

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT**

PUBLIC MEETING DATE: April 17, 2001

REGULAR AGENDA x CONSENT AGENDA ___ EFFECTIVE DATE ___

DATE: April 11, 2001

TO: Phil Nyegaard

FROM: Marc Hellman and Lee Sparling

SUBJECT: AR 416 and AR 417

SUMMARY RECOMMENDATION:

We recommend the Commission adopt a temporary rule amending OAR 860-038-0080(1) regarding its policies on the treatment of existing and new generating resources (AR 416). The revised rule is shown in Attachment 1. We also recommend the Commission open a rulemaking docket (AR 417) to permanently amend 860-038-0005, 0080, 0140, 0160, 0250, 0260 and 0280 as shown in Attachment 2.

DISCUSSION:

For the last several weeks, interested parties have been meeting to develop revised administrative rule language. At many of these meetings were representatives of Portland General Electric, PacifiCorp, Citizens' Utility Board, Industrial Customers of Northwest Utilities and Staff. The purpose of the amendments is to take into account both the revised timing for Commission review of electric company resource plans as well as recent unprecedented levels of wholesale market prices. The multiparty discussions have resulted in the Staff proposal for: (1) temporary rules for those rules that need to go into effect on an emergency basis---Attachment 1; and (2) proposed language for permanent rules---Attachment 2. While there is broad agreement for many of the proposed amendments, Staff does not mean to imply that there is agreement on all suggested language.

The rules at issue are those the Commission adopted in a Special Public Meeting held August 29, 2000, to implement SB 1149. (Order No. 00-596 was issued September 28, 2000.) With respect to temporary rules, Staff recommends amending OAR 860-038-0080(1) that established policies relating to the revenue requirement treatment of electric company resources. For example, Subsection (1)(a) relates primarily to the level of electric company resources that would be recognized in revenue requirements. Subsection (1)(b) relates to the revenue requirement treatment of new generating resources.

Staff recommends the Commission adopt temporary rules because the existing rules were developed at a time when parties believed that resource plans would be completed fairly quickly. The timing was to have the Commission resource plan orders issued by April 1, 2001, a date well before October 1, 2001. However, the review of electric company resource plan filings has been suspended. In AR 417, Staff is proposing that the Commission resource plan orders be issued by December 31, 2002. With this significant delay in the review of resource plan filings, Staff recommends that temporary rules are needed to reflect Commission treatment of electric company generating resources pending Commission orders on the resource plans.

Staff also notes that temporary rules are needed to address the near-term energy crisis. The current wholesale electric markets are very volatile with historic high levels of prices for wholesale power. The existing language of the rules require new generating resources be included in revenue requirements at market prices. For a period of time, Staff believes that a revised policy is needed to provide opportunities for the electric companies to identify resource alternatives that cost less than market and share these savings between the companies and customers. Near-term wholesale electric prices do not appear to reflect the costs of new resources, but rather may reflect both the lack of electric supply and perceived risks of selling power to financially-strapped California utilities. A proposed order for adopting the temporary rules is attached as Attachment 3. Until a resource plan is adopted, Staff envisions that in addition to the traditional rate base approach for handling new generating resources, the Commission could consider using a contract approach. The contract approach would likely require agreement between the company and Commission on ratemaking treatment for new resources.

Staff also recommends the Commission open a rulemaking docket to consider permanent amendments to existing SB 1149 rule language. As mentioned earlier, parties have been meeting to consider revising rules given the delay in the review of resource plans and issues raised by the increased volatility in wholesale electric prices. Some of the changes are to: (a) update dates or remove date references, (b) revise the definitions of economic and uneconomic utility investment, (c) clarify rules pertaining to the standard offer, and (d) postpone the Commission decision modifying the provision that holds PacifiCorp harmless from inconsistent inter-jurisdictional regulatory decisions stemming from implementing direct access. The latter issue was extremely difficult to solve when the potential risk was large, but not catastrophic. However, with the increase in wholesale market prices, the perceived risks are too great for any party to commit to bear them for a fixed time period. Therefore, a new approach is suggested.

STAFF RECOMMENDATIONS:

We recommend the Commission adopt the proposed AR 416 temporary rules shown in Attachment 1 and open a permanent rulemaking docket in AR 417 to adopt the amendments shown in Attachment 2.

OREGON ADMINISTRATIVE RULES
CHAPTER 860, DIVISION 038 - PUBLIC UTILITY COMMISSION

DIVISION 038

860-038-0080

Resource Policies and Plans

(1) The Commission adopts the following policies with respect to the Oregon share of generating resources (generating assets and power purchase contracts with a duration of at least one year) of each electric comp any:

(a) At such time as the Resource Plan is implemented. Each electric company will retain in its Oregon revenue requirement costs associated with a level of generating resources that is not greater than that necessary to meet the current and reasonably expected future loads of its Oregon residential and small nonresidential consumers. In determining whether an electric company has excess generating resources, the Commission will consider the projected useful lives and mix of fuels of the electric company's generating resources. To encourage the development of a competitive retail energy market, it is the policy of the Commission to release to the competitive market generating resources in excess of such reasonably expected future loads. It is also the policy of the Commission to determine a one-time valuation for the Oregon large nonresidential consumers' share of an electric company's generating resources;

(b) The Commission will not require an electric company to acquire new generating resources except as provided in ORS 757.663. Major capital improvements to existing generating resources that are included in an electric company's revenue requirement will continue to be subject to least cost planning processes and analyses and the Oregon share of their prudently-incurred costs will be included in an electric company's Oregon revenue requirement, which for a multi-state electric company shall be consistent with Commission decisions pursuant to subsection (3)(a)(G) of this rule. After such time as a Resource Plan is adopted. Electric companies must include new generating resources in revenue requirement at market prices, and not at cost, and such new generating resources will not be added to an electric company's rate base even if owned by the electric company;

(c) The Oregon share of the costs of each generating resource may be either completely in, completely out, or "mixed" with respect to inclusion in an electric company's Oregon

revenue requirement. The Commission will permit mixed status unless it finds that mixed status will:

(A) Reduce the generating resource's operating efficiency;

(B) Harm the development of a competitive market; and

(C) Prevent the owners from making economic decisions about the operation of the generating resource.

(d) For a multi-state electric company for which the Commission adopts a fixed-allocated Oregon share amount, and a Resource Plan is implemented, such generating allocation amount will be used for developing cost-of-service rates, transition charges and credits, and Operations and Maintenance allocations as well as other allocations that use generation-based factors.

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DIVISION 038

DIRECT ACCESS REGULATION

860-038-0001

Scope and Applicability of Rules

(1) The rules contained in this division apply to electric companies and electricity service suppliers, except that these rules do not apply to an electric company serving fewer than 25,000 consumers in this state unless the electric company:

(a) Offers direct access to any of its retail electricity consumers in this state; or

(b) Offers to sell electricity services available under direct access to more than one retail electricity consumer of another electric company in this state.

(2) Except as otherwise provided in these rules, an electric company must comply with all other divisions of OAR Chapter 860.

(3) OAR 860-038-0380, sections (1) through (9), apply to aggregators; section (10) applies to electric companies.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596); PUC 2-2001, f. & ef. 1-5-01 (Order No. 01-073)

860-038-0005

Definitions

As used in this Division:

(1) "Above-market costs of new renewable energy resources" means the portion of the net present value cost of producing power (including fixed and operating costs, delivery, overhead, and profit) from a new renewable energy resource that exceeds the market value of an equivalent quantity and distribution (across peak and off-peak periods and seasonality) of power from a nondifferentiated source, with the same term of contract.

(2) "Advisory committee" means a group appointed by the Commission, consisting of representatives from Commission Staff, the Office of Energy, and the following:

- (a) Local governments;
- (b) Electric companies;
- (c) Residential consumers;
- (d) Public or regional interest groups; and
- (e) Small nonresidential consumers.

(3) "Affiliate" means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a public utility.

(4) "Aggregate" means combining retail electricity consumers into a buying group for the purchase of electricity and related services. "Aggregator" means an entity that aggregates.

(5) "Ancillary services" means those services necessary or incidental to the transmission and delivery of electricity from resources to retail electricity consumers, including but not limited to scheduling, frequency regulation, load shaping, load following, spinning reserves, supplemental reserves, reactive power, voltage control and energy balancing services.

(6) "Commission" means the Public Utility Commission of Oregon.

(7) "Common costs" means costs that cannot be directly assigned to a particular function.

(8) "Competitive operation" means any activities related to the provision of electricity services conducted by the electric company's nonregulated operation or the electric company's affiliate.

(9) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.

(10) "Default supplier" means an electric company that has a legal obligation to provide electricity services to a consumer, as determined by the Commission.

(11) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services directly from an entity other than the distribution utility.

(12) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.

(13) "Distribution" means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.

(14) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.

(15) "Divestiture" means the sale of all or a portion of an electric company's ownership share of a generation asset to a third party.

(16) "Economic utility investment" means all Oregon allocated investments made by an electric company ~~prior to the date the electric~~

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~~company~~ that offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation or conservation, that were prudent at the time the obligations were assumed but the full benefits of which are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition credits. "Economic utility investment" does not include costs or expenses disallowed by the Commission in a prudence review or other proceeding, to the extent of such disallowance, and does not include fines or penalties authorized and imposed under state or federal law.

(17) "Electric company" means an entity engaged in the business of distributing electricity to retail electricity consumers in this state but does not include a consumer-owned utility.

(18) "Electric company operational information" means information relating to the interconnection of customers to an electric company's transmission or distribution systems, trade secrets, competitive information relating to internal processes, market analysis reports, market forecasts, and information about an electric company's transmission or distribution system, operations, or plans or strategies for expansion.

(19) "Electric cooperative" means an electric cooperative corporation organized under ORS Chapter 62 or under the laws of another state if the service territory of the electric cooperative includes a portion of this state.

(20) "Electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state.

(21) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity, measured in kilowatts, or both.

(22) "Electricity services" means electricity distribution, transmission, generation or generation-related services.

(23) "Electricity service supplier" or "ESS" means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. "Electricity service supplier" does not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.

(24) "Emergency default service" means a service option provided by an electric company to a nonresidential consumer that requires less

than five business days' notice by the consumer or its electricity service supplier.

(25) "Fully distributed cost" means the cost of an electric company good or service calculated in accordance with the procedures set forth in OAR 860-038-0200.

(26) "Functional separation" means separating the costs of the electric company's business functions and recording the results within its accounting records, including allocation of common costs.

(27) "Joint marketing" means the offering (including marketing, promotion, and/or advertising) of retail electric services by an electric company in conjunction with its competitive operation to consumers either through contact initiated by the electric company, its affiliate, or through contact initiated by the consumer.

(28) "Large nonresidential consumer" means a nonresidential consumer whose kW demand at any point of delivery is greater than 30 kW during any two months within a prior 13-month period, or any different level of consumption as may be established by the Commission pursuant to the proceeding identified in OAR 860-038-0080(5)(a).

(29) "Load" means the amount of electricity delivered to or required by a retail electricity consumer at a specific point of delivery.

(30) "Local energy conservation" means conservation measures, projects, or programs that are installed or implemented within the service territory of an electric company.

(31) "Low-income weatherization" means repairs, weatherization and installation of energy efficient appliances and fixtures for low-income residences for the purpose of enhancing energy efficiency.

(32) "Market transformation" means a lasting structural or behavioral change in the marketplace that increases the adoption of energy efficient technologies and practices.

(33) "Multi-state electric company" means an electric company that provided regulated retail electric service in a state in addition to Oregon prior to January 1, 2000.

(34) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.

(35) "Net system power mix" means the mix of all power generation within the state or other region less all specific purchases from generation facilities in the state or region, as determined by the Office of Energy.

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(36) “New” as it refers to energy conservation, market transformation and low-income weatherization means measures, projects or programs that are installed or implemented after the date direct access is offered by an electric company.

(37) “New renewable energy resource” means a renewable energy resource project or a new addition to an existing renewable energy resource project, or the electricity produced by the project, that was not in operation on or before July 23, 1999. “New renewable energy resource” does not include any portion of a renewable energy resource project under contract to the Bonneville Power Administration on or before July 23, 1999.

(38) “Nonresidential consumer” means a retail electricity consumer who is not a residential consumer.

(39) “Office of Energy” means the Oregon Office of Energy created under ORS 469.030.

(40) “Ongoing valuation” means the process of determining transition costs or benefits for a generation asset by comparing the value of the asset output at [forecast-projected](#) market prices for a [one-year-defined](#) period to an estimate of the revenue requirement of the asset for the same time period.

(41) “One-time administrative valuation” means the process of determining the market value of a generation asset over the life of the asset, or a period as established by the Commission, using a process other than divestiture.

(42) “One average megawatt” means 8,760,000 kilowatt-hours of electricity per year.

(43) “Oregon share” means, for a multi-state electric company, an interstate allocation based upon a fixed allocation or method of allocation established in a Resource Plan or, in the case of an electric company that is not a multi-state electric company, 100 percent.

(44) “People’s utility district” has the meaning given that term in ORS 261.010.

(45) “Portfolio” means a set of product and pricing options for electricity.

(46) “Proprietary consumer information” means any information compiled by an electric company on a consumer in the normal course of providing electric service that makes possible the identification of any individual consumer by matching such information with the consumer’s name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities

used in providing service, individual contract terms and conditions, price, current charges, billing records, or any other information that the consumer has expressly requested not be disclosed. Information that is redacted or organized in such a way as to make it impossible to identify the consumer to whom the information relates does not constitute proprietary consumer information.

(47) “Qualifying expenditures” means those expenditures for energy conservation measures that have a simple payback period of not less than one year and not more than 10 years and expenditures for the above-market costs of new renewable energy resources, provided that the Office of Energy may establish by rule a limit on the maximum above-market cost for renewable energy that is allowed as a credit.

(48) “Registered dispute” means an unresolved issue affecting a retail electricity consumer, an ESS, or an electric company that is under investigation by the Commission’s Consumer Services Division but is not the subject of a formal complaint.

(49) “Regulated charges” means charges for services subject to the jurisdiction of the Commission.

(50) “Regulatory assets” means assets that result from rate actions of regulatory agencies.

(51) “Renewable energy resources” means:

(a) Electricity-generation facilities fueled by wind, waste, solar or geothermal power or by low-emission nontoxic biomass based on solid organic fuels from wood, forest and field residues;

(b) Dedicated energy crops available on a renewable basis;

(c) Landfill gas and digester gas; and

(d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.

(52) “Residential consumer” means a retail electricity consumer that resides at a dwelling primarily used for residential purposes. “Residential consumer” does not include retail electricity consumers in a dwelling typically used for residency periods of less than 30 days, including hotels, motels, camps, lodges, and clubs. As used in this section, “dwelling” includes but is not limited to single-family dwellings, separately metered apartments, adult foster homes, manufactured dwellings, recreational vehicles, and floating homes.

(53) “Retail electricity consumer” means the end user of electricity for specific purposes such

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as heating, lighting, or operating equipment and includes all end users of electricity served through the distribution system of an electric company on or after July 23, 1999, whether or not each end user purchases the electricity from the electric company. For purposes of this definition, a new retail electricity consumer means a retail electricity consumer that is unaffiliated with the retail electricity consumer previously served after October 1, 2001, at the site.

(54) "Self-directing consumer" means a retail electricity consumer that has used more than one average megawatt of electricity at any one site in the prior calendar year or an aluminum plant that averages more than 100 average megawatts of electricity use in the prior calendar year, that has received final certification from the Office of Energy for expenditures for new energy conservation or new renewable energy resources and that has notified the electric company that it will pay the public purpose charge, net of credits, directly to the electric company in accordance with the terms of the electric company's tariff regarding public purpose credits.

(55) "Serious injury to person" means, in the case of an employee, an injury that results in hospitalization. In the case of a nonemployee, "serious injury" means any contact with an energized high-voltage line, or any incident that results in hospitalization. Treatment in an emergency room is not hospitalization.

(56) "Serious injury to property" means damage to ESS and non-ESS property exceeding \$25,000 or failure of ESS facilities that causes or contributes to a loss of energy to consumers.

(57) "Site" means:

(a) Buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter; or

(b) A single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, such that:

(A) Each building or structure included in the site is no more than 1,000 feet from at least one other building or structure in the site;

(B) Buildings and structures in the site, and land containing and connecting buildings and structures in the site, are owned by a single retail electricity consumer who is billed for electricity use at the buildings and structures; and

(C) Land shall be considered to be contiguous even if there is an intervening public

or railroad right of way, provided that rights of way land on which municipal infrastructure facilities exist (such as street lighting, sewerage transmission, and roadway controls) shall not be considered contiguous.

(58) "Small nonresidential consumer" means a nonresidential consumer that is not a large nonresidential consumer.

(59) "Special contract" means a rate agreement that is justified primarily by price competition or service alternatives available to a retail electricity consumer, as authorized by the Commission under ORS 757.230.

(60) "Structural separation" means separating the electric company's assets by transferring assets to an affiliated interest of the electric company.

(61) "Total transition amount" means the sum of an electric company's transition costs and transition benefits.

(62) "Traditional allocation methods" means, in respect to a multi-state electric company, inter-jurisdictional cost and revenue allocation methods relied upon in such electric company's last Oregon rate proceeding completed prior to December 31, 2000.

(63) "Transition benefits" means the value of the below-market costs of an economic utility investment.

(64) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic utility investment.

(65) "Transition costs" means the value of the above-market costs of an uneconomic utility investment.

(66) "Transition credit" means a credit that returns to consumers all or a portion of the benefits from an economic utility investment.

(67) "Transmission grid" means the interconnected electrical system that transmits energy from generating sources to distribution systems and direct service industries.

(68) "Unbundling" means the process of assigning and allocating a utility's costs into functional categories.

(69) "Uneconomic utility investment" means all Oregon allocated investments made by an electric company ~~prior to the date the electric company that~~ offers direct access under ORS 757.600 to 757.667, including plants and equipment and contractual or other legal obligations, properly dedicated to generation, conservation and work-force commitments, that were prudent at the time the obligations were assumed but the full costs of which are no longer

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recoverable as a direct result of ORS 757.600 to 757.667, absent transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed by the Commission in a prudence review or other proceeding, to the extent of such disallowance and does not include fines or penalties as authorized by state or federal law.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stat. Implemented: ORS 756.040 & 757.600 to 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596); PUC 2-2001, f. & ef. 1-5-01 (Order No. 01-073)

860-038-0080

Resource Policies and Plans

(1) The Commission adopts the following policies with respect to the Oregon share of generating resources (generating assets and power purchase contracts with a duration of at least one year) of each electric company:

(a) At such time as the Resource Plan is implemented. Each electric company will retain in its Oregon revenue requirement costs associated with a level of generating resources that is not greater than that necessary to meet the current and reasonably expected future loads of its Oregon residential and small nonresidential consumers. In determining whether an electric company has excess generating resources, the Commission will consider the projected useful lives and mix of fuels of the electric company's generating resources. To encourage the development of a competitive retail energy market, it is the policy of the Commission to release to the competitive market generating resources in excess of such reasonably expected future loads. It is also the policy of the Commission to determine a one-time valuation for the Oregon large nonresidential consumers' share of an electric company's generating resources;

(b) The Commission will not require an electric company to acquire new generating resources except as provided in ORS 757.663. Major capital improvements to existing generating resources that are included in an electric company's revenue requirement will continue to be subject to least cost planning processes and analyses and the Oregon share of their prudently-incurred costs will be included in an electric company's Oregon revenue requirement, which for a multi-state electric

company shall be consistent with Commission decisions pursuant to subsection (3)(a)(G) of this rule. After such time as a Resource Plan is adopted. Electric companies must include new generating resources in revenue requirement at market prices, and not at cost, and such new generating resources will not be added to an electric company's rate base even if owned by the electric company;

(c) The Oregon share of the costs of each generating resource may be either completely in, completely out, or "mixed" with respect to inclusion in an electric company's Oregon revenue requirement. The Commission will permit mixed status unless it finds that mixed status will:

(A) Reduce the generating resource's operating efficiency;

(B) Harm the development of a competitive market; and

(C) Prevent the owners from making economic decisions about the operation of the generating resource.

(d) For a multi-state electric company for which the Commission adopts a fixed-allocated Oregon share amount, and a Resource Plan is implemented, such generating allocation amount will be used for developing cost-of-service rates, transition charges and credits, and Operations and Maintenance allocations as well as other allocations that use generation-based factors.

(2) For purposes of this rule and OARs 860-038-0100 and 860-038-0140, the Oregon large nonresidential share of the total Oregon share of a generating resource will equal the ratio of the class's total Oregon retail load measured in weather-normalized kilowatt-hour sales in the 12 months ending September 30, 2001 calendar year prior to the filing of the resource plan, to total Oregon retail load measured in weather-normalized kilowatt-hour sales in the 12 months ending September 30, 2001 calendar year prior to the filing of the resource plan. Loads will be adjusted to remove the effects of demand exchange programs that were in effect during the period. To the extent such shares are not known as of October 1, 2001 the date of filing of the resource plan, the electric company will use estimates until relevant data are available.

(3) On or before November-May 1, 2002, each electric company must file with the Commission a resource plan that meets the following requirements:

(a) Information. The resource plan must include the following information:

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(A) Consistent with paragraph subsection (3)(a)(G) of this rule, the amount of capacity and energy and the availability of each generating resource that is attributable to the Oregon residential and small nonresidential consumers' share of the electric company's load, and the amount that is attributable to the Oregon large nonresidential consumers' share of the electric company's load;

(B) A forecast of the revenue requirements associated with each generating resource over both its projected remaining useful life and economic life, with sensitivities for major assumptions, and identification of deferred taxes, excess deferred taxes, FASB 109 assets, and any investment tax credits associated with each generating resource;

(C) The other characteristics of the generating resource that could affect its value including but not limited to its capability to provide or support ancillary services, the value of its site and environmental or operating permits, and any environmental issues associated with it;

(D) A forecast of future market prices for electricity, including forecasts of major fuel inputs and sensitivity analyses;

(E) A forecast of loads of the electric company's Oregon residential and small nonresidential consumers covering at least the period of the longest-lived generating resource;

(F) The estimated fair market value of the Oregon share of each generating resource; and

(G) For a multi-state electric company, how the electric company proposes to allocate a share of its generating resources to Oregon. The multi-state electric company must also propose a fixed Oregon-allocated generating resource share based on the following factors:

(i) A forecasted allocation of each generating resource for the ~~12 months ending September 30, 2001~~ calendar year prior to the filing of the resource plan, using traditional allocation methods recognized by the Commission;

(ii) The projected potential changes in Oregon share, due to alternative inter-jurisdictional allocation methods, over the life of each resource absent implementation of these rules; and

(iii) The change in risk borne by parties by fixing the Oregon share of generating resource.

(b) Recommended Valuation Methodology. The resource plan must identify, for each generating resource, or portion thereof if the

resource meets the criteria for mixed status, whether the Oregon share of each generating resource should be:

(A) Retained in the electric company's Oregon revenue requirement for the purpose of serving Oregon residential and small nonresidential consumers and administratively valued through a process to be specified by rule;

(B) Sold through the auction process specified in OAR 860-038-0100, and if so:

(i) The general terms and conditions that should apply to the sale, including but not limited to, a prototype purchase and sale agreement; and

(ii) Any sales incentives that the electric company proposes to apply to Oregon nonresidential consumers for the Oregon nonresidential consumers' share of the generating resource. Such incentives may be structured to encourage the electric company to follow the recommended timeline provided under subsection (3)(d) of this rule; or

(C) Removed from the electric company's Oregon revenue requirement and administratively valued through a process to be specified by rule, and if so, any incentive to apply to Oregon nonresidential consumers for removing the nonresidential consumers' share of the generating resource from revenue requirement. Such incentives may be structured to encourage the electric company to follow the recommended timeline provided under subsection (3)(d) of this rule.

(c) Results of the Resource Plan. The resource plan must identify the impacts of implementing it, including the following:

(A) The approximate load/resource balance, and the availability of each generating resource based on the electric company's current and forecasted load for Oregon residential and small nonresidential consumers;

(B) The estimated rates to each Oregon customer class that will result from implementation of the resource plan, including:

(i) The amount of estimated transition charges and credits;

(ii) A comparison to the electric company's rates filed by the electric company on October 1, 2000 effective on the date of the resource plan filing; and

(iii) An estimate of the cost-of-service rates for Oregon residential and small nonresidential consumers 10 years after implementation of the resource plan.

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(C) How the resource plan is consistent with the purposes of SB 1149 in that the plan:

- (i) Facilitates a fully competitive market;
- (ii) Provides consumers fair, non-discriminatory access to competitive markets; and
- (iii) Retains the benefits of low-cost resources for consumers.

(D) Any other implications of the resource plan that could help inform the Commissioners in their decision.

(d) Process. The electric company must develop the resource plan in a public process designed to inform and solicit input from Commission staff, representatives of Oregon residential, small nonresidential and large nonresidential consumers, and other interested parties.

(4) The Commission must consider the electric company's recommended resource plan in a contested case proceeding. The schedule in the contested case proceeding must be set to produce a Commission decision on the resource plan by ~~April 1, 2001~~December 31, 2002. The Commission's order must identify those resources that, at the option of the electric company, may be auctioned immediately, before final administrative valuation of other resources and potential modification of the electric company's Resource Plan. The Commission's order must also approve, modify, or reject the resource plan.

(a) If the Commission modifies the resource plan, the electric company will have 30 days from the date of the Commission's order to accept or reject the modifications. If the electric company rejects the Commission's modifications, the electric company must file a second recommended resource plan within 60 days of the date of rejection;

(b) If the Commission rejects the resource plan, the order rejecting the plan must specifically describe the deficiencies in the resource plan. In that event, the electric company must file a second recommended resource plan within 60 days of the order rejecting the original plan;

(c) If the Commission modifies the second recommended resource plan, the electric company will have 30 days from the date of the order to accept or reject the modifications. If the electric company rejects the Commission's modifications, future attempts at reaching a resource plan may be initiated by either the electric company or the Commission. The

timelines outlined in subsection (4)(a) of this rule shall apply once a new resource plan is submitted or modifications to a former plan are suggested. ~~Until a resource plan is approved by the Commission, the ongoing valuation method described in OAR 860-038-0140 will be used to establish transition charges and credits.~~

(5) An electric company or any nonresidential consumer may propose to change the definition of "large nonresidential consumer" provided in OAR 860-038-0005(23), by making a written request to the Commission no later than October 15, 2000, in which case the following shall apply;

(a) The Commission shall initiate a proceeding open to all interested parties to determine on an expedited basis whether to change the definition of "large nonresidential consumer." The schedule shall be set to obtain a Commission decision on this issue as soon as practical prior to March 1, 2001.

(b) The Commission shall only change the definition of "large nonresidential consumer" if the Commission determines it is in the public interest based on the following factors, and such other factors as the Commission deems relevant:

(A) Each electric company may have the same definition of large nonresidential consumer;

(B) For each class of consumers deemed "large nonresidential consumers," prices for electricity services, taking into account transition charges, transition credits, and incentive payments, if any, should not materially exceed prices for electricity services such class of consumers would pay under a cost-of-service rate;

(C) Consistent with ORS 757.646, the Commission should define large non-residential consumers to encompass as many nonresidential consumers as is feasible; and

(D) The potential benefits available due to new products, service options, and product innovations.

(c) Notwithstanding section (5) of this rule, each electric company shall file its resource plan on November 1, 2000, based on the definition of "large nonresidential consumer" contained in OAR 860-038-0005. In the event the Commission modifies the definition of "large nonresidential consumer" pursuant to section (5) of this rule, each electric company shall promptly modify its resource plan to reflect such change; and

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(d) Each electric company shall identify the changes that would be necessary to implement any alternate definition of "large nonresidential consumer" proposed by a party to the proceeding initiated pursuant to this section (5) of this rule.

(6) A resource plan that has been recommended by the electric company and approved by the Commission, or modified by the Commission and accepted by the electric company, is referred to in these rules as a "Resource Plan." The electric company must implement the Resource Plan consistent with OAR 860-038-0100 and a process for administrative valuation to be specified by rule. ~~The ongoing valuation method described in OAR 860-038-0140 will be used to establish transition charges and credits except in regard to resources that have been sold or administratively valued. Until a Resource Plan is implemented, including the establishment of final values for generating resources, the electric company must determine transition charges and credits using an ongoing valuation method permitted under OAR 860-038-0140.~~

(7) For a multi-state electric company, pending the implementation of a Resource Plan and establishing final values for generating resources in accordance with these rules, the following will guide developing rates for Oregon consumers of the electric company ~~for the period beginning~~ October 1, 2001, ~~through December 31, 2002:~~

(a) Cost-of-service rates will be based upon traditional allocation methods;

(b) Transition charges or credits shall not include assumed costs and revenues of the portion of generating resources not needed to serve Oregon loads associated with residential and small nonresidential consumers choosing portfolio access ~~and non-residential consumers choosing standard offer rate options or direct access, small nonresidential consumers choosing direct access or standard offer rate options, and large nonresidential consumers~~ when, and to the extent, the costs and revenues of the generating resources that are not needed are recognized and included in the electric company's revenue requirement in another state, less the costs and revenues of such generating resources which have been included in the electric company's revenue requirement by another state prior to October 1, 2001; and

(c) ~~Beginning January 1, 2003, transition charges and transition credits will be calculated without regard to subsection (7)(b) of~~

~~this rule.~~ Two years after the Commission issues its decision under Subsection (4) of this rule, each multi-state electric company shall file a report with the Commission that contains at least the following information: i) an analysis of the past and expected impact of Paragraph 7(b) of this rule on Oregon residential and small non-residential consumers choosing portfolio access and non-residential consumers choosing standard offer rate options or direct access, ii) a description of the actions of other commissions that regulate the electric company with regard to generation resources not needed as a result of Oregon residential and small non-residential consumers choosing portfolio access and non-residential consumers choosing standard offer rate options or direct access, iii) a description of actions the electric company has taken to mitigate uncertainty regarding the inter-jurisdictional allocation of costs and benefits of generation resources that are not needed as a result of Oregon residential and small non-residential consumers choosing portfolio access and non-residential consumers choosing standard offer rate options or direct access and the results of such actions and iv) an analysis of the potential effect on the electric company's earnings if there is a modification of the manner in which transition charges and transition credits are calculated pursuant to Paragraph 7(b) of this rule. The Commission shall provide an opportunity for public comment on the electric company's report. After receiving such comment, the Commission will determine whether it would be in the public interest to modify the manner in which transition charges and transition credits are calculated under Paragraph 7(b) of this Rule so as to cause the electric company's shareholders to bear a portion of the economic burden of competing inter-jurisdictional claims with respect to the benefits and costs associated with generating resources that are not needed as a result of Oregon residential and small non-residential consumers choosing portfolio access and non-residential consumers choosing standard offer rate options or direct access. In making this public interest determination, the Commission shall consider, in addition to any other factors it deems relevant: i) whether such a modification is required in order to provide the electric company with additional incentives to resolve inter-jurisdictional cost allocation issues, ii) whether the method of calculating transition charges and credits set forth in Paragraph 7(b) of this Rule is creating a significant barrier to the development

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[of a direct access market and iii\) whether such a modification would cause a material reduction in the earnings from Oregon operations.](#)

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596); PUC 5-2001 (Temp) f. & cert. ef. 2-6-01 (Order No. 01-153)

860-038-0100

Auction Process

(1) Each electric company must follow the process provided in sections (2) and (3) of this rule for all generating resources, or portions thereof, that it intends to sell pursuant to the Resource Plan, unless it presents to the Commission, and the Commission approves, an alternative process.

(2) The auction process will be the process adopted by the Commission in Order No. 99-765, except that affiliates of the electric company may participate in the auction as eligible buyers, in which case the auction will be subject to such requirements to assure independent decision making as the Commission may determine.

(3) Unless otherwise provided in the Resource Plan, the electric company shall not begin its auction process until the Commission issues a final order valuing all of the electric company's Oregon share of generating resources pursuant to a process to be established by rule.

(4) Notwithstanding section (3) of this rule, the electric company may, at its option, immediately auction all or a portion of generating resources identified by the Commission as exempt from section (3) of this rule. Any such auction will be subject to ORS 757.480 and OAR 860-027-0025.

(5) The electric company shall recover through the transition balancing account the costs of an auction process, including but not limited to the reasonable costs of investment bankers and other advisors.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596)

860-038-0140

Ongoing Valuation

(1) An electric company may use an ongoing valuation method to determine the transition costs or transition credits applicable to Oregon residential and small nonresidential consumers until otherwise directed by the Commission. Except in the circumstances set forth in OAR 860-038-0080(6) and (7), an electric company will not use an ongoing valuation method to determine the transition charges or transition credits applicable to Oregon large nonresidential consumers.

(2) Each electric company will propose one or more ongoing valuation methods in the rate filings required pursuant to OAR 860-038-0240(5). Each method must, at a minimum, address:

(a) How and over what period the electric company proposes to establish the fixed costs of included generating resources;

(b) How and over what period the electric company proposes to establish the variable costs of included generating resources;

(c) How and over what period the electric company proposes to establish the availability and output of included generating resources;

(d) How and over what period the electric company proposes to establish the market value of the output of included generating resources; and

(e) How and when revisions should be made in the method.

[\(3\) An electric company may propose to include in its tariffs expedited procedures, which shall include an opportunity for public comment, for determining the costs and value of an electric company's generating resources for purposes of determining transition charges and credits applicable under this rule.](#)

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596)

860-038-0160

Transition Costs and Credits

(1) Except as provided for in OAR 860-038-0080(7), each Oregon retail electricity consumer of an electric company will receive a transition credit or pay a transition charge equal to 100 percent of the net value of the Oregon share of all economic utility investments and all uneconomic utility investments of the electric company as determined pursuant to an auction,

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an administrative valuation, or an ongoing valuation. The transition charge or credit applicable to a retail electricity consumer ~~will not~~ may change to reflect the duration of the service option chosen by the consumer but will not change based on the supplier of the electricity services service option chosen by the consumer.

(2) The Oregon residential and small nonresidential consumers of that electric company will bear the entire revenue requirement of generating resources, or portions thereof, retained in an electric company's Oregon revenue requirement for the purpose of serving Oregon residential and small nonresidential consumers. In addition, the electric company will:

(a) Collect from Oregon residential and small nonresidential consumers the funds necessary to provide any transition credits related to such resources to Oregon large nonresidential consumers exclusive of incentive payments; or

(b) Credit to Oregon residential and small nonresidential consumers the funds received from any transition charges related to such resources from Oregon large nonresidential consumers exclusive of incentive payments.

(3) For purposes of determining transition costs and transition credits:

(a) The value of generating resources determined through an auction conducted pursuant to OAR 860-038-0100 will equal the proceeds of such auction, less any reasonable costs of sale and any tax effects of the sale;

(b) The value applicable to Oregon nonresidential consumers will be reduced for any incentives provided under the Resource Plan;

(c) The net value of generating resources determined through an auction conducted pursuant to OAR 860-038-0100 will equal the Oregon residential and nonresidential respective values of generating resources minus the book value as recorded for regulatory purposes;

(d) The value of generating resources determined through an administrative valuation conducted pursuant to a process to be specified by rule will equal the final valuation inclusive of any tax effects less allowed appraisal costs. The treatment of the tax effects of a potential future sale of an administratively valued asset will be addressed in a future rulemaking;

(e) The value applicable to Oregon nonresidential consumers will be reduced for any

incentives provided under the Resource Plan; and

(f) The net value of generating resources determined through an administrative valuation conducted pursuant to a process to be specified by rule will equal the Oregon residential and nonresidential respective values of generating resources minus the book value as recorded for regulatory purposes.

(4) For the Oregon share of: (a) economic and uneconomic investments that are not resources, (b) other regulatory assets, (c) demand side management assets existing as of October 1, 2001, and (d) retired or abandoned plant for which the Commission established cost recovery before July 23, 1999, transition costs or benefits will be allocated 100 percent to Oregon retail electricity consumers.

(5) Each electric company must maintain records to properly record and amortize transition costs and transition credits using a transition balancing account. Any unamortized balance in the transition balancing account will accrue interest at the electric company's Oregon authorized cost of capital.

(6) The transition costs or transition benefits allocated to a customer class for a specific time period will be charged or credited to Oregon retail electricity consumers on a weather normalized equal cents per kilowatt-hour basis adjusted for losses. To the extent weather-normalized kilowatt-hour sales are not known, as of October 1, 2001, estimates will be used until relevant data are available.

(7) The Commission will determine the period of payment or recovery of transition costs or transition credits, provided such period will not exceed 10 years.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596)

860-038-0200

Unbundling

(1) This rule is designed to ensure compliance with ORS 757.642 by directing electric companies to separately identify their embedded costs on a function-by-function basis. The electric company must unbundle its costs in a manner that facilitates the development of rates described in OARs 860-038-0220 to 860-038-0280. The electric company must unbundle costs

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associated with functions that a retail electricity consumer may self-supply or purchase from an entity other than the electric company. The calculation of unbundled rates is beyond the scope of this rule.

(2) Each electric company must separately identify its costs of each of the following functions:

- (a) Generation;
- (b) Transmission services;
- (c) Distribution services;
- (d) Ancillary services;
- (e) Consumer services:
 - (A) Billing services;
 - (B) Metering services; and
 - (C) Other consumer services;
- (f) Retail services, examples of which are listed in section (3) of this rule;
- (g) Investment in public purposes; and
- (h) Any other function the Commission deems appropriate.

(3) Examples of Retail Services include but are not limited to the marketing, sale, design, construction, installation or retrofitting, financing, operation and maintenance, warranty and repair of or consulting with respect to:

- (a) Energy consuming equipment located on the consumer's premises;
- (b) Provision of technical assistance relating to any customer-premises process or device that consumes electricity, including energy audits;
- (c) Transformation equipment, power-generation equipment, and related services located on the consumer's premises that are not owned by the electric company;
- (d) Building or facility design and related engineering services, including building shell construction, renovation or improvement, or analysis and design of energy-related industrial processes;
- (e) Facilities operations and management; and
- (f) Other activities identified by the Commission.

(4) Each electric company must separately identify costs as direct or indirect for each function. Costs must be directly assigned where information is available. To the extent possible, all costs must be assigned to the functions based on cost causation. Common costs and taxes allocated to each of these functions must be separately identified. A return on investment must be calculated and stated separately for each function.

(5) Each electric company must file its functionally unbundled costs with its general rate filings and results of operations reports filed with the Commission. The electric company filing must clearly identify the allocation factor(s) used to functionalize each rate base, expense, and revenue item. All allocation and functionalization procedures adopted by the Commission for an electric company must be used in subsequent filings until expressly modified by the Commission.

(6) Each electric company must make an initial filing complying with the rules in this Division by October 1, 2000. This filing shall use the financial results for a test year that encompasses all or part of the 12-month period beginning October 1, 2001.

(7) Each electric company must use the allocators and cost functionalization procedures set forth in section (9) of this rule to functionally unbundle its respective costs. If an electric company proposes to assign, allocate, or reclassify costs using cost functionalization procedures that differ from those contained herein, the electric company must include in its filing, testimony that:

- (a) Supports the allocation factors and procedures the electric company proposes to use to unbundle its costs;
- (b) Justifies the deviation from the cost functionalization procedures; and
- (c) Presents the results of the allocation factors and procedures set forth in this rule and the results of the alternative factors and procedures that are proposed.

(8) The cost allocation factors in section (7) of this rule are subject to Commission review and approval.

(9) Costs must be directly assigned to the functions identified in section (2) of this rule where information is available. The allocation procedures presented below are to be used to functionalize those costs that cannot otherwise be charged directly to the appropriate function.

(a) Rate Base:

(A) Intangible Plant (FERC Accounts 301-303) must be directly assigned where possible. The remainder of the costs must be allocated to the appropriate functions using the O&M Labor allocator;

(B) Generation Plant (FERC Accounts 310-346) must be directly assigned to the Generation function, except that some costs may need to be reclassified;

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(C) Transmission Plant (FERC Accounts 350-359) must be directly assigned to the Transmission function, except that some costs may need to be reclassified. Transmission Plant is defined as both transmission lines and transmission substation equipment operating at voltages of at least 46 kilovolts, as well as transmission facilities and transmission substation equipment operating at voltages of at least 34.5 kilovolts if such facilities terminate within enclosed substations;

(D) Distribution Plant (FERC Accounts 360-373) must be directly assigned to the Distribution function, except that some costs may need to be reclassified;

(E) General Plant (FERC Accounts 389-399) must be directly assigned where possible. The remainder of the costs must be allocated to the appropriate functions using the O&M Labor allocator;

(F) Accumulated Depreciation must be functionalized in the same manner as the respective Plant accounts; and

(G) Each electric company must review its other rate base items and where possible directly assign the costs to the appropriate function. The remaining costs must be allocated to the appropriate functions using general allocators to be determined in each company's filing;

(b) Operation and Maintenance (O&M) Expense:

(A) Production O&M Expense (FERC Accounts 500-557) must be directly assigned to the Generation function, except that some costs may need to be reclassified;

(B) Transmission O&M Expense (FERC Accounts 560-574) must be directly assigned to the Transmission function, except that some costs may need to be reclassified;

(C) Distribution O&M Expense (FERC Accounts 580-598) must be directly assigned to the Distribution function, except that some costs may need to be reclassified;

(D) Customer Accounts O&M Expense (FERC Accounts 901-905) must be directly assigned where possible. The remainder of the costs must be allocated to the appropriate functions using general allocators to be determined in each company's filing, except for FERC Account 904, Uncollectible Accounts, which must be allocated using a Total Revenue Requirement allocator;

(E) Customer Service and Information O&M Expense (FERC Accounts 906-910) must be directly assigned where possible. The

remainder of the costs must be allocated to the appropriate functions using general allocators to be determined in each company's filing;

(F) Sales O&M Expense (FERC Accounts 911-917) must be allocated exclusively to functions determined to be competitive by the Commission; and

(G) Administrative and General O&M Expense (FERC Accounts 920-935) must be allocated to the appropriate functions using the O&M Labor allocator; and

(c) Other Expenses:

(A) Amortization and Depreciation Expenses must be functionalized in the same manner as the respective Plant accounts; and

(B) All taxes must be identified as Federal, State, or Local Taxes;

(i) Taxes other than income taxes must be allocated in the following manner:

(I) Ad Valorem Taxes: Net Plant in Service;

(II) Payroll Taxes: Labor;

(III) Revenue Related Taxes: Total Revenue Requirement; and

(IV) Franchise Fees & Privilege Taxes: Distribution function; and

(ii) Income Tax Expenses must be calculated for each of the functions identified in section (2) of this rule; and

(d) Revenues:

In a rate filing, required revenues must be calculated for each unbundling category using the traditional revenue requirement calculation methodology (recovery of costs plus a return on investment). For reporting purposes, revenues must be assigned to the appropriate category per the underlying tariff for which they were collected. Common revenues that cannot be directly assigned must be functionalized using the Net Plant allocation factor.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596)

**860-038-0220
Portfolio Options**

(1) By October 1, 2001, an electric company must provide each residential consumer who is connected to its distribution system with a portfolio of product and pricing options. Portfolio options will not be offered to large nonresidential consumers.

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(2) Sections (3) through (8) of this rule apply to residential portfolio product and pricing options.

(3) The Advisory Committee, as defined in OAR 860-038-0005, will recommend portfolio options to the Commission for the 15-month service period beginning October 1, 2001, and the 12-month service period beginning January 1, 2003, and each calendar year thereafter. The Advisory Committee will make its recommendations six months prior to the date of implementation of the portfolio product and pricing options each year. The Commission is not bound by the recommendations of the Advisory Committee.

(4) The portfolio must include at least one product and rate that reflects renewable energy resources and one market-based rate. The Advisory Committee will recommend the resource content of each renewable energy resource product. At least one renewable energy resource product will contain "significant new" resources. The Advisory Committee will recommend a definition of "significant" based on an evaluation of resource availability, resource cost, and other factors. The portfolio options may include options for the collection of funds for future renewable resource purchases or collection of funds for energy related environmental mitigation measures such as salmon recovery.

(5) Each electric company is responsible for administering the options, including but not limited to marketing and billing.

(6) Each electric company must acquire the renewable supply resources necessary to provide the renewable energy resources product through a Commission-approved bidding process or other Commission-approved means. Each electric company may acquire the resources necessary to provide the other product and pricing options at its discretion.

(7) Residential consumers may choose the cost-of-service rate option or a portfolio option in August for the 15-month service period beginning October 1, 2001. Beginning October 1, 2002, and each year thereafter, the residential consumer may choose the cost-of-service rate option or a portfolio option in October for the 12-month service period beginning January 1. A residential consumer who does not make an affirmative choice in the open enrollment period will be assigned to the option under which service is currently received. If the option the residential consumer is currently receiving is not

available in the next service period, the consumer who does not make an affirmative choice in the enrollment period will be assigned to the cost-of-service rate option. The Advisory Committee may recommend an alternative enrollment process to the Commission, including but not limited to continuous open enrollment, but in no case may market rate participants change options more frequently than once per year.

(8) Four months prior to the implementation of the portfolio product and pricing options each year, an electric company must file tariffs for its portfolio options.

(9) This section applies to residential and small nonresidential product and pricing options. An electric company must develop portfolio rates as follows:

(a) The portfolio rates must be based on the unbundled costs identified through the application of OAR 860-038-0200;

(b) The portfolio rates for any class of customer must be based on the unbundled costs to serve that class;

(c) The portfolio rates must include any additional electric company costs that are incurred when a consumer chooses to be served under the portfolio rate option;

(d) The portfolio rates must exclude electric company costs that are avoided when a consumer chooses to be served under the portfolio rate option;

(e) An electric company may impose nonrecurring charges to recover the administrative costs of changing suppliers or rate options; and

(f) Rates must be established so that costs associated with the development or offering of rate options are assigned to the retail electricity consumers eligible to choose such rate options.

(10) This section applies to small nonresidential portfolio product and pricing options. The Advisory Committee will recommend portfolio product and pricing options, if any, to the Commission for approval. The electric company must implement small nonresidential portfolio product and pricing options adopted by the Commission.

Stat. Auth.: ORS Ch. 183, 756 & 757
Stats. Implemented: ORS 756.040 &
757.600 through 757.667
Hist.: PUC 17-2000, f. & cert. ef. 929-00
(Order No. 00-596)

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860-038-0240

Cost-of-Service Rate

(1) By October 1, 2001, an electric company must provide a cost-of-service rate option to residential and small nonresidential consumers. Only one cost-of-service rate option may be offered by schedule to each class of customers. A cost-of-service rate option will not be offered to large nonresidential consumers.

(2) Unless a new residential or small nonresidential consumer elects otherwise, the electric company will serve the consumer under the cost-of-service option.

(3) An electric company must develop cost-of-service rates as follows:

(a) The cost-of service rates must be based on the unbundled costs identified through the application of OAR 860-038-0200;

(b) The cost-of-service rates for any class of customer must be based on the unbundled costs to serve that class;

(c) The cost-of-service rates must include any additional electric company costs that are incurred when a consumer chooses to be served under the cost-of-service rate option;

(d) The cost-of-service rates must exclude electric company costs that are avoided when a consumer chooses to be served under the cost-of-service rate option;

(e) An electric company may impose nonrecurring charges to recover the administrative costs of changing suppliers or rate options; and

(f) Rates must be established so that costs associated with the development or offering of rate options are assigned to the retail electricity consumers eligible to choose such rate options.

(4) An electric company must separately state in its tariffs transition charges or credits and the rates associated with the revenue requirement of retained resources and purchases assigned to residential and small nonresidential consumers.

(5) An electric company must separately identify in its tariffs other credits or charges such as the credit associated with power supply contracts with the Bonneville Power Administration.

(6) The electric company must design its cost-of-service rate for small nonresidential consumers and one-time charges associated with returning to a cost-of-service rate so that residential consumers served under a cost-of-service rate are not assigned costs associated with other classes of consumers switching between direct access or standard offer and the

cost-of-service rate. The electric company may limit switching through enrollment periods or by requiring minimum terms of service.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596)

860-038-0250

Nonresidential Standard Offer

(1) By October 1, 2001, each electric company shall provide one or more standard offer rate options to large nonresidential retail electricity consumers and one or more standard offer rate options to small nonresidential consumers. Each electric company must designate one of the standard offers available to each customer class as the non-emergency default supply option.

(2) An electric company must develop the standard offer rate as follows:

(a) A standard offer rate option shall be a tariff approved by the Commission, which is priced based on supply purchases made on a competitive basis from the wholesale market plus the transition credit or transition charge and all other unbundled costs of providing standard offer service. A standard offer rate must reflect the full costs of providing standard offer service;

(b) The standard offer rates for any class of customer must be based on the unbundled costs to serve that class;

(c) The standard offer rates must include any additional electric company costs that are incurred when a consumer chooses to be served under the standard offer rate option;

(d) The standard offer rates must exclude electric company costs that are avoided when a consumer chooses to be served under the standard offer rate option;

(e) An electric company may impose nonrecurring charges to recover the administrative costs of changing suppliers or rate options; and

(f) Rates must be established so that costs associated with the development or offering of rate options are assigned to the retail electricity consumers eligible to choose such rate options.

(3) Large nonresidential retail electricity consumers that do not choose direct access or a specific standard offer service will automatically receive annual standard offer service beginning

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October 1, 2001. After October 1, 2001, new large nonresidential consumers will be served under the standard offer rate of the longest duration, though not longer than an annual standard offer, which is by tariff open to those consumers if they do not elect direct access or a specific standard offer service.

~~(4) The electric company must design its cost-of-service rate and one-time charges associated with returning to a cost-of-service rate so that consumers served under a cost-of-service rate are not harmed by other consumers switching between direct access or standard offer and the cost of service rate.~~

(54) An electric company must, for nonresidential consumers, identify transition charges or credits.

(65) An electric company must separately identify other credits or charges such as the credit associated with power supply contracts with the Bonneville Power Administration.

(76) The notice and deposit requirements listed in OAR 860-038-0280(4) and (5) apply to standard offer service.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00 (Order No. 00-596)

860-038-0260

Direct Access

(1) By October 1, 2001, an electric company must allow nonresidential consumers to choose direct access.

(2) An electric company must develop direct access rates as follows:

(a) The direct access rates must be based on the unbundled costs identified through the application of OAR 860-038-0200;

(b) The direct access rates for any class of customer must be based on the unbundled costs to serve that class;

(c) The direct access rates must include any additional electric company costs that are incurred when a consumer chooses to be served under the direct access rate option;

(d) The direct access rates must exclude electric company costs that are avoided when a consumer chooses to be served under the direct access rate option;

(e) An electric company may impose nonrecurring charges to recover the

administrative costs of changing suppliers or rate options; and

(f) Rates must be established so that costs associated with the development or offering of rate options are assigned to the retail electricity consumers eligible to choose such rate options.

~~(3) The electric company must design its cost-of-service rate options and one-time charges associated with returning to a cost-of-service rate so that consumers served under a cost-of-service rate option are not harmed by other consumers switching between direct access or standard offer and the cost of service rate.~~

(43) After October 1, 2001, subject to Commission approval, an electric company may enter into special contracts for distribution service but may not enter into special contracts for power supply.

(54) Operation of a special contract approved by the Commission prior to October 1, 2001, between an electric company and a retail electricity consumer that extends beyond October 1, 2001, will be governed by the terms of the contract.

(65) Line extension charges must be independent of the power supply option elected by a retail electricity consumer.

(76) Unless directed otherwise by the Commission, the electric company must standardize its direct access tariffs and contracts to the extent possible to conform to industry and national standards, and should include at least the following:

(a) Definitions of services;

(b) Rules for application for direct access service, including notice periods;

(c) Rules for switching among forms of service, including notice periods;

(d) Termination rights;

(e) Dispute resolution;

(f) Descriptions of required ancillary services, including statements of the conditions on self-supply, if any;

(g) Billing and payment;

(h) Liability and indemnification;

(i) All necessary service schedules and technical requirements; and

(j) Other provisions that the Commission determines are reasonable and necessary for direct access.

(87) An electric company must file direct access tariffs that are practical and workable in combination with tariffs required by the Federal Energy Regulatory Commission (FERC). The electric company must:

**OREGON ADMINISTRATIVE RULES
CHAPTER 860, DIVISION 038 - PUBLIC UTILITY COMMISSION**

(a) Ensure the minimization of differences in service definitions between retail direct-access and wholesale open-access;

(b) Ensure that services that are permitted to be self-supplied by the FERC are permitted to be self-supplied by the electric company, unless the company obtains an exception from the Commission; and

(c) State rates, terms, and conditions in its Oregon tariffs that properly work in conjunction with the electric company's FERC tariffs and, if not identical to, can at least be easily compared with those required by the FERC.

emergency default service to standard offer service within five business days of the nonresidential consumer's initial purchase of emergency default service. This provision does not limit a consumer's right to return from emergency default service or standard offer service to direct access.

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00
(Order No. 00-596)

Stat. Auth.: ORS Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667

Hist.: PUC 17-2000, f. & cert. ef. 929-00
(Order No. 00-596)

860-038-0280

Default Supply

(1) Default supply is an alternative available to nonresidential consumers served by direct access.

(2) The two types of default supply are emergency as defined in OAR 860-038-0005 and standard offer as defined in OAR 860-038-0250.

(3) Each electric company must provide the emergency option as follows:

(a) Emergency default service commences when an electric company is informed by the ESS or nonresidential consumer, or becomes aware, that an ESS is no longer providing service; and

(b) Each electric company must file tariffs with the Commission that include the emergency service option. An electric company must design emergency service rates to recover its costs of providing such service.

(4) A nonresidential consumer must give the electric company ~~a minimum of five business days'~~ notice of intent to purchase or terminate purchase of standard offer service consistent with the applicable tariff provisions.

(5) An electric company may require a deposit from a consumer applying to receive emergency default service or standard offer service. The electric company may disconnect a consumer receiving default service or standard offer service subject to OAR 860-021-0305 and OAR 860-021-0505.

(6) Unless otherwise directed by a nonresidential consumer, an electric company must move an emergency service consumer from

ORDER NO.

ENTERED

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 416

In the Matter of a Temporary Rulemaking)
to Amend OAR 860-038-0080(1).) ORDER

DISPOSITION: TEMPORARY RULE ADOPTED

The Commission adopted a number of rules implementing SB 1149, including OAR 860-038-0080(1), during a special public meeting held August 29, 2000. Order No. 00-596, issued September 28, 2000. OAR 860-038-0080(1) established policies relating to the revenue requirement treatment of electric company resources. For example, Subsection (1)(a) relates primarily to the level of electric company resources that would be recognized in revenue requirements. Subsection (1)(b) relates to the revenue requirement treatment of new generating resources.

At a Commission Public Meeting on April 17, 2001, Staff recommended that the Commission adopt temporary rules amending OAR 860-038-0080(1). Staff advised that temporary rules are needed because the existing rules were developed when parties believed that resource plans would be completed by April 1, 2001, a date well before the October 1, 2001 implementation of SB 1149. However, as noted in other cases before the Commission, the review of electric company resource plan filings has been suspended. In AR 417, Staff is proposing that the Commission resource plan orders be issued by December 31, 2002. With this significant delay in the review of resource plan filings, Staff recommends that temporary rules are needed to clarify Commission treatment of electric company generating resources pending Commission orders on the resource plans.

Staff also noted that temporary rules are needed to address the near-term energy crisis. The current wholesale electric markets are very volatile with historic high levels of prices for wholesale power. The existing language of the rules require new generating resources be included in revenue requirements at market prices. Staff believes that relying on market prices for establishing revenue requirements for new resources must be placed on hold temporarily to allow for a portion of the benefits of lower-cost alternatives to flow through to consumers. At its April 17, 2001, Public Meeting, the Commission adopted a temporary rule

amending OAR 860-038-0080(1) as requested and opened a rulemaking docket to permanently amend the administrative rules to implement SB 1149.

The Commission finds good cause to adopt temporary rule language.

ORDER

IT IS ORDERED that:

1. The temporary rule attached as Appendix A is adopted.
2. The temporary rule shall be effective for a maximum of 180 days beginning April 17, 2001.

Made, entered, and effective

BY THE COMMISSION:

Vikie Bailey-Goggins
Commission Secretary