

December 15, 2009

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1424

RAINBOW YOUTH GOLF EDUCATION  
PROGRAM, INC.

Complainant,

vs.

PACIFICORP, dba PACIFIC POWER,

Defendant.

RULING

**DISPOSITION: RAINBOW YOUTH GOLF EDUCATION PROGRAM,  
INC.'S REQUEST ADDRESSED; COMPLAINANT  
ORDERED TO RETURN CONFIDENTIAL  
DOCUMENTS**

On October 5, 2009, PacifiCorp, dba Pacific Power, was ordered to provide information in response to a Commission bench request within ten days of the October 8, 2009, hearing in this matter. On the day Pacific Power's response to the bench request was due, Pacific Power advised the Commission that it could not complete the response on time due to the illness of an employee. Pacific Power was given leave to file its response to the bench request on October 20, 2009.

On December 14, 2009, RYGEP sent an email to the Commission complaining that it had been unable to use the information in Pacific Power's bench request response in its post-hearing brief because it did not receive its copy of Pacific Power's response to the bench request until October 22, 2009, the date briefs were due.<sup>1</sup> In its email, RYGEP asked the Commission to address this matter, but did not request any specific relief.

A request for relief should ordinarily be filed with the Commission and served on all parties. Assuming RYGEP's email should be treated as a formal objection or request for relief, RYGEP's objection is, itself, extremely late. A timely objection on this point should have been filed concurrently with the briefs on October 22, 2009, or shortly thereafter.<sup>2</sup> Instead, RYGEP waited nearly two months to raise the issue. Moreover,

<sup>1</sup> Pacific Power filed its bench request response on October 20, 2009, as required by the Commission. RYGEP asserts it did not receive its copy until October 22, 2009.

<sup>2</sup> See, e.g., *Blanton v. Union Pacific Railroad Co.*, 289 Ore. 617, 623 (1980) (objection not timely raised is waived). An objection generally should be made as soon as its applicability is, or should have been, known to the opponent. *Id.*

RYGEP's request neither seeks any specific relief nor asserts that RYGEP has suffered any prejudice as a result of its receipt of the bench request response.<sup>3</sup> As a result, RYGEP has waived any objections in connection with this issue.

Mr. William Ray has informed the Commission that he will be out of town for the next ten days. All confidential information provided by Pacific Power currently in RYGEP's possession should be returned to Pacific Power as soon as Mr. Ray returns, but no later than *December 28, 2009*.

Dated this 15<sup>th</sup> day of December, 2009, at Salem, Oregon



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Lisa D. Hardie  
Administrative Law Judge

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<sup>3</sup> See ORCP 14 (movant is required to state with particularity the grounds for the motion as well as the relief or order sought). It should be noted as well that RYGEP's brief was dated October 20, 2009, and was filed early, suggesting that RYGEP was not waiting to receive Pacific Power's response to the bench request.