



AGENCY RULEMAKING ACTIVITY

2022 Report to the Oregon Legislature

Diane Davis, Agency Rules Coordinator
diane.davis@puc.state.gov



Intentionally Left Blank

AGENCY RULEMAKING ACTIVITY FOR 2022 REPORT TO THE LEGISLATURE

Executive Summary

ORS 183.403 requires all agencies to report annually to the Legislature on rulemaking activities, especially about temporary (emergency) rules. This report covers the Oregon Public Utility Commission's (PUC's) rulemaking activities for the period January 1, 2022, through December 31, 2022.

During this period, the PUC did not use temporary rulemaking processes.

The remaining rulemaking activities affecting 73¹ rules were accomplished in 11 separate rulemaking proceedings (7 dockets) following the permanent rulemaking procedures.

¹ One rule was included in two rulemakings related to wildfire mitigation plans, evolving as participants continued to negotiate requirements.

AGENCY RULEMAKING ACTIVITY FOR 2022

REPORT TO THE LEGISLATURE

The Oregon PUC

The PUC's mission is to ensure that Oregon utility customers have access to safe, reliable, and high-quality utility services at just and reasonable rates. We perform quasi-judicial functions involving robust analysis and independent decision-making through deliberative, litigated processes. Our agency also exercises discretion to interpret and incorporate executive and legislative priorities into rules, utility planning, and customer programs.

Our agency is led by a full-time, three-member Commission appointed by the Governor and confirmed by the Senate. With approximately 80 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.

OPUC Rulemaking for the period January 1, 2022, through December 31, 2022

1. *The number of rules adopted, amended, or repealed in accordance with ORS 183.335(2) and (3) (Permanent Rulemaking Process):*

Seventy-three rules were adopted, amended, or repealed during the year using the permanent rulemaking process.

AR 644 amended 2 rules (OAR 860-088-0110 and 860-088-0130) to address Community Solar Program Manager disputes, allow review of Program Manager actions, and require Project Managers to provide requested information to Oregon PUC Staff or the Community Solar Administrator; and adopted *one* rule (OAR 860-088-0200) to set forth the process for status revocation of a Community Solar Project pre-certification or certification or the registration of a Project Manager for specific reasons related to misrepresentation, fraud, or failure to take required corrective action under the disciplinary probation process outlined in the Community Solar Program Implementation Manual.

AR 649 amended *two* rules (OAR 860-100-0115 and OAR 860-100-0125) to reflect the requirement for only competitive providers designated as eligible for the Oregon

Universal Service Fund (OUSF) support need to file monthly distribution worksheet beginning January 2023 and to reflect that the portable support amounts would be based on amounts available in the supported areas; and adopted two rules (OAR 860-100-0251 and 860-100-0300) to address the payments of OUSF support to telecommunication utilities for the remainder of 2022, the implications to competitive provider payments, the format and timing of disbursements beginning January 2023, and to specify the means of calculating disbursements from the OUSF beginning January 2023.

AR 654 amended *four* rules (OAR 860-087-0001, OAR 860-087-0010, 860-087-0020, and 860-087-0030) and repealed *one* rule (OAR 860-087-0040) to implement provisions of Executive Order 20-04 and 20201 HB 2165 related to transportation electrification, including a monthly meter charge, holistic planning processes, and an investment framework for transportation electrification.

AR 626 amended *one* rule (OAR 860-025-0030) and adopted two rules (OAR 860-025-0035 and 860-025-0040), to clarify and distinguish the consideration criteria of necessity, practicability, safety, and justification for a petition for a certificate of public convenience and necessity for a proposed transmission line project, allowing petitioners and stakeholders a better understanding of the perspective from which the Oregon PUC will review and scrutinize a proposed transmission line project when the petitioner seeks a certificate.

AR 643 amended *three* rules (OAR 860-032-0080, 860-100-0005 and 860-100-0100) to establish needed clarification to the definition of gross revenue for telecommunications providers to enable compliance with 2020 Senate Bill j1603, standardized the rule language to ensure compliance with Generally Accepted Accounting Principles and allowed retail interconnected voice over internet provider (VoIP) service providers to comply with the SB 1603 requirements for the universal service charge by clarifying the methodology for determining which interstate revenues are attributable to Oregon..

AR 653 amended 25 rules (OAR 860-021-0008, 860-021-0010, 860-021-0011, 860-021-0015, 860-021-0021, 860-021-0045, 860-021-0126, 860-021-0135, 860-021-0200, 860-021-0205, 860-021-0215, 860-021-0305, 860-021-0320, 860-021-0326, 860-021-0328, 860-021-0330, 860-021-0335, 860-021-0405, 860-021-0407, 860-021-0408, 860-021-0410, 860-021-0414, 860-021-0415, 860-021-0420, and 860-021-0505) and adopted *two* rules (OAR 860-021-0180 and 860-021-0406) to protect low-income customers from utility companies' practices concerning deposits, fees, and disconnections, expand the Oregon PUC ratemaking authority to consider "differential energy burdens on low-income customers and other economic, social equity or environmental justice factor that affect the affordability for certain classes of utility customer" per 2021 House Bill 2475. The rule changes also advance the notions of distributional justice, by redistributing the burdens associated with utility disconnection.

AR 638 amended 18 rules (OAR 860-024-0000, 860-024-0001, 860-024-0005, 860-024-0007, 860-024-0010, 860-024-0011, 860-024-0012, 860-024-0015, 860-024-0016, 860-024-0017, 860-024-0020, 860-024-0021, 860-024-0050, 860-300-0001, 860-300-0020, 860-300-0002, 860-300-0003, 860-300-0004) and adopted 8 rules (OAR 860-024-0018, 860-024-0061, 860-300-0010, 860-300-0030, 860-300-0040, 860-300-0050, 860-300-0060, and 860-300-0070) relating to the implementation of Governor Brown's Executive Order 20-04 regarding risk-based wildfire protection plans and planned activities. The rule changes addressed Public Safety Power Shutoffs communication and reporting requirements, safety standards (especially as related to Hire Fire Risk Zones and vegetation management), new related reporting and collaboration requirements, and wildfire mitigation plan requirements. The changes also addressed housekeeping changes to the rules.

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):

The Oregon PUC did not use the temporary rulemaking process in 2022.

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

N/A – The Oregon PUC did not use the temporary rulemaking process in 2022. The temporary rules adopted and amended in 2021 were replaced by permanent rules in 2022.

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:

N/A – The Oregon PUC did not use the temporary rulemaking process in 2022.

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).

N/A – The Oregon PUC did not use the temporary rulemaking process in 2022.