

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 375

In the Matter of

PACIFICORP, dba PACIFIC POWER

2021 Transition Adjustment Mechanism.

RULING

DISPOSITION: OFFICIAL NOTICE TAKEN, BENCH REQUEST ISSUED

On April 16, 2020, Staff filed a notice of *ex parte* communications in this docket. The notice describes a communication made from Commission Advisor Shelly Maye, to Staff witness Scott Gibbens, as well as an email from Division Administrator John Crider, to two Staff witnesses. Both of the communications concerned requests for information that were of interest to a Commissioner.

The Commission's rule on *ex parte* communication, OAR 860-001-0340(2), defines *ex parte* communications as "made by a person directly to a Commissioner or presiding ALJ outside the presence of any or all parties of record in pending contested case or declaratory proceedings," that "relates to the merits of an issue in the proceedings." This instance of communication does not match the plain language of the rule, because no communication was made to an ALJ or Commissioner by a party. In addition, the request for information also did not address the "the merits of an issue" requiring notice and the opportunity for other parties to file "a written rebuttal of the facts or contentions contained" in the communication.¹ Finally, as described in the Commission's Internal Operating Guidelines, some Commission Staff have a responsibility to play a dual role at the Commission, working to provide Commissioners background information and other data, while also working with Staff to develop the record in contested cases.²

While I do not deem the message to be an *ex parte* communication, I will take official notice of the message to promote transparency. Additionally, given the visibility of the noticed communications and these unusual circumstances, and to ensure that all parties have access to the same information, I issue a bench request with this ruling. A bench

¹ See OAR 860-001-0340(7).

² See *In the Matter of Public Utility Commission of Oregon, Internal Operating Guidelines*, Docket No. UM 2055, Order No. 20-065, p Appendix A at 24-25 (Mar 3, 2020).

request ensures that all parties are aware of Commissioner interest in the underlying data. Accordingly, I request the following from PacifiCorp:

Please provide the Pmin (lowest operating capacity when synced to the larger grid) in 2016 and 2019 or 2020 for Jim Bridger 1 – 4, Hunter 1 – 3 and Huntington 1&2.

Response to this bench request is due within 10 days of this ruling.

Dated this 21st day of April, 2020, at Salem, Oregon.

A handwritten signature in blue ink, appearing to read "Nolan Moser", is positioned above a horizontal line.

Nolan Moser
Chief Administrative Law Judge