

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1818

COLUMBIA BASIN ELECTRIC
COOPERATIVE, INC.,

Complainant,

vs.

UMATILLA ELECTRIC COOPERATIVE,

Defendant.

Regarding Willow Creek Dairy

RULING

DISPOSITION: MOTION FOR CERTIFICATION DENIED

I. SUMMARY

In this ruling, I deny the motion for certification of my ruling dated February 28, 2019, filed on behalf of Columbia Basin Electric Cooperative, Inc. (Columbia Basin). Instead, I take official notice of the te Velde bankruptcy matter, and request final supplemental briefing from all parties to be filed by 5:00 p.m. on May 1, 2019. I lift the abeyance in this case, and provide a target date for the issuance of a final order.

II. PROCEDURAL HISTORY

On January 15, 2019, I issued a ruling discussing potentially changed circumstances associated with the facts at issue in this case. I requested a status update from the parties, and this was provided on February 15, 2019, along with a request to supplement the record on behalf of Columbia Basin. On February 28, 2019, I issued a ruling holding this matter in abeyance pending future information on whether or not a justiciable controversy remained for the Commission to resolve. As part of this ruling, I requested that the parties report any contact from the new owner of the property in question in this proceeding. On March 7, 2019, Umatilla Electric Cooperative (UEC) reported such contact, and requested 45 days to provide a fuller update.

On March 15, 2019, Columbia Basin filed a request for certification of my February 28, 2019 ruling, and requested that I take official notice of the te Velde bankruptcy. In that request, Columbia Basin argued that the matter was ripe for decision, that further delay in issuance of a decision was unwarranted, and that the public interest would be served by a

decision. This request also included substantive legal arguments regarding the legal test that should be applied by the Commission in its resolution of issues.

On March 28, 2019, UEC filed a response, agreeing with the request to take official notice, but disagreeing with the substantive portions of Columbia Basin's request for certification. On April 4, 2019, Columbia Basin filed a reply, reiterating its claims and noting the agreement with UEC regarding the request to take official notice.

III. RESOLUTION

For the reasons set forth below, the motion for certification is denied. First, I find good cause to take official notice of the te Velde bankruptcy matter. The fact of these events is not the subject of dispute because they are generally known to all parties and can be accurately and readily determined from various news publications, state and federal government filings, and other reports.¹

Second, I lift the abeyance that was the subject of the February 28, 2019 ruling. Based on the UEC filing of March 7, 2019, I find that a justiciable controversy exists. Third, all parties may file supplemental briefs discussing the facts officially noticed and providing legal argument to aide in the Commission's review of issues. Supplemental briefs must be filed in this docket no later than 5:00 p.m. on May 1, 2019. Fourth, I do not find good cause to certify my February 28, 2019 ruling to the Commission. Given the nature of this ruling, a grant of certification would only serve to delay a final order in this case. This ruling substantively accepts the request of Columbia Basin for resolution of issues in its request for certification. Finally, I notify parties of a May 29, 2019 target deadline for a final Commission order in this case. Parties should understand that this is a target deadline only, and not binding on the Commission.

IV. RULING

1. The February 28, 2019 abeyance issued in this docket is lifted.
2. Columbia Basin's motion for certification of my February 28, 2019 ruling is denied.
3. Official notice of the te Velde bankruptcy matter is taken.
4. Parties may file supplemental briefs in this docket no later than 5:00 p.m. on May 1, 2019.

¹ Consistent with OAR 860-001-0460, a party to this proceeding is entitled to be heard on the propriety of taking official notice and the nature of the facts noticed, and may object to the facts noticed within 15 days.

5. A target deadline for a final Commission order in this matter is set for May 29, 2019.

Dated this 10th day of April, 2019, at Salem, Oregon.



Nolan Moser
Administrative Law Judge