



“The Power of Community”

November 19, 2021

Oregon Public Utilities Commission
Attention: Filing Center
P.O. Box 1088
Salem, OR 97301

Via Electronic Filing

RE: Docket AR 638/648 Draft Wildfire Prevention and Mitigation Rulemakings

The Oregon Rural Electric Cooperative Association (ORECA) appreciates the opportunity to submit comments concerning the Oregon Public Utilities Commission’s (OPUC) draft rules for AR638 and AR648. While ORECA received some clarity in the two workshops OPUC staff held on the draft rules, we still have substantial concerns about the draft rules and offer the following comments on behalf of ORECA’s members.

OAR 860-024-0001(4)

ORECA believes the definition of “High Risk Fire Zones” is so open ended that it conflicts with the language adopted into law by the Oregon State Legislature (SB 762). The law states that “The Oregon Wildfire Risk Explorer must be the official wildfire planning and risk classification mapping tool for the State of Oregon.” As an agency of the State of Oregon, OPUC should specify that the Oregon Wildfire Risk Explorer should be the starting point for identifying high-risk fire zones. Adopting a definition that does not provide a minimum compliance criterion creates risks for utilities and for the public as well. ORECA recommends that OPUC align the language in this rulemaking to better reflect the laws that prompted the OPUC to undertake the rulemaking in the first place.

860-024-0001 (9)

ORECA recommends the deletion of the term “right of way.” Owners or operators typically do not own or control the “rights-of-way” as is suggested in the definition.

860-024-0011(B)

ORECA believes the addition of “pole test and treat programs” is unnecessary, as the rule also includes the phrase “practical tests of all facilities.”

860-024-0012(4)

Subsection 3 of OAR 860-024-0012 contains an exemption that provides important operational flexibility to electric utilities. Unfortunately, the draft rules terminate that exemption at the end of the year 2027. The exemption allows electric utilities to devise and take advantage of efficiencies and synergies in work processes and conduct lower priority safety remediation work while other work is being done. Removing this operational flexibility will negatively impact electric utilities by keeping line crews busy with relatively minor corrections at the expense of more important work, such as system hardening upgrades in areas of higher fire risk. The language in the exemption only allows utilities to defer corrections of a nature that do not pose a risk to life or property. It is not clear why the OPUC wants to revoke the exemption in the name of reducing fire risk because it does not apply to safety violations of a nature that could pose a fire risk. ORECA requests that the exemption rule (4) be deleted from the draft rules since it does not have a clear benefit but has easily foreseeable negative consequences.

860-024-0016 (a)

The addition of the definition for “Cycle Buster” is unnecessary. Under 860-024-0016(3) each operator of electric supply facilities must trim or remove vegetation to maintain clearances from electric supply conductors without any conditions.

860-024-0016(3)

ORECA believes that setting a minimum three-year trim cycle rate is unnecessary and unjustified. An operator has the obligation to trim or remove vegetation to maintain clearances. ORECA represents cooperatives in Oregon with vastly different climates, vegetation species, and vegetation growth rates. The draft rules do not account for these differences.

Dictating minimum trim cycles will unnecessarily increase costs with no benefit. There is already a shortage of qualified tree trimming resources, and this will only compound the issue. In order to waive the onerous three-year trim cycle requirement, OPUC staff have stated that they need documented evidence of a utility vegetation management plan. The scope of that documentation should be further defined and clarified. However, in light of the existing rules that make this requirement unnecessary, the potential impacts of this three-year cycle to cooperatives (without commensurate improvements in wildfire safety), and the lack of clarity around necessary documentation, ORECA recommends that the minimum trim cycle language be deleted from the draft rules.

860-024-0016(5)

ORECA believes that the addition of the language “including adverse weather and wind conditions” lacks clarity and only increases the potential liability issue for the operators.

860-024-0016(7)(f)

ORECA recommends this proposed rule be removed. Requiring trimming or removal outside the right-of-way is exceedingly difficult since operators do not have the legal authority to work outside of the right-of-way without permission. Does the OPUC have the legal authority to allow operators to comply with this requirement? Many private and public property owners, as well as government entities, do not allow for trimming or removal from their properties without strict requirements or an extensive time-consuming and expensive permitting process.

860-024-0018(3)(b)

ORECA believes that OPUC should consider other technologies such as drones and helicopters, thus broadening their language when requiring “detailed inspections via onsite climbing or high-powered spotting scope.” As noted in the workshops, operators should utilize resources and technologies necessary to meet their needs for detailed inspections on transmission systems.

860-024-0018(4)

ORECA believes that in-person fire safety patrols should not be mandated. Operators should be able to use methods and technologies that provide safe and cost-effective methods of patrol. Requiring inspection that includes “right of way access for first responders,” should be deleted. Compliance of this rule would be exceedingly difficult since operators do not know which first responders nor their requirements for access.

860-024-0018(6)

It would be very difficult if not impossible for Oregon’s electric cooperatives to compel joint pole users to conduct joint inspections of facilities as described in the draft rule. ORECA requests that the OPUC consider two options for editing this rule. The first edit would be to exchange the word “will” for the word “should.” This would emphasize that the “discretion” of the pole owner is truly discretionary.

The second edit would be to provide safe harbor language for utilities that make good faith efforts to schedule such inspections with joint pole users but are ignored or rebuffed. Either or both approaches would strongly encourage joint inspections without the threat of regulatory actions against electric utilities due to the indifference or inaction of joint users.

860-024-0018(7)

ORECA suggests staff should clarify this section so the pole owner is in violation of Commission Safety Rules when electric facilities are attached to a pole owned by another Operator.

860-030-0050(3)

ORECA suggests staff clarify the application of this rule to consumer-owned utilities and the specific reporting requirements. As it is written, it is unclear that any of these provisions pertain to consumer-owned utilities.

Thank you for the opportunity to file comments on the OPUC's draft rules. If you have any questions, please do not hesitate to contact Ted Case, ORECA Executive Director at tcase@oreca.org or at (503) 585-9988.

Respectfully,

/s/

Ted Case
Executive Director