the Compliance Resources from generation source to load sink. A State Participant may request a waiver of a portion of the transmission requirement if it can demonstrate that at least one of the following conditions applies:

(a) The State Participant is experiencing enduring transmission constraints;

(b) Future firm Available Transfer Capability is expected;

(c) An applicable portion of the State Participant's existing transmission service rights is expected to be derated or out-of-service; or

(d) Expected counterflow directly between two balancing authority areas from another entity supports the State Participant's transmission of energy from generation source to load sink. This counterflow cannot already be offsetting transmission of energy for another State Participant or Regional Participant. The State Participant requesting the exception shall include a written acknowledgement from the other entity that it is aware of such an exception request.

(e) A State Participant cannot use waiver condition (9)(a) or (9)(b) for the same path for consecutive compliance periods.

(10) If the Commission deems that a State Participant's Binding Forward Showing does not meet the criteria for approval, the Commission shall identify deficiencies and give the State Participant 60 days to remedy their Binding Forward Showing to meet the criteria for approval.

(11) A State Participant whose plan is not approved 60 days after the Commission identified deficiencies shall be subject to a fine, revocation of Electric Service Supplier certification, or some other appropriate penalty determined by the Commission.

(a) The Commission shall assess fines on a per-MW basis for monthly capacity or transmission deficiencies and based on the fining methodology of a Qualified Regional Program.

(b) Revocation of Electric Service Supplier certification shall only be considered after twice failing to cure a deficiency and following an investigation by the Commission.

Statutory/Other Authority: ORS 183, ORS 756

Statutes/Other Implemented: ORS 756.040, ORS 756.070, ORS 756.105, ORS 756.990, ORS 757.649, ORS 757.659