

Before the
OREGON PUBLIC UTILITY COMMISSION

In the Matter of Rulemaking for Risk-Based)
Wildfire Protection Plans and Planned) Docket No. AR 638
Activities Consistent with Executive Order)
20-04.)

COMMENTS OF CTIA ON REVISED PSPS RULES

CTIA respectfully submits the following comments in response to the Oregon Public Utility Commission’s (“Commission’s”) February 15, 2022 Ruling (“Ruling”) in the above-captioned proceeding seeking comment on the proposed rules associated with Public Safety Power Shutoff (“PSPS”) events (“Proposed PSPS Rules”).¹

CTIA supports the Commission’s decision to bifurcate this proceeding in order to address and adopt the Proposed PSPS Rules before dealing with the remainder of its proposed rules to address wildfire resiliency and preparation. As noted by CTIA throughout this proceeding, timely advance notification of PSPS events from utilities to communications providers, including wireless carriers, is crucial to mitigate, as much as possible, the impact on consumers and others (including public safety entities) who rely on their networks.² Given that stakeholders have expressed less unanimity on the approach that the Commission should take regarding other sections of the proposed wildfire rules, such as the rules regarding infrastructure inspections, the decision to deal with the PSPS communication rules separately will provide immediate benefits as those rules can go into effect prior to the 2022 wildfire season in Oregon.

¹ The Proposed PSPS Rules are OAR 860-300-0006 through -0008. (Ruling at 1). The most recently issued version of the Proposed PSPS Rules was contained in the Staff Report issued January 11, 2022; CTIA comments on that version herein.

² See, e.g., Comments of CTIA, Docket No. AR 638 (May 3, 2021) at 1-3; Further Comments of CTIA, Docket No. AR 638 (November 19, 2021) at 1-2.

Staff has made significant progress throughout this proceeding in refining and improving the notification requirements. The Proposed PSPS Rules largely reflect an intent, both on the part of Staff and other stakeholders, that communications providers receive timely advance notice of PSPS events. Accordingly, CTIA offers minor changes to the Proposed PSPS Rules aimed at eliminating any confusion within the rules.

In particular, the Proposed PSPS Rules define “Utility-identified critical facilities” without an accompanying requirement for utilities to identify any critical facilities. This is likely an artifact of previous drafts of the rules, which relied on a more hands-off approach to notifications. CTIA has previously identified the potential problems this inconsistency could create in a worst-case scenario where no such facilities are identified.³ While the addition of the language specifically identifying telecommunications infrastructure as “Critical Facilities” removes any confusion over whether telecommunications providers, such as wireless providers, are intended to receive advance notice of PSPS events, as currently written the Proposed PSPS Rules do not actually have a separate definition for “Critical Facilities.” CTIA’s proposed edits address these issues by replacing the definition “Utility-identified critical facilities” with a definition of “Critical Facilities”, and by including a corresponding obligation for utilities to identify such Critical Facilities within their service territories so telecommunications providers can be notified appropriately.

CTIA also recommends two changes to the definition of “Critical Facilities” in proposed section 860-300-0002 to make it consistent with existing Oregon statute. First, CTIA recommends that the Commission mirror the existing Oregon statute for “critical infrastructure,” which is based off the federal definition, so as to prevent confusion by keeping the existing

³ See Further Comments of CTIA at 2-3.

definition consistent for utilities as they identify Critical Facilities within their service territories.⁴ Additionally, CTIA recommends a sentence clarifying that, for purposes of this division, facilities of cellular, wireless, and other radio common carrier services are to be considered telecommunications facilities and therefore Critical Facilities. This is to prevent any confusion or inconsistency with the existing definition of “telecommunications service” as applied to the Commission’s general authority, which explicitly excludes such services.⁵

The remaining Proposed PSPS Rules contain some duplications, inconsistencies and references to terms not formally defined. CTIA’s proposed edits streamline and clarify that language, making it consistent with the approach outlined above. In particular, references to “utility-identified critical facilities” are replaced throughout with references to “operators of Critical Facilities” within a utility’s service territory throughout. Also, the proposed section regarding PSPS communications standards for public safety partners and operators of utility-identified Critical Facilities that contained largely duplicative requirements, but contained some conflicts and inconsistencies (for example, using “Geographic Information System shapefiles” in one instance but “Geographic Information Files” in another), has been consolidated.

CTIA has attached a redlined version of the Proposed PSPS Rules reflecting the suggested revisions discussed herein. Again, CTIA emphasizes that these redlines are intended to maintain the Commission’s intent for timely advance notification of PSPS events from utilities to communications providers, including wireless carriers. CTIA encourages the Commission to adopt promptly the Proposed PSPS Rules with these recommended clarifying edits.

⁴ See ORS 276A.500(1); *see also* 42 U.S.C. §5195c(e).

⁵ See ORS 759.005(8)(a). The term “cellular, wireless, and other radio common carrier services” is used in consistency with other statutes that provide for this exception to Oregon’s general definition of telecommunications services. *See, e.g.*, ORS 860-033-0005(7) (defining “Eligible Telecommunications Carrier” to include “a provider of telecommunications service, including a cellular, wireless, or other radio common carrier [...]”).

Respectfully submitted,

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ATTACHMENT A
CTIA SUGGESTED CHANGES TO PROPOSED PSPS RULES

860-300-0002

Definitions for this Division

(1) “Critical Facilities” refer to infrastructure so vital to Oregon or the United States that the incapacity or destruction of the infrastructure would detrimentally affect the personal and economic security, health, or safety of residents of Oregon. Telecommunications facilities and infrastructure, including, for purposes of this division, the facilities of cellular, wireless, and other radio common carrier services, are to be considered Critical Facilities.

~~(4)~~ (2) “ESF-12” refers to Emergency Support Function-12 and indicates the Commission’s role in supporting the State Office of Emergency Management for energy utilities issues during an emergency.

~~(2)~~ (3) “Local Community” means any community of people living, or having rights or interests, in a distinct geographical area.

~~(3)~~ (4) “Local Emergency Management” means city, county, and tribal emergency management entities.

~~(4)~~ (5) “Near-term Wildfire Risk” means elements of wildfire risk that are expected to fluctuate on a daily or weekly basis. Examples include temperature, humidity, and wind.

~~(5)~~ (6) “Public Utility” has the meaning given to an “electric company” in ORS 757.600.

~~(6)~~ (7) “Public Safety Partners” means ESF-12, Local Emergency Management, and Oregon Department of Human Services (ODHS).

~~(7)~~ (8) “Public Safety Power Shutoff” or “PSPS” means a proactive de-energization of a portion of a Public Utility’s electrical network, based on the forecasting of and measurement of extreme wildfire weather conditions.

~~(8)~~ (9) “Tabletop Exercise” means an activity in which key personnel, assigned emergency management roles and responsibilities, are gathered to discuss, in a non-threatening environment, various simulated emergency situations.

~~(9) “Utility-identified Critical Facilities” refers to the facilities the Public Utility identifies that, because of their function or importance, have the potential to threaten life safety or disrupt essential socioeconomic activities if their services are interrupted. Telecommunication facilities and infrastructure are to be considered Critical Facilities.~~

(10) “Wildfire Mitigation Plan” is the same as a “wildfire protection plan” and refers to the document filed with the Commission relating to an electric utility’s risk-based plan designed to protect public safety, reduce the risk of utility facilities causing wildfires, reduce risk to utility customers, and promote electric system resilience to wildfire damage.

860-300-0003

Public Utility Wildfire Mitigation Plan Filing Requirements

(1) ... (e) Identified protocol for the de-energization of power lines and adjusting of power system operations to mitigate wildfires, promote the safety of the public and first responders and preserve health and communication infrastructure, including a PSPS communication strategy consistent with OAR 860-300-0005 through 860-300-0006 ~~and identification of operators of Critical Facilities within its service territory.~~

860-300-0006

Communications Requirements Prior, During, and After a Public Safety Power Shutoff

(1) When a Public Utility determines that a PSPS is likely to occur, it must deliver notification of the PSPS to its Public Safety Partners, operators of utility-identified ~~critical facilities~~ **Critical Facilities within its service territory**, and adjacent local Public Safety Partners.

(a) To the extent practicable, the Public Utility must provide priority notification directly to Public Safety Partners, operators of ~~utility-identified critical facilities~~ **Critical Facilities**, and adjacent local Public Safety Partners.

(b) In notifying Public Safety Partners and ~~operators of utility-identified critical facilities~~ **Critical Facilities** of PSPS events, including adjacent local Public Safety Partners, ~~the utility~~ **Public Utility** will communicate the following information, at a minimum:

(A) The PSPS zone, which would include Geographic Information System shapefile(s) depicting current boundaries of the area subject to de-energization;

(B) Date and time PSPS will be executed;

(C) Estimated duration of PSPS;

(D) Number of customers impacted by PSPS;

~~(E) When feasible, the Public Utility will support Local Emergency Management efforts to send out emergency alerts;~~

~~(F)~~ (E) At a minimum, status updates at 24-hour intervals until service has been restored;

~~(G)~~ (F) Notice of when re-energization begins and when re-energization is complete;

~~(H)~~ (c) Information provided under this rule does not preclude the Public Utility from providing additional information about execution of the PSPS to its Public Safety Partners ~~or operators of Critical Facilities.~~

~~(e) In notifying utility-identified critical facilities, the Public Utility will communicate the following information, at a minimum:~~

~~(A) Date and time PSPS will be executed;~~

~~(B) Estimated duration of PSPS;~~

~~(C) At a minimum, status updates at 24-hour intervals until service has been restored;~~

~~(D) Notice of when re-energization begins and when re-energization is complete.~~

~~(E) In addition to the above requirements, utilities will also provide Geographical Information Files with as much specificity as possible to Operators of telecommunication facilities in the area of the anticipated PSPS;~~

(d) ESF-12 will notify Oregon Emergency Response System (OERS) partners and Local Emergency Management in coordination with Oregon's Office of Emergency Management.

~~(e) When feasible, the Public Utility will support Local Emergency Management efforts to send out emergency alerts.~~

... (3) To the extent possible, the Public Utility will adhere to the following minimum notification prioritization and timeline in advance of a PSPS:

(a) 48-72 hours in advance of anticipated de-energization, priority notification to Public Safety Partners, operators of ~~utility-identified critical facilities~~ **Critical Facilities within its service territory**, and adjacent local Public Safety Partners;

(b) 24-48 hours in advance of anticipated de-energization, when safe: secondary notification to all other affected customers and other populations;

(c) 1-4 hours in advance of anticipated de-energization, if possible: notification to all affected customers and other populations.

(4) The Public Utility's communications required under this rule do not replace emergency alerts initiated by local emergency response.

(5) Nothing in this rule prohibits the Public Utility from providing additional information about execution of the PSPS to Public Safety Partners, **operators of utility-identified critical facilities** **Critical Facilities**, or customers.