ISSUED: February 12, 2026

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 669

In the Matter of Rulemaking to Amend Integrated Resource Plan Guidelines and Competitive Bidding Rules.	MEMORANDUM

On October 1, 2025, the Administrative Hearing Division (AHD) for the Public Utility Commission of Oregon served the notice of proposed rulemaking, which was filed with the Secretary of State on September 30, 2025. This notice established October 23, 2025, as the date for the rulemaking hearing, and December 4, 2025, as the deadline for written comments. Additionally, AHD encouraged participants to file initial comments by November 14, 2025, with all final comments to be received by December 4, 2025.

AHD is extending the comment period for this rulemaking to **February 26, 2026, by 3:00 p.m.** to allow the public and stakeholders to provide comments and feedback on a draft AHD report and proposed rule revisions. AHD intends to publish a final report incorporating any edits following comments by March 12, 2026. AHD anticipates that the Commission will consider the final AHD report at a Commissioner work session tentatively scheduled for the March 17, 2026 Regular Public Meeting.

The draft AHD Report and Attachment 1 to the report are provided as Appendix A to this memorandum.

Dated: February 12, 2026

Sarah Spruce
Administrative Law Judge

ITEM NO. RM_

PUBLIC UTILITY COMMISSION OF OREGON
DRAFT AHD REPORT
PUBLIC MEETING DATE: TBD

REGULAR ___ CONSENT ___ RULEMAKING __X__ EFFECTIVE DATE __N/A__

DATE: February 12, 2026

TO: Public Utility Commission

FROM: Sarah Spruce, Administrative Law Judge

THROUGH: Diane Davis, and Chief Administrative Law Judge Alison Lackey

SUBJECT: OREGON PUBLIC UTILITY COMMISSION:
(Docket No. AR 669 - Rulemaking to Amend Integrated Resource Plan Guidelines and Competitive Bidding Rules) (Commissioner Work Session)

AHD RECOMMENDATION:

The Administrative Hearings Division (AHD) recommends that the Commission adopt the permanent new administrative rules and amendments set forth Attachment 1, subject to the adoption of the recommended modifications provided in this report, that propose to amend OAR Chapter 860, Divisions 001, 027, 089, and 090, related to utility system planning and the review process for integrated resource plans (IRPs), clean energy plans (CEPs), and requests for proposals (RFPs).

APPLICABLE LAW:

ORS 756.060 authorizes the Commission to adopt rules and regulations relative to all statutes administered by the agency.

ORS 469A.075 requires the Commission to adopt rules "establishing requirements for the content of plans for meeting the requirements of the renewable portfolio standard, providing for the least-cost, least-risk acquisition of resources; and providing for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity."[1]

OAR Chapter 860, Division 001 contains the rules governing generally applicable process and rules for Chapter 860, including rules for discovery and information requests in Commission proceedings.

[1] ORS 469A.075(a)-(c) (internal subsections omitted).

OAR Chapter 860, Division 027 contains the rules governing budgets, finance, accounting and annual reports for energy and large telecommunications utilities.

OAR Chapter 860, Division 089 contains the rules governing resource procurements for electric companies, in particular the RFP process and competitive bidding requirements.

Order No. 25-255[2] directs Staff to include in the AR 669 proposed rules changes providing for the issuance of information requests in hybrid proceedings such as IRPs, CEPs, and RFPs.

Commission Order Nos. 07-002 and 07-047[3], as supplemented by Order No. 08-339[4], adopted IRP guidelines for investor-owned utilities in Oregon that have been in place since 2007. These guidelines have not been formalized into rules, other than by cross-reference in OAR 860-027-0400, but the guidelines have been used as a standard in utility IRP evaluations.

BACKGROUND:

At a regular public meeting held October 7, 2024, the Commission opened docket UM 2348 to investigate modernizing IRP requirements for gas and electric utilities and competitive bidding requirements for resource procurement by electric utilities. The investigation also considered rules for the CEPs for electric utilities subject to House Bill 2021. Staff published an initial straw proposal and held three workshops with interested participants before submitting a final report with proposed rules for IRPs, CEPs, and RFPs.

At a regular public meeting held March 20, 2025, the Commission opened the informal rulemaking process in docket AR 669 to consider updates for integrated resource plan and clean energy plan requirements, as well as for the competitive bidding rules.[5] As part of the informal process for this docket, Staff conducted three workshops with the capstone workshop held on August 6, 2025.

At a regular public meeting held September 16, 2025, the Commission opened the formal rulemaking process. The notice of proposed rulemaking submitted to commence these rulemaking proceedings appeared in the Oregon Secretary of State October 2025 Bulletin and was posted in this docket on October 1, 2025. AHD issued a corrected notice of proposed rulemaking on October 9, 2025, to fix typographical errors caused by

[2] *In the Matter of Portland General Electric Company, 2025 All-Source Request for Proposals*, Docket No. UM 2371, Order No. 25-255, Appendix A at 9 (Jul. 9, 2025).
[3] *In the Matter of Public Utility Commission of Oregon, Investigation into Integrated Resource Planning*, Docket No. UM 1056, Order No. 07-002 (Jan. 8, 2007); Docket No. UM 1056, Order No. 07-047 (Feb. 9, 2007).
[4] *In the Matter of Public Utility Commission of Oregon, Investigation into the Treatment of CO2 risk in the Integrated Resource Planning Process*, Docket No. UM 1302, Order No. 08-339 (Jun. 30, 2008).
[5] *In the Matter of Public Utility Commission of Oregon, Investigation into Integrated Resource Plan (IRP) and Request for Proposal (RFP) Modernization*, Docket No. UM 2348, Order No. 25-111 (Mar. 24, 2025).

formatting issues, and there were no changes to any deadlines or substantive changes to the rulemaking. The notice of proposed rulemaking requested that interested participants file initial comments on the proposed rules by November 14, 2025, and established a final deadline of December 4, 2025, for interested participants to file written comments, including any comments in response to initial comments.

On October 23, 2025, the Commission held a rulemaking hearing to receive comments from the public, as well as the opportunity for participants to ask Staff questions about the proposed rules. At the hearing, the Commission received comments on the proposed rules from PacifiCorp, Oregon Solar and Storage Industries (OSSIA), Portland General Electric (PGE), Idaho Power Company, NewSun Energy LLC, Northwest & Intermountain Power Producers Coalition (NIPPC), and Renewable Northwest. Staff also answered one question during the hearing. The Commission received written comments from Staff; NIPPC; Renewable Northwest; Northwest Natural Gas Company; NewSun; Cascade Natural Gas Corporation; Avista Utilities; PacifiCorp, PGE, and Idaho Power (collectively, the Joint Utilities); and the Green Energy Institute at Lewis and Clark Law School, Mobilizing Climate Action Together, Klamath & Lake Community Action Services, Climate Solutions, NW Energy Coalition, and Stellar Strategies (collectively, the Coalition).

PROPOSED RULES AND COMMENTS:

This section discusses Staff's proposed rules, stakeholder comments, and additional proposed rule changes, as well as AHD's recommendations for the Commission's consideration. The AHD recommendations are provided as Attachment 1. This report and Attachment 1 to this report present the AHD recommendations as redlines relative to the draft rules appended to the October 9, 2025 notice of proposed rulemaking and generally do not include any earlier strikethroughs and underlines.

Uncontested New Rules and Rule Amendments

A few of the proposed rules and rule amendments were not contested and received no substantive comments from any participant in the formal rulemaking process. Accordingly, we recommend that the Commission adopt without further modification the proposed, permanent amendments to the following rules: OAR 860-001-0080 (Protective Orders); 860-089-0020 (Definitions); 860-089-0350 (Benchmark Resource Score); and 860-089-0500 (Final Short List Acknowledgement and Result Publication). AHD also recommends that the Commission adopt without further modification the following proposed new rules: OAR 860-090-0080 (Clean Energy Plan Procedural Requirements) and 860-090-0090 (Clean Energy Plan Acknowledgment). AHD also recommends that the Commission repeal OAR 860-027-0400 (Integrated Resource Plan and Clean Energy Plan Filing, Review, and Update).

General Comments

Several commenters raised concerns that the IRP and RFP rules as proposed are too prescriptive and burdensome, while other commenters raised concerns that the rules

are too flexible and allow the utilities too much room to not follow the requirements. In particular, many utilities expressed concern that the RFP rules would lead to more burdensome and less competitive RFP processes, and that the IRP rules would be overly prescriptive, while other stakeholders expressed concern that the rules did not go far enough to ensure transparency, fairness, and accountability.

The Joint Utilities state that several proposed rules for the IRP and RFP would result in processes that are "more prescriptive, burdensome, costly, and time-consuming."[6] The Joint Utilities expressed concern that the IRP rules may extend the process further, resulting in IRPs that are out of date by the time of acknowledgment. The Joint Utilities also assert that there may be a fundamental disagreement between them and Staff on the purpose of the IRP, mainly whether it is meant to be a static or proxy planning document. Additionally, the Joint Utilities raise concerns that the proposed RFP rules may ultimately undermine the state's ability to compete for and procure resources, contrary to the directives in Executive Orders 25-25 and 25-29. The Joint Utilities raise concerns that the proposed rules will delay RFP processes and result in a lengthy, time-consuming procurement process. The Joint Utilities maintain that as a result, projects may choose to bid into RFPs in other jurisdictions or sell directly to large load customers.

NW Natural similarly expressed that the IRP rules as proposed fail to balance the interests of all stakeholders and may extend the process. NW Natural asserts that the rules may unintentionally result in unnecessarily burdensome processes, overlapping planning processes and restudies, unnecessarily delaying the process and preventing timely decision-making, and potentially increasing costs for customers. NW Natural also asserts that the rules lack clarity and rely on future processes, such as the standard information requests, that may create "additional opportunities for divergence from the modernization goal of the rulemaking."[7] NW Natural concurred with the Joint Utilities that there appears to be confusion on the purpose of the IRP within the rules.

Avista provided comments noting that it largely agreed with NW Natural's concerns. Avista asserts that overall it believes the IRP process should be consistent, recognize that the plan is not binding, and ensure that acknowledgment provides a "reasonable level of assurance to utilities."[8] Avista contends that the cost-impact calculation is "ill-defined" and may only confuse the IRP review process.

Cascade also raised broad concerns that the original goal of the IRP portion of the rulemaking was to provide clarity and guidance, and that the final rules as proposed lack clarity. In particular, Cascade is concerned that "in an effort to make the rules more prescriptive, which implies more guidance and clarity, the lack of definition to key terms provides less clarity."[9] Cascade notes that the rules include several undefined terms such as "meaningfully," "material," and "plausible," that are subjective and add no

[6] Joint Utilities Final Comments at 1 (Dec. 4, 2025).
[7] NW Natural Final Comments at 3 (Dec. 4, 2025).
[8] Avista Final Comments at 2 (Dec. 4, 2025).
[9] Cascade Final Comments at 4 (Dec. 4, 2025).

meaning but may lead to procedural issues in the future.[10] Cascade recommends that the Commission delete the following words that it maintains are not meaningful: meaningfully, material, plausible, and material differences.

NewSun states that both the IRP and RFP rules leave the utilities with too many loopholes to avoid compliance, primarily due to the Commission's position on acknowledgment not qualifying as a final order and the existence of waivers. NewSun states that the rules do not adequately address several ongoing issues with the RFP process, including utility-ownership bias and the benchmark bid process.

Though Renewable Northwest recommends additional modifications to the rule, as described below, it notes that generally the rules allow for flexibility for processes to move quickly while also allowing for "robust participation, fulsome analytical rigor, and efficient optimization of ratepayer assets."[11] Renewable Northwest emphasizes that the Commission should only permit resources that have been demonstrated to be least-cost, least-risk into rates. The Coalition provides similar comments that the rules "strive to balance expediency with effectiveness, allowing the utilities to accurately and efficiently conduct the IRP and RFP processes to serve Oregon customers," though it recommends additional changes in order to achieve the appropriate balance.[12]

NIPPC states that the RFP process in Oregon can be too time consuming but that the Commission must also ensure that process ensures "a competitively priced outcome for ratepayers."[13] NIPPC also states that there are opportunities for streamlining and expediting the process.

AHD notes that NW Natural also provided several suggested changes to rules as part of its initial comments for which it did not provide any supporting explanation. AHD acknowledges that NW Natural made these suggestions, but in the absence of explanation, AHD does not address these suggestions in detail or recommend that the Commission adopt these revisions unless otherwise addressed below. Similarly, some stakeholders provided comments on language that was not included in the rulemaking as set forth in the notice of proposed rulemaking, and, except as otherwise noted below, AHD does not address these comments.

Proposed Rules

OAR 860, Division 001

OAR 860-001-0205 – Information Requests

Staff proposes to allow persons who meet set criteria to issue information requests in IRP and CEP proceedings, as well as resource acquisitions subject to the Commission's competitive bidding requirements. Under the Commission's current rules,

[10] *Id*. at 3.
[11] Renewable Northwest Initial Comments at 1 (Nov. 14, 2025).
[12] Coalition Initial Comments at 4 (Nov. 14, 2025).
[13] NIPPC Final Comments at 7 (Dec. 4, 2025).

only parties in contested cases may issue discovery and data requests.[14] The new proposed rule seeks to address the ability of participants in hybrid proceedings, such as proceedings to review utility IRP, CEP, and RFP filings, to issue information requests to aid their review.[15] Under the proposed rule, persons must intervene as a party in the proceeding for limited procedural purposes in order to issue information requests.

The Commission received comments on the proposed OAR 860-001-0205, specifically Section 205(3) regarding the scope of information requests. Staff's proposed Section 205(3) provides that:

> Any person who meets the requirements of this rule may request information that is commensurate with the need to provide relevant comment on a pending filing subject to this rule, and that is also commensurate with the resources available to the requester and the recipient and the importance of the issues to which the request relates.

In comments, NIPPC raised concerns that the proposed Rule 205 does not include a standard governing the permissible scope of information requests.[16] NIPPC recommends that the Commission adopt the current legal standards set forth in OAR 860-001-0500 and 860-001-0540 for contested case discovery and clarify that those standards will be more broadly applied to hybrid proceedings such as RFPs and IRPs. Similarly, Renewable Northwest stated that it largely supported Staff's proposed Rule 205 but reiterated that the Commission should clarify that this new rule allows for a broader range of arguments and information to be requested through discovery in the absence of "formal admissibility hurdles."[17]

Renewable Northwest and the Coalition both argue that clarifying the standard now may help avoid future discovery disputes. Renewable Northwest requests that the Commission clarify in the order adopting these rules that the requirement in Section 205(3) that the information requested be "commensurate with the need to provide relevant comment" will "be construed broadly and liberally."[18] The Coalition recommends that the Commission establish "in the rules a baseline expectation defining minimum categories of discoverable information in hybrid proceedings…."[19]

NW Natural raises concerns that the rules as proposed "would create a one-sided right to discovery" and ensure that there will continue to be contentious litigation in IRPs and RFPs.[20] NW Natural notes that comments provided by stakeholders in this process confirmed its concerns that stakeholders would seek to expand the discovery process to irrelevant information. NW Natural also notes that while it is not its preferred approach,

[14] OAR 860-001-0500; OAR 860-001-0540.
[15] Staff Report, Request to Issue Notice of Proposed Rulemaking at 2 (Sep. 10, 2025).
[16] NIPPC Initial Comments at 3 (Nov. 14, 2025).
[17] RNW Initial Comments at 3.
[18] *Id*. at 3.
[19] Coalition Initial Comments at 9.
[20] NW Natural Initial Comments at 1 (Nov. 14, 2025).

the Coalition's proposal could provide for some protection but also states that the standard information request process may resolve its concerns.

Staff states that the language in the proposed Section 205(3) is similar to both OAR 860-001-0500 and 860-001-0540 and supports adoption of the rule as proposed. Staff does not support adopting a more uniform standard, nor does it support language or other guidance indicating that the proposed rule should be more broadly or liberally applied. Staff maintains that application of a more uniform standard may cause more confusion given the differences between contested cases and hybrid proceedings. Staff argues, however, that the Commission may still find orders issued on discovery in contested cases persuasive. Staff also maintain that hybrid proceedings are different from contested cases and that it does not support imposing the standards from one proceeding to the other. Staff argues that the fact there are no parties with substantive or procedural rights and that there is no evidentiary record created may weigh against extensive discovery in hybrid proceedings rather than for it as argued by some commenters.

Regarding the Coalition proposal that the rule add categories of discoverable information, Staff states that it is not opposed to the proposal conceptually but that it is concerned it may increase uncertainty rather than reduce it. Staff maintains that there are too many variables within the suggested categories that may affect whether a specific information request is within the bounds of discoverability.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-001-0205 as proposed by Staff, with minor revisions, and as set forth in Attachment 1 to this report. The proposed rule language is similar to the language in OAR 860-001-0500 applicable to contested cases, while recognizing the special circumstances of hybrid proceedings. At this time, AHD does not recommend issuing additional guidance regarding how the rule will be applied nor setting forth specific categories of information that will be permitted in information requests as proposed by commenters. AHD agrees with Staff that there are too many variables to set more definitive categories or application methods beyond the language providing that requests will be considered in light of the specific needs, resources, and issues in the proceeding.

During the review process, AHD found a minor typographical error in Section 205(8) in which "an" was used instead of "a." Other than correcting this error, AHD does not propose any revisions to Rule 205.

OAR 860, Division 089 – Competitive Bidding

OAR 860-089-0200 – Engaging an Independent Evaluator

Staff proposes to amend OAR 860-089-0200, which establishes the requirements for engaging an independent evaluator (IE) to oversee competitive bidding processes. In particular, Staff proposes to amend Rule 200 to state that the IE must be independent from the utility and bidders, as well as experienced and competent to perform all IE

functions and also to establish requirements for the selection of the IE. The Commission received comments at the rulemaking hearing from PacifiCorp and written comments on Rule 200 from the Joint Utilities and Renewable Northwest regarding Staff's proposed IE requirements.

The Joint Utilities argue that the proposed rules "appear overly rigid and cumbersome" and do not take sufficient account for the circumstances of a specific RFP. The Joint Utilities note that other jurisdictions, such as Washington and Idaho, either limit the applicability of IE requirements to RFPs with benchmark resources or have more flexibility to determine on a case-by-case basis whether it is necessary to engage an IE. The Joint Utilities recommend that the Commission provide similar flexibility in Oregon. The Joint Utilities also argue that maintaining a separate regulatory process for IE selection rather than including it as part of the RFP application undermines the goals of streamlining and modernizing the RFP process. At the public comment hearing, PacifiCorp noted that the new reports in Rule 200 will likely be subject to comment, introducing additional delays and costs.[21]

Renewable Northwest supports Staff's proposed amendments to Rule 200, noting that the rules streamline the process. Renewable Northwest maintains that three of the four new reports by the IE are summary reports, which are likely to be short. Renewable Northwest states that the utilities have not justified elimination of the new reports.

NewSun asserts that it would be preferable for the Commission to directly hire the IE. NewSun acknowledges that the Commission has previously indicated it is not interested in pursuing this option but urges the Commission not to "foreclose this possibility entirely."[22] NewSun maintains that an IE is incentivized not to provide comments too damaging to the utility or else they may not be hired again. Additionally, NewSun maintains that all stakeholders, including potential bidders, should have the option to weigh in and that the utility's opinion should not hold more weight regarding the IE selection. NewSun proposes that the Commission revise the rule as follows:

> (1) Prior to issuing an RFP, unless the Commission elects to contract with an IE, an electric company must engage the services of an IE to oversee the competitive bidding process. The IE must be independent of the utility and bidders, and also be experienced and competent to perform all IE functions identified in these Division 089 rules.
>
> (2) When an electric company's engagement of a specific IE has not been previously authorized under section (5) below, the electric company must notify all parties to the electric company's most recent general rate case, RFP, and IRP dockets of its need for an IE, and solicit input from these parties and interested persons regarding potential IE candidates. The electric company must then file a request for Commission approval to engage an IE, along with the IE bids received, and a proposed scope of work. The Commission Staff will review the

[21] Rulemaking Hearing Tr. at 28 (Oct. 23, 2025).
[22] NewSun Final Comments at 11 (Dec. 4, 2025).

> request and recommend an IE to the Commission based in part on the consideration of:
>
> (a) Input received from the electric company and from interested parties ~~that are not potential bidders~~;[23]

NewSun also opposes the Joint Utilities' recommendation to limit the applicability of the IE requirement. NewSun maintains, however, that if the Commission were to adopt such limitations, an IE should be required if there are either benchmark bids or any utility ownership options.

Staff states that its updates were intended to increase process efficiencies while also being mindful of the purpose of competitive bidding rules set forth in OAR 860-089-0010 regarding minimizing costs and risks and establishing a fair, objective, and transparent process without unduly restricting electric companies. Staff states that it is not persuaded by the Joint Utilities' argument that the Commission should align with other jurisdictions, noting that the current proposal better implements OAR 860-089-0010.

AHD Recommendation

AHD Recommends that the Commission adopt OAR 860-089-0200 as proposed by Staff and as set forth in Attachment 1 to this report. The proposed Rule 200 balances efficiency in the process with ensuring a transparent and fair process. The amendments clarify the role of the IE and streamline the process by reducing how often utilities must provide notice and request approval of an IE when the Commission has already authorized the IE under Section 200(5).

<u>OAR 860-089-0250 – Design of Requests for Proposals</u>

Staff proposes to amend OAR 860-089-0250 regarding the requirements for the design and contents of an electric utility's draft RFP. In particular, Staff proposes to amend Subsection 250(3)(g) to require a draft RFP to, at a minimum, "[u]se a scoring methodology that can be applied to produce a price score for all proxy resources that were eligible for selection in the most recently filed IRP."[24]

The Commission received written comments from Renewable Northwest and the Joint Utilities regarding the proposed amendments to Rule 250.

Renewable Northwest notes that while Section 250(6) provides for a Commission decision within 80 days of the utility filing the draft RFP, the rule language also allows an electric company to request an alternative review period. Renewable Northwest states that this indicates a utility may likely request expedited review of its RFP if there are minimal changes from the prior RFP and that timing of a review of the draft RFP is

[23] *Id*. at 12.
[24] Chapter 860 Notice of Proposed Rulemaking at 13 (Oct. 1, 2025).

the control of the utility to a greater extent than the utilities have maintained in comments.

The Joint Utilities raise concerns that Subsection 250(3)(g) is based on an assumption that proxy resources in an IRP would be scored individually rather than the portfolios that are assessed in an IRP. The Joint Utilities note that proxy resources are generic representations that do not include actual project characteristics such as costs and timelines, and the IRPs do not assess the actual feasibility. The Joint Utilities state that there is a risk the scoring methodology will be insufficient or misleading when applied to actual resources (or misleading for the proxy resources in the absence of "real-world characteristics") if the scoring methodology must be generic enough to apply to the IRP proxies.[25] The Joint Utilities also argue that "[a]pplying an RFP score to all proxy resources risks oversimplifying the trade-offs inherent in long-term resource planning," and risks misapplication of the scores in future RFPs or contested cases.[26] The Joint Utilities recommend the following modifications to the proposed rule language if the Commission chooses to adopt the rule:

> (g) Use a scoring methodology that can be applied to ~~produce a price score for all~~ proxy resources ~~that were~~ eligible for selection in the most recently filed IRP, to the extent practicable. Such scoring shall be illustrative, designed to enhance transparency in planning, and shall not substitute for or predetermine resource evaluation criteria in procurement processes.[27]

The Joint Utilities also propose amendments to Section 250(6), for which Staff did not propose any amendments. The current language in Section 250(6) is as follows:

> The Commission will generally issue a decision approving or disapproving the draft RFP within 80 days after the draft RFP is filed. An electric company may request an alternative review period when it files the draft RFP for approval including a request for expedited review upon a showing of good cause. Any person may request an extension of the review period of up to 30 days upon a showing of good cause.[28]

The Joint Utilities state that it is critical to issue the RFPs within a reasonable timeframe and support changes to make the requirement mandatory unless good cause is shown. PacifiCorp states that it would also support adding a provision for a streamlined RFP process where no benchmark resources are included.

NIPPC states that it opposes the Joint Utilities attempting to make the 80-day period mandatory, noting that they do not explain what would happen after that period expires.

[25] Joint Utility Initial Comments at 6 (Nov. 14, 2025).
[26] *Id*.
[27] *Id*. at 6-7.
[28] Chapter 860 Notice of Proposed Rulemaking at 14.

NIPPC also notes "that the length of time for RFP approval is largely controlled by the utility."[29]

Staff states that the Joint Utilities may be basing their Subsection 250(3)(g) comments on a prior version of the rule from the informal phase and clarifies that the requirement here is a scoring methodology that can be applied to produce a price score. Staff maintains that using proxy resources to demonstrate price scoring is the easiest and most transparent way of showing whether the scoring methodology works. Staff notes that its proposed language is limited to price scores while the language proposed by the Joint Utilities is not and finds that it is an unnecessary addition. Staff further notes that Rule 250 does not govern planning processes or otherwise dictate procurement decisions and the Joint Utilities' proposed edits are likely to cause confusion. Staff recommends that the Commission not adopt the Joint Utilities' proposed language.

Regarding the Joint Utilities proposal to make the 80-day decision timeframe mandatory, Staff states that 80 days is a short timeframe and any number of circumstances may necessitate additional time. Staff states that there is no reason to limit the Commission's flexibility and recommends that the Commission retain Staff's proposed Section 250(6) language.

AHD Recommendation

AHD recommends that the Commission adopt Staff's proposed OAR 860-089-0250 amendments with AHD's modifications as explained below and as set forth in Attachment 1 to this report. AHD proposes that the Commission adopt the following revisions to Staff's proposed rule:

> (3) At a minimum, the draft RFP must include:
>
> ***
>
> (g) ~~Use~~ A~~a~~ scoring methodology that can be applied to produce a price score for all proxy resources that were eligible for selection in the most recently filed IRP for the purposes of demonstrating the price scoring methodology;
>
> (h) An explanation of ~~T~~the alignment of the electric company's resource need addressed by the RFP with an identified need in the most recently filed IRP, IRP Update or, based on a showing of good cause, a subsequently identified need based on a change in circumstances;
>
> ***
>
> (j) ~~The~~ An explanation of the impact of any applicable multi-state regulation on RFP development, including the requirements imposed by other states for the RFP process.

[29] NIPPC Final Comments at 4.

The proposed revisions to Subsections (3)(h) and (j) are only intended to ensure that the language matches the introductory clause of Subsection (3) and they are not intended to make any substantive changes to Staff's proposed language.

The proposed Subsection (3)(g) requires a methodology that can produce a price score and apply it to the IRP proxy resources as a demonstration of the price scoring methodology. The proposed rules do not indicate a need for comparison of these price scores with those of the RFP bids. The purpose of the requirement is for the utility to illustrate how the methodology works and may flag any potential flaws in the methodology. The current phrasing, however, may be unclear. Additionally, Subsection 3(g) also requires modification to match the introductory phrase of the subsection. As a result, AHD recommends that the Commission adopt the revisions outlined above that are intended to both clarify that the rule is for illustrative purposes only and to ensure that the language follows the appropriate grammatical structure.

To the extent that the Commission has concerns with the requirement as phrased or currently envisioned, the Commission may also decline to adopt Subsection 3(g) and a replacement could be considered in future proceedings.

AHD also recommends that the Commission retain Section 250(6) as it currently exists and not adopt the amendments proposed by the Joint Utilities. AHD agrees with Staff that there are a number of circumstances that can make the 80-day timeframe infeasible, and AHD recommends that the Commission retain the flexibility permitted under the current rule language.

OAR 860-089-0300 – Resource Ownership

Staff proposes to amend OAR 860-089-0300 regarding requirements for screening individuals from benchmark or affiliate bid preparations, disclosure and reporting requirements for utility employees engaging with development of bids, and requirements for utility resources to be evaluated for use by third-party bidders. The Commission received comments on various subsections of Rule 300, which are discussed below.

OAR 860-089-0300(1)

In the Notice of Rulemaking issued for this proceeding, Staff proposed the following language for OAR 860-089-0300(1) regarding the participation of certain individuals and disclosure rules for bids in RFPs as follows:

> (1) An electric company may submit or allow its affiliates to submit bids in response to the electric company's request for proposals.
>
> (a) Electric company and affiliate bids must be treated in the same manner as other bids.
>
> (b) Any individual who participates or has participated in the development of ~~the~~ an RFP or the evaluation or scoring of bids on behalf of the electric company

> within the past three years may not participate in the preparation of an electric company or affiliate bid and must be screened from that process.
>
> (A) With the filing of a draft RFP for approval under OAR 860-089-0250, the electric company must disclose the current and past roles within the past five years of all company employees engaged with development or submission of a benchmark or affiliate bid and whether or not each employee had or has access to confidential information that was not available to interested persons either generally or under the terms of a protective order in any prior RFP or IRP filed in Oregon by the electric company within the past five years.
>
> (B) If the Commission approves the draft RFP, the electric company must file an update of the disclosure required under paragraph (A) within seven calendar days and file an additional update every three months thereafter until the completion of the RFP. "Completion of the RFP" for purposes of this requirement means either the RFP has been withdrawn or negotiations are complete.

In response to oral comments from participants at the rulemaking hearing, Staff proposed the following modifications to Paragraph 300(1)(b)(A) as part of its initial comments submitted November 14, 2025:

> With the filing of a draft RFP for approval under OAR 860-089-0250, the electric company must disclose the current and past roles within the past five years of all company employees engaged with development or submission of a benchmark or affiliate bid and whether or not each employee had or has access to ~~confidential~~ information used to develop an electric company or affiliate bid that ~~was~~ is not available to any ~~interested persons~~ potential bidder either generally or under the terms of a protective order ~~in any prior RFP or IRP filed in Oregon by the electric company within the past five years~~ or information that was only available to the employee because the employee is a signatory to a protective order and that protective order remains in effect.[30]

Staff states that these edits clarify that the rule applies to two types of information that company employees may have access to: "1) information about the utility that an electric company may use to develop a bid to which bidders in an RFP docket would not have access, such as the electric company's hours of highest need, and 2) information about third-party bids that is only available to the employee because they signed a protective order."[31]

The Commission received comments from NIPPC, Renewable Northwest, the Joint Utilities, and New Sun on proposed Section 300(1) language. Renewable Northwest stated that it supported the earlier version of Staff's proposed language and did not file additional comments following Staff's revisions. Renewable Northwest stated that it appreciated that the proposed rules considered the impact of utility employee roles on

[30] Staff Initial Comments at 4 (Nov. 14, 2025).
[31] *Id*. at 3.

the RFP process and that it was essential to the process that utility employees be unable to unfairly advantage the utility.

In its final written comments, NIPPC states that it supports Staff's revisions to Paragraph 300(1)(b)(A). NIPPC notes that both types of information identified by Staff in the revisions are information that bidders would not have access to and could be used to unfairly develop a benchmark bid and that the language is inclusive of confidential and highly confidential information, addressing its concerns with earlier versions of the rule. In earlier comments, NIPPC encouraged the Commission to go further than Staff's recommendations and disqualify employees who have or had access to the highly confidential information of other bidders from participating on a benchmark bid team.

The Joint Utilities argue that Staff's revisions retain the same concerns they had with the earlier version, namely that they are over inclusive and cover information already available to developers. The Joint Utilities assert that the rules should focus on information that can improperly influence a benchmark bid and that cannot be accessed by developers. The Joint Utilities recommend modifying the proposed language to only include access to highly confidential project-specific bidder information. The Joint Utilities also maintain that Staff has not provided any rationale for the five-year reporting window, and that it would effectively prohibit any utility employees from transferring to the benchmark team, which may result in unnecessary overstaffing. Similarly, the Joint Utilities assert that the requirement to update disclosures every three months is duplicative and unnecessary and the rule should only require updates where there are changes in circumstances. In the alternative, the Joint Utilities recommend that the Commission limit the reporting to between the beginning of the RFP and the submission of the benchmark bids or the approval of the RFP. Finally, the Joint Utilities raise concerns about the public disclosure of employee names and recommend that if the disclosure requirements are adopted, employee information such as names will be confidential with limited access.

NewSun raises concerns that the proposed language, including Staff's November 14, 2025 revisions, seemingly do not apply if the information was available under a protective order, whether the developer signed that protective order or not. Similarly, NewSun also raises concerns that the disclosure rule would appear not to apply if the benchmark team did not use the information to inform its bid. Regarding the first issue, NewSun notes that even if the developer had access to the information under the protective order, it could not use it to develop a bid because the terms of protective orders usually prohibit it. Regarding the latter issue, NewSun maintains that the Commission has previously found that while individuals may not intend to use protected information, they still have that knowledge and may not "unknow" that information.[32] NewSun recommends that the rule require disclosure and reporting even if the information was not used, unless other potential bidders could access and use that information.

[32] NewSun Final Comments at 5, quoting *In the Matter of PacifiCorp, dba Pacific Power, 2021 Integrated Resource Plan*, Docket No. LC 77, Order No. 22-128 at 5 (Apr. 25, 2022).

NewSun also reiterates concerns that the rule as proposed is only a disclosure rule and thus does not address the issues with information parity. NewSun recommends that the Commission revise the rule to prevent such employees from serving on benchmark or affiliate teams. NewSun asserts that any information the utility believes is fundamental for internal teams for optimizing bids should be available to all potential bidders. NewSun states that this information could be provided subject to a protective order or non-disclosure agreement. New Sun recommends the following changes to Staff's proposed revised Paragraph 300(1)(b)(A):

> With the filing of a draft RFP for approval under OAR 860-089-0250, the electric company must disclose the current and past roles within the past five years of all company employees engaged with development or submission of a benchmark or affiliate bid and no company employee may serve on the benchmark or affiliate team if such ~~whether or not each~~ employee had or has access to information that could be used to develop an electric company or affiliate bid that is not available ~~to~~ for any potential bidder to use to develop its bid either generally or under the terms of a protective order or information that was only available to the employee because the employee is a signatory to a protective order and that protective order remains in effect.[33]

NewSun disputes that this would result in unnecessary overstaffing. NewSun maintains that the utilities should properly staff a separate benchmark team if it wants to participate in its own bidding process. NewSun asserts that if the utilities find the rule too burdensome, then the utilities should make information about the utility-owned resources available for third-party bidders to use and ask those bidders to submit bids in the non-benchmarking bid process.

Staff states that it does not support additional changes to the substance of Section 300(1) at this time but notes that Staff may recommend additional changes in the future. Staff states that it supports a disclosure requirement that provides information about the types of information that employees may use to provide services that support bid development, whether they are actually working on the development of the bid or not. Staff also does not support the Joint Utilities' recommendation to limit disclosure to employees who had access to highly confidential project-specific bidder information. Staff recommends that the Commission adopt its proposed revised language submitted with its initial comments on November 14, 2025.

Staff notes that the Joint Utilities have criticized the five-year time period in Subsection 300(1)(b) but maintains that they have not offered an alternative time period. Staff asserts that the five-year period is reasonable and likely to provide the Commission with a better understanding of employes that engage with developing or submitting a benchmark bid. Staff states that it does not understand the Joint Utilities concerns regarding staffing, because the rule is merely a disclosure rule and the disclosure is required of all employees who "engage with the development or submission of a benchmark or affiliate bid" regardless of whether they are actually a member of the

[33] NewSun Final Comments at 6-7.

benchmark team.[34] Staff also maintains that the three-month update reporting requirement is appropriate as proposed and notes that if the changes between updates are minimal, the reporting may be brief.

Regarding the Joint Utilities' concerns with the disclosure of employee names and other information, Staff states that it does not support the Joint Utilities request to treat the information as confidential and limit access. State asserts that the exemption of public records held by the Commission are governed by ORS 192.410 et seq and that any additional exemptions are outside the scope of this rulemaking. Staff states that if a utility believes an employee's name is exempt from disclosure, it may apply the existing OAR 860-001-0070 process when making the disclosure.

OAR 860-089-0300(3)-(4)

Staff proposes to amend Subsections 300(3) and (4) to require electric utilities to provide details relevant to the RFP about any benchmark resource elements available for use in third-party bids. Staff proposes the following language for Section 300(3) and (4):

> (3) The electric company may make one or more elements of the benchmark resource owned or secured by the electric company (e.g., site, transmission rights, or fuel arrangements) available for use in third-party bids~~. (3) If benchmark bid elements secured by the electric company are not made available to all bidders, it must provide analysis explaining that decision when seeking RFP acknowledgement and,~~ and, if it does, it must include details relevant to the RFP about such elements in the draft RFP and any RFP it issues following approval by the Commission. Details about resource elements secured by the electric company that become available to third-party bidders after issuance of the RFP must be provided to potential bidders reasonably in advance of the due date to submit third-party bids. If benchmark resource elements secured by the electric company are not made available to all bidders, it must provide analysis demonstrating how that decision is in the best interest of customers when seeking approval of a draft RFP under OAR 860-089-0250. The electric company must include that same analysis when requesting acknowledgement of a final shortlist and when seeking recovery of the costs of the resource in rates, along with any relevant updates.
>
> (4) ~~If~~ The electric company ~~resources are offered and made~~ must evaluate whether it is in the best interest of customers to make the use of transmission rights held by the electric company available ~~for use in~~to third-party bidder~~s, then the RFP may provide for appropriat~~ in an RFP. If it does make such rights available, it must include details relevant to the RFP in the Draft RFP and any RFP it issues following approval by the Commission~~cpensation of electric company resources by third-party bidders.¶ (b) Separate electric company affiliate bids are not subject to this section of this rule, and no information on any~~

[34] Staff Final Comments at 11 (Dec. 4, 2025).

> ~~decision to offer the use of separate electric company affiliate-owned elements to third-parties is required to be supplied to the Commission~~. Details about resource elements secured by the electric company that become available to third-party bidders after issuance of the RFP must be provided to potential bidders reasonably in advance of the due date to submit third-party bids. If the electric company does not make transmission rights available to third-party bidders, it must provide analysis demonstrating how that decision is in the best interest of customers when seeking approval of a draft RFP under OAR 860-089-0250. The electric company must include that same analysis when requesting acknowledgement of a final shortlist and when seeking recovery of the costs of the resource in rates, along with any relevant updates.

Renewable Northwest asserts that the current proposal is permissive, only stating that utilities may provide elements of benchmark bids for use by third-party bidders. Renewable Northwest recommends that the rule language be modified to require electric utilities make elements of benchmark resources available to third-party bidders. Renewable Northwest also proposes an alternative that would retain the permissive language but require electric utilities to explain why they did not make the elements available to all bidders.

Similarly, NIPPC recommends that utility-owned assets should be available to third-party bidders. In response to discussions at the March 18, 2025 public meeting in docket UM 2348, NIPPC proposes types of utility assets that should be made available to all bidders, such as "a utility's assets at a retiring facility such as the replacement generator interconnection rights, site control, or transmission on the utilities' or third-party systems necessary to reach the utility's loads from the retiring facility; land or site control at existing resources if a developer proposes to build a complementary resource to take advantage of scarce interconnection or transmission; excess utility-owned point-to-point transmission that may enable bidders to reach the utility's system from off-system resource sites; and utility-owned assets a utility benchmark plans to use that could be used by other bidders."[35] NIPPC notes that in docket UM 2371, Staff had recommended requiring making transmission assets available to all bidders but that following PGE comments Staff revised to align more with PGE's proposal. NIPPC maintains that the utilities must be required to make these transmission assets available or they will not do so. NIPPC asserts that the utility issuing the RFP often holds a lot of third-party transmission rights and that the acquisition of these rights can make it more difficult for third-party bidders to acquire similar rights for competitive RFP bids. NIPPC maintains that these assets can be made available without compromising system reliability and the utility's operational control, noting that RFPs in other states have made utility-owned transmission assets or other assets available for use by all bidders. NIPPC proposes the following edits to OAR 860-089-0300(3):

> The electric company ~~may~~ must make elements of the benchmark resource owned or secured by the electric company (e.g., site, ~~transmission~~

[35] NIPPC Initial Comments, Attachment A, NIPPC Comments on Proposed Rules at 9.

> interconnection rights, or fuel arrangements) and transmission rights held by the electric company available for use in third-party bids ~~and, if it does, it shall include details relevant to the RFP about such elements in the Draft RFP and any RFP it issues following approval by the Commission~~. Details about resource elements secured by the electric company that become available to third-party bidders after issuance of the RFP must be provided to potential bidders in advance of the due date to submit third-party bids. ~~If resource elements secured by the electric company are not made available to all bidders, it must provide analysis demonstrating how that decision is in the best interest of customers when seeking approval of a draft RFP under OAR 860-089-0250. The electric company must include that same analysis when requesting acknowledgement of a final shortlist and when seeking recovery of the costs of the resource in rates, along with any relevant updates. If electric company resources are offered and made available for use in third-party bids, then the RFP may provide for appropriate compensation of electric company resources by third-party bidders.~~[36]

Similar to Renewable Northwest, NIPPC proposes that if the Commission chooses not to require transmission assets be made available to all bidders, the Commission should modify Section 300(4) to state: "The electric company ~~may~~ must evaluate whether it is in the best interest of customers to make the use of transmission rights held by the electric company available to third-party bidders in an RFP."[37] NIPPC maintains that the Commission would not be taking utility property but simply establishing rules for fair access and that the rules contemplate full compensation to the utility if an asset is used in a successful bid.

The Joint Utilities oppose any requirement to make utility assets available to all bidders. The Joint Utilities assert that such a requirement would undermine "the utility's ability to execute on a cohesive portfolio strategy."[38] The Joint Utilities are particularly concerned about a requirement that transmission assets be made available, which they assert would remove the utility's autonomy to optimize its system and interfere with the utility's ability to reliably and cost-effectively manage its system. The Joint Utilities note that this proceeding has not addressed the state of Oregon's legal authority to require utilities make their transmission rights available to all bidders and concerns around transmission rights within a multi-state framework. The Joint Utilities raise concerns that such a requirement to transfer assets could be an impermissible taking. The Joint Utilities maintain that requiring a utility to transfer assets without cost recovery or risk may shift costs and risks to customers and may negatively affect credit ratings and future investments. The Joint Utilities also maintain that this may introduce ambiguity into cost recovery for those assets and require a review of existing cost-recovery mechanisms.

The Joint Utilities also raise concerns about the timing for providing the elements of benchmark bids and the potential to disadvantage the benchmark team by disclosing

[36] NIPPC Initial Comments, Attachment A, NIPPC Comments on Second Draft Proposed Rules at 5-6.
[37] NIPPC Initial Comments, Attachment A, NIPPC Comments on Second Draft Proposed Rules at 6.
[38] Joint Utilities' Initial Comments at 10.

the elements before the terms of the RFP are known. The Joint Utilities maintain that this could discourage benchmark bids, which may provide the least-cost, least-risk option for customers. The Joint Utilities assert that many of the elements of a benchmark bid are not included in utility rates because they are not used and useful at the time of the benchmark bids, meaning that the risk is with the benchmark team who procured it independently. The Joint Utilities also note that the proposed rule does not detail what should be included in an analysis of why assets were not made available to all bidders.

Staff states that it already requires utilities to provide an analysis to explain why an element of a benchmark bid secured by the utility is not available to all bidders as part of the request for acknowledgement of a final shortlist under OAR-089-0300(3). Staff states that it does not support adding a requirement for electric utilities to make elements of benchmark bids available to all bidders but that it does support the proposed addition of a requirement for the utilities to evaluate making those elements available to bidders earlier in the process. Staff also states that it supports an analysis on making transmission rights available to third-party bidders. Staff asserts that this information should be provided to bidders earlier in the process, and that these changes will promote transparency and enable bidders to respond to opportunities for elements that are made available.

Additionally, NIPPC states that the IRP or IRP Update would be the ideal place to disclose planned assets to be used in benchmark or utility-owned bids, because it is the "blueprint for the utility's near-term and long-term resource strategy."[39] Specifically, NIPPC proposes that the utilities would "be required to disclose any utility-owned assets it believes a benchmark or utility-owned bid will use in an upcoming RFP in the IRP or IRP Update."[40] NIPPC maintains that bidders need to know about these assets ahead of the RFP or it may be too late to develop alternative bids based on those assets.

The Joint Utilities assert that NIPPC's plan is not workable because the IRP is a proxy planning tool and does not evaluate actual resources. The Joint Utilities maintain that IRPs do send market signals about a potential resource need but that it is not an appropriate place to assess actual resources and may be filed well before an RFP. The Joint Utilities state that "[i]t would be unreasonable for any developer to have a resource proposal in response to an IRP— and the same goes for a utility benchmark team."[41] Additionally, the Joint Utilities note that the benchmark team is independent from the RFP development and to act otherwise would undermine these rules.

In earlier informal comments, Staff proposed that the details regarding assets would be provided with the draft RFP, which is when bidders are typically informed that there is a potential opportunity to submit proposals.

[39] NIPPC Final Comments at 13.
[40] *Id*. at 12-13.
[41] Joint Utilities Initial Comments at 13.

AHD Recommendation

AHD recommends that the Commission adopt Staff's proposed OAR 860-089-0300 with the modifications described below and set forth in Attachment 1 to this report.

AHD agrees with NewSun that Staff's revisions to Section 300(1)(b)(A) could be interpreted as only requiring disclosure when an employee had information *used* to develop a bid, narrowing the application from the language originally proposed.

Accordingly, AHD recommends that the Commission adopt the following revisions to OAR 860-089-0300(1)(b)(A):

> With the filing of a draft RFP for approval under OAR 860-089-0250, the electric company must disclose the current and past roles within the past five years of all company employees engaged with development or submission of a benchmark or affiliate bid and whether or not each employee had or has access to ~~confidential~~ information relevant to developing an electric company or affiliate bid that ~~was~~ is not available to any ~~interested persons~~ potential bidder either generally or under the terms of a protective order ~~in any prior RFP or IRP filed in Oregon by the electric company within the past five years~~ or information that was only available to the employee because the employee is a signatory to a protective order and that protective order remains in effect.

AHD acknowledges the Joint Utilities' argument that these disclosure rules may cause staffing issues but agrees with Staff that the requirement to disclose employees with information should not cause significant staffing issues. As written, the rule does not bar the utilities from permitting such employees to join benchmark or affiliate bid teams but only requires the utilities to disclose those employees. Similarly, AHD does not recommend that the Commission adopt the recommendation of NewSun that the rule bar any employee with information covered by Rule 300 from participating as part of a benchmark or affiliate bid team. We are mindful that such a prohibition could impact staffing and be overly restrictive, particularly if the Commission adopts AHD's revisions. AHD believes that disclosure is sufficient to ensure transparency while balancing efficiency and cost concerns at this time. If in the future there are additional concerns that warrant more prescriptive rules regarding employee participation beyond disclosure, the Commission could consider additional amendments to Division 89 to address the issue.

To the extent that the Commission finds that Staff and AHD's proposed disclosure language goes beyond what is necessary or requires further development, the Commission could modify Paragraph 300(1)(b)(A) to only require disclosure of employees and past roles, removing the remainder of the paragraph, and direct Staff to continue developing the language as part of an informal rulemaking or other process. If the Commission adopts such a revision, the paragraph could read as follows:

> With the filing of a draft RFP for approval under OAR 860-089-0250, the electric company must disclose the current and past roles within the past five years of all

> company employees engaged with development or submission of a benchmark or affiliate bid ~~and whether or not each employee had or has access to confidential information that was not available to any interested persons either generally or under the terms of a protective order in any prior RFP or IRP filed in Oregon by the electric company within the past five years~~.

AHD also recommends that the Commission adopt the language in Paragraph 300(1)(b)(B) regarding the three-month update reports as proposed by Staff. The regular updates will promote transparency, and AHD agrees with Staff that to the extent there are no changes between reports, the report is likely to be quite short and not overly burdensome to the utility.

Regarding Section 300(3) and (4), AHD recommends that the Commission adopt the language proposed by Staff. Given the number of open questions regarding the logistics and legality of requiring that elements or transmission rights be made available, AHD does not recommend that the Commission adopt such language at this time. However, to promote transparency and increase the potential for efficient use of assets and transmission rights, AHD recommends that the Commission adopt Staff's language requiring the utilities to evaluate providing such benchmark bid elements and transmission rights to third-party bidders and to provide an analysis regarding why these assets or rights would not be provided to third-party bidders.

Regarding NIPPC's comments about identifying assets, AHD recommends that the Commission not adopt NIPPC's proposal in this rulemaking. AHD agrees with the Joint Utilities that the IRP or IRP Update may not be an appropriate place to identify utility assets that may be used in RFPs. If the Commission is interested in NIPPC's proposal, AHD would recommend opening a separate proceeding or informal rulemaking to explore the viability of the proposal.

AHD recommends that the Commission adopt the remainder of OAR 860-089-0300 as proposed by Staff.

OAR 860-089-0450 – Independent Evaluator Duties

Staff proposes to amend OAR 860-089-0450(9) and (10) regarding the analysis and reports to be prepared and filed by the IE and other duties. Staff proposes the following amendments to Sections 450(9) and (10):

> (9) The IE must ~~file a closing report with the Commission after the electric company has selected its final shortlist. The IE's closing report must include an evaluation of the applicable competitive bidding processes in selecting the least-cost, least-risk acquisition of resources. The Commission may request that the IE include additional analysis in its closing report.~~ provide analysis and reports as requested by the Commission or its Staff. Except as otherwise directed by the Commission, the IE must:
>
> (a) File, or provide to the electric company for filing, a summary report or memorandum shortly after:

(A) The IE's review of the draft RFP and its associated scoring and modeling methodology;

(B) The IE's review of the electric company's issuance of the RFP; and

(C) The IE's benchmark bid scoring.

(b) File, or provide to the electric company for filing, a closing report with the Commission after the electric company has selected its final shortlist. The IE's closing report must include an evaluation of the applicable competitive bidding processes in selecting the least-cost, least-risk acquisition of resources. The report must also include the IE's evaluation of the electric company's responsiveness to portfolio requests it receives under the process set forth in OAR 860-089-0475. The Commission may request that the IE include additional analysis in its closing report.

(c) At the conclusion of the RFP process, file, or provide to the electric company for filing, a summary report or memorandum with the IE's assessment of the process and outcome of contract negotiations, along with any recommendations for future RFP design by the electric company.

(10) Unless the Commission directs otherwise, the IE must participate in the final short list acknowledgment proceeding initiated by the electric company, and must continue to participate ~~if, at the time of acknowledgment of~~ through final resource selection and monitor contract negotiations through to the completion of any contract between the electric company~~'s final shortlist, the Commission chooses to require IE involvement through final resource selection~~ and a bidder as the IE finds necessary to understand whether the final contract or the failure to acquire a resource is reasonable. In addition to making a decision on acknowledgment, the Commission, on its own motion or at the request of other parties, including bidders, may require expanded IE involvement. ~~Upon such a request or its own motion, the Commission may require an IE to be involved in the competitive bidding process through final resource selection.~~

The Joint Utilities state that they generally support the oversight of the IE. The Joint utilities maintain that the proposed amendments to Section 450(9) would expand the role of the IE and would not allow for flexibility, consideration of costs, and consideration of the characteristics of a specific utility or RFP. In particular, the Joint Utilities note that the same requirements would apply to an RFP where there are no benchmark bids. The Joint Utilities maintain that the new rules would reduce flexibility and that the Commission should choose a flexible approach over a rigid post. The Joint Utilities raise concerns that the current procurement process is slow and that these additional requirements could delay the process further. The Joint Utilities recommend that the Commission clarify that the reports will be limited to summaries and will not include recommendations that require Commission decisions on each individual report.

The Joint Utilities also raise concerns over the requirement in Section 450(10) that the IE monitor negotiations for every RFP. The Joint Utilities note that negotiations for individual projects may be many hours over several months, which will significantly increase the IE costs. The Joint Utilities acknowledge that they could request a waiver but maintain that the waiver process is also lengthy and that retaining the current flexibility would be more efficient. The Joint Utilities note that other states do not require this amount of reporting or contract monitoring and that the proposed rules introduce another challenge to multistate procurement.

Staff states that it does not expect that the summary reports will cause significant expense or burden for the IE and notes that if there is not much to report the summaries will likely be short. Staff maintains that there is no reason to limit the information that the IE chooses to report. Staff states that there is no process to review the IE's reports beyond consideration of the request for acknowledgement of an RFP, and those reports will aid the Commission's acknowledgement decision. Regarding the Joint Utilities' concerns with IEs monitoring contract negotiations, Staff states that the proposed rule allows the Commission to direct otherwise without the need for a waiver process.

AHD Recommendation

AHD recommends that the Commission adopt the amendments to OAR 860-089-0450(9) and (10) as proposed by Staff and as set forth in Attachment 1 to this report. AHD agrees with Staff that there is no reason to limit the information that the IE reports and that the reports are likely to be short where there is nothing substantial to report. The proposed rules specifically state that the requirements stand unless the Commission directs otherwise, preserving the flexibility for the Commission to modify these requirements as necessary. The proposed rule strikes the appropriate balance between transparency and flexibility.

OAR 860-089-0475 – Selection of the Initial Shortlist and Final Shortlist

Staff proposes that the Commission adopt new rule OAR 860-089-0475, which would set forth minimum requirements for the selection of initial and final shortlists. Staff proposes the following language for Rule 475:

> (1) Before an electric company may file a request for acknowledgment of a final shortlist of bids, the electric company must select an initial shortlist of bids and comply with the requirements of this rule. For purposes of this rule, "initial shortlist of bids" means the bids that the utility and the IE identify as meeting the minimum qualifications and are not disqualified or otherwise removed from consideration.
>
> (2) At least 60 days before filing a request for acknowledgment under OAR 860-089-0500, the electric company must file a report in the docket that includes the electric company's initial shortlist of bids, a list of bids received that are not included on the initial shortlist, an explanation as to why each bid not included on the initial shortlist was excluded, and a description of the set of

scenarios and sensitivities the electric company proposes to use to select and evaluate the performance of a final shortlist. If the electric company makes any subsequent changes to the initial shortlist, the electric company is not required to file any additional reports under this section. However, the electric company must confer with the IE before a bid is removed or withdrawn from the initial shortlist, and the IE must address the reasonableness of the electric company's action in its closing report.

(3) Interested persons may file comments on the initial shortlist report within 15 days after the electric company's filing. Commenters may request the use of different or additional portfolios and sensitivities.

(4) An electric company must consider any filed comments and be responsive to requests for additional or different portfolios of bids by either performing the additional testing or providing a reasonable explanation why it did not do so in any related request for acknowledgment of a final shortlist. The electric company must test additional or different portfolios of bids requested by Staff or the IE and provide the results of testing performed under this section to Staff and the IE within a reasonable amount of time before the IE's closing report is due.

(5) In selecting a final shortlist of bids, the electric company must base its selection on bid scores and a portfolio analysis that considers multiple combinations of all bids on the initial shortlist. The utility may select a final shortlist that represents a preferred portfolio of bids, and may identify alternate bids that the utility may seek to acquire based on the circumstances related to the preferred portfolio. The electric utility, unless otherwise directed by the Commission, must include in the portfolio analysis used to assess any initial shortlist a portfolio assessment using scoring metrics from the most recent IRP or IRP Update that, at minimum, includes analysis of impacts upon near-term costs and community impacts, as described in OAR 860-090-0060. However, an electric company that is described in ORS 469A.480, unless otherwise directed by the Commission, must include in the portfolio analysis used to assess any initial shortlist a portfolio assessment using scoring metrics from the most recent IRP that, at minimum, includes analysis of impacts upon near-term costs, as described in OAR 860-090- 0060.

(6) The electric company must notify the IE and Commission Staff of its final shortlist selection in advance of filing a request for acknowledgment under OAR 860-089-0500 and provide supporting analysis, allowing sufficient time for the IE to complete the IE's closing report. The electric company must, upon request, promptly provide the IE with any additional information the IE finds necessary for the preparation of the IE's closing report.

The Joint Utilities raise concerns that the proposed Rule 475 will introduce more delays to the procurement process and maintain that it is unrealistic to expect that the proposed process will only delay procurement by 75 days. The Joint Utilities assert that utilities need to move quickly to secure resources given the increased competition from

entities without similar regulatory requirements. The Joint Utilities state that the rules should instead promote flexibility. The Joint Utilities maintain that Staff has not provided any justification or benefits for the proposal.

NIPPC raises concerns that there appears to be contradictory language between existing rule language in OAR 860-089-0400 and the proposed new rule 860-089-0475. NIPPC states that Section 400(2) "suggests some bids will be excluded from the initial shortlist due to a low price/non-price score" while Section 475(1) "suggests that any bid meeting the RFP's minimum bid criteria will automatically be placed on the initial shortlist regardless of price/non-price score."[42] NIPPC recommends that the Commission clarify these rules to ensure that there is no ambiguity.

Staff notes that the Joint Utilities may be commenting on earlier draft language and maintains that the current rule requires the initial shortlist to be filed 60 days before a request for acknowledgement. Staff asserts that the proposed rule captures what is occurring in RFP dockets without significant additional process. Staff maintains that the timeframe will likely align with the time it will take to identify the initial shortlist, analyze that shortlist, and allow the IE to receive information to prepare the closing report, and allow the utility to prepare a request for acknowledgement. Staff states that the rules will better inform the acknowledgement decision and may improve efficiency.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-089-0475 as proposed by Staff and as set forth in Attachment 1 to this report. AHD agrees with Staff that the proposed Rule 475 captures what is already occurring in RFP dockets and provides sufficient time for the utility to prepare the initial shortlist and analysis, as well as for the utility to prepare a request for acknowledgment. The Commission will also retain the ability to waive these rules as necessary to accommodate specific issues that may arise within a RFP.

Regarding the issue raised by NIPPC, AHD understands that these rules must be read together. OAR 860-089-0475 addresses the process for selection of the initial and final shortlist, referring to bids on the initial shortlist that meet the minimum qualifications and that have not otherwise been disqualified. OAR 860-089-0400 addresses how the scoring criteria is developed and applied to the initial and final shortlists. Accordingly, AHD does not recommend any additional changes to either Rules 400 or 475 and recommends that the Commission adopt both rules as proposed by Staff and as set forth in Attachment 1 to this report.

OAR 860, Division 090 – System Planning

OAR 860-090-0010 – Applicability and Purpose of System Planning Rules

[42] NIPPC Final Comments at 15.

Staff proposes new rule OAR 860-090-0010, which sets forth the applicability and purpose of the proposed Division 90, as well as a waiver provision. Staff proposes the following rule language:

> (1) The rules contained in this Division apply to energy utilities.
>
> (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 to the Commission. In addition to the filing requirements in OAR Chapter 860, Division 001, an energy utility filing a request for waiver under this section must serve the request on all parties to the energy utility's most recent general rate case, IRP docket, and, if applicable, RFP filing.
>
> (3) The primary goal of integrated resource planning is to develop a long-term resource strategy and near-term action plan that allow the utility to meet customer needs while best balancing expected costs and associated risks for the utility and its customers.

The Coalition recommends that the Commission provide additional requirements to the waiver provision of Rule 10.[43] The Coalition notes that good cause is not defined in the rules, nor does the rule identify any factors or standards for demonstrating good cause. The Coalition maintains that additional guardrails are necessary to protect the public interest and provide clarity for participants. The Coalition refers to a Washington Utilities and Transportation Commission (WUTC) rule as an example of a rule with more specificity than good cause. The Coalition recommends that the Commission modify the rule to permit waiver for "good cause shown where consistent with the public interest, the purposes underlying regulation, and applicable statutes."[44] The Coalition also notes that WUTC also defines the public interest standard when evaluating exemption requests and recommends that the Commission adopt similar language. As an alternative, the Coalition proposes that the Commission provide a non-exhaustive list of examples of events and circumstances likely to constitute good cause for a waiver. The Coalition also requests that the Commission ensure that all waiver requests have an opportunity for public comment and engagement prior to ruling on the waiver.

Staff recommends that the Commission not constrain the Commission's discretion to provide waivers given how quickly circumstances are changing in the resource planning space.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0010 as proposed by Staff and as set forth in Attachment 1 to this report. The language in the waiver provision is consistent with the language the Commission has used for waivers in other rules,

[43] Coalition Initial Comments at 2.
[44] *I*d. at 3.

including OAR 860-001-0000(2). AHD does not see the need to change the waiver language at this time.

OAR 860-090-0020 – Definitions for System Planning Rules

Staff proposes to adopt definitions for certain terms used in Division 90. In particular, Staff proposes to define “reference case” as follows:

> "Reference case" means the collection of assumptions for future conditions that the utility considers to be most likely or expected for the purposes of planning.

NW Natural proposes to revise the definition as follows:

> “Reference case” means the collection of assumptions for future legal, economic, and policy conditions that the utility considers, at the time the IRP is prepared, to be most likely or expected for the purposes of planning, and is reflective of current state and federal statutory requirements.[45]

NW Natural asserts that adopting its proposed language will reduce controversy during IRP proceedings and focus the stakeholder proceedings. NW Natural maintains that this revision would clarify that utilities cannot model all possible future conditions and instead focuses on what is knowable at the time that the IRP is prepared.

Staff asserts that NW Natural’s proposed language would be too narrow. Staff states that the rule should retain flexibility for utilities to consider future conditions that would define the reference case.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0020 as proposed by Staff and as set forth in Attachment 1 to this report. AHD agrees with Staff that NW Natural’s proposed revisions risk too narrowly limiting the scope of relevant assumptions and conditions. AHD appreciates NW Natural’s concerns that there may be conflicts over what should be considered a condition to be included in the reference case, but the definition as proposed does not envision that any and all assumptions must be included. Instead, it limits reference cases to those conditions that are most likely or expected. The proposed definition in Section 20(10) retains flexibility for the utilities to consider the most likely future conditions without too narrowly restricting what may be considered conditions that are most likely or expected for the purposes of the reference case.

OAR 860-090-0030 – Integrated Resource Plan Procedural Requirements

Staff proposes new rule OAR 860-090-0030 to set out the requirements for the submission of IRPs, public engagement during the development of IRPs, and the submission and publication of responses to the standard information requests published on the Commission’s website, as well as the circumstances in which the Commission

[45] NW Natural Initial Comments at 3-4; Attachment at 5.

may direct the utility to take certain actions. Staff proposes the following language for Rule 30, as revised in its initial comments:

> (1) Each energy utility must file an IRP with the Commission no later than three years after the filing date of its prior IRP.
>
> (2) In preparing the IRP, the utility must allow a meaningful number of opportunities for engagement that are open to all members of the public. Such opportunities must include opportunities to contribute information and ideas, receive information, and pose questions to the utility including but not limited to requests to run portfolios, futures, scenarios, etc. These opportunities for engagement must include opportunities that are accessible to members of the public with limited resources.
>
> (3) The utility must include in its IRP filing a certification that it has concurrently submitted its responses to the most recent version of the Standard Information Requests for Integrated Resource Plans and Updates, available on the Commission's website.
>
> (4) Except as otherwise directed by the Commission, the utility must publish information submitted pursuant to section ~~(2)~~(3) of this rule as indicated in the most recent version of the Standard Information Requests. Information exempt from disclosure pursuant to a protective order issued by the Commission may be provided in redacted form. The utility must keep the published information available to the public until the utility has filed two subsequent IRPs.
>
> (5) If the Commission determines while the utility's IRP is pending before the Commission that the utility has undertaken or committed to actions that directly conflict with the utility's action plan, the Commission may direct the utility to take additional actions including:
>
> (a) Revision of the utility's action plan; or
>
> (b) Submission of a new IRP that is responsive to Commission direction.

Regarding Section 30(2), the Coalition states that the proposed rules are an improvement from the previous process but asserts that additional clarification would strengthen the rules further. The Coalition requests that the Commission further define the terms “meaningful number of opportunities” and “accessible” in terms of public engagement in the IRP and RFP processes under both Section 30(2) and the similar language in the proposed OAR 860-090-00100(1). The Coalition asserts that leaving these terms undefined creates the potential for misuse or shortcuts by the utilities. The Coalition notes that there is also no minimum standard for elements such as format, timing, or notice of these public engagement opportunities. The Coalition maintains that a framework in the form of definitions or examples would provide a useful metric by which to measure utility efforts.

Staff states it is open to providing further guidance in the future but asserts that at this time it is more feasible to address the requirements on a case-by-case basis.

Regarding Section 30(3) for Standard Information Requests, the Joint Utilities and NW Natural each raise concerns regarding whether the standardized information requests will account for specific utility circumstances and the differences between gas and electric utilities. The Joint Utilities state that it is hard to provide specific comment without a better understanding of the scope of the information covered by the standard information requests. NW Natural proposes to remove Section 30(3) for the time being and develop an initial set of standard information requests through a formal stakeholder process rather than solely by Staff. NW Natural proposes to modify Section 30(3) as follows:

> (3) The utility must ~~include in~~submit concurrently with its IRP filing all information required by ~~a certification that it has concurrently submitted its responses to~~ the most recent version of the Standard Information Requests for Integrated Resource Plans ~~and~~ or IRP Updates, as applicable, available on the Commission's website. The initial set of Standard Information Requests for an IRP will be established through a formal process before the Commission.[46]

NW Natural also notes that Section 30(4) appears to have a cross-reference to Section 30(2) that indicates it related to the standard information requests, which are contained in Section 30(3) of the proposed rules. Staff revised this error in its initial comments.

Staff asserts that it clarified during the informal process that the standard information requests would be standardized within a utility sector (i.e. gas or electric) and that Staff would address any special circumstances for a specific utility in the utility-specific guidance issued alongside the standard information requests. Staff notes that the standard information request proposal is consistent with existing rules for standard information requests issued for general rate revisions and petitions for certificates of public convenience and necessity.[47]

Regarding the proposed Section 30(5) on actions the Commission may direct a utility to take, NW Natural proposes the following modifications to Section 30(5):

> (5) If the Commission determines while the utility's IRP is pending before the Commission that the utility has undertaken or committed to actions that directly conflict with the utility's action plan, the Commission may direct the utility to ~~take additional actions including~~:
>
> (a) Revise~~ion of~~ the utility's action plan; or

[46] NW Natural Initial Comments at 4, Attachment at 12.
[47] *See* OAR 860-022-0019(2); OAR 860-025-0030(2)(q).

> (b) Prepare and submit ~~Submission of~~ a new IRP based on specific directions articulated by the Commission in an order ~~that is responsive to Commission direction~~.[48]

NW Natural did not explain these proposed revisions.

The Joint Utilities also state that they have a fundamental disagreement with Staff regarding the purpose of an IRP based on Staff's initial comments, noting that it is not a static document but a "snapshot in time."[49] The Joint Utilities maintain that if assumptions become outdated, utilities must base procurement decisions on the more recent data.

Staff states that its proposed language is adequate to convey what actions the Commission could take. Staff also maintains that it may be necessary to restart an IRP process if the utility takes an action that conflicts with the filed action plan and that it is important for that option to be stated clearly in the rules.

Renewable Northwest proposes the following language be added to Section 30 and Section 110:

> When a utility's integrated resource plan relies on modeling software subject to a license fee, the utility must provide software licenses, at its own expense, to Commission Staff and any interested party with the technical capability to review modeling files or conduct independent modeling. Upon request, the utility will provide the underlying data needed to analyze the utility's modeling in discovery in the individual proceeding. [50]

Renewable Northwest states that WUTC recently adopted a similar requirement. Renewable Northwest maintains that requiring utilities to provide such licenses or the underlying data would benefit the Commission, parties, and customers.

NW Natural opposes Renewable Northwest's proposed language and asserts that customers should not be required to pay for a stakeholder. NW Natural also asserts that licenses are controlled by software agreements and the ability to grant a license is not within the utility's control.

Staff states that the issue of software licenses can only be addressed on a case-by-case basis, taking into consideration factors such as costs versus benefits to ratepayers and information security.

AHD Recommendation

[48] NW Natural Initial Comments, Attachment at 6.
[49] Joint Utilities Final Comments at 2.
[50] Renewable Northwest Initial Comments at 6.

AHD recommends that the Commission adopt OAR 860-090-0030 as revised by Staff in initial comments and as revised by AHD. AHD's proposed revisions are explained below and set forth in Attachment 1 to this report.

AHD recommends the following revisions to Staff's proposed Section 30(2):

> (2) In preparing the IRP, the utility must allow ~~a meaningful number of~~ opportunities for engagement that are open to all members of the public. Such opportunities must include opportunities to contribute information and ideas, receive information, and pose questions to the utility including but not limited to requests to run portfolios, futures, scenarios, etc. These opportunities for engagement must include opportunities that are accessible to members of the public with limited resources.

Regarding the opportunities for public engagement requirements, AHD agrees with Staff that any issues that arise may be addressed on a case-by-case basis depending on the specific circumstances rather than setting forth specific requirements or a list of examples. AHD agrees with Cascade, however, that the term "meaningful" as used in the proposed rule does not add anything of substance to the rule and recommends that the Commission remove the phrase "meaningful number of" from the rule. AHD believes that the remaining language in Section 30(3) provides sufficient direction on what should be provided as part of these opportunities for public engagement without the "meaningful" modifier.

Regarding the standard information requests, AHD agrees with Staff that the current language is consistent with the rules and process for standard information requests in other proceedings, such as general rate revisions. These standard information requests are developed and approved by the Director of the Energy Program and listed on the website, similar to what is proposed in Rule 30 of the proposed Division 90.[51] AHD does not see a reason to modify Rule 30 to require additional formal process to create these standard information requests as proposed by NW Natural.

Regarding Renewable Northwest's proposal to add a requirement to provide software licenses, AHD recommends that the Commission not adopt such a requirement to either Rule 30 or Rule 110 without additional evaluation of potential issues with the software agreements and the utility's ability to provide software licenses to external parties, as well as the potential cost to utility customers. AHD agrees with Staff that software licenses may be addressed on a case-by-case basis depending on the circumstances of the proceeding and the software at issue.

Regarding the error identified by Northwest Natural in Section 30(4) and revised by Staff in its initial comments, AHD recommends that the Commission adopt Staff's revisions.

[51] *See In the Matter of Public Utility Commission of Oregon, The Delegation of Certain Duties and Powers of the Public Utility Commission of Oregon*, Docket No. CD 27, Order No. 25-408, Appendix A.1.c, Appendix C.1.b (Oct. 15, 2025).

Finally, regarding Subsection 30(5), AHD proposes minor edits. While Northwest Natural did not explain its proposed edits to Section 30(5), the majority of the edits appear to be for clarity or restatements. After reviewing the language in Section 30(5), AHD similarly proposes some edits for clarity and readability. AHD proposes to revise Section 30(5) as follows:

> (5) If the Commission determines while the utility's IRP is pending before the Commission that the utility has undertaken or committed to actions that directly conflict with the utility's action plan, the Commission may direct the utility to take additional actions including:
>
> (a) Revising~~on of~~ the utility's action plan; or
>
> (b) Submitting~~ssion of~~ a new IRP that is responsive to the Commission's directives~~on~~.

These changes are intended only to improve readability and clarity and are not intended to change the substance of the proposed rule.

OAR 860-090-0040 – Procedures for Public Participation

Staff proposes new rule OAR 860-090-0040 for the establishment and modification of a procedural schedule in proceedings for the review of an IRP, CEP, or IRP Update. Staff proposes the following language:

> (1) Following the filing of an IRP, CEP, or IRP Update, a procedural schedule and any necessary revisions thereto will be submitted by Commission Staff and approved as necessary by the assigned administrative law judge.
>
> (a) For each type of utility filing, the procedural schedule must allow, at minimum, for:
>
> (A) The filing of written public comments on the utility's filing and priorities for subsequent filings by the same utility under this Division; and
>
> (B) The filing of a response by the utility to those public comments.
>
> (b) In the case of an IRP or CEP, the procedural schedule must include a time generally no less than 14 days and no more than 30 days following the filing of the IRP or CEP for the utility's presentation of the IRP or CEP to the Commission, at which the utility will be required to appear and present.
>
> (c) In the case of an IRP or CEP, comments should generally be submitted within six months of the filing date of the IRP or CEP.
>
> (2) The Commission may suspend or modify the procedural schedule as necessary.

NW Natural also proposes to remove "and priorities for subsequent filings by the same utility under this Division" from Paragraph 40(1)(a)(A) but did not provide an explanation for the proposed revision.[52] Staff states that it does not support limiting the scope of what participants may provide comment on. Staff notes that it would not oppose revising this section to change "and" to "including."[53]

The Joint Utilities request that the Commission revise the proposed Rule 40 and other related sections to adopt the Commission precedent that the Commission will consider acknowledgement within 180 days of the filing. The Joint Utilities assert that the requirement for comments within six months of filing implies that the proposed rules contemplate the whole process taking up a year to complete. The Joint Utilities argue that establishing a reasonable time limit, similar to those provisions in OAR 860-089-0250 and -0500 is consistent with the objectives of modernizing the rules, as well as increasing efficiency.

Staff notes that the current requirement referred to by the Joint Utilities does not include a deadline for Commission action and only requires comments and recommendations within six months of the IRP filing.[54] Staff states that its proposed requirement is reasonable and feasible. If the Commission chooses to adopt a non-binding target for Commission action, however, Staff proposes to modify OAR 860-090-0050 rather than Section 40. AHD addresses this potential modification as part of the discussion on Section 50 below.

AHD Recommendations

AHD recommends that the Commission adopt OAR 860-090-0040 as modified by AHD and as set forth in Attachment 1 to this report. AHD agrees with Staff that the Commission should not limit the scope of comments that participants and stakeholders may provide. However, modifying the "and" to "including," as proposed by Staff, would clarify that the focus remains on the contents of the current filing and any priorities outlined therein that may impact future filings.

Regarding Subsections 30(1)(b) and (c), AHD recommends that the Commission adopt the following modifications:

> ~~(b) In the case of an IRP or CEP, the procedural schedule must include a time generally no less than 14 days and no more than 30 days following the filing of the IRP or CEP for the utility's presentation of the IRP or CEP to the Commission, at which the utility will be required to appear and present .~~
>
> (b~~c~~) In the case of an IRP or CEP, the procedural schedule ~~comments~~ should provide for the comment period, including initial and any subsequent rounds of

[52] NW Natural Initial Comments, Attachment at 7.
[53] Staff Final Comments at 23.
[54] *Id*. at 24, citing OAR 860-025-0400(7).

> comments,~~generally~~ to be ~~submitted~~ completed generally within six months of the filing date of the IRP or CEP.

After review, AHD believes that Staffs proposed Subsection 30(1)(b) may unnecessarily restrict the process, though the Commission would retain the option to modify this requirement as necessary, and may unnecessarily burden Commission scheduling. Given the number of dockets that need to be scheduled for regular public meetings throughout the year and how uneven this distribution may be, requiring presentations and requiring them to occur within 30 days of filing may put unnecessary pressure on public meeting scheduling. AHD therefore recommends that the Commission remove this requirement.

For the proposed Subsection 30(1)(c), AHD recommends revisions to Staff's proposed language to clarify that the six-month timeline would encompass all comments, not just the initial. Typically, the schedule for an IRP includes multiple rounds of comments for both the utility and the stakeholders, and these edits are intended to clarify that it is this entire comment process that would be completed within six months.

However, if the Commission determines that establishing a general comment period timeline in the rule is overly restrictive or otherwise unnecessary to include in the rules, the Commission may choose not to adopt this subsection. If the Commission chooses to reject both Subsections 30(1)(b) and (c), the rule could be re-written as follows:

> (1) Following the filing of an IRP, CEP, or IRP Update, a procedural schedule and any necessary revisions thereto will be submitted by Commission Staff and approved as necessary by the assigned administrative law judge. ~~(a)~~ For each type of utility filing, the procedural schedule must allow, at minimum, for:
>
> (a~~A~~) The filing of written public comments on the utility's filing and priorities for subsequent filings by the same utility under this Division; and
>
> (b~~B~~) The filing of a response by the utility to those public comments.

OAR 860-090-0050 – Integrated Resource Plan Acknowledgement

Staff proposes new rule OAR 860-090-0050 regarding Commission acknowledgment of the integrated resource plan long-term strategy or individual action plan items, the meaning of acknowledgment or non-acknowledgment, and Commission direction regarding the utility's next integrated resource plan. Staff proposes the following language for Rule 50:

> (1) The Commission may provide the utility an opportunity to revise the IRP before making an acknowledgment decision.
>
> (2) The Commission may acknowledge the long-term resource strategy or individual action plan items in part or in full or may condition acknowledgment on the utility's compliance with conditions imposed by the Commission.

(3) Acknowledgment of a specific action plan item generally means that the action appears to align with customers' interests, if implemented prudently, given what is known at the time of acknowledgment. The Commission's acknowledgment decision may be considered in future rate making decisions.

(4) Acknowledgment of the long-term resource strategy generally means that the strategy represents a reasonable approach to meeting future customer needs and complying with Oregon and federal energy policies in a manner that best balances cost and risk, accounting for policy, technological, economic, and other uncertainties related to Oregon's energy future, given what is known at the time of acknowledgment. Acknowledgment of the long-term resource strategy is not necessary for acknowledgment of individual action plan items. However, a non-acknowledged long-term resource strategy may indicate that the utility is not adequately planning for future risks to customers or that the utility's plan is otherwise deficient. In this circumstance, the Commission may take actions including for example:

(a) Directing the utility to take additional action to mitigate future risks; or

(b) Considering the utility's failure to act to mitigate risks in future rate making decisions.

(5) Acknowledgment of an IRP does not indicate that the Commission approves all supporting analysis or findings in an IRP for use in future determinations. The Commission may identify potential changes or additions to elements of the utility's IRP analysis that may meaningfully inform future Commission determinations if performed by the utility.

(6) The Commission may provide direction in the acknowledgment decision to the utility regarding information, analyses or actions to be addressed in the utility's next IRP.

NW Natural proposes that the Commission delete Section 50(1), which states that the Commission may allow a utility to revise the IRP prior to making a decision on acknowledgement. NW Natural states that it is unclear what this decision would be based on, though it presumes it would be based on some signal that the Commission would not acknowledge the IRP. NW Natural also raises concerns that there would be insufficient time to complete a thorough analysis and that the requirement risks the process turning into negotiated settlements rather than least-cost, least-risk planning. Staff states that Section 50(1) is intended to provide an alternative to non-acknowledgment in situations where the Commission believes revisions may reasonably address concerns. Staff maintains that the section benefits utilities.

NW Natural also objects to Section 50(5), raising concerns that it would allow the Commission to ignore the analyses in an acknowledged IRP by questioning their validity after the fact. NW Natural asserts that this violates the principle of basing prudence on what the decision maker knew or should have known at the time. Staff maintains that all

Section 50(5) provides is that the underlying data and analyses in an acknowledged IRP are not presumed valid for the purposes of other proceedings unless the Commission expressly states otherwise.

The Joint Utilities object to Section 50(3), arguing that it creates an impossible and unreasonable standard for utilities by allowing post-submission events that occur after assumptions were locked into the model to serve as grounds for non-acknowledgement. The Joint Utilities assert that the rule indicates a belief that the IRP is a static document as opposed to a "snapshot in time of proxy resource planning that is updated regularly."[55] The Joint Utilities maintain that, given the requirements for and time involved in preparing an IRP, it will inevitably be at least somewhat out of date at the time that it is filed. The Joint Utilities state that no utility would ignore a material change simply because of assumptions set out in an IRP and that other processes such as prudence reviews will provide more detailed and accurate analysis for the Commission. The Joint Utilities assert that any changes in circumstances after IRP submission can be addressed in the IRP Update.

In response to the Joint Utilities, Staff states that it agrees that the IRP provides indicative and directional guidance but maintains that the IRP should be flexible and high-level enough to accommodate ongoing changes throughout the procurement process. Staff emphasizes that acknowledgment is not a prudency determination but instead is "a potential input to a prudency determination."[56] Staff agrees with the Joint Utilities that prudency is evaluated based on the time that the decision was made. Staff asserts, however, that while the Joint Utilities claim that no rational utility would ignore material changes in making procurement decisions, the Joint Utilities are advocating for the Commission to ignore those material changes. Staff maintains that the Commission should rely on the most recent information available to ensure that the acknowledgment decision represents utility customers' best interests. Staff argues that making decisions based on the best and most recent information will not invalidate all the work the utility and stakeholders put into an IRP.

As briefly outlined in the discussion on Section 40 above, Staff proposes the following addition to Section 50 in the event that the Commission wants to adopt a non-binding target date for considering acknowledgment: "The Commission will generally hold a public meeting to issue a decision on acknowledgment of an IRP or CEP within 210 days after the IRP or CEP is filed."[57] Staff states that this language is modeled after the proposed language in OAR 860-090-250(6). Staff recommends the 210-day period rather than 180 days to ensure there is adequate time to provide comment and recommendations.

AHD Recommendation

[55] Joint Utilities Initial Comments at 22.
[56] Staff Final Comments at 17 (emphasis omitted).
[57] *Id*. at 24.

AHD recommends that the Commission adopt Staff's proposed OAR 860-090-0050 as revised by AHD and as set forth in Attachment 1 to this report.

Regarding NW Natural's proposed modifications to Section 50(1), AHD agrees with Staff that the rule allows an option for utilities to cure issues with an IRP that would otherwise prevent acknowledgment where there is an option to do so. This is an opportunity for the utilities and not a requirement, and a utility may still choose not to revise if a utility feels they are unable or unwilling to do so. AHD does not recommend removing this language.

Regarding the Joint Utilities arguments on Section 50(3), AHD agrees with Staff that the rules should not hinder the Commission from making information based on the best and most recent information available at the time of the acknowledgment decision. It makes little sense for the Commission to make a decision based on conditions that it already knows to have changed, simply because those were not the conditions at the time the IRP was submitted. Current Commission practice is to not acknowledge portions of an IRP, such as action items, that are no longer relevant or that are substantially complete by the time of acknowledgment.[58] Accordingly, AHD recommends that the Commission retain Section 50(3) as proposed by Staff.

Regarding NW Natural's proposed modifications to Section 50(5), AHD similarly agrees with Staff that the proposed language clarifies that the Commission is not acknowledging the analyses or data underlying an acknowledgment for the purposes of use in other dockets. The Commission retains the option of directing otherwise as necessary or relevant. However, for clarity, AHD proposes the following revisions to Section 50(5):

> (5) Acknowledgment of an IRP does not indicate that the Commission approves all supporting analysis or findings in an IRP for use in future determinations. The Commission may identify potential changes or additions to elements of the utility's IRP analysis to ~~that may meaningfully~~ inform future Commission determinations ~~if performed by the utility~~.

OAR 860-090-0060 – Components of the Integrated Resource Plan

Staff proposes new rule OAR 860-090-0060 to set forth the required components of the integrated resource plan. Commenters raised concerns or otherwise provided comment

[58] *See*, *e.g.*, *In the Matter of PacifiCorp, 2023 Integrated Resource Plan*, Docket No. LC 82, Order No. 24-073 at 7-8 (Mar. 19, 2024) (declining to acknowledge portions of the IRP and stating "when the IRP and CEP are superseded by events, and the company makes no effort or space to adjust and provide visibility into what actions it is actually planning to take, acknowledgment is not appropriate. Much in the way we would not acknowledge actions that PacifiCorp has already taken, we do not see a point in acknowledging actions that PacifiCorp has already abandoned."); *In the Matter of Idaho Power Company, 2019 Integrated Resource Plan*, Docket No. LC 74, Order No. 21-184 at 5-6 (Jun. 4, 2021) (declining to acknowledge action item identified as substantially complete); *In the Matter of PacifiCorp, 2013 Integrated Resource Plan*, Docket No. LC 57, Order No. 14-252 at 7 (Jul. 8, 2014) (declining to acknowledge investment that was found to be substantially complete and stating that the Commission would review such situations on a case-by-case basis).

on several elements of Division 90, Section 60, which are addressed separately below. Except where otherwise discussed below, AHD recommends that the Commission adopt OAR 860-090-0060 as proposed by Staff and as set forth in Attachment 1 to this report.

OAR 860-090-0060(4) – Documentation of Public Input

Staff proposes the following rule language regarding how a public utility must document public input in its IRP:

> (4) Documentation of public input. The utility must include in the IRP an appendix that:
>
> (a) Describes the opportunities the utility created for public input, which must include meetings that are open to all process participants, including the timeframes over which the utility accepted input from the public on each draft element of the IRP enumerated in OAR 860-090-0070;
>
> (b) Summarizes at a high level major themes of public input the utility received during the development of the plan using the mechanisms created by the utility and attaches all written public comments received in response to comment opportunities specified by the utility on each draft element of the IRP enumerated in OAR 860-090-0070;
>
> (c) Documents whether and how the utility incorporated public input into the finalization of portfolios, planning scenarios, community impacts metrics, the action plan, the utility's response to any specific direction from the Commission, and other analysis or components of the IRP; and
>
> (d) Documents how and when the utility explained any decisions not to incorporate public input into the IRP that is filed with the Commission.

The Joint Utilities raise concerns that it will be unduly burdensome to require utilities to document which feedback it incorporated and how and why it did not incorporate some feedback, noting that they often receive hundreds of comments. The Joint Utilities state that such a requirement may necessitate a new full-time equivalent employee. The Joint Utilities propose a compromise in which utilities provide the written comments that it received as an attachment to the IRP. The Joint Utilities assert that as a substantive requirement, parties could allege a violation of the rules if a utility does not address one piece of public input.

Staff notes that it responded to similar comments from the Joint Utilities in the informal phase by revising the proposed rule to clarify that the utilities should provide summaries at a high level of the major themes rather than a need to detail each individual comment or every specific issue raised, and a requirement to attach the written public comments received. Staff states that the Joint Utilities' comments appear to be focused on subsections (c) and (d) and that Staff is not opposed to making similar modifications. Staff provides the following revisions to Section 60(4)(c) and (d):

> (c) Documents whether and how the utility incorporated public input received during the development of the plan using the mechanisms created by the utility into the finalization of portfolios, planning scenarios, community impacts metrics, the action plan, the utility's response to any specific direction from the Commission, and other analysis or components of the IRP; and
>
> (d) Documents how and when the utility explained any decisions not to incorporate public input received during the development of the plan using the mechanisms created by the utility into the IRP that is filed with the Commission.[59]

Staff asserts that these changes clarify that the utility's responsibilities are limited to the comments received as part of the public input requirements set forth elsewhere in the proposed rules. Staff notes that the Joint Utilities already track and respond to public input as part of the IRPs, and the new requirement to summarize major themes was drafted to be as non-burdensome as possible while providing a benefit to the Commission and stakeholders.

AHD Recommendation

AHD recommends that the Commission adopt Staff's proposed OAR 860-090-0060(4) as revised in Staff's final comments and as set forth in Attachment 1 to this report. AHD agrees with Staff that the proposed language around public input only requires the utilities to provide information at a high level and should not therefore be overly burdensome. The utilities are only expected to summarize the major themes received rather than a detailed explanation of every comment received. Staff's proposed revisions further clarify that the proposed rule only applies to the public input required elsewhere in the proposed rules.

OAR 860-090-0060(6) – Needs Assessment

Staff proposes the following language regarding the requirement for and timing of a needs assessment to be included with a utility's IRP:

> (6) Needs assessment. The utility must include in the IRP an evaluation of the resource needs to achieve an acceptable level of reliability, including meeting any reliability requirements to which the utility is subject, while complying with all state and federal energy policies, over the next five years and in key planning years. The utility must describe in the IRP how the reliability analysis in the needs assessment accounts for opportunities presented by interactions with other systems and markets.
>
> (a) The utility must calculate resource needs based on the utility's load forecast, which must be the most recent available at the time that the needs assessment calculation is performed, and no incremental actions beyond the commitments that the utility has entered into at the time of conducting the analysis.

[59] Staff Final Comments at 28.

> (b) The utility must include in the assessment reasonable upper and lower bounds on resource needs based on key planning uncertainties.
>
> (c) The utility must clearly define the metrics and units used to summarize identified resource needs and report the date on which assumptions were last updated to inform the needs assessment.

The Joint Utilities raise concerns that Subsection 60(6)(a) does not account for "dependencies of the entire IRP analytical process."[60] The Joint Utilities state, "[f]or example, an updated load forecast available five months prior to a filing deadline should not be incorporated into the needs assessment as this would impact all following analytical steps."[61] The Joint Utilities assert that the timeframe is too compressed to meet all the requirements adequately and proposes that the Commission modify the requirement for a needs assessment to be "based on a recent utility load forecast conducted within the previous 18 months of the next IRP or IRP Update filing deadline."[62]

Staff responds that the Joint Utilities' comments appear to be based on an older version of the rules that required a load forecast to be conducted no more than three months prior to the needs assessment. Staff maintains that the current version only requires that it be the most recent load forecast available at the time of the needs assessment, not the filing. Staff states that it is open to including a nine- or twelve-month timeframe if the utilities explain the differences in the values between the forecasts, but Staff maintains that the current language avoids the risk, real or perceived, of utilities cherry-picking forecasts.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0060(6) as proposed by Staff and as set forth in Attachment 1 to this report. AHD agrees with Staff that the language as proposed prevents the cherry picking of load forecasts to be used for the needs assessment by requiring utilities to use the most recent forecast available, and it is not clear why the utilities would need an eighteen-month window.

If the Commission determines that the rule should establish a timeframe for the load forecast, such as the nine or ten months proposed by Staff, the Commission could modify OAR 860-090-0060(6)(a) as follows:

> (a) The utility must calculate resource needs based on the utility's load forecast, which must ~~be the most recent available at~~have been performed at least nine months prior to the time that the needs assessment calculation is performed, and no incremental actions beyond the commitments that the utility has entered into at the time of conducting the analysis.

[60] Joint Utilities Initial Comments at 25.
[61] *Id*.
[62] *Id.*

OAR 860-090-0060(7)(a)(C) – Planned Actions Outside a Competitive Solicitation

Staff proposes the following language regarding specific actions that may be included in a utility's action plan:

> (C) If the utility's action plan includes any of the following actions, the utility must evaluate portfolios that test the impacts of these actions and that consider alternatives to these actions:
>
> (i) A specific resource action that the utility intends to take outside of a competitive acquisition process, such as acquisition of a particular generating facility that does not fall under the competitive bidding rules in OAR Chapter 860, Division 89;
>
> (ii) Modification or retirement of a specific resource; or
>
> (iii) Expansion, retirement, or substantial modification of transmission, gas transportation, or distribution facilities.

The Joint Utilities raise concerns that this proposed language would require the utilities to describe the regulatory process it will use to procure proxy resources. The Joint Utilities note that preferred portfolios are "the proxy-based assessment of procurement targets," and that the regulatory process that will be used to acquire the actual resources will not be known at the time they draft the IRP.[63] The Joint Utilities maintain that the rule is therefore impractical.

Staff responds that this section would not typically apply to proxy resources. Staff asserts that this section only requires a utility to describe such a process in situations where there is a specific resource action the utility intends to take outside of a competitive process.

AHD *Recommendation*

AHD recommends that the Commission adopt OAR 860-090-0060(7)(a)(C) as proposed by Staff and as set forth in Attachment 1 to this report. The requirement, as proposed, only applies if a utility has proposed a specific resource action in its action plan that would be outside of the competitive bid process, or modifications and retirements of specific resources or facilities. To the extent that a utility proposes a resource action that would be within the competitive process, those actions would not trigger the requirement.

OAR 860-090-0060(7)(e) – Reliability Analysis

Staff proposes the following language regarding reliability levels and portfolios:

[63] Joint Utilities Initial Comments at 25.

> (e) The utility must demonstrate that all portfolios developed under this section provide for an acceptable level of reliability and are expected to meet any reliability requirements to which the utility is subject, while complying with all state and federal energy policies, over the next five years and in key planning years. The utility must describe how the reliability analysis accounts for opportunities presented by interactions with other systems and markets. Utilities subject to ORS 469A.415 must describe how compliance with the emission reduction targets under ORS 469A.410 was incorporated into IRP modeling.

The Joint Utilities raise concerns regarding the requirement for all portfolios to meet reliability requirements. The Joint Utilities note that the reliability assessment requires significant expertise and resources and performing such an analysis for each portfolio will be burdensome, potentially adding months of additional work. The Joint Utilities propose the following alternative language to replace the first sentence of Section 60(7)(e):

> The utility must conduct a reliability analysis to demonstrate an acceptable level of reliability and meet reliability requirements to which the utility is subject, while complying with all state and federal energy policies, over the next five years and in key planning years.[64]

Staff notes that it is not clear how the utilities determine the portfolios selected for reliability analysis and not clear how the portfolios could be compared if they have not all gone through reliability analysis. Staff asserts that the language proposed by the Joint Utilities is unworkably vague and "fails to specify *what* must be analyzed and demonstrate an acceptable level of reliability* * *."[65]

The Joint Utilities also raise concerns with the requirement for utilities to describe how the reliability analysis accounts for opportunities presented by interactions with other systems and markets. The Joint Utilities maintain that this requirement could allow parties to argue a utility is not complying with the rules because such an opportunity exists, even if that opportunity is not reasonably achievable. The Joint Utilities propose adding the following language after the phrase "interactions with other systems and markets": "to the extent such opportunities are supported by available data, established market structures, and reasonable planning assumptions."[66] The Joint Utilities also propose that the rule could instead be modified to insert "reasonable" prior to the word "opportunities."[67] Staff states that it does not object to the proposal to add the word "reasonable" before "opportunities."

NW Natural proposes to modify this section to change "the utility" to "an electric company," thus exempting natural gas utilities from the requirement.[68] NW Natural did not provide an explanation for this change. NW Natural did provide comments in the

[64] Joint Utilities Initial Comments at 26.
[65] Staff Final Comments at 32.
[66] Joint Utilities Initial Comments at 27.
[67] *Id*. at 27.
[68] NW Natural Initial Comments, Attachment at 10.

informal phase noting that Staff's addition of the phrase "other systems and markets" did not provide any clarity on the requirement for natural gas utilities and requesting additional Staff discussion to clarify.[69] Staff states that the proposed rules just require utilities to "take into account interactions with the broader region."[70] For gas utilities, Staff states this might include common pipelines or regional reliability coordination.

AHD Recommendation

AHD recommends that the Commission adopt Staff's proposed OAR 860-090-0060(7)(e) as revised by AHD below and as set forth in Attachment 1 to this report. AHD agrees with Staff that it is not clear how portfolios can be compared if they have not gone through the reliability analysis. Additionally, AHD agrees that the proposed Joint Utility language is unworkably vague and may not provide the information sought by the rule in its current form.

AHD agrees with the Joint Utilities' proposal to add "reasonable" before "opportunities in Subsection 60(7)(e) to clarify that the rule on contemplates reasonable opportunities. The subsection, as modified, would read as follows:

> (e) The utility must demonstrate that all portfolios developed under this section provide for an acceptable level of reliability and are expected to meet any reliability requirements to which the utility is subject, while complying with all state and federal energy policies, over the next five years and in key planning years. The utility must describe how the reliability analysis accounts for <u>reasonable</u> opportunities presented by interactions with other systems and markets. Utilities subject to ORS 469A.415 must describe how compliance with the emission reduction targets under ORS 469A.410 was incorporated into IRP modeling.

AHD does not recommend adopting NW Natural's proposal to limit the application of the requirement to electric utilities only. AHD notes that Staff has further clarified in comments how the requirement may apply as it pertains to natural gas utilities.

<u>OAR 860-090-0060(7)(g)(A)-(B) – Comprehensive Long-Term and Near-Term Cost Estimate</u>

Staff proposes the following language regarding long-term and near-term costs as part of the portfolio performance metrics in the IRP, as revised in its initial comments:

> (7)(g) For each portfolio, the utility must identify metrics in the IRP that describe the portfolio's performance with respect to:
>
> (A) Long-term costs, calculated as the present value of the ~~revenue requirement~~ <u>expected net costs to Oregon customers</u> over the planning horizon~~,~~ <u>associated with a given portfolio of resources, including all costs associated with producing,</u>

[69] NW Natural Initial Comments, Attachment C at 6.
[70] Staff Initial Comments at 33.

> purchasing, and transporting energy to the customer, and including end effects. (comprehensive long-term cost estimate). A comprehensive long-term cost estimate provided under this rule may be used solely for the purposes of evaluating the utility's IRP and, if applicable, CEP.
>
> (B) Near-term costs, estimated as a plausible range for the total annual net costs to Oregon customers over the next five years associated with a given portfolio of resources, including all costs associated with producing, purchasing, and transporting energy to the customer (comprehensive near-term cost estimate), considering near-term uncertainties such as resource ownership and cost allocation to Oregon customers. A comprehensive near-term cost estimate provided under this rule may be used solely for the purposes of evaluating the utility's IRP and, if applicable, CEP.[71]

Staff states that this clarification "would allow utilities, stakeholders, and the Commission to consider the full long-term and near-term net costs associated with a given portfolio, including the costs associated with producing, purchasing, and transporting energy to the customer."[72] Staff asserts that the revised language would provide information on the near-term rate impacts for each portfolio, "which may not be proportional to the long-term rate impacts."[73] Staff maintains that the proposed language requires utilities only to provide estimates and not unrealistic precision. Staff contends that the net present value revenue requirement (PVRR) is inadequate for addressing the need to provide a "holistic view of the costs and benefits associated with various portfolios, as well as information about near-term rate shocks and affordability."[74]

The Joint Utilities raise concerns with the requirement in Paragraph 60(7)(g)(B) to include metrics for near-term costs and the lack of clarity on how utilities may comply. Specifically, the Joint Utilities are concerned about how Staff's methodology is different from PVRR, which is the standard tool utilities use for proxy resources. The Joint Utilities note that it is impossible to provide rate impacts based on the proxy resources that form the preferred portfolio. The Joint Utilities state that Staff has not provided examples for complying with this requirement and request a workshop or similar process that would occur prior to the Commission adopting the rules. The Joint Utilities also state that Staff has not provided an alternative to PVRR and that the Commission should not adopt rules that the parties do not understand how to comply with. Prior to Staff's proposed revisions, the Joint Utilities proposed that the Commission retain Paragraph 60(7)(g)(A) and remove Paragraph 60(7)(g)(B).

NW Natural similarly requests that the Commission either remove the requirement or provide clear guidance on creating the comprehensive cost estimate. For the latter, NW Natural requests that the comprehensive cost estimate be exempted from comments to

[71] Staff Initial Comments at 9.
[72] *Id*.
[73] *Id*.
[74] *Id*.

avoid expanding the IRP "into an alternative, hypothetical, rate case comparison."[75] NW Natural notes that it raised concerns that this requirement would be overly burdensome with little value during the informal process and it was dismissed "without sufficient explanation."[76]

Staff notes that in the informal phase of this rulemaking, it identified PGE's near-term cost estimates in IRPs as examples that utilities could refer to. Staff clarifies that it was referring utilities to PGE's CEP data template and states that the IRP comprehensive near-term cost estimate would include transmission and distribution costs. Staff states that it agrees with NW Natural that cost estimates are indicative estimates only and that they should not be subject to the same scrutiny as a rate case. Staff asserts that electric utilities already submit an annualized total revenue requirement with their CEPs and that this requirement has not expanded the proceedings in the manner feared by NW Natural.

Staff states that the PVRR cannot adequately answer "the questions of the cost impacts of resource decisions and when those costs are experienced."[77] Staff maintains that evaluating the near and long-term costs better addresses the "holistic view of the costs and benefits associated with various portfolios."[78] Staff emphasizes that the proposed rule only asks for estimates of a plausible range.

The Coalition raises concerns that the current rules give utilities discretion to choose allocation methods that best serve the utility. The Coalition suggests that the Commission modify the rules to establish specific cost allocation methods and standards for analyses and allocations. Staff asserts that the IRP guidelines have held up well because they were not overly prescriptive and disagrees that the Commission should adopt such prescriptions in the proposed rules. Staff maintains that the IRP is not a cost allocation exercise.

AHD Recommendation

AHD recommends that the Commission adopt Staff's proposed OAR 860-090-0060(7)(g) as revised in Staff's initial comments and as set forth in Attachment 1 to this report. The proposed language requires utilities to provide information on the near-term and long-term rate impacts and incorporates costs and benefits that may not be reflected in the PVRR. While AHD appreciates the concerns of the Joint Utilities, the rule only requires estimates or a plausible range and does not demand precision. In terms of ensuring utilities can understand what sort of estimates would meet the requirements, Staff has identified PGE's CEP data template as an

[75] NW Natural Initial Comments at 5.
[76] *Id*.
[77] Staff Initial Comments at 9.
[78] *Id*.

example of the information it is seeking with this rule, and utilities may refer to those filings in developing their estimates.

Similarly, AHD appreciates the Coalition's concerns regarding the potential for too much utility discretion around cost allocation, AHD agrees with Staff that establishing specific cost allocation requirements in the IRP is too prescriptive.

If the Commission finds that Staff's proposed language is unnecessary or may be too unclear for the utilities to comply with, the Commission could adopt the Joint Utilities' proposal to eliminate OAR 860-090-0060(7)(g)(B) and adopt Staff's original language in OAR 860-090-0060(70)(g)(A) referring to PVRR.

OAR 860-090-0060(7)(g)(E) – Community Impacts

Staff proposes the following language regarding community impacts as part of the portfolio performance metrics in the IRP:

> (g) For each portfolio, the utility must identify metrics in the IRP that describe the portfolio's performance with respect to:
>
> * * *
>
> (E) Community impacts, presented as plausible ranges for the future impacts of the portfolio on communities within or partly within the utility's Oregon service territory. The utility must demonstrate that community impact metrics are:
>
> (i) Developed with input from the public, including input from environmental justice communities;
>
> (ii) Quantitative and measurable as the utility implements its plan;
>
> (iii) Practically informative to utility implementation decisions, including investments, contracts, and program designs; and
>
> (iv) Distinct from other scoring metrics.

The Joint Utilities raise concerns that it will be difficult to assess community impacts due to the use of proxy resources and the lack of information on location and size of the resources. The Joint Utilities state that such an analysis might be more appropriate in the RFPs where RFPs often include non-price scoring. The Joint Utilities note that proxy resources do not exist even at the portfolio level and therefore there are no community impacts that can be assessed without fabricating hypothetical characteristics. The Joint Utilities assert that Staff has not provided guidance on how utilities could perform this analysis in an IRP. The Joint Utilities suggest that additional investment and utilization of the community benefit indicators should be undertaken before applying additional metrics and recommend that the Commission not adopt this requirement.

Staff maintains that the proposed rule requires an analysis of the impacts of the portfolio rather than individual proxy resources. Staff notes that IRP portfolios may contain actions that do have community impacts that could be estimated. Staff also notes that waiting until the RFP would only be viable for electric utilities, because gas utilities do not issue RFPs under the competitive bidding rules. Additionally, Staff states that the analysis is meant to be part of the exploration of choosing paths that the utility might take, and thus the analysis serves a different purpose than it does in the RFP.

NW Natural also raises concerns regarding this rule, noting that the electric utilities have had years to develop such analyses in their planning processes and the gas utilities have not. NW Natural recommends that the Commission modify the rule so that it only applies to energy utilities subject to ORS 469A.415 at this time. NW Natural states that there should be additional discussion with and time for gas utilities to develop these metrics. NW Natural also notes that it raised these concerns during the informal phase and they were rejected without discussion. Staff agrees that this would be a new requirement for gas utilities but maintains that gas utilities are not "starting from scratch."[79] Staff asserts that it is expected utilities and stakeholders will need more time to develop useful metrics, which will continue developing and improving over time.

Cascade raises concerns that the rule does not clearly provide for what utilities need to include to comply and that it is not clear what Staff envisions. Cascade states that prior to the formal rulemaking, it understood the rule as focusing on utilities providing "a narrative (with associated metrics for quantification) on planning and action items to lessen energy utility impacts on, at its core, neighborhoods and the environment."[80] Cascade states that the rule in its current form is overly broad and seems to apply to everything, including investments, contracts, and program designs. Cascade proposes that the Commission not adopt this portion of the rule and instead be referred back for additional workshops or a separate proceeding. As an alternative, Cascade proposes that a policy statement could be issued in the future.

NewSun responds to comments from the utilities, noting that community impacts should be considered in both the RFPs and CEPs. NewSun states that "[t]here should be a minimum standard established within the CEP and key quantifiable or measurable impacts and benefits incorporated into the RFP" and utilities should be required to demonstrate the community benefits outlined in HB 2021.[81] NewSun proposes the following revisions to Paragraph 60(7)(g)(E):

> (E) Community impacts, presented as plausible ranges for the future impacts of the portfolio on communities within or partly within the utility's Oregon service territory. The utility must demonstrate that community impact metrics are:
>
> (i) Developed with input from the public, including input from environmental justice communities, but that at a minimum considers creating and sustaining

[79] Staff Final Comments at 36.
[80] Cascade Final Comments at 5.
[81] NewSun Final Comments at 13.

> meaningful living wage jobs, promoting workforce equity, and increasing energy security and resiliency;
>
> (ii) Quantitative and measurable as the utility implements its plan;
>
> (iii) Practically informative to utility implementation decisions, including investments, contracts, and program designs; and
>
> (iv) Distinct from other scoring metrics.[82]

NewSun also proposes a related change to OAR 860-089-0400(2):

> The electric company must base the scoring of bids and selection of an initial shortlist on price and, as appropriate, non-price factors. Non-price factors must be converted to price factors where practicable. Unless otherwise directed by the Commission, the electric company must use the following approach to develop price and non-price scores:
>
> * * *
>
> (e) Scoring criteria must take into account how electricity generated in a manner that produces zero greenhouse gas emissions can also be generated, to the maximum extent practicable, in a manner that provides additional direct benefits to communities in this state in the forms of creating and sustaining meaningful living wage jobs, promoting workforce equity and increasing energy security and resiliency.[83]

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0060(7)(g) as proposed by Staff and as set forth in Attachment 1 to this report. OAR 860-090-0060(7)(g) only requires the utilities develop metrics, based on community input, and produce plausible ranges. The language has sufficient flexibility for the utilities to develop these metrics in a way that is consistent with the utility's specific IRP and the information known at the time while providing useful information regarding potential community impacts. AHD does not recommend that the Commission adopt more prescriptive metrics at this time. Accordingly, AHD recommends that the Commission does not adopt NewSun's proposed revisions to Paragraph 60(7)(g)(E) or its related proposed revisions to OAR 860-089-0400(2).

If the Commission finds that the proposed OAR 860-090-0060(7)(g) is not clear in terms of how utilities can comply with it, or if the Commission seeks to establish more specific metrics in rule, the Commission could send this rule back to an informal rulemaking or other process to continue developing the rule.

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[82] *Id*. at 14.
[83] *Id*. at 14-15.

OAR 860-090-0060(7)(i) – Preferred Portfolio

Staff proposes the following language on the selection of the preferred portfolio in the IRP:

> (i) Preferred Portfolio. The utility must select a Preferred Portfolio in the IRP and explain why it represents the best balance of cost and risk to customers and the utility. The utility must include a visual representation such as a matrix that describes how each portfolio performed against the portfolio scoring metrics and that clearly demonstrates the relationship of the preferred portfolio to all portfolios eligible for preferred portfolio selection. In the event that the most competitive portfolio is not selected as the preferred portfolio, the utility must provide additional justification for the selection.

The Joint Utilities raise concerns with the word "best" ahead of "balance of cost and risk," noting that this standard would be unusual. The Joint Utilities recommend that the Commission instead adopt a "reasonableness standard that is consistent with historic regulatory standards."[84] Staff maintains that the word "best" is not new and is consistent with the IRP Guidelines as set forth in Order No. 07-002.

The Joint Utilities also raise concerns about the visual representation requirement, noting that a visual representation "cannot encompass all conceivable factors guiding final preferred portfolio selection."[85] Because they maintain that any visual representation will have physical limits, the Joint Utilities propose that the Commission replace the phrase "and that clearly demonstrates why the preferred portfolio was selected" with "and that clearly demonstrates the relationship of the preferred portfolio to all portfolios eligible for preferred portfolio selection."[86] The Joint Utilities also suggest adding the following statement to the rule: "In the event that the most competitive portfolio is not selected as the preferred portfolio, the utility must provide additional justification for the selection."[87] Staff maintains that these comments are substantially identical to comments the Joint Utilities made in the informal rulemaking and that Staff revised the language already, making the issue moot.

The Coalition argues that the rule should be strengthened by adding the word "compelling" between "additional" and "justification" in the last sentence of the rule subsection.[88] The Coalition maintains that this change is necessary to ensure that utilities comply with the least-cost, least-risk portfolio requirements. The Coalition asserts that without this requirement, the utilities will retain considerable discretion to select a "non-optimal portfolio" and provide varying levels of justification.[89] Staff states

[84] Joint Utilities Initial Comments at 29.
[85] *Id*.
[86] *Id.*
[87] *Id*.
[88] Coalition Initial Comments at 5.
[89] *Id*. at 6.

that it does not think it is necessary to add the word "compelling" to the rule but also states that it does not oppose it.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0060(7)(i) as proposed by Staff and as set forth in Attachment 1 to this report. Staff's proposed language is based on language previously adopted by the Commission in the IRP guidelines with the addition of the requirement for a visual representation.[90] The word "best" in particular is not new for this particular requirement, and adopting the Joint Utilities' proposed change to "reasonable" would change the requirement as it currently exist. AHD does not see a need to change it at this point given its long-standing use in this context.

Regarding the Coalition's proposed addition of "compelling" between "additional" and "justification" in the last sentence of the rule subsection, AHD does not believe that this addition would add anything substantive to the proposed language. To the extent that utilities provide justification that is not reasonable or compelling, those concerns would necessarily be addressed during the IRP process. AHD does not, therefore, recommend that the Commission adopt the Coalition's proposed addition but also notes that there is little concern presented by adopting it, either.

OAR 860-090-0070 – Draft Elements of the Integrated Resource Plan

Staff proposes new rule OAR 860-090-0070 that sets forth requirements regarding public input on drafts of certain integrated resource plan elements.

PacifiCorp states that the requirements in Section 70 are consistent with past expectations for its IRPs, but notes that the requirement to circulate a draft necessitates locking down modeling inputs earlier. PacifiCorp maintains that there is value in circulating a draft IRP but asserts "that other portions of the rules should reflect the inherent modeling mechanics associated with such a requirement."[91]

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0070 as proposed by Staff and as set forth in Attachment 1 to this report. AHD appreciates PacifiCorp's concerns about locking in modeling inputs early for the draft IRP, however, AHD does not find that there is a need to revise Rule 70 or other rules to account for modeling mechanics related to a draft IRP. It is also not clear which rules PacifiCorp is referring to specifically, and AHD thus does not recommend any additional edits related to this issue.

OAR 860-090-0100 – Clean Energy Plan Components

[90] Docket No. UM 1056, Order No. 07-002 at 12, Appendix A at 5.
[91] Joint Utilities Initial Comments at 31.

Staff proposes new rule OAR 860-090-0100 setting out the requirements for public involvement in the development of the clean energy plan and components of the clean energy plan. Commenters raised concerns or otherwise provided comment on several elements of Division 90, Section 100, which are addressed separately below. Except where otherwise discussed below, AHD recommends that the Commission adopt OAR 860-090-0100 as proposed by Staff and as set forth in Attachment 1 to this report.

OAR 860-090-0100(2) – Clear Drafting

Staff proposes the following requirement for clear and simple language in CEPs:

> (2) Draft its CEP in language that is as clear and simple as possible, with the goal that it may be understood by non-expert members of the public.

PacifiCorp raises concerns that this requirement would result in utilities "removing significant detail."[92] PacifiCorp asserts that utilities should be able to balance simplicity and the detail necessary to comply with regulations. PacifiCorp suggests that the rule be revised to require utilities a utility make its best efforts to strike that balance. Staff notes that this is not a new requirement and thus it is unlikely to compromise the detail provided in CEPs. Staff states that the requirement is intended to require language that is as clear and simple as possible, not merely simple. Staff maintains that PacifiCorp's proposed revision would be "at least as subjective" as the current proposal.[93]

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0100(2) as proposed by Staff and as set forth in Attachment 1 to this report. AHD concurs with Staff that the current inclusion of "as possible" already makes it clear that utilities must balance clarity and simplicity with necessary detail. AHD does not believe that adding "best efforts" as proposed by PacifiCorp would provide any additional clarity or flexibility to the requirement.

OAR 860-090-0100(4) – Community Benefits Indicators

Staff proposes the following rules regarding community benefits in CEPs:

> (4) Define and describe in its CEP the community benefits indicators that the electric company plans to track as the company implements its Clean Energy Plan, including the metrics adopted in IRP portfolio scoring.
>
> (a) The electric company must develop community benefits indicators upon consideration of public input, including input from environmental justice communities in Oregon.

[92] Joint Utilities Initial Comments at 33.
[93] Staff Final Comments at 39.

(b) The electric company must include at least one community benefit indicator that addresses community resiliency.

(c) The electric company must describe how the community benefits indicators will inform utility implementation decisions through mechanisms such as RFP requirements, RFP non-price scores, and program design criteria and metrics.

PacifiCorp raises concerns that due to the length of time covered in the CEP, community impacts cannot be accurately assessed. Staff states that the proposed rule section does not require an assessment of community impacts and instead only requires utilities to identify the indicators of community benefits that the utility intends to track as it implements its CEP.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0100(4) as proposed by Staff and as set forth in Attachment 1 to this report. Staff's proposal only requires the utilities to identify indicators of community benefits that the utility will track as part of its CEP implementation. AHD agrees with staff that there is no requirement for utilities to assess these impacts, and, therefore, AHD does not recommend any additional changes to the proposed language to address PacifiCorp's concerns.

OAR 860-090-0100(6) – Community Impacts

Staff proposes the following requirements related to community impacts for utilities filing CEPs:

(6) Demonstrate in its CEP that the electric company's IRP portfolio analysis accounts for:

(a) Community impacts associated with all resource options, including contributions to resiliency; and

(b) The costs and benefits of offsetting generation from fossil fuel resources with community-based renewable energy resource options.

PacifiCorp seeks clarification regarding how utilities can assess community impacts when the proxy resources do not yet exist and the communities in which those resources will be located are not yet known. PacifiCorp asserts that this information would be more useful during RFPs. PacifiCorp also requests clarification on whether the relevant communities are limited to Oregon or if it would also include communities outside the state.

In response to PacifiCorp's request for clarification, Staff proposes the following revisions to OAR 860-090-0100(6)(a):

> (a) Any reasonably foreseeable ~~Community~~ impacts on communities within or partly within the utility's Oregon service territory associated with ~~all~~ resource options, including contributions to resiliency; and…[94]

Staff states that these revisions address PacifiCorp's concerns and are more consistent with the community impact requirements in OAR 860-090-0060(7)(g)(E).

AHD Recommendation

AHD recommends that the Commission adopt Staff's proposed OAR 860-090-0100(6)(a) as revised in Staff's final comments and as set forth in Attachment 1 to this report. AHD concurs with Staff that the revised language addresses concerns that the rule would require assessment of impacts that cannot be reasonably known or foreseeable at the time and also resolves PacifiCorp's request for clarification regarding whether the rule only applies to Oregon communities.

OAR 860-090-0100(7) – Community-Based Renewable Energy Targets

Staff proposes the following requirements for establishing targets for community-based renewable energy:

> (7) Include in its CEP targets for community-based renewable energy that facilitate greenhouse gas emissions reductions, promote community resiliency, and are reflected in the utility's near-term action plan and long-term resource strategy.

PacifiCorp raises concerns that community-based renewable energy acquisition targets could undermine its relationships and goodwill that it has cultivated with communities. PacifiCorp notes that it cannot impose projects on any community. PacifiCorp argues that what is proposed in the rules exceeds the requirements set out in HB 2021. PacifiCorp proposes that as alternatives, the utilities could either provide updates and intended outreach efforts or the Commission could allow community-based renewable energy acquisition targets to be set at zero where consistent with least-cost, least-risk principles.

Staff states that under the proposed rule the utilities would set the acquisition targets, not the Commission, and that utilities may set their targets in ways that do not undermine their relationships or community goodwill. Staff asserts that the purpose of the rule is for utilities to have a non-zero acquisition target even if it is not cost effective to examine the tradeoffs involved with meeting these targets. Staff notes that PGE had a community-based renewable energy acquisition target in its 2023 IRP and CEP.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0100(7) as proposed by Staff and as set forth in Attachment 1 to this report. AHD appreciates PacifiCorp's

[94] Staff Final Comments at 41.

concerns around community relationships but concurs with Staff that the utilities may set acquisition targets in a manner that will not undermine community relationships or goodwill. Nothing in the rule requires PacifiCorp to impose a project on a community and instead only requires targets.

OAR 860-090-0100(9) – Demonstration of Action Plan

Staff proposes the following CEP requirement for electric utilities subject to HB 2021:

> (9) Demonstrate in its CEP how the electric company's long-term resource strategy and near-term action plan provide for the best balance of expected costs and associated risks and uncertainties for the electric company and its customers, while considering impacts to communities and the pace of greenhouse gas emissions reductions.

PacifiCorp again raises concerns that "best" is the incorrect standard to use here because it can vary between the parties. PacifiCorp proposes that the rule be revised to use the reasonableness standard. In the alternative, PacifiCorp requests that the Commission interpret the word "best" as meaning "optimal."[95] Staff states that it opposes PacifiCorp's request. Staff clarifies that the rule requires utilities to "demonstrate the relative value of its plan, representing the best balance of expected costs and associated risks and uncertainties," distinct from offering the whole plan under the reasonableness standard.[96]

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0100(9) as proposed by Staff and as set forth in Attachment 1 to this report. AHD agrees with Staff that the use of "best" in this context is distinct from a reasonableness standard. The use of "best" in this context is similar to the existing requirement for portfolio selection in IRPs addressed elsewhere in this report, and AHD does not believe a similar use in the proposed rule will present significant concerns or interpretation issues.

OAR 860-090-0100(10) – Demonstration of Continual Progress

Staff proposes the following CEP requirement for electric utilities subject to HB 2021:

> (10) Demonstrate in its CEP that the electric company's action plan represents continual progress towards meeting the clean energy targets set forth in ORS 469A.410, including demonstrating a projected reduction of annual greenhouse gas emissions, and that the electric company is taking actions as soon as practicable to facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electric consumers.

[95] Joint Utilities Comments at 35.
[96] Staff Final Comments at 42-43.

PacifiCorp raises concerns that the proposed standard conflicts with Order No. 24-002.[97] PacifiCorp asserts that the Commission indicated in that Order that the assessment of continual progress towards HB 2021 targets in CEPs would occur as part of a forward-looking planning process while the proposed rule seems to create an additional analysis for community impacts and greenhouse gas emissions reductions progress. Staff responds that it is not clear what PacifiCorp is referring to, because the proposed rule does not mention community impacts. Staff maintains that the proposed language closely tracks ORS 469A.415. Staff recommends that the Commission adopt the rule as proposed.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0100(10) as proposed by Staff and as set forth in Attachment 1 to this report. AHD concurs with Staff that the proposed language closely tracks the CEP requirements set forth in ORS 469.415(4)(e) and (6). Nor does the proposed language appear to be inconsistent with anything the Commission stated in Order No. 24-002.[98] Given how closely the rule tracks the statutory requirements, AHD does not recommend any additional revisions to the language.

OAR 860-090-0100(12) – Narrative Explanation

Staff proposes the following rule section related to narrative explanations of a utility's response to Commission directives as part of its CEP, as revised in its initial comments:

> (12) Include a narrative explanation and ~~page~~ reference to the appropriate CEP section and, if applicable, subsection for the electric company's response to any specific direction from the Commission to undertake or provide additional information or analysis in the CEP since the filing of its last CEP.[99]

Staff states that the revision is to be consistent with the equivalent proposal in OAR 860-090-0060(5). No party commented on Staff's revision.

AHD Recommendation

AHD recommends that the Commission adopt Staff's proposed OAR 860-090-0100(10) as revised in Staff's initial comments and as set forth in Attachment 1 to this report. Staff's revisions were intended to make the language consistent with a similar rule, and no party raised concerns with this change.

OAR 860-090-0110 – Integrated Resource Plan Updates

[97] *Public Utility Commission of Oregon, Investigation Into House Bill 2021 Implementation Issues*, Docket No. UM 2273, Order No. 24-002 (Jan. 5, 2024).
[98] *Id*. at 28-30.
[99] Staff Initial Comments at 13.

Staff proposes new rule OAR 860-090-0110 setting out the purpose of the IRP update, the requirements for utilities filing an IRP Update, and the Commission's decision on accepting an IRP Update. Commenters raised concerns or otherwise provided comment on several elements of Division 90, Section 110, which are addressed separately below. Except where otherwise discussed below, AHD recommends that the Commission adopt OAR 860-090-0110 as proposed by Staff and as set forth in Attachment 1 to this report.

OAR 860-090-0110(3)-(4) – IRP Update Filing Requirements and Availability of Information

Staff proposes the following IRP Update filing requirements, as revised in its initial comments to fix a typographical error[100]:

> (3) Filing requirements. The energy utility must complete and submit its IRP Update filing using the IRP Update template approved by the Commission and available on the Commission's website. The utility must submit with the filing all information and data required by this rule and under the template in machine-readable format. In addition, the energy utility must include in the IRP Update:
>
> (a) A description of the resource actions and actions toward enabling strategies the utility has taken since the most recent IRP or IRP Update;
>
> (b) Updates to the most recent IRP reference case to reflect any key planning information that has been obtained or developed by the utility, such as updated load forecasts, fuel prices, wholesale market prices, and resource costs;
>
> (c) Quantitative comparison of updated reference case forecasts with the range of planning scenarios considered in the Company's most recent IRP;
>
> (d) An updated needs assessment based on changes to conditions, future expectations, and utility actions since the most recent IRP or IRP Update;
>
> (e) The date on which assumptions were last updated to inform the needs assessment; and
>
> (f) A description of any changes to the near-term action plan, including changes to acquisition targets, that the utility has made in response to changes in conditions, future expectations, and utility actions since the most recent IRP or IRP Update.
>
> (4) Availability of information. The utility must publish all information submitted with the IRP Update filing to the utility's website in a machine-readable format. Information exempt from disclosure pursuant to a protective order issued by the

[100] The revised rule only moved a misplaced "and" from the end of subsection (f) to the end of subsection (e).

> Commission may be provided in redacted form. The utility must keep the published information available to the public until the utility has filed two subsequent IRPs.

The Joint Utilities state that they are unable to fully respond to the proposal because they have not yet seen the IRP update template. The Joint Utilities maintain that the Commission should not adopt this rule until it has been fully vetted. NW Natural states that it supports the template process but recommends that the Commission require that the initial template be developed by a formal process with all the stakeholders.

Staff responds that it developed and posted the draft template as part of docket UM 2348. Staff states that it expects that there may need to be updates to that template once the rules are finalized.

Idaho Power raises concerns that Subsection 110(3)(b) would require utilities to engage in the same "number crunching" as in a full IRP, because the reference case is based on "key planning information used in an IRP."[101] NW Natural also raises concerns that Subections 110(3)(b) and (c) would require a utility to conduct a full IRP analysis for the IRP update. Similar to Idaho Power, NW Natural states that subsection (b) would require updates to the reference case, and subsection (c) requires "a quantitative comparison of the updated reference case forecasts with the range of planning scenarios considered in the IRP."[102] NW Natural recommends that both subsections be removed from the rule.

Staff states that Idaho Power and NW Natural's concerns with subsection (b) are based on a misunderstanding of what the reference case is. Staff asserts that the reference case is not the same as the preferred portfolio but rather a "collection of assumptions for future conditions."[103] Staff maintains that a utility only needs to report whether they made any updates to that reference case, such as to the load forecast, and they do not need to develop a new preferred portfolio. Regarding subsection (c), Staff notes that the rule only requires the utility to determine whether an updated reference case still falls within the range studied in the most recent IRP.

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0110(3)-(4) as proposed by Staff and as set forth in Attachment 1 to this report. Regarding the template issue raised by the Joint Utilities, AHD notes that Staff has posted a draft in docket UM 2348, though Staff states it may still need to be revised once the rules are finalized.[104] AHD

[101] Joint Utilities Initial Comments at 32.
[102] NW Natural Initial Comments at 3.
[103] Staff Final Comments at 46; Staff Initial Comments, Attachment 1 at 114.
[104] *See In the Matter of Public Utility Commission of Oregon, Investigation into Integrated Resource Plan (IRP) and Request for Proposal (RFP) Modernization*, Docket UM 2348, Staff's Draft IRP Update Template (Jan. 14, 2025).

recommends that the Commission address the finalized template at a later date in docket UM 2348 as needed.

Regarding the concerns raised by Idaho Power and NW Natural, AHD concurs with Staff that the rule does not require the utilities to develop a new preferred portfolio but instead to report updates to the reference case and whether they still fall within the IRP range. The rules as proposed should not necessitate the utility conducting the same extensive calculations as a full IRP. AHD therefore does not recommend any additional revisions to the proposed language.

OAR 860-090-0110(6) – IRP Update Acceptance

Staff proposes the following rules related to Commission actions on IRP updates:

> (6) Commission action. The Commission may decide to accept an IRP Update and may further specify the extent to which it is accepted. In making a decision whether to accept the IRP Update, the Commission may also provide direction to the utility regarding the substance or filing date of the next IRP. Acceptance of the IRP Update may indicate that updates to the utility's action plan presented in the IRP Update are consistent with the scope of a prior IRP acknowledgment order. In making a decision on acceptance and providing direction to the utility regarding the substance or filing date of the next IRP, the factors the Commission may consider include:
>
> (a) Whether the utility's strategy materially deviates from the most recent IRP;
>
> (b) Whether external conditions or the utility's circumstances or planning expectations have significantly deviated from the planning scenarios considered in the most recent IRP; and
>
> (c) Public input regarding the utility's IRP Update and its preparations for the next IRP.

The Joint Utilities raise concerns that the Commission may not accept an IRP Update because of material changes to a utility's strategy or external conditions when such changes are the primary reason for filing an update. The Joint Utilities maintain that the proposal encourages utilities to disregard recent information to avoid non-acknowledgment. The Joint Utilities also reiterate their concerns that they have a fundamental disagreement with Staff regarding the purpose of the IRP. Regarding Staff statements that a scenario where key planning information is out of date within a year or two of the filing should be rare, the Joint Utilities identify two PacifiCorp IRPs where that occurred and would likely have been required to refile under these rules. The Joint Utilities emphasize that it is not uncommon for some assumptions to be out of date when the IRP is filed and re-filing would be burdensome.

NW Natural raises similar concerns and maintains that it is important that utilities be able to use the IRP Update to seek acknowledgment of changes, such as new action items, due to changed circumstances or conditions.

Staff asserts that an IRP Update cannot be streamlined if utilities request acknowledgment of new action items in the update and contends that utilities should instead consider filing a new IRP if they are concerned about risking non-acknowledgment of an update. Staff also maintains that "utilities should not knowingly submit inaccurate IRP Updates" and disagrees that the proposed rule encourages such actions.[105] Staff asserts that significant changes in conditions or circumstances are relevant to the Commission's consideration of the IRP Update. Staff also notes that as part of these rule updates, IRPs are meant to become more "flexible and resilient to a range of future conditions," including contingencies in action plans and thus Staff did not expect it to be common for the Commission to not accept an update due to significant, unforeseen changes.[106]

AHD Recommendation

AHD recommends that the Commission adopt OAR 860-090-0110(6) as proposed by Staff and as set forth in Attachment 1 to this report. Regarding concerns that the Commission may not acknowledge an IRP update if there are material deviations from the IRP, AHD agrees with Staff that it would be very difficult to practically impossible to streamline the update process if there are material deviations from the IRP. The goal of other rule language in this rulemaking contemplates utilities offering more contingencies in action plans, ideally to reduce the need for significant material deviations in the update. AHD also emphasizes that this rule would not require the Commission to not accept an IRP Update on the basis of material deviations but simply notes that the Commission may consider material deviations.

To the extent that the Commission agrees that including the language around material deviations is unwarranted or unnecessary, the Commission could modify the last sentence of the rule as follows:

> In making a decision on acceptance and providing direction to the utility regarding the substance or filing date of the next IRP, ~~the factors~~ the Commission may consider ~~include~~ the specific circumstances and facts presented in the IRP update~~:~~.
>
> ~~(a) Whether the utility's strategy materially deviates from the most recent IRP;~~
>
> ~~(b) Whether external conditions or the utility's circumstances or planning expectations have significantly deviated from the planning scenarios considered in the most recent IRP; and~~
>
> ~~(c) Public input regarding the utility's IRP Update and its preparations for the next IRP.~~

Additional Proposals

[105] Staff Final Comments at 49.
[106] *Id*.

NewSun Final Order Proposal

NewSun requests that the Commission re-evaluate treating acknowledgement decisions as non-final orders. NewSun asserts that the rules indicate that they are mandatory but that the Commission has taken the position that acknowledgement of an IRP acknowledgement or RFP design or shortlist is not binding on the utility. NewSun maintains that if the Commission interprets its orders as nonbinding on the utility, then the Commission is unable to enforce all the requirements in these proposed rules. NewSun maintains that other comments provided also indicate that acknowledgment orders are final orders, because they indicate that compliance with the rules is not voluntary.

Staff states that NewSun's comments appear to be outside the scope of this rulemaking and that whether an order is considered a final order is governed by Oregon's Administrative Procedure Act. Staff maintains that NewSun is confusing the appealability of a final order and the Commission's exercise of its regulatory authority.

AHD Recommendation

AHD believes that NewSun may be confusing the effect of acknowledgment and requirements in the rules that a utility must follow. As the Commission has outlined in recent IRP orders, acknowledgment "means that the Commission finds that the utility's preferred portfolio and action plan is reasonable at the time of acknowledgment."[107] It is not a guarantee of cost recovery and is intended to provide guidance for later ratemaking proceedings. The utility is obligated to follow all applicable rules of this Commission, barring a successful request for a waiver or other directive from the Commission, and whether an order is final does not have a bearing on that responsibility. NewSun is correct that orders on acknowledgment are not considered final orders, but it does not therefore follow that the utility may not comply with the rules for drafting, filing, and evaluating IRPs, CEPs, or RFPs as set forth in the Commission's rules.

Additionally, AHD notes that NewSun's proposal would represent a major change that is likely outside the scope of the notice of rulemaking issued in this proceeding.[108] AHD recommends that the Commission not adopt NewSun's proposal in this rulemaking proceeding.

NewSun Waiver Proposal

Similar to the concerns raised regarding the new waiver provision in Division 90, NewSun proposes that the Commission either eliminate its RFP waiver provisions or

[107] *In the Matter of Northwest Natural Gas Company, 2022 Integrated Resource Plan*, Docket No. LC 79, Order No. 23-281 at 3 (Aug.2, 2023); *see also*, *In the Matter of Avista Corporation, 2023 Integrated Resource Plan*, Docket No. LC 81, Order No. 24-156 at 4 (May 31, 2024).
[108] *See Columbia Riverkeeper v. Oregon Fish and Wildlife Commission*, 345 Or App 213, 220, 224-226, 229-230, ___ P3d ___ (2025).

establish "clear and limited criteria."[109] NewSun states that there have been issues with utilities stating in an IRP that they had sufficient resources only to later find a resource they wanted to acquire and then filed for a waiver under the competitive bidding rules. The formal rulemaking and notice did not identify either OAR 860-089-0010 or OAR 860-089-0100(3)(b) as a rule for which revisions were being considered.

Staff states that it does not believe this proposal is within the scope of this rulemaking and that it does not see a reason for limiting what the Commission may determine is good cause.

AHD Recommendation

AHD recommends that the Commission not adopt NewSun's proposed waiver revisions for substantially the same reasons covered regarding OAR 860-090-0010 above. Additionally, the Division 89 waiver provisions were not identified in the notice as potentially being opened for revision as part of this formal rulemaking. If the Commission is interested in investigating or otherwise considering NewSun's proposal, AHD would recommend that the Commission address it in a separate proceeding.

NewSun Diverse Ownership Proposal

NewSun proposes "that the Commission amend its rules to require an express finding when the Commission approves an RFP that ownership transfers will only be allow[ed] if the utility has demonstrated that the RFP will allow for diverse ownership."[110] NewSun states that the statute provides that the process should "allow for diverse ownership of resources."[111] NewSun maintains that bidders are incentivized to provide ownership options and the proposed rules do not address this issue. NewSun asserts that the Commission should require "measurable metrics" to evaluate diverse ownership and urges the Commission to require utilities "procure 100% non-utility owned resources" until they reach that metric.[112]

Staff states that it believes NewSun is referring to ORS 469A.075(4)(c). Staff maintains that this statute only requires "the Commission to adopt rules providing for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity."[113] Staff maintains that the existing rules comply with this statute and states that it does not support NewSun's proposal.

AHD Recommendation

AHD recommends that the Commission not adopt NewSun's proposal. NewSun did not identify any new language to be adopted or where it could be adopted, and it does not

[109] NewSun Initial Comments at 12.
[110] *Id*.
[111] Id. at 11 (internal quotation marks omitted).
[112] NewSun Final Comments at 16.
[113] Staff Final Comments at 6, quoting ORS 469A.075(4)(c) (internal quotation marks omitted).

appear relevant to a Division 89 rule currently being considered for amendment in this formal rulemaking process. To the extent that the Commission is interested in exploring NewSun's proposal further, AHD recommends that the Commission open a separate proceeding or rulemaking.

Conclusion

AHD recommends that the Commission adopt Staff's proposed new and amended rules, as revised by AHD and consistent with the preceding discussion. AHD proposes that the Commission adopt the following new permanent rules as outlined in Attachment 1 to this report:

OAR 860-001-0205 – Information Requests in Resource Planning and Competitive Bidding

OAR 860-089-0475 – Selection of the Initial Shortlist and Final Shortlist

OAR 860-090-0010 – Applicability and Purpose of System Planning Rules

OAR 860-090-0020 – Definitions for System Planning Rules

OAR 860-090-0030 – Integrated Resource Plan Procedural Requirements

OAR 860-090-0040 – Procedures for Public Participation

OAR 860-090-0050 – Integrated Resource Plan Acknowledgment

OAR 860-090-0060 – Components of the Integrated Resource Plan

OAR 860-090-0070 – Draft Elements of the Integrated Resource Plan

OAR 860-090-0080 – Clean Energy Plan Procedural Requirements

OAR 860-090-0090 – Clean Energy Plan Acknowledgment

OAR 860-090-0100 – Clean Energy Plan Components

OAR 860-090-0110 – Integrated Resource Plan Updates

Additionally, AHD proposes that the Commission adopt the amendments to the following rules consistent with Attachment 1 to this report:

OAR 860-001-0080 – Protective Orders

OAR 860-089-0020 – Definitions

OAR 860-089-0200 – Engaging an Independent Evaluator

OAR 860-089-0250 – Design of Requests for Proposals

OAR 860-089-0300 – Resource Ownership

OAR 860-089-0350 – Benchmark Resource Score

OAR 860-089-0400 – Bid Scoring and Evaluation by Electric Company

OAR 860-089-0450 – Independent Evaluator Duties

OAR 860-089-0500 – Final Short List Acknowledgement and Result Publication

Finally, AHD proposes that the Commission permanently repeal rule OAR 860-027-0400 consistent with Attachment 1 to this report.

PROPOSED COMMISSION MOTION:

Adopt the proposed, permanent rule amendments and new rules and repeal OAR 860-027-0400, as presented in Attachment 1.

RULES PROPOSED:
860-001-0080, 860-001-0205, 860-027-0400, 860-089-0020, 860-089-0200, 860-089-0250, 860-089-0300, 860-089-0350, 860-089-0400, 860-089-0450, 860-089-0475, 860-089-0500, 860-090-0010, 860-090-0020, 860-090-0030, 860-090-0040, 860-090-0050, 860-090-0060, 860-090-0070, 860-090-0080, 860-090-0090, 860-090-0100, 860-090-0110

AMEND: 860-001-0080
RULE TITLE: Protective Orders
RULE SUMMARY: This amendment applies the rule to additional entities in proceedings under 860-001-0205.
RULE TEXT:

(1) Protective Orders. The Commission's protective orders govern the access and use of protected information in Commission proceedings. The purpose of a protective order is to allow parties, including any party that is a limited procedural intervenor and any utility making the filing initiating a proceeding under OAR 860-001-0205, the ability to review protected information while ensuring that it is not disclosed publicly. A general protective order sets forth the processes for a person to become qualified to access protected information, to designate and handle protected information, and to challenge the designation of protected information. For good cause shown, a modified protective order may include specialized restrictions on access to certain highly protected information.

(2) General Protective Order. A party may file a motion for a general protective order when it expects a filing or discovery will involve information that falls within the scope of ORCP 36(C)(1). The general protective order, as adopted by the Commission, is available on the Commission's website and by request from the Administrative Hearings Division.

(a) The motion for a general protective order must be made in writing unless otherwise allowed by the Commission or ALJ consistent with OAR 860-001-0420(1).

(b) An ALJ may issue a general protective order immediately upon receipt of the motion to facilitate filing of protected information and discovery. Pending the ALJ's issuance of a general protective order, the information at issue need not be released.

(c) The general protective order sets forth the processes for parties to dispute a proposed signatory to a protective order or to challenge the designation of specific information as protected.

(3) Modified Protective Order. A party may file a motion under OAR 860-001-0420 for a modified protective order that provides additional protection beyond that provided by the general protective order. A modified protective order may also combine the terms of the general protective order with special provisions for highly protected information, if a party seeks to have one consolidated protective order. A modified protective order provides that certain information is designated as highly protected information. A modified protective order may limit the persons that may access the highly

protected information or designate the time or place or special handling for highly protected information. A modified protective order may also require signatories to make a more specific certification that they have a legitimate and non-competitive need for the designated information and not simply a general interest in the proceeding, and that they intend to be actively involved in the docket by filing written materials and participating in proceedings.

(a) The motion for a modified protective order must be made in writing unless otherwise allowed by the Commission or ALJ consistent with OAR 860-001-0420(1). The motion must include:

(A) The parties and the exact nature of the information involved;

(B) The legal basis for the claim that the information is protected under ORCP 36(C)(1) or the Public Records Law;

(C) The exact nature of the relief requested;

(D) The specific reasons the requested relief is necessary;

(E) A detailed description of the intermediate measures, including selected redaction, explored by the parties and why these measures are insufficient;

(F) A certification that the requesting party conferred with the other parties regarding the request for a modified protective order indicating whether the parties support the motion; and

(G) A draft of the requested modified protective order.

(b) If the motion is being filed prior to parties being identified, the Filing Center will serve the motion to the generic industry list.

(c) The ALJ will provide expedited review of any motion for modified protective order and may issue a modified protective order within 3 business days to facilitate filing of protected information and discovery. Pending the ALJ's issuance of a modified protective order, the information at issue need not be released.

(d) As a substantive motion, any response to a motion for a modified protective order regarding the terms of the modified protective order must be filed within 15 days of filing of the motion, and the moving party may file a reply within 7 days, consistent with OAR 860-001-0420(4) and (5). A modified protective order will set forth separate processes for parties to dispute a proposed signatory to the protective order, or to challenge the designation of information as protected or highly protected.

(e) When a response is filed to the motion for modified protective order, the ALJ will conduct a de novo review of the terms of the modified protective order. The ALJ will issue a ruling explaining the ALJ's determination. If the ALJ's determination requires changes to the terms of the modified

protective order previously issued, the ALJ will issue an amended modified protective order, explaining if signatory pages need to be refiled.

(f) Under OAR 860-001-0110, a party may request that the ALJ certify to the Commission the determination resulting from the de novo review. A party must make this certification request within 15 days of the date of service of the applicable ALJ's decision.

(g) If a modified protective order requires signatories to certify active participation in the proceeding,

(A) A certifying party may decertify itself as eligible to receive information under the modified protective order; or

(B) A certifying party may be decertified as eligible to receive information under the modified protective order after a motion by another party or the ALJ's own motion for failing to fully participate in the proceeding. A certifying party who is the subject of a motion to decertify may file a response within 15 days of the motion to decertify.

(4) A party alleging that the terms of a protective order have been violated may file a complaint under ORS 756.500, or the Commission may, on the Commission's own initiative, file such complaint. Any person that fails to comply with the terms of a protective order may be subject to sanctions. Depending upon the severity of the violation, the Commission may impose any sanction it deems appropriate, up to and including:

(a) Issuing a public reprimand;

(b) Expelling the person or associated party from the proceeding in which the protective order was violated;

(c) Prohibiting the person or associated party from appearing in future proceedings;

(d) Imposing penalties under ORS 756.990(2)(c); or

(e) Reporting any attorney that violated the protective order to the bar association in all states where the attorney is admitted to practice law.

STATUTORY/OTHER AUTHORITY: ORS 756.040, ORS 756.060
STATUTES/OTHER IMPLEMENTED: ORCP (36), ORS 756.040, ORS 756.055, ORS 756.990

ADOPT: 860-001-0205
RULE TITLE: Information Requests in Resource Planning and Competitive Bidding
RULE SUMMARY: This rule sets out the Commission's procedures for information requests in proceedings that concern the review of an Integrated Resource Plan (IRP), an IRP Update and a Clean Energy Plan, and a resource acquisition that is subject to the Commission's competitive bidding rules.
RULE TEXT:

(1) This rule applies to proceedings before the Commission that concern the review of an Integrated Resource Plan (IRP), an IRP Update and a Clean Energy Plan as those terms are defined in OAR 860-090-0020, and a resource acquisition that is subject to the Commission's competitive bidding rules in OAR Chapter 860, Division 89.

(2) For purposes of this rule, "energy utility" has the same meaning as provided in OAR 860-090-0020.

(3) Any person who meets the requirements of this rule may request information that is commensurate with the need to provide relevant comment on a pending filing subject to this rule, and that is also commensurate with the resources available to the requester and the recipient and the importance of the issues to which the request relates.

(a) To request information under this section, a person, other than the energy utility that made the filing initiating a proceeding under this rule, must first intervene as a party in the proceeding for limited procedural purposes. Intervention is not necessary to otherwise participate in the proceeding, including for activities such as attending a workshop, submitting written comments or providing oral comments to the Commission at a public meeting. Commission Staff may request information without intervening.

(A) An interested person may intervene as a party for limited procedural purposes in a proceeding subject to this rule by following the procedures outlined in this Division for petitions to intervene in contested case proceedings.

(B) The assigned administrative law judge may grant a petition to intervene for limited procedural purposes only. Limited procedural intervenor (LPI) status allows that person to be placed on the service list and to request information as provided in this rule. A person with LPI status may also be eligible to sign a protective order issued by the administrative law judge and access confidential information related to the utility's filing. Limited procedural intervenor status granted under this rule does not confer the general rights and duties of individuals who participate in contested case proceedings.

(b) Commission Staff, an energy utility that made the filing initiating a proceeding under this rule, and any person holding LPI status may submit information requests to one another in the form of either written interrogatories or requests for the production of documents. A requester must serve the request on the energy utility, Commission Staff and any person holding LPI status in the proceedings. For

nonconfidential requests, service may be made by electronic mail or by electronic mail notification of upload to a designated shared workspace for information requests and responses. If the request contains confidential information, then a complete copy must be served on those eligible to receive confidential information under the terms of a protective order and a redacted copy to all others. The complete confidential copy must be served using the means identified in the protective order. Nonconfidential responses submitted to Commission Staff must be sent to PUC.Datarequests@puc.oregon.gov. If a designated shared workspace is being used for requests and responses, the notification of uploaded information requests and responses must be sent to PUC.Datarequests@puc.oregon.gov.

(c) Information requests that are unreasonably cumulative, duplicative, burdensome, or overly broad are not allowed. Instructions and definitions included in information requests must be consistent with the rules of the Commission under OAR Chapter 860 and ORS Chapters 469A, 756, 757 and 758.

(4) Commission Staff, the energy utility, and any person holding LPI status who receives an information request must answer the information request within 14 days from the date of service, except as may otherwise be agreed to by the requester. Each request must be answered fully and separately in writing or by production of documents, or objected to in writing.

(a) Privileged material is not required to be disclosed except when disclosure is consistent with the Oregon Evidence Code, ORS 40.225 to 40.295.

(b) Commission Staff, the energy utility, and any person holding LPI status will not be required to develop information or prepare a study in response to an information request, unless the capability to prepare the study is possessed uniquely by the entity receiving the request, the request is not unduly burdensome, and the information sought has a high degree of relevance to the issues in the proceeding.

(c) Commission Staff, the energy utility, and any person holding LPI status answering an information request must provide a response or an electronic mail notification of upload to a designated shared workspace to the requester and to Commission Staff, the energy utility and all persons with LPI status that filed a written request for a copy of the response. A person holding LPI status must agree to be bound by the applicable protective order to be eligible to receive a response containing confidential information.

(5) Information requesters and the recipients of information requests must make every effort to engage in the cooperative exchange of information and to resolve disputes themselves. If an energy utility receives an information request that is likely to lead to a dispute, then the energy utility must inform the requester of the dispute as soon as practicable and attempt to resolve it informally.

(6) If the information requester and the recipient of the request are unable to resolve a dispute informally, then either the requester or the recipient may request that the ALJ assigned to the docket conduct a conference to facilitate the resolution of the dispute. A requester must identify for the ALJ the specific information sought and describe the efforts of those involved to resolve the dispute

informally.

(7) A requester may file a motion with the Commission to compel a response to its request, seeking an order directing the receiving entity to respond to an information request. The motion must contain a certification that the requester has conferred with the recipient but has been unable to resolve the dispute. Motions under this rule are subject to the same requirements for motions in a contested case under OAR 860-001-0420.

(8) An assertion that information responsive to an information request is confidential may not be used to delay the request process. However, a~~n~~ request recipient will not be required to provide responsive information that it claims is inadequately protected until such time as its claim for the need for a general protective order or a modified protective order is resolved. If the recipient believes that a response to a request involves confidential information that is inadequately protected by the safeguards existing in the docket, the recipient must notify the requester of this belief as soon as practicable and, if appropriate, promptly move for an appropriate protective order under OAR 860-001-0080.

(9) Except when requested by the Commission or ALJ, or when seeking resolution of a dispute under these rules, information requests are not filed with the Filing Center or provided to the ALJ.

(10) A person holding LPI status may submit information requests and the answers to those requests when commenting on a filing. Any objection to substance or form of a request or answer must be attached with specific reference and grounds.

(11) Upon a motion by a requester or the recipient, or their own motion, the assigned ALJ may impose sanctions for the failure or refusal to comply with an oral or written ruling resolving a dispute under this rule. The ALJ may impose sanctions including withdraw of approval of a petition to intervene or striking of a filing in the docket.

STATUTORY/OTHER AUTHORITY: ORS 756.040, ORS 756.060
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 756.105, ORS 756.115

REPEAL: 860-027-0400
RULE TITLE: Integrated Resource Plan and Clean Energy Plan Filing, Review, and Update
RULE SUMMARY: This rule is repealed as it is intended to be replaced by new System Planning Rules in Division 90.
RULE TEXT:

~~(1) Scope and Applicability: This rule applies to investor-owned energy utilities. Upon application by an entity subject to this rule and for good cause shown, the Commission may relieve it of any obligation under this rule.~~

~~(2)(a) As used in this rule, "Integrated Resource Plan" or "IRP" means the energy utility's written plan satisfying the requirements of Commission Order Nos. 07-002, 07-047 and 08-339, detailing its determination of future long-term resource needs, its analysis of the expected costs and associated risks of the alternatives to meet those needs, and its action plan to select the best portfolio of resources to meet those needs.~~

~~(b) As used in this rule, "Clean Energy Plan" or "CEP" means the plan that an electric company subject to ORS 469A.415 is required to develop concurrently with the development of the IRP.~~

~~(3) An energy utility must file an IRP within two years of its previous IRP acknowledgment order or as otherwise directed by the Commission. If the energy utility does not intend to take any significant resource action for at least two years after its next IRP is due, the energy utility may request an extension of its filing date from the Commission. An electric company subject to ORS 469A.415 must explain how it will make continual progress toward towards meeting the clean energy targets in ORS 469A.410 during the period of extension when making a request.~~

~~(4) An electric company that is subject to ORS 469A.415 must file a CEP with the Commission concurrently with an IRP filing required under Section (3) of this rule and in the same docket. If filing the CEP concurrently with the IRP would create an undue burden or a significant issue impacting IRP or CEP review exists, the electric company may file a written request to the Commission to extend the filing date for the CEP up to 180 days after the IRP filing date. If the Commission grants an extension for filing the CEP, it may establish an alternate schedule for a utility presentation and comments under Sections (6) and (7) below.~~

~~(5) The CEP must be written in language that is as clear and simple as possible, with the goal that it may be understood by non-expert members of the public. The CEP must contain the information required by ORS 469A.415 and present annual goals for actions that balance expected costs and associated risks and uncertainties for the utility and its customers, including a demonstration of making continual progress toward meeting the clean energy targets, the pace of greenhouse gas emissions reductions, and community impacts and benefits.~~

~~(6) The energy utility must present the results of its filed IRP, and, when applicable, its CEP, to the Commission at a public meeting prior to the deadline for written public comment.~~

~~(7) Commission staff and parties must file their comments and recommendations, and, when applicable, their CEP comments and recommendations, generally within six months of IRP filing. If the CEP is not filed with the IRP, Commission staff and parties must file their comments and recommendations generally within six months of CEP filing.~~

~~(8) The Commission must consider comments and recommendations on an energy utility's IRP, and, when applicable, CEP, at a public meeting before issuing an order on acknowledgment. Except as provided in section (9),the Commission may provide the energy utility an opportunity to revise the IRP before issuing an acknowledgment order.~~

~~(9) For an electric company that is subject to ORS 469A.415, the Commission will issue an order memorializing its decision on acknowledgment for the CEP, which may be combined with the IRP acknowledgment order. The Commission may provide the electric company an opportunity to revise the IRP or CEP or both before issuing an acknowledgment order. The Commission may, at its discretion, take one of the following actions for the CEP portion of the acknowledgement order:~~

~~(a) Acknowledge a CEP as filed;~~

~~(b) Acknowledge a CEP with conditions; or~~

~~(c) Not acknowledge the CEP and require that the utility revise and resubmit all or certain elements of the CEP within the procedural timeline directed in the order.~~

~~(10) The Commission may provide direction to an energy utility regarding any additional analyses or actions that the energy utility should undertake in its next IRP, and, when applicable, its CEP.~~

~~(11) Each energy utility must submit an annual update on its most recently acknowledged IRP. The update is due on or before the acknowledgment order anniversary date. The energy utility must summarize the annual update at a Commission public meeting. The energy utility may request acknowledgment of changes, identified in its update, to the IRP action plan. The annual update is an informational filing that:~~

~~(a) Describes what actions the energy utility has taken to implement the action plan to select best portfolio of resources contained in its acknowledged IRP;~~

~~(b) Provides an assessment of what has changed since the acknowledgment order that affects the action plan to select best portfolio of resources, including changes in such factors as load, expiration of resource contracts, supply-side and demand-side resource acquisitions, resource costs, and transmission availability; and~~

~~(c) Justifies any deviations from the action plan contained in its acknowledged IRP, or, where applicable, CEP.~~

~~(d) Includes an update that summarizes the utility's actions implementing the annual goals in the CEP filed with the most recently acknowledged IRP. The update will include, on an informational basis, an assessment of what has changed since the acknowledgment order that affects the utility's progress toward the clean energy targets in ORS 469A.410, reporting of measured impacts across the metrics that were presented in the most recently acknowledged CEP, and the electric company's two most recent annual emissions reports filed with the Oregon Department of Environmental Quality under ORS 469A.420(4)(a).~~

~~(12) As soon as an energy utility anticipates a significant deviation from its acknowledged IRP, or, where applicable, its CEP, it must file an update with the Commission, unless the energy utility is within six months of filing its next IRP. This update must meet the requirements set forth in section (11) of this rule.~~

~~(13) If the energy utility requests Commission acknowledgement of its proposed changes to the action plan contained in its acknowledged IRP, or, where applicable, its CEP:~~

~~(a) The energy utility must file its proposed changes with the Commission and present the results of its proposed changes to the Commission at a public meeting prior to the deadline for written public comment;~~

~~(b) Commission staff and parties must file any comments and recommendations with the Commission and present such comments and recommendations to the Commission at a public meeting within six months of the energy utility's filing of its request for acknowledgement of proposed changes;~~

~~(c) The Commission may provide direction to an energy utility regarding any additional analyses or actions that the utility should undertake in its next IRP, or where applicable, its CEP.~~

~~STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756.040, ORS 757.262~~
~~STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.262~~

AMEND: 860-089-0020
RULE TITLE: Definitions
RULE SUMMARY: This rule amends definitions for "IRP" and "IRP Update" to clarify the Commission's intent in using the defined terms.
RULE TEXT:

For purposes of this Division, unless the context requires otherwise:

(1) “Benchmark resource” is a resource identified in an electric company’s response to its own request for proposals.

(2) “Commission-acknowledged IRP” means an IRP for which the Commission has acknowledged the electric company’s action item to procure the resource subject to the rules in this division.

(3) "Electric company" has the meaning given that term in ORS 757.600.

(4) “Independent evaluator” or “IE” refers to a person engaged by an electric company to oversee an RFP process under the rules in this division, and who also reports directly to the Commission during that process.

(5) “Integrated resource plan” or “IRP” has the meaning given that term in OAR 860-090-0020.

(6) “IRP Update” means an update to an IRP that is filed in accordance with OAR 860-090-0110.

(7) “Qualifying facility” refers to qualifying facilities under 16 USC § 796(17) and (18) (2012) and ORS 758.505(8).

(8) “Request for proposals” or “RFP” means all documents, whether attached or incorporated by reference, used for soliciting proposals from prospective bidders.

(9) “Resource acquisition” refers to a process for the purpose of acquiring energy, capacity, or storage resources that starts with an electric company’s:

(a) Circulation of a final or draft RFP to third parties; or

(b) Communication of a final offer or receipt of a final offer in a two-party negotiation.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

AMEND: 860-089-0200
RULE TITLE: Engaging an Independent Evaluator
RULE SUMMARY: This rule amends the requirements for the selection of an independent evaluator to oversee the competitive bidding process.
RULE TEXT:

(1) Prior to issuing an RFP, an electric company must engage the services of an IE to oversee the competitive bidding process. The IE must be independent of the utility and bidders, and also be experienced and competent to perform all IE functions identified in these Division 089 rules.

(2) When an electric company's engagement of a specific IE has not been previously authorized under section (5) below, the electric company must notify all parties to the electric company's most recent general rate case, RFP, and IRP dockets of its need for an IE, and solicit input from these parties and interested persons regarding potential IE candidates. The electric company must then file a request for Commission approval to engage an IE, along with a proposed scope of work. The Commission Staff will review the request and recommend an IE to the Commission based in part on the consideration of:

(a) Input received from the electric company and from interested parties that are not potential bidders;

(b) Review of the degree to which the IE is independent of the electric company and potential bidders;

(c) The degree to which the cost of the services to be provided is reasonable;

(d) The experience and competence of the IE; and

(e) The public interest.

(3) The electric company is responsible for engaging the services of the IE and is responsible for all fees and expenses associated with engaging the IE's services. The electric company may request recovery of fees and expenses associated with engaging an IE in customer rates.

(4) Commission Staff may recommend changes to the proposed scope of work submitted under section (2) of this rule. The electric company's contract with the IE must require that the IE fulfills its duties under these rules, include any changes to the scope of work as directed by the Commission, and require that the IE report directly to the Commission as well as to the electric company during the RFP process and confers as necessary with the Commission and Commission Staff on the IE's duties.

(5) When the IE has completed its services regarding the RFP, the Commission may request feedback from interested parties regarding the IE's performance. The Commission may authorize an electric company to engage the same IE for the electric company's next resource acquisition that is subject to the rules in this Division, and identify the minimum scope of work for which the electric company must engage the same IE.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

AMEND: 860-089-0250
RULE TITLE: Design of Requests for Proposals
RULE SUMMARY: This rule amends the requirements for design and contents of an electric utility's draft request for proposals.
RULE TEXT:

(1) For each resource acquisition, the electric company must prepare a draft request for proposals for review and approval by the Commission and provide copies of the draft to all parties to the IE selection docket. Prior to filing the draft RFP with the Commission, the electric company must consult with the IE in preparing the RFP and must conduct bidder and stakeholder workshops.

(2) The draft RFP must reflect any RFP elements, scoring methodology, and associated modeling described in the most recently filed IRP or IRP Update when applicable. In preparing its proposal, the electric company must consider resource diversity (e.g. with respect to technology, fuel type, resource size, and resource duration).

(3) At a minimum, the draft RFP must include:

(a) Any minimum bidder requirements for credit and capability;

(b) Standard form contracts to be used in acquisition of resources;

(c) Bid evaluation and scoring criteria that are consistent with section (2) of this rule and with OAR 860-089-0400;

(d) Language to allow bidders to negotiate mutually agreeable final contract terms that are different from the standard form contracts;

(e) Description of how the electric company will share information about bid scores, including what information about the bid scores and bid ranking may be provided to bidders and when and how it will be provided;

(f) Bid evaluation and scoring criteria for selection of the initial shortlist of bidders and for selection of the final shortlist of bidders consistent with the requirements of OAR 860-089-0400;

(g) ~~Use~~ A scoring methodology that can be applied to produce a price score for all proxy resources that were eligible for selection in the most recently filed IRP for the purposes of demonstrating the price scoring methodology;

(h) An explanation of ~~T~~the alignment of the electric company's resource need addressed by the RFP with an identified need in the most recently filed IRP, IRP Update or, based on a showing of good cause, a subsequently identified need based on a change in circumstances;

(i) Identification of and an explanation for any changes in the draft RFP as compared to any prior RFP issued by the electric company for similar types of resources within the past three years; and

(j) ~~The~~ An explanation of the impact of any applicable multi-state regulation on RFP development, including the requirements imposed by other states for the RFP process.

(4) An electric company may set a minimum resource size in the draft RFP, but it must allow qualifying facilities that exceed the eligibility cap for standard avoided cost pricing to participate as bidders.

(5) The Commission may approve the RFP with any conditions it deems necessary, upon a finding that the electric company has complied with the provisions of these rules and that the draft RFP will result in a fair and competitive bidding process.

(6) The Commission will generally issue a decision approving or disapproving the draft RFP within 80 days after the draft RFP is filed. An electric company may request an alternative review period when it files the draft RFP for approval including a request for expedited review upon a showing of good cause. Any person may request an extension of the review period of up to 30 days upon a showing of good cause.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

AMEND: 860-089-0300
RULE TITLE: Resource Ownership
RULE SUMMARY: This rule modifies the requirements for screening individuals from benchmark or affiliate bid preparation, adds disclosure and reporting requirements for utility employees engaged with development of bids, and modifies the requirements for utility resources to be evaluated for use by third-party bidders.
RULE TEXT:

(1) An electric company may submit or allow its affiliates to submit bids in response to the electric company's request for proposals.

(a) Electric company and affiliate bids must be treated in the same manner as other bids.

(b) Any individual who participates or has participated in the development of an RFP or the evaluation or scoring of bids on behalf of the electric company within the past three years may not participate in the preparation of an electric company or affiliate bid and must be screened from that process.

(A) With the filing of a draft RFP for approval under OAR 860-089-0250, the electric company must disclose the current and past roles within the past five years of all company employees engaged with development or submission of a benchmark or affiliate bid and whether or not each employee had or has access to ~~confidential~~ information relevant to developing an electric company or affiliate bid that ~~was~~ is not available to ~~interested persons~~ potential bidders either generally or under the terms of a protective order ~~in any prior RFP or IRP filed in Oregon by the electric company within the past five years~~ or information that was only available to the employee because the employee is a signatory to a protective order and that protective order remains in effect.

(B) If the Commission approves the draft RFP, the electric company must file an update of the disclosure required under paragraph (A) within seven calendar days and file an additional update every three months thereafter until the completion of the RFP. "Completion of the RFP" for purposes of this requirement means either the RFP has been withdrawn or negotiations are complete.

(2) An electric company may propose a benchmark bid in response to its RFP to provide a potential cost-based alternative for customers.

(3) The electric company may make one or more elements of the benchmark resource owned or secured by the electric company (e.g., site, transmission rights, or fuel arrangements) available for use in third-party bids, and, if it does, it must include details relevant to the RFP about such elements in the draft RFP and any RFP it issues following approval by the Commission. Details about resource elements secured by the electric company that become available to third-party bidders after issuance of the RFP must be provided to potential bidders reasonably in advance of the due date to submit third-party bids. If benchmark resource elements secured by the electric company are not made available to all bidders, it must provide analysis demonstrating how that decision is in the best interest of customers when seeking approval of a draft RFP under OAR 860-089-0250. The electric company

must include that same analysis when requesting acknowledgement of a final shortlist and when seeking recovery of the costs of the resource in rates, along with any relevant updates.

(4) The electric company must evaluate whether it is in the best interest of customers to make the use of transmission rights held by the electric company available to third-party bidders in an RFP. If it does make such rights available, it must include details relevant to the RFP in the Draft RFP and any RFP it issues following approval by the Commission. Details about resource elements secured by the electric company that become available to third-party bidders after issuance of the RFP must be provided to potential bidders reasonably in advance of the due date to submit third-party bids. If the electric company does not make transmission rights available to third-party bidders, it must provide analysis demonstrating how that decision is in the best interest of customers when seeking approval of a draft RFP under OAR 860-089-0250. The electric company must include that same analysis when requesting acknowledgement of a final shortlist and when seeking recovery of the costs of the resource in rates, along with any relevant updates.

(5) If electric company benchmark resource elements or transmission rights are offered and made available for use in third-party bids, then the RFP may provide for appropriate compensation of electric company resources by third-party bidders.

(6) An electric company may consider ownership transfers within an RFP solicitation.

(7) The electric company issuing the RFP must allow independent power producers to submit bids with and without an option to renew and may not require that bids include an option for transferring ownership of the resource.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

AMEND: 860-089-0350
RULE TITLE: Benchmark Resource Score
RULE SUMMARY: This rule amends requirements for electric utility submission to the Commission of a score for any benchmark resource.
RULE TEXT:

(1) Prior to viewing third-party bids on an approved RFP, the electric company must file with the Commission and submit to the IE, for review and comment, a detailed score for any benchmark resource with supporting cost information, any transmission arrangements, and all other information necessary to score the benchmark resource. The electric company must apply the same assumptions and bid scoring and evaluation criteria to the benchmark bid that are used to score other bids.

(2) If, during the course of the RFP process, the Commission or the IE determines that it is appropriate to update any bids, the electric company must also make the equivalent update to the score of the benchmark resource.

(3) Before the IE provides the electric company an opportunity to score other bids, the electric company must file with the Commission and submit via a method that protects confidentiality of the following information:

(a) The final benchmark resource score developed in consultation with the IE, and

(b) Cost information and other related information shared under this rule.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

AMEND: 860-089-0400
RULE TITLE: Bid Scoring and Evaluation by Electric Company
RULE SUMMARY: This rule modifies criteria for setting non-price scores in competitive bidding.
RULE TEXT:

(1) To help ensure that the electric company engages in a transparent bid-scoring process using objective scoring criteria and metrics, the electric company must provide all proposed and final scoring criteria and metrics in the draft and final RFPs filed with the Commission.

(2) The electric company must base the scoring of bids and selection of an initial shortlist on price and, as appropriate, non-price factors. Non-price factors must be converted to price factors where practicable. Unless otherwise directed by the Commission, the electric company must use the following approach to develop price and non-price scores:

(a) Price scores must be based on the prices submitted by bidders and calculated using units that are appropriate for the product sought and technologies anticipated to be employed in responsive bids using real-levelized or annuity methods. The IE may authorize adjustments to price scores on review of information submitted by bidders.

(b) Non-price scores must, when practicable, primarily relate to resource characteristics identified in the electric company's most recent IRP Action Plan or IRP Update and may be based on conformance to standard form contracts. Non-price scoring criteria must be objective and reasonably subject to self-scoring analysis by bidders.

(c) Non-price score criteria that seek to identify minimum thresholds for a successful bid and that may readily be converted into minimum bidder requirements must be converted into minimum bidder requirements.

(d) Scoring criteria may not be based on renewal or ownership options, except insofar as these options affect costs, revenues, benefits or prices. Any criteria based on renewal or ownership options must be explained in sufficient detail in the draft RFP to allow for public comment and Commission review of the justification for the proposed criteria.

(4) The electric company may select an initial shortlist of bids after it has scored the bids and identified the bids with top scores. Following selection of an initial shortlist of bids, the electric company may select a final shortlist of bids.

(5) Unless an alternative method is approved by the Commission under OAR 860-089-0250(2)(a), selection of the final shortlist of bids must be based on bid scores and the results of modeling the effect of candidate resources on overall system costs and risks using modeling methods that are consistent with those used in the Commission-acknowledged IRP.

(a) The electric company must use a qualified and independent third-party expert to review site-

specific critical performance factors for wind and solar resources on the initial shortlist before modeling the effects of such resources.

(b) In addition, the electric company must conduct, and consider the results in selecting a final short list, a sensitivity analysis of its bid rankings that demonstrates the degree to which the rankings are sensitive to:

(A) Changes in non-price scores; and

(B) Changes in assumptions used to compare bids or portfolios of bids, such as assumptions used to extend shorter bids for comparison with longer bids, or assumptions used to compare smaller bids or portfolios with larger ones.

(6) The electric company must provide the IE and Commission with full access to its production cost and risk models and sensitivity analyses. When the IE and Commission concur that appropriate protections for protected information are in place, the electric company must provide access to such information to non-bidding interested parties that request the information in the final short list acknowledgment proceeding.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

AMEND: 860-089-0450
RULE TITLE: Independent Evaluator Duties
RULE SUMMARY: This rule modifies the duties of the independent evaluator, identifying the analysis and reports that must be filed with the Commission and the filing process.
RULE TEXT:

(1) The IE will oversee the competitive bidding process to ensure that it is conducted fairly, transparently, and properly.

(2) The IE must be available and responsive to the Commission throughout the process and must provide the Commission with the IE's notes of all conversations and the full text of written communications between the IE and the electric company and any third-party that are related to the IE's execution of its duties.

(3) The IE must consult with the electric company on preparation of the draft RFP and submit its assessment of the final draft RFP to the Commission when the company files the final draft for approval.

(4) The IE must check whether the electric company's scoring of the bids and selection of the initial and final shortlists are reasonable.

(5) To determine if the electric company's selections for the initial and final shortlists are reasonable, when the RFP allows bidding by the issuing electric company or an affiliate of the company, or includes resource ownership options for the electric company, the IE must independently score the affiliate bids and bids with ownership characteristics or options, if any, and all or a sample of the remaining bids. When the IE does not score all bids, and a request for acknowledgment of a final shortlist is pending before the Commission, as provided in OAR 860-089-0500; a participant in the acknowledgment proceeding may request that the Commission direct the IE to score all remaining bids or a broader sample.

(6) The IE must also evaluate the unique risks and advantages associated with any company-owned resources (including but not limited to the electric company's benchmark), and may apply the same evaluation to third-party bids, including an evaluation of the following issues:

(a) Construction cost over-runs (considering contractual guarantees, cost and prudence of guarantees, remaining exposure to ratepayers for cost over-runs, and potential benefits of cost under-runs);

(b) Reasonableness of forced outage rates;

(c) Reasonableness of any proposal or absence of a proposal to offer electric company owned or benchmark resource elements (e.g., site, transmission rights or fuel arrangements) to third-party bidders as part of the draft and final RFP;

(d) End effect values;

(e) Environmental emissions costs;

(f) Reasonableness of operation and maintenance costs;

(g) Adequacy of capital additions costs;

(h) Reasonableness of performance assumptions for output, heat rate, and power curve; and

(i) Specificity of construction schedules or risk of construction delays.

(7) The IE must review the reasonableness of any score submitted by the electric company for a benchmark resource. Once the electric company and the IE have both scored and evaluated the competing bids and any benchmark resource, the IE and the electric company must file their scores with the Commission. The IE and electric company must compare results and attempt to reconcile and resolve any scoring differences. If the electric company and IE are unable to resolve scoring differences, the IE must explain the differences in its closing report to the Commission.

(8) The IE must review the electric company's sensitivity analysis of the bid rankings required under OAR 860-089-0400 and file a written assessment with the Commission prior to the electric company requesting acknowledgment of the final short list.

(9) The IE must provide analysis and reports as requested by the Commission or its Staff. Except as otherwise directed by the Commission, the IE must:

(a) File, or provide to the electric company for filing, a summary report or memorandum shortly after:

(A) The IE's review of the draft RFP and its associated scoring and modeling methodology;

(B) The IE's review of the electric company's issuance of the RFP; and

(C) The IE's benchmark bid scoring.

(b) File, or provide to the electric company for filing, a closing report with the Commission after the electric company has selected its final shortlist. The IE's closing report must include an evaluation of the applicable competitive bidding processes in selecting the least-cost, least-risk acquisition of resources. The report must also include the IE's evaluation of the electric company's responsiveness to portfolio requests it receives under the process set forth in OAR 860-089-0475. The Commission may request that the IE include additional analysis in its closing report.

(c) At the conclusion of the RFP process, file, or provide to the electric company for filing, a summary report or memorandum with the IE's assessment of the process and outcome of contract negotiations,

along with any recommendations for future RFP design by the electric company.

(10) Unless the Commission directs otherwise, the IE must participate in the final short list acknowledgment proceeding initiated by the electric company, and must continue to participate through final resource selection and monitor contract negotiations through to the completion of any contract between the electric company and a bidder as the IE finds necessary to understand whether the final contract or the failure to acquire a resource is reasonable. In addition to making a decision on acknowledgment, the Commission, on its own motion or at the request of other parties, including bidders, may require expanded IE involvement.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

ADOPT: 860-089-0475
RULE TITLE: Selection of the Initial Shortlist and Final Shortlist
RULE SUMMARY: This rule sets out requirements regarding the selection and submission of the initial shortlist and selection of a final shortlist of bids when an electric utility is conducting a competitive bidding process. It provides an opportunity for comment on the initial shortlist and allows for submission of requests for additional portfolios and testing.
RULE TEXT:

(1) Before an electric company may file a request for acknowledgment of a final shortlist of bids, the electric company must select an initial shortlist of bids and comply with the requirements of this rule. For purposes of this rule, "initial shortlist of bids" means the bids that the utility and the IE identify as meeting the minimum qualifications and are not disqualified or otherwise removed from consideration.

(2) At least 60 days before filing a request for acknowledgment under OAR 860-089-0500, the electric company must file a report in the docket that includes the electric company's initial shortlist of bids, a list of bids received that are not included on the initial shortlist, an explanation as to why each bid not included on the initial shortlist was excluded, and a description of the set of scenarios and sensitivities the electric company proposes to use to select and evaluate the performance of a final shortlist. If the electric company makes any subsequent changes to the initial shortlist, the electric company is not required to file any additional reports under this section. However, the electric company must confer with the IE before a bid is removed or withdrawn from the initial shortlist, and the IE must address the reasonableness of the electric company's action in its closing report.

(3) Interested persons may file comments on the initial shortlist report within 15 days after the electric company's filing. Commenters may request the use of different or additional portfolios and sensitivities.

(4) An electric company must consider any filed comments and be responsive to requests for additional or different portfolios of bids by either performing the additional testing or providing a reasonable explanation why it did not do so in any related request for acknowledgment of a final shortlist. The electric company must test additional or different portfolios of bids requested by Staff or the IE and provide the results of testing performed under this section to Staff and the IE within a reasonable amount of time before the IE's closing report is due.

(5) In selecting a final shortlist of bids, the electric company must base its selection on bid scores and a portfolio analysis that considers multiple combinations of all bids on the initial shortlist. The utility may select a final shortlist that represents a preferred portfolio of bids, and may identify alternate bids that the utility may seek to acquire based on the circumstances related to the preferred portfolio. The electric utility, unless otherwise directed by the Commission, must include in the portfolio analysis used to assess any initial shortlist a portfolio assessment using scoring metrics from the most recent IRP or IRP Update that, at minimum, includes analysis of impacts upon near-term costs and community impacts, as described in OAR 860-090-0060. However, an electric company that is described in ORS 469A.480, unless otherwise directed by the Commission, must include in the

portfolio analysis used to assess any initial shortlist a portfolio assessment using scoring metrics from the most recent IRP that, at minimum, includes analysis of impacts upon near-term costs, as described in OAR 860-090-0060.

(6) The electric company must notify the IE and Commission Staff of its final shortlist selection in advance of filing a request for acknowledgment under OAR 860-089-0500 and provide supporting analysis, allowing sufficient time for the IE to complete the IE's closing report. The electric company must, upon request, promptly provide the IE with any additional information the IE finds necessary for the preparation of the IE's closing report.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

AMEND: 860-089-0500
RULE TITLE: Final Short List Acknowledgment and Result Publication
RULE SUMMARY: This rule amends the requirements for an electric utility's submission of a request for acknowledgement of the final shortlist when it conducts a competitive procurement.
RULE TEXT:

(1) For the purposes of this section, “acknowledgment” is a finding by the Commission that an electric company’s final shortlist of bid responses appears reasonable at the time of acknowledgment and was determined in a manner consistent with the rules in this division.

(2) An electric company must request that the Commission acknowledge the electric company's final shortlist of bids before it may begin negotiations. Acknowledgment of a shortlist has the same legal force and effect as a Commission-acknowledged IRP in any future cost recovery proceeding.

(3) A request for acknowledgment must include, at a minimum, the IE's closing report, the electric company’s final shortlist of responsive bids, all sensitivity analyses performed, and a detailed evaluation of the performance of bids on the final shortlist under the portfolio analysis required under OAR 860-089-0475(5).

(4) The Commission will generally issue a decision on the request for acknowledgment within 60 days of receipt of the electric company’s filing.

(5) The electric company must make a publicly available filing in the RFP docket providing the average bid score and the average price of a resource on its final shortlist.

(6) Following execution of all contracts resulting from an RFP or cancellation of the RFP, the electric company must provide information, on request, to a bidder about the bidder’s bid score.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.075
STATUTES/OTHER IMPLEMENTED: ORS 469A.075, ORS 756.040

ADOPT: 860-090-0010
RULE TITLE: Applicability and Purpose of System Planning Rules
RULE SUMMARY: This rule sets out the applicability and purpose of OAR Chapter 860, Division 090, System Planning, and requirements associated with waiver requests.
RULE TEXT:

(1) The rules contained in this Division apply to energy utilities.

(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 to the Commission. In addition to the filing requirements in OAR Chapter 860, Division 001, an energy utility filing a request for waiver under this section must serve the request on all parties to the energy utility's most recent general rate case, IRP docket, and, if applicable, RFP filing.

(3) The primary goal of integrated resource planning is to develop a long-term resource strategy and near-term action plan that allow the utility to meet customer needs while best balancing expected costs and associated risks for the utility and its customers.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 757.262, ORS 469A.465
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 469A.415, ORS 469A.420, ORS 469A.425, ORS 469A.430, ORS 469A.435, ORS 469A.440, ORS 469A.445, ORS 469A.450, ORS 469A.455, ORS 469A.460, ORS 469A.475

ADOPT: 860-090-0020
RULE TITLE: Definitions for System Planning Rules
RULE SUMMARY: This rule provides definitions for specific terms used in OAR Chapter 860, Division 90, System Planning, to clarify the Commission's intent in using the defined terms.
RULE TEXT:

As used in this Division, except when the context requires otherwise:

(1) "Clean Energy Plan" or "CEP" means the plan that an electric company subject to the emissions reduction targets under ORS 469A.410 is required to develop under ORS 469A.415.

(2) "Electric company" has the meaning given that term in ORS 757.600.

(3) “End effects” means costs associated with a portfolio that would be incurred after the end of the planning horizon.

(4) “Energy utility” or “utility” means a public utility as defined in ORS 757.005, except water and wastewater utilities. An energy utility can be an “electric company” as defined in ORS 757.600 or a “gas utility” as defined in ORS 757.359.

(5) “Integrated Resource Plan” or “IRP” means the energy utility’s written plan detailing its determination of future long-term resource needs, its analysis of the expected costs and associated risks of the alternatives to meet those needs, and its action plan to select the best portfolio of resources to meet those needs.

(6) “Key planning uncertainties” means uncertain factors that could materially influence future utility plans or the performance of the utility’s portfolio, including factors that the Commission has directed the utility to address in the IRP.

(7) “Key planning years” means future years in which the utility anticipates significant changes relevant to its planning and procurement, including years for which the Commission has directed the utility to conduct specific planning analyses.

(8) “Portfolio” means a set of existing and new resources, including supply side resources, distributed resources, customer-sited resources, and supporting transmission and distribution infrastructure that the utility evaluates for meeting future loads and policy requirements over the planning horizon.

(9) “Planning scenario” means a set of possible future conditions developed for the purpose of evaluating the performance of IRP portfolios and examining the risks associated with the near-term action plan and long-term resource strategy.

(10) “Reference case” means the collection of assumptions for future conditions that the utility considers to be most likely or expected for the purposes of planning.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 757.262, ORS 469A.465
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 469A.415, ORS 469A.420, ORS 469A.425, ORS 469A.430, ORS 469A.435, ORS 469A.440, ORS 469A.445, ORS 469A.450, ORS 469A.455, ORS 469A.460, ORS 469A.475

ADOPT: 860-090-0030
RULE TITLE: Integrated Resource Plan Procedural Requirements
RULE SUMMARY: This rule sets out requirements regarding the submission of integrated resource plans, public engagement during the development of integrated resource plans, and submission and publication of responses to Standard Information Requests and describes circumstances under which the Commission may direct the utility to take certain actions.
RULE TEXT:

(1) Each energy utility must file an IRP with the Commission no later than three years after the filing date of its prior IRP.

(2) In preparing the IRP, the utility must allow ~~a meaningful number of~~opportunities for engagement that are open to all members of the public. Such opportunities must include opportunities to contribute information and ideas, receive information, and pose questions to the utility including but not limited to requests to run portfolios, futures, scenarios, etc. These opportunities for engagement must include opportunities that are accessible to members of the public with limited resources.

(3) The utility must include in its IRP filing a certification that it has concurrently submitted its responses to the most recent version of the Standard Information Requests for Integrated Resource Plans and Updates, available on the Commission's website.

(4) Except as otherwise directed by the Commission, the utility must publish information submitted pursuant to section (3~~2~~) of this rule as indicated in the most recent version of the Standard Information Requests. Information exempt from disclosure pursuant to a protective order issued by the Commission may be provided in redacted form. The utility must keep the published information available to the public until the utility has filed two subsequent IRPs.

(5) If the Commission determines while the utility's IRP is pending before the Commission that the utility has undertaken or committed to actions that directly conflict with the utility's action plan, the Commission may direct the utility to take additional actions including:

(a) Revising~~on of~~ the utility's action plan; or

(b) Submitting~~ssion of~~ a new IRP that is responsive to the Commission's directives~~on~~.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 757.262
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 756.105

ADOPT: 860-090-0040
RULE TITLE: Procedures for Public Participation
RULE SUMMARY: This rule provides for the establishment and modification of a procedural schedule in proceedings for the review of an IRP, CEP, or IRP Update.
RULE TEXT:

(1) Following the filing of an IRP, CEP, or IRP Update, a procedural schedule and any necessary revisions thereto will be submitted by Commission Staff and approved as necessary by the assigned administrative law judge.

(a) For each type of utility filing, the procedural schedule must allow, at minimum, for:

(A) The filing of written public comments on the utility's filing and priorities for subsequent filings by the same utility under this Division; and

(B) The filing of a response by the utility to those public comments.

~~(b) In the case of an IRP or CEP, the procedural schedule must include a time generally no less than 14 days and no more than 30 days following the filing of the IRP or CEP for the utility's presentation of the IRP or CEP to the Commission, at which the utility will be required to appear and present.~~

(b~~e~~) In the case of an IRP or CEP, the procedural schedule ~~comments~~ should provide for the comment period, including initial and any subsequent rounds of comments.~~generally~~ to be ~~submitted~~ completed generally within six months of the filing date of the IRP or CEP.

(2) The Commission may suspend or modify the procedural schedule as necessary.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 757.262, ORS 469A.465
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 469A.415, ORS 469A.420, ORS 469A.425, ORS 469A.430, ORS 469A.435, ORS 469A.440, ORS 469A.445, ORS 469A.450, ORS 469A.455, ORS 469A.460, ORS 469A.475

ADOPT: 860-090-0050
RULE TITLE: Integrated Resource Plan Acknowledgment
RULE SUMMARY: This rule provides for Commission acknowledgment of the integrated resource plan long-term strategy or individual action plan items, sets out the meaning of acknowledgment or non-acknowledgment, and provides for Commission direction regarding the utility's next integrated resource plan.
RULE TEXT:

(1) The Commission may provide the utility an opportunity to revise the IRP before making an acknowledgment decision.

(2) The Commission may acknowledge the long-term resource strategy or individual action plan items in part or in full or may condition acknowledgment on the utility's compliance with conditions imposed by the Commission.

(3) Acknowledgment of a specific action plan item generally means that the action appears to align with customers' interests, if implemented prudently, given what is known at the time of acknowledgment. The Commission's acknowledgment decision may be considered in future rate making decisions.

(4) Acknowledgment of the long-term resource strategy generally means that the strategy represents a reasonable approach to meeting future customer needs and complying with Oregon and federal energy policies in a manner that best balances cost and risk, accounting for policy, technological, economic, and other uncertainties related to Oregon's energy future, given what is known at the time of acknowledgment. Acknowledgment of the long-term resource strategy is not necessary for acknowledgment of individual action plan items. However, a non-acknowledged long-term resource strategy may indicate that the utility is not adequately planning for future risks to customers or that the utility's plan is otherwise deficient. In this circumstance, the Commission may take actions including for example:

(a) Directing the utility to take additional action to mitigate future risks; or

(b) Considering the utility's failure to act to mitigate risks in future rate making decisions.

(5) Acknowledgment of an IRP does not indicate that the Commission approves all supporting analysis or findings in an IRP for use in future determinations. The Commission may identify potential changes or additions to elements of the utility's IRP analysis to ~~that may meaningfully~~ inform future Commission determinations ~~if performed by the utility~~.

(6) The Commission may provide direction in the acknowledgment decision to the utility regarding information, analyses or actions to be addressed in the utility's next IRP.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 757.262

STATUTES/OTHER IMPLEMENTED: ORS 756.060, ORS 757.262

ADOPT: 860-090-0060
RULE TITLE: Components of the Integrated Resource Plan
RULE SUMMARY: This rule sets out the required components of the integrated resource plan.
RULE TEXT:

(1) Each energy utility must prepare an integrated resource plan that contains the information described in this rule.

(2) Executive summary. The utility must include in the IRP a brief executive summary, written for a general audience, that describes the utility's long-term resource strategy and near-term action plan and explains any significant changes in the utility's strategy since the last IRP.

(3) Updates since last IRP. The utility must describe in the IRP the resource actions and actions toward enabling strategies the utility has taken since the last IRP.

(4) Documentation of public input. The utility must include in the IRP an appendix that:

(a) Describes the opportunities the utility created for public input, which must include meetings that are open to all process participants, including the timeframes over which the utility accepted input from the public on each draft element of the IRP enumerated in OAR 860-090-0070;

(b) Summarizes at a high level major themes of public input the utility received during the development of the plan using the mechanisms created by the utility and attaches all written public comments received in response to comment opportunities specified by the utility on each draft element of the IRP enumerated in OAR 860-090-0070;

(c) Documents whether and how the utility incorporated public input received during the development of the plan using the mechanisms created by the utility into the finalization of portfolios, planning scenarios, community impacts metrics, the action plan, the utility's response to any specific direction from the Commission, and other analysis or components of the IRP; and

(d) Documents how and when the utility explained any decisions not to incorporate public input received during the development of the plan using the mechanisms created by the utility into the IRP that is filed with the Commission.

(5) Commission direction. The utility must include in the IRP a narrative explanation and reference to the appropriate IRP section and, if applicable, subsection for the utility's response to any specific direction from the Commission to undertake or provide additional information, analyses or actions in the IRP since the filing of its prior IRP.

(6) Needs assessment. The utility must include in the IRP an evaluation of the resource needs to achieve an acceptable level of reliability, including meeting any reliability requirements to which the utility is subject, while complying with all state and federal energy policies, over the next five years

and in key planning years. The utility must describe in the IRP how the reliability analysis in the needs assessment accounts for opportunities presented by interactions with other systems and markets.

(a) The utility must calculate resource needs based on the utility's load forecast, which must be the most recent available at the time that the needs assessment calculation is performed, and no incremental actions beyond the commitments that the utility has entered into at the time of conducting the analysis.

(b) The utility must include in the assessment reasonable upper and lower bounds on resource needs based on key planning uncertainties.

(c) The utility must clearly define the metrics and units used to summarize identified resource needs and report the date on which assumptions were last updated to inform the needs assessment.

(7) Portfolio analysis

(a) In developing the IRP, the utility must analyze a set of meaningfully different portfolios of resource options. The utility must provide in the IRP a detailed description of the analysis performed and the results of its analysis.

(A) The utility must evaluate portfolios that test different levels of demand side resources and distributed resources in Oregon.

(B) The utility must consider both commercially available and emerging technologies as resource options. For resources reliant on emerging fuels, the cost and availability of fuel supply, transport, and storage, as appropriate, must be considered.

(C) If the utility's action plan includes any of the following actions, the utility must evaluate portfolios that test the impacts of these actions and that consider alternatives to these actions:

(i) A specific resource action that the utility intends to take outside of a competitive acquisition process, such as acquisition of a particular generating facility that does not fall under the competitive bidding rules in OAR Chapter 860, Division 89;

(ii) Modification or retirement of a specific resource; or

(iii) Expansion, retirement, or substantial modification of transmission, gas transportation, or distribution facilities.

(b) In developing portfolios under this section, the utility must consider the contributions of all resource options toward reliability, policy compliance, and lowering the costs associated with the generation, production, purchase, or delivery of energy to customers.

(c) The utility must evaluate portfolios under this section across a range of future planning scenarios that reflect plausible and material differences across key planning uncertainties.

(d) The utility must identify a reference case that represents current expectations for future conditions.

(e) The utility must demonstrate that all portfolios developed under this section provide for an acceptable level of reliability and are expected to meet any reliability requirements to which the utility is subject, while complying with all state and federal energy policies, over the next five years and in key planning years. The utility must describe how the reliability analysis accounts for reasonable opportunities presented by interactions with other systems and markets. Utilities subject to ORS 469A.415 must describe how compliance with the emission reduction targets under ORS 469A.410 was incorporated into IRP modeling.

(f) In evaluating portfolios under this section, the utility must reasonably estimate future operations of the utility's system, including interactions between resources and interactions with energy markets.

(g) For each portfolio, the utility must identify metrics in the IRP that describe the portfolio's performance with respect to:

(A) Long-term costs, calculated as the present value of the ~~revenue requirement~~ expected net costs to Oregon customers over the planning horizon~~,~~ associated with a given portfolio of resources, including all costs associated with producing, purchasing, and transporting energy to the customer and including end effects~~.~~ (comprehensive long-term cost estimate). A comprehensive long-term cost estimate provided under this rule may be used solely for the purposes of evaluating the utility's IRP and, if applicable, CEP.

(B) Near-term costs, estimated as a plausible range for the total annual net costs to Oregon customers over the next five years associated with a given portfolio of resources, including all costs associated with producing, purchasing, and transporting energy to the customer (comprehensive near-term cost estimate), considering near-term uncertainties such as resource ownership and cost allocation to Oregon customers. A comprehensive near-term cost estimate provided under this rule may be used solely for the purposes of evaluating the utility's IRP and, if applicable, CEP.

(C) Economic risk, representing the risk associated with near-term plans if future conditions were to materially deviate from expectations.

(D) Reliability risk, presented in a manner that reflects relevant information about the potential frequency and severity of supply shortages, such as total unserved energy, maximum hourly unserved energy, duration, and timing, while considering risks associated with weather, hydrologic conditions, outages, fuel availability, and regional constraints.

(E) Community impacts, presented as plausible ranges for the future impacts of the portfolio on communities within or partly within the utility's Oregon service territory. The utility must demonstrate

that community impact metrics are:

(i) Developed with input from the public, including input from environmental justice communities;

(ii) Quantitative and measurable as the utility implements its plan;

(iii) Practically informative to utility implementation decisions, including investments, contracts, and program designs; and

(iv) Distinct from other scoring metrics.

(F) Emissions, calculated in a manner consistent with any emissions reporting requirements to which the utility is subject.

(h) A multi-jurisdictional utility must develop at least one portfolio that optimizes resources across its entire system, taking into account the varied energy and policy requirements of the jurisdictions in which it operates.

(i) Preferred Portfolio. The utility must select a Preferred Portfolio in the IRP and explain why it represents the best balance of cost and risk to customers and the utility. The utility must include a visual representation such as a matrix that describes how each portfolio performed against the portfolio scoring metrics and that clearly demonstrates the relationship of the preferred portfolio to all portfolios eligible for preferred portfolio selection. In the event that the most competitive portfolio is not selected as the preferred portfolio, the utility must provide additional justification for the selection.

(8) Other planning processes. The utility must clearly refer in the IRP to any additional planning required by law that affects the utility's long-term resource strategy or near-term action plan.

(9) Long-term resource strategy. The utility must describe in the IRP the long-term resource strategy to meet customer needs and comply with all federal and state energy policies over the next 20 years. The utility's development of the long-term resource strategy must be informed by a needs assessment and portfolio analysis that considers all reasonably plausible resource options. In addition, the utility must include in the resource strategy:

(a) An explanation of its consideration of the potential impacts of future technological development and changes to consumer behavior, state and federal energy policies, and regional developments;

(b) A description of the utility's strategy for addressing major risks, key dependencies, barriers to implementation, and critical junctures for the plan; and

(c) A description of any enabling strategies that the utility is evaluating to support the long-term resource strategy, including changes to system operational practices.

(10) Near-term action plan. The utility must include in the IRP a near-term action plan that describes the steps the utility intends to take over the next five years to provide customers with safe and reliable service, meet other customer needs and comply with all federal and state energy policies in a manner that is informed by the utility's portfolio analysis and consistent with the utility's long-term resource strategy. The utility must include in the action plan the utility's plans for:

(a) Resource acquisitions, including conducting competitive acquisitions, with information on the utility's intended schedules, estimated range of procurement scope or size, and any constraints or parameters that the utility intends to apply to align resource selections with the utility's near-term needs and long-term resource strategy.

(b) Pursuing energy efficiency, demand response, community-based resources, and other customer-sited and distributed resources. The action plan must explain how the utility intends to pursue all cost-effective energy efficiency and demand response and must reference analysis in the IRP that supports targets for using these resources to meet system needs.

(c) Any other resource actions the utility intends to take that may materially affect the utility's resource portfolio or the performance of the portfolio in terms of cost, risk, reliability, or compliance with state or federal policies.

(d) Any enabling strategies the utility plans to pursue to support the utility's near-term action plan.

(e) Preparing and filing the next IRP and IRP Updates, including the intended filing dates and any areas that the utility plans to prioritize for new or updated analysis.

(f) Managing near term uncertainties and process dependencies, including any contingency plans the utility has developed to implement the action plan as conditions change.

(11) Cost-effective grid enhancing technologies strategic plan. An electric company subject to Oregon Laws 2025 Chapter 391 must include a section that provides its strategic plan setting forth the information required by that law, using the definition of cost-effectiveness and criteria established by the Commission.

(12) Counterfactual portfolio. Notwithstanding the requirements of subsection (7)(d) above, an electric company that is subject to ORS 469A.445 must develop and evaluate in the IRP one portfolio developed as though the requirements of ORS 469A.400 to ORS 469A.475 did not apply, holding equal all other constraints and assumptions used to develop the Preferred Portfolio.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 756.105, ORS 757.262
STATUTES/OTHER IMPLEMENTED: ORS 756.105, ORS 757.262, ORS 756.040, ORS 469A.445

ADOPT: 860-090-0070
RULE TITLE: Draft Elements of the Integrated Resource Plan
RULE SUMMARY: This rule sets out requirements regarding public input on drafts of certain integrated resource plan elements.
RULE TEXT:

(1) As it is developing the IRP and in advance of filing the IRP, the energy utility must prepare drafts of the following information:

(a) Portfolios that the utility intends to test in its development of the IRP;

(b) Future planning scenarios;

(c) Community impacts metrics;

(d) Near-term action plan; and

(e) Narrative explanation of the utility's response to any specific direction from the Commission since the filing of the prior IRP to undertake or provide additional information, analyses or actions in the IRP.

(2) The utility must solicit public input on each draft element of the IRP sufficiently in advance of making final determinations with respect to that element to fully evaluate the public input it receives for incorporation into the IRP it later files with the Commission.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 756.105, ORS 757.262
STATUTES/OTHER IMPLEMENTED: ORS 756.105, ORS 757.262, ORS 756.040

ADOPT: 860-090-0080
RULE TITLE: Clean Energy Plan Procedural Requirements
RULE SUMMARY: This rule sets out procedures for filing and establishing a procedural schedule for the clean energy plan.
RULE TEXT:

(1) An electric company that is subject to ORS 469A.415 must file a CEP with the Commission concurrently with the utility's IRP and in the same docket.

(2) If filing the CEP concurrently with the IRP would create an undue burden or a significant issue exists that impacts IRP or CEP review, the electric company may file a written request with the Commission to extend the filing date for the CEP up to 180 days after the IRP filing date.

(3) If the Commission authorizes a utility to file the CEP separately from its IRP filing, Commission Staff, or if necessary, the administrative law judge, may establish a schedule for review of the CEP separate from the IRP schedule, including at minimum, a utility presentation to the Commission of the CEP, opportunity for public comment and a utility response to public comment.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.465
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 469A.415, ORS 469A.420, ORS 469A.425, ORS 469A.430, ORS 469A.435, ORS 469A.440, ORS 469A.445, ORS 469A.450, ORS 469A.455, ORS 469A.460, ORS 469A.475

ADOPT: 860-090-0090
RULE TITLE: Clean Energy Plan Acknowledgment
RULE SUMMARY: This rule sets out the process for the Commission's decision on acknowledgment of the clean energy plan and provides for Commission direction regarding the utility's next integrated resource plan.
RULE TEXT:

(1) The Commission will consider acknowledgment of a CEP filed by the electric company subject to ORS 469A.415. The Commission will issue an order memorializing its decision on acknowledgment for the CEP, which may be combined with the IRP acknowledgment order. The Commission may provide the electric company an opportunity to revise the CEP before making an acknowledgment decision. The Commission may, at its discretion, take one of the following actions regarding the CEP portion of the acknowledgment decision:

(a) Acknowledge a CEP as filed;

(b) Acknowledge a CEP with conditions; or

(c) Not acknowledge the CEP and require that the utility revise and resubmit all or certain elements of the CEP within the procedural timeline set by the Commission.

(2) Acknowledgment of a CEP does not indicate that the Commission approves all supporting analysis or findings in a CEP for use in future determinations. The Commission may identify potential changes or additions to elements of the utility’s CEP analysis that may meaningfully inform future Commission determinations.

(3) Along with making a decision on acknowledgment, the Commission may provide direction to the utility regarding the development or content of its next CEP.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 469A.465
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 469A.415, ORS 469A.420, ORS 469A.425, ORS 469A.430, ORS 469A.435, ORS 469A.440, ORS 469A.445, ORS 469A.450, ORS 469A.455, ORS 469A.460, ORS 469A.465, ORS 469A.475

ADOPT: 860-090-0100
RULE TITLE: Clean Energy Plan Components
RULE SUMMARY: This rule proves for public involvement in the development of the clean energy plan and sets out the required components of the clean energy plan.
RULE TEXT:

Each electric company subject to ORS 469A.415 must:

(1) In preparing the CEP, the utility must allow a meaningful number of opportunities for engagement that are open to all members of the public. Such opportunities must include opportunities to contribute information and ideas, receive information, and pose questions to the utility including but not limited to requests to run portfolios, futures, scenarios, etc. These opportunities for engagement must include opportunities that are accessible to members of the public with limited resources.

(2) Draft its CEP in language that is as clear and simple as possible, with the goal that it may be understood by non-expert members of the public.

(3) Include in its CEP the information required by ORS 469A.415 and annual goals for actions that are consistent with the electric company's long-term resource strategy and action plan.

(4) Define and describe in its CEP the community benefits indicators that the electric company plans to track as the company implements its Clean Energy Plan, including the metrics adopted in IRP portfolio scoring.

(a) The electric company must develop community benefits indicators upon consideration of public input, including input from environmental justice communities in Oregon.

(b) The electric company must include at least one community benefit indicator that addresses community resiliency.

(c) The electric company must describe how the community benefits indicators will inform utility implementation decisions through mechanisms such as RFP requirements, RFP non-price scores, and program design criteria and metrics.

(5) Report measured values for all community benefits indicators defined in the CEP for the previous three years, to the extent available. If measured values for a community benefits indicator are not available for the previous three years, the electric company must explain how it plans to measure that community benefits indicator in future years.

(6) Demonstrate in its CEP that the electric company's IRP portfolio analysis accounts for:

(a) Any reasonably foreseeable ~~Community~~ impacts on communities within or partly within the utility's Oregon service territory associated with ~~all~~ resource options, including contributions to

resiliency; and

(b) The costs and benefits of offsetting generation from fossil fuel resources with community-based renewable energy resource options.

(7) Include in its CEP targets for community-based renewable energy that facilitate greenhouse gas emissions reductions, promote community resiliency, and are reflected in the utility's near-term action plan and long-term resource strategy.

(8) Demonstrate in its CEP how the IRP Preferred Portfolio achieves the emissions reductions targets set forth in ORS 469A.410, and include the verification of projected emissions reductions available from the Oregon Department of Environmental Quality pursuant to ORS 469A.420.

(9) Demonstrate in its CEP how the electric company's long-term resource strategy and near-term action plan provide for the best balance of expected costs and associated risks and uncertainties for the electric company and its customers, while considering impacts to communities and the pace of greenhouse gas emissions reductions.

(10) Demonstrate in its CEP that the electric company's action plan represents continual progress towards meeting the clean energy targets set forth in ORS 469A.410, including demonstrating a projected reduction of annual greenhouse gas emissions, and that the electric company is taking actions as soon as practicable to facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electric consumers.

(11) Include in its CEP the electric company's two most recent annual emissions data reports filed with the Oregon Department of Environmental Quality.

(12) Include a narrative explanation and ~~page~~ reference to the appropriate CEP section and, if applicable, subsection for the electric company's response to any specific direction from the Commission to undertake or provide additional information or analysis in the CEP since the filing of its last CEP.

(13) Cost-effective grid enhancing technologies strategic plan. An electric company subject to Oregon Laws 2025 Chapter 391 must include a section that provides its strategic plan setting forth the information required by that law, using the definition of cost-effectiveness and criteria established by the Commission.

STATUTORY/OTHER AUTHORITY: ORS 756.060, OAR 469A.465
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 469A.415, ORS 469A.420, ORS 469A.425, ORS 469A.430, ORS 469A.435, ORS 469A.440, ORS 469A.445, ORS 469A.450, ORS 469A.455, ORS 469A.460, ORS 469A.475

ADOPT: 860-090-0110
RULE TITLE: Integrated Resource Plan Updates
RULE SUMMARY: This rule describes the purpose of the IRP Update, sets out requirements associated with the IRP Update, and provides for a Commission decision on acceptance of the IRP Update.
RULE TEXT:

(1) Purpose. The IRP Update primarily serves to:

(a) Provide visibility into the utility's implementation of the near-term action plan;

(b) Facilitate efficient scrutiny of any changes to the near-term action plan; and

(c) Identify whether the utility's long-term resource strategy remains relevant.

(2) Timing. In any calendar year that the utility does not file an IRP, the utility must file an IRP Update no later than the anniversary date of filing the prior IRP or IRP Update.

(3) Filing requirements. The energy utility must complete and submit its IRP Update filing using the IRP Update template approved by the Commission and available on the Commission's website. The utility must submit with the filing all information and data required by this rule and under the template in machine-readable format. In addition, the energy utility must include in the IRP Update:

(a) A description of the resource actions and actions toward enabling strategies the utility has taken since the most recent IRP or IRP Update;

(b) Updates to the most recent IRP reference case to reflect any key planning information that has been obtained or developed by the utility, such as updated load forecasts, fuel prices, wholesale market prices, and resource costs;

(c) Quantitative comparison of updated reference case forecasts with the range of planning scenarios considered in the Company's most recent IRP;

(d) An updated needs assessment based on changes to conditions, future expectations, and utility actions since the most recent IRP or IRP Update;

(e) The date on which assumptions were last updated to inform the needs assessment; and

(f) A description of any changes to the near-term action plan, including changes to acquisition targets, that the utility has made in response to changes in conditions, future expectations, and utility actions since the most recent IRP or IRP Update.~~; and~~

(4) Availability of information. The utility must publish all information submitted with the IRP Update

filing to the utility's website in a machine-readable format. Information exempt from disclosure pursuant to a protective order issued by the Commission may be provided in redacted form. The utility must keep the published information available to the public until the utility has filed two subsequent IRPs.

(5) Additional requirements for an electric company subject to ORS 469A.415. An electric company that is subject to ORS 469A.415 must also include in the IRP Update:

(a) An assessment of what has changed since the CEP acknowledgment decision that affects the electric company's progress toward the clean energy targets in ORS 469A.410;

(b) Measured values for all community benefits indicators adopted in the most recent CEP for the previous three years, to the extent available, and, if measured values for a community benefits indicator are not available for the previous three years, an explanation of how the electric company plans to measure that community benefits indicator in future years;

(c) A summary, with quantitative information, of how the community benefits indicators reported in the most recent CEP have informed the electric company's implementation of its action plan; and

(d) The electric company's two most recent annual emissions data reports filed with the Oregon Department of Environmental Quality.

(6) Commission action. The Commission may decide to accept an IRP Update and may further specify the extent to which it is accepted. In making a decision whether to accept the IRP Update, the Commission may also provide direction to the utility regarding the substance or filing date of the next IRP. Acceptance of the IRP Update may indicate that updates to the utility's action plan presented in the IRP Update are consistent with the scope of a prior IRP acknowledgment order. In making a decision on acceptance and providing direction to the utility regarding the substance or filing date of the next IRP, the factors the Commission may consider include:

(a) Whether the utility's strategy materially deviates from the most recent IRP;

(b) Whether external conditions or the utility's circumstances or planning expectations have significantly deviated from the planning scenarios considered in the most recent IRP; and

(c) Public input regarding the utility's IRP Update and its preparations for the next IRP.

STATUTORY/OTHER AUTHORITY: ORS 756.060, ORS 757.262, ORS 469A.465
STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 469A.415, ORS 469A.420, ORS 469A.425, ORS 469A.430, ORS 469A.435, ORS 469A.440, ORS 469A.445, ORS 469A.450, ORS 469A.455, ORS 469A.460, ORS 469A.475