

VIA ELECTRONIC FILING

November 19, 2021

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

Re: Docket AR 638 – Risk-Based Wildfire Protection Plans

Dear Filing Center:

Idaho Power Company (“Idaho Power” or “Company”) is grateful for the opportunity to submit comments in the Public Utility Commission of Oregon’s (“OPUC” or “Commission”) Docket AR 638 – the Phase II effort to develop permanent wildfire mitigation rules. The Company thanks OPUC Staff (“Staff”) for its ongoing effort and commitment to establishing thoughtful and effective wildfire rules.

Idaho Power offers comment on the two sections of the Oregon Administrative Rules (“OAR”) through which Staff proposes to codify permanent wildfire rules: (1) Division 24 – OPUC Safety Standards and (2) Division 300 – a newly created division dedicated to rules for utility wildfire mitigation plans.

Given the need to make progress in this rulemaking effort, Idaho Power’s comments focus on draft language that, in the Company’s assessment, requires the most immediate attention. Below, the Company provides background on this case, as well as general framing of Staff’s proposed rules, and, finally, offers specific recommendations on Division 24 and Division 300 rule sections and sub-sections.

BACKGROUND

The Commission opened Docket AR 638 in August 2020 to begin an informal rulemaking process related to mitigating wildfire-related risks to utilities, utility customers, and the public.¹ Following the 2020 wildfire season, including the Labor Day fires, Staff recommended a two-track approach for the docket. Staff’s proposal included establishing temporary wildfire rules

¹ Order No. 21-167 at 1-2.

for the 2021 fire season (effective as of May 28, 2021, and expiring on Nov. 23, 2021) and a secondary track to establish permanent rules effective for the 2022 fire season.

In June 2021, Staff identified six topics for further discussion in the permanent rulemaking effort—wildfire risk analysis, Public Safety Power Shutoffs (“PSPS”), community engagement, vegetation management, system hardening and operations, and cost analysis. Monthly workshops were established for most of these topics to gather feedback in support of adopting permanent rules for Spring 2022.

As Staff’s workshops commenced, the Oregon legislature passed the Senate Bill 762 (“SB 762”) wildfire bill, which was signed into law by Governor Brown on July 19, 2021. It requires that utilities file inaugural plans for the 2022 fire season no later than December 31, 2021.²

In response to the passage of SB 762, Staff halted the permanent wildfire rulemaking workshops and established the AR 648 docket to develop interim permanent rules adhering to the requirements and timing of the new law. On September 15, 2021, the OPUC adopted Staff’s recommendation to open a rulemaking in AR 648, thereby commencing the formal rulemaking process in that effort.

Staff is using this docket to develop permanent rules to replace the interim rules established in AR 648. In response to a request filed by the Oregon Joint Use Association to extend the comment deadline in this proceeding, Staff issued a revised schedule on October 13, 2021. The revised schedule is as follows:

- November 19: Informal written comments on draft rules
- January 6, 2022: Staff report for public meeting proposing final draft rules
- January 11, 2022: OPUC public meeting to move to a formal rulemaking
- Q2 2022: Target date for adoption of rules

IDAHO POWER’S APPROACH TO COMMENTS

Idaho Power’s comments are rooted in the Company’s understanding of SB 762’s legislative intent. As stated in the bill, utility wildfire mitigation plans “must be based on reasonable and prudent practices...and design[ed]...in a manner that seeks to protect public safety, reduce risk to utility customers and promote electrical system resilience to wildfire damage.”³

Idaho Power has evaluated Staff’s proposed draft rules in light of this legislative language. Proposed rules that fall outside the realm of wildfire mitigation are, in the Company’s estimation, beyond the scope of the bill’s intent. As a result, Idaho Power suggests that the

² SB 762, Section 5.

³ SB 762, Section 3: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB762/Enrolled>

Commission pursue separate rulemakings to achieve desired objectives on issues that are not directly related to wildfire mitigation.

Staff's proposed joint use-related rules are the most notable example of scope extending beyond wildfire mitigation. Idaho Power appreciates Staff's perspective that joint use issues have long been overlooked. However, the proposed language targets broad safety and compliance concerns, not wildfire mitigation-specific issues. Importantly, joint use cables and equipment are not energized, separating any safety concerns from the focus of this rulemaking. As such, the Company suggests that broad joint use safety issues would be best addressed in a separate proceeding specifically noticed to joint use participants so as not to detract from expeditious conclusion of this rulemaking.

More broadly, the Company's circumscribed approach to evaluating the draft rules is also due to cost considerations. In this case, as in all regulated matters, choices must always be made, and customers should not be asked to pay for wildfire-related efforts that are not prudent from a wildfire mitigation perspective.

To this end, Idaho Power seeks additional clarity from the Commission with respect to cost recovery of incremental wildfire-related expenses and investment. Idaho Power believes the rule language would be enhanced by adding specific direction on how each utility might go about cost recovery of incremental wildfire investment—whether through a new rate schedule or another mechanism.

DIVISION 24 COMMENTS & RECOMMENDATIONS

For Division 24, Idaho Power provides commentary, seeks clarity, and, in some cases, offers recommendations on draft language the Company considers the most in need of review.

860-024-0005 - Maps and Records

- **Staff's Proposed Language:** (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.
 - **Idaho Power's Response:** To avoid multiple filings and align wildfire-related efforts, Idaho Power suggests that the High Fire Risk Zone maps be provided as part of a utility's annual wildfire mitigation plan, rather than on April 1 each year. Additionally, the Company proposes striking "in a form satisfactory to the Safety Staff." For optimal and flexible outcomes, map development should not be prescribed by a single party, but able to shift based on utility consultations with public safety partners and forest and land managers, lessons learned from events, and evolution of software and technology.

860-024-0016 - Minimum Vegetation Clearance Requirements

- **Staff’s Proposed Language:** (5) Under reasonably anticipated operational conditions, including adverse weather and wind conditions, an Operator of electric supply facilities must maintain the following minimum clearances of vegetation from conductors...
 - **Idaho Power’s Response:** The language referring to “adverse weather and wind conditions” stems from another part of Division 24. But there is a notable difference: 860-024-0016 (7)(e) states “...under adverse weather or *routine* wind conditions” (emphasis added). Idaho Power suggests that Staff’s proposed language exactly match the existing language.

860-024-0018 - High Fire Risk Zone Safety Standards

- **Staff’s Proposed Language:** (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.
 - **Idaho Power’s Response:** The Company seeks clarity on the intent of this language and would request defined terms to better understand what is required of utilities.
- **Staff’s Proposed Language:** (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.
 - **Idaho Power’s Response:** Enhanced inspections of certain utility facilities can be an effective wildfire mitigation tool. However, Staff’s proposed language to include “all facilities” extends inspection procedures beyond the scope of wildfire mitigation. It is important that Idaho Power be given the discretion to focus enhancements to its already robust inspection practices on areas of increased wildfire risk. Thus, as not to detract from the specific wildfire mitigation goal at hand, Idaho Power requests facilities without adjacent vegetation or absent ignitable material not be included in this broader inspection requirement.
- **Staff’s Proposed Language:** 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.

- **Idaho Power’s Response:** While Idaho Power does not oppose conducting annual fire safety patrols in High Fire Risk Zones, the Company seeks clarity on several parts of this proposed rule subsection. Specifically, the Company is unclear about what utilities would be required to provide in terms of “accessible facilities” with respect to “right of way access for first responders.” Similarly, Idaho Power is unclear about the “communication facilities” to which Staff is referring, as this portion of rule language refers to electric utilities. Finally, the Company recommends removing “in person” as an inspection requirement. Idaho Power is contemplating greater use of drones to patrol the more rural aspects of its service area and wants to ensure its ability to fully utilize advanced technology while remaining compliant with the wildfire rules. Drones and other future technological advancements may make in-person assessments unnecessary in certain instances and, the Company requests it be given more flexibility to remain current in its use of such technology to conduct required inspections. Idaho Power also believes the shelf-life of this particular rule will be significantly longer if utilities are provided the flexibility to keep pace with technology that could dramatically impact the ability to enhance inspection processes.
- **Staff’s Proposed Language:** (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.
 - **Idaho Power’s Response:** Staff’s proposed joint use language extends beyond wildfire mitigation objectives. As written, it suggests that joint inspections should take place to “identify violations of Commission Safety Rules” first and “mitigate wildfire risk” second. Idaho Power, as stated earlier, suggests that a separate rulemaking would be appropriate for broader joint use issues, especially in light of the anticipated involvement by joint users.

DIVISION 300 COMMENTS & RECOMMENDATIONS

For Division 300, Idaho Power provides commentary, seeks clarity, and, in some cases, offers recommendations on draft language the Company considers the most in need of review.

860-300-0003 - Public Utility Wildfire Mitigation Plan Filing Requirements

- **Staff’s Proposed Language:** (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.
 - **Idaho Power’s Response:** Considering that these permanent rules will not be adopted before the second quarter of 2022, the proposed date is likely an artifact of the interim rules. Rather than specify a particular year, Idaho Power suggests striking the first sentence and revising the language of the second to refer to December 31st of each year.

860-300-0004 – Risk Analysis

- **Staff’s Proposed Language:** (1) The Public Utility must include in its Wildfire Mitigation Plan risk analysis that describes wildfire risk within the Public Utility’s service territory and outside the service territory of the Public Utility but within the Public Utility’s right of way for generation and transmission assets. The risk analysis must include, at a minimum: (a) Defined categories of overall wildfire risk and an adequate discussion of how the Public Utility categorizes wildfire risk. Categories of risk must include, at a minimum:...(C) Risks to residential areas served by the Public Utility.
 - **Idaho Power’s Response:** The Company seeks clarity from Staff on what it envisions utilities will report with respect to “risks to residential areas.” Analysis of residential risk is inherent in but not distinct from, for example, commercial risk in the Public Utility’s service area risk analysis. Idaho Power requests this “minimum requirement” is stricken based on the Public Utility already performing a more comprehensive and realistic risk analysis than that required by the proposed language.

860-300-0005 - Wildfire Mitigation Plan Engagement Strategies

- **Staff’s Proposed Language:** (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
 - (e) Education and preparedness media platforms to inform the public
 - (f) Frequency of preparedness and outreach to inform the public.

- **Idaho Power’s Response:** The Company seeks clarity on requirements (c), (e), and (f). Idaho Power is unclear of Staff’s intent with respect to “emergency kits/plans/checklists” and whether utilities will be required to provide physical emergency kits to customers or rather direct customers to where they might find such resources. With respect to (e), Idaho Power does not understand what Staff envisions by an “education and preparedness media platform.” For (f), the Company would appreciate having a better understanding of “frequency of preparedness” and whether this is in reference to the frequency of plan updates or some other kind of preparedness.
- **Staff’s Proposed Language:** (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.
 - **Idaho Power’s Response:** The Company embraces both education and awareness efforts with respect to customers. While it is possible to report on efforts to reach customers, the Company cannot reasonably measure whether the information has been effective from a customer’s perspective. Idaho Power also questions the use of the word “equitably” here—in a targeted education effort, certain high-risk wildfire areas would rightfully receive more information than lower-risk wildfire areas of the Company’s service area. Given the significant effort involved in developing “metrics used to track and report on” wildfire education, the Company suggests great discussion of this requirement and whether metrics and tracking of customer education are meaningful ways to mitigate wildfire risk.

860-300-0007 - Ongoing Informational Requirements for Public Safety Power Shutoffs

- **Staff’s Proposed Language:** (4) The Public Utility will work to provide real-time geographic information pertaining to PSPS outages compatible with Public Safety Partner GIS platforms.
 - **Idaho Power Response:** The Company seeks clarity on the definition of “real-time” in this context, and whether the expectation is for instantaneous updates that convert to mapped information. Additionally, Idaho Power can certainly provide information in a standard form but cannot guarantee that it will be available in a format compatible with different platforms or software used by different Public Safety Partners.

860-300-0009 – Cost Recovery

- **Staff’s Proposed Language:** 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.
 - **Idaho Power’s Response:** As noted earlier, the Company requests additional clarity from Staff and the Commission with respect to streamlined cost recovery.

CONCLUSION

In summary, the Company believes that the primary objective of this rulemaking effort, as directed by SB 762, is for utilities to develop wildfire plans that cost-effectively and efficiently mitigate wildfire risk. The Company assessed Staff’s proposed rules in Division 24 and the newly developed Division 300 and offered comment based on the ability of a rule to support or advance wildfire mitigation efforts in a cost-effective manner.

Idaho Power would like to thank Staff for its ongoing commitment to the wildfire rulemaking effort. The Company looks forward to further discussion and clarification of the proposed permanent rules in advance of heading to a formal rulemaking process.

Respectfully Submitted,

/s/ Alison Williams

Alison Williams
Regulatory Policy & Strategy Advisor
Idaho Power

/s/ Doug Dockter

Doug Dockter
Transmission & Distribution Engineering & Reliability Senior Manager
Idaho Power

cc: OPUC Filing Center