

1 THE PUBLIC UTILITY COMMISSION
2 OF THE STATE OF OREGON

3 Docket No. AR 674

4 In the Matter of the Oregon Public Utility Commission
5 Small-Scale Renewable Energy Rule Amendments in
6 Division 091

7
8 January 13, 2026

9 Rulemaking Hearing held before the Oregon Public Utility
10 Commission via Zoom on January 13, 2026.

11
12 PRESENT:

13 Administrative Law Judge: Brent Coleman

14 OPUC Staff: Jean Falconer

15
16
17
18
19
20
21 Transcription Service: CourtScripts, LLC
22 Jennifer Muir, CET-1149
23 PO Box 123
24 Philomath OR 97370
(541)207-7412
jmuirtranscriber@gmail.com

25 Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

<u>NAME</u>	<u>Page</u>
Zach Rogala	10
Greg Adams	12
Brendan McCarthy	24
Thomas Burns	33
Angela Crowley-Koch	38
Brendan McCarthy	40

1 The proposed edits to OAR 860-091-0030
2 clarify that a project's nameplate capacity is the
3 value of its individual contribution toward the
4 compliance standard and further outlines specific
5 standards and characteristics of projects eligible to
6 support compliance and those that will not advance
7 compliance efforts.

8 The informal process for this docket
9 opened at the June 24, 2025, regular public meeting by
10 Order No. 25-232, where the Commission declined to
11 substantively consider a petition for declaratory order
12 filed by PacifiCorp and instead opened this rulemaking
13 limited to the two specific categories of issues of,
14 one, the small-scale renewable resource compliance
15 obligation calculation, and two, small-scale renewable
16 resource project eligibility.

17 The formal rulemaking commenced via
18 Commission Order No. 25-434, issued after the regular
19 public meeting on October 29, 2025. The Notice of
20 Proposed Rulemaking submitted to commence these
21 rulemaking proceedings appeared in the Oregon Secretary
22 of State December 2025 Bulletin and also posted in this
23 docket on November 25, 2025.

24 As noted, this rulemaking hearing
25 consists of changes, additions, or other modifications

1 to Chapter 860, Division 91, rules 0020 and 0030. PUC
2 Staff will provide an overview of the proposed rules in
3 a moment. And today's hearing is intended to provide
4 stakeholders and interested members of the public an
5 opportunity to present comment on the proposed edits
6 with the objective of creating a robust rulemaking
7 record with fully vetted issues.

8 As stated in the NOPR, final comments on
9 these proposed rules will be due no later than 3:00
10 p.m. Pacific Standard Time on January 23rd, 2026. All
11 members of the public are invited to provide comments
12 orally at this hearing or in writing by 3:00 p.m.
13 January 23rd, 2026. You may provide both oral and
14 written comments. And participants that provide oral
15 comment at this hearing are encouraged to file a
16 written version of the comments in the AR 674 docket
17 prior to the stated deadline.

18 Please note that if you provided
19 comments during the informal phase, those comments are
20 not currently part of the record. If you would like
21 previously submitted comments to be part of the record,
22 please file them in the docket subsequent to this
23 hearing and before the stated deadline.

24 After the January 23rd deadline, I will
25 prepare a recommendation for the commissioners, which

1 they will consider at a public meeting. Members of the
2 public may attend the meeting when the commissioners
3 take final action on this rulemaking but will not be
4 provided an opportunity to comment at that time. The
5 last chance to comment is by 3:00 p.m. on January 23rd,
6 2026.

7 Please note that this rulemaking hearing
8 is legislative in nature, and accordingly, there will
9 not be an opportunity for participants to ask questions
10 of each other. Participants may ask questions of Staff
11 about the proposed rule language. I will take any
12 questions for Staff by calling on one person at a time.

13 Before beginning any questions for Staff
14 or comments, please state your name and any party that
15 you may represent for the record.

16 As the administrative law judge, I may
17 pose questions to individuals providing comments in
18 order to seek clarification and gain a better
19 understanding of comments being made.

20 Before I open this hearing up to
21 comments, Staff is going to provide a brief
22 presentation of the proposed rules. After the
23 presentation, participants may ask questions of Staff
24 about the proposed rule language, and I will let you
25 know when we are open to those questions.

1 I will now turn over the discussion to
2 Jean Falconer for Staff's presentation.

3 MS. FALCONER: Great. Thank you for the
4 opportunity to speak today. For the record, my name is
5 Jean Falconer with Staff, and I'm here to provide a
6 brief overview of the proposed rules in this docket.

7 As mentioned, the purpose of this
8 rulemaking is to amend the existing rules that
9 implement Oregon's Small-Scale Renewable, or SSR,
10 Energy Project Standard in order to provide greater
11 clarity on SSR compliance prior to the standard's 2030
12 effective date. Specifically, the proposed amendments
13 clarify, first, how to calculate the SSR compliance
14 obligation, and second, which resources will count
15 towards the SSR requirement.

16 The proposed amendments included in the
17 Notice of Proposed Rulemaking reflect a number of key
18 considerations. The first of these is the continued
19 treatment of the SSR standard as a generating capacity
20 standard. To that end, there is added rule language
21 clarifying that storage and behind-the-meter resources
22 cannot be used to meet the compliance obligation, that
23 energy-based instruments are unnecessary for
24 compliance, and that nameplate capacity be used to
25 calculate compliance positions.

1 Second, the rules make clearer the
2 criteria for calculating compliance in order to
3 facilitate planning by utilities and project
4 developers. This is done through rule language that
5 establishes a one-year cutoff for calculating the
6 compliance obligation and through language that
7 excludes SSR nameplate capacity from the calculation of
8 aggregate electrical capacity.

9 Lastly, the rules are designed to help
10 preserve the value proposition of resources with system
11 and community value. For example, by excluding storage
12 resources from aggregate electrical capacity and
13 allowing community solar projects and front-of-meter
14 resources incorporated into microgrids to be used to
15 meet the compliance obligation.

16 Stakeholders helped shape these rules
17 through thoughtful and constructive feedback provided
18 in meetings, a workshop, and two rounds of written
19 comments. Although stakeholders align on many issues,
20 there are two notable areas of continued disagreement.

21 First, some stakeholders are concerned
22 about proposed rule language that explicitly excludes
23 storage and SSR capacity from the calculation of
24 aggregate electrical capacity. Second, utilities
25 oppose the -- the inclusion of rule language stating

1 that behind-the-meter resources are ineligible to be
2 used to meet the compliance obligation.

3 The Staff report published ahead of the
4 October 28 public meeting decision to proceed to the
5 formal rulemaking stage provides details on the
6 evolution of the proposed rule language as well as a
7 summary of comments from docket participants.

8 Lastly, I want to highlight a minor
9 correction Staff recommends be made to OAR 860-091-
10 0020(1)(b)(B) as presented in the Notice of Proposed
11 Rulemaking. This rule excludes SSR capacity from the
12 calculation of aggregate electrical capacity.

13 Currently, the proposed rule references another rule,
14 OAR 860-091-0030(3), which outlines which resources are
15 not SSR eligible. It should instead reference OAR 860-
16 091-0030(2), which outlines which resources are SSR
17 eligible.

18 The rule in its entirety should state
19 that aggregate electrical capacity does not include,
20 quote, "The nameplate capacity of small-scale energy
21 resources that the electric company applies to meeting
22 the standard in a compliance period consistent with OAR
23 860-091-0030(2)." Staff will include this recommended
24 correction in its written comments.

25 That concludes my presentation, and

1 Staff is available to answer questions or provide
2 additional detail as requested. And thank you.

3 ALJ COLEMAN: Thank you, Jean.

4 We will now take questions for Staff
5 regarding the proposed rule language. If you want to
6 ask a question, please use the "raise your hand"
7 feature. I don't see that anyone has joined us on the
8 phone, so I will omit that reference.

9 Any questions for Staff at this point?

10 Mr. Rogala; is that correct? Am I
11 interpreting the messages on my screen correctly?

12 MR. ROGALA: Yeah. Thanks, Judge
13 Coleman. Just a -- just a question for Staff. So I'm
14 looking at 860-091-0030. This is Zach Rogala with
15 PacifiCorp. I'm looking at rule (3)(a), and this is on
16 the behind-the-meter language. I know that there's
17 quite a bit of dispute about whether to include this
18 category or not, and I'm not looking to comment on the
19 general behind-the-meter resource issue, but just a
20 question, is this category meant to apply broadly to
21 exclude QFs that are also behind-the-meter resources?
22 Because I don't think it is. And if -- if -- if it's
23 not meant to exclude, you know, certain behind-the-
24 meter QF resources, we'd recommend just a slight edit
25 to just ensure that, yeah, QFs remain eligible for the

1 SSR compliance.

2 MS. FALCONER: I -- I think the intent
3 was a broad exclusion of behind-the-meter resources. I
4 can't say that we spent a lot of time discussing the
5 specific example that you gave, but the -- the
6 understanding on Staff's end was that behind-the-meter
7 resources under this language would be fully
8 ineligible.

9 MR. ROGALA: Okay. Thanks for that
10 clarification. I think we'll include some formal
11 comments on that in written comments just to try and
12 request revisiting that definition just so that we can
13 keep QFs as SSR eligible. Yeah, thanks for the great
14 clarification.

15 ALJ COLEMAN: Thank you, Mr. Rogala.

16 Anyone else have a question for Staff?

17 I'm going to pause for just a second
18 longer to let people contemplate before we close that
19 window and move on.

20 Sounds like that's where we are. So
21 thank you, Mr. Rogala. Thank you for the question.

22 And thank you, Jean.

23 At this point in time, we will open up
24 the hearing for public comment. We will use Zoom's
25 "raise your hand" feature today. Please go ahead and

1 raise your hand if you're interested in commenting this
2 morning. And again, I think everyone is using a
3 computer, so the "raise your hand" feature. I don't
4 see anyone on the phone.

5 I will call on individuals by name when
6 it is your turn to speak, and you will be unmuted at
7 that time. When called to speak, please speak slowly
8 and state your name for the record. Your comments are
9 being recorded, and we want to ensure that they can be
10 clearly heard. I may have questions for presenters in
11 the course of the comments, and we will conclude this
12 rulemaking hearing when all comments have been heard.

13 I asked at the beginning for folks to
14 identify themselves who may have a desire to make a
15 comment, so I'm going to start there with Mr. Adams.

16 MR. ADAMS: Thank you, Judge Coleman.
17 Yeah. For the record, my name is Greg Adams, and I am
18 presenting comments today on behalf of the Community
19 Renewable Energy Association or CREA.

20 And CREA filed two rounds of joint
21 comments previously during the informal phase of this
22 rulemaking and participated in the informal phase's
23 workshop. And our comments were jointly filed with the
24 Oregon Solar + Storage Industries Association and the
25 Renewable Energy Coalition. And my understanding is

1 that the points I'm planning to make today are aligned
2 with those parties' positions. Angela is here to
3 correct anything I -- I get wrong on OSSIA's behalf,
4 though, I -- I understand.

5 So overall, I want to stress the
6 importance of this small-scale renewable energy
7 standard to our groups. In our view, the statutory
8 requirement is truly one of the best ways to provide a
9 market opportunity and bring online small-scale
10 renewable energy facilities that the utilities may not
11 otherwise pursue.

12 And we'd like to remind Your Honor and
13 the Commissioners that there was a comprehensive
14 rulemaking back in 2021 to implement these rules and
15 define the requirements of this somewhat unique
16 capacity-based procurement requirement. And there was
17 a careful balance struck during that rulemaking. We,
18 our groups, did not get everything we felt should have
19 been included in the rules to -- to encourage
20 procurement of these resources, but we haven't
21 attempted to relitigate all of the issues in that prior
22 rulemaking on which we didn't prevail because we
23 understood that this incident rulemaking was intended
24 to be a very narrow clarifying rulemaking in response
25 to a petition for declaratory ruling that PacifiCorp

1 filed.

2 So we really urge the Commission not to
3 adopt changes that are going to really weaken this
4 requirement from what it was established to be back in
5 2021 in the original rulemaking as the -- as the first
6 compliance date approaches, which is 2030.

7 So along those lines, we've largely
8 supported the proposed rules before the Commission,
9 which were the product of Staff's report during the
10 informal rulemaking phase. However, as Ms. Falconer
11 pointed out, there -- there are a couple points of
12 disagreement, and -- and those are the points I was
13 planning to highlight today too -- is the key issues
14 where CREA and the other parties were aligned with have
15 previously filed joint comments and -- and still have
16 some points of disagreement with Staff's proposal
17 reflected in the proposed rules. And then I can try to
18 answer any questions that -- that you might have for
19 me, or you can interrupt me at any time if you'd like
20 also, Judge.

21 So the key points of disagreement that I
22 was going to cover regard what types of capacity
23 resources should count towards the utility's aggregate
24 electrical capacity in the denominator of the 10
25 percent requirement. And the key statutory term there

1 is "aggregate electrical capacity." And so in other
2 words, what I'm talking about here is the resources
3 that are the overall aggregate electrical capacity
4 against which the 10 percent SSR capacity requirement
5 is measured. So the bigger this denominator aggregate
6 electrical capacity is, the more SSR capacity must be
7 obtained in order to meet the compliance requirement of
8 10 percent.

9 And there's two categories, as -- as
10 Staff mentioned earlier, that we have a disagreement on
11 with the proposed rule on the denominator. And so it's
12 the proposal -- the first one I'm going to discuss is
13 storage. And so we -- we disagree with the proposed
14 rule's treatment of storage resources. We -- we don't
15 agree that storage resources should be excluded from
16 the denominator as part of a utility's aggregate
17 electrical capacity. This has a relatively material
18 impact on the SSR standard as a practical matter. But
19 as -- as a legal matter, we -- we don't think it's
20 appropriate to wholesale exclude the storage resources
21 as part of the aggregate electrical capacity.

22 The utilities do consider standalone
23 storage to be a part of their aggregate electrical
24 capacity in other contexts, and therefore, we believe
25 that the statutory language here also requires

1 inclusion of storage as part of aggregate electrical
2 capacity.

3 And a point I want to make again that
4 was raised at the -- with the commissioners at
5 the -- at -- when the notice -- when the proposed rule
6 was issued during the end of the informal phase is
7 we're seeing an inconsistency here in Staff's proposals
8 to the Commission between this rulemaking and the
9 treatment of storage and the Commission's ongoing PURPA
10 Docket UM 2000 where the Commission's looking at how to
11 calculate avoided costs of capacity. And in that PURPA
12 context, for purposes of calculating avoided cost,
13 Staff has proposed to use potentially a standalone
14 battery energy storage system as the avoided capacity
15 resource.

16 We see that argument as contradictory to
17 the proposed rules here, where we would be saying that
18 a battery energy storage system is not part of the
19 utility's aggregate electrical capacity.

20 We do acknowledge that storage is a
21 unique type of resource in that it -- it -- it has many
22 functions and also that it does not itself generate the
23 electricity, and -- and therefore there is a dispute in
24 the PURPA docket associated with how to calculate the
25 avoided capacity rates if the storage is used as the

1 avoided capacity resource. But we wanted to highlight
2 this issue for -- for the Commission to make sure that
3 the Commission's policies are not inconsistent in the
4 treatment of storage.

5 And from our perspective, it's not
6 reasonable to use standalone storage as a capacity
7 resource to ensure avoided cost rates are -- are low
8 but, at the same time, simultaneously create a policy
9 that storage is not part of the utility's aggregate
10 electrical capacity for the purposes of how many small-
11 scale renewable resources the utility must acquire
12 under this revision of the RPS.

13 So one last point on storage I wanted to
14 make today, because it did come up at the last hearing
15 in a question from a commissioner. Storage,
16 there's -- there is a distinct treatment of storage
17 related to the numerator part of the equation, the top
18 part of the equation, that is whether storage can
19 qualify as an SSR, a small-scale renewable resource.
20 And -- and the reason that we put forth for why it
21 shouldn't is not that it doesn't generate electricity,
22 which -- which it doesn't, of course, but additionally,
23 typically storage is not going to be RPS-qualified. To
24 be an SSR resource, the resource has to be RPS-
25 qualified. So at least standalone storage that's grid

1 charging, I think no one would argue, is RPS-qualified.
2 So I just wanted to note that distinction in how
3 storage, in our view, would be viewed in the numerator
4 versus the denominator.

5 Next, I was going to discuss the -- the
6 small-scale -- treatment of small-scale renewables in
7 the denominator. And this is the second point of -- of
8 disagreement that we have with the proposed rule.
9 We -- we disagree with the exclusion of the small-scale
10 renewable resources from the denominator. The plain
11 language of the statute does not allow for this
12 exclusion. It doesn't state "aggregate electrical
13 capacity excluding the small-scale renewable
14 resources."

15 In our view, the small-scale renewable
16 resources are certainly a part of the utility's
17 aggregate electrical capacity, and therefore we don't
18 see how they cannot -- they can be lawfully excluded
19 from the denominator.

20 We -- we do, however, support Staff's
21 proposal to measure the compliance each year based on
22 the aggregate electrical capacity that the utility has
23 at the beginning of the year, which Staff intended
24 and -- and which we think mitigates the impact of this
25 kind of moving target problem that the utilities have

1 identified with having the SSR resources themselves in
2 the denominator. And that that problem that they've
3 identified, Your Honor, is that, as you add a new SSR
4 resource to the system, it -- it -- it itself adds an
5 additional 10 percent need to acquire additional SSR
6 resources. We believe that issue is -- is reasonably
7 mitigated with Staff's proposal to measure the
8 compliance at the beginning of the compliance year.

9 And so, as with the storage resources,
10 exclusion of SSRs from the denominator will have a
11 relatively significant impact of reducing the amount of
12 SSR capacity that the utility would otherwise be
13 required to acquire. Approximately -- it would
14 approximately reduce the -- the SSR requirement by 10
15 percent, so 10 percent less SSRs than if you were to
16 include SSRs in the denominator.

17 And Staff did a very good job of
18 quantifying all of these impacts in its report in
19 the -- in the informal phase too.

20 So finally, I think I'm going to say a
21 few words about the other disputed topic, and this is a
22 point I want to be clear, we do strongly agree with
23 Staff's proposal here on the behind-the-meter
24 resources. We agree with Staff that they should not
25 count as small-scale renewable energy resources.

1 Again, that would be the numerator, the top of the
2 equation.

3 This was a decision that was made in the
4 original rulemaking back in 2021. In fact, it's Order
5 No. 21-464. And you can see the Commission's reasoning
6 there at page 13 of the order.

7 This is also something, as I think we've
8 pointed out, that -- that was in the legislative
9 history of the statute. Representative Hill, one of
10 the sponsors of the -- the bill, clearly stated in a
11 floor speech before the vote on the bill that net
12 metering was not intended to be qualified as an SSR
13 resource. We think this is -- this issue was properly
14 resolved in the Commission's 2021 rulemaking, which
15 again, had quite -- quite a bit of balance that was
16 reached, and we urge the Commission not to weaken the
17 SSR standard as -- as the utilities seem to be urging
18 here by reversing its prior determination that net
19 metering does not count as a small-scale renewable
20 resource.

21 And the Commission's reasoning in -- in
22 the prior rulemaking, Judge, was that net metering
23 is -- it exists exclusively on the customer side of the
24 meter, and by definition, the generation nets against
25 the customer's energy usage, and it's not traditionally

1 community-based renewable energy projects, so it's
2 consistent with what Staff's proposal.

3 So I think I will stop there unless you
4 have any questions, Judge. Thank you for -- for the
5 opportunity to comment.

6 ALJ COLEMAN: Thank you, Mr. Adams. I
7 think I do have a question, and I'm trying to learn how
8 to formulate questions and listen to you at the same
9 time, which is a juggling act that I still need to
10 improve upon. Can you expand a little bit with respect
11 to your position, stated position on storage, given
12 (audio cuts out) energy projects is the title of the
13 statute and that the first subsection of 469A.210
14 codifies or or memorializes the assembly's finding that
15 community-based -- and discusses community-based
16 renewable energy projects?

17 Is your position on storage that any and
18 all storage should count, or is it co-located
19 storage -- or storage that's co-located with renewable
20 energy? This is a really bad question, and I
21 apologize. I'm a little rusty. How would you treat
22 standalone storage that may or may not be charged with
23 renewable energy?

24 MR. ADAMS: It -- it sounds like your
25 question's focused on resources that would be qualified

1 or not qualified as small-scale renewable resources, so
2 the numerator, the top part of the equation; is that
3 correct?

4 ALJ COLEMAN: I think -- well, actually,
5 I think it's -- I think it was the denominator
6 discussion. You were talking --

7 MR. ADAMS: Well, I can answer both for
8 you. That might be -- help give you the whole context
9 of our -- our view of what -- how it works.

10 The -- so when you're talking about the
11 denominator, the bottom part of the equation, the
12 aggregate, what you're looking at in the statutory
13 language is the aggregate electrical capacity. We're
14 trying to get a measure of the utility's total
15 aggregate electrical capacity, not necessarily limited
16 to RPS resources or community-based resources or the
17 type of resources that are trying to be promoted by
18 this statutory provision, right? We're trying to get a
19 view of the total aggregate electrical capacity: their
20 coal capacity, their gas capacity, their wind capacity.
21 It could include the RPS, and, in our view, the SSR
22 resources too should include, you know, the entirety of
23 the aggregate electrical capacity.

24 And so the position we put forth is that
25 standalone storage would -- would be counted if you're

1 looking at aggregate electrical capacity because it's
2 something the utilities do consider part of their
3 aggregate electrical capacity. And so it would be in
4 the -- in the denominator, the bottom part of the
5 equation, as aggregate electrical capacity without
6 regard to whether it's -- the storage is paired with a
7 renewable resource or something else.

8 When you're looking at the -- the
9 numerator, the -- the question of whether they count as
10 small-scale renewable energy resources,
11 storage -- I -- so, like I said earlier, I think
12 storage would not -- a standalone storage would not
13 count because the -- the numerator has the additional
14 requirement that the resource has to be RPS-
15 eligible -- has to be an RPS-eligible resource
16 type -- and standalone storage grid connected is not
17 RPS-eligible. It wouldn't produce renewable energy
18 credits. It's not charged necessarily with renewable
19 energy.

20 You -- you have -- you could have an
21 interesting question, I think, with respect to battery
22 energy storage paired and charged only with a -- only
23 with a renewable RPS or RPS-qualified resource. In
24 that case, I think you're looking at the capacity
25 of -- of the facility probably and not summing up the

1 capacity of the battery plus whatever the renewable
2 resource is in our view.

3 So it's pretty tricky, and -- and the
4 answer is tricky because the numerator and the
5 denominator have different statutory requirements,
6 right? The numerator has the additional RPS-eligible
7 type of resource requirement, whereas the denominator
8 does not.

9 ALJ COLEMAN: Thanks. Sorry. Working
10 on keeping my notes straight. I appreciate that and
11 that was really the only point of clarification. So,
12 Mr. Adams, I appreciate your comments. Thank you.

13 MR. ADAMS: Okay. Thank you.

14 ALJ COLEMAN: And the next on the list
15 that I had was Mr. McCarthy, who may have just
16 barely -- or may have just shown up, but he was
17 nominated by someone to speak. So congratulations on
18 that.

19 MR. MCCARTHY: Thank you. No, I -- I
20 was just not briefly -- briefly not in the room. Judge
21 started spot on 9:30. So we also were experiencing
22 some minor bandwidth issues, so we've moved from the
23 conference room to an individual tie-in.

24 So, Judge Coleman, thank you for being
25 here today to take oral comments on this rulemaking.

1 My name is Brendan McCarthy. I'm an assistant general
2 counsel at Portland General Electric Company and
3 providing comments today for the company. In addition
4 to these oral comments, PGE will provide more extensive
5 comments by the end of the written comment period.

6 At a high level, PGE's opinion is that
7 there are fatal flaws associated with the rules as
8 proposed, and we believe the Commission should return
9 these rules to Staff for refinement consistent with the
10 law and public policy.

11 In the informal round, which we will
12 make our comments part of the record when we file our
13 written comments, PGE provided support for proposed
14 amendments to OAR 860-091-0020. To be clear, PGE's
15 support came before changes to that rule were made in
16 the formal submission of the rules to the Commission
17 that excluded from the term "aggregate electrical
18 capacity" the nameplate capacity of behind-the-meter
19 resources. And I may -- I may use "BTM" for behind-
20 the-meter resources rather than the full phrase.

21 PGE believes that the interpretation
22 that these rules now represent is contrary to the plain
23 meaning of the statute and likely a misinterpretation
24 of the Commission's Order No. 21-464 from AR 622 on how
25 to calculate aggregate electrical capacity. The

1 revision inappropriately removed the generation type of
2 resource, those BTM, from the resources that are
3 supported by customer rates and from the resources that
4 support the electrical system.

5 In the Commission's earlier order, it
6 adopted the use of nameplate capacity in both the
7 numerator and denominator, stating that it considered,
8 quote, "it important to interpret the units of the
9 numerator and denominator symmetrically in order to
10 achieve a fair and consistent percentage calculation,"
11 unquote. It further stated that the term "aggregate
12 electrical capacity" is plainly a term that refers to
13 resources and not load.

14 We note that the rules now insert in two
15 places the phrase "used to serve Oregon load." And
16 while we again note that the capacity standard is not,
17 as the Commission indicated, the load-based standard,
18 we find the addition of the phrase "used to serve
19 Oregon load" nesting well with what the Commission
20 stated in Order 21-464; that because BTM resources,
21 beyond a shadow of a doubt, serve Oregon load when they
22 either reduce energy and capacity needs for serving the
23 customer with that resource, or when the same
24 customer's resource exports energy to the grid.

25 The symmetry that the Commission

1 referred to would be lost entirely if the BTM resources
2 were removed. That is, capacity that serves to keep
3 the lights on must be included in the calculation of
4 aggregate electrical capacity and not excluded merely
5 because of the -- the location of the meter.

6 It is irrelevant whether the utility,
7 for purposes of planning, considers the BTM resources
8 as a load reduction or supply resource, as the statute
9 does not require us to make that distinction. It is
10 irrelevant whether the BTM resources administratively
11 net against customer energy usage because physically we
12 know that they don't.

13 The statute merely states that the
14 aggregate electrical capacity must be composed of
15 electrical -- electricity generated by resources that
16 are smaller than 20 megawatts and that generate that
17 electricity from a renewable source. And Staff agrees,
18 even today, that the standard is a generating standard.

19 It really is that simple. Do BTM
20 resources like rooftop solar do that? If the answer is
21 yes and we believe the answer is yes, then they must
22 satisfy the standard.

23 All customers pay for BTM resources, and
24 state policy exists to encourage behind-the-meter
25 resources that are consistent with the requirements of

1 ORS 469A.210. As we stated in our informal comments,
2 PGE now has more than 460 megawatts of nameplate
3 capacity of net metered feed-in tariff and Oregon
4 Community Solar Program facilities enrolled or
5 operating on the system. Roughly 360 megawatts of that
6 amount are net metered systems.

7 This amount of behind-the-meter
8 resources reflects the efforts of many of the
9 stakeholders here in this sort of room. It reflects
10 policy and program changes made in Oregon and by PGE
11 and other utilities, and it reflects the success of ORS
12 469A.210 that should be recognized in this rulemaking.
13 Failing to recognize behind-the-meter resources here
14 only means that PGE customers will have to pay twice
15 for resources that otherwise should qualify for the
16 standard. That is, rather than qualify BTM resources,
17 these rules say that PGE must go out and acquire,
18 somehow, an additional at least 18-, 20-megawatt
19 systems generating energy from the same renewable
20 resource.

21 In a time when customer affordability
22 seems paramount, it is important to not artificially
23 create barriers to finding affordable solutions. This
24 is not an affordable solution.

25 This rulemaking also does not create or

1 assist in creating a path for getting small-scale
2 resources on the street. For example, PGE is still
3 working on how the company can integrate our -- our
4 CBRE request for offers into a short list. We have had
5 a CBRE RFO out for roughly a year. We will be putting
6 our learnings and results into our just-beginning IRP
7 process, but I can state here now that there is not, at
8 this point, a large volume of generating resources that
9 have come in through that RFO. These rules do not tell
10 PGE where it can go to find the resources that the
11 rules now bar from qualification or provide any
12 additional help in that regard.

13 We firmly believe the legislature wanted
14 something from ORS 469.210. We believe that it was
15 more than just a reaffirmation of qualifying facility
16 requirements found in ORS Chapter 758 because those
17 requirements existed when the Oregon Renewable Energy
18 Act, Senate Bill 838, was adopted in 2007. We believe
19 that we've been working in numerous Commission
20 processes and dockets since that time to find ways to
21 better integrate customer-owned resources into our
22 system and to create incentives for customers to
23 participate in their own energy future.

24 These rules eliminate the ability of
25 utilities to create incentive structures for BTMs to

1 contribute to small-scale renewable compliance,
2 something that's inconsistent with the Commission and
3 stakeholders' emphasis on advancing customer
4 affordability, increasing system flexibility, and
5 promoting resilience across all aspects of utility
6 resource planning.

7 These rules fundamentally force the
8 utility into a compliance structure that is very
9 limited, certain front-of-meter renewable -- renewable
10 resources that are smaller than 20 megawatts.

11 We know, and we've heard this morning
12 from Greg Adams, that there are those that suggest the
13 legislative history supports the exclusion of net
14 metered resources. This is a convenient
15 misinterpretation of both the 2007 and the 2016
16 legislation based on subsequent market developments and
17 seen only through the lens of changes made in 2021 that
18 did not alter anything other than the percentage that
19 was for -- for compliance. No one at the time of
20 passing Senate Bill 838 in 2007 knew which market for
21 renewables would take off, nor did anyone predict the
22 significant price reduction in solar between 2010 and
23 2020.

24 PGE has provided ample evidence in the
25 informal rulemaking portion of this docket about the

1 creation of a small-scale goal as part of the Oregon
2 Renewable Energy Act and how part of that act also
3 intentionally extended the public purpose charge and
4 limited any incentive flowing from that public purpose
5 charge to facilities that were smaller than 20
6 megawatts, including behind-the-meter resources.

7 PGE has also provided evidence the
8 original goal was not a procurement standard for
9 specific types of projects or ownership structures, but
10 for any type of facility that was less than 20
11 megawatts in size.

12 PGE has shown in -- in modifying the
13 original goal to a mandate that none of the supporters
14 of the change argued to, nor did the legislature
15 discuss, modifying this procurement standard to limit
16 the ownership structures or types of resources that
17 qualify. Some parties in this docket continue to seek
18 legislative changes that would prohibit utility
19 ownership of facilities that meet the standard,
20 something that would be completely unnecessary if BTM
21 resources didn't already qualify.

22 Statements made by one legislator on the
23 House floor 14 years after the small-scale renewable
24 standard had been adopted as a goal and five years
25 after it had been adopted as a mandate when the only

1 change was one to the percentage are hardly persuasive.
2 It's not the intent of one legislator that governs, but
3 the intent of the legislature as a whole at the time of
4 the bill's passage that's important.

5 These proposed rules will mistakenly
6 solidify momentous changes to the structure of the
7 small-scale renewable standard in a very time-limited
8 rulemaking where there was very little discussion,
9 research, or debate into the merits of the proposal.
10 The rules further make these changes with less than
11 four years until the compliance date arrives, moving
12 the goalposts for compliance.

13 PGE does not believe the changes are
14 consistent with Commission authority in this matter.
15 They are not consistent with the text and context of
16 the statute. They are not consistent with the
17 legislative history of the enactment.

18 Fundamentally, these changes will
19 increase costs on customers without a comparable
20 benefit obtained. They will limit opportunities to
21 leverage and value a whole class of distributed energy
22 resources, and they will take a step backward in terms
23 of our shared energy future in favor of one class of
24 energy production facilities.

25 The changes must be rejected. Thank

1 you.

2 ALJ COLEMAN: Thank you, Mr. McCarthy.
3 I think I have a pretty solid understanding of your
4 position from the informal comments, but I do look
5 forward to reading the more formal comments
6 presented -- anticipated from PGE. So I don't have any
7 questions at this time. I appreciate it. Thank you.

8 MR. MCCARTHY: Thank you, Judge.

9 ALJ COLEMAN: Okay. Anyone else
10 interested in raising their hand and providing a
11 comment today?

12 Mr. Burns.

13 MR. BURNS: Good morning. Can you hear
14 me okay?

15 ALJ COLEMAN: Yeah, there's a little bit
16 of static. I'm not sure if it's on my end or yours,
17 but --

18 MR. BURNS: Okay. Very good. I -- I
19 fear that this is the best that I'm going to be able to
20 do.

21 But good morning, Judge Coleman. My
22 name is Thomas Burns, and I am vice president of
23 resource planning and acquisitions for PacifiCorp.
24 Thank you for the opportunity to speak today.

25 PacifiCorp appreciates the quick and

1 meaningful action taken by Staff in this rulemaking.
2 PacifiCorp supports Staff's draft rules and has the
3 opinion that these draft rules achieve the goals set
4 out in the rulemaking. If adopted, these rules will
5 materially inform Oregon utilities in their procurement
6 efforts for resources to comply with the SSR mandate.

7 PacifiCorp is supportive of the draft
8 rules but thinks that the draft rules could be
9 strengthened and provide protection for rate-paying
10 customers from unnecessary costs. This can be
11 accomplished through two additions.

12 First, by providing additional certainty
13 around surplus interconnection opportunities for small-
14 scale resource compliance. This would avoid creating
15 any unnecessary complications with the federal
16 interconnection requirements, the FERC requirements.

17 Secondly, and importantly, by having the
18 compliance with standard ORS 469A.210(2), an electric
19 company shall calculate its aggregate electrical
20 capacity based on a measurement taken. The Staff's
21 proposed rules are currently 12 months. Our
22 recommendation is 48 months prior to the date on which
23 it is required to file a compliance report under OAR
24 860-091-0040.

25 This would accomplish several things.

1 First, it would provide certainty for the procurement
2 target, thus preventing potential over-procurement of
3 very costly resources. It will enable developers time
4 to develop potential resources for competitive
5 offering, and allow more resources the time to move
6 through the cluster study process and further deepen
7 the pool of competitive resources. All of these things
8 would be beneficial to ratepayers and still meet
9 the -- the goals of the small -- the small-scale
10 mandate.

11 Additionally, PacifiCorp recommends that
12 the Commission decline to formally exclude behind-the-
13 meter resources as SSR eligible in Commission rules.
14 While parties can ask the Commission to waive this, the
15 preferred approach would be to retain the Commission's
16 discretion to determine, based upon future facts and
17 circumstances, whether specific types of behind-the-
18 meter resources should qualify as small-scale
19 resources.

20 For example, the Commission may want to
21 exclude the nameplate capacity from net metering but
22 may not want to exclude a biomass generator that is
23 behind the -- the customer's meter and sells its excess
24 output as a qualifying facility.

25 I will also note that formally excluding

1 behind-the-meter resources as small-scale resources in
2 Commission rules is outside the scope of the current
3 fast-track proceeding.

4 Thank you very much. I'm available for
5 questions.

6 ALJ COLEMAN: Thank you for the moment
7 there. I'm actually taking notes old school with a pen
8 and paper, so it took me just a second.

9 I guess I do have a question. Just so I
10 understand for clarification, when you were discussing
11 the point in time for the calculation of aggregate
12 electrical capacity and you indicated you would prefer
13 a 48-month lead time, is that for the initial point or
14 is that a rolling 48-month cycle?

15 MR. BURNS: That would be a -- a rolling
16 cycle. So capacity for 2030 would be determined on a
17 measurement taken in 2026; for 2031, would be taken in
18 2027; for 2032, in 2028; and so on. So there would be,
19 you know, no fixing of the -- the volume, but it would
20 be based upon a known quantity. And the 48 months
21 provides ample time for developers to prepare projects,
22 submit into the transmission cluster study, and
23 actually develop them from groundbreaking through
24 commercial operation.

25 ALJ COLEMAN: Okay.

1 MR. BURNS: Having conducted several
2 versions of -- of a RFP for small-scale resources and
3 looking at the cluster study queues that are currently
4 studied and available, there is not a large volume of
5 these resources available, and so that queue needs to
6 mature and have a chance to have a liquid pool of
7 resources for competitive solicitation. And that's
8 what that change would enable, is having that 48-month
9 rolling timeframe to be able to, one, have certainty
10 and, two, have that pool of competitive resources.

11 ALJ COLEMAN: So I guess I'll ask to
12 clarify, as you just mentioned, you know, that you have
13 been through this process at least once. A slightly
14 different question than the maturation of the pool,
15 what is the timeframe for the development of a project
16 that would qualify in your experience with respect to,
17 you know, managing those requests?

18 MR. BURNS: So it would -- it
19 would -- It takes about a year to go through the
20 cluster study process, and then because these are
21 small-scale resources, the RFP competitive bidding
22 guidelines are a little bit less stringent, so we can
23 move through the RFP process relatively quickly. And
24 then having 30 months for a resource to, you know, be
25 contracted and then move into development allows

1 sufficient time to be able to actually, you know, go
2 through the cluster study process, contract, and then
3 go through the development process. So 24 to 36 months
4 is a -- is a very reasonable timeframe for a project to
5 be developed, and that's just the physical component of
6 it. That's not everything that, you know, is the pre-
7 work prior to that.

8 ALJ COLEMAN: Thank you. I don't have
9 any additional question on that, but I appreciate your
10 comments. And again, I appreciate the information that
11 your team has put forward in the informal phase and
12 look forward to reading --

13 MR. BURNS: Formal comments. Thank you.

14 ALJ COLEMAN: -- anticipated
15 comprehensive comments in the formal stage. Thank you.

16 Ms. Crowley-Koch.

17 MS. CROWLEY-KOCH: Thank you, Judge
18 Coleman. Angela Crowley-Koch. I'm the executive
19 director of OSSIA, Oregon Solar + Storage Industries
20 Association. And I'll apologize from the start. I'm
21 not an attorney, so I'm doing my best here.

22 I wanted to make a comment on
23 PacifiCorp's request that we just heard to change the
24 timeframe to 48 months. OSSIA has concern with that
25 request, and that's because we've already seen really

1 long delays in PacifiCorp moving through their cluster
2 study process, and this has caused projects that are
3 ready to go and be developed be put off sometimes for
4 years because PacifiCorp has delayed on their studies.

5 And so we feel that sticking with
6 Staff's suggestion of 12 months would really force
7 PacifiCorp to do their due diligence and have those
8 cluster studies performed on a reasonable and timely
9 basis.

10 And I'd also like to note that I heard
11 both PGE and PacifiCorp mention their RFPs that they
12 recently solicited. It's OSSIA's opinion that those
13 RFPs were unnecessarily restrictive in their
14 eligibility requirements, which we commented at during
15 the time when PGE and PacifiCorp were putting together
16 their RFP proposals. And so because of the strict
17 requirements, it's not surprising that not many -- that
18 they haven't received robust response. We feel they
19 could get a much different response to their RFPs for
20 small-scale renewables if the requirements were more
21 flexible within existing statutes.

22 And that's all for me at the time. I
23 agree with what Mr. Adams said in his comments, and
24 those reflect the thoughts of OSSIA as well.

25 ALJ COLEMAN: Okay. Thank you. And

1 again, I would invite formal comments, or written
2 comments, to help with the analysis of that.

3 And it looks like, I'm going to -- from
4 interpreting the participant ID, I believe that that's
5 a PGE conference room.

6 MR. MCCARTHY: Judge, this is Brendan
7 McCarthy again. I really -- we didn't want to comment,
8 but we really do need to correct the record if -- if
9 Ms. Crowley-Koch's comments are going to be included in
10 the record.

11 We did not receive any comments from
12 OSSIA in regard to our RFO. That's just not true, and
13 it needs to be stated that that's not true. So
14 we -- we can -- we can move on, but those comments are
15 not relevant to this rulemaking, but I do need to
16 correct the record.

17 Our CBRE RFO did not receive comments
18 from OSSIA. We have our CBRE RFO head here, sitting
19 next to me on the left, and we can debate this further
20 if it's important to this rulemaking, which we do not
21 believe it is. But thank you.

22 ALJ COLEMAN: And I appreciate that, and
23 I'm going to do my best to wrangle this back. To the
24 extent that parties want to make comments, I would
25 invite you to respond and with written comments, but I

1 think we're getting a little bit off topic. And so I'm
2 going to --

3 Ms. Crowley-Koch, is your comment, like,
4 a response or is there something different?

5 MS. CROWLEY-KOCH: It's a brief
6 response. I was at multiple workshops and made verbal
7 comments, so just correcting that.

8 ALJ COLEMAN: Okay. I invite all
9 parties to supplement and provide us at the Commission
10 with a robust record, but I would also invite focus on
11 the rules at issue.

12 And at this point in time, let me go
13 back to my -- I think I have -- we've heard from all
14 the parties who had identified early on that they
15 wanted to provide a comment. And so at this time, I
16 would just make the final offer and scroll through. Is
17 there anyone else who would like to speak at this time?
18 Please raise your hand on the Zoom feature if there's
19 additional desire to comment.

20 And seeing none, I will extend my thanks
21 to everyone for participating. The oral comments today
22 will be in the record, and again, I encourage those who
23 provide oral comments today to follow up with written
24 summaries and detail of your comments. Anyone, again,
25 that wants comments from the informal phase or other

1 written comments to be part of the record, please
2 submit them to the rulemaking docket for Oregon Public
3 Utility Commission AR 674. Again, those final comments
4 will be due no later than 3:00 p.m. January 23rd, 2026.

5 And I'm going to extend one final
6 invitation for anyone else before we adjourn.

7 I don't see any takers, so thank you
8 very much, and we will adjourn this hearing. Thank
9 you.

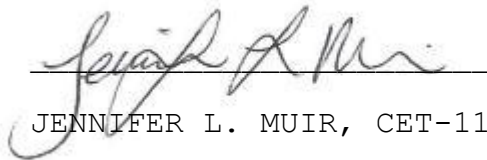
10 (Video ends)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

1
2
3 I, Jennifer L. Muir, CET-1149, a court-
4 approved transcriber, do hereby certify that the
5 foregoing is a true and correct transcript from the
6 official electronic sound recording of the proceedings
7 in the above-entitled matter, to the best of my
8 professional skills and abilities.

9 I further certify that I am not of counsel or
10 attorney for either or any of the parties in the
11 foregoing proceedings and caption named, or in any way
12 interested in the outcome of the cause named in the
13 said caption.

14
15
16 

17 JENNIFER L. MUIR, CET-1149 January 15, 2026

18 Certified Electronic Transcriber
19
20
21
22
23
24
25