

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 245 & UE 246

In the Matters of

PACIFICORP, dba PACIFIC POWER

2013 Transition Adjustment Mechanism
(UE 245)

and

Request for a General Rate Revision
(UE 246)

**CORRECTED
PREHEARING
CONFERENCE
MEMORANDUM**

On March 19, 2012, the Public Utility Commission of Oregon (Commission) held a joint prehearing conference in these dockets. Representatives appeared on behalf of PacificCorp, dba Pacific Power, Industrial Customers of Northwest Utilities (ICNU); the Citizens' Utility Board of Oregon (CUB); Noble Americas Energy Solutions (Noble), the Klamath Water and Power Agency, and the Commission Staff.

Parties

CUB has filed notice of intervention under ORS 774.180 and has become a party to these proceedings.

Before the conference, petitions to intervene were filed in docket UE 245 by ICNU and Nobles, and in UE 246 by ICNU, Fred Meyer Stores and Quality Food Centers (Fred Meyer), Portland General Electric Company (PGE), and Sierra Club. Pacific Power requested time to review the petition filed by Sierra Club, but did not object to any other petition.

Accordingly, I do not rule on Sierra Club's petition at this time. After review of the other petitions, I find each of the parties has a sufficient interest in the proceedings to participate, and that their participation will not unreasonably broaden the issues, burden the record, or delay the proceedings.¹ I grant the petitions to intervene filed by ICNU, Nobles, Fred Meyer, and PGE.

With its petition, Fred Meyer included a motion for admission pro hac vice of Kurt J. Boehm, an attorney in good standing in Ohio and Kentucky, and Jody M. Kyler, an attorney in good standing in Ohio. Both attorneys seek to associate with Oregon attorney Nona M. Soltero. No party objected to the motion.

The motion satisfies the requirements of Uniform Trial Court Rules 3.170 for participating of counsel licenses in another jurisdiction to appear before the Commission. The motion is granted.

¹ See OAR 860-001-0300.

Procedural Schedule

A. UE 246 – General Rate Proceeding

The parties agreed to the following procedural in docket UE 246, which is adopted:

EVENT	DATE
Petitions to Intervene ²	April 18, 2012
Proposed Budgets for Intervenor Funding	May 9, 2012
Settlement Conferences ³	May 30-31, 2012
Staff and Intervenor Testimony	June 18, 2012
Settlement Conferences	June 27-28, 2012
Pacific Power Reply Testimony	July 17, 2012
Staff and Intervenor Rebuttal Testimony	August 13, 2012
Pacific Power Surrebuttal Testimony	September 5, 2012
Hearing ⁴	October 1-2, 2012
Simultaneous Opening Briefs	October 25, 2012
Simultaneous Closing Briefs	November 7, 2012
Oral Argument	November 30, 2012
Target date for Commission decision	December 20, 2012
Compliance filing	December 26, 2012 (by noon)
End of tariff suspension	December 31, 2012

The parties also agreed that responses to data requests would be due seven business days following the July 17th filing of Pacific Power's reply testimony, and five business days following the August 13 filing of Staff's and Intervenor's rebuttal testimony.

As discussed at the conference, although the schedule does not currently include a requirement to file prehearing briefs, the Commission may request the parties file prehearing briefs or issue lists later in this proceeding.

B. UE 245 – Transition Adjustment Mechanism

The parties were not able to reach an agreement on a procedural schedule for docket UE 245. Pacific Power, Staff, and intervenors ICNU, CUB, and Nobles submitted separate proposed schedules for consideration. The primary disagreement is whether the schedule should include three or five rounds of prefiled testimony. Pacific Power recommends three rounds. ICNU, CUB, Nobles, and Staff recommend five rounds.

² By statute, a person may petition to intervene at any time before the close of the record. Because it is helpful if parties are identified early in the proceedings, the Commission requests that petitions to intervene be filed by the date identified above.

³ Settlement conference dates are included in the schedule for the parties' convenience. The parties do not need Commission approval to reschedule settlement conferences.

⁴ The first day of the hearing will be set aside for Commission Examination. This date is subject to the Commissioner's availability. The hearing will follow the Commission Examination.

Following consultation with Commissioners, I conclude that the procedural schedule should include three rounds of testimony. To ensure that all parties have the opportunity to present relevant evidence on all disputed matters, however, Staff and intervenors should have the opportunity to request the ability to file additional, issue specific testimony upon a proper showing. That showing would require Staff or intervenors to establish that Pacific Power raised new issues or presented unanticipated evidence in its reply testimony, and that Staff and intervenors would be unable to effectively rebut the issues or evidence on cross examination at hearing. If the Commission grants a request to present additional prefiled testimony, then Pacific Power will be given the opportunity to respond to any filing with the direct testimony of live witnesses at hearing.

To accomplish this, I move up the filing date of Pacific Power's reply testimony, and establish the following procedural schedule. In doing so, I acknowledge that some dates might conflict with other proceedings before this Commission or Pacific Power rate proceedings in other jurisdictions. If such a conflict arises, I ask the parties to discuss informally agreeable modifications, or to request an additional prehearing conference for further discussion.

EVENT	DATE
Petitions to Intervene	March 30, 2012
Proposed Budgets for Intervenor Funding	April 18, 2012
Staff and Intervenor Testimony	June 6, 2012
Pacific Power Reply Testimony	July 11, 2012
Hearing	August 13, 2012
Simultaneous Opening Briefs	September 5, 2012
Simultaneous Closing Briefs	September 17 th , 2012
Target date for Commission decision	October 26, 2012
Final NPC	November 15, 2012
New Rates Effective	January 1, 2013

I did not include dates for settlement conferences, as the parties may schedule settlement conferences without Commission approval.

Dated this 20th day of March, 2012, at Salem, Oregon.



Michael Grant
Chief Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

Hearing: The time and place of any hearing held in this proceeding will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 to 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the website at www.puc.state.or.us. The Commission will hear issues as identified by the parties.

Right to Attorney: As a party to this hearing, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission staff, if participating in the case, will be represented by the Department of Justice. Once a hearing has begun, you will not generally be allowed to postpone the hearing to obtain counsel.

Administrative Law Judge: The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope an ALJ's authority is defined in OAR 860-001-0090. The ALJ make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

Hearing Rights: You have the right to respond to all issues identified, and present evidence and witnesses on those issues. *See* OAR 860-001-0450 to OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 to 860-001-0540.

Evidence: Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450(1)(b). Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Once a hearing is completed, the ALJ will not generally allow the introduction of additional evidence without good cause.

Record: The hearing will be recorded, either by a court reporter or by audio/digital tape, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request the Commission for a copy of the tape for a fee set forth in OAR 860-001-0060(3)(e)(B). The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

Final Order and Appeal: After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The ALJ's draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days. *See* ORS 756.610.