Below please find the initial suggested redlines of Community Renewable Energy Association and Oregon Solar and Storage Energy Industry Association in this informal phase of AR 641. These redlines are targeted at making participation in PUC proceedings easier for groups with fewer resources and we welcome discussion on how these goals can be accomplished.

860-001-0500
Discovery in Contested Case Proceedings

(1) Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates.

(2) Discovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed. Instructions and definitions included in discovery requests must be consistent with these rules and ORS Chapters 756, 757, and 759.

(3) Privileged material is not discoverable except as provided under the Oregon Rules of Evidence.

(4) A party will not be required to develop information or prepare a study for another party, unless the capability to prepare the study is possessed uniquely by the party from whom discovery is sought, the discovery request is not unduly burdensome, and the information sought has a high degree of relevance to the issues in the proceedings.

(5) Parties must make every effort to engage in cooperative informal discovery and to resolve disputes themselves. If a party receives a data request that is likely to lead to a discovery dispute, then that party must inform the requesting party of the dispute as soon as practicable and attempt to resolve it informally.

(6) If parties are unable to resolve a dispute informally, then any of the parties involved in the dispute may request that the ALJ conduct a conference to facilitate the resolution of discovery disputes. A requesting party must identify the specific discovery sought and describe the efforts of the parties to resolve the dispute informally.

(7) A party may file a motion to compel discovery. The motion must contain a certification that the parties have conferred and been unable to resolve the dispute. A party filing a motion to compel will be allowed the opportunity to file a reply to the response to the motion.

(8) A party's assertion that information responsive to a discovery request is confidential may not be used to delay the discovery process; provided, however, a party pursing protection will not be required to produce information that it claims is inadequately protected until such time as its claim for the need for a general protective order or a modified protective order is resolved. If an answering party believes that a response to a discovery request involves confidential information that is inadequately protected by the safeguards existing in the docket,

the answering party must notify the requesting party of this belief as soon as practicable and, if appropriate, promptly move for an appropriate protective order.

(9) A party may by motion, or the ALJ may on the ALJ's own motion, propose that sanctions be imposed if a party fails or refuses to comply with an oral or written ruling resolving a discovery dispute. The ALJ may impose sanctions including: default; dismissal; or striking of testimony, evidence, or cross-examination.

(10) Discovery requests submitted to an intervenor that is not a public utility must be narrowly tailored to address only matters upon which the intervenor has testified.

Statutory/Other Authority: ORS 756.040 & 756.060
Statutes/Other Implemented: ORS 183.425, 183.450, 756.040 & 756.500 – 756.575
History:
PUC 4-2012, f. & cert. ef. 4-17-12
PUC 5-2010, f. & cert. ef. 10-22-10

Requests for Production of Documents

A party may serve a request for production of documents on any other party under ORCP 43.

860-001-0540
Data Requests

(1) A party may submit data requests to a public utility as defined in ORS 757.005, subject to the discovery rules in the ORCP. Data requests are written interrogatories or requests for production of documents. Data requests must be answered within 14 days from the date of service. Each data request must be answered fully and separately in writing or by production of documents, or objected to in writing.

(2) A party submitting a data request must serve the request on all parties to the proceedings. For nonconfidential requests, service may be made by electronic mail or by electronic mail notification of upload to a designated shared workspace for data requests and responses. If the request contains confidential information, then the submitting party must serve a complete copy on all parties eligible to receive confidential information under the terms of a protective order and a redacted copy to all other parties. The complete confidential copy must be served using means identified in the protective order. Nonconfidential data requests and responses submitted to the Staff of the Commission must be sent to PUC.Datarequests@state.or.us. If a designated shared workspace is being used for data requests and responses, the notification of uploaded data requests and responses must be sent to PUC.Datarequests@state.or.us.

(3) The party answering the data request must provide a response or an electronic mail notification of upload to a designated shared workspace to the submitting party and all other parties that filed a written request for a copy of the response. A party must agree to be bound

by the applicable protective order to be eligible to receive a response containing confidential information.

(4) A party may offer into evidence data requests and the answers to the data requests. Any objection to substance or form of a data request or answer must be attached to the submitted data request or answer with specific reference and grounds. Every remedy available to a party using deposition procedures is available to a party using data requests.

(5) Except when requested by the Commission or ALJ, or when seeking resolution of a discovery dispute under these rules, data requests are not filed with the Filing Center or provided to the ALJ.

(6) In matters of general utility regulation, nonconfidential data responses and redacted versions of confidential data responses must be uploaded to a website accessible by any person regardless of whether or not the person is a party. A document must be filed in the public record for the applicable proceeding detailing where a person may locate the nonconfidential data responses and provide a link to the website. For the purposes of this rule, matters of general utility regulation includes rate cases, rulemakings, integrated resource plan dockets, request for proposals dockets, investigations, or any other docket in which the commission is reviewing or considering the adoption of a broadly applicable policy.

Statutory/Other Authority: ORS 756.040 & 756.060
Statutes/Other Implemented: ORS 756.040 & 756.500 – 756.575
History:
PUC 1-2015, f. & cert. ef. 3-3-15
PUC 5-2010, f. & cert. ef. 10-22-10