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REPORT TO COUNCIL

TO: Mayor Charlie Hales and Portland City Commissioners
FROM: Carmen Merlo, Director *CM*
Jonna Papaefthimiou, Planning and Preparedness Manager
SUBJECT: Utility Outage Reporting
DATE: June 11, 2013

SUMMARY RECOMMENDATION

In December, 2012 the Portland City Council passed Resolution 36991, which directed the Portland Bureau of Emergency Management to work with utility providers on outage notification protocols and present recommendations to Council by June 30, 2013.

The Portland Bureau of Emergency Management recommends that the City continue to provide available utility outage information at www.publicalerts.org and support state and federal initiatives to define reasonable, uniform public reporting requirements for telecommunication outages. PBEM does not recommend the City pursue its own utility outage reporting requirements at this time.

BACKGROUND AND DISCUSSION

This section briefly explains the relationship between utility outage reporting and emergency management, current legal requirements and practices for outage reporting, and PBEM's efforts to improve public outage information through a website and a local requirement for mandatory reporting.

Utility Outage Reporting and Emergency Management Nexus

Utility outages have the potential to impact public security, health and safety, and economic well-being. Timely and accurate information about outages and efforts to restore service helps

people reduce risks from problems like extreme temperatures, lost work, and loss of contact with children or vulnerable adults.

The Bureau of Emergency Management's responsibilities as described in City code include the duty to "Develop and implement processes, procedures, and systems for communicating emergency notices to the public." Because utility outages may threaten public safety or compound other risks associated with an incident, the City and the Portland Bureau of Emergency Management in particular has an interest in ensuring that the public receives timely information about utility service interruptions.

Legal Framework and Common Practice for Utility Outage Reporting

Utility companies are not legally required to provide individual customers with real-time information about service disruptions by the State of Oregon or by the federal government; in fact, the City is unaware of any such requirements in any US jurisdiction. The best real-time utility outage information available to the public is what utilities voluntarily provide to customers.

Water, sewer, and natural gas utilities rarely experience widespread outages; when they do, the events often receive media coverage. These utilities also generally post information about significant service disruptions on their websites, and disseminate that information via social media outlets and customer-service telephone lines.

Electricity and voice and Internet telecommunication service outages are more common and usually aren't covered in the media. However, electricity and voice communication utilities are legally obligated to keep records of service interruptions and to report certain outages to state and federal regulatory commissions. Electric utilities (including all those that serve Portland) also usually post outage information on their public websites and disseminate it via social media. Telephone and internet service providers rarely provide outage information on their public websites; most provide account-specific outage information to customers through secure websites and customer-service lines.

At the state level, the Oregon Public Utility Commission (PUC) regulates electricity and telecommunications and promotes broadband Internet infrastructure development. State rules for electrical utilities require service providers to track all outages, report major outages within 30 days, and make annual reports about service reliability. Similarly, the PUC's administrative rules require landline and wireless voice communications carriers to report major outages¹. The state PUC does not regulate internet service outages. To the extent that Oregon PUC filings require disclosure under the Oregon Public Records Law, they are still not available in real time.

¹ Generally, Oregon's PUC requires reporting of any interruption that affects more than 50% of a carrier's lines for 30 minutes or more, or that interrupts service to a 911 center or to the carrier's own customer service line. Source: Oregon Administrative Rules 860-032-0012 "Retail Telecommunications Service Standards for Competitive Telecommunications Providers" accessed at http://www.oregon.gov/puc/Pages/admin_rules/PUC_Rules_in_Effect.aspx.

There is no federal body that regulates local power distribution to customers. (Bulk power transmissions are regulated by the Federal Energy Regulatory Commission.) The Federal Communications Commission (FCC) regulates landline and wireless voice communications. It requires voice communications providers to report significant outages.² This February, the FCC adopted regulations that require Voice over Internet Protocol (VoIP) service providers to follow the same outage reporting rules as other voice telecommunications providers, when the VoIP provider experiences a complete loss of service. The FCC backed away from proposed requirements that broadband Internet service providers also report outages, and that outage reports include situations where a service was technically available but technical problems effectively prevent communication. FCC outage reports are confidential.

Consolidating Outage Information: Public Alerts Website

PBEM administers the *Public Alerts* website (www.publicalerts.org), which provides information on major service disruptions in the Portland-Vancouver metro area. *Public Alerts* provides information about utility outages by linking to the data voluntarily provided on many individual companies' websites.

Public Alerts was created in part to simplify the search for utility outage information and encourage utilities to consistently post timely information about outages. Because *Public Alerts* relies on voluntary website postings, the information it provides varies across service providers and industry. *Public Alerts* provides links with some level of information on water, sewer, gas and electricity utility outages. It does not provide links to voice or broadband telecommunications companies because they rarely post outage information for the general public.

Mandatory Outage Reporting in Portland

Last year, PBEM worked with the Office of Mayor Adams to draft an ordinance to require utilities to report information about outages affecting Portland customers to the City of Portland. The ordinance was intended to require all utilities, including voice communication and broadband Internet service providers, to supply Portland utility customers with information about service disruptions that lasted at least two hours and impacted at least 5% of a utility's customers within the City. The intent was to publicize this information via *Public Alerts*.

To our knowledge, the ordinance would have made Portland the first city to require utility outage reporting, the first jurisdiction to require contemporaneous public reporting of wireless

² The general threshold criteria are that an outage must be reported to the FCC if it (a) lasts at least 30 minutes and (b) potentially affects at least 900,000 user-minutes. Reports must be initiated within 2 hours, detailed within 72 hours, and a final report completed within 30 days. "User-minutes" is defined as the mathematical result of multiplying the outage's duration expressed in minutes and the number of users potentially affected by the outage. For example, a 30-minute outage that potentially affects 30,000 end users potentially affects 900,000 user-minutes (30 minutes X 30,000 users = 900,000 user-minutes). Source: FCC. *Part 4 Report and Order and Further Notice of Proposed Rule Making*. Adopted August 4, 2004. Accessed at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-188A1.pdf.

communications outages, and the first jurisdiction to mandate any broadband Internet outage reporting. It would have particularly affected voice and Internet telecommunications carriers, because they do little voluntary outage reporting and their mandatory FCC reports are only for voice, and are confidential.

PBEM staff met several times with representatives of utility companies to discuss the feasibility of proposed mandatory outage reporting. Local utility stakeholders were uniformly and strongly opposed to reporting requirements. They identified numerous concerns related to the potential costs and risks of implementing such a proposal. While their concerns were specific and diverse, the most significant and widespread issues were generally around these issues:

1. Reporting outages creates an *administrative burden*, which would increase if other jurisdictions adopted their own unique reporting requirements
2. Publicizing telecommunications outage information creates *short-term public safety risks* by advertising who is unable to call 911
3. Publicizing telecommunications outage information *threatens long-term security* by demonstrating system vulnerabilities
4. Real-time reporting requirements would be *logistically difficult* to meet during emergencies
5. Broadband Internet service *outages are hard to define*; slow or intermittent service becomes equivalent to no service.

Opponents also raised a bevy of legal issues related to regulation of interstate commerce and duplication or conflict with existing FCC regulations.

The fact that utility outage information is valuable to the public safety and welfare, the vigorous discussion the City's reporting proposal generated, and the fact that no other US jurisdictions are known to be contemplating a requirement for real-time public reporting, all make the issue interesting and a challenge.

PBEM did identify some ways to reduce the administrative burden and logistical difficulties of reporting, and formulated some arguments against the security concerns raised. However, PBEM's conversations with stakeholders and research into this issue also raised other questions, such as the effect that adopting unique utility regulations might have on Portland's ability to attract and retain internet-based businesses and Internet service providers, and the cost to monitor, investigate, and enforce compliance with the proposed rules.

Without the resources to carry out significant additional work on many of these issues, PBEM concluded that the City is not well-positioned to undertake a leadership role in utility regulation. Developing utility rules requires significant technical expertise and legal fortitude. And while the City has advanced a unique position in proposing mandatory public utility outage reporting, Portland does not seem to have unique problems with its electric utilities or telecommunications systems. The City also does not have uniquely abundant legal resources.

CONCLUSION AND RECOMMENDATION

PBEM's investigation of utility outage reporting did not demonstrate that greater transparency was undesirable. Rather, it showed that it would strain City capacity to create a new regulatory scheme and initiate a legal and national-security debate on the issue. For our part, PBEM has a responsibility to focus resources in areas such as earthquake preparedness, where Portland has a unique need. PBEM also recognizes the opportunity to be a leader on issues such as preparation for climate change, where Portland does have unique strengths, and can build on existing investments.

PBEM's recommendation is to support reasonable public reporting requirements if they are advanced at the state and federal level. The City could support state legislation if introduced, and file an amicus brief if rules or legislation were appealed. The City should also continue to post and publicize the outage information provided by utilities and credible third parties. By building a trusted and popular public information service at *Public Alerts*, the City can continue to promote transparency about utility outages, demonstrating the demand for and value of the information we do provide.

Agenda No.
REPORT NO.
 Title

Accept Report on Utility Outage Reporting (Report)

INTRODUCED BY Commissioner/Auditor: Steve Novick	CLERK USE: DATE FILED <u>JUN 21 2013</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick <i>SA</i>	LaVonne Griffin-Valade Auditor of the City of Portland By: <u><i>[Signature]</i></u> Deputy
BUREAU APPROVAL Bureau: Emergency Management Bureau Head: Carmen Merlo <i>CM</i>	ACTION TAKEN: JUN 26 2013 ACCEPTED
Prepared by: Valentine Hellman Date Prepared: 6/12/13	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date 6/26/13	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 5 minutes (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	_____	_____
3. Saltzman	3. Saltzman	_____	_____
4. Novick	4. Novick	✓	
Hales	Hales	✓	