



2020 REPORT OF GOVERNMENT TO GOVERNMENT TRIBAL ACTIVITIES

Submitted by the Oregon Public Utility Commission

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Introduction

The annual filing of the Government-to-Government Report to the Governor and the Legislative Commission on Indian Services on the activities of the agency under ORS 182.162 presents a unique opportunity to highlight some of the Public Utility Commission's (PUC) work over the past year and the PUC's commitment to working in partnership with Oregon's nine federally recognized tribal governments.

The PUC's mission is to ensure Oregon utility consumers have access to safe, reliable, and high quality utility service at just and reasonable rates. The PUC performs quasi-judicial functions involving robust analysis and independent decision-making through deliberative, litigated processes, and also exercises its discretion and authority to interpret and incorporate legislative priorities into utility planning, customer programs, and rates.

The PUC regulates three electric utilities (Portland General Electric, Pacific Power, and Idaho Power) and three natural gas utilities (NW Natural, Cascade Natural Gas, and Avista), as well as a number of small water utilities and numerous telecommunications companies.

Climate Change, Wildfires, and Covid-19

During 2020, the PUC has been faced with many challenges, but with those challenges some opportunities have also presented themselves. This year the PUC has been focused on drafting a series of aggressive and far reaching work plans to guide the agency and our stakeholders in the implementation of the Governor's Executive Order 20-04 – Directing State Agencies to Take Actions to Reduce and Regulate Greenhouse Gas Emissions.

Governor's Executive Order 20-04

On March 10, 2020, Governor Brown issued Executive Order 20-04 (EO 20-04) directing certain state agencies to take specific actions to reduce greenhouse gas emissions (GHGs) and mitigate the impacts of climate change. EO 20-04 is a significant step forward in Oregon's response to the profound challenge of climate change and its impact on Oregonians. EO 20-04 also directs the PUC to take action in two areas of interest to Oregon's Tribal Governments: Impacted Communities and Wildfire Prevention and Mitigation.

With more than a decade of experience implementing clean energy policy and given the clear intersections between our work and the topics addressed in the order, the PUC welcomes this direction and is well positioned to incorporate the principles and directions of EO 20-04 into our work.

The PUC has submitted a report to respond to EO 20-04 that identifies proposed actions and activities the PUC can accomplish in response to the Governor's directives to combat climate change and reduce GHG emissions. View the [PUC's Report](#) and [Appendix B](#). Based on input from our stakeholders and internal agency discussions, the PUC has developed draft work plans to identify and manage the numerous activities the agency plans to undertake over the next year to help reduce GHG emissions in accordance with the goals set forth in EO 20-04. [The PUC's work plans are available for review.](#)

This report highlights two of those five work plans to implement EO 20-04: Impacted Communities and Wildfire Prevention and Mitigation.

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Impacted Communities Work Plan

The Impacted Communities work plan responds to five directives found in sections 3 and 5 of EO 20-04.

- Section 3.C(2) Prioritize actions that will help vulnerable populations and impacted communities adapt to climate change impacts
- Section 3.C(3) Consult with the Environmental Justice Task Force when evaluating climate change mitigation and adaptation priorities and actions
- Section 3.E Participate in the Interagency Workgroup on Climate Change Impacts to Impacted Communities
- Section 5.B(3) Prioritize proceedings and activities, to the extent consistent with other legal requirements, that advance decarbonization in the utility sector, and exercise its broad statutory authority to reduce GHG emissions, mitigate energy burden experienced by utility customers, and ensure system reliability and resource adequacy

This work plan is applied broadly across the entire PUC and was developed to incorporate goals and objectives that will be used to inform, guide, and support the implementation of the activities identified in all five PUC work plans under EO 20-04.

DEI Program Director

A major component of the work plan is the creation and hiring of a new Diversity, Equity, and Inclusion Program Director that will become part of the Executive Office and assume lead responsibilities for the plan's implementation. This position is expected to be filled in December of this year, and will serve as the PUC's designated liaison with the Tribal Governments.

The First Year of the Impacted Communities Plan

The Impacted Communities work plan has an aggressive agenda for the first year –

Activities target four areas:

- Change our structure and business operations,
- Increase awareness and build new tools to help inform utility actions and agency decision-making processes,
- Inform and prioritize PUC regulatory actions in current or new agency proceedings to help protect and benefit impacted communities; and,
- Fulfill our commitment to engage customers, communities, and partners in government to ensure Oregon's GHG reduction goals provide value for all customers.

Wildfire Prevention and Mitigation Work Plan

The Wildfire Prevention and Mitigation work plan responds to two directives found in section 4 of EO 20-04.

- Section 4.B(4) Evaluate electric companies' risk-based wildfire protection planned activities to protect public safety, reduce risk to utility customers, and promote energy system resilience in the face of increased wildfire frequency and severity, and in consideration of the

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recommendation made by the Governor’s Council on Wildfire Response 2019 Report and Recommendations

- Section 4.B(5) Convene periodic workshops for purposes of assisting electric companies, consumer-owned utilities, and operators of electrical distribution systems to develop and share best practices for mitigating wildfire risk

This work plan engages two separate but closely related activities. First, the PUC has started the process to promulgate rules requiring regulated utilities to develop and implement wildfire mitigation plans.

These rules will at a minimum:

- Demonstrate the plan is risk-based and actions are based on best practices and appropriate technologies,
- Create robust plans for community outreach, and
- Demonstrate the utility is proactively evaluating and managing to the ways wildfire risk is changing

In the coming year, the PUC will be hosting a series of workshops to gather experts, stakeholders, and interested members of the public to understand the issues around wildfire mitigation efforts and collaborate on the development of strategies and wildfire protection plan rules that will help guide electric utilities’ future actions. The first workshop will be held on December 10 and Oregon’s nine federally recognized tribal governments have been personally invited to help us develop rules for these risk-based wildfire mitigation plans for energy utilities in Oregon. Letters were sent to all tribes on December 1.

Second, the PUC has developed and will continue to facilitate the Oregon Wildfire and Electric Collaborative. The Collaborative regularly convenes workshops with both regulated and consumer-owned utilities, electricity providers, and other key stakeholders to discuss technical wildfire issues pertaining to the state’s electricity grid. This group is uniquely positioned to quickly identify and share best practices for mitigating wildfire risk across the state, with a focus on adaptation to local circumstances.

Covid-19 Pandemic

On March 8, 2020, Governor Brown declared a statewide state of emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19. In a related executive order, the Governor acknowledged that COVID-19 was a global pandemic causing a significant economic downturn in Oregon and imposing sustained economic hardship on many Oregonians in the form of lost wages and an inability to pay basic household expenses. At that time, Oregonians were directed to stay home to the greatest extent possible and a number of government offices and retail businesses were closed. Since that time, Oregon has continued to experience phased re-openings for some businesses combined with instances of further restrictions re-imposed based on changing conditions.

On June 9, 2020, the PUC conducted a Special Public Meeting, titled, “Impact to Utility Customers during the COVID-19 Pandemic and Future Economic Recovery.” During this public meeting, the PUC heard from investor-owned energy, water, and telecommunications utilities, as well as customer groups, and

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other stakeholders on the impacts of the COVID-19 pandemic, including actions taken by utilities and additional actions needed to protect customers during this pandemic.

Prior to the meeting, utilities across the state had already taken voluntary actions to suspend disconnections of residential and non-residential accounts, stop sending late and final notices, stop assessing late fees, offering more and flexible payment arrangements, and other actions to assist customers impacted by COVID-19. Many regulated water utilities including Avion, NW Natural water companies, and Oregon Water Utilities companies also took similar actions. Additionally, telecommunication utilities had committed to the Federal Communications Commission (FCC) “Keep America Connected Initiative,” which ran from March 13, 2020 to June 30, 2020. The purpose of that initiative was to ensure that Americans do not lose their broadband or telephone connectivity as a result of COVID-19 circumstances.

As a result of the June Public Meeting, the PUC assembled a team of representatives from across the agency with the expertise and ability to assist with various aspects of the COVID-19 challenge. The purpose of team was to:

- Develop and share relevant information concerning actions taken by utilities concerning COVID-19
- Ensure the PUC takes an integrated, timely approach to COVID-19-related issues, and that all relevant aspects of the challenge are considered
- Ensure stakeholder engagement, input, and awareness
- Provide information that will inform other, related dockets and PUC processes
- Balance the interest of utilities and customers on the solutions to be taken to address the impacts of the pandemic

Stakeholder Workshops and Public Meetings

To ensure a thorough investigation, between June 30 and September 3, the PUC conducted six general workshops, two data workshops, one workshop dedicated for water utilities, and two workshops dedicated for telecommunications. The PUC also held a Special Public Meeting in September.

The workshops allowed staff to better understand points of agreement and points of differences. In addition to engagement by stakeholders and the public, valuable information was provided by Oregon Housing and Community Services, the agency that administers low-income energy programs including Low Income Home Energy Assistance Program (LIHEAP) and Oregon Energy Assistance Program (OEAP). Information provided by utilities in response to numerous staff information requests helped frame the

Data Workshops and allowed all participants to grasp the seriousness of the challenges faced by customers and utilities.

Information on all workshops including agendas, stakeholder comments, data, presentations, information requests, and meeting recording are located on the PUC’s COVID-19 page.

<https://www.oregon.gov/puc/utilities/Pages/COVID-19-Impacts.aspx>

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Results and Agreements

Generally, there was a great deal of agreement, collaboration, and compromise by the parties to achieve goals to protect utility customers during and after the COVID-19 pandemic. The final report, along with the agreements obtained during the process may be found in their entirety at <https://www.oregon.gov/puc/utilities/Documents/COVID-19-Final-Report.pdf>.

Other 2020 Activities of Significance

Carrier of Last Resort

Under HB 3065, passed in the 2019 Legislative session, the PUC was directed to establish a public process to investigate the continuing relevance of the carrier of last resort (COLR) obligation on the state's telecommunication providers under ORS 759.500 to 759.570. The legislature asked the PUC to focus on developing industry trends, technologies, and policy drivers in the telecommunications sector, and to examine whether they impact existing regulatory system administration by the PUC for ensuring adequate and reasonable access for residential customers to telecommunication services in all areas of the state. The PUC was specifically asked to focus on:

- Customers whose individual circumstances and needs may impact their access to and usage of telecommunications services, including low-income customers;
- Residential customers with access at their home to fewer than two of the following land-based service alternatives:
 - Telecommunication services provided by a facilities-based competitive local exchange carrier;
 - Voice service offered via interconnected Voice over Internet Protocol; or
 - Voice services offered by a cellular communications services and
- The comparability of voice service offered by wireless Internet service providers and satellite providers

The PUC was also instructed to make determinations on the need for changes to the existing regulatory system and incentives that would be in the best interests of residential customers and the general public, including development of implementation plans to make changes within our current statutory authority and recommendations to the Legislature.

The carrier of last resort obligation was created to ensure that, when telecommunications providers were granted an exclusive service territory, they would provide service to all customers within that service territory. Under the COLR, providers are required to provide service to customers upon request. The customer retains the obligation to pay for the cost to provide them service, which can vary depending on their placement on the system. The PUC maintains pricing controls on COLR providers for residential primary line basic service to prevent price discrimination.

Over the past year, the PUC convened a public process to examine whether industry trends, technologies, and policy drivers in the telecommunications sector impacted the existing regulatory structure to ensure adequate and reasonable access to telecommunication services for residential customers. The PUC hosted a series of six meetings in Salem and three in rural communities to ensure

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the voices of our stakeholders and Oregon residents had access to the process and their voices were heard.

PUC staff met with Mitch Sparks of the Oregon Legislative Commission on Indian Services prior to the start of the investigation to discuss how best to involve Oregon's tribal governments and members in the process. Throughout the investigation, Mr. Sparks was provided with regular updates on the investigation and information on upcoming meetings. His input was sought on the process and the draft report, and his assistance was sought in promoting a telecommunication survey.

In addition, the PUC requested the participation of tribal governments, and all of Oregon's nine federally recognized tribal governments were contacted by letter with offers to meet with each tribe to explain the process and to explain the importance of the COLR investigation. Their assistance was also sought in promoting the telecommunications survey with tribal leadership and members.

A representative from the Confederated Tribes of Umatilla Indian Reservation participated in the COLR workshops.

A full report on HB 3065 and the COLR investigation was delivered to the Oregon Legislative Assembly in September of this year. The report and information on the investigation and related workshops may be found at <https://www.oregon.gov/puc/utilities/Pages/Telecom-Carrier-of-Last-Resort.aspx>

Oregon Lifeline Program

Oregon Lifeline is a federal and state government program that provides eligible low-income Oregon households, including tribal residents, a discount on monthly phone or high speed internet service through participating wireline or wireless providers. The FCC provides up to \$9.25 and the state of Oregon provides a supplemental \$7.00. The maximum discount a household can receive is \$16.25. The FCC provides an additional \$25.00 to eligible residents on tribal lands. Effective July 1, 2020, the state of Oregon discount was made available and extended to eligible residents on tribal lands. The maximum discount a tribal resident can receive is \$41.25.

To qualify for the Oregon Lifeline Program, households must either have an income that is at or below 135 percent of the Federal Poverty Guidelines or receive benefits from one of several assistance programs such as Medicaid or the Supplemental Nutrition Assistance Program. Residents of tribal lands may be eligible through other tribal assistance programs.

On October 19, 2020, the FCC issued a public notice that the Oregon PUC, effective November 18, 2020, will assume the responsibility of verifying the eligibility of tribal residents instead of wireline and wireless providers.

In response to the FCC notice, PUC initiated outreach efforts with wireline and wireless providers, including Warm Springs Telecom, a wholly owned enterprise of the Confederated Tribes of Warm Springs. Oregon PUC staff has also initiated discussions with the Coquille Indian Tribe and in 2021 will pursue partnerships with all federally-recognized tribes in Oregon to increase awareness about the Oregon Lifeline program.

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Tribal members interested in obtaining more information on the Oregon Lifeline Program may contact the PUC at www.lifeline.oregon.gov or call 1-800-848-4442, M-F, 9:00 a.m. to 4:00 p.m.

Viasat Carrier Services – Designated Services Area Expanded to Tribal Lands for the Coquille Indian Tribe and Confederated Tribes of the Siletz Indians

Viasat Carrier Services Inc. (Viasat) is a company which specializes in broadband technologies and services. VSI provides broadband and voice over internet protocol (VoIP) services to customers in all fifty states and the District of Columbia. On January 31, 2018, the FCC issued an Order on Reconsideration concerning its Connect America Fund initiative, which enabled the FCC to move forward with the CAF II Auction, in which service providers competed to receive up to \$1.98 billion to offer voice and broadband service in unserved high-cost areas. The FCC's August 28, 2018 Auction 903 Results Notice announced that VSI was among the winners of the recently-concluded CAF II Auction. Specifically, the FCC designated VSI as a winning bidder in 291 Census Block Groups in Oregon. 132 Census Blocks that were awarded to Viasat overlap with Tribal Lands in Oregon (Burns Paiute, Celilo, Coquille, Cow Creek, Klamath, Siletz, Umatilla, and Warm Springs). In accordance with the FCC's procedures, VSI assigned its winning bid to Viasat. In order for Viasat to receive the CAF II Auction support that it has been awarded, it must demonstrate to the FCC that it has been designated as an ETC in the areas where it was the winning bidder.

On November 25, 2019, the PUC issued Order 19-405 which adopted a partial stipulation and approved Viasat's application for designation as an Eligible Telecommunications Carrier (ETC) to receive Connect America Fund Phase II (CAF II) funds and as an Eligible Telecommunications Provider (ETP). This partial stipulation excluded Tribal Lands as part of Viasat's requested designated service area, but allowed Viasat to file a subsequent application at any time to expand its designated service area to include specific Tribal lands. These subsequent applications would need to include evidence of the relevant Tribe's support or non-opposition to designation.

As of November 17, 2020, three tribes have submitted comments to the UM 1970 Viasat docket. The Confederated Tribes of Siletz Indians and the Coquille Indian Tribe have both submitted comments in favor of the expansion of Viasat's designated service territory and designation as an ETC. The Confederated Tribes of Siletz Indians stated that with the impacts of COVID-19 on remote work and learning that the addition of another provider is needed. The Confederated Tribes of the Umatilla Indian Reservation submitted comments opposing the expansion of Viasat's designated service territory. The Confederated Tribes cite that Viasat has not entered into any agreement with the Confederated Tribes to provide any communication services within the Reservation and that Viasat's proposed service areas on Tribal lands would potentially overbuild existing and future expansion of communication services designed to provide reliable high speed internet services to Reservation residences.

On October 28, 2020 Viasat filed a supplemental application to expand its designated service area to include awarded census blocks overlapping the lands of the Coquille Indian Tribe and the Confederated Tribes of Siletz Indians.

On December 1, the PUC approved Viasat's supplemental application to expand its designated service area to include the lands of the Coquille Indian Tribe and the Confederated Tribes of Siletz Indians).

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Viasat has indicated that additional work is pending and that similar supplemental applications will be submitted to expand service to include other tribal lands per their award under the CAF II auction.

Conclusion

As the PUC moves forward into the New Year, we are committed to building and strengthening our relationships with Oregon's nine federally recognized tribes. With the addition of our Diversity, Equity and Inclusion Program Director the PUC will have its first dedicated tribal liaison. This change brings an important opportunity to engage with tribal government and their members in more meaningful and sustainable ways.