

ISSUED: August 19, 2010

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1355

In the Matter of the

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation into Forecasting Forced Outage
Rates for Electric Generating Units.

RULING

**DISPOSITION: MOTION TO STRIKE DENIED; EVIDENTIARY
PROCEDURES ESTABLISHED**

I. SUMMARY

In this Ruling, the Motion to Strike Portions of Staff Exhibit 400 (Motion) filed by Portland General Electric Company (PGE) is denied, but parties are afforded the opportunity to present responsive evidence and to cross-examine Commission witnesses at hearing.

II. INTRODUCTION

By Order No.10-157, the Commission authorized PGE and Idaho Power Company to submit supplemental testimony and hearings in this docket to address the Forced Outage Rate "Collar" proposal of the Industrial Customers of Northwest Utilities (ICNU).

A prehearing conference was held on June 25, 2010, to schedule the remaining events in this proceeding at which time I indicated that the scope of the testimony by PGE and Idaho Power was to be limited to the previous Commission proposal.¹ The Prehearing Conference Report issued June 29, 2010, included a table indicating the due date for reply

¹ PacifiCorp, having already responded to the previous Commission proposal, was not originally afforded the opportunity to submit further testimony.

testimony and the statement "All Parties' Reply Testimony with Work Papers Due. Testimony to be limited to scope of Opening Testimony."

PGE filed Opening Testimony on July 16, 2010. No party objected to the scope of PGE's testimony. Commission staff (Staff) filed Reply Testimony on August 13, 2010.

III. POSITIONS OF THE PARTIES

The PGE Motion was filed on August 18, 2010. In its Motion, PGE asserts that Staff did not limit its testimony to the scope of the opening testimony and also failed to provide its work papers. Specifically, PGE asks that the following portions of Staff 400 be stricken: page 2, the sentence beginning near the end of line 8 and continuing to line 12; page 8, lines 3-7; page 13, lines 9-15; and page 14, the sentence starting near the end of line 15 and continuing through line 19.² According to PGE, "[i]f this new proposal were allowed to remain and be considered by the Commission, the parties would need to be given the opportunity and time to analyze the work papers, conduct discovery, perform their own analysis of the proposal, and provide responsive testimony to the Commission. With a proposal made in the last round of testimony, that is not possible."³

On August 19, 2010, PacifiCorp filed a Response in Support of Portland General Electric Company's Motion to Strike (PacifiCorp Response). The PacifiCorp Response supports the Motion and the reasoning in it and independently asserts a separate basis for striking Staff's testimony proposing a new collar mechanism. PacifiCorp asserts that the Commission should not change ratemaking methods "without developing a full record on the potential impact of the change and allowing all parties an opportunity to respond to the evidence presented****To develop such [responsive] evidence, PacifiCorp would need discovery from Staff * * *, an opportunity to model and analyze the proposal, the ability to draft and submit responsive testimony, and an opportunity to cross-examine Staff."⁴

The Staff Response asks the Commission to deny the Motion, claiming that Staff Exhibit 400 is responsive to PGE and, especially Idaho Power, direct testimony. Furthermore, Staff asserts that PGE's reliance on Order No 10-157 is misplaced because it will have the opportunity to cross-examine witnesses and file briefs. Finally, Staff opposes a further delay because further rounds of testimony and pleadings are unnecessary and might adversely impact the timing of power cost filings.⁵

² Motion at 3-4.

³ Motion at 5.

⁴ PacifiCorp Response at 2.

⁵ Staff Response at 1-2.

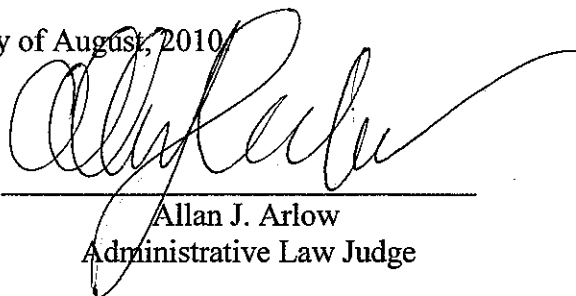
IV. DISCUSSION AND RULING

Staff Exhibit 400 is modest in terms of both size and complexity. Nevertheless, it goes beyond the scope of PGE's testimony, because "Staff proposes a compromise solution of using a ten-year rolling average of the annual FOR of the unit, excluding outliers, as an alternative approach to the Commission's proposal of using the 'lifetime' mean of the historical data."⁶

Unlike the previous proceeding, where PGE and Idaho Power had been deprived of the opportunity to respond in any manner to a modified proposal, in this instance, there still remains the opportunity for the offering of testimony at hearing and the ability to cross-examine Staff's sponsoring witness, as well as the post-hearing briefing process. Given the fact that Staff's proposal is a new, albeit slight, modification to the Commission's originally adopted methodology, PacifiCorp should also have the opportunity to address Staff's suggested modifications.

PGE, Idaho Power, and PacifiCorp will thus have ample opportunity to explore any infirmities they perceive in Staff's proposal. They may offer oral testimony, supported, if necessary, by written exhibits at the hearing. However, Portland General Electric Company's Motion to Strike Portions of Staff Exhibit 400 is DENIED.

Dated at Salem, Oregon, this 19th day of August, 2010.



Allan J. Arlow
Administrative Law Judge

UM 1355 Ruling re PGE Motion to Strike Staff Testimony 8-19-10.

⁶ Staff/400, Brown/14.