

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 513

In the Matter of)
)
An Amendment to Adopt the 2007) ORDER
National Electrical Safety Code.)

DISPOSITION: RULE AMENDMENT ADOPTED

This rulemaking considers adoption of the most current version of the National Electrical Safety Code (NESC). ORS 757.035(3) provides, in part, “the commission may adopt by rule any revision or edition of or amendment to the National Electrical Safety Code approved by the American National Standards Institute after July 14, 1977, and in effect on the date of adoption by the commission.” The American National Standards Institute approved the 2007 edition of the NESC on June 16, 2006. The NESC contains basic provisions that relate to the safety of employees and the public.

On March 14, 2007, the Commission filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact with the Secretary of State. The Commission also provided notice to legislators specified in ORS 183.335(1)(d), and to all interested persons on the service lists maintained pursuant to OAR 860-011-0001. Notice of the rulemaking was published in the Oregon Bulletin on April 1, 2007.

On April 11, 2007, Staff submitted comments in support of adoption of the revised NESC. Staff also noted concerns related to adoption of the arc-hazard rules, which govern fire risk to electrical workers and are also covered by Oregon Occupational and Safety Hazard Administration (OSHA) rules. Staff summarized its notification of industry participants prior to the beginning of the docket and attached earlier comments made by participants, which further highlighted concerns regarding the arc-hazard rules. Staff had also held a workshop on February 27, 2007, which included representatives of utilities, utility providers and operators, industry associations, and others. Staff indicated that industry response was in favor of adopting the revised NESC.

On April 20, 2007, Portland General Electric Company (PGE) submitted comments supporting the rulemaking, but also requesting that the Commission hold a workshop or meeting on or about June 1, 2008, in which the impacts of the arc-hazard rules, the possible conflicts with other rules, and effective implementation dates will be discussed. PGE also requested that a provision be adopted in the Oregon Administrative Rules allowing Commission waiver from the rules contained in the NESC for specific

installations, either as an isolated instance or in multiple locations, where equivalent safety can, and will, be provided in other ways.

On April 23, 2007, a public comment hearing was held. PGE, PacifiCorp, and Staff spoke at the hearing. Staff argued in favor of adoption of the latest edition of the NESC for consistency among the utilities and across states. All parties supported adoption of the 2007 version of the NESC, and made further comments regarding two issues.

The first issue raised was the arc-hazard rules, which the latest edition of the NESC states will go into effect on January 1, 2009. PGE requested that the Commission hold a workshop on or after June 1, 2008, so the utilities have time to research the arc-hazard rules and related implementation issues, as well as the intersection with OSHA rules. PGE stated that examining the arc-hazard rules has been very time consuming so far and will take even longer to implement. Staff would prefer to have all workshops completed before June 1, 2008, so that a rulemaking can be commenced in time to issue rules before the January 1, 2009, deadline in the NESC. PacifiCorp also stated that it thought the June 2008 workshop would also consider delaying implementation of the arc-hazard rules beyond January 1, 2009. Staff acknowledged that issue would be considered at the June 2008 workshop.

The second issue raised was the issue of a waiver provision proposed by PGE. Staff argued that the waiver provisions in the NESC, section 1, and OAR 860-024-0012(4) provide sufficient flexibility to the Commission to allow waivers where necessary. PGE argued that those provisions are inadequate and that the Commission should adopt an additional provision allowing the Commission to waive NESC rules on a case-by-case basis for good cause shown or where equivalent safety can be achieved.

In addition, on April 23, 2007, additional written comments were submitted by PGE and Staff. PGE reiterated its comments regarding the waiver provision and proposed specific language. Staff proposed that the Commission direct it to investigate whether the January 1, 2009, implementation date for the arc-hazard rules is appropriate, but not to review federal and Oregon OSHA regulations nor consider cost impacts. Staff asserts that the investigation should be complete by June 1, 2008, and no later than August 1, 2008.

Conclusion

Pursuant to its authority under ORS 757.035(3), the Commission should adopt the latest edition of the National Electrical Safety Code to ensure consistency with the most recent developments in utility safety.

In addition, Staff should review the impacts of the new arc-hazard standards covered in NESC Rules 410A3 and 420I2, and should specifically consider the effective implementation date and provide a recommendation by August 1, 2008. Commission Staff may also consider conflicts with federal and Oregon OSHA

regulations, as well as cost impacts on affected utilities, operators, and interested persons in the course of its review or in a subsequent review. Workshops should begin on or after June 1, 2008, so that utilities have time to conduct their own internal reviews.

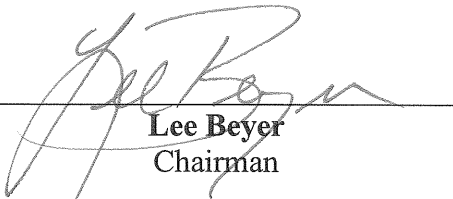
Finally, regarding the waiver provision, OAR 860-024-0012(4) states: "For good cause shown, or where equivalent safety can be achieved, unless otherwise prohibited by law, the Commission may for a specific installation waive the requirements of OAR 860-024-0012." The remainder of the rule discusses prioritization of repairs. In addition, section 1, provision 013 of the NESC provides that the NESC rules "shall apply to all new installations and extensions, except that they may be waived or modified by the administrative authority. When so waived or modified, safety shall be provided in other ways." Provision 013 also allows currently existing installations to comply with earlier editions of the Code, and provision 014 applies to emergency and temporary overhead installations. Staff has asserted that these waiver provisions are adequate, and PGE has not shown that they are not. No new waiver provision will be adopted at this time.

ORDER

IT IS ORDERED that:

1. The amended rule, set forth in Appendix A, is adopted and will become effective upon filing with the Secretary of State.
2. Commission Staff is directed to review the arc-hazard rules in the 2007 NESC code as specified in this order.

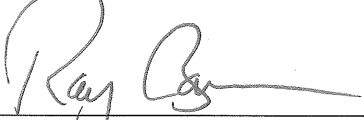
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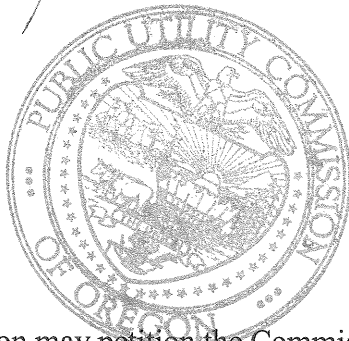
Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A person 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.

APPENDIX A

Electric and Communication

860-024-0010

**Construction, Operation, and Maintenance of Electrical Supply and ~~Signal~~
Communication Lines**

Every operator shall construct, operate, and maintain electrical supply and communication lines in compliance with the standards prescribed by the 2007~~2~~ Edition of the National Electrical Safety Code approved June ~~1416~~, 200~~16~~, by the American National Standards Institute.

[Publications: Publications referenced are available for review from the Commission.]

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

Stats. Implemented: ORS 757.035