BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 641

In the Matter of	)	
	)	COMMENTS OF SMALL BUSINESS
DIVISION 001 Rule Updates	)	UTILITY ADVOCATES
	)	
	)	
	)	

Please see attached redline revisions suggested by Small Business Utility Advocates ("SBUA") to the following rules:

- Discovery in Contested Case Proceedings 860-001-0500
- Data Requests 860-001-0540
- General Rate Revision 860-022-0019 (Because of reference to standard data requests only)

With regard to sections reviewed and discussed at the last meeting including those regarding protective orders, SBUA has no comments at this time.

With regard to the ALJ's proposed revisions to OAR 860-001-0070 and 860-001-0170, SBUA has no comments at this time.

RESPECTFULLY SUBMITTED April 6, 2021

s/ Diane Henkels

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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. An order requiring developing information or preparing a study for another party shall identify the source of expenditure for the information development or study.

(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 discovery dispute informally the parties shall take one of the following actions:

(A)~~, then A~~any of the parties involved in the dispute may request that the ALJ refer the parties to a settlement ALJ to conduct a conference to facilitate the resolution of discovery disputes. A requesting party must state~~identify~~ in the party's request:

(a) the specific discovery sought,

(b) the parties involved in the discovery dispute, and

(c) ~~describe~~ the efforts of the parties involved to resolve the dispute informally.

(B)~~(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, and the ALJ of the docket shall rule on the Motion; or

~~.~~(C) A party may withdraw its discovery request.

(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 in writing with receipt confirmed, 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.

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

860-001-0540
Data Requests

(1) A party may submit data requests to any other party, 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 1~~5~~4 days from the date of service unless the parties agree in writing otherwise. 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 by explicit reference to the data request and response. 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 pursuant to these rules -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 of the docket.

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

860-022-0019
General Rate Revisions

(1) Any utility filing new or revised tariff schedules that constitute a general rate revision must include supporting testimony and exhibits, work papers, and an executive summary. A general rate revision is a filing by a utility that affects all or most of the utility's rate schedules. The term "general rate revision" does not include the exclusions in OAR 860-022-0017(1). The executive summary must contain an exhibit showing in summary form the following information:

(a) The dollar amount of total revenues that would be collected under the proposed rates;

(b) The dollar amount of revenue change requested, total revenues, and revenues net of any credits from federal agencies;

(c) The percentage change in revenues requested, total revenues, and revenues net of any credits from federal agencies;

(d) The test period;

(e) The requested return on capital and return on equity;

(f) The rate base proposed in the filing;

(g) The results of operations before and after the proposed rate change; and

(h) The proposed effect of the rate change on each class of customers.

(2) The initial filing of a general rate revision must contain the following:

(a) All information required by the most recent version of the Standard Data Requests for Energy Rate Cases, available at http://www.puc.state.or.us including tax-related information; and

(b) A motion for a general protective order or modified protective order under OAR 860-001-0080, if necessary for the release of information under sections (1)(a) through (g), and (2)(a) of this rule.

(3) Telecommunications utilities partially exempt from regulation under ORS 759.040 must file tariffs as specified in OAR 860-034-0300.

Statutory/Other Authority: ORS 756.040 & 756.060
Statutes/Other Implemented: ORS 756.040, 757.205 & 759.175
History:
PUC 4-2012, f. & cert. ef. 4-17-12
Renumbered from 860-013-0075, PUC 5-2010, f. & cert. ef. 10-22-10
PUC 18-2004, f. & cert. ef. 12-30-04
PUC 3-2002, f. & cert. ef. 2-5-02
PUC 12-1999, f. & cert. ef. 11-18-99
PUC 15-1997, f. & cert. ef. 11-20-97
PUC 10-1994, f. & cert. ef 7-21-94 (Order No. 94-1127)
PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075)