

ORDER NO. 23-196

ENTERED Jun 05 2023

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 656

In the Matter of

Rulemaking Updating OAR 860-024-0020 to  
Adopt the National Electric Safety Code 2023  
Edition.

ORDER

**DISPOSITION: ADMINISTRATIVE HEARING DIVISION RECOMMENDATION  
ADOPTED**

This order memorializes our decision, made and effective at the May 30, 2023 Regular Public Meeting, to adopt the Administrative Hearings Division's (AHD) recommendation in this matter to adopt the proposed permanent rule changes as presented in Attachment A of the AHD May 24, 2023 Public Meeting Report. The AHD report with the recommendation is attached as Appendix A.

Made, entered, and effective Jun 05 2023.



**Megan W. Decker**  
Chair



**Letha Tawney**  
Commissioner



**Mark R. Thompson**  
Commissioner

A person may petition the Oregon Public Utility Commission for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

ITEM NO. RM1

**PUBLIC UTILITY COMMISSION OF OREGON  
AHD REPORT  
PUBLIC MEETING DATE: May 30, 2023**

REGULAR  CONSENT  RULEMAKING  EFFECTIVE DATE  N/A

**DATE:** May 24, 2023

**TO:** Public Utility Commission

**FROM:** Christopher J. Allwein **SIGNED**

**THROUGH:** Diane Davis, Nolan Moser

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE HEARINGS DIVISION: (Docket No. AR 656) Requesting adoption of a rule amendment for Chapter 860, Division 24 adopting the 2023 Edition of the National Electric Safety Code.

**AHD RECOMMENDATION:**

Adopt amended, permanent rule OAR 860-024-0010 presented in Attachment 1.

**DISCUSSION:**

Issue

Whether the Public Utility Commission of Oregon (Commission) should adopt the amended rule for Chapter 860, Division 24 regarding the adoption of the 2023 Edition of the National Electric Safety Code (NESC).

Applicable Law or Rule

Under Oregon Revised Statute (ORS) 756.060, the Commission “may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission...” The Oregon Administrative Procedures Act sets forth the process for rulemaking.

ORS 757.035(1) provides the Commission with the authority to adopt safety rules and regulations “in such manner as to protect and safeguard the health and safety of all employees, customers and the public, and to this end to adopt and prescribe the installation, use, maintenance and operation of appropriate safety or other devices, or

appliances, to establish or adopt standards of construction or equipment, and to require the performance of any other act which seems to the commission necessary or proper for the protection of the health or safety of all employees, customers or the public.”

### Analysis

On August 1, 2022, the 2023 Edition of the National Electric Safety Code (NESC) was published. It was the result of code changes evaluated through the rigorous process conducted by the Institute of Electrical and Electronics Engineers. The NESC became effective on February 1, 2023. Oregon Public Utility Commission Staff performed side-by-side comparisons of the editions (2023 versus 2017) and found limited changes, many of which were helpful clarifications as supply side resources become more prevalent, in addition to certain housekeeping updates. Generally, all changes appear to improve the safety, reliability, and security of the electric system. Historically, the PUC has been adopting the NESC rules to govern operator safety standards in the state of Oregon.

### *Background*

With the most recent update of the NESC being published on August 1, 2022, and becoming effective on February 1, 2023, Docket No. AR 656 opened on December 28, 2022. Staff issued an All-Utility Letter to Operators in Oregon to invite comment on the proposed adoption of the 2023 NESC. Staff scheduled and conducted an informal workshop on January 17, 2023, to evaluate impacts to Utility Operators based upon its implementation. Staff reported limited feedback was received about the impacts, with no Operators objecting to its adoption.

At the regular public meeting on March 21, 2023, the Commission adopted Staff’s recommendation to issue a notice of proposed rulemaking to amend OAR 860-024-0010, adopting the 2023 Edition of the NESC.

### *Formal Rulemaking Comment*

Because Staff received limited feedback at its informal workshop, the Administrative Hearings Division did not conduct a rulemaking hearing during the formal process. Only one comment was received by the due date of April 24, 2023. Idaho Power wrote a brief statement to note that it had no concerns with the changes incorporated in the 2023 Edition of the NESC.

In addition, Idaho Power briefly reiterated its informal comments from January of 2023 that code changes should not be retroactively applied. Specifically, the company noted that Staff identified one item (NESC Rule 217C1) during the informal workshop, having to do with the protection and marking of guy wires. Idaho Power states that this section

“does not address major safety oversights” and therefore “retroactive application may not be warranted.”<sup>1</sup>

Idaho Power’s comments are appreciated. The company does not take issue with the adoption of the 2023 NESC Edition by the PUC. Therefore, AHD recommends no changes to the rule language, other than updating the rule to reflect the newest edition of the NESC as proposed by Staff in its March 9, 2023 Staff Report.

**AHD RECOMMENDATION:**

Adopt amended, permanent rule OAR 860-024-0010 presented in Attachment 1.

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<sup>1</sup> Idaho Power formal comments at 1 (April 24, 2023).

*Proposed Rule Amendments:*

**860-024-0010**

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

Every Operator shall construct, operate, and maintain electrical supply and communication lines in compliance with the standards prescribed by the ~~2017~~2023 Edition of the National Electrical Safety Code approved ~~April 26, 2016~~April 25, 2022, by the American National Standards Institute.

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

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

Stats. Implemented: ORS 757.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 173, f. & ef. 1-14-76 (Order No. 76-037); PUC 1-1978, f. 1-13-78, ef. 2-13-78 (Order No. 78-076); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 6-1990, f. & cert. ef. 5-25-90 (Order No. 90-833); PUC 11-1993, f. & cert. ef. 6-23-93 (Order No. 93-809); PUC 13-1994, f. & cert. ef. 8-31-94 (Order No. 94-1243); PUC 7-1997, f. & cert. ef. 2-6-97 (Order No. 97-032); PUC 9-2002, f. & cert. ef. 2-26-02 (Order No. 02-119); PUC 6-2007, f. & cert. ef. 5-14-07 (Order No. 07-179); PUC 5-2008, f. & cert. ef. 12-29-08 (Order No. 08-599); PUC 2-2012, f. & cert. ef. 3-9-12 (Order No. 12-081)