



AGENCY RULEMAKING ACTIVITY

2024 Report to the Oregon Legislature

Christopher J. Allwein, Administrative Law Judge, Agency Rules
Coordinator

christopher.allwein@puc.oregon.gov



Intentionally Left Blank

AGENCY RULEMAKING ACTIVITY FOR 2024 REPORT TO THE LEGISLATURE

Executive Summary

ORS 183.403 requires all agencies to report annually to the Legislature on rulemaking activities, with special emphasis on temporary (emergency) rules. This report covers the Oregon Public Utility Commission's (PUC's) rulemaking activities for the period January 1, 2024, through December 31, 2024.

During this period, the PUC twice used temporary rulemaking processes, affecting six rules.

- In docket AR 666, the PUC adopted a temporary rule to amend OAR 860-032-0095 to correctly list the annual fee assessment for competitive telecommunications providers. These entities were paying the annual fee rate of 0.35 percent since 2019, consistent with ORS 756.310, but the change in statute was not reflected in the administrative rule. The temporary process was used to immediately and accurately reflect the 0.35 percent fee rate due from competitive telecommunications providers.
- In docket AR 667, the PUC adopted temporary rules amending OAR 860-021-0330 and OAR 860-021-0407, and adopted temporary new rules OAR 860-021-0630, OAR 860-021-0640, and OAR 860-021-0650 to enhance and expand customer protections against utility service disconnection during the 2024-2025 winter heating season.

The remaining rulemaking activities affecting rules were accomplished in six separate rulemaking proceedings (six dockets) following the permanent rulemaking procedures or by minor correction filings.

AGENCY RULEMAKING ACTIVITY FOR 2024 REPORT TO THE LEGISLATURE

The PUC

Our mission is to ensure Oregonians have access to safe, reliable and fairly priced utility services that advance state policy and promote the public interest. We use an inclusive process to evaluate differing viewpoints and visions of the public interest and arrive at balanced, well-reasoned, independent decisions supported by fact and law.

Our agency is led by a full-time, three-member Commission appointed by the Governor and confirmed by the Senate. With approximately 90 subject-matter experts in utility operations and regulatory policy, we regulate three electric utilities, three natural gas utilities, and select telecommunications utilities and water utilities. We implement a variety of statutory directives, review detailed technical information, adjudicate legal disputes, and engage with a wide array of stakeholders and policymakers in the energy, telecommunications, and water sectors across the state.

PUC Rulemaking for the period January 1, 2024, through December 31, 2024

1. *The Number of Rules Adopted, Amended, or Repealed in accordance with ORS 183.335(2) and (3) (Permanent Rulemaking Process):*

Thirty-four rules were adopted, amended, or repealed during the year using the permanent rulemaking process. One additional rule was corrected using the minor correction process. Our rulemakings are docketed and identified using an “AR” designator.

AR 663 amended *two* rules (OAR 860-024-0020 and 860-024-0021) to adopt the most recent amendments to the Pipeline and Hazardous Material Safety Administration (PHMSA) rules concerning natural gas and liquified natural gas pipeline safety, maintenance, operator qualification, inspection intervals, valves and other PHMSA pipeline safety changes.

AR 659 amended *ten* rules in Division -039 (OAR 860-039-0005, 860-039-0010 through 860-039-050, and 860-039-0065) to update net metering facility rule definitions and technical specifications to incorporate current standards and provide application process changes as net metering continues to evolve. Division -039 rules govern net metering facilities interconnecting to a public utility as required under ORS 757.300.

AR 659 also amended *thirteen* rules in Division -082 (OAR 860-082-0005, 860-082-0015 through 860-082-0070) and adopted *two* rules (OAR 860-082-0033 and 860-082-0063) to update the technical specifications for interconnections between small generator facilities and the electric grid and modify the application process to incorporate the new standards and other advancements in technology, streamline the interconnection application process and provide additional flexibility where possible.

AR 660 adopted *five* rules (OAR 860-095-0000, 860-095-0010, 860-095-0020, 860-095-0030, and 860-095-0040) to establish resource adequacy filing requirements and a resource adequacy state-level compliance program administered by the Public Utility Commission of Oregon. The adopted rules present compliance requirements for both regulated electric companies and electric service suppliers in order to ensure sufficient reliability of the electric grid in Oregon.

AR 665 amended *one* rule (OAR 860-088-0040) to remove the requirement for Commission orders to grant pre-certifications, waivers, extensions, and amendments in the Community Solar Program from OAR 860-088-0040(3)-(6). The amended rule delegates such authority to the Oregon Community Solar program administrator.

AR 664 amended *one* rule (OAR 860-032-095) to comport with the 2019 amendment to ORS 756.310, removing the percentage cap for competitive telecommunications providers. The administrative rules for small and large telecommunication utilities were amended in 2019 via SB 68. OAR 860-032-0095 was overlooked in error when amending the administrative rules to reflect the statutory changes. Because of the requirements of 2019 SB 68 and other legislative bills, the PUC increased staffing, professional services, and attorney general costs, along with increases in administrative costs such as rent, state assessment fees, and other personnel expenses. A temporary rulemaking in February 2024 corrected the oversight (AR 666, as discussed in the next section), and this rulemaking permanently adopted the statutory change.

One rule was amended through minor correction filings to correct the URL address by which customers may obtain information about regulated water utilities (OAR 860-036-1100).

2. Regarding the Temporary Rulemaking Process (ORS 183.335(5)):

A. The number of rules adopted, amended, or suspended using the procedure described in ORS 183.335(5):

Six rules were adopted or amended using the process described in ORS 183.335(5).

B. List of rules adopted, amended, or suspended using the procedure described in ORS 183.335(5):

The rules amended using the temporary rulemaking process were:

- OAR 860-021-0330: Reconnection Fee for Utility Service
- OAR 860-021-0407: Severe Weather Moratorium on Involuntary Disconnection of Residential and Small Commercial Electric or Gas Utility Service for Nonpayment
- OAR 860-032-0095: Annual Fees Payable to the Commission by a Competitive Provider

The rules adopted using the temporary rulemaking process were:

- OAR 860-021-0630: Arrearage Forgiveness Grant
- OAR 860-021-0640: Winter Protection Programs
- OAR 860-021-0650: Energy Utility Notification of Enhanced Protections

C. For each rule, a statement of need and all of the agency's findings that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned:

OAR 860-032-0095 Annual Fees Payable to the Commission by a Competitive Provider: required prompt action to align the annual fee paid by competitive telecommunications providers with recent statutory changes ahead of the annual fee assessment. The administrative rules for small and large telecommunication utilities were amended in 2019. As noted above (in the AR 664 narrative), OAR 860-032-0095 was overlooked when amending the administrative rules upon the passage of SB 68.

SB 68 authorized a fee change that was initiated as a result of legislation including 2016 SB 1547 (Coal to Clean), 2017 SB 978 (investigation into regulated electric system incentives and trends, technologies, and policy drivers), 2021 HB 2021 (Oregon Climate Action Program) and 2019 SB 98 (Renewable Natural Gas). Thus, immediate action was needed upon discovering the omission to align the rule with the actual fees being collected. See permanent rulemaking AR 664 above for additional information.

OAR 860-021-0330, 860-021-0407 required prompt amendments and OAR 860-021-0630, 860-021-0640 and 860-021-0650 required prompt adoption in order to be in place for the 2024-2025 winter heating season and the duration of the rule period. Increases in customer arrearages and disconnections were documented by PUC Staff following seasonal usage spikes and rate increases.

Research demonstrated to Staff that energy insecurity is linked to poor respiratory health, poor sleep, food insecurity, and adverse mental health outcomes. The economic impacts of a customer's inability to pay and resulting disconnection can also lead to evictions, foreclosures, low credit scores, the inability to establish future service

accounts, and children being removed from their parent's care. Further, exposure to extreme heat or extreme cold, coupled with an underlying vulnerability such as health conditions, age, or poor housing stock can lead to substantial numbers of deaths during extreme weather.¹ Temporary rules were adopted by the Commission immediately in order to minimize exposure to the most unsafe disconnections and mitigate the cascading effects of energy insecurity on vulnerable households.

Specifically, the temporary amendment to OAR 860-021-0330(4) prohibits a reconnection charge for residential customers enrolled in the lowest tier of the utility's income-qualified bill discount program prior to disconnection for the duration of the rule period, which included the 2024-2025 winter heating season.

The temporary amendment to OAR 860-021-0407 added a directive for electric utilities to implement a date-based disconnection moratorium for customers meeting certain criteria for the 2024-2025 winter heating season.

The adoption of temporary rule OAR 860-021-0630 provides a one-time arrearage forgiveness for the duration of the temporary rule period.

The adoption of temporary rule OAR 860-021-0640 extends winter protection program eligibility to income-qualified customers for the duration of the temporary rule period.

The adoption of temporary rule OAR 860-021-0650 presents requirements for customer notification of enhanced protections in the above rules for the duration of the temporary rule period, which includes the 2024-2025 winter heating season.

D. For each rule, an explanation of why proceeding under ORS 183.335(5) (the temporary rulemaking process) was the most appropriate method for adopting, amending, or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335(2) and (3) (the permanent rulemaking process).

OAR 860-032-0095: Competitive telecommunications providers have been paying the annual fee rate of 0.35 percent since 2019, consistent with ORS 756.310, but the change in statute was not reflected in the administrative rule. Because the language in the administrative rule listed the incorrect fee rate, the temporary process was used to immediately rectify the fee rate due to upcoming payments (at the time the temporary rule amendments were adopted) being issued by competitive telecommunications providers at the 0.35 percent fee rate. A permanent rulemaking process, in accordance with ORS 183.335(2) and (3), followed the temporary rulemaking to ensure the change was permanent (see AR 664 above).

¹ The research and observations noted above may be accessed and reviewed via links available in the December 12, 2024 Staff Report, filed in Docket No. AR 667 and available here: <https://edocs.puc.state.or.us/efdocs/HAU/ar667hau333510024.pdf>

Proceeding under ORS 183.335(5) was the most appropriate method for the temporary amendment of OAR 860-021-0330 and 860-021-0407, and adoption of OAR 860-021-0630 to OAR 806-021-0650, in order to provide immediate customer protections and mitigate customer harms, including death, associated with disconnection. The rulemaking process coincided with the beginning of the 2024-2025 winter heating season. It was imperative to consider and adopt temporary rules to minimize potential exposure to the most unsafe disconnections and mitigate the cascading effects of energy insecurity on vulnerable households in time to be effective for the winter. The temporary rules, as described in the section above, provided customers with protections from disconnections, arrearage forgiveness, and notice of the enhanced protections for the duration of the rule period. A permanent rulemaking process addressing these temporary changes will be initiated in 2025.