

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1818

COLUMBIA BASIN ELECTRIC  
COOPERATIVE, INC.,

Complainant,

vs.

UMATILLA ELECTRIC COOPERATIVE,

Defendant.

RULING

**DISPOSITION: PROCEEDING HELD IN ABEYANCE**

This proceeding will be held in abeyance pending future information as to whether a justiciable controversy exists for the Commission. Parties are directed to report any contact from the new owner about the provision of electric service to the territory at issue in this complaint.

In response to my January 15, 2019 memorandum, Columbia Basin Electric Cooperative (CBEC) filed a status report to address the changing circumstances underlying the basis of the complaint. This complaint involves the operations of Willow Creek Dairy, otherwise known as the Lost Creek Farm. As the parties are aware, the operator of that dairy operation, Greg te Velde, has declared bankruptcy, and future farm operations at that site are unclear.

In its status update, CBEC reports that the bankruptcy trustee sought to sell all assets, including Willow Creek Dairy, at an auction to be held February 6, 2019. CBEC requests an opportunity to supplement the record with current relevant facts as to the status of the Willow Creek Dairy. CBEC proposes to file additional information by March 18, 2019.

Following CBEC's filing, the February 19, 2019 Statesman Journal provided additional information regarding that sale.<sup>1</sup> The Statesman Journal reports that the dairy was sold to the lone bidder, Canyon Farms, for \$66.7 million, and that the sale is expected to close on March 1, 2019. All of the dairy's cattle (once a total of 30,000) have been auctioned off.

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<sup>1</sup> Tracy Loew, *Troubled Oregon megadairy Lost Valley Farm sold to lone bidder, cows auctioned*, The Salem Statesman Journal, (Feb 19, 2019). <https://www.statesmanjournal.com/story/tech/science/environment/2019/02/19/oregon-dairy-lost-valley-farm-sold-lone-bidder-cows-auctioned/2906759002/> The contents of this article and the facts alleged within are not noticed at this time and are not in evidence in this proceeding; instead they are referenced for purposes of this ruling.

The sale agreement leaves responsibility for the environmental cleanup with the bankruptcy trustee:

Boardman Tree Farm sold the dairy property to te Velde in 2015, but leased back about 40 percent of the acreage, where it continued to grow poplar trees. That led to some of te Velde's problems with overfilled and leaking manure lagoons.

“The estate did not have sufficient land under irrigation pivots to dispose of this material at the rate allowed by Oregon Department of Agriculture, since much of the (land) was still under the lease-back to Boardman Tree Farm,” the trustee wrote in court documents. “Thus, more waste was being generated than could be lawfully disposed by land application.”

Boardman Tree Farm has agreed to clear that land of timber and tree stumps by the end of 2019, although it has an option to extend the date until the end of 2020. A hearing on the agreement is set for Feb. 27. Then the buyer, Canyon Farm, will spend \$10 million to install irrigation systems and cultivate the land so the trustee can apply the wastewater as fertilizer.

The trustee will ensure the lagoons are emptied to an acceptable level by Oct. 31, 2019. If, by that date, Canyon Farm or a subsequent owner have not applied for a new dairy wastewater permit, the trustee must fully decommission the facility. That means removing the lagoon liners and filling the lagoons with soil.<sup>2</sup>

The future ownership and operation of Willow Creek Dairy has a direct impact on CBEC's claims that Umatilla Electric Cooperative (UEC) is providing utility service in CBEC's exclusive service territory. CBEC had originally argued that UEC was illegally serving six irrigation circles of Willow Creek Dairy, which are located within CBEC's territory.

Until more information is known about the future operations, if any, of Willow Creek Dairy, the Commission will not be able to determine whether a justiciable controversy exists for resolution.

For that reason, CBEC's proposal to supplement the record next month is premature. As noted above, it will be months before the fate of the Willow Creek Dairy under new ownership is known.

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<sup>2</sup> *Id.*

Instead, the Commission will keep this matter in abeyance until the new owner contacts either party about the provision of electric service for the six irrigation circles at issue in this complaint. Both CBEC and UEC are directed to report any such contact to the Commission and each other within 10 business days.

Dated this 28th day of February 2019, at Salem, Oregon.



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Nolan Moser  
Chief Administrative Law Judge