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January 4, 2018

VIA ELECTRONIC FILING

PUC Filing Center
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-1088

**Re: UM 1829 - Portland General Electric Company's Request for Clarification of
ALJ's Ruling**

Attention Filing Center:

Attached for filing in the above-captioned docket is Portland General Electric Company's Request for Clarification of the ALJ's Ruling regarding its Motion to Strike.

Please contact this office with any questions.

Very truly yours,

Alisha Till
Administrative Assistant

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1829

Blue Marmot V LLC
Blue Marmot VI LLC
Blue Marmot VII LLC
Blue Marmot VIII LLC
Blue Marmot IX LLC,
Complainants,

v.

Portland General Electric Company,
Defendant.

**PORTLAND GENERAL ELECTRIC
COMPANY'S REQUEST FOR
CLARIFICATION OF ALJ'S RULING
REGARDING MOTION TO STRIKE**

*EXPEDITED CONSIDERATION
REQUESTED*

1 On October 25, 2017, Portland General Electric Company (PGE) filed a Motion to Strike
2 portions of the testimony filed by the above-captioned Blue Marmot LLCs (collectively, Blue
3 Marmots), including the testimony of William Talbott (Blue Marmot/200, Talbott) and Keegan
4 Moyer (Blue Marmot/300, Moyer). On November 9, 2017, PGE also filed a contingent Motion to
5 Compel discovery, should its Motion to Strike be denied.

6 On December 13, 2017, Administrative Law Judge (ALJ) Arlow issued a Ruling granting
7 in part and denying in part the Motion to Strike and the Motion to Compel (Ruling). Although the
8 ALJ's Ruling provided a detailed, line-by-line analysis of the testimony to be stricken or not
9 stricken, the parties are unable to determine whether it intended to strike two particular segments
10 of testimony. Therefore, PGE respectfully requests that the ALJ clarify whether the two segments,
11 described below, are to be stricken from the Blue Marmots' testimony.

12 PGE has conferred with the Blue Marmots, and they do not oppose the ALJ clarifying
13 whether or not the ALJ intended to strike the testimony sections referenced in this Request for
14 Clarification. PGE requests expedited consideration because its response testimony is due on
15 January 12, 2018.

A. Blue Marmot/300, Moyer 20:19-23

1 PGE’s Motion to Strike asked the Commission to strike the testimony at Blue Marmot/300,
2 Moyer 20:19-23.¹ Page 5 of the Ruling characterizes the lines before and after this section as either
3 stricken or not stricken, but does not address lines 20:19-23:

4 m. 20:6-21:11
5 The 20:6-17 and 21:1-6 portions of the testimony are stricken as a legal
6 interpretation of the cited proceedings. The cited document speaks for itself or as
7 interpreted by legal counsel. 21:6-11 is not stricken as it makes factual assertions
8 or provides opinions about factual assertions.

9 PGE requests clarification as to whether lines 20:19-23 have been stricken.

B. Blue Marmot/300, Moyer 27:5-13

10 PGE’s Motion to Strike asked the Commission to strike the testimony at Blue Marmot/300,
11 Moyer 27:5-13.² Page 5 of the Ruling characterizes the lines before and after this section as either
12 stricken or not stricken, but does not address lines 27:5-13:

13 n. 27:3-28:12
14 27:3-5 explicitly states the witness' understanding and is not stricken. 27:14-20
15 contains factual assertions and is thus not stricken. 27:21-28:12 is specifically
16 provided as a second-hand opinion of counsel and thus stricken as legal argument.
17 At its option. Blue Marmot may retain this portion of the testimony in the record if
18 it drops its objection on the grounds of attorney-client privilege to PGE's motion to
19 compel and the motion to compel is granted to that extent accordingly.

20 Lines 27:5-13 describe FERC regulatory requirements for off-system QFs, as follows:

21 As mentioned above, FERC regulations provide that off-system QFs like the Blue
22 Marmots can wheel their power to a purchasing utility like PGE, and the purchasing
23 utility must purchase the net output as if the QF were supplying the net output
24 directly. FERC’s regulations also state that the rate “shall not include any charges
25 for transmission.” This is consistent with the discussion above that the purchasing
26 utility is responsible for accepting and managing the power that is delivered to its
27 system. Therefore, the rate paid to the off-system QF cannot directly or indirectly
28 include any transmission charges.³

29 PGE respectfully requests clarification as to whether lines 27:5-13 have been stricken.

¹ PGE’s Motion to Strike, Ex. A at 38.

² PGE’s Motion to Strike, Ex. A at 45.

³ Blue Marmot/300, Moyer 27:5-13 (internal citation omitted).

1 In sum, PGE appreciates the detailed, line-by-line analysis provided by the ALJ's Ruling,
2 and respectfully requests clarification regarding whether the Ruling intended to strike the above
3 two sections of testimony.

Dated January 4, 2017

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