



**Portland General Electric Company**  
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February 1, 2022

***Via Electronic Filing***

Public Utility Commission of Oregon  
Attention: Filing Center  
P.O. Box 1088  
Salem, OR 97308-1088

**RE:** AR 638 – Risk-Based Wildfire Protection Plan Proposed Rules

Dear Filing Center,

Portland General Electric Company (“PGE”), PacifiCorp d/b/a Pacific Power (“PacifiCorp”), and Idaho Power Company (“Idaho Power”) (collectively referred to as the “Joint Utilities”) appreciate the Commission providing the opportunity to continue discussion on the draft wildfire mitigation rules proposed by OPUC Staff (“Staff”) in their Public Meeting Memo and discussed during the January 18, 2022, Special Public Meeting for AR 638. In response to the Commission’s request, the Joint Utilities have worked together to submit an alternative proposal, which is attached in redline format as Exhibit A. The redline shows changes from staff’s proposal (not existing rules).

The Joint Utilities reiterate our commitment to wildfire mitigation efforts that protect the safety of the public, increase our systems’ resiliency to wildfire damage, and reduce the risk of utility facilities causing a wildfire. This is important work, and we recognize electric utilities are one of the many critical partners needed for the state to be successful in its pursuit of holistic and effective wildfire risk mitigation efforts.

We understand and appreciate Staff’s concern around addressing safety violations within the designated High Fire Risk Zones (HFRZs) in an expeditious manner. While well-intentioned, the proposed rule language would, however, treat all violations equally, regardless of their potential to increase wildfire risk. Treating all violations equally forces the utility to design its correction programs

accordingly, which would potentially frustrate efforts to prioritize speedier correction of higher risk violations. Expressly requiring accelerated corrections for higher risk violations is better suited to facilitate speedier correction of those types of violations, which will have the most marked impact in our efforts to mitigate wildfire risk.

Consistent with the emphasis on speeding up priority corrections, the Joint Utilities also propose removing the requirement for joint inspections. Staff's proposal to mandate joint inspections will require that each of the Joint Utilities coordinate inspections with numerous Occupants on poles in their HFRZs. For example, more than 180 unique entities attach to utility poles in Oregon, many of which are located within the HFRZs. Requiring electric utilities to perform joint inspections would result in a large administrative burden without much benefit toward expediting corrections, which is where additional effort can best mitigate risk. Instead of requiring joint inspections, the Joint Utilities propose that emphasis be placed on the highest risk elements of the joint use relationship and more timely correction of those items.

The Joint Utilities' proposal represents changes that will much more effectively mitigate wildfire risk while still holding true to Staff's intended goals for Division 24. The newly proposed structure found in the attached proposal will:

- **Ensure timely identification of violations that pose a heightened wildfire risk** from poles and equipment that are utility- or foreign-owned within HFRZs.
- **Accelerate correction timelines for fire ignition risks** by establishing a tiered system that requires the most extreme risks to be addressed immediately and heightened risks to be addressed within 180 days of discovery. All other violations would be corrected in accordance with the timelines in OAR 860-024-0012. This systematic and tiered approach is based on the best practices used in California today.
- **Provide a clear path for reject poles to be replaced and lashing wire violations to be corrected**, regardless of pole ownership, through a notification system that allows the electric

utility to replace the pole or correct the violation after a notification to the pole owner, similar to existing Division 28 procedures but allowing for accelerated correction.

The Joint Utilities support the majority of changes proposed by staff, and we certainly share staff's desire to enact rule changes which will reduce wildfire risk. We are confident that the alternative outlined above, combined with the other proposed amendments to the draft rules within the attached redline, will provide for even more robust and effective wildfire mitigation reduction within our respective HFRZs, while also providing the flexibility for innovation and integration of newly identified best practices that will continue to allow our programs to evolve with the ever-changing landscape.

We look forward to the discussion during the February 8, 2022, Commission Workshop.

Sincerely,

*/s/ Larry Bekkedahl*

Larry Bekkedahl  
Senior Vice President of Advanced Energy Delivery  
Portland General Electric

*/s/ Brett Sims*

Brett Sims  
Vice President of Strategy, Regulation & Energy Supply  
Portland General Electric

*/s/ Allen Berreth*

Allen Berreth  
Vice President of Transmission and Distribution Operations  
Pacific Power

*/s/ Matthew McVee*

Matthew McVee  
Vice President of Regulatory Policy and Operations  
Pacific Power

*/s/ Mitch Colburn*

Mitch Colburn  
Vice President, Planning, Engineering and Construction  
Idaho Power

Enclosures: Attachment A

## Attachment A: Joint Utility Changes to Proposed OAR 860, Division 24 Rules

### 860-024-0001

#### Definitions for Safety Standards

For purposes of this Division, except when a different scope is explicitly stated:

(1) "Commission Safety Rules," as used in this section, mean the National Electric Safety Code (NESC), as modified or supplemented by the rules in OAR chapter 860, division 024.

(2) "Facility" means any of the following lines or pipelines including associated plant, systems, supporting and containing structures, equipment, apparatus, or appurtenances:

(a) A gas pipeline subject to ORS 757.039;

(b) A power line or electric supply line subject to ORS 757.035; or

(c) A telegraph, telephone, signal, or communication line subject to ORS 757.035.

(3) "Government Entity" means a city, a county, a municipality, the state, or other political subdivision within Oregon.

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

~~(5) "Joint Inspection" means an inspection that includes both the Owner and Occupant(s) of any utility pole, structure, duct or conduit.~~

~~(56)~~ "Material violation" means a violation that:

(a) Is reasonably expected to endanger life or property; or

(b) Poses a significant safety risk to any operator's employees or a potential risk to the general public.

~~(67)~~ "Occupant" means any licensee, Government Entity, or other entity that constructs, operates, or maintains attachments on poles, structures or within conduits.

~~(78)~~ "Operator" means every person as defined in ORS 756.010, public utility as defined in 757.005, electricity service supplier as defined in OAR 860-038-0005, telecommunications utility as defined in ORS 759.005, telecommunications carrier as defined in 759.400, telecommunications provider as defined in OAR 860-032-0001, consumer-owned utility as defined in ORS 757.270, cable Operator as defined in 30.192, association, cooperative, or government entity and their agents, lessees, or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership, or control of any facility within Oregon.

~~(89)~~ "Owner" means a public utility, telecommunications utility, or consumer-owned utility that owns or controls poles, structures, ducts, conduits, right of way, manholes, handholes or other similar facilities.

~~(940)~~ "Pattern of non-compliance" means a course of behavior that results in frequent, material violations of the Commission Safety Rules.

~~(104)~~ "Reporting Operator" means an Operator that:

(a) Serves 20 customers or more within Oregon; or

(b) Is an electricity service supplier as defined in OAR 860-038-0005 and serves more than one retail electricity customer.

Statutory/Other Authority: ORS 183, 756, 757 & 759

Statutes/Other Implemented: ORS 756.040, 757.035, 757.039, 757.649, 758.215, 759.005 & 759.045

## 860-024-0011

### Inspections of Electric Supply and Communication Facilities

(1) An Operator of electric supply facilities or an Operator of communication facilities must:

(a) Construct, operate, and maintain its facilities in compliance with the Commission Safety Rules; and

(b) Conduct detailed inspections of its overhead facilities to identify violations of the Commission Safety Rules.

(A) The maximum interval between each detailed inspection cycle is ten years, with a recommended inspection rate of ten percent of overhead facilities per year. During the fifth year of each detailed inspection cycle, the Operator must:

(i) Report to the Commission that 50 percent or more of its total facilities have been inspected pursuant to this rule; or

(ii) Report to the Commission that less than 50 percent of its total facilities have been inspected pursuant to this rule and provide a plan for Commission approval to inspect the remaining percentage within the next five years. The Commission may modify the plan or impose conditions to ensure sufficient inspection for safety purposes.

(B) Detailed inspections include, but are not limited to, visual checks, pole test and treat programs (only required for pole Owners) 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.

(c) Conduct detailed facility inspections of its underground facilities on a ten-year maximum cycle, with a recommended inspection rate of 10 percent of underground facilities per year.

(d) Maintain adequate written records of policies, plans and schedules to show that inspections and corrections are being carried out in compliance with this rule and OAR 860-024-0012. Each Operator must make these records available to the Commission upon its request.

(2) Each Operator of electric supply facilities must:

(a) Designate an annual geographic area (including High Fire Risk Zones as identified by Operators of electric supply facilities) to be inspected pursuant to subsection (1)(b) of this rule within its service territory:

(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. For High Fire Risk Zones, Operators must be notified of any changes to the designation of a High Fire Risk Zone no later than 60 days before the start of the year's inspection; and

(c) Perform ~~onsite~~ routine safety patrols of overhead electric supply lines and accessible facilities for hazards to the public. The maximum interval between safety patrols is two years, with a recommended rate of 50 percent of lines and facilities per year.

(d) Inspect electric supply stations on a 45 day maximum schedule.

(3) Effective Dates:

(a) Subsection (2)(a) of this rule is effective January 1, 2007.

(b) Subsection (1)(b) of this rule is effective January 1, 2008.

Statutory/Other Authority: ORS 183, 756, 757 & 759

Statutes/Other Implemented: ORS 757.035

#### **860-024-0012**

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

(1) A violation of the Commission Safety Rules that poses an imminent danger to life or property must be repaired, disconnected, or isolated by the Operator immediately after discovery.

(2) Except as otherwise provided by this rule, the Operator must correct violations of Commission Safety Rules no later than two years after discovery.

(3) An Operator may elect to defer correction of violations of the Commission Safety Rules that pose little or no foreseeable risk of danger to life or property to correction during the next major work activity.

(a) In no event shall a deferral under this section extend for more than ten years after discovery.

(b) The Operator must develop a plan detailing how it will remedy each such violation.

(c) If more than one Operator is affected by the deferral, all affected operators must agree to the plan. If any affected operators do not agree to the plan, the correction of violation(s) may not be deferred.

(4) After December 31, 2027, the only allowable conditions for deferrals as set forth in subsection (3) are those as follows: repairs that accommodate schedules for local jurisdiction permitting issues or repairs impacted by planned public works or planned road construction projects; and repairs which cannot be performed within the two-year correction timeframe due to circumstances outside the Operator's reasonable control. Plans for correction for deferrals due to these conditions must be submitted to Commission Staff for review and tracking.

Statutory/Other Authority: ORS 183, 756, 757 & 759

Statutes/Other Implemented: ORS 757.035

#### **860-024-0016**

### **Minimum Vegetation Clearance Requirements**

(1) For purposes of this rule:

(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.

(b) "Readily climbable" means vegetation having both of the following characteristics:

(A) Low limbs, accessible from the ground and sufficiently close together so that the vegetation can be climbed by a child or average person without using a ladder or other special equipment; and

(B) A main stem or major branch that would support a child or average person either within arms' reach of an uninsulated energized electric line or within such proximity to the electric line that the climber could be injured by direct or indirect contact with the line.

(c) "Vegetation" means trees, shrubs, and any other woody plants.

(d) "Volts" means nominal voltage levels, measured phase-to-phase.

(2) The requirements in this rule provide the minimum standards for conductor clearances from vegetation to provide safety for the public and utility workers, reasonable service continuity, and fire prevention. Each Operator of electric supply facilities must have a vegetation management program and keep appropriate records to ensure that timely trimming is accomplished to keep the designated minimum clearances. These records must be made available to the Commission upon request.

(3) Each Operator of electric supply facilities must regularly trim or remove vegetation to maintain clearances from electric supply conductors. Operators of electric supply facilities must develop and regularly update vegetation plans and documentation that confirms compliance with the minimum clearances in subsection (5) below. Upon request from Commission Staff, Operators must provide that information to Commission Staff. If clearances are not being maintained, the Commission may require the Operator to implement an alternative vegetation management program and/or specific trim cycles.

(4) Each Operator of electric supply facilities must trim or remove readily climbable vegetation as specified in section (5) of this rule to minimize the likelihood of direct or indirect access to a high voltage conductor by a member of the public or any unauthorized person.

(5) Under reasonably anticipated operational conditions, as well as adverse weather and routine wind conditions, an Operator of electric supply facilities must maintain the following minimum clearances of vegetation from conductors:

(a) Ten feet for conductors energized above 200,000 volts.

(b) Seven and one-half feet for conductors energized at 50,001 through 200,000 volts.

(c) Five feet for conductors energized at 600 through 50,000 volts.

(A) Clearances may be reduced to three feet if the vegetation is not readily climbable.

(B) Intrusion of limited small branches and new tree growth into this minimum clearance area is acceptable provided the vegetation does not come closer than six inches to the conductor.

(6) For conductors energized below 600 volts, an Operator of electric supply facilities must trim vegetation to prevent it from causing strain or abrasion on electric conductors. Where trimming or removal of vegetation is not practical, the Operator of electric supply facilities must install suitable material or devices to avoid insulation damage by abrasion.

(7) In determining the extent of trimming or vegetation removal required to maintain the clearances required in section (5) of this rule, the Operator of electric supply facilities must consider at minimum the following factors for each conductor:

(a) Voltage;

(b) Location;

(c) Configuration;

(d) Sag of conductors at elevated temperatures and under wind and ice loading; and

(e) Growth habit, strength, and health of vegetation (including rates of tree mortality) growing adjacent to the conductor, with the combined displacement of the vegetation, supporting structures, and conductors under adverse weather or routine wind conditions.

(f) The amount of trimming or vegetation removal required to minimize Cycle Buster vegetation interference of energized conductors.

(8) Each Operator of communications facilities must ensure vegetation around communications lines do not pose a foreseeable danger to the pole and electric supply Operator's facilities. (9) Electric utilities performing vegetation management work in High Fire Risk Zones in accordance with this Section are exempt from compliance with any applicable local law governing tree trimming and removal.

(9) Electric utilities performing vegetation management work in High Fire Risk Zones in accordance with this Section are exempt from compliance with any applicable local law governing tree trimming and removal.

## 860-024-0018

### High Fire Risk Zone Safety Standards

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

(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 must be achieved prior to December 31, 2027.

(3) In addition to the requirements set forth in OAR 860-024-0011, Operators of electric facilities in High Fire Risk Zones must:

(a) conduct at a minimum, ~~enhanced~~ "detailed inspections", that may includeing, 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.

(b) for transmission systems energized at or above 50,001 volts, perform and document, ~~at a minimum~~, detailed inspections, that may include, but are not limited to, via onsite climbing, drone or high-powered spotting scope to identify structural and conductor defects, as well as violations of Commission Safety Rules.

(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 patrols, that may include, but are not limited to, 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.

~~(5) The requirements set forth in (3) and (4) above do not preclude the use of technology developments that may improve the ease of and quality of inspections. The use of technologies does not eliminate the need for in person fire safety patrols described above.~~



~~(6) Beginning in December 31, 2027, Public Utility Owners of electric supply facilities and Occupants shall participate in “Joint Inspections” of facilities in High Fire Risk Zones to mitigate fire risk as well as identify violations of Commission Safety Rules.~~

(57) If dictated by a consumer owned utility pole Owner, beginning December 31, 2027 Occupants of poles owned by consumer owned utilities in High Fire Risk Zones will implement detailed inspection cycle alignment to mitigate fire risk and identify violations of Commission Safety Rules.

~~(68) A violation which poses a risk of fire ignition identified by an HFRZ detailed inspection or safety patrol shall be subject to the following correction timeframes 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.~~

~~(a) any violation that poses imminent danger to life or property must be repaired, disconnected, or isolated by the Operator immediately after discovery.~~

~~(b) any violation which correlates to a heightened risk of fire ignition shall be corrected no later than 180 days after discovery.~~

~~(c) all other violations requiring correction under Section 2 of 860-024-0012 shall be corrected no later than consistent with OAR 860-024-0012.~~

~~(7) If an Operator of electric facilities discovers foreign-owned reject pole or a violation that correlates to a heightened wildfire risk, notice shall be provided to the pole owner or equipment owner. 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 may repair the equipment or replace the pole and seek reimbursement of all costs and expenses related to correction or replacement of the reject pole or equipment 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.~~