

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

DR 10/UE 88/UM 989

In the Matters of)
)
The Application of Portland General Electric)
Company for an Investigation into Least Cost)
Plan Plant Retirement, (DR 10))
)
Revised Tariffs Schedules for Electric Service)
in Oregon Filed by Portland General Electric)
Company, (UE 88))
)
Portland General Electric Company's)
Application for an Accounting Order and for)
Order Approving Tariff Sheets Implementing)
Rate Reduction. (UM 989))

RULING

**DISPOSITION: ONE-DAY EXTENSION TO SUBMIT REPLY
MEMORANDUMS GRANTED**

I received an electronic mail message (e-mail) from Mr. Meek, the attorney of record for the Utility Reform Project, et al. (URP), on June 24, 2004, at 12:12 a.m. The e-mail requests a one-day extension of the due date for all parties to submit simultaneous reply memorandums regarding the scope of the first phase of the proceeding to address remand orders in the above-referenced dockets.¹

Due to the extremely short period of time between receipt of Mr. Meek's e-mail and today's five o'clock deadline for the submission of reply comments, Mr. Meek's electronic mail message will be treated as a motion for an extension of time. I note that this is the second time, since undertaking these reopened proceedings, that I have made an exception to the Commission's rules regarding the filing of a motion in response to a late e-mail request from Mr. Meek. I put Mr. Meek on notice, in a prior ruling (dated March 10, 2004) postponing a procedural conference at Mr. Meek's request,

¹ The e-mail states: "My electric water heater has failed and has dumped 50 gallons of water into my home office. Unfortunately, the floor is concrete, so the water has pooled. I have been arranging to suck up the water and get a plumber. I request that the replies regarding procedure, which are due on June 24, be made due June 25 instead."

that rules for electronic filing are not in effect at the Commission, and that practice before the Commission, including the submission of pleadings and other filings, must be in compliance with Chapter 860, Divisions 12 and 13, of the Oregon Administrative Rules. I put all parties on notice again as to these rules, and advise Mr. Meek that continued failure to abide by such rules may be deemed to interfere with the fairness of the process for all parties involved and that further exception may not be made.

My primary concern in this proceeding is to ensure that the process is fair for all parties of record. As there is a question regarding what party has the burden of proof in this proceeding—indeed, that question will likely be addressed in reply memorandums—I directed parties, in my ruling dated May 5, 2004, to file all memorandums simultaneously. For this reason, any extension of time should be granted on behalf of all parties. I interpret Mr. Meek’s e-mail as requesting such.

I am also concerned whether all parties have received notice of the request for an extension of time and whether any parties are inconvenienced by the request. Although Mr. Meek copied other parties when sending his e-mail, doing so is insufficient service. Moreover, he did not indicate whether he would make any effort to obtain the consent of the parties. I note that I received a reply e-mail from Ms. Andrus, counsel for Commission Staff, at approximately 9:00 a.m. today, indicating no objection.

Finally, I am concerned that Mr. Meek’s explanation of the need for an extension is insufficient to support his request for an extension of time. Nevertheless, given Mr. Meek’s representation that an emergency impairs his ability to file a reply memorandum on behalf of URP today, the short period of time between notice of this emergency and the due date, and my intention to have all parties file reply memorandums *simultaneously*, I grant the motion for a one-day extension of the due date for reply memorandums. All parties shall submit reply memorandums “in-hand” by 5:00 p.m. on June 25, 2004. Additionally, to address my concern that parties have not indicated consent to the extension of time, any party believing itself to be burdened or otherwise harmed by the extension of time may address such concerns in its reply memorandum.

Dated at Salem, Oregon, this 24th day of June, 2004.

Traci A. G. Kirkpatrick
Administrative Law Judge