

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
LC 57 & UM 1707**

)	
In the Matter of)	
)	MOTION FOR LEAVE TO FILE
PACIFICORP, dba PACIFIC POWER)	OUT OF TIME CUB’S RESPONSE
)	TO SIERRA CLUB’S MOTION TO
2013 Integrated Resource Plan)	CONSOLIDATE AND REQUEST
)	FOR ORAL ARGUMENT
&)	
)	
SIERRA CLUB)	
)	
Regarding violation of Protective Order No.)	
13-095)	
)	

1 The Citizens’ Utility Board of Oregon (“CUB”) respectfully moves the
2 Commission for leave to file out of time the attached response to Sierra Club’s Motion to
3 Consolidate and Request for Oral Argument, filed on September 24, 2014.

4 Pursuant to OAR 860-001-0420(5) “A party may file a response to a motion...[a]
5 response to a procedural motion must be filed within 7 days of service of the motion.”
6 CUB inadvertently failed to file its response within the designated 7 day window.
7 However, CUB does not believe that any party will be harmed by its late response.

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Dated this 3rd day of October, 2014,

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sommer Templet". The signature is written in a cursive, flowing style.

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
LC 57 & UM 1707**

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In the Matter of)	
)	CUB’S RESPONSE TO SIERRA
PACIFICORP, dba PACIFIC POWER)	CLUB’S MOTION TO
)	CONSOLIDATE AND REQUEST
2013 Integrated Resource Plan)	FOR ORAL ARGUMENT
)	
&)	
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SIERRA CLUB)	
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Regarding violation of Protective Order No.)	
13-095)	
)	

1 Pursuant to OAR 860-001-0420(5), the Citizens’ Utility Board of Oregon
2 (“CUB”) responds in support of Sierra Club’s Motion to Consolidate and Request for
3 Oral Argument, filed with the Commission on September 24, 2014. In its Motion, Sierra
4 Club requested that the Commission consolidate its motion challenging PacifiCorp’s (or
5 “Company”) designation of all information associated with the August 6, 2014 technical
6 workshop as confidential pursuant to Protective Order No. 13-065, which is being
7 addressed in OPUC docket LC 57, with docket UM 1707, which was opened to address
8 whether Sierra Club violated Protective Order No. 13-065. Sierra Club’s September 24,
9 2014 Motion also requested that oral argument on Sierra Club’s challenge to the
10 Company’s designation of confidential material be set for October 15, the same date that
11 oral argument is scheduled for UM 1707. CUB supports Sierra Club’s Motion for several

1 reasons, as discussed below, and respectfully urges the Commission to grant Sierra
2 Club's Motion.

3 Sierra Club's challenge to PacifiCorp's designation of confidential material
4 pursuant to Protective Order No. 13-065 and the Commission's inquiry into whether
5 Sierra Club violated Protective Order No. 13-065 are inextricably linked. Though
6 PacifiCorp argues that the issues to be addressed in each docket are distinct, such
7 delineation is without merit. CUB's September 23, 2014 Brief in UM 1707 makes clear
8 that the issues that gave rise to the show cause proceeding and the proceeding to
9 challenge designation have implications in both cases. CUB raised the following
10 interrelated issues in its Brief: (1) transparency in Commission process, (2) the
11 importance of discovery to the ability of all intervenors to participate effectively in all
12 dockets, (3) the practical implications of PacifiCorp's position with regard to designation
13 of confidential material, and (4) the purpose and appropriateness of sanctions for alleged
14 violations of protective orders.

15 There are practical implications to addressing the alleged protective order
16 violation divorced from the designation of confidential material. In short, CUB does not
17 believe that whether or not there was a violation of a protective order can be divorced
18 from whether the underlying information was appropriately designated as confidential.
19 Doing so could lead to the absurd result where a party designates information as
20 confidential (whether or not the designation was appropriate), shows that the information
21 designated was subsequently released, and could prevail on sanctions for the release even
22 though, once reviewed, it is determined that the underlying information was otherwise
23 publicly available or does not meet the standards for confidentiality set forth in ORCP

1 36(C)(7). How can a party be found to have violated a protective order if the information
2 in question was inappropriately designated as confidential? How can the parties
3 intelligently argue whether or not sanctions are appropriate for a violation without
4 knowing whether the underlying information was appropriately designated? CUB fears
5 that reviewing alleged releases of allegedly confidential information in this manner will
6 severely dampen the litigation process currently in place before the Commission.

7 Finally, in addition to the reasons set forth above, addressing both sets of issues in
8 one proceeding would promote judicial economy. The issues being addressed in both LC
9 57 and UM 1707 spring from the same circumstances—there is no reason for the parties
10 to duplicate efforts in two separate proceedings.

11 In conclusion, CUB supports Sierra Club’s Motion to Consolidate and Request for
12 Oral Argument for the reasons stated above.

Dated this 3rd day of October, 2014,

Respectfully submitted,



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LC 57 – CERTIFICATE OF SERVICE

I hereby certify that, on this 3rd day of October, 2014, I served the foregoing **MOTION FOR LEAVE TO FILE OUT OF TIME CUB'S RESPONSE TO SIERRA CLUB'S MOTION TO CONSOLIDATE AND REQUEST FOR ORAL ARGUMENT** in docket LC 57 upon each party listed in the LC 57 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and two copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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LC 57 - Certificate of Service MOTION FOR LEAVE TO FILE OUT OF TIME CUB'S RESPONSE TO SIERRA CLUB'S MOTION TO CONSOLIDATE AND REQUEST FOR ORAL ARGUMENT

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LC 57 - Certificate of Service MOTION FOR LEAVE TO FILE OUT OF TIME CUB'S RESPONSE TO SIERRA CLUB'S MOTION TO CONSOLIDATE AND REQUEST FOR ORAL ARGUMENT

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UM 1707 – CERTIFICATE OF SERVICE

I hereby certify that, on this 3rd day of October, 2014, I served the foregoing **MOTION FOR LEAVE TO FILE OUT OF TIME CUB'S RESPONSE TO SIERRA CLUB'S MOTION TO CONSOLIDATE AND REQUEST FOR ORAL ARGUMENT** in docket UM 1707 upon each party listed in the UM 1707 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and two copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

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UM 1707 - Certificate of Service **MOTION FOR LEAVE TO FILE OUT OF TIME CUB'S RESPONSE TO SIERRA CLUB'S MOTION TO CONSOLIDATE AND REQUEST FOR ORAL ARGUMENT**

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