

October 4, 2022

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Nolan Moser
Chief Administrative Law Judge
Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3398

Re: UM 1908 Pre-Hearing Conference

Dear Judge Moser:

Thank you for proposing a schedule for this proceeding. Lumen has discussed the proposed schedule with Staff and CUB and we have not been able to agree on a schedule. Thus, Lumen submits its proposed schedule for discussion at the pre-hearing conference on Oct. 6.

At the outset, you will see that we propose Staff and intervenors file testimony first. This matter is proceeding as an investigation under ORS 756.515. ORS 756.515(3) provides that “proceedings shall be had and conducted in reference to the matters investigated in like manner as though complaint had been filed with the commission relative thereto.”

Staff initiated this investigation and is the proponent of the position that the price plan should be modified as provided in Order No. 22-340. Thus, ORS 756.515 requires that this proceeding be conducted as though Staff had filed a complaint. As the complainant, Staff has the burden of persuasion and should present its case first. At a minimum, if Lumen is required to file testimony first, it should be given the opportunity to reply to Staff’s testimony.

Lumen also wants to give you notice that it has concerns about other provisions in the Sept. 29, 2022 Ruling that “consolidate docket UM 2206 into this proceeding and fully incorporate the record of UM 2206” and that permit “interested persons” to comment on the schedule and to “participate in all events in the above schedule, provide comment, and may present written material including briefs.”

With respect to incorporating the record from UM 2206, Lumen is unclear as to what matters and information that record includes and would like to have that clarified and addressed at the outset of this proceeding. Once that is clarified, Lumen may have an objection to incorporating that record into this contested case proceeding. With respect to allowing interested persons to participate in the case, OAR 860-001-0300 permits only “parties” to participate fully in contested

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case proceedings, and does not permit “interested persons” “to file pleadings, present evidence for the record, conduct cross-examination of witnesses, become a signatory to a protective order, or file briefs.” OAR 860.001-0300(7). We would be pleased to discuss these issues at the pre-hearing conference and will present our objections in writing after the conference if that is required.

Here is Lumen’s proposed schedule:

EVENT	DATE
Prehearing Conference	October 6, 2022, 10:00 a.m.
Interventions Requested	October 11, 2022
Staff and Intervenors Aligned	
With Staff File Direct Testimony	October 14, 2022
Lumen Files Testimony	October 27, 2022
Cross-Examination Statements Due	November 16, 2022
Hearing	November 21, 2022, 9:30 a.m.
Hearing (Day 2, if needed)	November 22, 2022, 9:30 a.m.
All Parties File Post-Hearing Opening	
Briefs	December 2, 2022
All Parties File Post-Hearing Response	
Briefs	December 12, 2022
Commission Decision (Tentative)	December 20, 2022

We look forward to discussing these matters at the pre-hearing conference.

Sincerely,



Lawrence H. Reichman