

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1081**

In the Matter of the	)	
	)	
PUBLIC UTILITY COMMISSION OF	)	<b>MOTION TO MODIFY</b>
OREGON STAFF'S	)	<b>PROCEDURAL SCHEDULE OF THE</b>
	)	<b>INDUSTRIAL CUSTOMERS OF</b>
Investigation Into Direct Access Issues for	)	<b>NORTHWEST UTILITIES</b>
Industrial and Commercial Customers under	)	
SB 1149.	)	
_____	)	

Pursuant to OAR §§ 860-014-0010 and 860-013-0031, the Industrial Customers of Northwest Utilities (“ICNU”) respectfully moves the Oregon Public Utility Commission (“Commission” or “OPUC”) to change the hearing date currently scheduled in this proceeding from July 1, 2004, to July 13, 2004, or such other date as the Commission deems appropriate. ICNU also requests that the briefing schedule be changed a corresponding amount of time. Changing the date for the hearing in this proceeding is necessary to provide ICNU with the opportunity to adequately prepare for the hearing and conduct discovery on PacifiCorp’s rebuttal testimony. ICNU requests that the Commission consider this motion on an expedited basis because the hearing is currently scheduled to occur in one week.

**I. BACKGROUND**

On February 26, 2004, the Administrative Law Judge (“ALJ”) issued a Prehearing Conference Order that established a procedural schedule to review PacifiCorp’s proposed transition mechanism. In Re Direct Access Issues for Industrial

and Commercial Customers Under SB 1149, OPUC Docket No. UM 1081, Prehearing Conference Report (Feb. 26, 2004). The procedural schedule only allowed Staff and Intervenors two weeks to conduct discovery on PacifiCorp's rebuttal testimony. Due to the short time period between rebuttal testimony and the hearing date, the procedural schedule required PacifiCorp to respond to discovery requests within seven calendar days.

On April 1, 2004, PacifiCorp filed its direct testimony and exhibits. PacifiCorp sponsored testimony from Christy Omohundro and John Apperson, which consisted of 18 pages of testimony and 4 pages of exhibits. Parties engaged in numerous settlement discussions, which resulted in Staff filing two unopposed motions to extend the due date for Staff and intervenors to file direct testimony and for PacifiCorp to file rebuttal testimony. ICNU supported the motions, because settlement discussions appeared to be fruitful and ICNU believed that the hearing might not be necessary. The ALJ granted both motions by orders dated May 12, 2004, and May 19, 2004. In the May 19, 2004 Order, the ALJ adopted a new procedural schedule that shortened the time period between PacifiCorp's rebuttal testimony and the hearing to one week. In Re Direct Access Issues for Industrial and Commercial Customers Under SB 1149, OPUC Docket No. UM 1081, Motion to Modify Procedural Schedule Granted (May 19, 2004). The revised schedule did not address the issue of discovery regarding PacifiCorp's rebuttal testimony. As a practical matter, under the new procedural schedule, PacifiCorp is not required to provide responses to any discovery requests until after the July 1, 2004 hearing.

PAGE 2 – MOTION TO MODIFY PROCEDURAL SCHEDULE OF ICNU

The parties failed to reach a satisfactory settlement agreement. Staff and Intervenors subsequently filed their testimony on May 27, 2004. The schedule provided PacifiCorp approximately one month to conduct discovery regarding Staff's and Intervenors' testimony.

On June 24, 2004, PacifiCorp filed its rebuttal testimony and exhibits. PacifiCorp sponsored three witnesses (Christy Omohundro, John Apperson and Mark Widmer) on rebuttal with 19 pages of testimony and 23 pages of exhibits. Mr. Widmer was not previously a witness in the case. PacifiCorp abandoned its original testimony regarding the appropriate Transition Adjustment and proposed that the Commission conduct a new proceeding to investigate a long-term Transition Adjustment based on the Company's GRID model. In the interim, PacifiCorp is requesting that the Commission not adopt its original proposal, but instead adopt a modified version of the Transition Adjustment proposed by the Staff.

Counsel for ICNU has attempted to contact all the parties in this proceeding regarding their position on changing the procedural schedule. EPCOR supports changing the schedule, and Portland General Electric, Constellation Energy, and Sempra Energy Solutions all do not oppose moving the hearing from July 1, 2004. Similarly, Commission Staff does not oppose moving the hearing date if the due dates for the briefs are also changed. PacifiCorp does not oppose rescheduling the hearing; however, not all of its witnesses are available on any of the dates that the hearing room is available. Unless alternative timely hearing dates can be found, the Company may oppose this motion.

PAGE 3 – MOTION TO MODIFY PROCEDURAL SCHEDULE OF ICNU

## II. MOTION TO MODIFY THE PROCEDURAL SCHEDULE

ICNU respectfully requests that the Commission postpone and reschedule the hearing in this proceeding to allow ICNU an opportunity to conduct discovery and prepare for the hearing. ICNU also requests that the dates for filing briefs be extended by a corresponding amount of time. Under the Commission's rules a party requesting the postponement of a hearing "shall provide the reasons why the postponement is necessary." OAR § 860-014-0010. Additional time is necessary to prepare for the hearing in this proceeding because PacifiCorp has adopted a new position in its rebuttal testimony and sponsored a new witness.

The current procedural schedule does not allow ICNU time to conduct any discovery on PacifiCorp's rebuttal testimony. The hearing is currently schedule to occur in five business days, on July 1, 2004. In Re Direct Access Issues for Industrial and Commercial Customers Under SB 1149, Docket No. UM 1081, Motion to Modify Procedural Schedule Granted. PacifiCorp has seven business days to respond to any of ICNU's data requests. In Re Direct Access Issues for Industrial and Commercial Customers Under SB 1149, Docket No. UM 1081, Prehearing Conference Report.

PacifiCorp's rebuttal testimony represents a significant change in the Company's position that warrants discovery. The Company has replaced its former proposal regarding how to calculate its Transition Adjustment with a proposal to adopt an interim Transition Adjustment, while the parties develop a new long-term Transition Adjustment. In addition, PacifiCorp's rebuttal testimony and exhibits are nearly twice the size of its direct testimony and the Company has sponsored an additional witness.

ICNU has not had any opportunity to conduct discovery to investigate PacifiCorp's two new proposals or the new witness.

Rescheduling the hearing in this proceeding should not harm or prejudice any party. PacifiCorp is currently scheduled to offer an open enrollment for direct access customers in November 2004. However, it is unlikely that any eligible customers will choose direct access unless the issue of PacifiCorp's Transition Adjustment is satisfactorily resolved. Extending the hearing, briefing schedule and eventual Commission ruling in this proceeding by approximately two weeks should provide the Company with ample opportunity to submit compliance tariffs for the November 2004 enrollment period. In addition, discovery will permit a more fully developed record to consider PacifiCorp's Transition Adjustment.

Since the hearing in this proceeding is currently scheduled to occur in one week, ICNU requests that the Commission shorten the normal response time for motions and provide a ruling on the request to change the hearing date on an expedited basis. The Commission's rules allow the ALJ to shorten the response time to a motion. OAR § 860-013-0050(3)(d). To ensure that the Commission has an opportunity to hear from all parties, ICNU believes that it is reasonable to require that any responses be filed by noon on Monday, June 28, 2004. ICNU will continue to work with PacifiCorp and the other parties to this case, as well as the administrative hearing staff to find a mutually acceptable replacement date for the hearing.

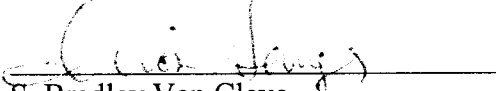
### III. CONCLUSION

ICNU respectfully requests that the Commission postpone the hearing currently scheduled to occur on July 1, 2004, in this proceeding and reschedule the hearing for July 13, 2004, the opening brief for August 3, 2004, and the closing brief for August 13, 2004.

Dated this 24th day of June, 2004.

Respectfully submitted,

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