

ITEM NO. RM1

PUBLIC UTILITY COMMISSION OF OREGON  
AHD REPORT  
PUBLIC MEETING DATE: May 30, 2017

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: May 23, 2017

TO: Public Utility Commission

FROM: Diane Davis *dbd*

THROUGH: Michael Grant, Patrick Power *mg* *pp*

SUBJECT: OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE  
HEARINGS DIVISION: (Docket No. AR 601) Adopts OAR 860-021-0407  
Regarding Severe Weather Moratorium on Service Disconnection.

**AHD RECOMMENDATION:**

Adopt the proposed permanent rule in the attached draft order.

**DISCUSSION:**

This rulemaking implements a mandatory severe weather moratorium on residential service disconnections for nonpayment during periods of extreme heat or cold.

A rulemaking hearing was held on April 5, 2017, and the comment period closed on April 14, 2017. Avista Corporation, dba Avista Utilities; Northwest Natural Gas Company, dba NW Natural; PacifiCorp, dba Pacific Power; Portland General Electric Company; Cascade Natural Gas Company, Idaho Power Company; the Oregon Citizens' Utility Board, and PUC Staff filed comments. The comments are discussed in the attached draft order (Attachment A).

**PROPOSED COMMISSION MOTION:**

Adopt permanent rule 860-021-0407 as set forth in Appendix A of the attached draft order.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 601

In the Matter of  
Rulemaking Regarding Severe Weather  
Moratorium on Service Disconnection.

ORDER

DISPOSITION: NEW RULES ADOPTED

**I. INTRODUCTION**

We opened this rulemaking at our July 5, 2016 Public Meeting following the Commission Staff's presentation of its report on low income issues. We directed Staff to open a permanent rulemaking requiring energy utilities to establish a mandatory severe weather moratorium.<sup>1</sup>

Staff held informal workshops with the energy utilities and other stakeholders to gather input to frame its proposed rule. These stakeholders included the Oregon Citizens' Utility Board (CUB) and the Community Action Partnership of Oregon.

On February 14, 2017, we filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact for this rulemaking with the Secretary of State, and we provided notice to all interested persons on the service lists established under OAR 860-001-0030(1)(b) and to legislators specified in ORS 183.335(1)(d). Notice of the rulemaking was published in the March 2017 *Oregon Bulletin*, setting a hearing date of April 5, 2017. The notice established a comment due date of April 14, 2017.

Prior to the rulemaking hearing, Avista Corporation, dba Avista Utilities; Northwest Natural Gas Company, dba NW Natural; PacifiCorp, dba Pacific Power; and Portland General Electric Company (PGE) filed comments in support of the proposed rule language as proposed. We held a rulemaking hearing on April 5, 2017. At the hearing, no member of the public volunteered comment on the proposed rule. Staff responded to the administrative law judge's questions about sections (1) and (8) of the proposed rule and about components of and implementation of a "winter protection program."

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<sup>1</sup> See Order No. 16-234 (July 6, 2017).

## II. SUMMARY OF PROPOSED RULES

Currently, each of the regulated energy utilities implements, on a voluntary basis, some form of a severe weather moratorium on disconnection of service for nonpayment of bills. The proposed rule would standardize the manner and means by which regulated energy utilities refrain from disconnecting residential service for nonpayment during periods of extreme heat and cold.

Section (1) of the proposed rule generally requires an energy utility to put into effect a moratorium on the disconnection of residential service for nonpayment on any day during which the high temperature is less than 32 degrees Fahrenheit. The temperature is based on the forecast by the applicable weather reporting service.

Section (2) effectuates the moratorium in the event of extreme hot weather. The moratorium goes into effect on any day a local Heat Advisory is issued by the applicable weather reporting service.

Sections (3), (4), (5), (6) and (7) prescribe procedures for implementing a moratorium.

Section (8) provides an exception to Section (1) for an energy utility that offers a winter protection program. If an energy utility offers a “winter protection program,” the threshold forecast high temperature for the moratorium is reduced to 25 degrees Fahrenheit. A winter protection program applies to households with children, senior citizens, or individuals with a condition of weakness or illness that affects the individual’s ability to maintain a state of health when exposed to extreme temperatures and is applicable from December through February.

## III. DISCUSSION

### A. Comments

We accepted written comments through April 14, 2017. As noted above, prior to the hearing, Avista Corporation, dba Avista Utilities; Northwest Natural Gas Company, dba NW Natural; PacifiCorp, dba Pacific Power; and Portland General Electric Company (PGE) filed comments, in support of the proposed rule language as proposed. Post-hearing written comments were received from PUC Staff, Cascade Natural Gas Company (CNGC), Idaho Power Company, and CUB. Comments focused on Section (8) providing a lower temperature threshold for energy utilities offering a “winter protection program.”

Idaho Power currently offers a “Cold Weather Program” that likely would qualify as a winter protection program under the proposed rules. Under the Cold Weather Program, residential customers will not be disconnected during the months of December through February if the customer declares that (1) they are unable to pay their bill in full and (2) their household includes children, elderly, or infirm persons. During the moratorium period, customers are not required to pay their electric bill, but they are encouraged to make payments.

Idaho Power supports the lower temperature of 25 degrees contained in section (8). The company notes that parts of its service area experience severe weather conditions where the forecast daily high temperature may not reach 32 degrees for weeks at a time. Thus, the 32 degree threshold could result in a mandatory moratorium for all Idaho Power residential customers in those areas during the entire winter.

Cascade does not offer a “winter protection program” and questions whether such programs effectively protect customers. Based on the experience of its affiliate, Intermountain Gas Company, who offers a winter protection plan in its Idaho service territory, Cascade believes that customers under the program are likely to accrue very high bills that may be difficult to pay and may lead to disconnection in early spring. Moreover, non-qualifying, paying customers will likely bear the burden of the poor payment practices and the spring spike in involuntary disconnections that will result from the rule. If offered, Cascade believes such programs should be limited to low income households and require either partial payments or the application of bill pay assistance.

In response, Staff notes that the term “winter protection program” as used in Section (8) is not defined in the proposed rules or elsewhere. Staff has no objection to adding a definition of the term for clarity, and proposes to add the following language to Section (8):

and “winter protection program” means a Commission-approved program that a utility may offer in addition to its payment plans, that provides protection from disconnection of residential service based on nonpayment during an extended period of time, which must include the winter months, to eligible customers who opt into the program.

## **B. Resolution**

We adopt Staff’s proposal to require that the winter protection program be Commission approved. With that condition, there is no need to further define the term “winter protection program.” We find that not specifying the definition of “winter protection program” in the rule is advantageous, because it allows each utility to design a plan that it believes best suits its own circumstances. To give each utility maximum flexibility, we modify Section (8) to provide only that **“The temperature threshold specified in section (1) of this rule does not apply if an energy utility offers a Commission-approved winter protection program.”** Each utility then can offer a winter protection program that suits its own service territory, or decide that no program is necessary and abide by Section (1).

We note that a winter protection program does not have to be uniform for a utility’s entire service territory and can be crafted to fit the climate conditions of different geographic areas. A utility may propose to limit participation only to households with children, senior citizens, or disabled occupants. A utility may propose to condition participation on eligibility for energy assistance and may propose to require partial payments, as discussed by Cascade. We do not intend to impose a uniform framework on all utilities.

We also share Staff's concern that enrollment by eligible customers is essential for the successful implementation of a winter protection program. The utility's method of communicating with its customers regarding any winter protection program will be addressed in the context of our review of a utility's proposed winter protection program.

Finally, we add language to the proposed rules to clarify that all temperature references are in Fahrenheit.

#### IV. ORDER

IT IS ORDERED that:

1. The new rule OAR 860-021-0407 is adopted as set forth in Appendix A to this order.
2. The new rule will be effective upon filing with the Secretary of State.

Made, entered, and effective \_\_\_\_\_.

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**Lisa Hardie**  
Chair

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**Stephen M. Bloom**  
Commissioner

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**Megan W. Decker**  
Commissioner

A person may petition the Public Utility Commission of Oregon for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

**860-021-0407**

**Severe Weather Moratorium on Involuntary Disconnection of Residential Electric or Gas Utility Service**

(1) Except as set forth in section (8) 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 is forecast by the applicable weather reporting service.

(2) An electric utility must put into effect a moratorium on the disconnection of residential service for nonpayment on any day a local Heat Advisory is issued by the applicable weather reporting service.

(3) Any moratorium activated as a result of section (1) or section (2) of this rule must remain in effect at least through the start of the next business day.

(4) An energy utility must base the need for a moratorium on data available from the National Weather Service or another weather reporting service that may be designated by the utility.

(5) An energy utility need only apply a moratorium to the geographic area that meets the conditions in section (1) and section (2) of this rule.

(6) The energy utility must obtain the required forecast data no later than 8:00 a.m. each business day.

(7) Each energy utility must notify the Commission's Consumer Services Section which weather reporting service it will utilize in each geographic area served by the utility in complying with the requirements of this rule; and the energy utility must notify the Commission's Consumer Services Section upon choosing a different weather reporting service.

(8) The temperature threshold specified in section (1) of this rule does not apply if an energy utility offers a Commission-approved winter protection program.

Stat. Auth: ORS 756.060

Stats. Implemented: ORS 756.040

Hist.: NEW