November 18, 2021

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

The Oregon Municipal Electric Utilities Association (OMEU) and Eugene Water & Electric Board (EWEB) thanks you for the opportunity to provide comment on the proposed amendments to OAR 860-024. We also appreciate your willingness to answer questions and clarify intent in the series of workshops that the agency hosted.

OMEU and EWEB supported the passage of SB 762, which requires that consumer-owned utilities develop wildfire mitigation plans approved by our governing bodies no later than June 30, 2022. As the Labor Day Fires of 2020 drove home, our environment is changing and all electric utilities have a duty to evaluate and mitigate for wildfire risks in our service territories. Development of municipal electric utility wildfire mitigation plans are underway.

In Section 3 of SB 762, pertaining to "public utilities" or invested-owned utilities (IOUs), the Legislature provided that wildfire plans should "reflect a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk." As the Public Utilities Commission (PUC) must balance risk reduction and cost on behalf of IOU customers, municipal utility governing boards will likewise weigh these factors on behalf of our ratepayers. As not-for-profit utilities in smaller urban areas, municipal electric utilities generally have a lower wildfire risk profile than other Oregon electric utilities. It is possible some municipal utilities may not identify any High Fire Risk Zones within their service territories. 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.

As you consider revisions to Division 24, it is also important to note that Oregon is a model program for joint use in the western states. While we support the PUC's examination of Division 24 to address wildfire risk, we do not think a substantial overhaul is warranted. We must ensure that any amendments do not undermine provisions that are working well to achieve our shared aims of system safety and reliability.

860-024-0005 Maps and Records. In keeping with the intent expressed by PUC staff at the November 1st workshop and to eliminate busywork for the utilities, the proposed language in new (3), should be amended to clarify that High Risk Fire Zone maps need only be filed by April 1 each year ***if changes have been made to maps previously filed with the Commission.*** In a similar vein, if no High Fire Risk Zones have been identified within a service territory, the utility need only file maps with the PUC when/if high fire risk zones are subsequently identified. You may also wish to clarify, as you did at the November 1st workshop, that this subsection will be effective beginning April 1, 2023, not 2022.

860-024-011 Inspections of Electric Supply and Communications Facilities. The proposed new language in (2)(a) should be amended to clarify that the designation of an annual geographic area need not include High Fire Risk Zones if none have been identified within the utility's service territory. Language could be amended to achieve this as follows: "<u>This includes High Fire Risk Zones ~~as~~ ***if*** identified by Operators of electric supply facilities</u>;

860-024-0012 Prioritization of Repairs by Operators of Electric Supply Facilities and Operators of Communication Facilities. We object to the language in (4), which, effective 12/31/27, eliminates 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. While it does not appear that many municipal electric utilities have relied on 0012(3) with any frequency, eliminating this tool may have unintended consequences. For example, planned road projects may call for moving a nonconforming pole, or the utility may have future plans to underground utility infrastructure that is out of compliance. In these cases, it would be fiscally irresponsible for the utility *not* to delay action.

Rather than eliminate this tool, if the PUC sees that deferrals of corrections are becoming the norm, then the PUC should work to address concerns with the utility in question. As highlighted above, elimination of this tool without a possibility of exceptions will result in expenditures that are not defensible. The existing language of 024-0012 was drafted with recognition that deferrals are prudent, in fact necessary, in some cases. We think the existing language of 024-0012 strikes an appropriate balance and should not be eliminated.

860-024-0016 Minimum Vegetation Clearance Requirements. We believe the new provisions in (3), requiring a minimum three-year trim cycle rate, are overly prescriptive. Instead, the focus should be on ensuring that the minimum clearance requirements in (5) are achieved – on whatever cycle that may require. As was pointed out in the workshop, in some parts of the State, a three-year trim cycle would be too frequent given the slow growth of certain types of vegetation. In those areas, shifting to a minimum trim cycle approach could lead to utility expenditures that are not prudent for ratepayers. Alternatively, depending on the vegetation and wildfire risks, in other areas trimming may need to occur on a schedule that is more frequent than the three-year minimum.

During the workshop discussion on this section, the PUC staff pointed out that their goal is for each utility to develop a trim plan for their entire service territory. In some parts of the service territory, trim cycles might be at 7 years, in others it may need to be set at 2 years. The staff noted that the draft rule provides that the 3-year minimum will be required "*unless* the

Operator of electric supply facilities submits documentation confirming compliance with the minimum clearances in (5) below utilizing alternate trim cycles and receives confirmation from Safety Staff that an alternate trim cycle is permissible." The staff indicated that "unless" is the heart of this section; but, without a plan, the minimum would be set at 3 years. Instead, why not require a plan based on utility expertise and knowledge of the service territory to achieve the necessary clearances in (5) rather then set a trim rate that will become a new floor?

We suggest that the subsection be rewritten as follows, "Each <u>O</u>~~o~~perator of electric supply facilities must <u>regularly</u> trim or remove vegetation to maintain clearances from electric supply conductors. <u>Upon notification by PUC safety staff of noncompliance with the clearances in (5) and an opportunity to correct within a timeframe prescribed by the PUC, subsequent failure to maintain the minimum clearances in (5) may result in the imposition of a minimum three-year trim cycle for non-compliant operators of electric supply facilities.</u>" This would allow utilities that have trim cycles that are longer than three years to maintain their programs, *provided they are effective in achieving the clearances with (5)*, without the added administrative burden and uncertainty of PUC approval. If the PUC is unwilling to eliminate the minimum trim cycle requirement despite compliance with the minimum clearances in (5), we request that any strict cycle length requirement be limited to vegetation in high fire risk zones.

<u>860-024-0018 High Fire Risk Zone Safety Standards.</u> In proposed (1) of this section, it is unclear if the intent is to create a mandate for operators of electric facilities to de-energize out of service, abandoned and non-critical supply equipment, or whether this determination is intended to be discretionary. Accordingly, we propose the following alternative language: "<u>(1) Operators of electric facilities must **consider**, in High Fire Risk Zones, **whether to** de-energize out of service, abandoned and non-critical supply equipment</u> ~~as determined by the Operator~~ <u>during fire season.</u>" Based on the experience in California, this is a prudent consideration for the PUC to flag in the rule, but there may be sound operational rationales for not de-energizing. This decision-making should be left to the operator.

Based on the PUC staff explanation at the November 1st workshop, we understand that the detailed inspection cycle alignment to identify violations of Commission Safety rules and mitigate fire risk in (6) is intended to be discretionary for consumer-owned utility pole owners and occupants in High Fire Risk Zones. We agree that this should be discretionary, not mandated for COUs. Accordingly, we propose the following amendment to 0018(6) of the draft rule to clarify this intent.

<u>(6) If dictated by a consumer owned utility pole owner, beginning 12/31/2027 occupants of poles owned by consumer owned utilities in high fire risk zones will implement detailed inspection cycle alignment to identify violations of Commission Safety Rules and mitigate fire risk. The timeframe of the cycle will be determined by the pole owner in consultation with pole occupants.</u>

The 180-day timeframe for correction of violations in High Fire Risk Zones affecting energized conductors and a heightened risk of wildfire in (7) seems reasonable. However, it is unclear what happens if a pole occupant fails to correct within the requisite timeframe on an electric utility pole since the language provides that the correction within 180 days after discovery must occur "regardless of pole ownership." If the pole owner has notified the occupant upon discovery and the occupant fails to act to correct the violation, we suggest that the pole owner notify the PUC around day 120. At the point, the PUC would notify the occupant of forthcoming state sanctions or penalties that are more likely to compel prompt action. Of course, action is critical in these High Fire Risk Zones, where the stakes are high. Those sanctions or penalties should be clearly spelled out in the rule. Enforcement, and the expense thereof, should not be a matter for negotiation among the parties since the requirement is coming from the PUC.

Thank you for your consideration. 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

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Rod Price
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