

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

PCN 6

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Petition for Certificate of Public
Convenience and Necessity.

ORDER

DISPOSITION: CERTIFICATION REQUEST DENIED AS MOOT; DIRECTION
PROVIDED

I. BACKGROUND

On August 19, 2024, the Administrative Law Judge (ALJ) assigned to this docket issued a ruling granting Commission Staff’s motion to suspend the procedural schedule. ALJ Mellgren granted Staff’s motion to suspend the procedural schedule because of “continuing uncertainty regarding the procedural posture of PGE’s underlying petition as well as its regularly changing nature.”¹ ALJ Mellgren noted “the need to ensure an efficient process in the face of limited Commission and party resources” and that the procedural posture underlying PGE’s petition “may have a direct impact on Staff and Intervenor opening testimony.”² The ruling provided a process by which PGE could file a motion to establish a procedural schedule in this docket “[a]fter PGE has obtained a LUCS [land use compatibility statement] or otherwise has certainty regarding how it will proceed with the required land use findings related to its petition.”³ ALJ Mellgren explained that adjustments to the procedural schedule would be made “based on more complete information” and that adjustments to the schedule may not be necessary.⁴

On August 22, 2024, Portland General Electric Company (PGE) filed a request to certify that ruling to us, explaining the company believed the ruling’s analysis was in error, did not reflect consideration of PGE’s arguments, and that it could delay the in-service date

¹ ALJ Ruling Granting Staff’s Motion to Suspend Procedural Schedule at 1 (August 19, 2024).

² *Id.* at 2.

³ *Id.*

⁴ *Id.*

for the Rosemont to Wilsonville 115-kilovolt transmission line. On August 26, 2024, PGE filed an update, indicating that it had obtained a LUCS. On August 27, 2024, PGE filed a motion requesting to reinstate the procedural schedule. Save Stafford Road filed a response to PGE's certification request on August 27, 2024. Save Stafford Road asserts that the LUCS is invalid and that its issuance does not resolve the uncertainty that led to the suspension of the procedural schedule. In the interest of efficiency, in this order we address PGE's certification request and direct the Administrative Hearings Division (AHD) to establish a procedural schedule consistent with this order.

II. DISCUSSION

A party may request certification of an ALJ's written or oral ruling for the Commission's consideration. If a party requests certification, then the ALJ must certify the ruling to the Commission if: (a) the ruling may result in substantial detriment to the public interest or undue prejudice to a party; (b) the ruling denies or terminates a person's participation; or (c) good cause exists for certification.⁵

An ALJ is delegated the authority under our rules to manage contested cases and, where assigned, non-contested case proceedings to facilitate efficient use of Commission resources and lead to the presentation of issues to the Commission with records that can support Commission consideration and decision.⁶ In exercising such authority, the ALJ must do so in a manner that is consistent with rule and law.

Here, we conclude that PGE's request that we reverse ALJ Mellgren's August 19, 2024 ruling is moot given developments in the brief time since the certification request was filed. As contemplated by the August 19 ruling, PGE obtained a LUCS and filed a motion to reinstate the procedural schedule.

We recognize the provisional nature of a LUCS, in that it recognizes that the county land use process is not complete. There was extensive discussion regarding the intertwined nature of our CPCN petition process and the varied land use processes that a transmission project may undergo when we modernized our CPCN rules in 2022.⁷ In that multi-year rule making, some advocates argued that land use permitting must be fully completed prior to any CPCN petition application. Other advocates highlighted the desire by some land use decision-making bodies to look to our technical expertise to determine public

⁵ OAR 860-001-0110.

⁶ See OAR 860-001-0090 and ORS 756.055 ("Except as provided in subsection (2) of this section, the Public Utility Commission may designate by order or rule any commissioner or any named employee or category of employees who shall have authority to exercise any of the duties and powers imposed upon the commission by law. The official act of any commissioner or employee so exercising any such duties or powers is considered to be an official act of the commission.").

⁷ *In the Matter of Rulemaking Regarding Certificate of Public Convenience and Necessity*, Docket No. AR 626, Order No. 22-351 (Sept. 26, 2022).

need when making their decisions. After extensive deliberation, we created rules that recognized full certainty regarding a land use decision is rare, there are varied appeals paths that could change a land use decision even after a CPCN is issued, and mandating only serial processing would limit expert review of the necessity of projects that land use decision-making bodies may want to rely on. Proceeding with the case schedule upon receiving a LUCS, even though it is a provisional document, is one way we have sought to manage the inherently intertwined processes by two different decision-making bodies.

We take this opportunity to provide direction to the parties and the Administrative Hearings Division (AHD) related to our ultimate review of this matter. We are committed to reviewing CPCN petitions in a timely manner, balancing the needs of all parties, including utilities and affected landowners, with Commission resources and the need for a thorough, in-depth review of the petition.

As such, we direct AHD to establish the following procedural schedule:

Event	New Date
PGE Deadline to File Supplemental Opening Testimony and Exhibits	September 5, 2024, at 3:00 p.m.
Staff/Intervenor Opening Testimony Due	September 26, 2024, at 3:00 p.m.
PGE Status Update Due	October 14, 2024, at 3:00 p.m.
PGE Reply Testimony Due	October 30, 2024, at 3:00 p.m.
Data Request Responses Due Within 5 Business Days (best efforts)	October 30, 2024
Staff/Intervenor Cross-Answering and Rebuttal Testimony Due	November 25, 2024, at 3:00 p.m.
PGE Status Update Due	December 5, 2024, at 3:00 p.m.
PGE Surrebuttal Testimony Due	December 11, 2024, at 3:00 p.m.
Witness List, Cross-Exam Statements, and Cross Exhibits Due	December 23, 2024, at 3:00 p.m.
Cross-Examination Hearing	January 2-3, 2025 (time TBD)
Motion to Admit Testimony and Exhibits and Affidavit(s) in Support Due	January 8, 2025, at 3:00 p.m.
Response to Motions to Admit Testimony and Exhibits Due	January 13, 2025, at 3:00 p.m.
Reply to Responses to Motions to Admit Testimony and Exhibits Due	January 15, 2025, at 3:00 p.m.
Opening Briefs Due	January 23, 2025, at 3:00 p.m.
Reply Briefs Due	February 6, 2025, at 3:00 p.m.

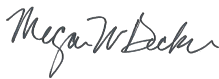
Oral Argument	February 13, 2025, at 9:30 a.m.
Requested Order Date	March 14, 2025

While we direct AHD to establish the procedural schedule in this order, authority regarding procedural matters, including any revisions to the procedural schedule remains delegated to the ALJ assigned to this docket under OAR 860-001-0090.

III. ORDER

IT IS ORDERED that PGE’s request to certify the August 19, 2024 ALJ ruling is moot and AHD is directed to establish a procedural schedule consistent with this order.

Made, entered, and effective Aug 28, 2024.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Les Perkins
Commissioner