

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 427

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY

Renewable Resource Automatic
Adjustment Clause (Schedule 122)
(Clearwater Wind Project).

RULING

DISPOSITION: PROCEDURAL SCHEDULE TO BE MODIFIED; PROPOSED SCHEDULES DUE MAY 7, 2024

NewSun Energy LLC filed a motion seeking to modify the procedural schedule on April 24, 2024. NewSun seeks time for two rounds of discovery ahead of an opportunity for intervenors to file testimony. In the alternative, NewSun requests that the time for responses to discovery requests be shortened after the filing of PGE's reply testimony to facilitate preparation ahead of the evidentiary hearing. In a memorandum issued April 24, I indicated that some changes to the existing schedule were necessary due to an internal conflict with the hearing date. I also indicated that I would consider modifications to the schedule based on the changes requested in NewSun's motion as they may be implemented in procedural milestones subsequent to PGE's reply testimony, including additional rounds of testimony and a limited extension of the August 1, 2024, rate effective date to either September 1, 2024 or October 1, 2024.

PGE, Staff, and the Oregon Citizens' Utility Board (CUB) submitted a proposed schedule on April 30, 2024, maintaining the August 1, 2024, effective date. PGE opposes modification of the schedule to include additional rounds of testimony or extension of the rate effective date. CUB also filed a response opposing NewSun's motion and arguing that a broader investigation into PGE capital spending is needed to adequately address the issues raised rather than an extension of the schedule in this docket. On May 1, 2024, Staff filed a response, including a request to accept the late-filed response, arguing that extending the schedule is inconsistent with Commission rules regarding late intervention and would set concerning precedent. Also on May 1, 2024, NewSun sought leave to reply, arguing that the parties raised arguments that should have been raised at the time

NewSun petitioned to intervene, and noting that PGE did not consult NewSun with regard to its proposed schedule.¹

After review of NewSun’s motion, PGE, CUB, and Staff’s responses, and NewSun’s reply, I find that modification of the procedural schedule is warranted to ensure the development of a complete record regarding the issues raised in Order No. 24-091. This decision is based on the unique circumstances of this docket which involves re-evaluating the appropriate procedural schedule after the rejection of a stipulation. It does not represent a change in precedent regarding the conditions on participation that may apply to a party intervening late in a case. The procedural schedule will be revised to include an opportunity for additional intervenor testimony, followed by responsive testimony from PGE. These changes will likely necessitate an extension of the rate effective date to October 1, 2024. I acknowledge the challenges of extending this schedule in light of the numerous other contested cases pending before the Commission. Rather than establishing a schedule with dates that might pose a conflict for parties, I encourage all parties to confer and jointly propose a procedural schedule that includes the additional rounds of testimony addressed above. Proposed schedules are due no later than 3:00 p.m. on Tuesday, May 7, 2024.

Dated this 2nd day of May, 2024 at Salem, Oregon.



Alison Lackey
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

¹ Staff’s response and NewSun’s reply are both accepted.

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.