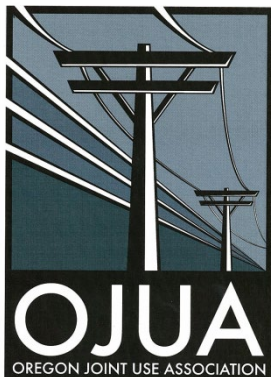


Oregon Joint Use Association

1286 Court Street NE
Salem, OR 97301

PHONE: (503) 378-0595 FAX: (503) 364-9919

EMAIL: info@ojua.org WEB ADDRESS: <http://www.ojua.org>



March 25, 2022

Via Electronic Filing

Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
P.O. Box 1088
Salem, OR 97301

Re: Public Utility Commission of Oregon (“OPUC”) Docket AR 638 –
Revised Draft Division 024 Wildfire Mitigation Rules Proposed by the
Administrative Hearings Division (“AHD”)

The Oregon Joint Use Association (“OJUA”) appreciates the opportunity to submit comments concerning the revised draft Division 024 wildfire mitigation rules. The OJUA continues to actively participate in the AR 638 docket as the permanent rules which are eventually adopted by the OPUC will impact OJUA’s members. As stated previously during the course of the AR 638 docket, the OJUA provides a unique perspective because it represents diverse industry perspectives. Indeed, the OJUA has seventy-eight (78) members including: Cable Operators; Telecommunications Operators; Competitive Providers; Government Entities; Wireless Carriers; Investor-Owned Utilities; Consumer-Owned Utilities; and Contractors. As stated previously, pursuant to Oregon Administrative Rule, the OJUA is an advisor to the Commission with respect to “Adoption, amendment, or repeal of administrative rules governing pole owners and pole occupants...”¹ We continue to emphasize that the OJUA was a key stakeholder in the AR 506 proceeding which produced the Division 024 rules that we have today.²

¹ See, OAR 860-028-0200

² See, Rulemaking to Amend and Adopt Permanent Rule in OAR 860, Divisions 024 and 028, Regarding Pole Attachment Use and Safety, ORDER NO. 06-547 at 8: “To educate the industry about these new rules and ease enforcement, the Commission encourages Staff and the OJUA to continue to work together in implementing these rules in a safe and cost-effective manner.”

Dedicated to the Education, Cooperation,
and Resolution of Utility Joint Use Issues

PRESIDENT:

Terry Blanc
PGE

VICE PRESIDENT:

Sam Ackley
Hunter Communications

SECRETARY:

Pam Vaughan
City of Corvallis

TREASURER:

Brooke Sisco
Columbia River PUD

PAST PRESIDENT:

Brant Wolf
Oregon Telecommunications Assn

BOARD MEMBERS:

Jennifer Butler
Comcast
Josh Crain
City of Portland
Eric Griffith
Lumen
Jeff Kent
PacifiCorp
Gary Lee
Charter Communications
Scott Rosenbalm
McMinnville Water & Light
Stuart Sloan
Consumers Power Inc.

COMMITTEES:

Executive: Sam Ackley
Conflict Resolution: Jeff Kent
Publicity & Education: Glen
Williams and Chris Barley
Standards: Jerry Donovan
Inspection/Correction Efficiency:
Jennifer Butler and
Tom Jorgenson

STAFF:

Executive Assistant: Genoa Ingram
Administrative Services:
Jody Lyon
Laureal Williams

Finally, the OJUA is the leader in Oregon with respect to educating the Oregon industry as it relates to the National Electrical Safety Code (“NESC”), Chapter 860, Division 024 rules, and Chapter 860, Division 028 rules.³

The OJUA’s comments concerning the revised draft Division 024 wildfire mitigation rules are provided below.

Comprehensive Facility Inspection

Proposed OAR 860-024-0001 and proposed OAR 860-024-0018(5) reference the new term “Comprehensive Facility Inspection.” The OJUA seeks information from the AHD concerning the purpose and need for a Comprehensive Facility Inspection. The OJUA notes that proposed OAR 860-024-0018(3)(a) describes detailed inspections which include visual checks, or practical tests of *all* facilities, to the extent required to mitigate fire risk *and* identify violations of Commission Safety Rules. The OJUA seeks information regarding what would be in scope for a Comprehensive Facility Inspection that is not included in a detailed inspection. Furthermore, if the Comprehensive Facility Inspection is intended to have the effect of mitigating fire ignition to a greater extent, then why is proposed OAR 860-024-0018(5) written to include “Public Utility Owners of electric supply facilities” as opposed to all Operators of electric supply facilities. Absent the demonstrable purpose and need for a Comprehensive Facility Inspection, the OJUA respectfully requests that AHD strike proposed OAR 860-024-0001 and proposed OAR 860-024-0018(5).

Remediation Timeframes

The OJUA generally supports the remediation timeframes set forth in proposed 860-024-0018(7). However, the OJUA offers the following edit to proposed 860-024-0018(7)(b) in order to recognize remedial options which may be employed:

860-024-0018(7)(b) any violation which correlates to a heightened risk of fire ignition shall be ~~corrected~~ repaired, disconnected, or isolated by the Operator no later than 180 days after discovery.

Repair and Replacement Mechanism for Operators of Electric Facilities

Proposed 860-024-0018(8) sets forth a process for Operators of electric facilities to follow when a violation that correlates to a heightened wildfire risk is discovered and is associated with a pole or equipment that the Operator of electric facilities does not own. The OJUA does not support the edit which was made by AHD where the term “may” was changed to “shall.” The OJUA believes that it is unreasonable to always require the Operator of electric facilities to repair poles or equipment that it does not own. The OJUA notes that communications equipment, including fiber optic facilities, support critical services such as emergency notification and 911. Repair of certain communications equipment can only be performed by Operators of communications

³ Education is achieved through the OJUA Spring Training Event and Annual Meeting – and through the OJUA’s committees which include: the Standards Committee; the Publicity and Education Committee; the Inspection Correct Efficiency Committee; the Mapping Subcommittee; and the Executive Committee.

facilities because specialized skill, knowledge and tooling are required to affect the repairs without service disruption. The OJUA's edits to 860-024-0018(8) are provided below.

860-024-0018(8) If an Operator of electric facilities discovers a violation that correlates to a heightened wildfire risk, notice shall be provided to the pole owner or equipment owner. That notice shall state that the violation must be repaired within the time frame set out in these rules. If the pole owner or equipment owner does not replace the reject pole or repair the equipment within the timeframe set forth in the notice, then the Operator of electric facilities ~~shall~~ may repair the equipment, ~~or~~ replace the pole, or isolate the condition -- and seek reimbursement of all costs and expenses related to correction or replacement of the reject pole or equipment, or isolation including, but not limited to, administrative and labor costs related to the inspection, permitting, and replacement of the reject pole. The Operator of electric facilities is also authorized to charge the pole owner or equipment owner a replacement fee of 25% of the total amount of work. This provision does not preclude the Operator of electric facilities from exercising any other rights or remedies afforded by Oregon Law or contract.

Finally, the OJUA emphasizes that Operators of electric facilities should not be solely responsible for enforcement of Chapter 860, Division 024 rules. Moreover, the Commission is the regulatory body and may address Operator non-compliance with Commission Safety rules by utilizing a number of mechanisms that the Commission has available, including those afforded by OAR 860-024-0011(1)(b)(B), OAR 860-028-0230, and ORS 757.990(1).

Thank you on behalf of the OJUA Executive Committee.