

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 394

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Request for a general Rate Revision.

*EX PARTE* COMMUNICATION RULING,  
RULING ON INTERVENTION  
PETITION ANSWER

On February 9, 2022, the Natural Resources Defense Council (NRDC) and the Northwest Energy Coalition (NWECC) filed correspondence with the filing center, which was served to all parties and distributed to Commissioners. The filed correspondence characterize it as an *ex parte* communication in docket UE 394.

OAR 860-001-0340(2)(a), defines *ex parte* communications as those “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 ruling proceedings.”

Additionally, OAR 860-001-0340(8)(e) states that *ex parte* rule provisions do not apply to communications that “the presiding ALJ determines are not subject to this rule, including communications from members of the public that are made part of the administrative files \* \* \*.”

The communication filed in this docket on February 9, 2022, is not an *ex parte* communication. The communication was filed and served on all parties to the proceeding and not made outside the presence of the parties. This correspondence will be treated the same as other comments received from the public and provided to the Commissioners in the course of this proceeding and will be made part of the administrative file.<sup>1</sup>

The content of the letter indicates it is an objection to a filed stipulation in this docket. OAR 860-001-0350 details how stipulations are handled in contested cases. OAR 860-001-0350(8) states that:

Within 15 days of the filing of a stipulation, a party may file written objections to the stipulation or request a hearing. Upon request or its own motion, the Commission or ALJ may set another time period for

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<sup>1</sup> I note that consistent with the Commission’s most recently approved Internal Operating Guidelines, (*see* Order No. 20-386, Attachment A, at 18) Staff could have attached public comments received in this case to testimony, and in this manner made these public comments part of the record in the case. Staff has not done so, accordingly all public comments received in the docket, including the comment in question here from NRDC and NWECC, will be collected in the administrative file for this docket.

objections and request for hearing. Objections may be on the merits or based upon failure of Staff or a party to comply with this rule. The Commission or ALJ may hold a hearing to receive testimony and evidence regarding the stipulation. The Commission or ALJ may require evidence of any facts stipulated. The parties must be afforded notice and an opportunity to submit proof if such evidence is requested.

The correspondence filed by NRDC and NWEC is not an objection as defined by our rules, because neither NRDC nor NWEC is a party to this case. NRDC and NWEC state that they were not aware the stipulation would include an issue they are concerned with until the stipulation was filed. Given that, if NRDC and NWEC desire to participate in this proceeding, beyond filing public comment, NRDC and NWEC should first petition to intervene in this case and request party status, which they have done today. Given the need to address this intervention request quickly to assess any impact to the schedule for this proceeding, any answer to NRDC and NWEC's petition should be filed no later than 3:00 p.m. on Wednesday, February 15, 2022.<sup>2</sup>

Beyond that, any objection to a filed stipulation must comply with OAR 860-001-0350(8), which requires objections to be filed within 15 days of the filing of the stipulation. That noted, the rule does allow for an ALJ to set alternative timetables, for good cause shown.

Accordingly, I determine that:

1. The correspondence filed in this docket on February 9, 2022, by NRDC and NWEC does not constitute an *ex parte* communication and is instead a public comment that will be placed in the administrative file.
2. The letter is not part of the evidentiary record in this case.
3. Any answer to NRDC and NWEC's intervention petition must be filed by 3:00 p.m. on Wednesday, February 16, 2022.

Dated this 11<sup>th</sup> day of February, 2022, at Salem, Oregon.



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Nolan Moser  
Chief Administrative Law Judge

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<sup>2</sup> This represents a departure from ALJ Lackey's ruling of July 1, 2021 on interventions and our rules, which allow 10 days for the filing of an answer. This change is necessary given the late nature of this intervention request and the compressed schedule of the remainder of this docket.