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March 9, 2021

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of Rulemaking to Review and Amend Division 001 Procedural Rules
Docket No. AR 641

Dear Filing Center:

Please find enclosed the Alliance of Western Energy Consumers' Comments in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 641

In the Matter of Rulemaking to Review and Amend Division 001 Procedural Rules	))))	COMMENTS OF THE ALLIANCE OF WESTERN ENERGY CONSUMERS

I. INTRODUCTION

The Oregon Public Utility Commission ("Commission") opened AR 641 in order to review and amend Division 001 procedural rules. The Alliance of Western Energy Consumers ("AWEC") submits the following comments in response to Chief Administrative Law Judge ("ALJ") Moser's February 24, 2021 email requesting comments on rule sections OAR 860-001-0070, OAR 860-001-0500, OAR 860-001-0540, OAR 860-022-0019, and OAR 860-001-0170.

a. OAR 860-001-0070

OAR 860-001-0070 "applies to information submitted under a claim of confidentiality under the Public Records Law, but does not apply to information designated as confidential under a protective order in a contested case proceeding."[1/] AWEC notes that while this rule technically does not apply to protective orders issued in contested proceedings, it appears that the Commission's waiver of the hard-copy requirement under this rule in Order No. 20-088 does in fact apply to the provisions in the Commission's General Protective Orders,

[1/] OAR 860-001-0070(1).

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which govern the submission of parties' confidential filings in contested proceedings.[2/] OAR 860-001-0070(3) provides that confidential information may be "printed on yellow paper, separately bound, and placed in a sealed container or provided on a portable data storage device…Multiple sealed containers may be mailed in one package." Given the ongoing COVID-19 pandemic and associated work-from-home culture, and in light of emerging technology and environmental concerns, AWEC recommends that the Commission make its current suspension of the hard-copy requirement a permanent feature of its filing rules. Accordingly, AWEC suggests revising the existing language of this rule by explicitly noting that such hard copy submission is acceptable in lieu of electronic submission, but is not required. Further, should the Commission agree to revise this rule to eliminate the hard-copy requirement, AWEC recommends that the Commission similarly revise its General Protective Orders to reflect this transition to electronic-only filing of confidential information.

AWEC notes, however, its continuing support for the requirement in OAR 860-001-0180(3)(b) that a hard copy of filings greater than 100 pages be served on parties unless the party waives physical service. Many utility filings can be many hundreds of pages, and it is less burdensome for the utility, with its resources, to print these filings than the receiving party. Accordingly, if confidential information is included within a voluminous filing, AWEC continues to support receiving a physical copy of the full filing.

In all other cases, the ongoing COVID-19 pandemic has greatly limited the accessibility to traditional office services in accordance with Governor Brown's Executive

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2/ See Docket No. UM 2061, Order No. 20-088 at 1-2 (Mar.18, 2020) ("We temporarily waive the portion of subsection (3)….We order that for the period during which this waiver applies, confidential information may be submitted electronically, consistent with direction provided to parties by AHD at a later date.")

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Orders 20-12 and 20-66.[3/] The Commission has recognized the need to move away from paper filings and temporarily waived many Commission rules, including the above cited section of OAR 860-001-0070(3).[4/] Additionally, permanent removal of the paper filing requirement will ease the administrative burden for parties appearing before the Commission. Parties have made effective use of both the confidential folders in Huddle and encrypted zip drives recently. Further, as explained in the Commission's Administrative Hearings Division Report, "more processes at the Commission have become electronic, as the Commission moved away from paper filings."[5/] AWEC fully supports this transition to electronic-only filings for the above-mentioned reasons, and recommends that the existing OAR 860-001-0070 be revised to eliminate the hard-copy requirement for confidential filings under this rule.

b. OAR 860-001-0500

OAR 860-001-0500 applies to discovery in contested case proceedings. AWEC supports this rule as currently written.

[3/] See Executive Order No. 20-66 ("a. When a county is at Extreme Risk: All businesses and non-profit entities with offices in that county shall facilitate telework and work-at-home by employees, to the maximum extent possible. Work in offices is prohibited whenever telework and work-at-home options are available, in light of position duties, availability to teleworking equipment and network adequacy; b. When a county is at High or Moderate Risk: All businesses and non-profit entities with offices in that county are strongly recommended to facilitate telework and work-at-home by employees, to the maximum extent possible. It is strongly recommended that work in offices be avoided whenever telework and work-at-home options are available, in light of position duties, availability to teleworking equipment and network adequacy; c. When a county is at Lower Risk: Businesses and non-profit entities with offices in that county may make limited return to work available. Businesses and non-profits are encouraged to consider continuing to make telework and work-at-home options [] available.").

[4/] Order No. 20-088, at 1-2.

[5/] Docket No. AR 641, Public Utility Commission of Oregon Administrative Hearing Division Report, at 2 (Sep. 29, 2020).

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c. OAR 860-001-0540

OAR 860-001-0540 addresses data requests. Section 2 of this rule specifically notes that "service may be made by electronic mail or by electronic mail notification of upload to a designated shared workspace for data requests and responses." AWEC appreciates the Commission's transition in recent years to using Huddle workspaces for discovery in Commission proceedings, which has streamlined the submission of data requests and responses. AWEC notes that some language in Section 2 appears no longer relevant in light of the Commission's reliance on Huddle. Accordingly, AWEC recommends striking the following sentence from Section 2: "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." In general, however, AWEC supports the substance of this rule and the continued use of Huddle for the submission of discovery in Commission proceedings.

OAR 860-001-0540(1) specifies that responses to data requests must be served "within 14 days from the date of service." In most cases, parties have requested that the Commission require sooner response times following a certain date in a procedural schedule. For instance, it is common for prehearing conference orders to require a seven-day turnaround for data responses following the filing of rebuttal testimony. AWEC supports this practice. To ensure consistency with the rule, AWEC recommends that the third sentence in OAR 860-001-0540(1) be revised to read: "Data requests must be answered within 14 days from the date of service, or such other time period ordered by the Commission or an ALJ."

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d. OAR 860-022-0019

OAR 860-022-0019 applies to general rate revisions and is currently under review in this docket because of the reference to standard data requests under Subpart (2) Subsection (a): The initial filing of a general rate revision must contain the following: 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."[6/] AWEC supports this rule as currently written.

e. OAR 860-001-0170

OAR 860-001-0170 applies to filing requirements in contested case and declaratory ruling proceedings. Pursuant to Chief ALJ Moser's February 24, 2021 email soliciting parties' comments, the Commission's consideration of this rule is limited to sections that pertain to confidential information, or Sections 1(f)-(g). Section 1(f) states that "[w]hen electronically filing a redacted version of a filing that contains confidential information, the filer must file the confidential version so that it is received by the Filing Center within 2 business days after the date the redacted version was electronically filed." For the reasons noted above in AWEC's comments on OAR 860-001-070, AWEC recommends eliminating this hard-copy requirement and moving toward electronic-only filing and service. For security purposes, AWEC supports the Commission's current practice of requiring parties to use encryption software when transmitting confidential information electronically.

Similarly, Section 1(g) requires that a "filer must file the confidential version so that it is received by the Filing Center within 2 business days after the date that the cover letter

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[6/] OAR 860-022-0019(2)(a).

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was electronically filed." AWEC likewise recommends eliminating this requirement and noting that filing and service of confidential information may be accomplished by submission of encrypted files via electronic mail.

II. CONCLUSION

AWEC appreciates the opportunity to provide comments on the rule sections outlined above and looks forward to working with the Commission and stakeholders to this docket.

Dated this 9th day of March, 2021.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

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