

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 374

In the Matter of
PACIFICORP d/b/a PACIFIC POWER,
Request for a General Rate Revision

SIERRA CLUB’S MOTION FOR
ALTERNATIVE CONFIDENTIAL AND
HIGHLY CONFIDENTIAL HEARING
PROCEDURES

Sierra Club requests that ALJ Lackey reconsider remote hearing procedures for confidential and highly confidential sessions on September 9 and 10. Pursuant to the ALJ’s August 10, 2020 Memorandum, “any cross examination regarding confidential materials will be conducted via teleconference.” Sierra Club anticipates that a large portion of its cross examination of PacifiCorp witnesses Messrs. Link, Owen, and Ralston will cover confidential materials. Although Sierra Club has, when appropriate, challenged confidentiality designations, the bulk of the materials that Sierra Club plans to reference or introduce into evidence remain confidential.¹

Cross examination via teleconference – which will constitute a large portion of Sierra Club’s cross examination – will prejudice Sierra Club’s ability to present its case while benefitting PacifiCorp. Both Commissioners and the parties will be unable to read body language and accurately interpret cadence. Moreover, teleconference eliminates the ability of utilizing screen-sharing (even on a limited basis) that Sierra Club has found essential (and helpful to fact-finders) in other remote-based proceedings. Sierra Club recognizes that a remote hearing requires

¹ For instance, Sierra Club successfully convinced the Company to de-designate several materials, as evidenced by Sierra Club’s Errata to Opening Testimony of Jeremy Fisher (filed August 25, 2020), and has filed a formal objection to the confidentiality designation of three documents – Confidential Attachment to Sierra Club 7.4-1 1st Supplemental, Sierra Club 7.4-2 1st Supplemental, and PacifiCorp Response to Sierra Club Data Request 9.6 – concurrently with this motion.

some compromises from usual hearing procedure; however, requiring intervenors to conduct cross examination on confidential materials via teleconference unnecessarily prejudices Sierra Club's case while rewarding PacifiCorp for over designation of confidential materials.

Many public utilities commissions across the country have successfully used video conferencing – with screen sharing capabilities – to conduct similar hearings. For instance, Sierra Club is aware of at least one state utility commission that uses Microsoft Teams Rooms for its hearings, including confidential sessions. Although Zoom may not meet the Commission's confidentiality standards, many other video conference platforms are available.

Accordingly, Sierra Club strongly urges that ALJ Lackey establish alternative procedures for the confidential and highly confidential portions of the upcoming rate hearing; or convene the parties as soon as possible to discuss same.

Dated: September 3, 2020

Respectfully submitted,

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