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November 19, 2021

Via Electronic Filing

Public Utility Commission of Oregon Via Electronic Filing
Attention: Filing Center
P.O. Box 1088
Salem, OR 97301

Re: Docket AR 638 – Risk-Based Wildfire Protection Plans Exec. Order 20-04
Docket AR 648 – Wildfire Mitigation Rulemaking – Phase I

Dear Filing Center,

Portland General Electric Company (PGE) would like to thank the Commission for the opportunity to provide comments on the draft AR 638 Phase II permanent rules. PGE is committed to supporting and contributing to the statewide effort of reducing wildfire risk as outlined in SB 762. The bill requires action and rulemaking by several state agencies which are currently underway and, when combined together, will collectively reduce the risk of wildfires in Oregon. We believe the work being undertaken by the Commission and utilities is an important component of the state’s overall wildfire reduction strategy that includes many stakeholders working together to do their part.

PGE appreciates the work that Commission Staff has undertaken to initiate the framework outlined in the utility provisions of SB 762. As outlined in the bill, the intent of the required utility mitigation plan is to “be based on reasonable and prudent practices...that seeks to protect public safety, reduce risk to utility customers and promote electrical system resilience to wildfire damage.” Our guiding principle in reviewing the proposed rules was to align with the legislative intent to encourage utility actions that mitigate wildfire risk.

In that spirit, we believe that all changes to the Oregon Administrative Rules implemented in AR 638 should be limited to rule changes that mitigate the risk of wildfires from utility facilities. PGE is fully committed to reducing the risk of utility facilities being the source of wildfire ignition. We feel it is important to not delay implementation of these rules or distract from wildfire mitigation by including additional utility actions and areas of focus that are not directly related to wildfire mitigation. We have identified a few of the proposed rule changes below that, based on our experience in operating a utility system, fall beyond the scope of mitigating wildfire risk. Should the Commission wish to adopt rules not related to mitigation of wildfire risk, PGE recommends that a new rulemaking docket be opened to address those rules.

Joint Inspections

PGE recognizes the importance of addressing the topic of joint inspections as a way to ensure compliance with all OPUC Safety Rules. PGE has more than 100 different occupants on our poles throughout our service territory as well as attachments to other utility poles with our own equipment. Occupants on PGE owned poles include: incumbent local exchange carriers; cable companies; wireless carriers; competitive providers; government entities; electric consumer-owned utilities; and others. The proposal of joint inspections and the associated discussion extends far beyond wildfire mitigation. To avoid delay in the adoption of the wildfire mitigation rules and allow for meaningful engagement with those who would be directly impacted by this new rule, we recommend Staff request the Commission open a separate docket on this issue. This would ensure thoughtful attention can be given to safety concerns associated with poles supporting multiple occupants.

Inspection and correction timelines

PGE understands and appreciates the need for action on correcting items identified during inspections. However, the proposed changes to the inspection and correction timelines in the Division 24 rules and the new Section 0018 rules significantly expand beyond wildfire mitigation and apply to all potential violations of Commission Safety Rules. This would result in other violations receiving the same priority for correction as issues that could increase wildfire risk. This shift in policy has the potential to take resources away from wildfire mitigation work, adding more risk to the system rather than reducing it as utilities are correcting matters not directly related to a potential source of an ignition.

Vegetation Management

Vegetation management is an important component of the work that utilities do to keep the system safe and reliable. Vegetation management is an especially important wildfire mitigation tool. Several proposed modifications to Division 24 rules would apply to the vegetation management program system-wide, rather than just in High Fire Risk Zones, and would not allow for meaningful consideration of the data and the ability to utilize new technologies to evolve the program in utility-defined High Risk Fire Zones. Proposed changes also introduce more subjectivity and lack of clarity which makes compliance challenging and could contribute to additional risk.

Today, the combined use of data and technology allows utilities to create individualized plans that best serve each area within their service territory. The individualized plans ultimately result in more meaningful mitigation efforts that balances the interests of customers who enjoy the robust urban canopy and the need to manage vegetation for wildfire mitigation. PGE recommends that vegetation management be explored holistically in a separate proceeding. This would provide the opportunity to improve vegetation management rules by clarifying

language in existing rules, improve rules to make vegetation management compliance more consistent state-wide, and mandate specifications at time of trim. For example, language that could be clarified includes “small branches” and “new tree growth” in Section 860-2-024-0016(5)(c)(B).

PGE proposes a separate rulemaking to explore ways in which rules related to utility vegetation management could be further enhanced while this rulemaking concentrates on High Fire Risk Zones. One significant improvement that could be made to vegetation management rules is to streamline utility authority in High Fire Risk Zones to conduct vegetation management for areas in which local jurisdictional barriers occur.

Additionally, there are a few sections of the rules in which PGE requests more clarity from the Commission on implementation which are described in more detail below.

Cost recovery

We appreciate the inclusion of 860-300-009 that states “[a]ll reasonable operating costs incurred by, and prudent investments made by, a Public Utility to develop, implement or operate a Wildfire Mitigation Plan are recoverable in the rates ...”. However, we note that the proposed Section 300 rules do not include the entire language in SB 762 Section 3(8) on cost recovery. As proposed, 860-300-0009 does not provide any specificity on how these costs will be recovered. Reference to ORS 757.210 suggests that these incremental costs could be recovered through a new rate schedule that could include an automatic adjustment clause. PGE recommends additional language to clarify how the incremental costs may be recovered including the consideration that the Commission direct each utility to submit an application for a new rate schedule (or other mechanism) to contemporaneously recover incremental costs needed to implement the new rules, subject to a prudence review.

The full language of SB 762 Section 3(8) is:

(8) All reasonable operating costs incurred by, and prudent investments made by, a public utility to develop, implement or operate a wildfire protection plan under this section are recoverable in the rates of the public utility from all customers through a filing under ORS 757.210 to 757.220. The commission shall establish an automatic adjustment clause, as defined in ORS 757.210, or another method to allow timely recovery of the costs.

For ease of reviewing PGE’s comments and proposed edits to the rules, we address each proposed rule in order below. Thank you again for the opportunity to provide comment. We are looking forward to continuing to engage in this important effort.

Division 24 Rules

860-024-0001

Definitions for Safety Standards

860-024-0001 (4) “High Risk Fire Zones” are geographic areas identified by Operators of electric facilities in their risk-based wildfire plans.

Recommendation: PGE recommends the addition of: “An Operator may update its High Fire Risk Fire Zones as it deems necessary to allow for additional flexibility,” for example due to the impacts of climate change. PGE also notes that “High Fire Risk Zones” is used through the proposed rule, rather than “High Risk Fire Zones”.

860-024-0001 (5) “Joint Inspection” means an inspection that includes both the Owner and Occupant(s) of any utility pole, structure, duct or conduit.

Recommendation: As stated earlier, PGE recommends that Staff request that the Commission open a new docket to address joint use issues.

860-024-0005

Maps and Records

860-024-0005 (3) Operators of electric facilities in High Fire Risk Zones shall provide its most current High Fire Risk Zone maps by April 1st of each year in a form satisfactory to the Safety Staff.

Recommendation: PGE recommends amendments to the proposed rule that the High Fire Risk Zone maps be provided “in a mutually agreed upon format within the utility wildfire mitigation plan that is filed annually.” As suggested in PGE’s recommendation on 860-024-0001 (4) “High Risk Fire Zones”, this section of the rule should allow utilities to update maps as necessary to provide for additional flexibility as we continue to learn about the impacts of climate change, receive input and feedback from public safety partners, and consider any substantial wildfire related events. Furthermore, PGE also requests clarity on the Commission’s expectations for how the Oregon Department of Forestry’s statewide wildfire risk map should be considered in the development of the utility’s High Fire Risk Zone map once that work is completed.

860-024-0011

Inspections of Electric Supply and Communication Facilities

860-024-0011(1)(b)(B) Detailed inspections include, but are not limited to, visual checks, pole test and treat programs or practical tests of all facilities, to the extent required to identify violations of Commission Safety Rules. Where facilities are exposed to extraordinary conditions (including High Fire Risk Zones) or when an operator has demonstrated a pattern of non-

compliance with Commission Safety Rules, the Commission may require a shorter interval between inspections.

Recommendation: PGE recommends editing the rule to clarify that pole test and treat programs are only required for pole Owners. Because new Section 0018 was added, PGE also recommends deleting reference to “High Fire Risk Zones” from this section.

860-024-0011(2) Each operator of electric supply facilities must:

(b) Provide timely notice of the designation of the annual geographic area to all Owners and Occupants. The annual coverage areas for the entire program must be made available in advance and in sufficient detail to allow all operators with facilities in that service territory to plan needed inspection and correction tasks. Unless the parties otherwise agree, operators must be notified of any changes to the established annual geographic area designation no later than 12 months before the start of the next year’s inspection; and

Recommendation: PGE recommends changing 860-024-0011(2)(b) from a 12 month notice to state “Unless the parties otherwise agree, electric supply operators will make best efforts to notify operators of any changes to the established annual geographic area designation within 60 days of the start of the next year’s inspection;”. This modification to the language will ensure the timing of notice does not outweigh mitigating an ignition risk.

860-024-0012

Prioritization of Repairs by Operators of Electric Supply Facilities and Operators of Communication Facilities

860-024-0012(4) The exception in subsection (3) expires on 12/31/2027.

Recommendation: PGE recommends deleting 860-024-0012(4). PGE recognizes the need to address safety issues. However, for violations of the Commission Safety Rules that do not pose a wildfire ignition risk, a correction timeframe that extends beyond two years is reasonable in certain instances, such as utility pole line relocations associated with public works projects. As an alternative to the removal of the exception language in section (4), PGE recommends modifying the existing 10-year exception in section (3)(a) to a shorter correction interval, such as five years. This recommendation recognizes that not all violations of the Commission Safety Rules pose a wildfire ignition risk. Additionally, as promulgated through the AR 506 docket which produced the current version of Chapter 860, Division 024 Rules, a correction timeframe which extends beyond two years is reasonable in certain instances if safety is not impacted.

860-024-0016

Minimum Vegetation Clearance Requirements

860-024-0016(1) (a): “Cycle Buster” means vegetation that will not make it through the routine trim cycle without encroaching on the required minimum clearances and, therefore require pruning midterm before the routine cycle is completed.

Recommendation: PGE recommends deleting 860-024-0016(1)(a) and retaining the current rule. The current rules already prohibit vegetation contact with utility supply conductors. Alternatively, the Commission could also explore providing a state list of fast-growing species that would provide all utilities a common framework for how to achieve greater vegetation performance on cycle-buster vegetation clearances.

860-024-0018

High Fire Risk Zone Safety Standards

860-024-0018 (1) Operators of electric facilities must, in High Fire Risk Zones, de-energize out of service, abandoned and non-critical supply equipment as determined by the Operator during fire season.

Recommendation: PGE requests additional clarity as these new terms are undefined. PGE recommends each utility address abandoned or idle facilities through its own electric service policies or tariffs.

860-024-0018 (2) Utility supply conductors shall not be attached to live trees and should only be attached to utility owned poles and structures designed to meet the strength and loading requirements of the National Electrical Safety Code. This subsection does not apply to customer-supplied equipment at the point of delivery. Compliance with this subsection is effective as of 12/31/2027.

Recommendation: PGE recommends editing the rule to state: “Utility supply conductors shall not be attached to trees. Compliance with this subsection is effective as of 12/31/2027.” Also, PGE does not own all the utility poles in its service territory and cannot qualify that poles owned by other utilities meet NESC strength and loading requirements.

860-024-0018 (3) (a) conduct at a minimum, enhanced detailed inspections, including, but are not limited to, in person, onsite visual checks, or practical tests of all facilities, to the extent required to mitigate fire risk and identify violations of Commission Safety Rules.

Recommendation: PGE supports the practice of enhanced detailed inspections as a mitigation tool for wildfires and suggests revision of the rule to clarify detailed inspections be focused and limited to wildfire mitigation, rather than all violations of Commission Safety Rules. PGE recommends editing rule to state: “860-024-0018(3)(a) conduct enhanced detailed inspections, that may include, but are not limited to, in person, onsite visual checks, or practical tests of all facilities, to the extent required to mitigate fire risk.” For example, inspections on assets where there are no ignitable fuel conditions do not mitigate wildfire risk. Another example of work that would not mitigate wildfire risk is clearance violations associated with communication facilities in a High Fire Risk Zone. The modification of this language allows for the flexibility for the utility to utilize the best approach and tool within a specific area.

PGE also suggests that each pole within a High Fire Risk Zone either receive a detailed inspection or safety patrol on an annual basis. PGE recommends modifying the proposed rule by adding: "may include, but are not limited to in person" to allow for the incorporation of new technology in partnership with in person inspections.

860-024-0018(3)(b) for transmission systems energized at or above 50,001 volts, perform and document, at a minimum, detailed inspections via onsite climbing or high-powered spotting scope to identify structural and conductor defects, as well as violations of Commission Safety Rules.

Recommendation: As with 860-024-0018(3)(a), PGE recommends editing the rule to allow options on how to inspect facilities. Specifically, PGE recommends modifying the rule to state "860-024-0018(3)(b) for transmission systems energized at or above 50,001 volts, perform and document detailed inspections, that may include, but are not limited to, onsite climbing or high-powered spotting scope to identify structural and conductor defects, to the extent required to mitigate wildfire risk."

860-024-0018 (4) In addition to the requirements set forth in 860-024-0011, Public Utility Operators of electric facilities must conduct annual fire season safety patrols in High Fire Risk Zones. Public Utility Operators of electric facilities shall perform and document, in person, fire safety patrols of overhead electric supply lines and accessible facilities for potential fire risks, including but not limited to, off right of way hazard trees, right of way access for first responders, seasonal vegetation damage, vegetation Cycle Buster clearance conditions as defined in 860-024-0016(1)(a), potential equipment failures, and deteriorated supply or communication facilities.

Recommendation: PGE requests clarification of how right of way access will be evaluated by OPUC staff. While some rights of way may provide pedestrian, vehicular, or aerial access to first responders on most occasions, circumstances, such as fire, flooding, snow, or other natural events, may hinder access at times. Other rights of way may provide limited or no immediate vehicle access. Additionally, PGE requests clarification on how "potential equipment failures" will be defined. PGE also suggests that each pole within a High Fire Risk Zone either receive a detailed inspection or safety patrol on an annual basis. PGE recommends modifying the proposed rule to read:

...."Public Utility Operators of electric facilities shall perform and document fire safety patrols of overhead electric supply lines and accessible facilities, that may include, but are not limited to, in person inspections, for potential fire risks, including but not limited to, off right of way hazard trees, right of way access for first responders, seasonal vegetation damage, vegetation Cycle Buster clearance conditions as defined in 860-024-0016(1)(a), potential equipment failures, and deteriorated supply or communication facilities."

Alternatively, PGE requests clarity regarding expectations on “right of way access for first responders.”

Lastly, as stated in 860-024-0016(1) (a), PGE recommends the deletion of Cycle Buster from this section.

860-024-0018 (5) Public Utility Owners of electric supply facilities and pole Occupants in High Fire Risk Zones shall participate in “Joint Inspections” of facilities to identify violations of Commission Safety Rules and mitigate fire risk.

Recommendation: As stated previously, PGE has significant concerns about the requirement for joint inspections included in the proposed rule. Should Staff wish to have a more detailed inspection program between Operators of electric supply facilities and pole Occupants, PGE suggests that Staff request a separate docket be opened to provide time for a workable solution that does not impede the timely correction of safety violations. If Staff feels that joint inspections mitigate wildfire risk, then the draft rules should include all operators of electric supply facilities, not just Public Utilities.

860-024-0018 (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.

Recommendation: PGE recommends not including 860-024-0018 (7) and that correction timeframes associated with High Fire Risk Zones be set forth in each electric Operator’s wildfire mitigation plan and not exceed those timeframes set forth in OAR 860-024-0012. For example, PGE’s Wildfire Mitigation Plan includes the following correction timeframes: an asset that poses an imminent danger to life or property will be repaired, disconnected, or isolated by the operator immediately after discovery; an asset that poses a hazard will be corrected as soon as practicable, but no later than 30 days after discovery; and PGE will address all other asset corrections in accordance with OAR 860-024-0012.

Division 300 Rules

860-300-0003

Public Utility Wildfire Mitigation Plan Filing Requirements

860-300-0003-(e) Description of the procedures, standards and time frames that the Public Utility will use to carry out vegetation management in in areas the Public Utility identified as heightened risk of wildfire, consistent with OAR 860-024-0018.

Recommendation: A typographical error exists in proposed 860-300-0003(e). Specifically, PGE recommends deleting the second “in”.

860-300-0003(2) A Public Utility’s initial Wildfire Mitigation Plan must be filed no later than December 31, 2021. Wildfire Mitigation Plans must be updated annually and filed with the Commission.

860-300-0003 (3) Within 180 days of submission, Wildfire Mitigation Plans and Wildfire Mitigation Plan Updates may be approved or approved with conditions through a process identified by the Commission in utility-specific proceedings, which may include retention of an Independent Evaluator (IE). For purposes of this section, “approved” means the Commission finds that the Wildfire Mitigation Plan or Update is based on reasonable and prudent practices including those the Public Utility identified through Commission workshops identified in SB 762, Section 2, and designed to meet all applicable rules and standards adopted by the Commission.

Recommendation: PGE recommends clarifying the rule so that the Wildfire Mitigation Plan filed by 12/31 of a given year applies to the fire season two years ahead, rather than the following year. With fire seasons beginning earlier than in the past, if the Commission orders changes to a plan at the end of June it may be too late for the utility to modify its plan and implement the changes in that fire season, which may have already begun. Multi-year, e.g., two or three year, wildfire mitigation plans with regular updates would allow for Commission review of plans, and any changes to the filed plans to comport with any changes ordered by the Commission, prior to the respective fire season.

860-300-0004

Risk Analysis

860-300-0004(A) Baseline wildfire risk, which include elements of wildfire risk that are expected to remain fixed for multiple years. Examples include topography, vegetation, utility equipment in place, and climate.

Recommendation: PGE believes that climate change is dynamic and not stagnant. Therefore, we recommend editing 860-300-0004(a)(A) to read: “(A) Baseline wildfire risk, which includes elements of wildfire risk that are expected to remain fixed for multiple years. Examples include topography, vegetation, and utility equipment in place.”

860-300-0005

Wildfire Mitigation Plan Engagement Strategies

860-0300-0005 (2) The Public Utility must include in its Wildfire Mitigation Plan a Wildfire Education and Awareness Strategy. The Education and Awareness Strategy must be developed in coordination with Public Safety Partners and informed by local needs and best practices to educate and inform communities inclusively about wildfire risk and preparation activities. The Education and Awareness Strategy will include, at a minimum:

- (c) *Training on emergency kits/plans/checklists.*
- (d) *Public Utility contact and website information.*
- (e) *Education and preparedness media platforms to inform the public.*

Recommendation: PGE requests that the rule be clarified regarding “developed in coordination with Public Safety Partners”. PGE also recommends changes to the proposed rules to state:

- (c) *Information on emergency kits/plan/checklists.*
- (e) *Information and preparedness media platforms to inform the public.*

860-0300-0005(3) The Public Utility must include in its Wildfire Mitigation Plan a description of metrics used to track and report on whether the Wildfire Mitigation Plan Engagement Strategy and Wildfire Education and Awareness Strategy are effectively and equitably reaching Local Communities across the Public Utility’s service area.

Recommendation: PGE requests more detail to clarify rule regarding potential metrics to assess whether strategies are effectively and equitably reaching Local Communities.

860-300-0007

Ongoing Informational Requirements for Public Safety Power Shutoffs

- (4) *The Public Utility will work to provide real-time geographic information pertaining to PSPS outages compatible with Public Safety Partner GIS platforms.*

Recommendation: PGE requests clarity in 890-300-007(4) that “geographic information” refers to geographic data and not a particular software platform, as different Public Safety Partners may use different GIS platforms. A utility can provide geographic information in a standard form in advance of fire season to coordinate and ensure all Public Safety Partners have access to data.

860-300-0009

Cost Recovery

All reasonable operating costs incurred by, and prudent investments made by, a Public Utility to develop, implement or operate a Wildfire Mitigation Plan are recoverable in the rates of the Public Utility from all customers through a filing under ORS 757.210 to 757.220.

Recommendation: As noted above, PGE recommends the Commission direct utilities to submit an application for a new rate schedule (or other mechanism) to recover incremental costs not included in base rates to implement the new rules, subject to a prudence review. PGE also recommends that the entirety of Section in SB 762 Section 3(8) be included in 860-300-0009.

Again, PGE would like to thank the Commission for the opportunity to provide comments on the draft AR 638 Phase II permanent rules. We look forward to continuing to participate in this critical Rulemaking docket and commit to continuing to review and submit comments on revised versions of both the Division 024 and Division 300 rules.

Respectfully Submitted,

/s/ W. M. Messner

William M. Messner

Director Wildfire Mitigation & Resiliency

Portland General Electric Company