

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1081

In the Matter of the)	
)	
PUBLIC UTILITY COMMISSION OF)	
OREGON STAFF)	RULING
)	
Investigation Into Direct Access Issues for)	
Industrial and Commercial Customers)	
Under SB 1149.)	

DISPOSITION: PROCEDURAL SCHEDULE MODIFIED

The schedule in this proceeding was twice modified, by rulings dated May 12, 2004 and May 19, 2004, in order to accommodate parties' requests for additional time to pursue settlement discussions. Modifications did not move the date for hearing, however, thereby reducing time between the hearing and the submission of PacifiCorp's rebuttal testimony. When parties failed to reach settlement, PacifiCorp filed rebuttal testimony on June 24, 2004, only one week prior to the current hearing date of July 1, 2004.

By motion filed on June 25, 2004, pursuant to OAR 860-014-0010 and OAR 860-013-0031, the Industrial Customers of Northwest Utilities (ICNU) seeks modification of the procedural schedule in this docket. ICNU requests the hearing date for this proceeding be moved from July 1, 2004 to July 13, 2004, (or an alternative date satisfactory to the Commission and all other parties). ICNU also requests that the due dates for filing briefs be extended by a corresponding amount of time. ICNU represents that additional time is necessary to prepare for the hearing because PacifiCorp adopted a new position in its rebuttal testimony and sponsored a new witness. ICNU argues that one reason additional time is needed is the inability to adequately conduct discovery on PacifiCorp's rebuttal testimony in the amount of time before the currently scheduled hearing.

By ruling dated June 25, 2004, I directed parties to file any responses to ICNU's motion by 12:00 p.m. on June 28, 2004. PacifiCorp filed a response within this deadline objecting to the requested procedural modifications, unless a mutually acceptable hearing date for all parties and the Commission is determined. PacifiCorp indicated its witnesses are unavailable in July, as follows: Ms. Omohundro, is unavailable the week of July 12, 2004; Mr. Apperson is unavailable the week of July 19,

2004; and Mr. Widmer is unavailable on July 27 to July 30. PacifiCorp indicated that all of its witnesses would be available on July 8, 2004, but stated that other parties were apparently not available that date. Expressing sympathy for ICNU's concerns about discovery, PacifiCorp offered to respond to data requests received from ICNU on June 25, 2004 by June 30, 2004. PacifiCorp acknowledged a modification in its position in rebuttal testimony, but commented that the positional change reduced the complexity of the case. PacifiCorp also expressed concern that a rescheduled hearing not interfere with issuance of a final order by early September.

ICNU immediately replied to PacifiCorp's response and urged the Commission to reschedule the hearing date. ICNU represented that receiving discovery responses from PacifiCorp on June 30, 2004, would be unacceptable due to lack of time to incorporate the responses into cross-examination preparation and the lack of time to conduct further discovery. Questioning whether PacifiCorp would really be unable to implement a result in this proceeding issued later than early September, ICNU asserted that additional time should be expended to fully develop the record.

Upon review of PacifiCorp's rebuttal testimony, together with ICNU's motion and the responsive comments, I find that PacifiCorp's introduction of sponsorship of a new witness in rebuttal testimony, as well as the Company's discussion of an interim approach to issues in the proceeding, warrants granting the parties additional time to prepare for hearing. No party disagrees to the extent a workable new hearing date is determined. Subsequent to the filing of formal positions, the parties continued to work together to find an amenable date. PacifiCorp's witness, Ms. Omohundro, agreed to make herself available on July 14, 2004, a date that is workable for the Commission and ICNU.

The hearing shall be rescheduled for July 14, 2004, starting at 9:30 a.m. in the morning. The briefing scheduled is also modified. The opening brief shall be due on August 3, 2004 and the closing brief due on August 13, 2004. Notice of the rescheduled hearing shall be separately issued.

Dated at Salem, Oregon, this 29th day of June, 2004.

Traci A. G. Kirkpatrick
Administrative Law Judge