

ISSUED: April 30, 2010

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 219

In the Matter of

PACIFICORP, dba PACIFIC POWER

Application to Implement the Provisions of  
Senate Bill 76.

RULING

**DISPOSITION: PETITIONS TO INTERVENE GRANTED**

Four petitions to intervene in this proceeding were filed on April 19, 2010, on behalf of the following five petitioners: the Karuk Tribe, WaterWatch of Oregon, American Rivers, Inc., California Trout, Inc. and the Northern California Council, Federation of Fly Fishers. Although no responses were filed to any of these petitions, response comments by the Industrial Customers of Northwest Utilities (ICNU) to certain petitions filed earlier are pertinent. Thus, I remind the petitioners that Senate Bill 76 limits the scope of this proceeding to the determination of a depreciation schedule for the Klamath River dams and a fairness and reasonableness review of surcharges imposed under the Klamath Hydroelectric Settlement Agreement (KHSA). All parties must act in accordance with the limited scope of this proceeding. Should a party be concerned that another party is acting beyond the limited scope, an expedited motion may be filed, with responses due within five calendar days. Upon review of the petitions to intervene, I grant them and encourage these parties to participate within the scope of this proceeding.

Dated this 30<sup>th</sup> day of April, 2010, at Salem, Oregon.



Traci A. G. Kirkpatrick  
Administrative Law Judge

## NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

The 2007 Oregon Legislative Assembly amended the Administrative Procedures Act to require agencies to provide all parties written notice of contested case rights and procedures. Pursuant to ORS 183.413, you are entitled to be informed of the following:

**Hearing:** The time and place of any hearing held in this proceeding will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 to 756.610 and OAR Chapter 860, Divisions 11-14. The Commission will hear issues as identified by the parties.

**Right to Attorney:** As a party to this hearing, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission staff, if participating in the case, will be represented by counsel. Once a hearing has begun, you will not generally be allowed to request a recess to obtain counsel.

**Administrative Law Judge:** The Commission has delegated the authority to preside over contested cases to its employee Administrative Law Judges (ALJs). The scope an ALJ's authority is defined in OAR 860-012-0035. The ALJ make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

**Hearing Rights:** You have the right to respond to all issues identified, and present evidence and witnesses on those issues. *See* OAR 860-014-0045 to OAR 860-014-0060. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-014-0065 to 860-014-0070.

**Evidence:** Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-014-0045(1)(b). Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the type of proceeding. *See* OAR 860-014-0035. The burden of presenting evidence to support an allegation or position rests with the proponent of the allegation or position. Once a hearing is completed, the ALJ will not generally allow the introduction of additional evidence without good cause.

**Record:** The hearing will be recorded, either by a court reporter or by audio/digital tape, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request the Commission for a copy of the tape for a fee set forth in OAR 860-011-0090(2)(e)(C). The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

**Final Order and Appeal:** After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The ALJ's draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days. *See* ORS 756.561 and OAR 860-014-0095. You may also file a petition for review with the Court of Appeals within 60 days. *See* ORS 756.610.