

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1829, UM 1830, UM 1831, UM 1832, UM 1833  
PHASE II

BLUE MARMOT V LLC (UM 1829),  
BLUE MARMOT VI LLC (UM 1830),  
BLUE MARMOT VII LLC (UM 1831),  
BLUE MARMOT VIII LLC (UM 1832),  
BLUE MARMOT IX LLC (UM 1833),

Complainants,

vs.

PORTLAND GENERAL ELECTRIC  
COMPANY,

Defendant.

Pursuant to ORS 756.500.

RULING

DISPOSITION: MOTION GRANTED IN PART AND DENIED IN PART

**I. BACKGROUND AND PROCEDURAL HISTORY**

Under the procedural schedule set forth in my ruling of March 2, 2020, PGE is scheduled to file response testimony on March 30, 2020. Blue Marmots are scheduled to file reply testimony by noon, April 21, 2020.

A dispute between the parties with respect to data requests led to an expedited briefing schedule, resulting in a ruling on March 18, 2020, granting the motion to compel filed by PGE. On March 24, 2020, PGE filed a motion for extension of time to file reply testimony and, in light of the March 30, 2020 deadline, requested expedited consideration. On March 27, 2020, PGE filed an amendment to its March 24 motion and Blue Marmots filed a response.

**I. DISCUSSION**

In support of its motion for extension of time, as amended, PGE states that the information sought in the motion to compel was essential to the preparation of its reply testimony. PGE further represents that, in response to several of its data requests, it had received over 500 emails since the evening of March 20, 2020, and that it will take several days to review them.

Furthermore, PGE states that, after the close of business on March 25, 2020, PGE received a response to the last remaining data request, DR 8, but claims that “PGE cannot make heads or tails of the Blue Marmots’ calculations.”<sup>1</sup> PGE states that Blue Marmots are aware that it plans to serve follow up data requests on March 27, 2020 in an effort to understand the responsive materials and that a turnaround time of seven days will be requested. PGE states that if the timelines are adhered to, it is requesting that it be permitted to file its response testimony no later than April 8, 2020.<sup>2</sup>

On March 27, 2020, Blue Marmots filed a response to PGE’s motion and amendment. In its response, Blue Marmots note that the parties were in the midst of their discovery dispute at the time that the current schedule for submission of testimony was adopted and that PGE was aware that the responses it sought would be voluminous. Blue Marmots then recount their view of the proceedings and their timely efforts to comply with the data requests. A further delay, in Blue Marmots’ view, would be unwarranted and holds the potential to adversely affect the schedule for the conclusion of these proceedings in a manner that could result in direct financial harm.

The ruling on the motion to compel was issued on March 18, 2020, two days after the last pleadings were filed on the matter. It is apparent from the procedural record that both parties have put forth substantial effort to keep the proceedings on track, despite their strongly differing views as to the necessity and scope of discovery. Neither party should be unduly rewarded or prejudiced by these most recent events.

Accordingly, I adopt a schedule that seeks to strike a balance between these competing interests and maintains the currently scheduled hearing date. In the event that a party seeks to supplement its testimony based upon newly discovered or available material, the question will be addressed at that time.

## II. RULING

1. The Motion by Portland General Electric Company, as amended, for an extension of time in which to file Response Testimony is granted in part and denied in part.
2. PGE shall file its response testimony no later than April 3, 2020.

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<sup>1</sup> PGE’s Amendment to Motion for Extension of Time at 2.

<sup>2</sup> *Id.*

3. Blue Marmots shall file reply testimony no later than noon, April 27, 2020.
4. All other scheduled events for the remainder of these proceedings are unchanged.

Dated this 27th day of March, 2020, at Salem, Oregon.



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Allan J. Arlow  
Administrative Law Judge