



Submitted electronically

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Filing Center
Oregon Public Utilities Commission
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RE: Docket AR 638 – Wildfire Mitigation

Thank you for the opportunity to provide comment on the most recent AHD proposal, which incorporates several changes proposed by the investor-owned utilities (IOUs). We appreciate that this redline does not represent the final recommendation of AHD and would like to pass along some initial concerns and observations, particularly since consumer-owned utilities (COUs) were not consulted in the development of the IOU proposal that has largely been carried forward in this redline.

In addition to comments regarding new items in this AHD redline, we are also taking this opportunity to reiterate previous comments that have yet to be adequately addressed.

860-024-011 Inspections of Electric Supply and Communications Facilities. The proposed language in (2)(a) should be amended to clarify that the designation of an annual geographic area need not include High Fire Risk Zones (HFRZs) if none have been identified within the utility’s service territory. According to the Oregon Wildfire Risk Explorer mapping data, it is possible that a small, urban municipal electric utility with predominantly underground wires may not have a HFRZ. Language could be amended to achieve this as follows: “(including High Fire Risk Zones ~~as~~ if identified by Operators of electric supply facilities)”

In (2)(c), we support the IOU proposal to eliminate a strict onsite requirement for routine safety patrols of overhead electric supply lines given that some utilities may perform these inspections using drones and other technology. However, we do not think it is necessary or desirable to add “consistent with industry best practices” as included in the AHD proposal. The term “industry best practices” is nebulous and may mean something different for IOUs that have a very different business model than not-for-profit COUs. For example, a COU with a smaller service territory might opt to employ an equally

effective, but more labor-intensive protocol than a larger IOU. To avoid confusion, we think this term should be eliminated. The existing language already indicates that the goal of the patrols is to inspect for “hazards to the public.” It is important to OMEU and EWEB that the PUC rules are flexible enough to avoid costly mitigation measures that may not be prudent for municipal ratepayers.

860-024-0012 Prioritization of Repairs by Operators of Electric Supply Facilities and Operators of Communication Facilities. While we still object to the elimination of an operator’s ability to defer corrections of PUC safety rules “that pose little or no foreseeable risk of danger to life or property” to correction during the next major work activity, we support the compromise language in (4) which recognizes that occasionally circumstances arise that are outside of the operator’s reasonable control. As we pointed out in our previous comments, in some cases, it would be fiscally irresponsible for the utility *not* to delay action.

860-024-0016 Minimum Vegetation Clearance Requirements. As explained in their February 23rd submission, we support the IOU proposal indicating that the minimum vegetation clearances are meant to address reasonably anticipated operational conditions, including adverse weather and routine wind conditions. It is important that a balance be struck to ensure safety without requiring ratepayers to address all possible significant, but less likely events.

OMEU and EWEB also appreciate the intent behind the language in (9) regarding the application of local tree ordinances within HFRZs and support further vetting.

860-024-0018 High Fire Risk Zone Safety Standards. We prefer the IOU-proposed amendments to (1). They provide more clarity than the AHD redline. We find the rationale in the IOU’s February 23rd submission persuasive, particularly the example of redundant lines. If the IOU proposal is not adopted, more clarity is needed.

As we noted in our previous comments on this subsection, de-energization of out of service lines and equipment is a prudent consideration based on the experience in California. However, as with the example of a redundant line, there may be sound operational rationales for not de-energizing “non critical supply.” This decision-making should be left to the operator.

We agree with the AHD commentary regarding (3) and believe that this subsection provides ample flexibility as to the manner of inspection, so long as fire risk and PUC violations are identified.

In (6), we request that language be added to clarify that the timeframe of the cycle is to be determined by the pole owner in consultation with pole occupants. This additional clarification may encourage COUs to pursue cycle alignment within HFRZs. We propose

the following language be added to the existing text in (6): The timeframe of the cycle will be determined by the pole owner in consultation with pole occupants.

At the suggestion of the IOUs, (7) has undergone significant revision in the AHD redline. The previous PUC safety staff proposal provided:

“(7) A violation of Commission Safety Rules in High Fire Risk Zones affecting energized conductors and a heightened risk of wildfire, as identified by the Operator of electric facility, shall be corrected no later than 180 days after discovery, regardless of pole ownership.”

Depending on how it is implemented, the IOU proposal, which calls for a hierarchical or tiered approach, seems reasonable. The suggestion that violations that pose “imminent danger to life or property must be repaired, disconnected, or isolated by the Operator immediately after discovery” is consistent with current utility practices and is embodied in 860-024-0012 (1).

OMEU and EWEB believe that the proposal in (7)(b), which requires correction of any violation “which correlates to heightened risk of fire ignition” requires further definition in the OAR. There was some discussion regarding this topic at the Commission’s most recent AR-638 workshop. The IOUs suggested that each utility should have internal policies that govern whether a violation would be considered “imminent” or “heightened.” To promote transparency, the IOUs also suggest that the internal policies could be included in the utility’s wildfire plan. It is important to note, per Senate Bill 762, that the content of COU wildfire plans, while filed with the PUC, are subject to review and approval by our local governing boards.

To address the Commission’s concern about accountability and enforcement, we suggest that the OAR define which specific circumstances correlate to a heightened risk of wildfire so that each utility is held to the same objective standard. A few examples:

- would a climbing space violation within a HFRZ be a heightened risk?
- would a 40-inch violation from the communications space within a HFRZ be a heightened risk?
- would a missing ground within a HFRZ be a heightened risk?

In this area, we think clarity is more important than flexibility if the rules are to be enforceable. It seems unlikely that the that universe of violations contributing to heightened risk of fire ignition is likely to grow and require excessive rule updates. We are happy to participate in a dialogue with the PUC and other electric utilities to discuss current practices and to develop a list that could be included in the OAR.

In the absence of further definition in the OAR, we prefer the previous PUC safety staff proposal that calls for the correction of all violations affecting energized conductors and a heightened risk of wildfire within the HFRZ within 180 days. As per 860-024-0012 – it is

already current practice to correct any violations—on our own equipment—that pose imminent danger to life or property immediately upon discovery.

With respect to (7)(c), we are fine with other violations within the HFRZ being repaired within the existing timelines in 0012, provided we have a clear understanding of what is eligible for deferral. Barring something unforeseen, we expect that all our corrections within HFRZs—except those posing imminent danger—will likely take place on the same timeframe regardless of violation type. In most cases, we will want to avoid multiple pole visits to do the work. However, we appreciate that larger utilities with multiple and/or large HFRZs might take a different approach to staging this work.

Proposed (8) in the AHD version raises some concerning questions. It creates a requirement for operators of electric facilities to repair equipment or replace poles that they do not own if the owner fails to act. The language creates this duty when the electric operator discovers a reject pole or equipment. While our crews have expertise in assessing pole issues, we do not have the requisite knowledge of communications equipment to decide whether that equipment is likely to correlate to a heightened wildfire risk. This proposal is particularly troublesome because it appears to shift liability from the owner of the equipment to the electric utility who would now have a new affirmative duty to make a repair to equipment that we do not even own. Frankly, we question whether this proposed shift of liability can be achieved via an administrative rulemaking. The IOU proposal allows the electric utility to replace a reject pole if the third-party owner fails to act, but this is very different than creating a requirement to do so.

We think it may be useful to spell out the obligation that would exist based on each of the following: a) the pole/equipment is owned by the electric utility, b) third party poles (e.g., communications-owned), c) electric utility equipment on third party poles, and d) third party equipment on electric utility poles.

Below is a proposed compromise for your consideration that narrows the role of the electric utility as to the third party-owned equipment.

(8) If an Operator of electric facilities discovers a violation that correlates to a heightened wildfire risk within a HFRZ, 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.

a) If the PUC issues notice of a violation associated with third party equipment on an electric utility-owned pole to both the electric utility and the third party equipment owner, and third party equipment owner does not repair the equipment within the timeframe set forth in the notice, then the electric utility may install a new pole and relocate electric utility facilities on a new electric utility pole or repair/remove the equipment causing the violation. The electric utility may seek reimbursement of all costs and expenses related

to the installation of a new electric utility pole and/or equipment relocation of electric utility facilities due to a third party equipment violation that is not corrected within the timeframe in the PUC notice including, but not limited to, administrative and labor costs related to the inspection, permitting, and replacement of reject poles. Additionally, the electric utility is authorized to charge a third party pole owner or equipment owner a replacement fee of 25% of the total amount of work. This provision does not preclude the electric utility from exercising any other rights or remedies afforded by Oregon Law or contract.

b) If the electric utility finds a violation of electric utility equipment on electric utility-owned poles or a violation associated with an electric utility-owned pole, then the electric utility shall repair the electric utility equipment or replace the electric utility-owned pole at their own expense. Third parties that have facilities on an electric utility pole will be responsible to relocate their facilities on the new electric utility pole at their own expense.

c) If the electric utility finds a violation associated with a third party pole where electric utility's facilities are attached, and if the third party pole owner does not replace the reject pole or repair the equipment within the timeframe set forth in the notice, then the electric utility shall install a new electric utility-owned pole and relocate their electric facilities to the new electric utility-owned pole. This shall be at the electric utility's expense. The electric utility will no longer be obligated to pay for any pole attachment fee for relocated electric utility facilities.

Another approach would be for the PUC to assess a significant daily fine against the pole/equipment owner for failure to repair with the prescribed timeline. These funds could then be used for the PUC to hire contractors to make the necessary repairs.

Thank you for your consideration. We look forward to participating in the April 7th workshop. Please do not hesitate to contact us at (971) 600-6976; jenniferjoly@omeu.org or (541) 844-8553; Rod.Price@EWEB.ORG for clarification or discussion regarding these recommendations.

Sincerely,

/s/ Jennifer Joly

Jennifer Joly
OMEU, Director

/s/ Rod Price

Rod Price
EWEB, Assistant General Manager