

May 25, 2006

VIA ELECTRONIC AND U.S. MAIL

Public Utility Commission of Oregon
Attn: Filing Center
550 Capital Street NW, Suite #215
Salem, Oregon 97308-2148

**Re: In the Matter of a Rulemaking to Amend and Adopt
Permanent Rules in OAR 860, Divisions 024 and 028,
Regarding Pole Attachment Use and Safety -- AR 506**

Dear Sir/Madam:

Enclosed please find the original and one copy of the Second Round Comments of Verizon Northwest Inc. on Proposed Revisions to Division 24 Rules for filing in the above-referenced proceeding. Please date stamp the copy and return it in the envelope provided at your earliest convenience.

Please contact me with any questions or concerns. Thank you for your assistance.

Sincerely,



Christopher S. Huther

cc: Service List

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

In the Matter of)
Rulemaking to Amend and Adopt Permanent) AR 506
Rules in OAR 860, Divisions 24 and 28,)
Regarding Pole Attachment Use and Safety.)

**SECOND ROUND COMMENTS OF VERIZON NORTHWEST INC.
ON PROPOSED REVISIONS TO DIVISION 24 RULES**

Verizon Northwest Inc. (“Verizon”), through counsel and pursuant to Administrative Law Judge Christina Smith’s Memorandum dated March 10, 2006, submits the following reply comments on the proposed amendments and revisions to the Public Utility Commission of Oregon’s (“OPUC” or “Commission”) pole and conduit safety rules set forth in OAR, Chapter 860, Division 024 (“Division 24 Rules”). As noted in prior comments, Verizon supports several of the proposed amendments and revisions to the Division 24 Rules, as modified during the May 11th and 18th workshops.¹ However, Verizon stands by its earlier comments that, in several important respects, the proposed changes go too far and would cause unnecessary confusion, impose costly, burdensome and potentially conflicting obligations on pole owners and attachers, and provide no appreciable improvements in safety.

I. INTRODUCTION

There is no doubt that the Commission’s rules governing pole attachments are in need of revision – not because there is an existing or emerging safety problem in Oregon, but rather because the existing rules can and have been used in unintended ways

¹ An updated current version of the proposed rule revisions dated May 23, 2006 was circulated by Commission Staff, and is attached hereto as Attachment 1.

in pursuit of improper objectives. Oregon’s safety protections are among the best in the country, and its safety record provides testament to the Commission’s thorough and effective pole attachment regulations. Oregon is one of two states that has chosen to adopt the National Electrical Safety Code (“NESC”) into law, and the creation of the Oregon Joint Use Association (“OJUA”) illustrates industry members’ commitment to safety and collaboration in addressing joint use issues. As Verizon has maintained throughout this (and the earlier informal) rulemaking, there is no evidence proffered, anecdotal or otherwise, that warrants imposing upon Oregon utilities the onerous regulatory burdens contained in many of the proposed Division 24 Rule revisions, nor has any evidence been put forth to quantify (much less justify) the corresponding costs of the proposed revisions to Oregon consumers, communities, and the environment. Moreover, there has been no demonstration that these costly and burdensome proposed revisions will produce any appreciable increase in safety or otherwise benefit operators, community members, and Oregon in general. Indeed, industry commentators agree that, although well-intentioned, many of the proposed changes to the current regulatory regime will do nothing more than promote disagreement among operators, increase litigation, and diminish cooperation between and among operators.

Before drastically altering current pole attachment safety protections, the Commission must identify and carefully weigh the benefits and costs of the proposed rule revisions upon all stakeholders. While Verizon agrees that the “exact fiscal and economic impact for every operator affected would be extremely difficult, if not impossible, to determine,”² it is undisputed that the cost of the proposed rule revisions is

² Notice of Proposed Rulemaking Hearing, Statement of Need and Fiscal Impact (Mar. 22, 2006) at 3 (“NPRM”)

staggering. Portland General Electric Company calculated that compliance with just a single proposed rule revision would cost it \$4.7 million annually.³ Thus, contrary to the claim contained in the NPRM that “[t]he overall effect of these rules would not be to increase these costs,”⁴ the evidence put forth by the parties to the instant proceeding clearly demonstrates that the financial impact of the proposed rule revisions would be devastating.⁵ Indeed, even Staff acknowledged during the course of the workshops that the cost of only one of its proposed rule revisions would be \$12.7 million per year for ten years.⁶ There is thus no merit to the unsubstantiated assertion, contained in the NPRM, that “[t]he proposed rules will have little overall financial impact on the PUC, other state agencies, units of local government, businesses, industry, and the public.”⁷

As the foregoing demonstrates, before imposing such costly obligations on the industry, the Commission should require Staff to undertake a detailed, comprehensive fiscal and economic impact analysis so that the total cost of the rules -- financial and otherwise -- can be fully appreciated by not only the affected utilities, but also the consumers and communities that they serve.⁸ Such a study would undoubtedly expose the numerous flaws in Staff’s proposed rule revisions, and make clear that their adoption would be detrimental to Oregon’s utilities, consumers and environment. For these and other reasons, the Commission should reject Staff’s flawed rule revisions and instead

³ First Round Comments of Portland General Electric Company (May 1, 2006).

⁴ NPRM at 3.

⁵ Comments of Oregon Department of Forestry (May 1, 2006) at p. 3 (concluding that “these proposals could have a significantly negative legal, financial, and social impact on Oregon utilities as well as Oregon’s urban forests”).

⁶ Staff’s Cost Analysis PowerPoint (circulated May 23, 2006).

⁷ NPRM at p. 3.

⁸ *Id.*

adopt the proposals of the OJUA,⁹ which have been demonstrated to promote safety, service delivery, and the well-being of Oregon and its natural resources.

II. STAFF’S PROPOSED REGULATIONS ARE FLAWED, COSTLY AND THREATEN TO UNDERMINE CURRENT SAFETY PROTECTIONS

Staff’s proposed rule revisions fail to appreciate the realities under which Oregon electrical and communications operators function. Among other things, the structure of the proposed rule revisions does not comport with the current regulatory regime governing operators in Oregon, and is likely to cause confusion that may result in increased safety risks. Furthermore, the proposed revisions regarding joint inspection and prioritization of repairs are unrealistic and will be both costly and ineffective.

A. The Division 24 Rules Should Explicitly Reference Any and All Obligations that Supplement or Deviate From those Set Forth in the NESC

Although the Commission expressly adopted the NESC as part of its regulatory regime, in some instances the Division 24 Rules (and proposed revisions) interpret, expand or modify the NESC by imposing additional duties and obligations on Oregon utilities. Accordingly, the use of the term “Commission Safety Rules” throughout Division 24 creates confusion, as at times it is unclear whether a given rule is referring to the minimum standards set forth in the NESC, or to the additional or differing safety obligations set forth in Division 24. As such, Staff’s attempt to define the term “Commission Safety Rules” as “the rules included in OAR Chapter 860, Division 024”¹⁰ is necessarily ambiguous, as it fails to acknowledge this important distinction.

⁹ The published mission of the OJUA is to “develop recommended solutions for pole joint use issues that recognize industry changes, promote education and build trust between pole owners and pole users that accomplish...safe facilities [and] compliance with the NESC, [as well as] accountability for all participants.” Oregon Joint Use Association -- Strategic Plan (Oct. 2004) at 3.

¹⁰ Staff Proposed Division 24 Rule Revisions (Revised May 23, 2006) (Attachment 1).

Any definition of “Commission Safety Rules” must account for the fact that Division 24 includes *both* the NESC, as well as the additional duties and obligations imposed by the Commission. The OJUA’s proposed definition acknowledges this fact and seeks to avoid potential confusion by requiring that any interpretation, expansion or modification of the NESC be explicitly stated in the Commission’s rules. Only then can Oregon utilities be certain of their duties and obligations under Oregon law. Verizon thus respectfully requests that the Commission adopt the OJUA’s proposed definition of “Commission Safety Rules,” and reject the definition advanced by Staff.

B. Additional Training Obligations Should Not Be Imposed Upon Operators

Verizon supports Staff’s decision to withdraw this proposed rule from consideration. As Verizon stated in its previous comments, current training procedures are more than adequate to ensure and promote safety in Oregon.

C. The Commission Should Not Mandate Coordinated Geographic Inspections

Staff’s proposal requiring compulsory, coordinated geographic inspections is unworkable and would impose extraordinary costs on telecommunications and cable providers. Staff’s proposal seems to be grounded in the belief that forcing communications and cable providers to accommodate the inspection priorities of the electricity providers will somehow ensure that Oregon can become NESC-compliant one geographic area at a time. This is sheer folly. Many communications and cable providers provide service across broad geographic areas served by numerous electricity providers.¹¹ Aside from the extraordinary cost associated with coordinating inspections with numerous electricity providers, it is also likely that, as each of these electricity

¹¹ Verizon’s service territory, for example, overlaps the service area of eleven electricity providers.

providers designates ten percent of their serving area for inspection, the region could contain more than ten percent of a communications or cable provider's facilities. Should this be the case, the communications and/or cable provider would be forced to incur the additional costs associated with filing an appeal to the Commission for an alternate plan. Were such relief to be granted, the entire basis for compulsory geographic inspections disappears -- inspections of specified geographic areas would not be completed, while substantial, unnecessary costs would be incurred by the communications and cable providers.

The industry has made clear that communications, cable, and electricity providers already conduct extensive inspections throughout their service territories, as required by the NESC, and know best how to divide and coordinate inspections where possible. Operators strive to maintain optimum safety levels and to cooperate, to the extent feasible, when doing so. Service providers understand their regions and operations better than Staff. Given that the costs of compulsory geographic inspections are sure to be exorbitant, and the objectives of the proposed rule are not likely to be achieved, Verizon urges the Commission to reject Staff's proposed regulations.

D. The Commission Should Not Alter the Prioritization of Repairs

Perhaps more than in any other section of the Division 24 Rules, Staff has exhibited an irrational inflexibility in its unwillingness to work with the OJUA regarding the provisions governing the prioritization of repairs. Because Staff fails to accept the well-reasoned recommendations offered by the OJUA, its proposed altering of the prioritization of repairs is impractical and deeply flawed.

Verizon supports the OJUA's recommendation that NESC infractions presenting an imminent danger to life and/or property must be repaired, disconnected, or isolated by

the operator immediately upon discovery. While all other infractions ideally should be corrected within five years of discovery, under some circumstances doing so may not be cost-effective or prudent. Thus, operators should be permitted to defer the correction of a limited number of infractions that pose little or no material risk to safety for a period of not more than another five years (i.e., within ten years after discovery). Such a plan would allow companies to prioritize repairs.

While there is no dispute that infractions posing an immediate threat to life or property must be remedied immediately after discovery, Staff's suggested mandate that all other infractions must be corrected within two years of discovery (with only five percent eligible for a one-year deferral) is simply unworkable -- absent the expenditure of significant expense given the scale of most providers operations in Oregon. In addition, Staff's proposal may very well result in a decline in safety since companies would no longer have the ability to prioritize repairs, and may elect to remedy infractions *not* on the basis of the threat that they pose, but rather based on other less important criteria.

Staff's unwillingness to consider seriously the recommendations of the OJUA and industry representatives to include a more realistic plan of correction provision is unfortunate. Oregon's safety record was achieved in large part by the commitment and cooperation of operators to put safety first. Staff has failed to demonstrate a need to deviate from the current scheme, and has failed to show how its costly proposed rule revisions will increase safety in any material way.

E. The Proposals Relating to the Duties and Obligations of Pole Owners and Occupants Should Be Considered in the Context of Proposed Revisions to the Division 28 Rules

The proposals set forth in Section 0014, which relate to the duties and obligations of pole owners and occupants, should not be included in Division 24, but rather are more

properly considered in the context of proposed revisions to the Division 28 Rules.

Verizon thus supports Staff's proposal to defer consideration of these proposed rules.

Accordingly, Verizon will hold its comments on these rule revisions until Division 28 is under consideration.

F. The Division 24 Rules Should Not Impose Tree-Trimming Obligations on Communications Providers

Verizon supports Staff's decision to defer consideration of the proposed tree-trimming obligations on communications providers until the Division 28 portion of this rulemaking. Although Verizon opposes the imposition of such obligations on communications providers, it will withhold comment until Division 28 is under consideration.

III. CONCLUSION

For the foregoing reasons, Verizon respectfully requests that the Commission reject the Division 24 Rule revisions proposed by Staff in favor of the consensus position advanced by the OJUA.

Respectfully submitted,



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STAFF PROPOSED RULES POST-WORKSHOP (REVISED 5/23/06)

860-024-0001

Definitions for Safety Standards

For purposes of this Division, except when a different scope is explicitly stated:

- (1) “Commission Safety Rules” mean the rules included in OAR Chapter 860, Division 024.**
- (2) “Facility” means any of the following lines or pipelines including associated plant, systems, ~~rights-of-way~~, supporting and containing structures, equipment, apparatus, or appurtenances:**
 - (a) A gas pipeline subject to ORS 757.039; ~~or~~**
 - (b) A power line or electric supply line subject to ORS 757.035; or**
 - (c) A telegraph, telephone, signal, or communication line subject to ORS 757.035.**
- (3) “Government entity” means a city, a county, a municipality, the state, or other political subdivision within Oregon.**
- (4) “Material violation” means a violation which: (a) is reasonably expected to endanger life or property; or (b) poses a potential safety risk to any operator’s employees or to the general public.**
- (5)(4) “Occupant” means any operator that constructs, operates, or maintains attachments on facilities.**
- (6)(5) “Operator” means every person as defined in ORS 756.010, public utility as defined in ORS 757.005, electricity service supplier as defined in OAR 860-038-0005, telecommunications utility as defined in ORS 759.005, telecommunications carrier as defined in ORS 759.400, telecommunications provider as defined in OAR 860-032-0001,**

consumer-owned utility as defined in ORS 757.270, cable operator as defined in ORS 30.192, association, cooperative, or government entity and their agents, lessees, or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership, or control of any facility within Oregon.

~~(7)(6)~~ “Owner” means an operator that owns or controls facilities.

~~(8)(7)~~ “Pattern of noncompliance” means a course of behavior that results in frequent, material violations of the Commission Safety Rules.

~~(9)(8)~~ “Reporting operator” means an operator that:

(a) serves 20 customers or more within Oregon; or

(b) is an electricity service supplier as defined in OAR 860-038-0005 and serves more than one retail electricity customer.

Stat. Auth.: ORS 183, ORS 756, ORS 757 & ORS 759

Stats. Implemented: ORS 756.040, ORS 757.035, ORS 757.039, ORS 757.649, ORS 758.215, ORS 759.005 & ORS 759.045

Hist.: PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 23-2001, f. & cert. ef. 10-11-01

860-024-0011

Inspections of Electric Supply and Communication Facilities

(1) An operator of electric supply facilities or an operator of communication facilities must:

(a) Construct, operate, and maintain its facilities in compliance with the Commission Safety Rules.

~~(b) Train its employees in the Commission Safety Rules necessary for the covered tasks.~~

(c) Require contractors to provide evidence of training for their employees in the Commission Safety Rules necessary for the covered tasks.

(b) Conduct detailed inspections of its overhead facilities to identify violations of the Commission Safety Rules. The maximum interval between detailed inspections is ten years, with a recommended required minimum inspection rate of approximately 10 percent of overhead facilities per year. An operator may seek a waiver from the Commission of the approximately 10 percent of overhead facilities per year requirement for good cause shown. This inspection must cover the geographic area designated in subsection (2)(a) of this rule by the operator of electric supply facilities within the each-planned year. Operators of communication facilities are required to inspect, either jointly or independently, the same geographic area designated by the operators of the electric supply facilities during the same time designated annual period. Detailed inspections include, but are not limited to, visual checks and practical tests of all facilities, to the extent required to identify violations of Commission Safety Rules. Where facilities are exposed to extraordinary conditions or when an operator has demonstrated a pattern of noncompliance with Commission Safety Rules, the Commission may require a shorter interval between inspections.

Exception: Occupants who are required by the detailed inspection system in this rule to inspect more than 15% of their total Oregon facilities in a single year may appeal to the Commission for an alternate plan.

(c) Conduct detailed facility inspections of its underground facilities on a ten-year maximum cycle, with a recommended ~~minimum~~ inspection rate of 10 percent of underground facilities per year.

(d) Maintain adequate written records of policies, plans and schedules to show that inspections and corrections are being carried out in compliance with this rule and OAR 860-024-0012. Each operators must make these records available to the Commission upon its request.

(2) Each operator of electric supply facilities must:

(a) Designate annual geographic program areas to be inspected pursuant to subsection (1)(b) of this rule within its service territory. The ~~schedules for the annual coverage areas for the entire program must be made available in advance and in sufficient detail so that the Commission and to allow all operators with facilities in that service territory may to plan eordinate needed inspection and correction tasks.~~ Unless the parties otherwise agree, operators must be notified of any changes to the established annual geographic area designation no later than ~~schedule~~ 12 months before the start of the next year's inspection.

(b) Perform routine safety patrols of overhead electric supply lines and accessible facilities for hazards to the public. The maximum interval between safety patrols is two years, with a recommended ~~minimum~~ rate of 50 percent of lines and facilities per year.

(c) Inspect electric supply stations on a 45 day maximum ~~monthly~~ schedule.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 757.035

Hist.: NEW

860-024-0012

**Prioritization of Repairs by Operators of Electric Supply Facilities and
Operators of Communication Facilities**

**(1) A violation of the Commission Safety Rules that poses an imminent
danger to life or property must be repaired, disconnected, or isolated by
the operator immediately after discovery.**

**(2) Except as otherwise provided by this rule, the operator must correct
violations of Commission Safety Rules no later than two years after
discovery.**

**(3) An operator may elect to defer for a third year corrections of no
more than 5 percent of violations identified during the operator's
detailed facility inspection each year. Violations qualifying for deferral
under this section cannot reasonably be expected to endanger life or
property. The operator must develop a plan detailing how it will remedy
each such deferral. If more than one operator is affected by the deferral,
all affected operators must agree to the plan or the violation(s) may not
be a part of the third year deferral.**

**(4) For good cause shown and where equivalent safety can be achieved,
unless otherwise prohibited by law, the Commission may for a specific
installation waive the requirements of OAR 860-024-0012.**

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 757.035

Hist.: NEW

~~860-024-0014~~ NOTE: All of proposed rule 0014 moved to Div. 28

~~Duties of Electric Supply and Communication Structure Owners~~

~~(1) An owner must establish, maintain, and make available to occupants its joint-use construction standards for attachments to its poles, towers, and for joint space in conduits. Standards for attachment must apply uniformly to attachments by all operators, including the owner.~~

~~(2) An owner must establish and maintain protocols for communications between the owner and its occupants.~~

~~(1) (3) An owner must maintain its facilities in compliance with Commission Safety Rules for occupants.~~

~~(a) Occupants must promptly inform the owner of observed safety violations of the owner and any other occupants.~~

~~(2)(b) An owner must promptly respond with a reasonable plan of correction for any violation of the Commission Safety Rules if notified in writing of a violation requested by an occupant.~~

~~Stat. Auth.: ORS Ch. 183, 756, 757 & 759~~

~~Stats. Implemented: ORS 757.035~~

~~Hist.: NEW~~

860-024-0016

Minimum Vegetation Clearance Requirements

(1) For purposes of this rule:

(a) “Interfere” or “interference” means any flow of electricity from the conductor to the vegetation through direct contact or arcing, or any abrasion to conductor, equipment, or vegetation caused by contact.

~~(b) (a) “Readily climbable” means vegetation having both of the following characteristics: having sufficient handholds and footholds to permit a child or an average person to easily climb without using a ladder or other temporarily placed equipment.~~

(1) low limbs, accessible from the ground and sufficiently close together so that the vegetation can be climbed by a child or average person without using a ladder or other special equipment; and

(2) a main stem or major branch that would support a child or average person either within arms reach of an uninsulated energized electric line or within such proximity to the electric line that the climber could be injured by direct or indirect contact with the line.

~~(e) (b) “Vegetation” means trees, shrubs, and any other woody plants.~~

~~(d) (c) “Volts” means nominal voltage levels, measured phase-to-phase.~~

(2) The requirements in this rule provide the minimum standards for conductor clearances from vegetation to provide safety for the public and utility workers, reasonable service continuity, and fire prevention. Each operator of electric supply facilities must have a vegetation management program and keep appropriate records to ensure that timely trimming is accomplished to keep the designated minimum clearances. These records must be made available to the Commission upon request.

(3) Each operator of electric supply facilities must trim or remove vegetation to maintain clearances away from electric supply conductors ~~that may cause interference under reasonably anticipated conditions.~~

(4) Each operator of electric supply facilities must trim or remove readily climbable vegetation as specified in (5) of this rule to minimize the likelihood of direct or indirect access to a high voltage conductor by a member of the public or any unauthorized person.

(5) Under reasonably anticipated operational conditions, an operator of electric supply facilities must maintain the following minimum clearances of vegetation from conductors:

(a) Ten feet for conductors energized above ~~50,000~~ 200,000 volts;

(b) Seven and one half feet for conductors energized at 50,001 through 200,000 volts.

~~(b)~~(c) Five feet for conductors energized at 600 through 50,000 volts, except:

(A) Clearances may be reduced to three feet if the vegetation is not readily climbable. ~~(e)~~

(B) Infrequent intrusion of small new vegetation growth into these minimum clearance areas is acceptable provided the vegetation does not come closer than eighteen inches to the ~~cause interference with a~~ conductor.

(6) For conductors energized below 600 volts, an operator of electric supply facilities must trim vegetation to prevent it from causing strain or abrasion on electric conductors. Where trimming or removal of vegetation is not practical, the operator of electric supply facilities must install suitable material or devices to avoid insulation damage by abrasion.

(7) In determining the extent of trimming required to maintain the clearances required in section (5) of this rule, the operator of electric

supply facilities must consider at minimum these following factors for each conductor:

- (a) Voltage;
- (b) Location;
- (c) Configuration;
- (d) Sag of conductors at elevated temperatures and under wind and ice loading; and
- (e) Growth habit, strength, and health of vegetation growing adjacent to the conductor, with the combined ~~movement~~ displacement of the vegetation, supporting structures, and conductors under adverse weather, or high routine wind conditions.

~~(8) Each operator of communication facilities must trim or remove vegetation that poses a significant risk to its their facilities, or through contact with its facilities poses a significant risk to a structure of an operator of a jointly used system. Risk to facilities includes, but is not limited to, deflection of cables, wires, or messengers, or those contacts which cause damage to facilities. Note: (8) moved to Division 28.~~

Stat. Auth.: ORS Ch. 183, 756, 757 & 758

Stats. Implemented: ORS 757.035 & 758.280 through 758.286

Hist.: NEW

AccidentIncident Reports

860-024-0050

AccidentIncident Reports

(1) As used in this rule:

(a) “Serious injury to person” means, in the case of an employee, an injury which results in hospitalization. In the case of a non-employee, “serious injury” means any contact with an energized high-voltage line, or any accidentincident which results in hospitalization. Treatment in an emergency room is not hospitalization.

(b) “Serious injury to property” means:

(A) Damage to operator and non-operator property exceeding

\$25,000100,000; or

(B) In the case of a gas operator, damage to property exceeding \$5,000;

or

(C) In the case of an electricity service supplier (ESS) as defined in OAR 860-038-0005, damage to ESS and non-ESS property exceeding

\$25,000100,000 or failure of ESS facilities that causes or contributes to a loss of energy to consumers; or

(D) Damage to property which causes a loss of service to over 500 customers (50 customers in the case of a gas operator) for over two hours (five hours for an electric operator serving less than 15,000 customers) except for electric service loss that is restricted to a single feeder line and results in an outage of less than four hours.

(2) Except as provided in section (5) of this rule, every reporting operator shall must give immediate notice by telephone, by facsimile, by electronic mail, or personally to the Commission, of accidentincidents

attended by loss of life or limb, or serious injury to person or property, occurring in Oregon upon the premises of or directly or indirectly arising from or connected with the maintenance or operation of a facility.

(3) Except as provided in section (5) of this rule, every reporting operator ~~shall~~must, in addition to the notice given in section (2) of this rule for an ~~accident~~incident described in section (2), report in writing to the Commission within 20 days of the occurrence. In the case of injuries to employees, a copy of the ~~accident~~incident report form that is submitted to Oregon OSHA, Department of Consumer and Business Services, for reporting ~~accident~~incident injuries, will normally suffice ~~accident~~incident for a written report. In the case of a gas operator, copies of or leak reports submitted under 49 CFR Part 191 will normally suffice.

(4) An ~~accident~~incident report filed by a public or telecommunications utility in accordance with ORS 654.715 cannot be used as evidence in any action for damages in any suit or action arising out of any matter mentioned in the report.

(5) A Peoples Utility District (PUD) is exempt from this rule if the PUD agrees, by signing an agreement, to comply voluntarily with the filing requirements set forth in (2) and (3).

(6) Gas operators have additional incident and condition reporting requirements set forth in OARs 860-024-0020 and 860-024-0021.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Public Utility Commission.]

Stat. Auth.: ORS Ch. 183, 654, 756, 757 & 759

**Stats. Implemented: ORS 654.715, 756.040, 756.105, 757.035, 757.039,
757.649, 759.030, 759.040 & 759.045**

**Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 3-1981,
f. & ef. 6-4-81 (Order No. 81-361); PUC 21-1985, f. & ef. 11-25-85
(Order No. 85-1130); PUC 12-1989, f. & cert. ef. 8-11-89 (Order No. 89-
946); PUC 4-1992, f. & ef. 2-14-92 (Order No. 92-234); PUC 1-1998, f. &
ef. 1-12-98 (Order No. 98-016); PUC 3-1999, f. & ef. 8-10-99 (Order No.
99-468); renumbered from OARs 860-028-0005 and 860-034-0570; PUC
23-2001, f. & ef. 10-11-01 (Order No. 01-839)**

CERTIFICATE OF SERVICE

I, Christopher S. Huther, certify that on May 25, 2006, caused a copy of the Second Round Comments of Verizon Northwest Inc. on Proposed Revisions to Division 24 Rules to be successfully served by electronic and U.S. mail to each of the persons listed below.



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