

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 434

In the Matter of

PACIFICORP dba PACIFIC POWER,

2025 Transition Adjustment Mechanism.

**MEMORANDUM REGARDING
DISCOVERY DISPUTES**

Under OAR 860-001-0500(6), an Administrative Law Judge (ALJ) may conduct a discovery dispute conference at the request of a party,¹ but parties must first make every effort to engage in cooperative informal discovery and resolve disputes themselves.² The purpose of a discovery dispute conference is to permit the parties to resolve a discovery dispute and avoid the delay, expense, and uncertainty of lengthy motion practice. Discovery dispute conferences can result in quick decisions.

Given the need for Commission Staff and other stakeholders to manage several rate proceedings simultaneously this year and the need to adhere to the currently adopted schedules, I find that the “every effort” standard is excessive and that it is necessary to establish a quick path to resolve discovery disputes in these proceedings. To facilitate quick resolutions of discovery disputes, I will hold discovery dispute conferences in these proceedings at the request of parties, as discussed below, and waive the requirement in OAR 860-001-0500(5) for parties to make “every effort” for informal resolution of discovery disputes. Though this requirement is waived, I expect parties to make an efficient, good faith effort to resolve the discovery dispute before requesting a conference.

A request for a discovery dispute conference and any response thereto must include the following information:

1. Specific factual details regarding the nature of the discovery dispute, including the category of information sought; the request associated therewith; the response thereto; the relevance and importance of the information sought; the reasons for any objection to providing the information; the existence and scope of any privilege asserted; and the

¹ OAR 860-001-0500(6): “If parties are unable to resolve a dispute informally, then any of the parties involved in the dispute may request that the ALJ conduct a conference to facilitate the resolution of discovery disputes. A requesting party must identify the specific discovery sought and describe the efforts of the parties to resolve the dispute informally.”

² See OAR 860-001-0500(5)

- burden or expense, if any, of compliance;
2. Any issues of timing concerning the disputed discovery; and
 3. The extent of any willingness on the part of the parties to modify the discovery request or response to accommodate the concerns raised by the parties in the course of the discovery dispute.

The discovery dispute conferences will be conducted remotely via Zoom. To request a discovery dispute conference, send an email to the Filing Center at puc.filingcenter@puc.oregon.gov, and please copy me, all counsel, and all self-represented parties on the email. The subject line of the email should read, "Discovery Dispute Conference Request – UE 434." The email must include an attached document detailing the requested information set out above.

I will review a request within two business days. If I grant the request for a discovery dispute conference, I will issue a ruling to that effect, and the Administrative Hearings Division will contact the parties accordingly and advise them of available dates and times. The discovery dispute conference will be conducted on a date no later than ten days after the date the request is received by the Administrative Hearings Division. The Administrative Hearings Division will make best efforts to hold the discovery dispute conference within five business days but may schedule a discovery dispute conference as soon as within one business day of the request. The time allotted to discovery dispute conferences generally will be fifteen minutes for non-complex disputes and thirty minutes for complex disputes.

Any response to a discovery dispute conference request must be emailed to puc.filingcenter@puc.oregon.gov no later than one business day prior to the conference, unless otherwise directed. For discovery dispute conferences that will be held within two business days after the request is received, the opportunity to respond will be at the conference. Any requests and responses may not exceed three pages in length. Exhibits—including the underlying discovery dispute request and any response received—may be attached and do not count towards the three-page limit.

Any agreement reached by the parties in the course of the discovery dispute conference will be memorialized in a written stipulation to be signed by counsel and any self-represented parties or by an email confirmation between counsel and any self-represented parties and sent in an email to puc.filingcenter@puc.oregon.gov. If the parties wish, I may issue a ruling on any such discovery dispute stipulation.

In the event the discovery dispute conference does not produce an agreement between the parties that resolves the discovery dispute, I will issue a ruling resolving the dispute. Neither a request for a discovery dispute conference nor a resolution reached through a discovery dispute conference will bar a party from timely filing a discovery motion under OAR 860-001-0500(7) or (9). A ruling on a discovery dispute following a discovery dispute conference is binding on the parties. Only counsel who are primarily responsible

for advising the parties and have full authority to resolve the discovery dispute may participate in a discovery dispute conference. Self-represented parties may participate in the discovery dispute conference.

Dated this 13th day of March, 2024, at Salem, Oregon.



Alison Lackey
Administrative Law Judge