

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

**RE: AR 653, Division 21 Rules to Strengthen Customer Protections Concerning  
Disconnection  
Energy Justice Advocates' Final Comments**

Community Action Partnership of Oregon (CAPO), the Oregon Citizens' Utility Board, Multnomah County Office of Sustainability, the NW Energy Coalition, the African American Alliance for Homeownership, Ecumenical Ministries of Oregon, and the Community Energy Project (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 reiterate the previous comments we have filed in this docket, particularly those filed on August 22, 2022. These comments address and further clarify issues that the Commissioners identified during the September 1, 2022 Rulemaking Hearing on the issues of payment at the door policy and severe cold weather moratoria thresholds. We appreciate this final opportunity to inform the Commission's decision as it updates its Division 21 Rules in recognition that the status quo is not working for energy-burdened customers.

**I. We reiterate our recommendation that the Commission amend OAR 860-021-0405(11) to require utilities to accept customer payment "at the door".**

If a field agent has in-person contact and customers have the means to pay their bill, it makes sense that the customer be allowed to pay then and there to avoid disconnection. Staff, in their Report recommending opening this formal rulemaking, stated that from August 1, 2021 to January 31, 2022, three utilities collected money at the door, for a total of \$462,511, including \$4,063 that was collected from 21 low-income residential customers.<sup>1</sup> Those 21 customers are exactly who HB 2475 aims to protect.

We do not see this as a service-technician-as-field-collection-agent issue. Our concern recognizes the complexity of the lives of those without the same privileges many of us enjoy. The reality is that Oregonians from vulnerable and marginalized communities, including seniors and those with disabilities, may have occasional difficulty paying their bills through traditional means. We are sensitive to the utilities' concerns for field agents carrying cash while in the field. We have similar concerns for vulnerable customers carrying cash to a payment location. Without the option to pay at the door, the burden is on vulnerable Oregonians with limited resources to travel. It also increases the risk to the customer carrying cash who may have to walk or rely on public transportation, whereas an agent could have access to a secure lock box.

Our proposed rule isn't limited to cash. A customer may have a money order made out to the utility. Some customers have funds on a debit or credit card, but are unable to pay online because they don't have internet access or don't have enough minutes to call to pay by phone.

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<sup>1</sup> AR 653, [Staff Report for the June 9, 2022, Public Meeting](#) at 28 (Jun. 2, 2022).

If utilities have tablets or mobile devices, it seems possible that banked customers could quickly pay that way or through a credit card reader. We believe the benefits to allowing customers to pay at the time of disconnection outweigh the extra few minutes this type of transaction would ask of the utility employee.

Staff's proposed amendment to this rule is a step in the right direction. If the Commission is debating between keeping the rule as-is or incorporating Staff's proposed 24-hour opportunity, we ask the Commission to consider expanding Staff's rule to 72 hours. Customers with the ability to make a payment would get a little more time to find a way to a payment location (including via transit, a ride, or ride-sharing), as well as time to take care of child care, or other necessary solutions to address additional barriers that accessing traditional options present.

We reiterate our advocacy for utility collection of demographic data and ask that each utility's data collection include identifying customers with disabilities, those with or eligible for medical certificates, average age, average income, access to broadband, access to transportation resources (ie, public transportation, coordinating through a ride program), and, related to our concerns discussed in previous comments, the range of distances customers have to travel to access a payment station, particularly those in rural areas. This information can highlight issues that present barriers to traditional payment options and create an energy burden for vulnerable and marginalized customers. Finally, we ask that the Commission direct Staff to explore issues around accessibility of payment in the upcoming investigation for the long-term implementation of HB 2475.

**II. We reiterate our recommendation that the Commission adopt Staff's proposed OAR 860-021-0407(1) or a threshold based on the number of hours at or below the freezing point**

While the comments on this section focus on the severe cold weather moratorium temperature threshold, we reiterate our recommendation that the Commission adopt the winter weather warning language in Staff's proposal requiring a moratorium on days with temperatures at or below 32 degrees Fahrenheit.

**A. The Commission should adopt Staff's proposal because it is the most protective approach to severe weather moratoria, as well as common, simple, and reasonable.**

Our past comments show that Staff's Proposal is the most protective approach to severe cold weather moratoria that is currently on the table. We consider it important to reiterate in these Final Comments that Staff's proposal is already a compromise. Public health research on the topic of safe home temperatures suggests that homes should be kept at a minimum of 65 degrees.<sup>2</sup> Staff's Proposal does not halt disconnections during all outdoor temperatures that would place a home at risk of crossing that threshold. Instead, it would ensure that community

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<sup>2</sup> Rachel Jevons et al., *Minimum indoor temperature threshold recommendations for English homes in winter – A systematic review*, 136 Public Health 4 (2016).

members have the energy utility service needed to heat their home on days when the weather is *at or below the freezing point*.<sup>3</sup> While not as protective as it could be, we support Staff's Proposal because it would protect families at risk of disconnection during severe, freezing weather.

Staff's proposal and similarly protective approaches are common.<sup>4</sup> Concerns about the slightly increased complexity of our alternative proposal, explored below, also weigh in favor of the Commission adopting Staff's proposal as it is arguably simpler for the utility to implement. For these reasons, we encourage the Commission to adopt Staff's proposal.

**B. If the Commission does not adopt Staff's proposal, we recommend that the Commission adopt a moratorium on days when the temperature is forecasted to be at 32 degrees or below for four or more hours over the next 24 hours.**

While we strongly support Staff's proposal, we formulated an alternative in an effort to address some of what we heard at the July 21, 2022 Rulemaking Hearing. Specifically, we heard concerns with having a moratorium on days when the temperature briefly dips below 32 degrees. As the studies we point out in prior comments suggest,<sup>5</sup> the 32 degree outdoor temperature threshold is somewhat arbitrary as indoor temperatures can become unhealthy at much higher outdoor temperatures. In fact, an unheated house can have a colder indoor temperature than the outside even during the day.<sup>6</sup> However, we wanted to come together as a community of advocates to explore alternatives and be responsive to the concerns we heard. We also reached out to our utility partners to offer that potential compromise, but unfortunately it did not address their concerns.

*1. Establishing whether a day warrants a moratorium under our alternative proposal should not be cumbersome.*

Our alternative proposal would establish a moratorium when the forecasted temperature is at freezing or below for four or more hours during the following 24 hours. This would address concerns of halting disconnections on days when the temperature would briefly dip below 32 degrees Fahrenheit. Utilities would be easily able to determine if they would need to put a moratorium into effect in particular day. OAR 860-021-0407(4) requires utilities to "base the need for a moratorium on data available from the National Weather Service or another weather

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<sup>3</sup> Freezing temperatures are more dangerous to people living in poorly insulated housing, which is a common type of housing for low-income and other vulnerable populations.

<sup>4</sup> Energy Justice Advocates' Comments at 5 (Aug. 22, 2022).

<sup>5</sup> *Id.* at 6.

<sup>6</sup> HVAC SEER, *How Cold Will and Unheated House Get* (May 31, 2022), <https://hvacseer.com/how-cold-will-an-unheated-house-get/> ("While an unheated house can't get colder than the outside temperature at night within a short period, it can have a colder indoor temperature than the outside temperature during the day. There are several reasons and factors that contribute to this, which we have tackled earlier. One is your house location. If your house is in a place where it doesn't get sufficient exposure to sunlight, then it would become a cold spot. Thus, you might feel that the house is colder than the temperature outside.")

reporting service that may be designated by the utility.” The National Weather Service and most available weather forecasts have easily accessible forecasted hourly data.<sup>7</sup>

At the September 1, 2022 Rulemaking Hearing, we heard concerns related to the accessibility of hourly weather data and how our alternative proposal could be too complex based on the fact that we could not find *historical* hourly weather data to evaluate its impact. We could not find free *historical* hourly weather data from government sources and in a format that we could analyze given our capacity and resources.<sup>8</sup> However, and as we explain above, the *hourly forecasts* that utilities would need to use under our proposal are readily available. As a result, the barriers that we encountered in finding historical hourly weather data should not deter the Commission from considering this proposal, nor should they impact utilities’ ability to easily determine that a particular day is subject to a moratorium.

2. *To be meaningful, adopting our alternative proposal would have the utilities look at the forecast for the next 24 hours.*

Under our alternative proposal, rather than looking at the forecast to answer “*is the minimum temperature forecasted to be at or below 32 degrees?*” the utility would look at it to answer “*is the forecasted temperature be at or below 32 degrees for four or more hours over the next 24 hours?*” Given the difference in the question the utility is addressing, we suggest that this proposal would also require changing the approach in the rule from looking at the current day to looking at the next 24 hours. As a result, we offer the following proposed rule language should the Commission decide to adopt our alternative proposal (our changes from Staff’s proposal are in bold and underlined):

Except as set forth in section (§11) of this rule, an energy utility must put into effect a moratorium on the disconnection of residential service for nonpayment on any day a high temperature of less than 32 degrees Fahrenheit **for four hours or more in the next 24 hours** is forecasted by the applicable weather reporting service **or a winter storm warning indicating weather conditions pose a threat to life or property is issued by the applicable weather reporting service.**

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<sup>7</sup> National Weather Service Forecast Office - Medford, OR, *Hourly Weather Forecast Graph*, <https://forecast.weather.gov/MapClick.php?lat=42.2742&lon=-122.8167&unit=0&lg=english&FcstType=graphical>; WeatherUnderground, *Ashland OR Hourly Weather Forecast*, <https://www.wunderground.com/hourly/us/or/ashland/KORASHLA101>; The Weather Channel, *Hourly Weather - Bend, OR*, <https://weather.com/weather/hourbyhour/l/73243e240ac30cda0b991f67c682368f064257c42d318c70f9a1a676ee520b65#detailIndex4>.

<sup>8</sup> We found historical daily weather data that was not aggregated. We could technically have populated a spreadsheet and analyzed that data. However, we lack the resources and staffing to do so.

**C. Other proposals under consideration are not as protective of human health as Staff’s proposal or our alternative proposal.**

We reiterate our concern that the status quo, the utilities proposal, and a “maximum forecasted temperature” approach more generally would miss too many days when the temperature is at or below freezing.<sup>9</sup> For that reason, we encourage the Commission to adopt the more protective severe cold weather moratorium approach in Staff’s Proposal.

During the last Rulemaking Hearing, we briefly explored a variation of Staff’s proposal that would have that rule in place seasonally (i.e. November through March). While this approach would be significantly better than the status quo (as Tables 1-3 illustrate), facing below freezing temperatures without the energy utility service required to heat one’s home is a concern regardless of the month. Unfortunately, severe cold weather does not stop in March. As those living in poorly weatherized housing and gardeners know well, frosts happen well into April.

Mirroring the methodology that we followed to build the table included in our August 22, 2022 comments that sought to illustrate the impact of different policies,<sup>10</sup> Tables 1-3 seek to illustrate the impact of adopting a seasonal rule that is only in place from November 1 through March 30. The columns represent the following:

- Current: Number of days with a maximum temperature below 32 degrees to represent the status quo.
- Staff: Number of days with a minimum temperature at or below 32 to represent the days covered under Staff’s proposed rule
- Seas. C: Number of days with a minimum temperature at or below 32 degrees that took place between November 1 and March 30 to represent the days with temperatures at or below freezing that would be covered by a seasonal approach.
- Seas. NC: Number of days with a minimum temperature at or below 32 degrees that took place between April 1 and October 31 to represent the days with temperatures at or below freezing that would *not* be covered by a seasonal approach.
- % NC: The percentage of days with a minimum temperature at or below freezing that would not be covered by a seasonal approach.

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<sup>9</sup> Energy Justice Advocates’ Comments at 5, 6-8 (Aug. 22, 2022).

<sup>10</sup> *Id.* at 6-7.

Site/Year	2021				
	Current	Staff	Seas. C	Seas. NC	% NC
Portland	2	20	19	1	5.00%
La Grande	19	137	116	21	15.33%
Bend	6	140	106	34	24.29%
Ashland	0	130	101	29	22.31%

Site/Year	2019				
	Current	Staff	Seas. C	Seas. NC	% NC
Portland	0	43	41	2	4.65%
La Grande	16	145	119	26	17.93%
Bend	20	152	115	37	24.34%
Ashland	0	136	108	28	20.59%

Site/Year	2020				
	Current	Staff	Seas. C	Seas. NC	% NC
Portland	0	27	25	2	7.41%
La Grande	0	120	111	9	7.50%
Bend	3	119	96	23	19.33%
Ashland	0	128	105	23	17.97%

Tables 1-3: Number of days when a severe cold weather moratorium would be triggered under different policy approaches, and number and percentage of days that would be covered under Staff’s proposal but not under a seasonal approach.<sup>11 12</sup>

As Tables 1-3 illustrate, community members would not be protected from disconnection during a significant portion of days with temperatures at or below freezing under a seasonal approach. This unintended impact would be especially felt outside of the Portland Metro area. Additionally, adopting a seasonal approach would leave open the question of what, if any, protections from disconnection would apply to customers when very cold weather events take place outside of the designated months. Since extreme and unpredictable weather events are expected to increase in frequency, if the Commission would rather adopt an alternative to Staff’s proposal we encourage it to consider our more tailored proposal and look at the number of hours when a community will experience at or below freezing temperatures.

### III. Conclusion

We are grateful for all of the work that has led us to this point. This process started in March 2020 when our utility partners voluntarily recognized that COVID-19 represented a deep shock for our communities and adopted moratoriums on disconnections. The Commission extended those moratoriums through July 15, 2021, likely minimizing the impact that the heat dome had on those most at risk of disconnection.

The impacts of COVID-19 and the conversations spurred by the racial justice uprising highlighted the urgency of recognizing how the energy system can perpetuate or contribute to addressing inequity and injustice. The revisions to the Division 21 rules that you will adopt are an important step to reducing the inequitable impacts of disconnection and related policies. We

<sup>11</sup> This table does not consider weekend holiday moratoriums and seeks to look at the impact of various severe weather moratorium policies in isolation of other current policies. As a result, some of the days we identified as impacted/not impacted by the policy may already be covered by weekend/holiday moratorium policies.

<sup>12</sup> We relied on historical weather data sets published by the National Oceanic and Atmospheric Administration’s National Centers for Environmental Information for Ashland OR (USC00350304), La Grande (USC00354622), Portland International Airport (USW00024229), and Bend (USC00350694) available at <https://www.ncei.noaa.gov/access/past-weather/oregon>.

could not be here without your courage to address these topics and have some difficult conversations, nor could we be here without all of the work that Staff undertook at a time of capacity constraints, as well as the effort of utilities and multiple stakeholders that committed to this process. We look forward to future processes and conversations aimed at ensuring justice and equity in the realm of energy utility service in Oregon.

Respectfully submitted this 7<sup>th</sup> day of September, 2022,

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