

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1823

COLUMBIA BASIN ELECTRIC
COOPERATIVE, INC. an Oregon
cooperative corporation

Complainant,

v.

UMATILLA ELECTRIC
COOPERATIVE, INC., an Oregon
cooperative corporation

Defendant.

UMATILLA ELECTRIC
COOPERATIVE'S RESPONSE TO
COLUMBIA BASIN ELECTRIC
COOPERATIVE'S MOTION TO
AMEND PROCEDURAL SCHEDULE

Defendant Umatilla Electric Cooperative (“UEC”) respectfully requests that the Administrative Law Judge (“ALJ”) deny Columbia Basin Electric Cooperative Inc.’s (“CBEC”) Motion to Amend the procedural schedule (“Motion”). CBEC’s Motion, which asks to extend the procedural schedule by approximately one month, is based on: (a) CBEC’s request for continued discovery and to resolve CBEC’s motion to compel; (b) the fact that the Wheatridge Wind Energy LLC project (“Project”) has a new owner; and (c) an updated Wheatridge data request indicating that Wheatridge is exploring the option of self-providing station service to the Project. For the reasons discussed below, CBEC has not provided a reasonable basis to extend the procedural schedule for a month, and its motion should be denied.

Argument

CBEC initiated this complaint proceeding on January 13, 2017, and has had the opportunity to conduct extensive discovery in this proceeding on both UEC and Wheatridge. To date, UEC has responded to 50 separate data requests that have requested a combination of

narrative responses and the production of documents, and UEC has produced thousands of pages of documents. UEC uploaded its last responsive documents to Huddle on May 26, 2017, more than 2 weeks ago. On June 2, 2017, CBEC emailed the parties stating it intended to file a motion to extend the schedule. Despite the fact that UEC indicated it would oppose such a motion, CBEC nevertheless waited an additional week to file its Motion.

As part of its Motion, CBEC asks for extra time in the schedule to do additional discovery and resolve the pending motion to compel. UEC provided its response to CBEC's third set of data requests contemporaneously with this filing, and therefore, no additional time is warranted for additional discovery on UEC. As far as delaying the schedule to resolve the motion to compel, as explained in detail in UEC's response to the motion to compel, CBEC's motion to compel was unrelated to the scope of discovery, and instead focused only on the manner in which UEC responded to data requests. CBEC's complaints about UEC's production of documents ignore the fact that their 50 separate data requests are unreasonably cumulative, duplicative, overly broad, unduly burdensome, and seek irrelevant or non-existent information that is not reasonably calculated to lead to the discovery of admissible evidence. Further, the Motion continues to attempt to leave an impression that UEC is not responding to data requests, contrary to the fact that UEC has responded to all production requests.

The scope, nature, and relevance of discovery must be viewed in relation to the nature of this proceeding and should be commensurate to the needs of this case. This proceeding involves interstate transmission service from the Wheatridge Project, a renewable generation project, to a point of interconnection with a BPA substation. The transmission line is under the exclusive jurisdiction of the Federal Energy Regulatory Commission. The facts in this case are not complicated, the route and purpose of the line is known, and the transaction documents have

been disclosed. Further, now that Wheatridge has explained that it may self-supply station service to the entire Project, the facts in the case have become significantly less complicated. Additional discovery is not commensurate to the needs of this case and does not justify an extension of the procedural schedule.

CBEC also argues that the proceeding should be delayed because the Project has a new owner. But CBEC received notice of the change in ownership of the Project, had the opportunity to send data requests to the new owner, and received responses to the data requests in a timely fashion, well before the deadline. While new ownership may be a new fact, ownership of the Project is irrelevant to the issues in this case, which concerns the authority of UEC to provide transmission services from the Project. Project ownership simply has no relation to the purpose of the transmission line, the proposed route or the determination of whether there is a violation of CBEC's exclusive service territory.

Finally, CBEC argues that it needs additional discovery because Wheatridge updated a data response on May 31, 2017, and stated that it is exploring the option of self-providing station service to the entire project. This is, however, not a new or novel concept, does not justify an extension of the procedural schedule, and actually simplifies this proceeding. In fact, the potential for the Project to self-supplying station service was first mentioned in UEC's Answer to CBEC's Second Request for Production on April 20, 2017, Request 43, which is copied below:

REQUEST NO. 43:

In Umatilla's Notice of Appearance and Comments in Support of Filing of Umatilla Electric Cooperative, Federal Energy Regulatory Commission Docket No. TX1 7-1-000, Section IV, page 4, Umatilla claims that it confirms the representations made by Wheatridge Wind Energy, LLC on Umatilla's behalf in Wheatridge Wind Energy, LLC's application to the Federal Energy Regulatory Commission for an Order for interconnection with Umatilla. In Wheatridge Wind Energy, LLC's "Application for Order Directing Generator Interconnection and Transmission Service" page 4-5, Wheatridge Wind Energy, LLC claims, "In accordance with Oregon law, UEC could only supply the station power for the Project facilities located within the UEC franchised retail service territory. Station power for the Project facilities to be located in the CBEC franchised retail service territory would be supplied by CBEC under its retail tariff." Please explain how Umatilla plans to serve the

retail load of the Wheatridge Wind Energy project's facilities located in Umatilla's service territory, including the identification of the specific transmission or distribution facilities that Umatilla would use to serve such loads.

UEC RESPONSE:

This request presumes that UEC plans to serve the retail load of the Wheatridge facility in UEC's service territory. UEC currently has no plans to serve the retail load of Wheatridge Wind Energy's project facilities in UEC's service territory, and has not been asked by Wheatridge to provide such retail service. In the event Wheatridge does request retail service for project facilities in UEC's service territory, UEC would evaluate the request consistent with its normal practices, which would include analyzing the retail service needs of those project facilities located in UEC's service territory and any potential limits of providing service under Oregon's territory allocation law. The project could also self-supply its internal loads through solar, battery or generation without needing any retail service from UEC or any other utility. (emphasis added)

In summary, CBEC has failed to justify why the schedule should be extended for a month. UEC is concerned about delaying the procedural schedule because of the impacts to the Project and UEC. The parties have invested a great deal of time and resources on the proposed transmission line. There is a significant amount of work that needs to be done to build the transmission line, and the expeditious resolution of this proceeding is necessary to give the parties certainty to move forward.

IV. CONCLUSION

For the foregoing reasons, UEC respectfully requests that the Commission deny CBEC's Motion to Amend the procedural schedule.

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Dated this 14th day of June, 2017.

Respectfully submitted,



Chad M. Stokes, OSB No. 004007
Tommy A. Brooks, OSB No. 076071
Cable Huston LLP
1001 SW Fifth Ave., Suite 2000
Portland, OR 97204-1136
Telephone: (503) 224-3092
Facsimile: (503) 224-3176
E-Mail: cstokes@cablehuston.com
tbrooks@cablehuston.com

Of attorneys for Umatilla Electric
Cooperative, Inc.