

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 426

In the Matter of

IDAHO POWER COMPANY,

Application for a General Rate Revision.

RULING

**DISPOSITION: PETITION GRANTED WITH CONDITIONS**

On April 23, 2024, the Oregon Irrigation Pumpers Association, Inc. (OIPA) filed a petition to intervene in this docket. On April 23, 2024, I issued a memorandum asking OIPA to supplement its petition to intervene and shortening the time for objections to OIPA’s petition as well as any reply. OIPA filed a supplement to its petition to intervene on April 26, 2024. Idaho Power filed objections to OIPA’s petition to intervene on May 1, 2024. No other party objected to OIPA’s petition to intervene.

OIPA asserts that as an organization representing the interests of farmers who are irrigation pumpers and who will be impacted by Idaho Power’s requested rate increases, it has direct and substantial interests in these proceedings. OIPA “requests the opportunity to participate in subsequent settlement discussions, to offer on stipulations in this case, and be a formal party to the case so that it can be in a position to adequately assess the fairness of any resulting settlement.” OIPA also explains that if it does not join a settlement agreement, “that would not prohibit the case from moving forward on this settlement track and having the Commission assessing whether the apparent settlement is fair, just[,] and reasonable.”

Idaho Power objects to OIPA’s petition because, according to Idaho Power, “OIPA’s participation will undoubtedly broaden the issues, burden the record, and delay the proceeding.” Idaho Power asserts that OIPA seeks to intervene at a very late stage of these proceedings, after the procedural schedule’s requested deadline to intervene and the deadline for intervenor opening testimony. Idaho Power also argues that OIPA failed to justify the late filing of its petition to intervene and that the organization could have filed its petition earlier.

Idaho Power also notes that the existing parties, including Commission Staff, the Oregon Citizens’ Utility Board, and Community Energy Project, have “engaged in productive settlement negotiations” with the company and that those parties have reached a settlement in principle resolving all but one issue in this case. As a result, Idaho Power asserts that OIPA’s participation in this docket as an intervenor “will undermine the Parties’ settlement,” “disrupt an agreed upon settlement,” and “have a chilling effect on future settlement discussions.” Idaho Power asks that if OIPA’s petition to intervene is granted that a condition be imposed restricting OIPA’s participation to only addressing the remaining issue in dispute.

Although a potential intervenor seeking to join a matter at later stages of a proceeding has the potential to unreasonably broaden the issues, burden the record, or cause delay, ORS 756.525(2) explicitly allows a petition to intervene to be filed “[a]t any time before the final taking of evidence.” Additionally, parties were recently granted intervenor status at a later stage of a proceeding for the express purpose of challenging a portion of a settlement agreement in a general rate case.<sup>1</sup> Further, our rules anticipate that settlements may be reached by a subset of parties in contested case proceedings<sup>2</sup> and that parties will have the opportunity to object to any filed stipulations.<sup>3</sup>

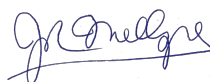
Here, after reviewing the petition to intervene and the subsequent briefing on it, I find that OIPA has a sufficient interest in these proceedings and that its participation will not unreasonably broaden the issues, burden the record, or delay the proceedings if conditions are imposed.<sup>4</sup>

OIPA’s petition to intervene is granted subject to the following conditions:

- (1) OIPA must abide by the existing procedural schedule, including requested calendar holds;<sup>5</sup>
- (2) In the event that a procedural schedule is established to address any remaining litigated issues, OIPA’s participation will be limited to the remaining milestones under the original procedural schedule.

I will not impose conditions or requirements on OIPA’s participation in any settlement meetings between the parties. It is up to the parties to determine how any settlement discussions proceed, consistent with our rules.<sup>6</sup> However, should a subset of the parties file a stipulation, OIPA will be allowed the opportunity to object to it consistent with our rules.<sup>7</sup>

Dated this 7th day of May, 2024, at Salem, Oregon.



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John Mellgren  
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

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<sup>1</sup> *In the Matter of Portland General Electric Co., Request for a General Rate Revision*, Docket No. UE 394, Ruling (Feb. 17, 2022).

<sup>2</sup> OAR 860-001-0350(1).

<sup>3</sup> OAR 860-001-0350(8).

<sup>4</sup> *See* OAR 860-001-0300(6).

<sup>5</sup> Ruling (Apr. 24, 2024).

<sup>6</sup> OAR 860-001-0350.

<sup>7</sup> OAR 860-001-0350(8).

## 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.