

ISSUED: May 16, 2006

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 506

In the Matter of)
)
Rulemaking to Amend and Adopt Permanent) MEMORANDUM
Rules in OAR 860, Divisions 024 and 028,)
Regarding Pole Attachment Use and Safety.)

**DISPOSITION: AGREED UPON RULES ISSUED; AGENDA SET
FOR WORKSHOP ON THURSDAY, MAY 18, 2006**

Attached please find a draft copy of the Division 024 rules under consideration in this docket. The changes were made in a copy of Staff's proposals presented at the May 11 workshop. Where the participants have been able to agree to language, that is shown in italics. In some instances, Staff proposed to drop contentious language in exchange for other wording that was never agreed to. Consequently, this version of the draft rules should be viewed as a document still in progress.

No other agenda items were requested for the workshop with the Commissioners, to be held Thursday, May 18, 2006. The agenda will be as follows:

1:30-2:30 Prioritization of Repairs
2:30-3:30 Vegetation Management
3:30-4:00 Cost/benefit analysis of the rules

Dated at Salem, Oregon, this 16th day of May, 2006.

Christina M. Smith
Administrative Law Judge

WORKSHOP PROPOSED RULES
REFLECTS STAFF 5/11 PROPOSAL IN RED
ALONG WITH AGREED ON CHANGE IN ITALICS
ISSUED 5/15/06

860-024-0001

Definitions for Commission Safety Standards~~Rules~~

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.

~~(21)~~ “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.

~~(32)~~ “Government entity” means a city, a county, a municipality, the state, or other political subdivision within Oregon.

(4) “Occupant” means any operator that constructs, operates, or maintains attachments on facilities.

~~(53)~~ “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~~(40)~~, 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.

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

Pattern of non-compliance omitted, in exchange for Staff’s proposal included herein

(7) “Reporting ~~O~~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.

860-024-0011

Inspections and Compliance 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.

Training requirement omitted.

(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 minimum inspection rate of 10 percent of overhead facilities per year. This inspection must cover the area designated in subsection (2)(a) of this rule by the operator of electric supply facilities each year. Operators of communication facilities are required to inspect the same area designated by the operators of the electric supply facilities during the same time 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.

~~(Staff Proposal)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 OPUC 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. Operators must make these records available to the Commission upon its request.

(2) Each operator of electric supply facilities must:

(a) Designate program areas to be inspected pursuant to subsection (1)(d) of this rule within its service territory. The schedules for the coverage areas for the entire program must be made available in advance and in sufficient detail so that the Commission and all operators with facilities in that service territory may coordinate needed inspection and correction tasks. Unless the parties otherwise agree, operators must be notified of any changes to the established 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 schedule.

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.

860-024-0014

Duties of Electric Supply and Communication Structure Owners

Other subsections were relocated to Div 28

(1) An owner must maintain its facilities in compliance with Commission Safety

Rules (for occupants is omitted).

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

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

Staff Suggested Workshop Changes

860-024-0016

Vegetation Clearance Requirements

(1) For purposes of this rule:

Definition of Interference omitted, Staff made other proposals as indicated herein

(a) *“Readily climbable” means having both of the following characteristics:*

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

(B) 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.

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

(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 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~~ 200,001 volts; or

(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 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 of the vegetation, supporting structures, and conductors under adverse weather conditions.

(8) Each operator of communication facilities must trim or remove vegetation that poses a risk to its ~~their~~ facilities, or through contact with its facilities poses a significant risk to a structure or pole ~~to~~ of other operators 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.~~

860-024-0050

Incident 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 *incident* 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 \$100,000; 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 \$100,000 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 **must** give immediate notice by telephone, by facsimile, by electronic mail, or personally to the Commission, of *incidents* 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 **must**, in addition to the notice given in section (2) of this rule for an *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 *incident* report form that is submitted to Oregon OSHA, Department of Consumer and Business Services, for reporting *incident* injuries, will normally suffice for a written report. In the case of a gas operator, copies of *incident* or leak reports submitted under 49 CFR Part 191 will normally suffice.

(4) An *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.