

OAR 860-021-0410(2) states that an energy utility must have the oral certification confirmed in writing within 14 days by a qualified medical professional prescribing medical care.

Under OAR 860-021-0005, the Commission may waive any of Division 21 rules for good cause shown.

Analysis

Background

On March 8, 2020, Oregon Governor Kate Brown declared a state of emergency due to the public health threat posed by COVID-19, and directed Oregonians to stay at home to the greatest extent possible in Executive Order No. 20-12 (March 23, 2020). The state of emergency has been extended, most recently in Executive Order 20-59 (October 27, 2020). Various orders governing social activity and economic activity in light of the pandemic have been issued, the most recent of which is Executive Order 20-65 (November 17, 2020) imposing a limited-duration freeze on certain activities. At the time of the initial declaration, it was expected that the emergency circumstances would cause an added burden to utility customers that need to renew their emergency medical certificates.

On June 9, 2020, the Commission conducted a Special Public meeting on the “Impact to Utility Customers during the COVID-19 Pandemic and Future Economic Recovery.” As a result of this meeting, Docket UM 2114 was opened to address the challenges caused by the COVID-19 Pandemic. A stipulated Agreement in Docket UM 2114 was approved by the Commission in Order No. 20-401 on November 5, 2020.

Conditions necessitating a waiver

The ongoing COVID-19 pandemic has created added difficulty in renewing emergency medical certificates and has created added financial burden on many ratepayers. In Order No. 20-401, the Commission adopted a stipulation addressing the effects of the pandemic on energy utility customers. The terms of this order include a provision, paragraph 14, under which utilities are required to allow customers to initially self-certify for a medical certificates when it is required and submit a confirming certification from a qualified medical professional.¹ This requirement extends through October 1, 2022, though the parties to the stipulation have agreed to confer on or about October 1, 2021, to determine whether to request that the Commission modify the October 1, 2022, end date.

¹ See UM 2114, Order No. 20-401, Appendix A at 16.

Under the terms of the stipulation approved in Order No. 20-401, Staff agreed to review relevant administrative rules, including OAR 860-021-0410, and notify a utility if a waiver would be necessary.² Staff's report to the Commission presenting the stipulation notes that it had already begun the required review, and that each utility will need to request a waiver of OAR 860-021-0410(2) through October 1, 2022, unless and until any permanent change are made to the rule.

Staff finds that the requested waiver would indeed ease the burden on residential utility customers as well as being necessary to conform to Order No. 20-401. The COVID-19 pandemic is ongoing and in fact has recently worsened so much that the Governor announced on November 13, 2020, a two-week freeze from November 18, 2020, to December 2, 2020. Staff also notes that PacifiCorp is taking the actions suggested by Staff in Docket UM 2114 with regards to OAR 860-021-0410(2).

Conclusion

Based on the circumstances outlined above, Staff concludes that PacifiCorp's request for a waiver of OAR 860-021-0410(2) to conform to the stipulation adopted in Order No. 20-401 is warranted.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's request for a partial waiver of OAR 860-021-0410(2) through October 1, 2022, to conform to Commission Order No. 20-401.

² See UM 2114, Order No. 20-401, Appendix A at 34-35.