Public Utility Commission
Attn: Filing Center
P.O. Box 1088 Salem
OR 97308-1088

RE: AR 653, In the Matter of Revisions to Division 21 Rules to Strengthen Customer Protections Concerning Disconnection

The Community Action Partnership of Oregon (CAPO), Multnomah County Office of Sustainability, NW Energy Coalition, Verde, Rogue Climate, PCUN, Community Energy Project, Oregon Citizens' Utility Board, Portland Bureau of Planning and Sustainability, and Coalition of Communities of Color (the "Energy Justice Advocates") submit these comments in response to the AR 653 Notice of Proposed Rulemaking issued on July 1, 2022, and the Memorandum that ALJ Sarah Spruce issued on July 8, 2022. We appreciate the opportunity to comment on the proposed revisions to Division 21 Rules to strengthen customer protections concerning disconnections and to reduce the inequities currently built in the Division 21 rules.

We thank Staff for its thoughtful efforts to craft Proposed Rules that will make progress toward enhancing electricity and fuel access to customers, particularly those more vulnerable to losing that access due to inability to pay. We offer the comments below with recommendations to further strengthen the Proposed Rules. Like much in the utility regulation world, several sections in the Proposed Rules are grounded on a desire to find compromises that balance utilities' and ratepayers' financial interests with the fact that access to energy utility service is essential to participate in modern society and fulfill basic human needs, as well as for human health and life. There are good public interest reasons to support universal access – we are all better off if everyone can take care of their basic needs.

I. Access to energy utility service and the role of disconnections

We encourage the Commission and participants in this rulemaking to consider a different perspective in this process: the premise should be that all households need access to electricity and other fuel. From there, we can consider how to reconcile this reality with the functional needs of the regulatory system. Tools that we are considering, or have considered, like differential rates and Arrearage Management Program are important steps in that direction, as are other tools and approaches that various Energy Justice Advocates have and will continue to raise.[1] Indeed, additional creative options are possible.

If disconnection was not an option, which we suggest should at the very least be a goal of this Commission, non-payment would be the start of a conversation between utility and customer. Most customers want to pay their bills. If they don't pay them, rather than assuming the need for a "sticks" approach, we should evaluate their circumstances. Maybe they don't have the financial resources and could be diverted to assistance programs. Maybe their utility bills went out of control and they could be referred to weatherization services. Maybe they have a mental

[1] UM 2114, *Advocates' Recommendations* (Sep. 27, 2021).

illness that makes it hard to deal with everyday tasks and their situation calls for a more comprehensive response. Disconnections should be a tool of last resort, *after* steps like these have been exhausted. Such a re-thinking – a conversation instead of a punitive approach – would be able to accommodate many questions, for instance how to protect vulnerable populations that are not captured by income thresholds.

Change takes time. In the meantime, we will continue to advocate for changes to the Division 21 Rules and other rules and practices related to energy utility service so that they do not continue to produce unjust outcomes.

II. Participants in this rulemaking may have a limited direct experience of being vulnerable to disconnection due to inability to pay

Throughout the process that led us here, we have heard comments to the effect of how a particular set of protections, rules, opportunities for payment, or timelines are "sufficient" so improved protections are not necessary. As this rulemaking progresses and we either evaluate or consider making such statements, we encourage a collective acknowledgment of our limitations with regards to our ability to understand the specific circumstances of community members who are in crisis and as a result are at risk of disconnection. If we are employed, earning above the 60% SMI threshold, and able to pay our utility bills, how well positioned are we to assess what is sufficient or unnecessary for a family in crisis?

The reality is that all of us are stakeholders in a process that will determine the experience of those at risk of disconnection while having a limited understanding of that experience. As Energy Justice Stakeholders, we strive to base our advocacy on the learnings of those interacting with families in need of energy assistance or experiencing other types of vulnerability. We must also strive to listen to the voices of those who have experienced disconnection and point to the report Brown Hope developed as an important resource on that front.[2] Still, we remain deeply aware of our limitations in understanding the experience of disconnection and invite others in this process to also recognize their limited understanding of that experience.

III. Recommendations

We submit the following concrete comments for the Commission's consideration:

<u>OAR 860-021-0009 - Adding a subsection to account for energy assistance payments to disconnected customers</u>

We propose adding the language below to address issues delivering energy assistance to disconnected customers. While we did not discuss this proposed language in the informal phase of the rulemaking, it is important to take this opportunity to address it. Under OAR 860-021-0009(1)(b), disconnected customers have to apply for service the same way a new customer does. At least one utility interprets that requirement to mean that it cannot accept energy

[2] UM 2114, Brown Hope's OPUC Community Focus Group Feedback Report (Dec. 13, 2021).

assistance money for disconnected customers. The result is that energy assistance providers have to organize three-way conference calls between the utility, energy assistance agency, and customer in order to make the payment needed to resume service. This process is unnecessary, challenging, and time and resource-consuming for all involved.

Below, we propose language to address this issue by clarifying that utilities must accept energy assistance on closed accounts, allowing the reopening of an account to be initiated by energy assistance agencies. The application could then be completed and service resumed through two-way communication between utility and customer.

> (2) An energy utility may activate/open a service account with an energy assistance pledge from an authorized energy assistance agency, allowing the applicant up to 30 days to contact the utility for reconnection.

We understand that NW Natural supports our proposed language.

OAR 860-021-0009 - Specifying that utilities have discretion to collect demographic data

We encourage including a subsection about demographic data collection in the Final Rules. In the informal phase of the rulemaking, Staff initially proposed including language that expressly gave utilities the discretion to collect demographic data as section 4 of this rule:

> (4) An energy utility may request that an applicant provide demographic information when applying for service, including race, ethnicity, age, and gender. A utility that collects such data must store the data in a manner that does not permit the identification of the applicant or customer with the collected demographic data. An energy utility shall not sell this data to affiliates or third-party entities.

We supported that language as we have found that utilities have sometimes been reluctant to collect demographic data citing various legal issues.[3] Explicitly allowing the utilities to have the discretion of collecting that data should assuage these concerns and as a result, we recommend that the Final Rules speak to this issue. Given that the rulemaking Notice did not specifically propose changes to OAR 860-021-0009, we encourage Staff and the Commission to place this data collection option in another noticed proposed rule. Alternatively, the Commission could consider placing this language in 860-021-0010 (Information for Utility Customers and Applicants) as:

> (9) An energy utility may provide a utility customer and applicant with the opportunity to provide demographic information when applying for service, including race, ethnicity, age, and gender. A utility that collects such data must store the data in a manner that does not permit the identification of the applicant or customer with the collected demographic data. An energy utility shall not sell this data to affiliates or third-party entities.

[3] UM 2114, *Joint Advocates Comments on Staff's Draft Changes to Division 21 Rules*, pp 9-10 (https://edocs.puc.state.or.us/efdocs/HAC/um2114hac165746.pdf).

The Commission's Notice of Proposed Rulemaking states that the new definition of a low-income customer supports 2021 HB 2475's expansion of PUC authority to consider "differential energy burdens on low-income customers and other economic, social equity or environmental justice factors that affect affordability for certain classes of utility customers" and that "BIPOC households are disproportionately represented in low-income communities."[4] If stakeholders who represent marginalized communities indicate there is a need for this information and the utilities indicate they are not prohibited from collecting it, we do not see harm in including rule language that permits, not requires, utilities to collect this information as it pertains to disconnections. While utilities are not necessarily prohibited from collecting this information and may be collecting similar information elsewhere, say as part of their low-income programs, it is worth noting that utilities have resisted collecting demographic data so low-income and environmental justice stakeholders have had to advocate for utilities to include this data collection in the low-income programs.[5] Furthermore, demographic information as it pertains to implementation of low-income programs is a different data set than those who are getting disconnected from their utilities.

In *Lights Out in the Cold: Reforming Utility Shut-Off Policies as If Human Rights Matter*, the NAACP discussed the disparate impact disconnections have on low-income communities and communities of color.[6] This report cited the United States Energy Information Administration's Residential Energy Consumption Survey results which indicated that with income being equal, African Americans experienced disconnections more frequently. Without demographic information, it will be difficult, if not impossible, to track whether or not these rule changes have met the Commission's goal of redistributing "the burdens associated with utility disconnection" or alleviating "the impacts of disconnections on environmental justice (EJ) communities."[7] We ask the Commission to consider the voices of these advocates who represent the muffled voices HB 2475 enables the Commission to protect.

Demographic data allows us to understand how utility and PUC policies and programs are positively or negatively impacting specific communities, and when programs are succeeding or failing at reaching particular populations. We cannot address issues that we cannot measure. Hence, the continued efforts by several of the Joint Advocates to encourage utilities to collect demographic data from customers who choose to provide it. This kind of data collection is commonplace for organizations serving impacted communities and it is being openly discussed in other PUC proceedings. Expressly allowing the utilities the discretion to collect demographic data does not presuppose the outcome of other conversations, yet addresses a concern we have heard earlier in the process from our utility partners. As a result, we encourage the Commission to adopt language on demographic data collection in the Final Rules.

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[4] AR 653, *Notice of Proposed Rulemaking*, p 4 (June 29, 2022).
[5] See utility comments regarding collecting demographic data in UM 2211.
[6] National Association for the Advancement of Colored People, *Lights Out in the Cold: Reforming Utility Shut-Off Policies as If Human Rights Matter,* p 14 (March 2017) (https://naacp.org/resources/lights-out-cold) (The US EIA survey information could prove useful to the utilities in gathering demographic data (see fn. 74 on p 67)).
[7] *Notice of Proposed Rulemaking*, p 4.

OAR 860-021-0021 - Interruption of utility service

We remain concerned about customers experiencing disconnection for more than 21 days and are curious about how the Commission plans on utilizing the information that it will gather during this notification process. We understand that in some circumstances, such as in a natural disaster scenario, it may be difficult and dangerous to reconnect a customer. However, access to electricity and/or fuel remains a basic necessity. Creative options should be explored when the Commission receives notification under this rule. We propose the following addition:

> (4) If interruption of energy service lasts for more than 7 days, the utility shall provide alternative means of electricity service or compensation to the customer. This rule only applies to service interruption incidents that affect less than 100 people.

OAR 860-021-0180 - Verification of low-income residential customer

Several of the protections in the Proposed Rules can only be accessed by low-income customers (i.e. no deposits). Hence, a utility should have to offer some method for a customer to make themselves known that is not tied to whether someone qualifies for or has sought other programs.

Narrowing grounds for verification only to whether someone has received energy assistance or is enrolled in the low-income rate program risks leaving out customers who would fall under the 60% state median income (SMI) threshold but meet neither of those conditions. This could happen when someone first applies for service. This could also happen because customers are working to obtain energy assistance, a process that can take time, because they are working to enroll in the utility program, or because they are choosing to exclusively apply for Division 21 protections. Specifically tying eligibility for Division 21 protections to programs can discourage certain households from applying, like singles awaiting disability or households with undocumented residents that have had challenges providing the required documentation, have concerns about impact of getting assistance, or fear that every program has some federal connection.[8]

In response to this concern, we reiterate the proposal that we made in the informal phase of the rulemaking of including a third subsection for verification based on self-verification that one meets the 60% SMI threshold, or any higher thresholds adopted by the utility and suggest the following language:

> (1) (c) the customer has self-certified to the utility or energy assistance program that they meet the definition of low-income residential customer.

This subsection would indicate that a person can access Division 21 protections outside of other established programs. Each of the Joint Utilities have proposed or put into effect low-income

[8] Not long ago, the prior federal administration expanded the grounds to consider someone a public charge for immigration purposes, sending fear and distrust that still reverberate among immigrant communities. https://www.nilc.org/wp-content/uploads/2020/03/Public-Charge-What-Advocates-Need-to-Know-Now.pdf

discount programs that allow for self-certification upon enrollment, so this rule should not add additional burden on the utilities and provides the utility the opportunity to provide low-income energy assistance information to the customer to consider for the future. In addition, there may be customers who cannot receive energy assistance or qualify for low-income discount programs due to restrictions by their landlord. The additional language above allows for all low-income customers to receive Division 21 protections.

We also noticed what might be an editing slip. Sec. 1 of this proposed rule refers to OAR 860-021-0205 (5) which pertains to deposit agreements that do not apply to low-income customers under these proposed rules. We believe the "(5)" should be removed and the rule refer to OAR 860-021-0205 in its entirety. We also note there may be other rules that should be referenced in OAR 860-021-0180 and ask Staff to take a close look to make sure the proposed Division 21 rules include cross-references to other rules, as appropriate.

<u>OAR 860-021-0180 - Expanding populations covered by Division 21 protections</u>

Income is not the sole predictor of vulnerability to disconnection

The Energy Justice Advocates propose including customers with medical certificates and some of the Functional and Access Needs/At-Risk Populations[9] as eligible for Division 21 protections in recognition that households are vulnerable to disconnection for more reasons than just income. Staff's Report argued that the "current focus should be low-income protections" because "utilities do not have the ability to identify customers that may fall into Functional and Access Needs/At-Risk Populations."[10] This reasoning, however, does not justify passing on this opportunity to take measures to reduce the risk of disconnection for these vulnerable populations. As indicated in the Notice on this rulemaking, HB 2475 recognizes that differential energy burdens go beyond low-income customers to include economic, social equity or environmental justice factors that affect affordability for certain classes of utility customers.[11] The NAACP has recognized that utility disconnections can have a discriminatory impact on low-income people, communities of color, elderly people, people with special health conditions, and individuals with disabilities.[12]

While income may be the threshold for protections and relief that we are most familiar with, it is not an exclusive predictor of energy burden.[13] Indeed, energy burden, energy poverty, low income, and financial vulnerability do not necessarily begin at 60% of SMI. Many low-income people at risk of disconnection, and who live with energy burden or energy poverty, will not be protected by Division 21 protections or maybe even by the programs that emerge from HB 2475

[9] https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/080519-fan-resource-document-final-combined.pdf
[10] Staff Report at 16 (May 23, 2022).
[11] Notice of Proposed Rulemaking, p 4, citing ORS 757.230(1).
[12] Lights Out in the Cold, p 9, 17-18.
[13] In Section 2(1), HB 2475 recognizes social equity and environmental justice factors other than energy burden that can impact affordability.

implementation. Some of them will be Functional and Access Needs/At-Risk Populations that are especially vulnerable to disconnections.

Mechanisms to identify other vulnerable populations exist or are within reach

Utilities have the knowledge and a process for identifying their customers with medical certificates. These already identified customers whose enhanced vulnerability to the impacts of disconnection is already acknowledged in rules should enjoy the Division 21 protections that could decrease their likelihood of disconnection. Additional low-barrier processes can be put in place to reduce the likelihood that other vulnerable populations, such as those with functional and access needs, are disconnected from utility service. Not considering offering protections to these populations because it is difficult to identify them would be profoundly inequitable. In contrast, collecting the necessary data is possible.

While earning more than the 60% SMI threshold could arguably reduce the risk of disconnection for inability to pay, it does not reduce the impacts of disconnection on those populations. That reality has been a driver for our long-standing advocacy for the PUC to recognize the vulnerability of those populations, and has presumably led other PUCs to adopt protective measures for those populations.

<u>OAR 860-021-0200, 0205, 0215 - Abolishing credit requirements</u>

We recommend that the PUC does away with a deposit requirement for any residential customer, as two of the six investor-owned utilities in Oregon have already done. Since energy is a basic necessity, all humans should be granted access on equal terms. The current proposal already disallows deposits from low-income customers – the group most likely to have insufficient credit. Continuing these rules creates bureaucratic hurdles for customers, especially those with non-traditional backgrounds and histories, and offers clear benefits. Absent any specific evidence that not requiring satisfactory credit for energy service leads to serious financial problems for the utility, we propose striking -0200, -0205, and -0215 altogether.

Falling short of complete abolition, we think -0200 needs some work. As it is currently written, deposits are eliminated for low-income customers, but utilities are free to demand other means of establishing credit, like proving prior service ((1) of this rule) or providing a written surety agreement ((3) of these rules). These two clauses might easily defeat the purpose of getting low-income populations connected. Starting service should not come with multiple hoops to jump through. The spirit of the Proposed Rules would be better captured by adding:

> (4) Low-income residential customers are exempt from the requirement to demonstrate satisfactory credit for new or continuing service.

<u>OAR 860-021-0305 - Disconnections window</u>

The Energy Justice Advocates strongly support including in rules the disconnections window of 8:00 a.m to 2:00 p.m. This window was included in the COVID-19 Stipulation to allow

disconnected households sufficient time to seek a same-day reconnection. It is not reasonable to expect a household will be able to achieve a same-day reconnection when potentially dealing with less than three hours of the business day to line up a solution, whether by working with an energy assistance agency or by seeking resources through other means that may only be available during business hours.

The Joint Utilities' comments in response to Staff's Report discuss their ability for remote reconnections as a reason to not specify that timeframe.[14] However, the need for a timeframe that leaves enough hours in the business day for a customer to seek a same-day reconnection is not related to the utilities' ability to reconnect, but to the disconnected customers' ability to line-up the needed resources. As a result, we strongly support the proposed added language to OAR 860-021-0305.

OAR 860-021-0330 - Fee waiver cap and after-hour disconnection fees

After Hours Reconnects should also be eligible for low-income fee waivers, especially when they can be completed remotely. There are a variety of reasons and experiences for customers in a crisis that may not allow for the active participation that may seem easy to those of us not living that crisis. We do not see why a customer should not be able to utilize their fee waiver when reestablishing utility service. As a result, we suggest striking section (d) of this rule.

Additionally, while we strongly hope that the addition to 0305 establishing a disconnection window will be in the final version of the rules, we see with concern that this change is opposed by the Joint Utilities. As a result, at the very least after-hours reconnections should be included in the fee waiver if the proposed change to 0305 is not adopted.

We also suggest increasing the cap of reconnection fee waivers as they are especially punishing fees for those experiencing financial insecurity. When a person does not have the money to cover their utility bill and is disconnected as a result, a reconnection fee can make regaining utility service that much harder. As Staff's report indicates, historic data shows that the cost of an increased cap is minimal yet the impact on a struggling family is likely to be large.[15]

OAR 860-021-0405 Calls to customers regarding disconnection

The current proposal reduces the number of calls required before remotely disconnecting a customer. Staff states:

> The change reduces the amount of calls, but maintains the requirement to call at least once and leave a message if an answering machine (or service) is available. Staff has been previously told on numerous occasions that customers

[14] Third Round Joint Utility Response to Recommended Changes to Division 21 of the Oregon Administrative Rules at 2 (Jun. 7, 2022).
[15] *Id.* at 21.

> in arrears avoid answering phone calls and opening bills. To inundate the customer with repeated calls probably does not add value to the system.[16]

However, a surprising remote disconnection might still be inadvisable – for instance, the customer might be currently using an appliance that is necessary for their health and safety. To eliminate the surprise, we suggest the following addition:

> "(9) (B) Where the service address has remote disconnect capability installed, attempt to contact the customer at least once, two days prior to the expected date of disconnection. If contact is attempted via telephone and an answering machine or service is available, the utility must leave a message informing the customer of the proposed disconnection. **A second call must be placed immediately preceding the remote disconnection. If the customer appears to have a cell phone number, the utility must also send a text message immediately preceding the remote disconnection."**

OAR 860-021-0405 - Number of days required for notice

We strongly support extending the notice requirement beyond the current 15 days. We appreciate the movement to 20 days for all customers. The Joint Utilities are concerned about this proposed change and ground their argument on their need to reduce a grace period to accommodate the change. We find the Joint Utilities' arguments confusing. The point of this proposed rule change is to give customers 5 more days to make payment arrangements – reducing the current grace period would undermine the whole undertaking.

The Commission should adopt the extension of the notice requirement as it was a need expressly identified by disconnected customers. For the first time since many of us have been in this space, Commission Staff sought to survey those impacted by disconnection through focus groups facilitated by Brown Hope. That report included community member experiences about not having enough time to line up resources upon disconnections and needing more time to pay bills.[17] This Proposed Rule update is a direct response to the feedback collected through the Brown Hope facilitation process and should be maintained. Utilities should use their discretion to afford people more time as a result of this rule change, rather than implying that this change would negatively impact customers when it seems it is in their hands to keep grace periods for customers.

In its latest comments, Joint Utilities state:

> "By adding an additional 5-days to the notice period, this will result in customers receiving new past due notices while still being in the credit/disconnection cycle for the previous notice and could create a false sense of security for the customer."[18]

We don't see how giving people more time will give them a false sense of security. Confusion might come from utilities' customer communication. For instance, receiving a disconnection

[16] Staff Report at 26.
[17] UM 2114, Brown Hope's OPUC Community Focus Group Feedback Report at 5, 6, 9 (Dec. 13, 2021).
[18] AR 653, Formal Rulemaking Round 1 Comments Joint Utilities (July 15, 2022).

notice and a new bill is indeed confusing. In cases like this, the bill should clearly explain the situation and what is expected from the customer. Furthermore, utilities should consider NOT pushing someone, who has made a payment within days of the deadline, into the next disconnection proceeding, and instead giving them a month to catch their breath. The idea, that there are customers stuck in continuous disconnection/last-minute payment cycles is disturbing. It emphasizes the point we made in our introduction – we need to find better ways of dealing with non-payment.

Additionally, we encourage the Commission to consider the Brown Hope report more generally in deciding next steps in this rulemaking and other processes.

OAR 860-021-0405 - "No cash at the door"

The Energy Justice Stakeholders have a number of concerns about doing away with the process that allows utilities to seek waivers to refuse to accept "cash at the door" when about to perform a disconnection. While we have not supported Staff's interest in changing this rule from its current version, we appreciate Staff's efforts to address concerns that we have brought up in connection with its proposed changes. Specifically, Staff added a 24-hour window for the customer to be able to make the payment that the utility would be able to refuse to accept at the door. We strongly oppose the Joint Utilities' request that this language be struck from the Proposed Rules.

Our preferred approach on this issue is that any changes to the rules result in utilities having to accept payment at the customer's door to avoid disconnection. It is reasonable for a utility to have to accept some payment at the door to prevent a customer from experiencing disconnection when utility staff is there to disconnect. As the introduction to these comments points out, this rulemaking should be grounded on the recognition that disconnection is harmful and should be an action of last resort, especially for customers that are offering to pay. Recognizing the need to keep utility staff safe, and balancing that interest with that of its customers, a possible middle ground solution is to put a cap on the amount of money to be tendered at the door to prevent service disconnection. This balance would both recognize utilities' staff safety and ensure that customers are not disconnected from an essential service.

We do not share Staff's safety concerns. The overwhelming majority of utility field staff would not be carrying customer cash, since, as the Staff Report points out, payment at the door is not a common occurrence.[19] If a utility does not accept payment at the door, the customer that is right there and seeking to pay should have an opportunity to do so before the disconnection occurs. The utility staff could, for example, accompany the customer to a facility where the payment can be deposited. The 24-hour window for someone that would have otherwise made a payment at the door is a minimum step to recognizing the customer's circumstances, their willingness to pay, and the importance of avoiding unnecessary disconnections.

[19] Staff Report at 28.

In asking for the 24-hour window to be eliminated from the Proposed Rules, the Joint Utilities point to their communications to customers about how they can pay their bills and to the customer's responsibility to pay prior to disconnection.[20] However, in this particular situation, *the customer is trying to pay prior to disconnection*. The utility's policy to refuse payment, or worse, this Commission permanently doing away with that option, would be the sole reason why the 24-hour accommodation is needed. The utility could alternatively accept the payment, as we encourage, and no accommodation would be necessary.

OAR 860-021-0407 - Moratoria triggers for severe cold weather

The cold temperature threshold for a disconnection moratorium should be grounded in science and the need to protect human health and life. While 32 degrees sounds cold, we would like the Commission to adopt a threshold based on some assumptions about when cold stress and hypothermia may occur. As Multnomah County's April 19, 2022 comments point out, there is research that can guide us. A review of 20 papers and discussions with 40 experts suggest that houses should be kept at a minimum temperature of 65 degrees.[21] While hypothermia is unlikely at that temperature, there is a plethora of evidence that negative health consequences are possible below that threshold, especially among vulnerable populations (increased blood pressure, increased risk of cardiovascular disease, diminished resistance to respiratory diseases). Accordingly, the British National Health Service considers 65 degrees a good recommendation for public health purposes.[22] **Based on average differences between indoor and outdoor temperatures, a disconnection moratorium around 45-50 degrees would be reasonable to protect public health. Energy Justice Advocates would be happy with any increase of the currently proposed threshold.**

Staff arrived at the threshold in the Proposed Rules after listening to stakeholders point out how deficient the current cold weather rules are. For example, and as our March 2022 comments point out, the current severe weather moratorium language was insufficient to protect people from disconnection during the week of February 21, 2022, when the metro region had lows in the 20s but few, if any, days with highs below 32 degrees. In contrast, the Proposed Rules would have protected people from disconnection as the temperature was below 32 degrees most of the time. Current rules were also not protective during the last week of 2021, when the metro area saw extremely cold weather yet few, if any, days triggered the severe weather moratorium. In contrast, the Proposed Rules would have thanks to both the deletion of the "forecasted high" language and the addition of the "winter storm warning" language.

While the Proposed Rules are not as protective of human health as needed, they are a significant improvement from current rules. We are disappointed and, frankly, puzzled to see the Joint Utilities oppose language that protects human health and potentially also human life during

[20] Third Round Joint Utility Response at 2.
[21] Rachel Jevons et al., Minimum indoor temperature threshold recommendations for English homes in winter – A systematic review, 136 Public Health 4 (2016).
[22] Public Health England and NHS England, Cold Weather Plan for England - Making the Case: Why long-term strategic planning for cold weather is essential to health and wellbeing at 6, 11-12, 27 (2017).

severe weather events.[23] Supporting a change that would be protective of human health and life would be an important step in the direction of centering vulnerable communities, something that we know our utility partners are striving to do.

If the Joint Utilities and Staff are correct and indeed the change that the Proposed Rules would make Oregon one of the most protective states in the country when it comes to cold weather, we should celebrate it, not seek to undercut it. This Commission would be among the leaders in recognizing the essential nature of utility energy service during severe weather events. Those who are at risk of disconnection generally, and during a severe weather event, are among the most vulnerable in our community and we would be wise to be a state that centers those communities and that avoids unnecessarily placing them at risk of health or death when temperatures are below freezing.

OAR 860-021-0407 - Outreach to disconnected customers

Utilities should be required to engage in outreach to disconnected customers during severe weather events. While Staff believes that this is a social service function beyond utilities' purview,[24] as far as we are aware, a utility is the only entity that knows that a particular household is disconnected due to inability to pay during a severe weather event. A person or family facing a severe weather event without utility service is especially vulnerable to the impacts of that event and the utility is best positioned to help ensure that they have the information they need, including by making them aware that they could seek temporary reconnection.

Staff points out that ,"[e]ven without power or natural gas, customers would still have access to other resources through their phone, family, friends, and neighbors." This statement assumes a level of social connectivity that sadly many in our community lack. While that access to information may be available for many customers, too many people in our community live in isolation and can fall through the cracks.[25] The utility is uniquely positioned to narrow or eliminate those cracks because it is the only entity that knows who is facing the severe weather event while disconnected.

OAR 860-021-0407 - Moratorium when severe weather/air quality events are forecasted

We reiterate our request for moratoria when a weather or air quality event is forecasted within the next 48 or 72 hours. In the weeks prior to June 26, when the metro area reached the upper 90s, we could all see the forecasted high temperatures sustaining as we got closer to the date. Why disconnect people in the days prior to an event that we all see coming?

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[23] Third Round Joint Utility Response at 2-3.
[24] Staff Report at 32.
[25] For example, people living alone are at risk of another type of severe weather event: heat. Multnomah County's Final Report: Health Impacts from Excessive Heat Events in Multnomah County at 9 (Jun. 2022), https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/20220624_final-heat-report-2021_SmallFile-2.pdf.

When we have suggested this change to the rules in the past, we have encountered arguments pointing to how forecasts are not exact. However, forecasts are likely to be off by only a small number of degrees. Delaying disconnections when a severe weather event is in the forecast errs on the side of caution and protecting health and life. While there may be logistical implications for a utility that may need to rearrange disconnection plans, we see that as a worthwhile trade-off in order to err on the side of protecting health and life.

OAR 860-021-0415 - 24-month TPAs

We support a rule, along the lines of Staff's initial proposal, that guarantees that any customer can choose a payment plan of up to 24 months. The Joint Utilities and staff argue that longer payment plans cause default[26] – however, no such thing follows from the data. This is a classic case of selection bias. People, who are unable to afford the monthly payment in the 12-month plan, are more likely to choose a 24-months plan. They might still not be able to afford that plan, but default will be delayed somewhat. Staff's conclusion would only follow if people were randomly assigned to payment plans. Given that this is not the case, there is reason to believe that 24-months plans are not the reason for the default. We should allow all customers to select payment plans that are right for them, including plans lasting 24 months.

IV. Conclusion

This rulemaking and the changes under consideration reflect significant collective growth in our appreciation for how the energy utility regulatory framework can deepen inequities. We appreciate Staff's work putting together Proposed Rules that take important steps to recognize that reality and offer suggestions to further strengthen Division 21 protections. We encourage the Commission to consider our suggestions and to oppose any changes that would weaken the Proposed Rules.

Respectfully submitted this 15th day of July 2022,

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[26] Staff Report at 34-35.

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