

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1147

In the Matter of	)	
	)	
PUBLIC UTILITY COMMISSION OF	)	PREHEARING CONFERENCE
OREGON	)	MEMORANDUM
	)	
Staff Request to Open an Investigation	)	
Related to Deferred Accounting.	)	

On July 22, 2004, a prehearing conference was held in this docket. The primary purpose of the conference was to establish a procedural schedule.

**Appearances and Identification of Parties**

Appearances were entered as follows: Stephanie Andrus, attorney, appeared on behalf of Commission Staff (Staff); Judy Johnson appeared on behalf of Staff; James Fell, attorney, appeared on behalf of PacifiCorp; David White, attorney, appeared on behalf of Portland General Electric Company (PGE); Jason Eisdorfer, attorney, appeared on behalf of the Citizens' Utility Board (CUB); Edward Finklea, attorney, appeared on behalf of Northwest Industrial Gas Users (NWIGU); Matthew Perkins, attorney, appeared on behalf of the Industrial Customers of Northwest Utilities (ICNU); and Barton Kline, attorney, participated by telephone on behalf of Idaho Power Company.

CUB's notice of intervention, dated July 21, 2004, was recognized. Pursuant to ORS 774.180. CUB may intervene in Commission proceedings as of right.

**Procedural Schedule**

Conference participants were unable to reach consensus on a complete procedural schedule due to disagreement about the extent of factual questions to be addressed. A formal issues list has not been adopted in this proceeding but ten issues, as set forth in Appendix A, have been identified for potential consideration. PGE contends that many of these issues raise factual matters requiring procedural steps that include a full opportunity to develop relevant evidence. As such, PGE proposes a procedural schedule that includes an opportunity for both opening and rebuttal testimony. Other

participants, however, consider the issues to primarily raise matters of public policy that may be addressed by comments and a public workshop with the Commissioners.

Participants agreed to discuss the nature of the issues in simultaneous comments due on October 7, 2004, to be followed by a settlement conference and status conference held on the morning and afternoon of October 25, 2004, respectively. Staff further proposed a procedural schedule that included a public workshop with the Commissioners, followed by the submission of simultaneous filings that contained comments on the issues identified as policy matters and testimony on factual issues, followed by a hearing. PGE proposed adding an opportunity to submit rebuttal testimony and extending the Staff's proposed hearing date to do so.

Given the dispute about the nature of the issues in this proceeding and the consequent uncertainty about the proper procedural process to use, it is premature to establish a full procedural schedule at this time. Rather than adopt a hybrid procedural format now, parties should comment on the issues to address in this docket and whether they require development of factual evidence, as well as the appropriate procedural process to be used to address each issue. Parties should comment in simultaneous opening and reply comments on whether it is appropriate to bifurcate this proceeding into two stages, or two proceedings, to ensure the proper evidentiary development of issues that raise factual matters.<sup>1</sup> These issues may be further discussed at the settlement and status conferences, with the goal of establishing a full procedural schedule at the status conference.

I adopt the first part of Staff's proposed procedural schedule, but add an opportunity for simultaneous reply comments, as follows:

Petitions to intervene due	August 16, 2004
Simultaneous opening comments on issues to be addressed and their nature	October 7, 2004
Simultaneous reply comments on issues to be addressed and their nature	October 21, 2004
Settlement conference	October 25, 2004 at 9:30 a.m.
Status conference	October 25, 2004 at 1:30 p.m.

The dates for filing are considered "in hand" dates.

### **Other Procedural Matters**

PGE indicated intent to conduct discovery between the filing of simultaneous comments and the settlement and status conferences. Staff indicated discovery should not proceed until after the settlement and status conferences. I do not find it necessary to limit the parameters of discovery, pursuant to OAR 860-014-0070, at this time.

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<sup>1</sup> The Staff Report presented at the Public Meeting held on April 27, 2004, which requested the opening of this investigation anticipated the potential need to institute a separate rulemaking.

To the extent this proceeding is conducted as a contested case, NWIGU made an oral motion to receive intervenor funding. Pursuant to the Intervenor Funding Agreement, a notice of intent to request an Issue Fund Grant (Notice of Intent) must be filed along with a petition to intervene. As NWIGU's petition to intervene has already been granted, I will allow NWIGU to file a Notice of Intent within ten days of this Ruling.

Finally, I refer the parties to the Administrative Hearings Procedures for contested case proceedings, located at [www.puc.state.or.us](http://www.puc.state.or.us) under the heading "Commission Overview."

Dated this 26th day of July, 2004, at Salem, Oregon.

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Traci A. G. Kirkpatrick  
Administrative Law Judge