

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UCB 71

PAUL SPIES, DBA WAVERLY TOWN
HOMES LLC,

Complainant,

vs.

PACIFICORP, DBA PACIFIC POWER,

Defendant.

MEMORANDUM REGARDING
CASE MANAGEMENT CONFERENCE

On December 28, 2022, Paul Spies, dba Waverly Town Homes, LLC, filed a complaint against PacifiCorp, dba Pacific Power. PacifiCorp filed an answer and motion to dismiss on January 13, 2023. On January 18, 2023, I issued a memorandum stating that complainant could file a response to the motion to dismiss by January 30, 2023, and stated that a case management conference would be scheduled after the deadline to file a response.

On February 1, 2023, complainant filed a letter requesting an extension to file a response. Chief Administrative Law Judge Nolan Moser issued a ruling granting complainant an extension time to file a response to the motion to dismiss by February 13, 2023. To date, complainant has not filed a response to the motion to dismiss.

Before the Commission may address the substance of the complaint, we must address the motion to dismiss. At this time, it is not clear whether complainant contests the motion to dismiss or intends to continue litigating its complaint. Accordingly, before final review of the motion and potential dismissal of the case, the Public Utility Commission of Oregon will hold a case management conference in this docket at 11:00 a.m. on March 9, 2023, to address PacifiCorp's motion to dismiss with the parties before a decision is issued. Additionally, the case management conference may address whether the parties are interested in the Commission's mediation services to resolve the matter.

The parties are advised that either party may petition for alternative dispute resolution with the Commission subject to the rules in Chapter 860, Division 2 of the Commission's rules. Any party intending to request alternative dispute resolution should review the Commission's rules before submitting a petition. In order to provide such service, both parties must voluntarily agree to alternative dispute resolution.

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



Sarah Spruce
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.