



Oregon
Rural
Electric
Cooperative
Association



CONSUMERS
POWER INC.

March 21, 2022

Via Electronic Filing

Filing Center

Public Utility Commission of Oregon

201 High Street SE, Suite 100

P.O. Box 1088

Salem, OR 97301

RE: AR 638 Rulemaking Regarding Wildfire Mitigation.

The Oregon Rural Electric Cooperative Association (ORECA) and Consumers Power Incorporated (CPI) appreciate the opportunity to submit comments concerning the Public Utility Commission of Oregon's draft rules for AR638. ORECA and CPI offer the following feedback, including constructive suggestions, regarding the current draft rules related to AR638.

1. Restricted deferral circumstances in draft of OAR 860-024-0012(4)

The latest draft rules remove most safety violation remediation work deferrals covered in section 3 beginning in 2028. The deferrals allowed in draft section 4 are related to issues with government agencies around permitting or planned infrastructure construction. The deferrals allowed in draft section 4 are helpful, but CPI does not think that the deferral rules in OAR 860-024-0012 should be changed at all.

The current adopted rules require that any safety violation that "poses an imminent danger to life or property must be repaired, disconnected, or isolated by the Operator immediately after discovery." The rules allow deferrals for violations that "pose little or no foreseeable risk of danger to life or property...". Safety staff have taken the stance that deferrals allowed under the

current rules are being abused to the point where the allowance must be mostly revoked. The support for this stance is provided in Appendix D which includes pictures of dangerous infrastructure and a short background description of the issues related to the depicted danger. The pictures all illustrate self-evidently hazardous conditions which are properly covered by OAR 860-024-0012(1). Currently deferrals are only allowed when there is no real danger involved in the violation. It makes no sense to use violations of OAR 860-024-0012(1) to justify sunseting OAR 860-024-0012(3) and its parts. A violation of OAR 860-024-0012(1) will remain a violation of that part whether the deferral language is changed or not.

The deferrals allowed under OAR 860-024-0012(3) provide Operators with important operational flexibility that should not be unnecessarily deprecated. The real issue seems to be a shortfall in some utilities complying with OAR 860-024-0012(1). Sunseting most of part (3) and adding part (4) will have no foreseeable effect on those violators and will not impact safety in a meaningful way. CPI requests that OPUC staff keep the current rules as written and make greater use of their enforcement authority to compel compliance with OAR 860-024-0012(1). Following this course of action would have a greater immediate impact than the proposed changes while preserving important flexibility for compliant Operators.

2. Retention of “specific trim cycle” concept in draft OAR 860-024-0016(3) language

The narrative section of the AR 638 materials dated January 11, 2022, contain a passage on page 12 that states the following.

“Upon further reflection and discussion, Staff agrees with stakeholders’ comments on subsection (3) that dictating a default three-year trim cycle is not appropriate.”

Despite that language the newest draft rules finish subsection (3) with the following provision.

“, the Commission may require the Operator to implement an alternative vegetation management program and/or specific trim cycles.”

Currently the OPUC has easy to understand rules about vegetation clearance that are based on objective measurements. Either a tree is trimmed enough that it does not encroach, or it is not. These simple, performance-based rules allow Operators to easily tell if they are complying with the regulations. They also make it easy for OPUC staff to find violations with simple field inspections.

CPI and many other COU’s main arguments against the concept of a three-year trim cycle are that it was overly prescriptive, ignored vegetation growth variations statewide, and deprecated the existing rules concerning vegetation encroachment clearances. The current draft language would allow all those concerns to be selectively imposed on Operators by OPUC staff. The existing performance-based rules will always be better than an imposed trim cycle no matter the intervals prescribed. A one-year trim cycle that does not cut enough vegetation to maintain clearances is functionally no better than a three- or ten-year cycle that does the same thing. This is because the standards for encroachment distances are based on spatial and not temporal

concerns. Too close to the lines is too close no matter how long since the last trimming was done.

CPI urges staff to do away with the concept of prescribing any “*specific trim cycle*” and consider ways to make the current performance-based rules more effective. One major change that should be considered is the idea of widening the ROW significantly. Some utilities in California have already had positive experiences with fire prevention efforts and wider ROW. The benefit is that a much wider ROW allows a utility to trim dangerous trees that are currently out of bounds. Under current ROW widths, many dangerous trees are left untouched because property rights issues force utilities to ignore them. Consequently, a dangerous 150ft tall tree that is just outside of the ROW is allowed to pose a threat until it falls. A wider ROW would allow such trees to be proactively culled before their threat could manifest itself. During the 2021 fire season 71% of the system related fires experienced by CPI were attributable to trees that fell from outside the ROW. The benefits to Oregonians would extend well beyond fire season. In the snowstorm that occurred late last year, most of the damage to the CPI system was done by trees that fell from outside of the ROW. Consequently, widening the ROW would enhance safety and reliability year-round without adding additional requirements that provide no tangible safety benefit.

3. Change or clarification of language regarding “detailed inspections” in relation to “identify violations of Commission Safety Rules” in AHD Redline Draft OAR 860-024-0018(3)

The language in this section of the latest AHD Redline draft rules sent out on March 11th, 2020, would impose an incredible burden on electrical utilities of all types. The language implies that the same sort of in-depth inspection required on a ten-year cycle by OAR 860-024-0011(A) and (B) and their subparts would be required annually in High Fire Risk Zones. This implication is made clear by the language describing what the “detailed inspection” in this part is meant to accomplish. The current Redline draft states that the inspection is meant to “mitigate fire risk and identify violations of Commission Safety Rules”. The burden imposed by this language is due to the fact that there are many Commission Safety rules wherein violations pose absolutely no enhanced risk of wildfire ignition. The work done to identify every safety violation is extremely labor intensive and goes far beyond the labor required to identify issues that could or would ignite a wildfire.

Currently CPI conducts detailed inspections of roughly 36,000 power poles on the 10-year cycle required by OAR 860-024-0011. 30,000 of those poles are in areas that CPI has identified as high fire risk zones. Those 30,000 poles are inspected annually before fire season for issues that are specifically related to fire ignition risk. If the draft language were adopted as published, it would force CPI to conduct detailed inspections, and a test and treat program, on the 30,000 poles each year while the remaining 6,000 poles remained on a ten-year cycle. This change would force CPI to hire 14 additional personnel to conduct these annual detailed inspections. A conservative estimate of the incurred cost to CPI would be at least \$1.5 million the first year, with no apparent fire risk reduction benefit.

CPI believes that the language in Draft OAR 860-024-0018 High Fire Risk Zone Safety Standards should be focused on fire prevention. The Commission should not adopt rules into that section that impose significant burdens without any fire prevention benefits. Towards that end CPI

believes that the language in that section should be edited to focus on fire risk only. Therefore, CPI proposes that the Commission remove the words “detailed” from draft rule (3) line 2 and leave the word “inspection” by itself while also striking the words “and identify violations of Commission Safety Rules” from lines 4 and 5 of the same part.

4. First responder access to ROW in Draft OAR 860-024-0018(4)

Although it would be convenient for fire fighters to have vehicular access to all sections of ROW in Oregon, it is simply impossible. Providing a safe helicopter Landing Zone in all areas that are not accessible by vehicle is similarly impossible. Some of the problems with the concept are down to simple physics. There are many miles of lines that are on very steep hillsides that no vehicle could access, and no helicopter could land on. Other problems are related to property owner rights. Utilities do not own the ROW, or the land between it and nearby roads, and do not have the right to build transportation infrastructure across private, tribal, or government property without permission. Other issues have to do with conservation. For instance, in modern times a utility cannot easily build a road or a bridge through a wetland where a ROW was previously sited. Cost is certainly an issue as well, since the infrastructure needed to ensure access would cost Oregon ratepayers billions of dollars to build and maintain. Considering these insurmountable obstacles, the OPUC should simply encourage firefighter access as a best practice. This would emphasize that making it easier for the fire services to conduct a quick initial attack is important for stopping wildfires before they can grow. In this way the OPUC can help meet its goals for this rulemaking without imposing an impossible task on their regulated community.

Thank you for your attention to these issues. Both ORECA and CPI look forward to discussing these matters with Commission staff during the workshop on April 7th. Please feel free to reach out to us with any questions you may have regarding these comments. You can reach Ted Case with ORECA at tcase@oreca.org, Billy Terry with CPI at billyt@cpi.coop, and Jeffery Carlson with CPI at jeffc@cpi.coop.

Sincerely,

Ted Case

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&

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