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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 860

PUBLIC UTILITY COMMISSION

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FILING CAPTION: Resolution of Violations of Commission Safety Rules in High Fire Risk Zones (AR 638)

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ADOPT: 860-024-0061

RULE TITLE: Resolution of Violations of Commission Safety Rules in High Fire Risk Zones

NOTICE FILED DATE: 10/07/2022

RULE SUMMARY: Procedures for addressing safety violations in high fire risk zones amongst utilities.

RULE TEXT:

(1) This rule establishes a process to initiate a complaint alleging failure to address a violation consistent with the requirements in OAR 860-024-0018(8).

(2) The complaint may be filed by an Owner, Occupant, or Operator. The party filing the complaint under this rule is the "Complainant." The other party, against whom the complaint is filed, is the "Respondent." An Operator may file a complaint regarding the failure of an Owner or Occupant to remedy a noticed violation of the Commission's rules. If the Complainant has made the correction itself or the alleged violation remains uncorrected by the Respondent for an additional seven calendar days following the correction timeframe set forth in the notice, the Complainant may then file a complaint with the Commission. Owners, Occupants, and Operators may initiate complaints regarding disputes over payment for remedying violations of the Commission's rules, including if an Occupant or Operator wishes to contest a bill sent by an Operator for remediation of a violation.

(3) If the Complaint is filed due to the failure of an Owner or Occupant to remedy a violation of the Commission's rules, the following will apply:

(a) The Complainant must be able to demonstrate that it issued a written notice of the violation(s) to the Respondent. The notice must contain, at a minimum: notice of each attachment allegedly in violation; an explanation of how the attachment violates Commission Safety Rules including how the violation creates an ignition risk in an HFRZ; the pole number and location; an explanation of where the alleged violation(s) are located within the HFRZ; and the timeframe(s) within which the Respondent was expected to address each attachment allegedly in violation.

(b) The Complaint must contain each of the following:

(A) A copy of the Complainant's notice of violation, that is in conformance with criteria described in section (3)(a) of this rule;

(B) If applicable, a description of any actions taken by the Complainant to address the violation(s), including actions permitted by Chapter 860, Division 028 rules and Chapter 860, Division 024 rules;

(C) A description of the relief sought by the Complainant from the Commission; and

(D) Any other information the Complainant deems relevant to the complaint.

(4) The Commission will serve a copy of the complaint upon the Respondent. Service may be made by electronic mail if the Commission verifies the Respondent's electronic mail address prior to service of the complaint and a delivery receipt is maintained in the official file. Within seven calendar days of service of the complaint, the Respondent must file its response with the Commission, addressing in detail each claim raised in the complaint and a description of the Respondent's position on the alleged violation(s).

(5) If the Commission determines after a hearing that the Respondent failed to address a violation of Commission Safety Rules pursuant to OAR 860-024-0018(8), the Commission may order any relief it deems just and reasonable including

(a) Ordering interim relief where appropriate pending a final resolution;

(b) Ordering Respondent to repair the violation or remove the attachment from the pole within a prescribed timeframe;

(c) Ordering Respondent to take any necessary actions to avoid future non-compliance;

(d) Imposing a penalty upon the Respondent pursuant to ORS 757.990(1); and/or

(e) Ordering reimbursement to Complainant for work it has done to remedy the violation as specified in OAR 860-024-0018(9). If the Commission deems that a party was wrongfully assessed for repairs, it may order such monetary relief as it deems necessary to make that party whole.

(6) If at the conclusion of the Complaint process, the Commission determines that the facilities are not the responsibility of the Respondent and/or that the Respondent is no longer a fiscally solvent entity such that it is capable of remedying the violation, then the Commission may deem the facilities "abandoned" and require the electric Operator of the facilities to remedy the electric ignition hazard in accordance with OAR 860-024-0018(9).

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 758

STATUTES/OTHER IMPLEMENTED: ORS 757.035, ORS 758.280-758.296, ORS 757.990