

Public Utility Commission
Attn: Filing Center
P.O. Box 1088 Salem
OR 97308-1088

**RE: AR 653, Division 21 Rules to Strengthen Customer Protections
Concerning Disconnection
Energy Justice Advocates' Comments**

The Community Action Partnership of Oregon (CAPO), the NW Energy Coalition, Verde, Multnomah County Office of Sustainability, the Community Energy Project, Rogue Climate, Mid-Columbia Community Action, Climate Solutions, and Ecumenical Ministries of Oregon (the “Energy Justice Advocates”) submit these comments in response to the AR 653 Notice of Proposed Rulemaking issued on July 1, 2022, and the Memorandum that ALJ Sarah Spruce issued on July 8, 2022. These comments address issues identified during the July 21, 2022 Rulemaking Hearing. We appreciate this additional opportunity to comment on the proposed revisions to the Division 21 Rules.

We remain grateful to Staff for Proposed Rules that take significant steps towards reducing inequities around energy utility service disconnections, and to the Commissioners for expressing interest in further exploring various issues. Below, we offer recommendations on those issues and expand on the basis of our recommendations. In Section I, we discuss the proposed rule changes around utilities receiving cash at the door. Section II focuses on the temperature thresholds and overall approach to severe weather disconnection moratoria, while Section III addresses the disconnection notice period. We close by discussing the importance of including in the rules language around demographic data collection, and of the Commission addressing how utilities should notify customers about these new protections.

I. The Commission should require utilities to receive cash at the door or retain the 24-hour language in Staff’s proposal

If a customer has acquired the resources to pay their bill and keep their utilities on, reason and equity demand that the utility accepts the payment. Throughout this conversation, we have heard arguments alluding to these customers already having had multiple and sufficient opportunities to pay. However, if a customer is seeking to pay at the door, those opportunities have clearly not been sufficient.

Pooling the resources to cover a utility bill is not easy for people experiencing the likely multiple crises that lead someone to be at risk of disconnection. As we have discussed throughout this rulemaking and in UM 2114, due to racial and economic injustice, disconnections disproportionately impact those with low-incomes, customers from

Black, Indigenous, and other People of Color (BIPOC) communities, and other marginalized households. As a result, we reiterate that an important and equitable approach would be to amend OAR 860-021-0405(11) to require utilities to accept a customer's payment at their home when offered.

We appreciate Staff's proposed revision to OAR 860-021-405(11), which would give these customers a 24-hour window in an attempt to find a middle ground between Joint Advocates' and Joint Utilities' concerns. While preferable to the immediate disconnection of a customer willing to pay at the door, we worry that requiring a customer to take their payment elsewhere when the utility is right there adds an unnecessary burden on that customer. While additional 24 hours could be helpful for a customer,¹ we do not see how the burden on the utility to accept the payment outweighs the benefit of keeping a household's utilities on. A utility that accepts payment at the door avoids having to come to attempt another disconnection if the customer is unable to meet the 24-hour deadline. We do not support the Joint Utilities' request to strike the existing rule altogether, and if the choice is between keeping the rule as-is or incorporating Staff's proposed 24-hour amendment to the rule, we strongly encourage the Commission to adopt the latter.

A. Alternative payment options are not equitably accessible

Utility disconnection is one of many inequitable burdens experienced by marginalized residential customers. These comments are informed by the experience of Energy Justice Advocates and others that work directly with these communities and that have expressed that payment at the door will help vulnerable customers from getting disconnected, including customers living on a cash-based income and in rural areas, like migrant farmworker families. Access to payment centers may require travel that necessitates car or public transportation, effectively leaving those without vehicles or living in areas without dependable, if any, public transportation without an in-person payment opportunity. Seniors who cannot drive or who rely on caretakers to meet their needs, as well as customers with limited mobility, likely also have difficulty accessing payment centers.

Pacific Power serves as an example of the potential concerns around payment at the door and access to payment sites. According to their website, Pacific Power does not allow cash payments in some locations, and, unlike Oregon's other utilities,² customers

¹ Absent circumstances that would prevent that customer from paying in the 24-hour window and that we explore below, like mobility constraints, limited access to transportation, inability to take time off work, among others.

² Avista, *Ways to pay your Avista bill*, "In person", <https://www.myavista.com/your-account/ways-to-pay>; Portland General Electric, *Billing & Payment Options*, "Pay in person – no fee", <https://portlandgeneral.com/billing-payment-options>; NW Natural, *Find a Pay Station*,

are required to pay a fee at some pay stations. Payments can take up to a week to post to a customer's account, potentially meaning that some customers could be disconnected because their payment did not post on time.³ Additionally, some pay stations do not accept checks. Customers may live in communities with few, if any banks, making access to cash, money orders, or to check deposit options difficult, especially in a short window. Rural communities, like Lake County, may have only one bank. Indeed, our review of payment options in Pacific Power territory indicates that customers in Lake County would have to drive 82 miles to Dairy or 101 miles to Klamath Falls to make a payment at a payment center.⁴ And while our review focused on Pacific Power territory, they are not the only utility with customers far from payment centers. For example, Avista customers in Malin must drive over twenty miles to Klamath Falls.⁵ While the focus of this rulemaking is on the cash at the door rule, our exploration of this topic left us concerned about accessibility of payment options to customers with any barriers.

While the additional 24-hours or the existence of payment centers may work for most customers, others will fall through the cracks. An equitable system must seek to also consider the needs and circumstances of those experiencing the most burdens and barriers. An example is the single parent without reliable transportation, who works long hours and then comes home to care for her children and gets them to school the next morning. If anything goes wrong, she may struggle to pay her utility bill on time and to find the resources to avoid disconnection. To require her to get to a payment center within the next 24 hours may not be realistic. This is the reality of many Oregonians. Accepting payment at the door keeps her utilities on and eases her burdens.

B. Collecting cash at the door does not pose a significant burden to utilities

In Staff's Report recommending the Commission open this formal rulemaking, they stated that from August 1, 2021 to January 31, 2022, three utilities collected money at the door, for a total of \$462,511, including \$4,063 that was collected from 21 low-income residential customers.⁶ Those 21 customers were able to keep their utilities on from the simple act of accepting payment in person. Those 21 customers are exactly who HB 2475 aims to protect.

<https://www.nwnatural.com/pay-in-person>; Cascade Natural Gas, *Payment Locations*, <https://www.cngc.com/customer-service/payment-locations/>; NOTE: Idaho Power does not indicate whether there are fees to pay at in person locations: *Pay In Person*, <https://www.idahopower.com/accounts-service/make-payment/pay-in-person/>.

³ See results from a search for locations in Myrtle Creek, Pendleton, and Roseburg, for example, <https://www.pacificpower.net/my-account/payments/pay-in-person.html>.

⁴ <https://www.pacificpower.net/my-account/payments/pay-in-person.html>.

⁵ <https://www.myavista.com/pay-stations>.

⁶ AR 653, *Staff Report for the June 9, 2022, Public Meeting* at 28 (Jun. 2, 2022).

While the 24-hour window is a better alternative than immediate disconnection, accepting payment at the door is a sure fix to a very real barrier to utility service. This is an opportunity to prevent utility disconnection for customers who need the most help and who are ready to pay. It is one remedy to the inequities borne by those traditionally excluded from fair decision-making about their housing and essential services. HB 2475's purpose is to remedy those historical inequities by recognizing and mitigating their energy burden and we encourage the Commission to use that lens when evaluating this issue.

II. The Commission should adopt Staff's proposed OAR 860-021-0407(1) or adopt a threshold based on the number of hours at or below the freezing point

The Energy Justice Advocates recommend that the Commission adopt Staff's proposed OAR 860-021-0407(1) as it is a simple and health-protective approach that is common throughout the country. We sincerely appreciate the Joint Utilities' efforts to identify a compromise. However, and as we explain below, their proposal would leave many people at risk during inordinately cold days, not addressing the concerns that led us to focus on this issue in the first place. As a result, if the Commission opts not to adopt Staff's proposed language, we offer alternative language that would require moratoriums when the forecasted temperature will be 32 degrees Fahrenheit or less for four or more hours in a given day.

We encourage the Commission to center human health, equity, and science when making its decision on this issue, as this issue directly impacts human health and life. With that in mind, we point to our language in our July 15, 2022 comments, and to Multnomah County's April 19, 2022 comments⁷ as both explore the basis for the recommendations that we have offered in this proceeding on the topic of severe weather moratoria.

We encourage the Commission to also consider this issue, and its potential cost and ramifications, in the context of a holistic set of measures that we (this Commission, the utilities, and stakeholders) are taking to recognize the vitality of energy utility services and to reduce the risk of disconnection. This approach includes increased funding for energy assistance, programs pursuant to HB 2475 (2021), HB 3141 (2021), the Division 21 protections currently under discussion, and many other processes and programs across the energy utility sector locally and nationally. Despite our collective efforts to reduce the risk of disconnection, there may still be customers facing that risk during severe cold weather. While the cost to the utility associated with a reduced number of

⁷ Filed in UM 2114 and in AR 653 before the Notice of Rulemaking.

disconnections due to severe weather moratoriums will presumably be lower (because of increased energy assistance and weatherization funds, bill discounts, etc.), the cost and risks to a family disconnected during freezing temperatures remain the same.

A. The current severe cold weather approach is not protective of human health

The current language for OAR 860-021-0407(1) is not sufficiently protective of human life and health. We have offered as examples the weeks of December 27, 2021, and February 21, 2022 when Multnomah County temperatures fell well below 32 degrees, yet OAR 860-021-0407(1) was triggered in few, if any, of those days. Indeed, Strengthening OAR 860-021-0407(1) is vital because lack of access to energy utility service for heating can sicken or kill people and the current approach is simply not sufficiently protective.

The risks are not solely related to hypothermia and other direct health impacts of cold, but also to the risks that families may go through trying to heat their spaces without safe alternatives to do so.⁸ This issue is best regarded as one of public health. Oregon is no stranger to community members dying or being severely injured while trying to heat their homes due to having no power.⁹ This Commission can ensure that nobody experiences severe weather without access to utility service due to inability to pay, preserving health and potentially also life.

B. The Commission should adopt Staff's proposed OAR 860-021-0407(1) as it is a common, simple, reasonable, and protective approach to severe cold weather moratoria

We encourage the Commission to seriously consider Staff's proposed language as it is a simple and common approach across states with severe weather protections. Our Appendix A represents the Joint Energy Advocates effort to compile severe cold weather policies across the country. Thirteen states have protections either when the forecasted low temperature will be below 32 degrees or have winter moratoriums, and an additional eleven states have similarly strong protections for specific populations. These lists include states with a wide variety of climates, from generally milder, like

⁸ Jennifer Eskridge, *Colder temperatures, power outages increase risk of carbon monoxide poisoning*, OHS News (Nov. 3, 2021), <https://news.ohsu.edu/2021/11/03/colder-temperatures-power-outages-increase-risk-of-carbon-monoxide-poisoning>.

⁹ Matt Rawlings, *Person life-flighted from trailer park after carbon monoxide poisoning*, KOIN06 (Apr. 11, 2022), <https://www.koin.com/news/person-life-flighted-from-trailer-park-after-carbon-monoxide-poisoning/>; *4 dead from carbon monoxide poisoning over the weekend in Clackams County*, KGW8 (Feb. 16, 2021), <https://www.kgw.com/article/news/health/winter-storm-carbon-monoxide-poisoning-dead-oregon-clackam-as-county/283-eb96b293-ba4e-4f7f-8867-fd92903fcd27>.

Alabama and Georgia, to those known for colder winters, like Illinois and Colorado. Indeed, the current Staff proposal is not radical or unusual. Pragmatically, the current Staff proposal is a good compromise - it does not go as far as we would like to see, but at least it brings us in line with many other states.

Importantly, from a human health and life perspective the current Staff proposal already represents a compromise. First, a temperature-based approach does not consider the wind chill, a factor that will especially impact drafty and less well-insulated homes. Second, and as our July 15, 2022 comments¹⁰ point out, research on the health impacts of cold offers clear guidance:

A review of 20 papers and discussions with 40 experts suggest that houses should be kept at a minimum temperature of 65 degrees.¹¹ While hypothermia is unlikely at that temperature, there is a plethora of evidence that negative health consequences are possible below that threshold, especially among vulnerable populations (increased blood pressure, increased risk of cardiovascular disease, diminished resistance to respiratory diseases). Accordingly, the British National Health Service considers 65 degrees a good recommendation for public health purposes.¹² **Based on average differences between indoor and outdoor temperatures, a disconnection moratorium around 45-50 degrees would be reasonable to protect public health.**

During the Rulemaking Hearing, some Commissioners expressed interest in exploring the implications of Staff's proposed approach across the state. We also heard Joint Utilities' concerns about increasing the number of days when they would not get to disconnect for nonpayment, especially on days when the temperatures may not remain below or around 32 degrees. In response, we reviewed historical weather data across the state. Selecting four locations (Bend, La Grande, Portland, and Ashland), we focused on 2019, 2020, and 2021, looking for the following:

- Current: Number of days with a maximum temperature below 32 degrees to represent the days covered by the current rule
- Staff: Number of days with a minimum temperature at or below 32 to represent the days covered under Staff's proposed rule
- Utilities: Number of days with a minimum temperature at or below 35 to represent the Joint Utilities' proposal

¹⁰ Energy Justice Advocates Comments at 9-10 (Jul. 15, 2022).

¹¹ Rachel Jevons et al., *Minimum indoor temperature threshold recommendations for English homes in winter – A systematic review*, 136 *Public Health* 4 (2016).

¹² Public Health England and NHS England, *Cold Weather Plan for England - Making the Case: Why long-term strategic planning for cold weather is essential to health and wellbeing* at 6, 11-12, 27 (2017).

- Min/Max: Number of days with a minimum temperature at or below 32 degrees but a maximum temperature over 50 degrees. We added this column to address concerns about days when Staff’s proposal would require a moratorium on a day when temperatures will not remain below or around 32 degrees. Subtracting the “Min/Max” number from the “Staff” number, gives an indication of the days a moratorium is definitely necessary from our perspective. Note that this number is significantly larger than Utilities’ proposal.

Site/Year	2019				2020				2021			
	Current	Staff	Min/Max	Utilities	Current	Staff	Min/Max	Utilities	Current	Staff	Min/Max	Utilities
Portland	0	43	11	0	0	27	13	0	2	20	5	4
La Grande	16	145	49	22	0	120	26	5	19	137	42	10
Bend	20	152	66	31	3	119	55	6	6	140	50	12
Ashland	0	136	81	2	0	128	77	2	0	130	79	3

Table 1: Number of days when a severe cold weather moratorium would be triggered under different policy approaches^{13 14 15}

As Table 1 indicates, Staff’s proposal does significantly increase the number of days that call for a moratorium. This reality, however, does not point to a weakness with Staff’s proposal but to how lacking the current rule is. As we have consistently pointed out, the basis for a moratorium on disconnections is to protect human health. Temperatures below freezing put at risk the health of those in a home without energy utility service as a result of disconnection.

C. The Joint Utilities Proposal is not protective of human health

We sincerely appreciate the Joint Utilities’ efforts to identify a compromise proposal by identifying a forecasted high temperature below 35 degrees threshold for severe cold weather moratoria. However, this approach is simply not sufficiently protective of human health. As Table 1’s “Utilities” indicate, there is a high number of days when the forecasted high is 35 or above but minimum temperatures are low. The Joint Utilities’ proposal would not trigger a moratorium in those days and would therefore not be sufficiently protective of human health. For that reason, we strongly encourage the

¹³ This table does not consider weekend holiday moratoriums and seeks to look at the impact of various severe weather moratorium policies in isolation of other current policies. As a result, some of the days we identified as impacted/not impacted by the policy may already be covered by weekend/holiday moratorium policies.

¹⁴ This table does not include our proposal as we did not find historical hourly weather data that was available free of charge.

¹⁵ We relied on past weather data sets published by National Oceanic and Atmospheric Administration’s National Centers for Environmental Information for Ashland OR (USC00350304), La Grande (USC00354622), Portland International Airport (USW00024229), and Bend (USC00350694) available at <https://www.ncei.noaa.gov/access/past-weather/oregon..>

Commission to reject the Joint Utilities' proposal and evolve from the current approach to severe cold weather and its focus on a forecasted high temperature as it is not very protective of people experiencing harmful levels of cold weather while without the needed energy to heat their spaces.

D. If the Commission rejects Staff's proposed OAR 860-021-0407(1), we recommend that the Commission adopts a moratorium based on the number of hours when the forecasted temperature will be 32 degrees or below.

While we strongly recommend that the Commission adopt Staff's proposal, we offer an alternative in case the Commission decides not to. In order to address the concern that a moratorium may be triggered on a day when the temperature dips below 32 degrees, but the weather is forecasted to otherwise be above that threshold, we recommend that the trigger for a severe cold weather moratorium be based on the number of hours forecasted to be at or below 32 degrees. Specifically, we propose the following language:

Except as set forth in section (811) of this rule, an energy utility must put into effect a moratorium on the disconnection of residential service for nonpayment on any day a high temperature of less than 32 degrees Fahrenheit **for four hours or more** is forecasted by the applicable weather reporting service **or a winter storm warning indicating weather conditions pose a threat to life or property is issued by the applicable weather reporting service.**

Admittedly, this approach is slightly more complex than the status quo because, rather than looking at a minimum or a maximum temperature, it looks at the number of hours in the day when the temperature is forecasted to be at or below 32 degrees. However, if the Commission decides to reject Staff's more protective approach, we believe this small additional complexity is necessary. As one of the Energy Justice Advocates working in the energy assistance space stated in our group discussions, most homes and people can survive a brief period of cold, but prolonged cold will eventually overcome even the best insulation of extra layers of clothing.

This approach also better addresses the reality in areas of the state that see wide temperature ranges with, for example, very cold nights and warmer days. As one of the Energy Justice Advocates from Southern Oregon indicated in our group discussion, areas of Southern Oregon get very cold winter nights but sometimes the day is "nice and sunny with a coldish breeze." Under the status quo, or under the Joint Utilities proposal, people could get disconnected and would need to be without heating through

very cold nights, or would need to avail themselves of dangerous methods of heating their home.

E. The Commission should retain Staff's storm warning language in the proposed OAR 860-021-0407(1)

We strongly encourage the Commission to adopt Staff's proposed language in OAR 860-021-0407(1) requiring a moratorium on days when a "winter storm warning indicating weather conditions pose a threat to life or property is issued by the applicable weather reporting service." The Joint Utilities recommend removing this language as "a storm warning can often be brief or a nonevent and ask to keep the rule objective."¹⁶ However, winter storm warnings are not issued lightly and absolutely warrant a moratorium on disconnections.

The National Weather Service issues Winter Storm Warnings when "one of the following is likely to cause *life-threatening conditions*: heavy snow, wind, freezing rain/drizzle, sleet."¹⁷ The National Weather Service also issues warnings when "a hazardous winter weather event is occurring, is imminent, or has a very high probability of occurrence (generally greater than 80%)."¹⁸ As a result, we encourage the Commission to take an approach that errs on the side of protecting human life and human health when faced with a high likelihood and high-risk event. While the costs to the utility from not disconnecting on days with a winter storm warning are likely minimal, the risks to a family that highly likely has to face the winter storm without energy utility service can be severe.

F. The Commission should adopt moratoriums when severe weather is expected within the next 72 hours

At the Rulemaking Hearing, Commissioner Tawney expressed interest in understanding our focus on cold versus heat in this rulemaking. We agree that having rules that are protective in heat events is important and reiterate our suggestion that one way to make these rules better responsive to heat events is to consider 72-hour forecasts rather than same-day forecasts when making severe weather moratorium decisions, as we suggested in our previous comments. The current summer highlights what we have long known: that heat waves are likely to become more common. We have experienced

¹⁶ *Round 1 Joint Utility Comments* at 3 (Jul. 15, 2022).

¹⁷ *Weather Glossary*, National Weather Service's Pendleton, OR Weather Forecast Office, <https://www.weather.gov/pdt/glossary#:~:text=WINTER%20STORM%20WARNING%20%2D%20Issued%20when,extended%20out%20to%2024%20hours>.

¹⁸ *National Weather Service Expanded Winter Weather Terminology*, National Weather Service's Binghamton, NY Weather Forecast Office, <https://www.weather.gov/bgm/WinterTerms>.

several heat waves this summer that we could see in the forecast days in advance. Nobody should be disconnected due to inability to pay when we know severe weather is on the horizon.

For the reasons stated above, we recommend that the PUC adopts the following language as OAR 860-021-0407(3) and adjusts the remaining subsection numbers accordingly:

(3) Forecasted weather means a weather forecast issued 72 hours before the start of the day in question.

For consistency, the current OAR 860-021-0407(6) would need to be amended as follows:

(6) The energy utility must obtain the required forecast data no later than 72 hours before the start of the day in question.

III. The Commission should adopt Staff’s recommended extension to the notice period and extend the time between initial bill and disconnection

OAR 860-021-0405 - Number of days required for notice; add OAR 860-021-0405 - Due and Payable Period

A. The purpose of the draft rule extending the notice period is to grant customers additional time between the initial bill and a disconnection

At the Rulemaking Hearing on July 21, 2022, Commissioners expressed a desire to better understand the purpose of changing the 15-day to a 20-day disconnection notice. For example, Commissioner Thompson asked something to the effect of: is the purpose to extend the time between disconnection notice and disconnection OR is the purpose to extend the time between billing date and disconnection? The confusion seemed to arise, at least in part, from utility comments about needing to reduce the grace period to accommodate a longer notice window.¹⁹

The purpose of this rule change is quite clear: extending the time between initial bill and disconnection AND extending the time between disconnection notice and disconnection. All comments by Energy Justice Advocates have been based on this premise. This goal is also backed up by the Notice opening the informal rulemaking, which is cited again in the Notice to open the formal rulemaking: “More time to pay bills is needed as late

¹⁹ AR 653, *Formal Rulemaking Round 1 Comments of the Joint Utilities in Response to Recommended Changes to Division 21 of the Oregon Administrative Rules* at 2 (Jul. 15, 2022).

notices and disconnect notices were frequently received between the customer's pay periods.”²⁰ Stating farther below, “This change will add five days to the days from billing to disconnection.”²¹

During discussions in the COVID-19 Investigation (UM 2114), the Joint Advocates supported a longer window between bill due date and disconnection, asking for 45 days between disconnection notice and disconnection²², while utilities opposed it. At the time, those proposed changes were thought only for customers applying for energy assistance. Utilities argued that creating two different disconnection tracks was confusing and that they were already providing more than the statutorily mandated notice windows.²³ The UM 2114 Stipulation created a de-facto 45-day notice period by requiring customers to be informed 30 days before a 15-day disconnection notice pending the end of the disconnection moratorium.²⁴ Importantly, extending the time between bill and disconnection was also a recommendation supported by the focus groups that were facilitated by Brown Hope. Their report included community member experiences about not having enough time to line up resources before disconnections and needing more time to pay bills.²⁵ The report specifically recommended extending the time between notice and disconnection to 45 days.²⁶

B. Ensuring that additional time requires adding language to OAR 860-021-0405

As the discussion during the Rulemaking Hearing highlighted, the current draft rule does not fulfill this purpose. The utilities’ comments suggest that customers would likely see no increase in the time between billing and disconnection. We still support the current draft over no action, but propose the following additional action:

To comprehensively address the issue, we need to modify when bills are due and when disconnection can happen. We propose to do that by bringing the rules in line with current practice of the most lenient utilities. Currently, Pacific Power allows 54 days between billing and disconnection, Idaho Power allows 66. According to Oregon Administrative Rules, around 30 days are required depending on calendar specifics. Presumably, a timeline similar to Idaho Power’s can be implemented without confusing customers. This can be achieved by expanding the bill due date to 30 days, combined with the already proposed disconnection-notice extension from 15 to 20 days. Together, these changes would give customers 50 days from bill to disconnection. This timeline

²⁰ UM 2114, *Opening of Informal Phase of Rulemaking* at 6 (Dec. 16, 2021).

²¹ *Id.*

²² UM 2114, *Advocates Recommendations* at 4 (September 27, 2021).

²³ See UM 2114, *Comments by Avista, Idaho Power, NW Natural, Pacific Power* (Oct. 29, 2021).

²⁴ UM 2114, *Order No. 20-401* (Nov. 5, 2020).

²⁵ UM 2114, *Brown Hope’s OPUC Community Focus Group Feedback Report* at 5, 6, 9 (Dec. 13, 2021).

²⁶ *Id.*

would be less generous than Pacific Power's, Cascade's, and Idaho Power's, but more generous than Avista's, NW Natural's, and PGE's. This proposed compromise would allow the former to adjust their grace period to allow for more time between disconnection notice and disconnect, and would require the others to expand their overall timeline. More generally, our proposal turns the current voluntary grace periods into a rule. This is not an uncommon approach. For instance, Massachusetts requires at least 48 days between the initial bill and disconnection, while Vermont requires 40 days.²⁷

In summary, we recommend adopting Staff's proposal for OAR 860-021-0405 and adding the following modification to bill due dates.

860-021-0125 Due and Payable Period

(1) Each energy or large telecommunications utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment for final bills, to the due date is not less than **30 days**.

C. The costs associated with adjusting billing dates are a good, long-term investment

While there might be some costs associated with adjusting billing dates, this will be a good long-term investment. Furthermore, we believe that simply adjusting dates when bills and notices are sent out should be relatively simple and not require any system or database upgrades. Most comments submitted by utilities referred to high costs of maintaining different notice periods for low-income customers.²⁸ This is why Staff opted to make protections more generous for all customers.

IV. Demographics

OAR 860-021-0009 - Specifying that utilities have discretion to collect demographic data

We reiterate our comment to include a subsection about demographic data collection in the Final Rules.²⁹ During the public hearing on July 21, 2022, Commissioners voiced questions about whether this rulemaking included the authority to make this change. We submit that it does. This proceeding was opened to examine Division 21 rules as a whole, as indicated in the Staff report opening this docket.³⁰ Furthermore, as we

²⁷ 220 CMR 25.00: BILLING AND TERMINATION PROCEDURES OF THE DEPARTMENT OF PUBLIC UTILITIES; VERMONT ADMINISTRATIVE CODE CHAPTER 3300

²⁸ UM 2114, *Comments by Avista, Idaho Power, NW Natural, Pacific Power* (Oct. 29, 2021).

²⁹ AR 653, *Energy Justice Advocates Comments* at 3 (Jul. 15, 2022).

³⁰ AR 653, *Notice of Proposed Rulemaking* at 4 (Jun. 29, 2022).

explained in previous comments, allowing demographic data collection clearly furthers the purpose of this proceeding: we can only strengthen customer protections concerning disconnections if we have a clear understanding of who is most at-risk during disconnection and whether our policy solutions are actually protecting energy-burdened customers as intended.

During the informal phase of this rulemaking, Staff proposed including language that expressly gave utilities the discretion to collect demographic data, as section 4 of this rule:

(4) An energy utility may request that an applicant provide demographic information when applying for service, including race, ethnicity, age, and gender. A utility that collects such data must store the data in a manner that does not permit the identification of the applicant or customer with the collected demographic data. An energy utility shall not sell this data to affiliates or third-party entities.

Per ORS 183.335(2)(a)(B), a rulemaking notice must include “[a]n objective, simple and understandable statement summarizing the subject matter and purpose of the intended action in sufficient detail to inform a person that the person’s interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.” The Oregon Attorney General’s Office guidance states that the rules as proposed in the notice of rulemaking need not be identical to the adopted rules, if the notice was broad enough to cover the subject of the final rule.³¹

Although the proposed demographic data collection rule was not specifically listed in the Notice of Proposed Rulemaking, it may still be considered and included in the adopted rules. The rule is directly related to preventing disconnections to marginalized communities. Understanding and tracking this data is critical to understanding whether the remedies intended by these rules are achieving that goal. If they are not, the data can be beneficial to adopting more targeted strategies to better serve the most energy-burdened customers.

We ask that the rule language above be included in the Final Rules as we have found that utilities have sometimes been reluctant to collect demographic data citing expenses and various legal issues.³² Explicitly allowing the utilities to have the discretion of collecting that data should assuage these concerns. The rule language as proposed

³¹ Oregon Attorney General’s Administrative Law Manual and Uniform and Model Rules of Procedure Under the Administrative Procedures Act, p 28 (July 2019) [citing *Bassett v. Fish & Wildlife Comm.*, 27 Or App 639, 642, 556 P2d 1382 (1976)].

³² [UM 2114, Joint Advocates Comments on Staff’s Draft Changes to Division 21 Rules](#) at 9-10 (Mar. 7, 2022).

permits, not requires, the utilities to gather this data. Yet, it sends a strong signal that the Commission recognizes demographic information is important to understanding the efficacy of these customer protection efforts. Several utilities already have committed to or have been ordered to obtain demographic data as part of their low-income discount programs,³³ and some have already conducted low-income needs assessments that gather some of this demographic information, including through Oregon Housing and Community Services (OHCS) and other agencies.³⁴

Further explanation in support of returning the above language to the proposed rules can be found in our previous comments in AR 653 and UM 2114.

V. Notification of new protections

As these new protections roll out, customers must be informed of these changes and additions to be best protected. For instance, if a customer that has been disconnected due to non-payment is unaware that they can call their utility to be reconnected to power after a wildfire evacuation or during a severe weather event, then it is as if the protection was not in place and the work that has gone into this rulemaking would not have served its purpose.

We suggest the following approaches to maximize the likelihood that customers who most need these protections are aware of their existence:

- Adding a page or blog post on the utility's website that comprehensively explains Division 21 new customer protections and severe weather moratoriums, as well as contact information if the protection involves customers getting in touch with their relevant utility company. This post should be available in multiple languages.
- Sending a mailer out with a multilingual one-pager that outlines these protections in a simplified manner and that points customers to the location of this information on the utility's website. This can be sent along with another planned mailer or the utility bill, and should be sent as soon as possible after rules adoption.

³³ [ADV 1412, Initial Filing](#), PacifiCorp's Advice No. 22-008 Residential Low-Income Bill Discount, p 3 (June 16, 2022); [UE 403, Or. 22-116](#), PGE Advice No. 22-01 Income Qualified Bill Discount (Apr. 12, 2022); [ADV 1390, PUC Letter Approving Utility Filing](#), Northwest Natural Gas Company's Advice Filing No. 22-02, pp 18-19 (July 12, 2022); [UG 437, PUC Letter Approving Utility Filing](#), Cascade Natural Gas Corporation Advice No. 22-06-01 Arrearage Management Program, Staff Report, p 1 (July 26, 2022); [ADV 1410, PUC Letter Approving Utility Filing](#), Avista Corporation's Advice No. 22-03-G Low-Income Rate Assistance Program (LIRAP) Bill Discount, Staff Report, p 1 (July 26, 2022).

³⁴ [ADV 1409, Initial Filing](#), Cascade Natural Gas Corporation Advice No. 22-06-01, Arrearage Management Program and Energy Discount Proposal, p 1 (June 1, 2022); [ADV 1254, Initial Filing](#), Avista's Advice No. 21-02-G, Schedule 493 Low-Income Rate Assistance Program (LIRAP), p 2 (Mar. 29, 2021).

- Sending out a brief text message that includes the link to the website with the information.
- Adding text at the bottom of the customer’s utility bill stating there are new protections to check out on their website with the link.
- Informing community-based organizations, local governments, community action agencies, and other stakeholders of these changes and encouraging them to get the word out by providing the appropriate materials and talking points.

We encourage using a multi-method outreach approach, such as 2 or more of these methods above, to ensure customers are aware of these new protections. And we encourage all materials and communications to be multilingual and written in accessible language.

VI. Conclusion

We appreciate the work by Commission Staff, the Commission, utilities, and stakeholders to engage in this rulemaking at a pace that allows Division 21 Protections to be in place before October 1, 2022. We encourage the Commission to adopt our recommendations as they are informed by collective experience with issues of energy justice, including experience working directly with the populations most vulnerable to disconnection.

Respectfully submitted this August 22, 2022,

Benedikt Springer
Utility Policy Coordinator
Community Action Partnership of Oregon
T. 661.281.8139
E. Benedikt@caporegon.org

Marli Klass
Energy & Environmental Justice Policy Associate
NW Energy Coalition
E. marli@nwenergy.org

Oriana Magnera
Energy Climate and Transportation Manager
Verde
E. orianamagnera@verdenw.org

Jennifer Hill-Hart
Policy Manager
Oregon Citizens' Utility Board
E: jennifer@oregoncub.org

Silvia Tanner
Senior Energy Policy and Legal Analyst
Multnomah County Office of Sustainability
E: silvia.tanner@multco.us

Alma Pinto
Climate Justice Associate
Community Energy Project
E: alma@communityenergyproject.org

Alessandra de la Torre
Advocacy and Programs Director
Rogue Climate
E: alessandra@rogueclimate.org

Kasey Buckles
Household Utilities Program Manager
Mid-Columbia Community Action
E: kbuckles@mccac.com

Greer Ryan
Clean Buildings Policy Manager
Climate Solutions
E: greer.ryan@climatesolutions.org

Britt Conroy
Director of Public Policy
Ecumenical Ministries of Oregon (EMO)
E: bconroy@emoregon.org

Appendix A: Winter and Summer Moratoriums in all 50 states³⁵

*More generous winter rules than Oregon

**More generous winter rules than Oregon for some customers

State	Winter	Summer
Alabama*	<32 degree any time forecasted during calendar day	None
Alaska	None	None
Arizona	≤32 degree high temperature during calendar day	>95 degree high during day OR moratorium for summer months
Arkansas*	<32 degree forecasted any time during calendar day	>95 degree high during day
California*	<32 degree forecasted any time in 72h look-ahead period	>100 degrees forecasted in 72h look-ahead period
Colorado*	<32 degrees forecasted any time in 24h look-ahead period	>95 degrees forecasted in 24h look-ahead period
Connecticut**	Moratorium between 11/1 and 5/1 for low-income and other vulnerable customers	
Delaware*	<32 degrees at 8am	>105 degree Heat Index during calendar day
Florida	None	None
Georgia*	<32 degree forecasted any time during calendar day	> 98 degrees or 105 degrees Heat Index, Heat Advisory or Excessive Heat Warning in effect
Hawaii	None	None
Idaho	Winter Moratorium for	None

³⁵ Source: Administrative Rules of respective states.

	customer that agree to special Winter payment plan	
Illinois*	<32 degree forecasted any time during calendar day. Winter moratorium from December 1 - March 31 for heating customers	<95 degree forecasted during calendar day.
Indiana	Winter moratorium for people who applied for or received energy assistance	None
Iowa	≤20 degree forecasted during calendar day	None
Kansas*	<35 degree forecasted any time during calendar day	None
Kentucky	None	None
Louisiana	<32 degree high temperature during 24h	NWS Heat Warning Issues for the next two calendar days
Maine*	Winter Moratorium November 15 to April 15	None
Maryland*	≤32 degree forecasted any time in 72h look-ahead period during 11/1 and 3/31	>95 degrees forecasted in 72h look-ahead period
Massachusetts*	Winter Moratorium for heating customer November 15 and March 15	None
Michigan	Extreme weather, defined by utility. Winter moratorium for seniors and participants of winter protection plan	Extreme weather, defined by utility
Minnesota**	Winter Moratorium 10/1 - 4/30 for low-income customers and customer on cold weather plan	Excessive heat watch, heat advisory, or excessive heat warning has been issued by the NWS

Mississippi	NWS issues freeze warning. Winter moratorium for people on winter payment plan	NWS issues excessive heat warning
Missouri*	<32 degree forecasted any time during calendar day, only from November 1, March 31	>95 degree or Heat Index 105 forecasted during calendar day, only from June 1 to September 30
Montana**	Winter Moratorium from November 1 and April 1 for people below 100% FPL	None
Nebraska	None	None
Nevada	<15 degree forecast during 24h period	>105 degrees forecast during 24h period
New Hampshire	Winter Moratorium from November 15 to March 31 for balance less than \$450	None
New Jersey**	< 32 high temperature during 24h period. Winter Moratorium from November 15 to March 15 for certain low-income customers.	>90 degrees any time during 48h period.
New Mexico**	Winter Moratorium from November 15 to March 15 for certain low-income customers.	None
New York	Winter Moratorium between Christmas and New Years.	
North Carolina**	Winter Moratorium between November 1 and march 31 for certain low-income customers.	
North Dakota	None	None
Ohio**	Winter Moratorium from October 18 to April 15. Need to pay a maximum of	Special PIPP assistance during summer.

	\$175 for heating season, can be combined with PIPP	
Oklahoma	≤ 32 degrees high temperature, or <20 degrees low temperature	>101 degrees Heat Index
Oregon	<32 degree high temperature	NWS Heat Advisory
Pennsylvania**	Winter Moratorium from December 1 to March 31 for customers below 150% FPL	None
Rhode Island**	Winter Moratorium from November 1st to April 15th for certain low-income customers	NWS Heat Advisory or Excessive Heat Warning
South Carolina	None, only voluntary	None, only voluntary
South Dakota	Add additional 30 days to disconnection notice between November 1 and March 31	None
Tennessee	None	None
Texas	<32 degree high temperature over 24h plus the same was true for previous day	NWS heat advisory on any of the preceding two days
Utah**	Winter Moratorium from November 15 to March 15 for certain low-income customers	None
Vermont	>10 degrees any time during 48h period, more generous for seniors	None
Virginia	None	None
Washington**	Winter Moratorium from November 15 to March 15 for certain low-income	None

	customers	
West Virginia	None	None
Wisconsin*	Winter Moratorium from November 15 to March 15	NWS heat advisory, heat warning, or heat emergency
Wyoming	<32 degree high over the next 48h	None