



**Portland General Electric Company**  
121 SW Salmon Street • 1WTC0306 • Portland, OR 97204  
portlandgeneral.com

*Via Electronic Filing*

Public Utility Commission of Oregon  
Attention: AR 638 Service List  
P.O. Box 1088  
Salem, OR 97308-1088

**Re: AR 638: Joint Utility response to Parties comments on AHD redlines to OAR  
860-024 Proposed Rules**

In order to facilitate the discussion at the April 7, 2022 workshop scheduled in this docket, Portland General Electric Company, Pacific Power, dba PacifiCorp, and Idaho Power Company (collectively the “Joint Utilities”) have prepared this response to Parties’<sup>1</sup> comments to the Administrative Hearings Division (“AHD’s”) redlines to the proposed Division 24 Oregon Administrative Rules (“Division 24”).

In its February 15, 2022 Ruling, the AHD requested that Parties file comments on Division 0300, sections 0006, 0007, and 0008 by March 11, 2022. Division 300, sections 0006 through 0008 relate to Public Safety Power Shutoffs (“PSPSs”). The Joint Utilities very much appreciate that the AHD bifurcated the schedule in this rulemaking to allow for PSPS rules to be in place prior to the start of the 2022 fire season, while allowing more time for discussion on the remainder of the wildfire rules. In that same Ruling, the AHD requested comments on the AHD redline proposal for Division 024 rules by March 25, 2022.

While the Joint Utilities filed comments on the Division 300 rules during the informal phase of the AR 638 Rulemaking and filed comments on Division 024 during the formal phase, Parties have not been afforded the formal opportunity to comment on the remainder of the Division 300 rules. The Joint Utilities request that the AHD issue a Ruling that includes at least one workshop and an opportunity to file comments on the remainder of the Division 300 rules. Alternatively, the Joint Utilities request clarification by the AHD of Parties opportunities to comment on the remainder of the Division 300 rules.

The Joint Utilities provide the following responses to comments submitted by Parties to the Public Utility Commission of Oregon (“OPUC”) in Docket AR 638 on the AHD’s redline edits to proposed Division 24 rules. The Joint Utilities’ overall observation is there is consistency between the comments from the electric industry and the communications industry. While there are some differences, comments are focused on the same questions: what violations need to be

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<sup>1</sup> Parties are those entities or individuals identified on the OPUC’s website as Parties to AR 638.

corrected under these rules; who is responsible for corrections; and what is the allowed timeframe to correct violations?

860-024-0001(5)

The Oregon Joint Use Association (“OJUA”) requests additional clarity on the Comprehensive Facility Inspection language. Specifically, the OJUA requests clarification of the scope of the inspections and whether the rule should apply to all operators of electric facilities rather than just Public Utilities.

The Joint Utilities support OJUA’s request for additional clarity and recommend that the rule focus on identifying potential sources of electrical ignition.

860-024-0005(2)

The Stop B2H Coalition (“SBC”) also requested to add specific language to align to State Board of Forestry Oregon Explorer Wildfire mapping project. The Joint Utilities prefer the existing language as it is not confusing two issues. This section of the rule is related to ensure that the Commission have maps of the High Fire Risk Zones that the utility identifies.

860-024-0011(2a)

The Oregon Municipal Electric Utilities (“OMEU”) and EWEB recommend clarifying the language so that the designation of an annual geographic area need not include High Fire Risk Zones (“HFRZs”) if none have been identified within the utility’s service territory. The Joint Utilities support this clarification.

860-024-0011(2b)

SBC recommends that public and county emergency managers or equivalent must also be notified, at the same times as Operators, of the annual and HFRZ inspections via their bills and press releases in their service territories. The Joint Utilities do not support this language as it is redundant with communications already provided by the utilities to our county partners and customers.

860-024-0011(2c)

OMEU and EWEB support the Joint Utility proposal to eliminate a strict onsite requirement for routine safety patrols of overhead electric supply lines, but does not think it is necessary or desirable to add “consistent with industry best practices” as included in the AHD proposal. The Joint Utilities are open to more discussion on this position by OMEU and EWEB.

860-024-0012(4)

Oregon Rural Electric Cooperative Association (“ORECA”) and Consumers Power Inc. (“CPI”) recommend retaining the current deferral language and that OPUC Staff make greater

use of their enforcement authority to compel compliance with OAR 860-024-0012(1). The Joint Utilities are open to more discussion on this position by ORECA and CPI.

The Joint Utilities appreciate that OMEU and EWEB support the Joint Utilities compromise language in 860-024-0012(4) and concur that in some cases, it would be fiscally irresponsible for the utility not to delay action.

860-024-0016(5)

The Joint Utilities appreciate that OMEU and EWEB support the Joint Utilities' inclusion of "routine" and agree that it is important that a balance be struck to ensure safety without requiring ratepayers to address all possible significant, but less likely events.

SBC recommends deleting "routine". The Joint Utilities oppose deleting "routine" for the reasons previously submitted.

860-024-0016(9)

The Joint Utilities appreciate that OMEU and EWEB appreciate the intent behind the edits to this rule and support further vetting.

SBC recommends requiring a courtesy notification of local governments of tree trimming activities. Since the Joint Utilities already provide such notice, this recommendation is not needed.

860-024-0017

Central Lincoln PUD recommends referencing the most recent ANSI A300 (Part 1) 2008 Pruning, which is dated 2017. The Joint Utilities support Central Lincoln PUD's recommendation.

860-024-0018(1)

OMEU and EWEB prefer the Joint Utility amendments in that they provide more clarity than the AHD redline. They also find the rationale in the Joint Utility's February 23rd submission persuasive and recommend that if the Joint Utility proposal is not adopted, that more clarity is needed. The Joint Utilities appreciate the support and agree that if our proposal is not adopted that more clarity is needed. As previously stated in our comments, the Joint Utilities request clarification of the AHD language.

860-024-0018(3)

Central Lincoln PUD stated that paragraphs (3) and (4) would benefit from additional editing to ensure clarity. The Joint Utilities agree and have provided edits that may prove helpful.

OMEU and EWEB believe that the AHD edits provide ample flexibility. As previously stated, the Joint Utilities welcome discussion and clarification of proposed rule language.

860-024-0018(4)

ORECA stated that 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. The Joint Utilities agree with ORECA, that additional clarification on this issue is warranted.

860-024-0018(5)

Oregon Cable Telecommunications Association (“OCTA”) recommends deleting “or Occupants”. Since the Joint Utilities recommend deleting paragraph 5 in its entirety, this recommendation is unnecessary. However, if paragraph 5 is not deleted, then removing “or Occupants” shifts responsibility for inspections to Operators of electric facilities (“Electric Operators”) and the language should be clarified to ensure that Electric Operators can recover all actual and administrative costs of inspecting communication facilities from Operators of communication facilities (“Communication Operators”).

The Joint Utilities seek clarification from OCTA on whether its position is that Communication Operators would be required to inspect their facilities or if Electric Operators would be expected to conduct all inspections.

860-024-0018(6)

Central Lincoln PUD stated that this language is another way to require Joint Inspections and should be deleted. The Joint Utilities agree that more discussion is merited.

OMEU and EWEB recommend adding that the timeframe of the inspection cycle will be determined by the pole owner in consultation with pole occupants. The Joint Utilities do not take a position on this addition, but support clarifying the rules.

860-024-0018(7)

OCTA and CTIA recommend that the remediation timetable not start until notification from Electric Operators. The Joint Utilities support this recommendation.

OMEU and EWEB recommend that (7)(b) provide the specific circumstances that correlate to a heightened risk of wildfire, rather than that they be determined in Electric Utility internal policies. OMEU and EWEB also state that without further clarification that they prefer the previous language that all violations affecting energized conductors and a heightened risk of fire in an HFRZ be corrected within 180 days. The Joint Utilities position is that since each system differs, allowing Electric Utilities the flexibility to determine what conditions constitute “heightened fire risk” is justified.

860-024-0018(8)

CTIA recommends a 15% fee rather than the 25% fee proposed by the Joint Utilities. The Joint Utilities still recommend a 25% fee.

OCTA recommends language changes that expand Owner and Occupant contract rights. The Joint Utilities support these recommended changes.

OMEU and EWEB state that AHD's language creates a requirement that Electric Utilities repair or replace equipment that it doesn't own if the owner fails to act, that an Electric Utility may not have the expertise to correct the violations, and question whether the shift in liability can be achieved via an administrative rulemaking. The Joint Utilities support the OMEU and EWEB position that Electric Utilities should have the option, but not the requirement, to repair or replace equipment that it does not own.

Similarly, OMEU and EWEB provided language that narrows the role of the Electric Utility as to third party-owned equipment. Their language allows, but does not require, that the Electric Utility correct the violation if the owner does not do so within the allowed time frame. They also propose that the OPUC assess significant daily fines against the equipment owner if it fails to make corrections in the allowed timeframe. The Joint Utilities support language that allows, but does not require, an Electric Utility to make corrections. We also support assessing fines for failure to correct within the timeframe, with allowances for mitigating factors, to mitigate fire risk.

Sincerely,

/s/ W.M. Messner  
Director of Wildfire Mitigation and Resiliency  
Portland General Electric Company

/s/ Allen Berreth  
Vice President, Operations  
Pacific Power

/s/ Alison Williams  
Regulatory Affairs  
Idaho Power