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November 8, 2013

**VIA ELECTRONIC FILING & U.S. MAIL**

Oregon Public Utility Commission  
Attn: Filing Center  
3930 Fairview Industrial Drive SE  
PO Box 1088  
Salem, OR 97308

Re: In the Matter of the Complaint of COLUMBIA BASIN ELECTRIC COOPERATIVE, INC., an Oregon cooperative corporation, against PACIFICORP, dba Pacific Power, an Oregon business corporation, and NORTH HURLBURT WIND, LLC, a foreign limited liability company  
**Docket No. UM 1670**

Dear Filing Center:

Enclosed please find the original and one (1) copy of the UMATILLA ELECTRIC COOPERATIVE'S REPLY TO NORTH HURLBURT WIND LLC'S OBJECTION TO PETITION TO INTERVENE in the above-referenced docket.

Thank you for your assistance with this filing. Should you have any questions, please feel free to contact me.

Very truly yours,



Tommy A. Brooks

TAB:sk  
Enclosures

cc: UM 1670 Service List

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1670**

In the Matter of

COLUMBIA BASIN ELECTRIC  
COOPERATIVE, INC.,

Complainant,

vs.

PACIFICORP dba PACIFIC POWER,

and

NORTH HURLBURT WIND, LLC,

Defendants.

UMATILLA ELECTRIC  
COOPERATIVE'S REPLY TO  
NORTH HURLBURT WIND LLC'S  
OBJECTION TO PETITION TO  
INTERVENE

On November 18, 2013, North Hurlburt Wind, LLC ("North Hurlburt") filed its Objection to Petition to Intervene of Umatilla Electric Cooperative ("Objection"). Pursuant to OAR 860-001-0300(6), Umatilla Electric Cooperative ("UEC") files this reply to the Objection.

**Intervention Standard**

ORS 756.525 provides that a person may petition to intervene at any time before the close of the record. The Oregon Public Utility Commission's ("Commission") rules require a petition to be granted as long as there is a basis to find that the "petitioner has sufficient interest in the proceedings and the petitioner's appearance and participation will not unreasonably broaden the issues, burden the record, or delay the proceedings."<sup>1</sup> Under this standard, the

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<sup>1</sup> OAR 860-001-0300(7).

Commission “liberally grants petitions to intervene.”<sup>2</sup> In Docket UM 1635, for example, the Commission granted a petition to intervene even though there were no active proceedings in that docket and even though the petitioner’s purpose for intervention “was unclear.”<sup>3</sup>

It is not uncommon for utilities to intervene into matters involving other utilities. For example, the Commission recently allowed Portland General Electric (“PGE”), an electric utility, to intervene into a general rate case filed by NW Natural, a gas utility, for the stated purpose of monitoring the proceedings and raising issues only if necessary.<sup>4</sup> Nor is it uncommon for an entity to separately intervene in a matter even though an umbrella organization it belongs to has also intervened. In PGE’s recent general rate case, the Commission granted the League of Oregon Cities’ (“League”) petition to intervene,<sup>5</sup> and then later granted separate petitions to intervene from the City of Portland and the City of Hillsboro.<sup>6</sup>

### **Argument**

The Commission should grant UEC’s Petition to Intervene (“Petition”) in this matter. First, the Petition is timely because the record has not closed and there remain active proceedings in this docket. Second, UEC has a strong interest in this matter because the Commission will likely be called on to interpret and apply the Territorial Allocation Statute.<sup>7</sup> As stated in the Petition, UEC provides service in an allocated territory in the vicinity of the dispute in this matter and could therefore be impacted by the Commission’s decision applying the Territorial Allocation Statute. UEC should therefore be allowed to intervene as a party in order to assist the

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<sup>2</sup> *In re Portland General Electric Co. Request for Proposals for Capacity Resources*, Docket UM 1535, Ruling (Dec. 26, 2012).

<sup>3</sup> *Id.*

<sup>4</sup> *In re NW Natural Request for General Rate Revision*, Docket UG 221, Prehearing Conference Memorandum (Jan. 23, 2012).

<sup>5</sup> *In re PGE Request for General Rate Revision*, Docket UE 262, Prehearing Conference Memorandum (Mar. 6, 2013).

<sup>6</sup> *Id.*, Ruling (Apr. 9, 2013).

<sup>7</sup> ORS 758.400 *et seq.*

Commission with determining the correct interpretation and application of the Territorial Allocation Statute. At a minimum, UEC should be allowed to monitor the proceeding and to raise issues if necessary. UEC certainly has as strong an interest in this matter, which involves another electric utility, as PGE had in NW Natural's gas rate case in Docket UG 221.

The Objection does not assert that UEC has no interest in the docket. Rather, North Hurlburt's primary objection appears to be its assertion that UEC's interests in this case are already represented by the Oregon Rural Electric Cooperative Association ("ORECA").<sup>8</sup> As North Hurlburt acknowledges, however, ORECA is an umbrella organization that represents multiple utilities throughout the state. To the extent that ORECA represents UEC, ORECA's participation necessarily balances UEC's needs and interests with those of its other members, and only UEC can directly and fully represent its own interests. North Hurlburt makes no claim, nor could it, that UEC has any control over the level or depth of ORECA's participation. UEC's membership in ORECA, therefore, cannot support North Hurlburt's claim that ORECA's intervention adequately represents UEC's interests. The Commission should allow the intervention just as it allowed multiple cities to intervene in UE 262 to represent their own interests in addition to the representation they were already receiving through the League's participation.

North Hurlburt next asserts that UEC's Petition to Intervene is deficient because it does not identify "any particular issues that UEC intends to raise."<sup>9</sup> This assertion ignores the statements UEC made in its Petition that its involvement is motivated by issues relating to exclusive service territory issues. It also ignores the Commission's well-established precedent

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<sup>8</sup> Objection at p.2.

<sup>9</sup> *Id.*

that interventions are appropriate in order to monitor a proceeding and that petitions will be granted even before a petitioner knows precisely what issues will be raised.

Finally, North Hurlburt raises a concern about the scope of discovery in this case and implies that UEC's participation will somehow further expand discovery or improperly result in the dissemination of sensitive information. These concerns are unfounded. First, UEC has already committed not to broaden the scope of this proceeding or cause delay through its participation. The schedule for discovery in this matter has already been established and UEC comes to this proceeding with full knowledge of that schedule. Second, as noted in the Objection, there is a protective order in place in this docket and, should UEC require access to any sensitive information, it would be subject to the terms of the protective order.

UEC's Petition indicates that UEC plans only to participate in briefing and in the hearing if necessary. It does not state that UEC plans to participate in the discovery process. That being said, if it sets North Hurlburt's mind at ease, UEC will commit to not propound additional discovery on other parties and would not expect to have discovery propounded on UEC by others. However, briefs to the Commission must be based on facts in the record. In order to provide adequate and effective briefs to the Commission, UEC should be given access to the record that has already been developed or that will be developed by the other parties.

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**Conclusion**

For the reasons stated, the Commission should grant UEC's Petition to Intervene in this matter and deny North Hurlburt's objections to that intervention.

Dated this 25th day of November 2013.

Respectfully submitted,



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Of Attorneys for the  
Umatilla Electric Cooperative

**CERTIFICATE OF SERVICE**

I CERTIFY that I have on this day served the foregoing document upon all parties of record in this proceeding via electronic mail and/or by mailing a copy properly addressed with first class postage prepaid.

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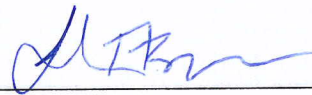
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Dated in Portland, Oregon, this 25th day of November 2013.



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