

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2024

In the Matter of

ALLIANCE OF WESTERN ENERGY
CONSUMERS,

Petition for Investigation Into Long-Term
Direct Access Programs.

MEMORANDUM

On October 1, 2021, I issued an ALJ Memorandum (Memo) in these proceedings that described a two phased approach to issues in this docket. As stated in the Memo, Phase I consisted of a rulemaking to “define and clarify discrete, contextual issues * * * useful to have in place before the Commission decides other element of the Direct Access issues raised by the parties.”¹ On August 17, 2023, the Commission issued Order No. 23-305 in the Phase I rulemaking docket AR 651. The order reflected the Commissioners’ extensive discussion, which took place at the June 27, 2023 Regular Public Meeting (RPM), on the rules and the next phase of the case.

Phase II of these proceedings will be in the form of a contested case. Order No. 23-305 notes that issues to be addressed in the contested case will include items listed in the order and in the June 23, 2023 Administrative Hearings Division (AHD) Report. In addition, the Commissioners discussed their expectations for the contested case:

We note our expectations that parties will engage in the contested case process in an efficient manner and work as cooperatively as possible to resolve contested items. We are open to proposals to phase the contested case to decide issues that may be less controversial sooner, in order to give more timely guidance to entities needing to make a decision whether to participate in direct access programs.²

AHD intends reach out to interested persons and determine a date for a pre-hearing conference to establish a procedural schedule for the contested case. All participants listed in docket AR 651 rulemaking service list will be contacted by email. For anyone that did not participate in the rulemaking process, but is interested in the contested case proceedings, or for any questions, please contact the Administrative Hearings Division by

¹ ALJ Memorandum at 1 (Oct. 1, 2021).

² Order No. 23-305 at 2 (Aug. 17, 2023).

telephone (503-378-6678) or by e-mail (puc.hearings@puc.oregon.gov). Interested persons are asked to do so by September 6, 2023.

Dated this 28th day of August, 2023, at Salem, Oregon.



Christopher J. Allwein
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

Hearing: The time and place of any hearing held in these proceedings 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 through 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the Commission's website at <https://www.oregon.gov/puc/Pages/default.aspx>. The Commission will hear issues as identified by the parties.

Right to Attorney: As a party to these proceedings, 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 as a party in the case, will be represented by the Department of Justice. Generally, once a hearing has begun, you will not be allowed to postpone the hearing to obtain counsel.

Notice to Active Duty Servicemembers: Active Duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Administrative Law Judge: The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope of an ALJ's authority is defined in OAR 860-001-0090. The ALJs 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 860-001-0450 through OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 through 860-001-0540.

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 860-001-0450. 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 ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Generally, once a hearing is completed, the ALJ will not allow the introduction of additional evidence without good cause.

Notice of Contested Case Rights and Procedures continued

Record: The hearing will be recorded, either by a court reporter or by audio digital recording, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request, if available, a copy of the audio recording from the Commission for a fee set forth in OAR 860-001-0060. 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 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 from the date of service of the order. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days from the date of service of the order. *See* ORS 756.610.