

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • hmt@dvclaw.com
Suite 400
333 SW Taylor
Portland, OR 97204

October 24, 2017

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PUBLIC UTILITY COMMISSION OF OREGON
Investigation into the Treatment of New Facility Direct Access Load.
Docket No. UM 1837

Dear Filing Center:

Please find enclosed the Response of the Industrial Customers of Northwest Utilities to the Oregon Citizens' Utility Board Motion to Amend Procedural Schedule.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Haley M. Thomas
Haley M. Thomas

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1837

In the Matter of)	
PUBLIC UTILITY COMMISSION OF OREGON,)	RESPONSE OF THE INDUSTRIAL
Investigation into the Treatment of New Facility Direct)	CUSTOMERS OF NORTHWEST
Access Load.)	UTILITIES TO THE OREGON
)	CITIZENS' UTILITY BOARD MOTION
)	TO AMEND PROCEDURAL
)	SCHEDULE

Pursuant to OAR 860-001-0420, the Industrial Customers of Northwest Utilities (“ICNU”) files this Response to the Oregon Citizens’ Utility Board’s Motion to Amend the Procedural Schedule (“Motion”) in the above-referenced docket.

CUB styles its Motion as one to amend the procedural schedule. However, CUB only requests that the Commission issue an order as soon as possible addressing the legal dispute between CUB and the other parties to this docket regarding whether the Commission has the authority to allow new loads to take direct access without paying transition charges. CUB does not appear to request any changes to the procedural schedule itself.

Assuming ICNU has properly characterized CUB’s Motion, ICNU does not oppose CUB’s request, subject to two caveats. First, ICNU does not believe the Commission must suspend the remaining portion of the procedural schedule pending the order CUB requests. A number of parties, ICNU included, have sought a quick resolution of the issues in this case, and suspending the proceeding would frustrate this objective. Moreover, if the Commission ultimately agrees with CUB’s legal position, it can suspend the schedule at the time it issues the

order CUB requests. Doing so beforehand would potentially prejudice parties in the event the Commission does not agree with CUB and the remaining process then becomes necessary.

Second, ICNU considers CUB's request for a ruling on the legal matter the parties have briefed to be limited to the narrow question of whether the direct access law includes a *per se* prohibition on customers taking direct access without paying transition charges. That is the only question on which there is a sufficient record to base a decision at this point. While a number of parties made arguments regarding whether exempting new loads from paying transition charges is good policy in their legal briefs, there is currently an insufficient record on this issue to make a decision. Parties agreed to build that portion of the record in the comment phase of the proceeding. The Commission should wait for these comments before considering such policy issues.

Dated this 24th day of October, 2017.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

Telephone: (503) 241-7242

Facsimile: (503) 241-8160

E-mail: tcp@dvclaw.com

Of Attorneys for the Industrial Customers of
Northwest Utilities