



Portland General Electric Company
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V. Denise Saunders
Associate General Counsel

June 14, 2017

Via Electronic Filing

Public Utility Commission of Oregon
Filing Center
201 High St SE, Suite 100
PO Box 1088
Salem OR 97308-1088

Re: UM 1805 – Northwest and Intermountain Power Producers Coalition, Community Renewable Energy Association, and Renewable Energy Coalition, Complainants vs. Portland General Electric Company, Defendant

Attention Filing Center:

Enclosed for filing in Docket UM 1805 is Portland General Electric Company's Response to Complainants' Motion for Official Notice.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "V. Denise Saunders". The signature is written in a cursive, flowing style.

V. Denise Saunders
Associate General Counsel

VDS:bop

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1805

NORTHWEST AND INTERMOUNTAIN POWER
PRODUCERS COALITION; COMMUNITY
RENEWABLE ENERGY ASSOCIATION and
RENEWABLE ENERGY COALITION,

Complainants,

vs.

PORTLAND GENERAL ELECTRIC COMPANY,

Defendant.

**PORTLAND GENERAL ELECTRIC
COMPANY'S RESPONSE TO
COMPLAINANTS' MOTION FOR
OFFICIAL NOTICE**

Pursuant to OAR 860-001-0420(4), Portland General Electric Company ("PGE") respectfully submits this response to Complainants' May 30, 2017 motion asking the Public Utility Commission of Oregon ("Commission") and Administrative Law Judge ("ALJ") Allan Arlow to take official notice of 70 documents from other Commission dockets. Complainants ask the Commission and ALJ to take official notice of hundreds, perhaps thousands, of pages of material without any indication of whether a particular document is actually being relied upon by the Commission or ALJ in making any particular order or ruling in the instant case.

OAR 860-001-0460 indicates that the Commission or an ALJ may take official notice of certain types of facts or documents and establishes a process whereby the Commission or ALJ is required to provide the parties to a proceeding with notice when the Commission or ALJ relies on and takes official notice of a fact or document as part of a decision made at hearing or in an order or ruling.

Specifically, OAR 860-001-0460(d) provides that the "Commission or ALJ may take official notice of ... documents and records in the files of the Commission that have been made a part of the files in the regular course of performing the Commission's duties." If the Commission or ALJ takes

official notice of a fact or document, they “must notify the parties ... on the record during the hearing, in an AJL ruling, or in a Commission order.”¹ Once the Commission or ALJ provides such notice that they are taking official notice of a fact or document, then “[a] party may object to the fact noticed within 15 days of the hearing during which notice was give, the ALJ ruling, or the Commission order ... [and the] objecting party may explain or rebut the noticed fact.”²

By its terms, OAR 860-001-0460 anticipates the Commission will provide the parties with notice of the specific fact or document the Commission takes official notice of, when the Commission takes official notice *during the hearing, in an ALJ ruling, or in a Commission order*. By providing OAR 860-001-0460(2) notice in the hearing, order or ruling that actually relies on the noticed fact, the Commission or ALJ allows the parties to a proceeding to understand exactly what document or fact is relied upon by the Commission or ALJ in a specific order or ruling, why the fact or document is relied upon, and to what effect. The parties then have 15 days to object to and explain or rebut the noticed fact with the knowledge of how the Commission or ALJ is using or relying on the fact in the context of an actual decision being made by the Commission or ALJ.

For example, in Order No. 15-226 issued August 3, 2015, and addressing an investigation into treatment of pension costs in utility rates, the Commission took official notice of specific PGE testimony filed in a different docket. The Commission noted that it was taking official notice of the PGE testimony in a footnote to Order No. 15-226 and indicated that any party could explain or rebut the noticed fact within 15 days.³

In the instant case, Complainants have moved the Commission or ALJ to take official notice of 70 documents representing hundreds or thousands of pages of material without any specific notice of whether any particular document is being relied upon by the Commission or ALJ to make any particular decision in a hearing, in an ALJ ruling, or in a Commission order. It is impractical and

¹ OAR 860-001-460(2).

² *Id.*

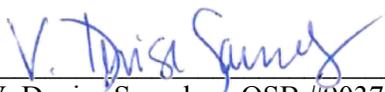
³ *See*, Docket No. UM 1633, Order No. 15-226 at footnote 7 (Aug. 3, 2015).

overly burdensome to expect PGE to review hundreds or thousands of pages of material to determine whether PGE objects to relevance or seeks to explain or rebut any of that material. More importantly, it is not possible for PGE to meaningfully rebut or explain any of the 70 documents or any of the hundreds (perhaps thousands) of pages of material referenced by Complainants unless and until the Commission or ALJ actually decides to rely upon one or more of the listed documents and indicates at the hearing or in a ruling or order what documents are relied upon and to what end.

PGE respectfully requests that, if and when the Commission or ALJ relies upon any of the listed documents in a specific order or ruling, the Commission or ALJ provide notice of that reliance as required by OAR 860-001-0460(2) and allow PGE and the other parties the opportunity to consider the fact or document in question *in the context of the actual decision made by the Commission or ALJ* in this case, so that the party can decide whether to object to, and explain or rebut, the specific fact or document relied upon by the Commission or ALJ—all as provided for in OAR 860-001-0460.

Dated this 14th day of June 2017.

Respectfully submitted,



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