

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **PCN 2**

4 In the Matter of

5 TILLAMOOK PEOPLE'S UTILITY
6 DISTRICT,

7 Petition for Certificate of Public Convenience
and Necessity

STAFF MOTION TO MODIFY
PROCEDURAL SCHEDULE

8 Pursuant to OAR 860-001-0420 and the Administrative Law Judge's (ALJ's) April 5,
9 2018 ruling in this proceeding, Staff of the Public Utility Commission of Oregon (Staff) moves
10 to modify the procedural schedule for the remainder of this docket.

11 Currently, the remaining events for this proceeding are scheduled as follows:

12

13 Event	Date
14 Hearing	To Be Set
15 All Party Post Hearing Opening Briefs	To Be Set
16 All Party Reply Briefs	To Be Set

17 At the pre-hearing conference held in this matter on April 4, 2018, Staff proposed that the
18 hearing be set for a date two weeks after the date of Tillamook County's decision regarding the
19 pending permit application related to approval of the proposed transmission line. The matter was
20 taken under advisement, and on April 5, 2018, the ALJ issued a ruling directing Staff to present
21 its request in the form of a motion with supporting argument, and allowing the other parties time
22 to respond. Staff's request is supported by the following points and authorities.

23 **BACKGROUND**

24 Tillamook People's Utility District (TPUD) filed a Petition for a Certification of Public
25 Convenience and Necessity (CPCN) with the Public Utility Commission of Oregon
26 (Commission) on October 6, 2017. TPUD included with the Petition a partial copy of the

1 consolidated application for permits that TPUD had filed in August 2017 with the Tillamook
2 County Planning Commission related to land use approval for the Tillamook to Oceanside 115
3 kV transmission line project, including a conditional use permit application.¹ The Tillamook
4 County Planning Commission initially scheduled its proceeding for hearing on February 8, 2018,
5 then the matter was continued to March 8, 2018, and now to April 26, 2018.² TPUD recently
6 agreed to an extension of the statutory deadline for a decision by Tillamook County to July 13,
7 2018.³

8 DISCUSSION

9 Staff requests that a hearing be scheduled in this matter for a date two weeks after
10 Tillamook County's decision on the pending conditional use permit application. Currently, that
11 decision is required by July 13, 2018. There are three reasons that support Staff's request. First,
12 the County's decision, while not required, would be relevant to this proceeding. The
13 Commission makes its findings regarding the project's compatibility with land use regulations
14 under OAR 860-025-0030(a) – (d). Under OAR 860-025-0030(a), a copy of the local land use
15 permit from each affected city or county stating the proposed project has received the
16 jurisdiction's approval is one method for the Commission to make its land use findings. Other
17 methods may be used to make the Commission's land use findings, but the permit is one.

18 Second, granting Staff's request will ensure efficiency in the administrative process. A
19 CPCN, once issued, may be used as evidence in condemnation proceedings for specific interests
20 in land, as noted in ORS 758.015(2). But, depending on the result of the County planning
21 process, TPUD may need to consider a different or altered route. If the route is altered after this
22 proceeding has been resolved, the hearing will have been unnecessary and any Commission
23 order approving this CPCN may need to be withdrawn, or a second petition for a CPCN filed.

24 _____
¹ Exhibit TPUD/106, Simmons.

25 ² Application notices are available online at:
26 <http://www.co.tillamook.or.us/gov/ComDev/planning/TPUD.html>.

³ See Attachment 1.

1 TPUD submitted its application to Tillamook County before it filed the Petition. Ordinarily, the
2 County's decision would have been issued by this time, but the hearing has twice been
3 continued. Staff appreciates TPUD's efforts to coordinate multiple applications, but believes the
4 proposed schedule below to be most efficient.

5 Third, granting Staff's request will ensure a hearing is conducted on the Petition in
6 approximately three months. This is not a significant delay. The County's decision on the
7 permit application would be an administrative ruling subject to official notice per OAR 860-001-
8 0460, which allows for scheduling a hearing within two weeks of the decision.

9 Based on the foregoing, Staff proposes a hearing date be set during the week of July 30,
10 2018, or later, as may be convenient for the Commission. At the April 4, 2018 pre-hearing
11 conference, TPUD expressed a preference for three rounds of post-hearing briefs. Staff has no
12 objection, and therefore, includes dates for post-hearing briefing in the following proposed
13 schedule, subject to comment by parties:

14 **Proposed Schedule**

15

Event	Date
Hearing	July 30 or 31, or August 1, 2 or 3, 2018 Depending on Commission Availability
TPUD Opening Brief	August 13, 2018
Staff and Intervenor Reply Briefs	August 27, 2018
TPUD Closing Brief	September 7, 2018

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1 **CONCLUSION**

2 For the foregoing reasons, Staff asks that the ALJ grant the above request to modify the
3 procedural schedule.

4
5 DATED this 10th day of April 2018.

6 Respectfully submitted,

7 ELLEN F. ROSENBLUM
8 Attorney General

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10 Johanna M. Riemenschneider, OSB #990083
11 Senior Assistant Attorney General
12 Of Attorneys for Staff of the Public Utility
13 Commission of Oregon
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Tillamook County

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150-DAY WAIVER

By my signature below, I confirm my agreement to hold the decision on my application(s) deemed to be complete, listed below, and hereby waive the 150-day decision requirement as specified under ORS 215.427. With the exception of mediation, the total of all extensions may not exceed 215 days after the date the application(s) were deemed complete. This is a limited waiver of 60 days, extending the current deadline of May 14, 2018 to July 13, 2018.

Application(s): Tillamook Oceanside Transmission Line
851-17-000448-PLNG-01
851-17-000448-PLNG
851-17-000448-PLNG-02

AGREED TO BY: Tommy A. Brooks, Attorney for Applicant Tillamook PUD



APPLICANT SIGNATURE

3/15/2018

DATE

Tommy A. Brooks

NAME (PLEASE PRINT)