

ISSUED: March 12, 2010

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 215

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY

Request for a General Rate Revision.

**CORRECTED**  
PREHEARING CONFERENCE  
REPORT

DISPOSITION: SCHEDULE ESTABLISHED; PETITIONS TO INTERVENE  
GRANTED; MOTION TO ADMIT *PRO HAC VICE*  
GRANTED

The Public Utility Commission of Oregon (Commission) held a prehearing conference in this docket on March 8, 2010. Representatives from Portland General Electric Company (PGE); Commission Staff; the Citizens' Utility Board of Oregon (CUB); the Industrial Customers of Northwest Utilities (ICNU); the City of Portland; Fred Meyer Stores and Quality Food Centers, Divisions of Kroger Co. (Fred Meyer); **the League of Oregon Cities; and YAM Services**, appeared at the conference.

**Electronic Discovery Pilot Project**

Chief Administrative Law Judge Michael Grant appeared at the conference to explain that this docket will be used to test a process for maintaining an electronic record of data requests and responses on the Commission's website. Parties must send electronic copies of all data requests and responses to [PUC.datarequests@state.or.us](mailto:PUC.datarequests@state.or.us). The Commission will post the requests and responses on its website. The parties will be given a user ID and password to access the postings. Any confidential information in a data request or response should be redacted from the electronic copy, and a non-redacted paper copy should be provided to parties that request a copy and have signed the protective order in this docket.

**Petitions to Intervene**

In the notice of prehearing conference, the Commission stated that petitions to intervene received before March 5, 2010, would be considered during the conference. Petitions to intervene were filed by ICNU, Fred Meyer, Pacific Power, and the International Dark Sky Association before March 5, 2010. The parties were given the opportunity to object to these petitions at the conference; no party objected. Upon review of the petitions, I find that ICNU,

Fred Meyer, Pacific Power, and the International Dark Sky Association have sufficient interest in the proceeding and their appearance and participation will not unreasonably broaden the issues, burden the record, or delay the proceeding. See OAR 860-012-0001. The petitions to intervene are therefore granted. **In addition, CUB filed its notice of intervention on February 22, 2010, and is a party to these proceedings.**

### **Motion for Admission *Pro Hac Vice***

On March 4, 2010, Fred Meyer filed a motion to admit Kurt J. Boehm *pro hac vice*. Fred Meyer also filed the affidavit of Mr. Boehm in support of the motion for admission *pro hac vice* and certificates of good standing for Mr. Boehm from the Supreme Court of Ohio and the Kentucky Bar Association. In the affidavit, Mr. Boehm states that he will associate with Nona M. Soltero, who is an active member of the Oregon State Bar and will participate meaningfully in the docket. No party participating in the prehearing conference objected to the motion. I find that Mr. Boehm has satisfied the requirements of Oregon Uniform Trial Court Rule 3.170. Fred Meyer's motion is therefore granted.<sup>1</sup>

### **Burden of Proof**

To clarify some statements made during the prehearing conference, the burden of proof does not shift to Staff and the intervenors for their recommended adjustments to PGE's proposed rate changes. Although it is true that Staff and the intervenors bear the burden of producing evidence to support their proposed adjustments, the burden of persuasion is PGE's throughout the proceeding:

Thus, if PGE makes a proposed change that is disputed by another party, PGE still has the burden to show, by a preponderance of the evidence, that the change is just and reasonable. If it fails to meet that burden, either because the opposing party presented compelling evidence in opposition to the proposal, or because PGE failed to present compelling information in the first place, then PGE does not prevail.<sup>2</sup>

### **Procedural Schedule**

As part of its request for a general rate revision, PGE filed its annual net variable power cost update (the Annual Update Tariff or AUT). The parties agreed the AUT filing and the request for a general rate revision should have separate schedules.

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<sup>1</sup> During the prehearing conference, Fred Meyer agreed to waive paper service in this docket.

<sup>2</sup> Order No. 01-777 at 4-6.

I adopted the following schedule for the general rate revision:

EVENT	DATE
Settlement Conference <sup>3</sup>	May 17-18, 2010
Intervenor Funding Budgets Due	May 18, 2010
Staff and Intervenor Opening Testimony Due (including work papers)	June 4, 2010
Settlement Conference	June 14-15, 2010
PGE Reply Testimony Due (including work papers)	July 19, 2010
Staff and Intervenor Rebuttal Testimony Due (including work papers)	August 19, 2010
PGE Surrebuttal Testimony Due (including work papers)	September 9, 2010
Cross-Examination Statements Due	September 16, 2010
Commission Examination	September 23, 2010 Main Hearing Room, 9:30 a.m.
Hearing	September 23, 2010, Main Hearing Room, immediately following the Commission Examination; and  September 24, 2010, Main Hearing Room, 9:30 a.m.
PGE Opening Brief	October 12, 2010
Staff and Intervenor Response Briefs	October 26, 2010
PGE Reply Brief	November 4, 2010
Oral Argument	<b>November 22, 2010<sup>4</sup></b>
Commission Decision Target Date	December 17, 2010

I adopted the following schedule for the AUT filing:

EVENT	DATE
MONET Update	April 1, 2010
Intervenor Funding Budgets Due	May 18, 2010
Settlement Conference/Workshop	May 24, 2010
Staff and Intervenor Opening Testimony Due (including work papers) <sup>5</sup>	June 21, 2010
Settlement Conference	June 30, 2010
MONET Update (all changes)	July 2010
PGE Reply Testimony Due (including work papers)	July 15, 2010
Commission Examination	July 29, 2010 Main Hearing Room, 9:30 a.m.

<sup>3</sup> Settlement conference dates are provided for the parties' convenience. The parties do not need Commission approval to reschedule settlement conferences.

<sup>4</sup> **The parties proposed November 16, 2010, for the oral argument before the Commission, but the Commissioners are not available on that date.**

<sup>5</sup> For data requests received after June 21, 2010, the parties agreed to respond within seven business days of receipt.

Hearing	July 29, 2010, Main Hearing Room, immediately following the Commission Examination
MONET Update (all changes)	September 20, 2010
Commission Decision Target Date	October 20, 2010
MONET Update (forward price curve and contracts)	November 5, 2010
MONET Final Update (forward price curve and contracts)	November 15, 2010

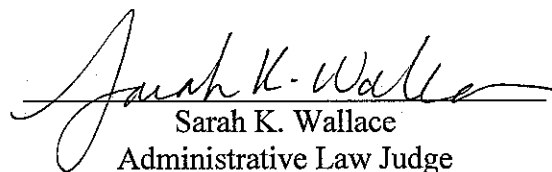
The parties request that petitions to intervene be filed by April 15, 2010, if possible. By statute, a person may petition to intervene at any time before the hearing. ORS 756.5250. It is helpful, however, if petitions to intervene are filed early in the proceeding, and therefore filing by April 15 is encouraged.

Parties must serve non-confidential information by electronic mail by 5:00 p.m. on the date due. Service of confidential material is considered timely if a redacted copy is sent electronically and a non-redacted paper copy is sent by overnight mail on the date due.

As discussed during the prehearing conference, any procedural motion filed in this docket must contain a statement explaining whether the other parties in the docket support or oppose the motion. If other parties cannot be reached, the motion must describe efforts to contact the other parties. Any motion seeking expedited treatment must make clear that expedited treatment is requested and explain the necessity of expedited treatment. Even when expedited treatment is requested, other parties should be afforded adequate time to respond, preferably at least five days before any applicable deadline.

Included in both schedules is a Commission Examination.<sup>6</sup> This will be an opportunity for the Commissioners or Administrative Law Judge to examine the witnesses in the docket on the record regarding pre-filed testimony or testimony in support of a stipulation. Before the examination, the ALJ will issue a ruling stating which witnesses must be present.

Dated this 12<sup>th</sup> day of March, 2010, at Salem, Oregon.

  
Sarah K. Wallace  
Administrative Law Judge

<sup>6</sup> On March 10, 2010, I was informed that the Commission would like the opportunity to conduct examination on the record in power cost adjustment cases. I therefore added the Commission Examination to the schedule for the AUT filing.