

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 506

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

DISPOSITION: ADOPTION OF DIVISION 024 NEW RULES AND AMENDMENTS

At the March 7, 2006, public meeting, the Public Utility Commission of Oregon (Commission) opened this docket at the request of Commission Staff (Staff), to address rules related to pole attachments. During that meeting, the Oregon Joint Use Association (OJUA) requested that the rulemaking process be set in two phases, the first to address rules in Division 024 and the second to address rules in Division 028. That request was granted. This order is to adopt rules in Division 024.

On March 10, 2006, the Commission filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact with the Secretary of State. On July 13, 2006, the rulemaking was re-filed with the Secretary of State. The notices of rulemaking were published in the *Oregon Bulletin* on April 1 and August 1, respectively. Notice was provided to certain legislators specified in ORS 183.335(1)(d) on March 21 and July 19, and to all interested persons on the service lists maintained by the Commission pursuant to OAR 860-011-0001 on March 23 and July 19.

Procedural Background

In the afternoon of March 7, 2006, a prehearing conference was held and a schedule was set. Issues lists were submitted on April 10, 2006. OJUA was charged with setting a comprehensive list. A few issues were added later, and the OJUA list was used as the issues list for the docket. Comments were submitted throughout the proceeding. Participants took part in workshops on May 11, 2006, and the morning of May 18, 2006, and the Commissioners held a workshop with participants on the afternoon of May 18, 2006. A public hearing was held on June 1, 2006.

After the last day for public comment, there was a meeting between a participant and Commissioners regarding Division 024. While not an ex-parte contact, it was a barred contact and resulted in extension of the public comment period to June 29, 2006. Then, the Commission re-filed the rulemaking with the Secretary of State together

with a new Statement of Need and Fiscal Impact. A public hearing was held on August 23, 2006, which was also the last day for public comment.

Prior to the formal opening of this rulemaking docket, Staff held informal workshops and received comments which helped it revise draft rules. The record in this rulemaking consists of documents provided in that informal phase, as well as all documents submitted in this docket since March 7, 2006. After weighing all of the comments in this docket, we adopt the rules set forth in Appendix A for Division 024.

Issues

Financial Impact of the Rules

The initial fiscal impact statement for this rulemaking stated that the “proposed rules will have little overall financial impact * * * Those operators that currently comply with existing PUC statutes, rules and policies will potentially experience no increase in costs associated with the implementation of these rules.” *See* AR 506, Statement of Need and Fiscal Impact (pub Apr 1, 2006, Oregon Bulletin). Several participants took exception to that analysis, arguing that costs would in fact be much higher for utilities. *See* Verizon comments, 2-3 (May 26, 2006); PGE comments, 8-9 (May 1, 2006). Staff argued that there would not be higher costs for utilities, and that under a worst-case scenario, cost of compliance with the proposed rules would cost 60 cents per customer per month. *See* Staff comments, 5 (May 25, 2006).

The docket was re-noticed with the Secretary of State’s office with a new fiscal impact statement, describing various estimates of costs by Staff and the OJUA, and concluding,

It is not possible at this time to determine the exact fiscal and economic impact from the proposed rules for each operator in Oregon. Such a quantification would depend on how much of an operator’s line facilities are out of compliance with existing PUC safety regulations and the performance of an operator in installing new attachments and facilities in compliance with PUC safety regulations. There is a variety of existing inspection, construction, and maintenance practices by the forty electric utilities and by the many telecommunication operators and contractors. An added complexity is the multitude and variety of private and confidential contracts that operators have among themselves.

See AR 506, Statement of Need and Fiscal Impact (pub Aug 1, 2006, Oregon Bulletin). At the public comment hearing, held August 23, 2006, utilities and OJUA continued to argue that the financial impact on utility companies would be higher than anticipated.

Moreover, the improved safety impact would be minimal compared to the extraordinarily high cost of implementing the rules. *See* OJUA comments, 1 (Aug 22, 2006).

The proposed rules in this docket have changed throughout the proceeding, so it is unclear whether each participant still agrees that costs will be prohibitive with the most recent proposal by Staff, or even the rules adopted here today. For instance, Verizon initially expressed concern about a provision regarding vegetation trimming around communication lines; that provision has been moved to Division 028. We agree with the participants that we should balance the safety value of the rules against the costs of the rules, but we note that many of the rules adopted here today have been informally in force for many years. This rulemaking simply codifies those policies so that there can be enforcement against those who violate long-standing Commission safety standards on a prospective basis. Moreover, we have responded to industry comments and adopted a “first step” approach in these rules, as this is the first time that many of these policies have been in rule.

However, we believe that there is a need for clearly defined rules. The first pole attachment cases were filed in 2003, and many gaps in the pole attachment rules were identified as a result of those cases. Additional cases have been filed since then, and we believe that the industry needs better guidance. We look forward to continuing to work with the OJUA, as an advisor to the Commission, and other industry participants to further clarify standards for safety and other aspects of pole attachment regulation.

Inspection

The amended rule, OAR 860-024-0011, that we adopt today requires pole owners and attachers to inspect all of their facilities in a 10 year cycle, with a check-in at the five year point in the cycle. At the five year point, either 50 percent of the inspections will be completed, or a plan to complete the inspections within the ten year cycle will be submitted to the Commission for its consideration and approval. Further, operators of electric supply facilities must designate their annual inspection areas at least 12 months in advance of the start of that year.¹ Other entities may coordinate their inspections at their discretion.

The rule also provides that the Commission may require a shorter inspection cycle for pole owners or attachers who have demonstrated a pattern of behavior that results in material violations of Commission safety rules, or where the facilities are exposed to extraordinary conditions. If Staff recommends a shorter inspection cycle, the affected operator would have the ability to argue its case under the applicable procedures, such as those in Division 014. Such a decision would be made by an order of the Commission.

Earlier proposals by Staff required joint inspections coordinated among all attachers on a pole, or at least having all attachers inspect a particular area within the

¹ For instance, an owner must indicate by December 31, 2006, which area it will inspect during 2008.

same calendar year. Staff proposed this as a way to ensure that all violations in a particular area would be completely repaired. They also cited the success of pilot projects coordinated among electric pole owners and telephone and cable companies attached to those poles. OJUA objected because it considers it to be “not a safety matter, but rather a negotiable business decision between two private parties.” OJUA comments, 7 (May 3, 2006). Other participants agreed with OJUA’s assessment. *See* Verizon comments, 5-6 (May 26, 2006).

We recognize that utilities and licensees will perform attachment work on an ongoing basis, so that an area will likely never be completely violation-free. We also believe that market forces and other incentives in the rules will motivate companies to work together when it is reasonable. Staff’s goal is laudable, and we support the goal. But we will not mandate it by rule. We encourage owners, licensees, and other operators to coordinate their inspections when possible.

In its final proposal, OJUA recommended making notice of the designation of the annual geographic areas available on the OJUA website. Staff’s proposal did not mandate a way for this information to be shared among operators. OJUA is to be commended for offering a method of information sharing among operators, but at this time, it appears to be a matter that can be established among private companies, and therefore more in keeping with Division 028 rules and private contracts than Commission mandate. While we do not expressly adopt the OJUA’s proposal that electric operators designate their annual inspection area on maps made available on the OJUA website, because not every utility is a member of OJUA, we are interested in such low-cost and readily available methods of sharing information. We urge operators and Staff to come up with such a solution on a voluntary basis that serves every operator in Oregon. If problems arise with the communication of annual inspection areas, we may revisit this issue at a later date.

Definition: *Material Violation*

For “material violation,” we adopt a definition with two tiers of safety risk: a “significant” risk to pole workers, who are trained and employed to monitor pole safety; and a “potential” risk to the public at large, who has no knowledge of the risks posed by pole attachments. This definition is used to define “pattern of non-compliance,” which is used by the Commission to gauge whether a shorter inspection cycle should be imposed under OAR 860-024-0011(1)(b)(B). Staff argues that there is no reason why a different standard should be applied to utility workers and the public. *See* Staff comments, 3 (May 25, 2006). OJUA argues that the National Electrical Safety Code (NESC)-mandated training gives workers a heightened awareness of the risks posed by pole attachments. We agree with the OJUA and adopt their proposed definition for “material violation.”

Definition: *Pattern of Non-Compliance*

The initial proposed definition for “pattern of non-compliance” was “a course of behavior that results in frequent violations of the Commission Safety Rules.” Staff Report, Item No. 6, Attachment C (Mar 7, 2006 OPUC Public Meeting). Further, OJUA expressed concern that any pattern be premised on violations of Commission Safety Rules discovered in the future. Staff proposed language that provides effective dates for these rules, so they will have only prospective effect. In addition, Staff asserts that a pattern of non-compliance will only be found for those utilities that have a completely ineffective inspection program or none at all. *See* Staff comments, 3 (May 25, 2006).

We adopt Staff’s recommendation that rules be applied prospectively to ease OJUA’s concerns about a pattern being applied to violations that were discovered in the past. Moreover, we decline to further refine the definition of “pattern of non-compliance.” If Staff seeks a Commission order stating that a utility has established a “pattern of non-compliance,” and should therefore be subject to a shorter inspection cycle, the utility will then be able to argue to the Commission that their conduct does not warrant the shorter cycle.

Vegetation

Staff and industry participants were able to resolve most differences in the proposed rule regarding vegetation management, OAR 860-024-0016. That language is adopted here, including the compromise language on “readily climbable” and the proper designation of wind conditions.

In addition, Portland General Electric Company (PGE) raised concerns regarding OAR 860-024-0016(5), which sets out minimum clearances around electric lines and the ability of new growth to intrude in that area. PGE argued that section contains more stringent language than currently in use through the Staff policy on “Tree to Power Line Clearances,” adopted by the Commission before 1983. *See* Staff comments, Exhibit 6, 3 (May 1, 2006). In particular, PGE asserts that barring growth within the minimum clearance area would require more frequent tree-trimming, resulting in additional costs. This is in contrast with the existing policy which allows “limited intrusion” as long as there is no safety hazard to a person climbing the tree or interference with the conductors. The City of Portland, Parks & Recreation Department also expressed concern about the 18-inch minimum clearance standard and its impact on trees, “[n]ot knowing how the utility companies may choose to comply with this language.” City of Portland letter (May 25, 2006). Staff argued that a minimum clearance of 18 inches is needed to allow adequate separation space “while giving the utility some flexibility to deal with cycle busters.” Staff comments, 7 (May 25, 2006).

In these rules, we adopt language which allows for “intrusion of limited small branches and new tree growth into this minimum clearance area,” a standard which mirrors the Commission policy that has been in force for more than twenty years. *See*

Staff comments, Exhibit 6, 2 (May 1, 2006) (Tree To Power Line Clearances). Further, we adopt the requirement of a mandatory six-inch clearance between the vegetation and the conductor.

Some of these new rules will not apply to PGE, which is bound by a Service Quality Measures (SQM) agreement through 2016. *See* UF 4218/ UM 1206, Order No. 05-1250, 20. That document requires trimming on a two-year cycle in urban areas and a three-year cycle in rural areas. Further, it requires special inspections and maintenance in the fall of each year to prevent problems arising from winter storms. *See* Order No. 05-114, Appendix B, 13-14. If these rules impose a stricter standard, the rules must be followed; otherwise, PGE remains bound by the SQM agreement that it consented to when it became an independent company. *See* Order No. 05-1250.

The proposed section 8, regarding trimming by communications operators, has been moved to the proposed rules for Division 028, where the specifics are more likely to rely on private agreement than Commission mandate. We are cognizant of the concerns of some operators, such as Coos-Curry Electric Cooperative, Inc., whose poles are exposed to extreme weather conditions, and who are concerned that vegetation near communications lines could pose a threat to their poles under those extreme conditions.² We expect that contracts between pole owners in that situation and licensees attached to those poles, will take those extreme conditions under consideration when providing for vegetation management in their contracts. However, we believe that, as written, these rules will be workable for the majority of pole owners and licensees.

Prioritization of Repairs

The rules adopted today require immediate treatment of any violation “that poses an imminent danger to life or property.” Other violations must be fixed within two years of discovery. If there is little or no foreseeable risk of danger, the operator has a plan to fix the violation, *and* all attachers on the relevant pole agree, some violations may be deferred to be fixed during the next major work activity, but no more than ten years after discovery of the violation.

The NESC requires compliance with certain safety standards; however, it also states that where there is a violation, an operator must come up with a plan to fix it and makes no other provision for a deadline for compliance. Participants argued against strict timelines for repair of NESC violations, noting that the NESC had rejected adoption of repair timelines for violations other than those that were most dangerous. This issue was by far the most contentious of this phase of the rulemaking, and we acknowledge that this is the first time that deadlines have been established in law for operators in Oregon.

² On the other hand, Central Lincoln PUD (CLPUD) and Northern Wasco County PUD (NWCPUD) submitted comments noting that they were in extreme weather locations, but supporting the move of this section to Division 028. *See* Comments of CLPUD and NWCPUD (May 25, 2006).

A preliminary report by the OJUA Inspection/Correction Committee classified NESC violations into three categories:³ Category A, which must be repaired as quickly as possible; Category B, which should be repaired no later than the end of the following year; and Category C, which should be repaired during the next detailed inspection/correction cycle, the next major work, or within 90 days of an approved permit application of a new pole tenant. *See* OJUA comments, Exhibit B, 9 (May 3, 2006). Category A violations were considered “significant” hazards; Category C violations “do not endanger life or property.” *See id.* at 19. Examples of Category C include a fire hydrant less than three feet from the pole with approval from all affected parties, climbing space violations where the pole is accessible by mechanical means, clearance between power and communications lines less than 40 inches but greater than 30 inches at the pole, and clearance between communications facilities at the pole less than 12 inches. *See id.* Category B violations include everything else that is not a significant hazard. If there is a question as to whether a violation falls in Category B or Category C, the Commission will carefully consider the risks to people and property.

In light of the submitted comments, that report provides the best compromise position, with the addition of a ten-year cap on the repair of Category C violations. This proposal was also endorsed by PacifiCorp and PGE. *See* PacifiCorp talking points (June 1, 2006); PGE First Round Comments, 2 (May 1, 2006). According to Staff, the “find it this year, fix it the next” approach is reflected in SQM agreements with these utilities. *See* Staff comments, 6 (May 25, 2006)⁴. The two-year requirement for Category B violations reflects Staff’s proposal and OJUA’s initial proposed compromise. The ten-year requirement, or next major work activity, whichever comes first, provides a balance for Staff, which is concerned that these violations will never be fixed, and participants who do not want immediate deadlines for correction of violations that have little or no perceived impact on safety.

Definition: *Commission Safety Rules*.

The participants also debated the definition of “Commission Safety Rules.” Staff’s initial proposal included all of the rules in Division 024. OJUA asserted that “Commission Safety Rules” should be replaced with “NESC” throughout the rules, and that any rule that exceeded the NESC should explicitly state that it does so. *See* OJUA comments, 14 (May 25, 2006).

The NESC has already been adopted by the Commission as the basic rules of safety for electric supply and communications facilities in Oregon. *See* OAR 860-024-0010. Rules adopted in Division 024 are, necessarily, above the bare minimum required by the NESC, and another statement is not needed. We adopt the definition of

³ We recognize that a different final recommendation was made by the OJUA. However, we appreciate this first attempt at compromise with Staff and an attempt by the OJUA to set an expeditious schedule for repairs, while considering the practical consequences to the industry. We hope that the OJUA will continue its serious attempts at balanced compromise proposals with Staff.

⁴ As we have already noted, utilities that are bound by stricter requirements in a SQM agreement will remain subject to those requirements.

Commission Safety Rules as the NESC, as modified or supplemented by the rules in Division 024.

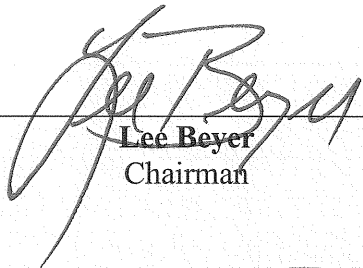
Conclusion

We appreciate the efforts of the many participants who participated seriously and made a genuine effort to craft proposals that will enhance safety and result in cost-effective service for customers and ratepayers. Implementation of these rules will require an on-going partnership between Staff and industry, particularly the OJUA. To educate the industry about these new rules and ease enforcement, the Commission encourages Staff and the OJUA to continue to work together in implementing these rules in a safe and cost-effective manner.

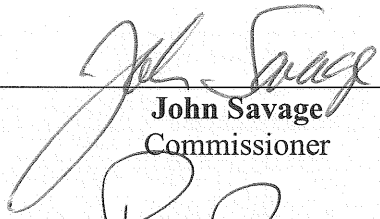
ORDER

IT IS ORDERED that the new rules and amendments attached at Appendix A are adopted, and will be effective upon filing with the Secretary of State.

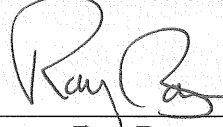
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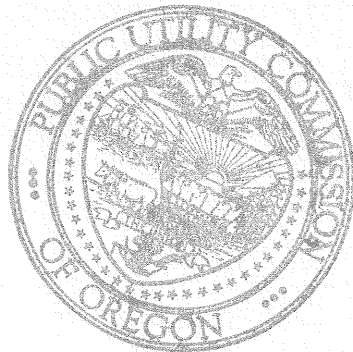
Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

860-024-0001**Definitions for Safety Standards**

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

(1) “Commission Safety Rules,” as used in this section, mean the National Electric Safety Code (NESC), as modified or supplemented by the rules in OAR Chapter 860, Division 024.

(2)(1) “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)(2) “Government entity” means a city, a county, a municipality, the state, or other political subdivision within Oregon.

(4) “Material violation” means a violation that:

- (a) Is reasonably expected to endanger life or property; or**
- (b) Poses a significant safety risk to any operator’s employees or a potential risk to the general public.**

(5)(3) “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(10), 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) “Pattern of non-compliance” means a course of behavior that results in frequent, material violations of the Commission Safety Rules.

(7)(4) “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 Ch. 183, 756, 757 & 759

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

Hist.: PUC 2-1996, f. & ef. 4-18-96 (Order No. 96-102); PUC 9-1998, f. & ef. 4-28-98 (Order No. 98-169); PUC 23-2001, f. & ef. 10-11-01 (Order No. 01-839)

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; and**

(b) Conduct detailed inspections of its overhead facilities to identify violations of the Commission Safety Rules.

(A) The maximum interval between detailed inspections is ten years, with a recommended inspection rate of ten percent of overhead facilities per year. During the fifth year of the inspection cycle, the operator must:

(i) Report to the Commission that 50 percent or more of its total facilities have been inspected pursuant to this rule; or

(ii) Report to the Commission that less than 50 percent of its total facilities have been inspected pursuant to this rule and provide a plan for Commission approval to inspect the remaining percentage within the next five years. The Commission may modify the plan or impose conditions to ensure sufficient inspection for safety purposes.

(B) Detailed inspections include, but are not limited to, visual checks or 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 non-compliance with Commission Safety Rules, the Commission may require a shorter interval between inspections.

(c) Conduct detailed facility inspections of its underground facilities on a ten-year maximum cycle, with a recommended 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 operator must make these records available to the Commission upon its request.

(2) Each operator of electric supply facilities must:

(a) Designate an annual geographic area to be inspected pursuant to subsection (1)(b) of this rule within its service territory;

(b) Provide timely notice of the designation of the annual geographic area to all owners and occupants. The annual coverage areas for the entire program must be made available in advance and in sufficient detail to allow all operators with facilities in that service territory to plan 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 12 months before the start of the next year's inspection; and

(c) 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 rate of 50 percent of lines and facilities per year.

(d) Inspect electric supply stations on a 45 day maximum schedule.

(3) Effective Dates

(a) Subsection (2)(a) of this rule is effective January 1, 2007;

(b) Subsection (1)(b) of this rule is effective January 1, 2008.

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

Stat. 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 correction of violations of the Commission Safety Rules that pose little or no foreseeable risk of danger to life or property to correction during the next major work activity.

(a) In no event shall a deferral under this section extend for more than ten years after discovery.

(b) The operator must develop a plan detailing how it will remedy each such violation.

(c) If more than one operator is affected by the deferral, all affected operators must agree to the plan. If any affected operators do not agree to the plan, the correction of violation(s) may not be deferred.

(4) For good cause shown, or 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

Stat. Implemented: ORS 757.035

Hist.: NEW

860-024-0016

Minimum Vegetation Clearance Requirements

(1) For purposes of this rule:

(a) "Readily climbable" means vegetation having both of the following characteristics:

(A) 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

(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 from electric supply conductors.

(4) Each operator of electric supply facilities must trim or remove readily climbable vegetation as specified in section (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 200,000 volts.

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

(c) Five feet for conductors energized at 600 through 50,000 volts, except clearances may be reduced to three feet if the vegetation is not readily climbable.

(d) Intrusion of limited small branches and new tree growth into this minimum clearance area is acceptable provided the vegetation does not come closer than six inches to the 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 the 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 displacement of the vegetation, supporting structures, and conductors under adverse weather or routine wind conditions.

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 ~~\$25,000~~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 ~~\$25,000~~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 **shall**must give immediate notice by telephone, by facsimile, by electronic mail, or personally to the Commission, of **accident**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 **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 for a written report. In the case of a gas operator, copies of **accident**incident 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 **sections** (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)