

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 227

In the Matter of

PACIFICORP, dba PACIFIC POWER

2012 Transition Adjustment Mechanism.

RULING

**DISPOSITION: PROCEDURAL SCHEDULE AMENDED; STIPULATION
ACCEPTED AS EVIDENCE**

On September 20, 2011, a stipulation and supporting testimony were filed by PacifiCorp, dba Pacific Power; the Citizens' Utility Board of Oregon (CUB); Noble Americas Energy Solutions LLC (Noble Solutions); and the Staff of the Public Utility Commission of Oregon (Staff) (collectively, the stipulating parties) resolving all issues in this docket. The stipulating parties explain that the Industrial Customers of Northwest Utilities (ICNU) intends to object to the stipulation.

The stipulating parties also filed a motion asking the Commission to reopen the record in this proceeding to allow for the filing of the stipulation and supporting testimony, and to amend the procedural schedule to address the stipulation.

The procedural schedule proposed by the stipulating parties contemplates an October 5, 2011 deadline for ICNU's written objections and request for hearing; an October 14, 2011 deadline for the stipulating parties' response; a placeholder for a hearing or oral argument; and a requested order date of October 31, 2011. (The stipulating parties note that an order is needed by this date to allow Pacific Power to meet certain deadlines.)

The stipulating parties state that ICNU objects to the schedule and has proposed an alternative schedule with a post-hearing briefing date of November 7 or 8, 2011.

A. State of the Record

As the parties are aware, this stipulation was filed after evidentiary hearings were held on September 8, 2011. In spite of the stipulating parties' concerns, the record has not been closed in this docket. The record was left open after the September 8, 2011 hearing to allow for the filing of new exhibits offered into evidence at the hearing and to allow parties to lodge objections to exhibits admitted during the hearing subject to check. To ensure there is no dispute about the record, however, I clarify that the record remains

open, and accept the stipulation as evidence.¹ As I explain below, however, I treat the joint testimony in support of the stipulation as an explanatory brief, and do not include it as evidence in this proceeding.

B. Procedural Schedule

The procedural schedules to address the stipulation proposed by both the stipulating parties and ICNU are not workable. The schedule in this docket is controlled, in large part, by a Commission deadline related to Pacific Power's open-access enrollment window. OAR 860-038-0275, which addresses electric utilities' direct access annual announcements and election periods, requires Pacific Power to announce by November 15 of each year the prices it will charge for the following year. An order in this docket, requested by October 31, 2011, is a prerequisite to a meaningful determination of the prices the company must announce, as well as other required filings.

The schedules proposed by the stipulating parties and ICNU fail to provide sufficient time for Commission consideration and resolution of the issues presented prior to the October 31, 2011 deadline.

Fortunately, the record on the issues in dispute is very well developed. It includes several rounds of testimony and a hearing on the record, calling into question the need for new rounds of testimony at this juncture.

The key element of the stipulation for Staff, CUB, and Pacific Power is a straightforward agreement that the Oregon-allocated net power costs presented in Pacific Power's surrebuttal filing should be reduced by \$8 million. The stipulating parties agree that this reduction "reflects additional consideration of the issues in the testimony of Staff, ICNU, CUB, and Noble Solutions."² The supporting testimony adds no additional factual information to this agreement, which is, by its own words, is based on the testimony already filed.³

The stipulation does include two new agreements related to Pacific Power's direct access schedules. These are addressed in paragraphs 14 and 15 of the stipulation. These agreements, however, address issues raised exclusively by Noble Solutions, issues that were discussed in detail in prefiled testimony and at the hearing. More importantly, they have never been within the scope of ICNU's objections in this docket.

¹ A number of motions to admit prefiled testimony are currently pending. Once these are addressed, the record will be closed.

² Stipulation at p. 3, paragraph 10.

³ Pacific Power also agrees in the stipulation to enter into a series of workshops with interested parties to evaluate the company's hedging policies on a going forward basis. This is not new, either. Pacific Power made this same offer in the company's prefiled testimony. *See, e.g.*, PPL/406, Bird/1, 2 (Aug 30, 2011).

In sum, the basis for the stipulation itself is the existing record in this docket. The testimony filed by the stipulating parties adds no new factual information to the existing record. Therefore I treat the testimony as an explanatory brief required for stipulations under OAR 860-001-0350.

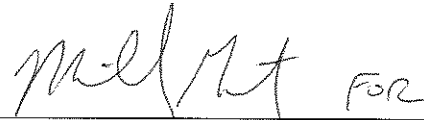
Because the stipulating parties' joint testimony supporting the stipulation adds no new facts to the record, particularly with regard to issues ICNU has disputed, I find that an extended schedule providing for new testimony and a hearing will not meaningfully add to the proceedings or assist the Commission in its resolution of the disputed issues in this docket. The several rounds of prefiled testimony and the hearing already completed in this docket provide a full and fair basis for both the stipulation and ICNU's objections.

It would assist the Commission, however, to have briefs filed by the parties that include (1) the appropriate legal standards to apply in the resolution of this docket, and (2) references to factual information from the record the parties consider important to the Commission's decision, as well as any other issues the parties deem relevant.

I modify the procedural schedule as follows:

Opening Briefs (Including ICNU's Objections to the Stipulation)	October 5, 2011
Simultaneous Reply Briefs	October 12, 2011
Commission Decision Target Date	October 31, 2011

Dated at Salem, Oregon, this 22nd day of September, 2011.



Lisa D. Hardie
Administrative Law Judge