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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 860
PUBLIC UTILITY COMMISSION

FILED

07/28/2024 9:29 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: In the Matter of Amending OAR 860-88-0040 regarding pre-certifications, waivers, extensions, amendments.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/22/2024 4:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The rule change removes language requiring Oregon Public Utility Commission (PUC or Commission) Orders to grant pre-certifications, waivers, extensions, and amendments in the Community Solar Program (CSP or Program). Currently, the authority to grant non-controversial project pre-certifications, waivers, extensions, and amendments is delegated to the CSP Program Administrator (PA) under a temporary waiver of OAR 860-088-0040 (3)-(6). This rule change will allow the PUC to delegate decision-making authority regarding pre-certifications, waivers, extensions, and amendments to the Program Administrator permanently. This practice saves PUC time and resources, allowing the program to provide more timely decisions to program developers.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Commission Order No. 24-018 in UM 1930 available online at <https://apps.puc.state.or.us/orders/2024ords/24-018.pdf>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rules are expected to have no direct impact on racial equity in the State of Oregon.

FISCAL AND ECONOMIC IMPACT:

The estimated fiscal and economic impact is anticipated to be minimal. While PUC Staff time will be needed to implement the rule changes, this can be integrated into the annual Program update process and hence not require additional time or resources. The rule change may result in savings to the extent that permanent delegation of PUC authority to the Program Administrator saves PUC time and resources for the Program. This rule change will not require any new training, development, or implementation costs.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) As noted above, the PUC is likely economically affected by the rules, incurring some costs related to Staff time. The potential magnitude of the impact cannot be determined at this time, though over time the rule change will likely result in cost savings.

(2)(a) It is not possible to estimate the number of small businesses subject to this rule because of the broad range of Project Managers and participants in the Community Solar Program, but examples of small businesses who may be subject to this rule include law firms, Community Solar Project Managers, and ratepayers.

(b) The rule change does not create any new reporting, recordkeeping and administrative activities, and cost for small businesses.

(c) Similarly, the rule change does not create any new costs related to professional services, equipment supplies, labor, and increased administration for small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

PUC stakeholders who are on the PUC's notification lists for rulemaking were invited to participate in the informal processes to develop the changes to division 088 rules for the rulemaking matter docketed as AR 665. Draft rules were posted for public comment in AR 665 and UM 1930 from April 3, 2024, to April 18, 2024.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Because of minimal impact, no rules advisory committee was consulted. The PUC provided opportunity for written comment prior to opening this formal stage of rulemaking.

AMEND: 860-088-0040

RULE SUMMARY: This rule change removes language requiring the PUC orders to grant pre-certifications, waivers, extensions, and amendments in the Community Solar Program, delegating the authority to grant such actions to the Community Solar Program Administrator.

CHANGES TO RULE:

860-088-0040

Project Pre-Certification ¶¶

(1) The Project Manager must submit an application for project pre-certification to the Program Administrator.¶¶

(2) An application for pre-certification must include:¶¶

(a) Documentation of Project Manager registration;¶¶

(b) A detailed description of the project including location, nameplate capacity, performance characteristics, and plan for project end of useful life;¶¶

(c) Permitting requirements and status of compliance;¶¶

(d) All documentation relevant to the interconnection process as provided in OAR chapter 860, division 82;¶¶

(e) Participant acquisition approach;¶¶

(f) Proposed marketing materials;¶¶

(g) Proposed forms and standard contracts for ownership interests and subscriptions;¶¶

(h) Plan for meeting applicable low-income capacity requirements;¶¶

(i) Payment of any applicable application fees; and¶¶

(j) Other information or documentation as set forth in the Program Implementation Manual.¶¶

(3) The Program Administrator reviews applications for pre-certification in the order received to determine compliance with applicable requirements and presents applications to the Commission for pre-certification. The

Program Administrator must notify the Project Manager of any deficiencies and allow reasonable time for remedy.¶

(4) Once ~~the Commission~~ a project is pre-certified, the Project Manager may execute contracts with participants for ownership or subscription interests.¶

(5) A project remains pre-certified for a period of 18 months, unless granted an extension ~~by Commission order~~. If not certified within this period, the project forfeits its place in the queue of pre-certified projects. The Project Manager must submit a new application for pre-certification to be considered for participation in the Community Solar Program.¶

(6) The Project Manager must seek ~~Commission~~ approval of any modification to a pre certified project relating to project elements set forth in the Program Implementation Manual. An amendment will not extend the 18-month period. The Program Implementation Manual will prescribe the form and manner of amendment submission and approval.

Statutory/Other Authority: OL 2016, ch.-28, sec. 22

Statutes/Other Implemented: OL 2016, ch.-28, sec. 22