

1                               **BEFORE THE PUBLIC UTILITY COMMISSION**  
2   **OF OREGON**  
3   **UE 375**

4 In the Matter of

5 PACIFICORP, dba PACIFIC POWER,

6 2021 Transition Adjustment Mechanism.

NOTICE OF EX PARTE  
COMMUNICATIONS

7  
8               Pursuant to OAR 860-001-0340(4), Oregon Public Utility Commission Staff (Staff)  
9 notifies the Chief Administrative Law Judge of two instances in which *ex parte* communications  
10 may have occurred.

11              The Public Utility Commission’s rules provide that an *ex parte* contact occurs when a  
12 person makes a verbal or written communication on the merits of an issue directly to a  
13 Commissioner or presiding Administrative Law Judge (ALJ) outside the presence of other  
14 parties in a pending contested case without notice and opportunity for rebuttal by all parties. *See*  
15 OAR 860-001-0340(2)(a-c). Under the Commission’s Internal Operating Guidelines,  
16 Commission Advisors are subject to *ex parte* restrictions in OAR 860-001-0340 and “may only  
17 discuss matters relating to the merits of a contested case with decision meeting participants.”  
18 Even though the administrative rule is not clear on this point, we consider *ex parte*  
19 communications to occur when communication from or directly on behalf of a Commissioner,  
20 Administrative Law Judge or Commission Advisor, on the merits of an issue in a contested case  
21 proceeding, are provided directly to a testifying Staff witness.

22              In the first instance, Scott Gibbens, a testifying Staff witness in this contested case  
23 proceeding, received an e-mail from Shelly-Ann Maye, a technical advisor to the Commission,  
24 asking for assistance in locating certain materials to assist a Commissioner in preparing for an  
25 upcoming Transition Adjustment Mechanism (TAM) Commissioner Workshop. Although the e-  
26 mail was seeking the location of certain materials, the e-mail was from a Commission Advisor to

1 a testifying Staff witness and also indicated directly that a Commissioner had an interest in  
2 substantive issues in the TAM proceeding, which implicate the merits of a contested case. In a  
3 phone call to Ms. Maye, Mr. Gibbens indicated that the Oregon DOJ was concerned that such  
4 communications constituted an *ex parte* contact and that he would not be able to discuss these  
5 matters further.

6 In the second instance, Scott Gibbens and Sabrina Soldavini received an e-mail from  
7 John Crider, Division Administrator, requesting that Staff include certain information in Staff's  
8 TAM testimony because he thought a Commissioner was interested in the information being  
9 included in the record. In this case, both Mr. Gibbens and Ms. Soldavini are testifying witnesses  
10 in the TAM proceeding. The e-mail indicates Mr. Crider's understanding of Commissioner  
11 interest the merits of certain issues in the TAM, as indicated by the request to include the  
12 information in the record in this proceeding on behalf of the Commissioner. Neither Mr.  
13 Gibbens nor Ms. Soldavini responded to Mr. Crider's email.

14 Pursuant to OAR 860-001-0340(4), we notify the Chief Administrative Law Judge of  
15 these two instances of *ex parte* communications.

16  
17 DATED this 16<sup>th</sup> day of April 2020.

18 Respectfully submitted,

19 ELLEN F. ROSENBLUM  
20 Attorney General

21 */s/ Sommer Moser*

22 \_\_\_\_\_  
23 Sommer Moser, OSB # 105260  
24 Assistant Attorney General  
25 Of Attorneys for Staff of the Public Utility  
26 Commission of Oregon

## Rojek Pamela J

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**From:** GIBBENS Scott  
**Sent:** Wednesday, April 15, 2020 1:50 PM  
**To:** MOSER Sommer  
**Subject:** FW: PacifiCorp's TAM Filing

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**From:** MAYE Shelly-Ann <Shelly-Ann.Maye@puc.state.or.us>  
**Sent:** Thursday, April 2, 2020 11:00 AM  
**To:** GIBBENS Scott <scott.gibbens@puc.state.or.us>  
**Subject:** PacifiCorp's TAM Filing

Hi Scott,

Commissioner Tawney has asked my help in getting certain information that would help her to prepare for the April 10<sup>th</sup> SPM on PacifiCorp's 2021 TAM filing. She suggested that I reach out to you to try to find out how I could obtain the requested information.

1. In looking at the PAC Coal Matrix, column 'AP' lists the contract term for each of the coal units. We are trying to get information on the current contract terms, for units with listed contract terms that have expired or are expiring.
  - a. Specifically, we are looking for the current contract terms for:
    - i. Colstrip 3 and 4
    - ii. Dave Johnston 1, 2, 3 and 4
    - iii. Craig 1 and 2
    - iv. Hunter 1 & 2
    - v. Jim Bridger 1, 2,3 and 4
  - b. Do you know where I would be able to get the current contract terms for these units?
2. I've been asked to obtain information on the actual capacity factors each year between 2016 and 2019 for the Hunter 1, 2, and 3 units. Can you point to where I could obtain that information?
3. I was also asked to obtain the PMIN values for Hunter 1, 2, and 3 for the period 2016-2020, Can you assist me in determining where I would obtain this information?

Thank you for your assistance with this.

Shelly

Shelly-Ann Maye  
Technical Advisor  
Oregon Public Utility Commission  
(503) 508-0799 (cell)  
[sfmaye@puc.state.or.us](mailto:sfmaye@puc.state.or.us) (email)



## Rojek Pamela J

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**From:** SOLDAVINI Sabrinna  
**Sent:** Friday, April 10, 2020 9:03 AM  
**To:** MOSER Sommer  
**Subject:** FW: TAM workpapers

fyi

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**From:** CRIDER John <[john.crider@puc.state.or.us](mailto:john.crider@puc.state.or.us)>  
**Sent:** Friday, April 10, 2020 9:01 AM  
**To:** SOLDAVINI Sabrinna <[Sabrina.Soldavini@puc.state.or.us](mailto:Sabrina.Soldavini@puc.state.or.us)>  
**Cc:** GIBBENS Scott <[scott.gibbens@puc.state.or.us](mailto:scott.gibbens@puc.state.or.us)>  
**Subject:** TAM workpapers

Sabrinna, Scott

Let's make sure that the workpapers related to coal plant dispatch are in the record when we file in the TAM. The data you pointed me to the other day is information that Letha is hoping to review, but she can't unless it is formally entered into the record. Please work with Sommer to move the right stuff into the record – I assume that is best done as a part of our testimony filing.

-j

**John Crider**

Oregon Public Utility Commission  
Administrator – Energy Rates, Finance & Audit  
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[john.crider@puc.state.or.us](mailto:john.crider@puc.state.or.us)