

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 638

In the Matter of

Rulemaking Regarding Electric Utility  
Wildfire Mitigation Plan.

ORDER

DISPOSITION: NEW RULES ADOPTED

**I. SUMMARY**

In this order, we adopt changes to the administrative rules to make permanent certain wildfire mitigation rules—specifically, the Phase II portion of the division 300 rules that govern public safety power shutoffs (PSPS). The rules adopted are as follows: OAR 860-300-0010, 860-300-0050, 860-300-0060, 860-300-0070.

**II. BACKGROUND**

On March 10, 2020, the Governor issued Executive Order 20-04 (EO 20-04). While EO 20-04 generally directed state agencies to take actions to reduce and regulate greenhouse gasses, paragraph 5B(4) directed this Commission to “evaluate electric companies’ risk-based wildfire protection plans and planned activities to protect public safety, reduce risks to utility customers, and promote energy system resilience in the face of increased wildfire frequency and severity, and in consideration of the recommendations made by the Governor’s Council on Wildfire Response 2019 Report and Recommendations.”<sup>1</sup>

During the 2020 wildfire season, just under 1,000,000 acres of Oregon burned. PSPS strategies are important for the mitigation of fire risk, but de-energization events are greatly impactful in communities where they occur, threatening those who depend on power for medical needs, impacting access to 911 services, and in some instances severing the ability to pump the water

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<sup>1</sup> The full text of EO 20-04 may be found at: [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_20-04.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf)

needed to fight fires. Communication protocols require definition and documentation between utilities, public safety partners, state agencies, local jurisdictions, and the public.

We convened the informal phase of this proceeding to develop division 300 rules and engage with stakeholders at the August 25, 2020 Regular Public Meeting, memorialized in Order No. 20-272, entered on August 26, 2020. In the fall of 2020 and spring of 2021, Staff held two workshops and received written comments on rulemaking scope and its draft temporary rules from a diverse range of stakeholders. These included state and local governments, emergency managers, communications providers, and community groups, as well as the regulated electric utilities.

Permanent rulemaking could not be practically concluded in time for the 2021 fire season, so we adopted temporary rules to govern this period on May 27, 2021, through Order No. 21-167. We noted at that time the expectation that Staff would continue work with stakeholders and expressed our intent to adopt permanent rules prior to the commencement of the 2022 fire season.

Upon the passage of Senate Bill 762 (SB 762), effective July 19, 2021, Staff adopted a new strategy to complete the AR 638 rulemaking process. SB 762 required investor-owned utilities to file risk-based wildfire mitigation and protection plans by December 31, 2021, for PUC approval within six months. Staff noted that, while the PUC had already opened docket AR 638 to establish rules for such plans, the SB 762 filing date was inconsistent with Staff's AR 638 plan to adopt permanent rules in spring 2022. Therefore, Staff created AR 648 to adopt simplified interim permanent rules (Phase I), and continued efforts through this proceeding to work with stakeholders to establish permanent PSPS rules (Phase II).

Staff outlined the Phase II strategy and scope in late August of 2021 and continued its work with stakeholders. At the January 18, 2022 Special Public Meeting, we adopted Staff's recommendation to open the formal stage of rulemaking.<sup>2</sup>

On February 25, 2022, we filed a Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact with the Secretary of State. This rulemaking was divided into two parts, with the first part focused on PSPS requirements. Notice of the rulemaking was published in the March 2022 *Oregon Bulletin*, establishing a hearing date of April 7, 2022, with comments due the same day. The comment deadline was subsequently extended to April 12, 2022.

We held a hearing to receive public comment on the Phase II PSPS rules on April 7, 2022. Idaho Power Company provided a preview of written comments jointly filed the same day by Idaho Power, Portland General Electric Company and PacifiCorp, dba Pacific Power (collectively, the

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<sup>2</sup> Order No. 22-011 (Jan 20, 2022).

Joint Utilities). The CTIA, representing wireless carriers, also provided a clarification of their comments from March 11, 2022, and noted agreement with the Oregon Cable Telecommunication Association's (OCTA) comments as discussed below.

Four stakeholders submitted written comments during the formal rulemaking period. CTIA, OCTA, Oak Creek Safety Action Group (Oak Creek) each submitted a set of comments. The Joint Utilities submitted two sets of comments.

### III. DISCUSSION

Below, we provide a summary of the proposed rules, a brief presentation of recommendations submitted by stakeholders in the applicable rule section, and our response/resolution to each recommendation.

#### A. OAR 860-300-0010: Definitions

This rule provides for definitions of terms used in division 300. CTIA proposed removing the term “utility-identified critical facilities” in section (9) of this rule and replacing it with a definition of “critical facilities,” accompanied by a requirement that utilities specifically identify such facilities. The term “critical facilities” would also replace “utility-identified critical facilities” in several places in proposed rule 860-300-0050. CTIA explains that its proposed definition mirrors the Oregon and federal definition for “critical infrastructure.” CTIA insists that instituting this change would then include telecommunications providers in any PSPS notice from a utility. CTIA further recommends that, for the purposes of this division, facilities of cellular, wireless, and other radio common carrier services should be considered critical facilities.

OCTA recommends that the term “communications” in section (9) replace the term “telecommunications” because “communications,” under Oregon law, includes broadband internet access service, Voice over Internet Protocol (VoIP) service, commercial mobile radio service, or cellular backhaul service. OCTA points out that all these services rely on power provided by electric utilities, and therefore the change would include these additional services. OCTA recommends that “communications” should be added into defined terms. OCTA concludes that such a change will ensure that all such providers receive priority notification. In its oral comments during the rulemaking hearing, CTIA noted that it would be comfortable with OCTA's suggestion to add “communications” and replace “telecommunications” with “communications,” noting that the idea is to ensure that communications providers receive priority notification of a PSPS.

*Resolution:*

We agree with OCTA and CTIA that the priority notifications should be sent to a broad range of communication providers. Therefore, we find that OCTA’s recommendation is reasonable. “Communications” is added to the definitions, and “communications” will replace “telecommunications” in this and other rules where it is used.

**B. OAR 860-300-0050: Communications Requirements Prior to, During and After a Public Safety Power Shutoff (PSPS)**

This section presents communication requirements for utilities prior to, during and after a PSPS. The Joint Utilities, in their first set of comments, recommend eliminating “email” from the list of media platforms in paragraph (2)(a)(A) for two reasons: email is not a media platform, and the use of email to reach customers is listed in the next section, subsection (2)(b). In addition, the Joint Utilities recommend replacing the term “including but not limited to” with the phrase “such as,” which the Joint Utilities say will allow notifications to be scalable, and therefore more accurately tailor the notifications to the impacted area.

The Joint Utilities further recommend the removal of the phrase “and other populations” as proposed in subsections (3)(b) and (3)(c). The Joint Utilities note that the Oregon Department of Human Services will be taking the lead as the official outreach organization to the general population, and therefore “and other populations” is unnecessary and appears to be a holdover from previous drafts.

Oak Creek notes that the proposed rules emphasize the importance of communications during a PSPS event. They also note that California requires cellular tower operators to have 72 hours of back up energy deployed for each tower because of communication outages during the California wildfires in October and November of 2019. The proposed rules do not have this requirement. Oak Creek notes that under a wildfire PSPS event, such conditions may make backup energy deployment difficult, resulting in communications outages.

In its oral comments during the rulemaking hearing and in written comments filed the same day, the Joint Utilities request that three subsections in this rule be modified. Communications with public safety partners under paragraphs (1)(b)(F) and (G), with critical facilities under paragraphs (1)(c)(C) and (D), and with customers under paragraphs(2)(b)(F) and (G) require “at a minimum, status updates at 24-hour intervals until service has been restored” should be changed to “at a minimum, status updates at 24-hour intervals until the conditions prompting the PSPS have ended.” For the re-energization notice, the utilities provide the following modifications (in the three subsections ((1)(b) and (c) and (2)(b)): “notice of when re-energization efforts will begins-and when re-energization is expected to be complete.”

The Joint Utilities state that the clarifications modify the current language to distinguish it from storm and other outages. The utilities state that in such circumstances, it would not be possible to re-energize all customers after the conditions prompting the PSPS event have ended. The utilities interpret the rules as proposed as suggesting that the PSPS is not officially over until the last customer under the PSPS has their power restored.

If a weather-related outage causes an extended restoration effort (involving facilities that could have otherwise been re-energized once PSPS conditions are no longer at issue) for some subset of customers, the Joint Utilities argue that the entire span of time (from PSPS start to last customer re-energization) should not be the way that utilities manage or log PSPS events. Such “cradle-to-grave” timing could be confusing to customers about the source of their outage. The utilities note that the proposed modifications are not meant to reduce communication with customers, but rather to ensure that accurate information regarding conditions and outages is shared. Thus, the Joint Utilities state that, under their proposed modifications, they would transition to traditional outage communication protocols once PSPS conditions have ended.

In paragraph (1)(c)(E), OCTA recommends replacing “telecommunications” with “communications” for the reasons stated above in the previous section discussion.

*Resolution:*

We will not adopt the suggested language change for media platforms at this time. While “email” is removed from the list because it is not a media platform, we are not aware of a situation in which all of the stated platforms would not or could not be utilized. Therefore, we will keep “at a minimum” in place. We agree that the phrase “and other populations” is unnecessary as a part of this rule. Therefore, we adopt the change to delete it from the identified sections.

We partially adopt the Joint Utilities’ recommendations on the modifications for PSPS event communication. We agree that the recommended notice provision language changes for a PSPS are reasonable, and therefore adopted. Our rules do not limit or prohibit adding context about weather impacts on their system to messaging. Accordingly, if the conditions prompting a PSPS event have ended but is power not restored, utilities can transition communication to focus on the restoration effort, and not the PSPS event. Therefore we decline to adopt the recommendation to modify the status updates by a utility to safety partners and critical facilities, but do make such a change with regard to customers. Utilities have existing robust channels to communicate to customers regarding restoration of service.

We adopt the OCTA recommendation for this rule provision and replace “telecommunications” with “communications” for the reasons stated above in the previous section discussion.

**C. OAR 860-300-0060: Ongoing Informational Requirements for PSPS**

The Joint Utilities recommend removing section (5) of this rule that requires “a comprehensive narrative of each subsection of this rule as part of its annual Wildfire Mitigation Plan.” The utilities insist that because this is intended to be a part of the Wildfire Mitigation Plan, it should be placed in rules where Wildfire Mitigation Plan information submission requirements are listed.

Oak Creek notes that this rule and rule 860-300-0070 appear to apply only to public utilities, and that it is concerned that consumer-owned utilities are not required to follow these reporting requirements.

*Resolution:*

We agree that Wildfire Mitigation Plan requirements are more efficiently listed together. Therefore, this item will be deleted from this section and, in Phase II of this rulemaking, be placed in OAR 860-300-0020 containing the Wildfire Mitigation Plan submission requirements. Given that our Wildfire Mitigation Plan requirements are only imposed on public utilities, we make no further change to this rule.

**IV. ORDER**

IT IS ORDERED that:

1. The proposed administrative rules for Chapter 860, Division 300 are adopted as set forth in Appendix A to this order.

2. The new rules become effective upon filing with the Secretary of State.

Made, entered, and effective May 10 2022.



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**Megan W. Decker**  
Chair



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**Letha Tawney**  
Commissioner



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**Mark Thompson**  
Commissioner



A person may petition the Public Utility Commission of Oregon 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.

ADOPT: 860-300-0010

RULE TITLE: Definitions for this Division

RULE SUMMARY: Defines terms used in Division 300.

RULE TEXT:

(1) "Communications" means media that communicate voice, data, text, or video over a distance using electrical, electronic, radio, microwave, or light wave transmissions.

(2) "ESF-12" refers to Emergency Support Function-12 and indicates the Commission's role in supporting the State Office of Emergency Management for energy utilities issues during an emergency.

(3) "Local Community" means any community of people living, or having rights or interests, in a distinct geographical area.

(4) "Local Emergency Management" means city, county, and tribal emergency management entities.

(5) "Near-term Wildfire Risk" means elements of wildfire risk that are expected to fluctuate on a daily or weekly basis. Examples include temperature, humidity, and wind.

(6) "Public Utility" has the meaning given to an "electric company" in ORS 757.600.

(7) "Public Safety Partners" means ESF-12, Local Emergency Management, and Oregon Department of Human Services (ODHS).

(8) "Public Safety Power Shutoff" or "PSPS" means a proactive de-energization of a portion of a Public Utility's electrical network, based on the forecasting of and measurement of extreme wildfire weather conditions.

(9) "Tabletop Exercise" means an activity in which key personnel, assigned emergency management roles and responsibilities, are gathered to discuss, in a non-threatening environment, various simulated emergency situations.

(10) "Utility-identified Critical Facilities" refers to the facilities the Public Utility identifies that, because of their function or importance, have the potential to threaten life safety or disrupt essential socioeconomic activities if their services are interrupted. Communications facilities and infrastructure are to be considered Critical Facilities.

(11) "Wildfire Mitigation Plan" is the same as a "wildfire protection plan" and refers to the document filed with the Commission relating to an electric utility's risk-based plan designed to protect public safety, reduce the risk of utility facilities causing wildfires, reduce risk to utility customers, and promote electric system resilience to wildfire damage.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757, ORS 759

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.035, ORS 757.039, ORS 757.649, ORS 758.215, ORS 759.005, ORS 759.045

ADOPT: 860-300-0050

RULE TITLE: Communication Requirements Prior, During, and After a Public Safety Power Shutoff (PSPS)

RULE SUMMARY: This proposed rule details the minimum communication requirements surrounding a PSPS.

RULE TEXT:

(1) When a Public Utility determines that a PSPS is likely to occur, it must deliver notification of the PSPS to its Public Safety Partners, operators of utility-identified critical facilities, and adjacent local Public Safety Partners.

(a) To the extent practicable, the Public Utility must provide priority notification directly to Public Safety Partners, operators of utility-identified critical facilities, and adjacent local Public Safety Partners.

(b) In notifying Public Safety Partners and utility-identified critical facilities of PSPS events, including adjacent local Public Safety Partners, the utility will communicate the following information, at a minimum:

(A) The PSPS zone, which would include Geographic Information System shapefile(s) depicting current boundaries of the area subject to de-energization;

(B) Date and time PSPS will be executed;

(C) Estimated duration of PSPS;

(D) Number of customers impacted by PSPS;

(E) When feasible, the Public Utility will support Local Emergency Management efforts to send out emergency alerts;

(F) At a minimum, status updates at 24-hour intervals until service has been restored;

(G) Notice of when re-energization efforts will begin and when re-energization is expected to be complete;

(H) Information provided under this rule does not preclude the Public Utility from providing additional information about execution of the PSPS to its Public Safety Partners;

(c) In notifying utility-identified critical facilities, the Public Utility will communicate the following information, at a minimum:

(A) Date and time PSPS will be executed;

(B) Estimated duration of PSPS;

(C) At a minimum, status updates at 24-hour intervals until service has been restored;

(D) Notice of when re-energization efforts will begin and when re-energization is expected to be complete.

(E) In addition to the above requirements, utilities will also provide Geographical Information Files with as much specificity as possible to Operators of Communications facilities in the area of the anticipated PSPS,

(d) ESF-12 will notify Oregon Emergency Response System (OERS) partners and Local Emergency Management in coordination with Oregon's Office of Emergency Management.

(2) When a Public Utility determines that a PSPS is likely to occur, the Public Utility must provide advance notice of the PSPS to customers via a PSPS web-based interface on the Public Utility's website and other media platforms, and may communicate PSPS information directly with customers consistent with this rule.

(a) In providing notice to customers about a PSPS, the Public Utility will, at a minimum:

(A) Utilize multiple media platforms to maximize customer outreach, including but not limited to, social media, radio, television, and press releases.

(B) Consider the geographic and cultural demographics of affected areas, including but not limited to broadband access, languages prevalent within the utility's service territories, considerations for those who are vision or hearing impaired.

(C) Display on its website homepage a prominent link to access current information about the PSPS, consistent with OAR 860-300-0060, including a depiction of the boundary. The PSPS information must be easily readable and accessible from mobile devices.

(b) The Public Utility may directly notify its customers through email communication or telephonic notification (e.g., text messaging and phone calls) when it will not impede Local Emergency Management alerts due to capacity limitations. If the Public Utility provides direct notification, the Public Utility will communicate the following information, at a minimum:

(A) A statement of impending PSPS execution, including an explanation of what a PSPS is and the risks that the PSPS would be mitigating;

(B) Date and time PSPS will be executed;

(C) Estimated duration of PSPS;

(D) A 24-hour means of contact customers may use to ask questions or seek information;

(E) How to access details about the PSPS via the Public Utility's website, including education and outreach materials disseminated in advance of the annual wildfire season;

(F) After initial notification, the Public Utility will provide, at a minimum, status updates at 24-hour intervals until the conditions prompting the PSPS have ended;

(G) Notice of when re-energization efforts will begin and when re-energization is expected to be complete.

(3) To the extent possible, the Public Utility will adhere to the following minimum notification prioritization and timeline in advance of a PSPS:

(a) 48-72 hours in advance of anticipated de-energization, priority notification to Public Safety Partners, operators of utility-identified critical facilities, and adjacent local Public Safety Partners;

(b) 24-48 hours in advance of anticipated de-energization, when safe: secondary notification to all other affected customers;

(c) 1-4 hours in advance of anticipated de-energization, if possible: notification to all affected customers.

(4) The Public Utility's communications required under this rule do not replace emergency alerts initiated by local emergency response.

(5) Nothing in this rule prohibits the Public Utility from providing additional information about execution of the PSPS to Public Safety Partners, utility-identified critical facilities, or customers.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.035

ADOPT: 860-300-0060

RULE TITLE: Ongoing Informational Requirements for Public Safety Power Shutoffs (PSPS)

RULE SUMMARY: The proposed rule summarizes the public electric utility's obligations during a PSPS event.

RULE TEXT:

(1) The Public Utility will create a web-based interface that includes real-time, dynamic information on location, de-energization duration estimates, and re-energization estimates. The web-based interface will be hosted on the Public Utility's website and must be accessible during a PSPS event. The Public Utility will complete the web-based interface before March 31, 2024.

(2) The Public Utility will make its considerations when evaluating the likelihood of a PSPS publicly available on its website. These considerations include, but are not limited to: strong wind events, other current weather conditions, primary triggers in high risk zones that could cause a fire, and any other elements that define an extreme fire hazard evaluated by the Public Utility.

(3) The Public Utility will ensure that its website has the bandwidth capable of handling web traffic surges in the event of a Public Safety Power Shutoff.

(4) The Public Utility will work to provide real-time geographic information pertaining to PSPS outages compatible with Public Safety Partner GIS platforms.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.020

ADOPT: 860-300-0070

RULE TITLE: Reporting Requirements for Public Safety Power Shutoffs (PSPS)

RULE SUMMARY: This proposed rule sets requirements for reporting of PSPS events by public electric utilities.

RULE TEXT:

(1) The Public Utility is required to file annual reports on de-energization lessons learned, providing a narrative description of all PSPS events which occurred during the fire season. Reports must be filed no later than December 31st of each year.

(2) Non-confidential versions of the reports required under this section must also be made available on the Public Utility's website.

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757

STATUTES/OTHER IMPLEMENTED: ORS 756.040, ORS 757.035