

NOTICE OF PROPOSED RULEMAKING

CHAPTER 860

PUBLIC UTILITY COMMISSION

FILING CAPTION: Wildfire Mitigation Rules Phase II Division 300 Public Safety Power Shutoffs

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/07/2022 4:00 PM

HEARING(S):

DATE: 04/07/2022

TIME: 9:30 AM

OFFICER: Katharine Mapes

ADDRESS: By Zoom

See information in Special Instructions

Salem, OR 97308

SPECIAL INSTRUCTIONS:

Join Zoom Meeting

[https://opuc-state-or-us.zoom.us/j/81347](https://opuc-state-or-us.zoom.us/j/81347299400?pwd=Z3BCZlI2NGZkVDFVQ3IwenZ1QVNIUT09)

299400?pwd=Z3BCZlI2NGZkVDFVQ3

IwenZ1QVNIUT09

Meeting ID: 813 4729 9400

Passcode: WbhmAF77=h

One tap mobile

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623580# US (Portland)

NEED FOR THE RULE(S):

On March 10, 2020 Governor Brown issued Executive Order 20-04 (EO 20-04). Section 5B(4) directs the Commission to evaluate electric companies' risk-based wildfire protection plans and planned activities to protect public safety, reduce risks to utility customers, and promote energy system resilience in the face of increased wildfire frequency and severity, and in consideration of the recommendations made by the Governor's Council on Wildfire Response 2019 Report and Recommendations.

During the 2020 wildfire season, just under 1,000,000 acres of Oregon burned. Adding to the public safety threat caused by the fires was the lack of clear communication or procedures surrounding public safety power shutoffs (PSPS). First responders and public safety partners struggled to determine when power lines were energized, and if or when they would be deenergized. De-energization events are greatly impactful in communities where they occur, threatening those who depend on power for medical needs, impacting access to 911 services, and in some instances severing the ability to pump the water needed to fight fires. The communication protocols need to be defined and documented

between utilities, public safety partners, state agencies, local jurisdictions, and the public.

The Commission encourages participants to file written comments as early as practicable in the proceeding so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 638 on comments and attach them to an e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us. The Commission would like to receive an initial round of comments by March 11, 2022. Participants who present oral comment at the hearing will be asked to also submit their comments in writing before the comment period closes at 4:00 p.m. on April 7, 2022.

Interested persons may review all filings online at <https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=22341>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Governor's Executive Order No. 20-04 (EO 20-04), Executive Order on Climate Action, March 20, 2020, found online at https://www.oregon.gov/gov/Pages/carbonpolicy_climatechange.aspx

The Governor's Executive Order No. 19-01, Establishing the Governor's Council on Wildfire Response, Jan. 30, 2019, found online at https://www.oregon.gov/gov/Documents/executive_orders/eo_19-01.pdf

Final Report and Recommendations of the Governor's Council on Wildfire Response, Nov. 2019, found online at https://www.oregon.gov/gov/policy/Documents/FulIWFCReport_2019.pdf

PUC Order No. 21-167, Temporary Rulemaking Regarding Public Safe Power Shut-off PSPS, AR 638, 2021 found online at <https://apps.puc.state.or.us/orders/2019ords/19-254.pdf>

2021 SB 762 found online at <https://www.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB762>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

These proposed rules are likely to indirectly affect the interests of many different persons and communities throughout the state. Specifically, the Wildfire Protection Plans require public electric utilities to specify how they will engage communities before, during, and after a Public Safety Power Shutoff (PSPS).

To ensure that racial equity issues were considered, prior to issuing this Notice, the Commission engaged in an informal rulemaking process prior to its decision to open a formal rulemaking process and order this Notice of Proposed Rulemaking to be filed. As part of that informal process, the Commission provided notice to its electric industry service list, which includes a broad range of

stakeholders. Among those invited to workshops are:

- The Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians
- The Coquille Indian Tribe
- The Confederated Tribes of Grand Ronde
- The Klamath Tribes
- Confederated Tribes of Siletz Indians
- Confederated Tribes of the Umatilla Indian Reservation
- Cow Creek Band of Umpqua Tribe of Indians
- Confederated Tribes of Warm Springs
- The Northwest Energy Coalition (NWECC)
- The Community Energy Project
- Rogue Climate

Individual Commission Staff members also submitted the notice to the Office of Emergency Management with a request to circulate the notice to its lists, which would include the Oregon State Fire Marshal, Oregon Department of Forestry, other state agencies and county/tribal emergency managers.

Rogue Climate provided comments that their mission is to empower Southern Oregon communities most impacted by climate change, including low-income, rural, youth, seniors, and communities of color, to win climate justice by organizing for clean energy, sustainable jobs, and a healthy environment.

No party provided comments that the Commission's proposed Division 300 rules would have a negative effect on racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

The passage of Senate Bill (SB) 762 (2021) created requirements for investor-owned utilities (IOUs) operating in Oregon to, among other things, prepare a Wildfire Protection Plan (Plan), conduct outreach with their communities on these plans, and submit the plans for approval by the Commission.

The proposed rules also include provisions specifying how the utility will engage in education, communication, and reporting of PSPS events.

Staff time will need to be dedicated to the implementation of the rules. While SB 762 creates requirements for other state agencies, The Commission does not anticipate that these rules will impose costs on other state agencies.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with

the rule(s).

1. No other state agency is likely to be economically affected by the proposed rules. There are no anticipated economic impacts on local government, and there are no anticipated economic impacts to members of the public.
2. There are no small businesses that will be subject to these proposed rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Though the workshops and stakeholder comments were open to the public at large, small businesses were not individually involved in the development of the proposed rules. This rulemaking is responsive to the requirements articulated in SB 762, and the state legislative process provided the forum for interested parties to comment.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT? An Administrative Rule Advisory Committee was not consulted. Instead, the Commission utilized an informal rulemaking process that involved opportunity for public comment and participation through OPUC Docket AR 638, including discussion of economic and other implications of proposed rules.

CONTACT:

Diane Davis
971-375-5082
diane.davis@puc.oregon.gov
PO Box 1088
Salem, OR 97308

RULES PROPOSED:

860-300-0010, 860-300-0050, 860-300-0060, 860-300-0070

ADOPT: 860-300-0010

RULE TITLE: Definitions for this Division

RULE SUMMARY: Defines terms used in Division 300.

RULE TEXT:

(1)"ESF-12" refers to Emergency Support Function-12 and indicates the Commission's role in supporting the State Office of Emergency Management for energy utilities issues during an emergency.

(2)"Local Community" means any community of people living, or having rights or interests, in a distinct geographical area.

(3)"Local Emergency Management" means city, county, and tribal emergency management entities.

(4)"Near-term Wildfire Risk" means elements of wildfire risk that are expected to fluctuate on a daily or weekly basis. Examples include temperature, humidity, and wind.

(5)"Public Utility" has the meaning given to an "electric company" in ORS 757.600.

(6)"Public Safety Partners" means ESF-12, Local Emergency Management, and Oregon Department of Human Services (ODHS).

(7)"Public Safety Power Shutoff" or "PSPS" means a proactive de-energization of a portion of a Public Utility's electrical network, based on the forecasting of and measurement of extreme wildfire weather conditions.

(8)"Tabletop Exercise" means an activity in which key personnel, assigned emergency management roles and responsibilities, are gathered to discuss, in a non-threatening environment, various simulated emergency situations.

(9)"Utility-identified Critical Facilities" refers to the facilities the Public Utility identifies that, because of their function or importance, have the potential to threaten life safety or disrupt essential socioeconomic activities if their services are interrupted. Telecommunication facilities and infrastructure are to be considered Critical Facilities.

(10) "Wildfire Mitigation Plan" is the same as a "wildfire protection plan" and refers to the document filed with the Commission relating to an electric utility's risk-based plan designed to protect public safety, reduce the risk of utility facilities causing wildfires, reduce risk to utility customers, and promote electric system resilience to wildfire damage.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.035, ORS 757.039, ORS 757.649, ORS 758.215, ORS 759.005, ORS 759.045

ADOPT: 860-300-0050

RULE TITLE: Communications Requirements Prior, During, and After a Public Safety Power Shutoff (PSPS)

RULE SUMMARY: This proposed rule details the minimum communication requirements surrounding a PSPS.

RULE TEXT:

(1) When a Public Utility determines that a PSPS is likely to occur, it must deliver notification of the PSPS to its Public Safety Partners, operators of utility-identified critical facilities, and adjacent local Public Safety Partners.

(a) To the extent practicable, the Public Utility must provide priority notification directly to Public Safety Partners, operators of utility-identified critical facilities, and adjacent local Public Safety Partners.

(b) In notifying Public Safety Partners and utility-identified critical facilities of PSPS events, including adjacent local Public Safety Partners, the utility will communicate the following information, at a minimum:

(A) The PSPS zone, which would include Geographic Information System shapefile(s) depicting current boundaries of the area subject to de-energization;

(B) Date and time PSPS will be executed;

(C) Estimated duration of PSPS;

(D) Number of customers impacted by PSPS;

(E) When feasible, the Public Utility will support Local Emergency Management efforts to send out emergency alerts;

(F) At a minimum, status updates at 24-hour intervals until service has been restored;

(G) Notice of when re-energization begins and when re-energization is complete;

(H) Information provided under this rule does not preclude the Public Utility from providing additional information about execution of the PSPS to its Public Safety Partners;

(c) In notifying utility-identified critical facilities, the Public Utility will communicate the following information, at a minimum:

(A) Date and time PSPS will be executed;

(B) Estimated duration of PSPS;

(C) At a minimum, status updates at 24-hour intervals until service has been restored;

(D) Notice of when re-energization begins and when re-energization is complete.

(E) In addition to the above requirements, utilities will also provide Geographical Information Files with as much specificity as possible to Operators of telecommunication facilities in the area of the anticipated PSPS,

(d) ESF-12 will notify Oregon Emergency Response System (OERS) partners and Local Emergency Management in coordination with Oregon's Office of Emergency Management.

(2) When a Public Utility determines that a PSPS is likely to occur, the Public Utility must provide advance notice of the PSPS to customers via a PSPS web-based interface on the Public Utility's website and other media platforms, and may communicate PSPS information directly with customers consistent with this rule.

(a) In providing notice to customers about a PSPS, the Public Utility will, at a minimum:

(A) Utilize multiple media platforms to maximize customer outreach, including but not limited to, social media, e-mail, radio, television, and press releases.

(B) Consider the geographic and cultural demographics of affected areas, including but not limited to broadband access, languages prevalent within the utility's service territories, considerations for those who are vision or hearing impaired.

(C) Display on its website homepage a prominent link to access current information about the PSPS, consistent with OAR 860-300-0060, including a depiction of the boundary. The PSPS information must be easily readable and accessible from mobile devices.

(b) The Public Utility may directly notify its customers through email communication or telephonic notification (e.g., text messaging and phone calls) when it will not impede Local Emergency Management alerts due to capacity limitations. If the Public Utility provides direct notification, the Public Utility will communicate the following information, at a minimum:

(A) A statement of impending PSPS execution, including an explanation of what a PSPS is and the risks that the PSPS would be mitigating;

(B) Date and time PSPS will be executed;

(C) Estimated duration of PSPS;

(D) A 24-hour means of contact customers may use to ask questions or seek information;

(E) How to access details about the PSPS via the Public Utility's website, including education and outreach materials disseminated in advance of the annual wildfire season;

(F) After initial notification, the Public Utility will provide, at a minimum, status updates at 24-hour

intervals until service has been restored;

(G) Notice of when re-energization begins and when re-energization is complete.

(3) To the extent possible, the Public Utility will adhere to the following minimum notification prioritization and timeline in advance of a PSPS:

(a) 48-72 hours in advance of anticipated de-energization, priority notification to Public Safety Partners, operators of utility-identified critical facilities, and adjacent local Public Safety Partners;

(b) 24-48 hours in advance of anticipated de-energization, when safe: secondary notification to all other affected customers and other populations;

(c) 1-4 hours in advance of anticipated de-energization, if possible: notification to all affected customers and other populations.

(4) The Public Utility's communications required under this rule do not replace emergency alerts initiated by local emergency response.

(5) Nothing in this rule prohibits the Public Utility from providing additional information about execution of the PSPS to Public Safety Partners, utility-identified critical facilities, or customers.

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

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.035

ADOPT: 860-300-0060

RULE TITLE: Ongoing Informational Requirements for Public Safety Power Shutoffs (PSPS)

RULE SUMMARY: The proposed rule summarizes the public electric utility's obligations during a PSPS event.

RULE TEXT:

- (1) The Public Utility will create a web-based interface that includes real-time, dynamic information on location, de-energization duration estimates, and re-energization estimates. The web-based interface will be hosted on the Public Utility's website and must be accessible during a PSPS event. The Public Utility will complete the web-based interface before March 31, 2024.
- (2) The Public Utility will make its considerations when evaluating the likelihood of a PSPS publicly available on its website. These considerations include, but are not limited to: strong wind events, other current weather conditions, primary triggers in high risk zones that could cause a fire, and any other elements that define an extreme fire hazard evaluated by the Public Utility.
- (3) The Public Utility will ensure that its website has the bandwidth capable of handling web traffic surges in the event of a Public Safety Power Shutoff.
- (4) The Public Utility will work to provide real-time geographic information pertaining to PSPS outages compatible with Public Safety Partner GIS platforms.
- (5) The Public Utility will provide a comprehensive narrative of each subsection of this rule as part of its annual Wildfire Mitigation Plan.

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

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.020

ADOPT: 860-300-0070

RULE TITLE: Reporting Requirements for Public Safety Power Shutoffs (PSPS)

RULE SUMMARY: This proposed rule sets requirements for reporting of PSPS events by public electric utilities.

RULE TEXT:

(1) The Public Utility is required to file annual reports on de-energization lessons learned, providing a narrative description of all PSPS events which occurred during the fire season. Reports must be filed no later than December 31st of each year.

(2) Non-confidential versions of the reports required under this section must also be made available on the Public Utility's website.

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

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.035