

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1121

In the Matter of	)	
	)	
OREGON ELECTRIC UTILITY	)	
COMPANY, LLC, <i>et al.</i> ,	)	RULING
	)	
Application for Authorization to Acquire	)	
Portland General Electric Company.	)	

**DISPOSITION: MOTION DENIED**

On December 3, 2004, the Public Utility Commission of Oregon staff (Staff) filed supplemental testimony, along with a partial stipulation and a Master Service Agreement (MSA). Upon request by Administrative Law Judge Kathryn Logan, Staff filed a motion on December 6, 2004, asking that the supplemental testimony, stipulation, and MSA be admitted into the record.

Staff acknowledges that the record is closed in this proceeding. It argues, however, that it indicated in its surrebuttal testimony that it would submit a late-filed exhibit (Staff/1100, Hathhorn /4-5).<sup>1</sup> Staff contends that it is merely completing an intended action. Further, Staff claims that the admission of this MSA is necessary to provide certainty for a future MSA filing if the transaction is approved. Finally, Staff states that admission of the late-filed exhibit requires no further action in this docket.

**Documents filed**

We have reviewed the testimony, partial stipulation, and MSA filed by Staff. Ms. Hathhorn, in her testimony, states that the MSA is submitted, “only to inform the Commission on the type of MSA that will be filed if this transaction is approved.” Staff/1500, Hathhorn/2. According to Hathhorn, the Commission is not making a decision on the MSA at this time, but would decide in a separate docket if the application were approved.

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<sup>1</sup> Staff mismarked its exhibits. The new marking is as follows: Hathhorn testimony - Staff Exhibit 1500, Partial Stipulation - Staff Exhibit 1501, and MSA - Staff Exhibit 1502.

The stipulation indicates that Staff, Applicants, and Portland General Electric Company (PGE) agree that Hathhorn's testimony and the MSA should be made a part of this record, that Applicants and PGE have no objection to the late-filed exhibit, and that the stipulation and MSA are being filed as evidence pursuant to OAR 860-014-0085. The MSA is between PGE and its affiliates, one of which is Oregon Electric Utility Company, LLC (OEUC).

**Disposition**

Contrary to Staff's assertion, further action will need to be taken if these three exhibits are admitted. Although PGE and OEUC do not object to the filing of the new exhibits, the other parties have a right to examine witnesses regarding additional evidence and may rebut such evidence pursuant to ORS 756.558(1). Under OAR 860-014-0085, parties may file written objections to a stipulation or may request a hearing. Granting Staff's request does not end action, but rather begins a new set of proceedings.

More importantly, however, is that Staff's exhibits do not contain information that is relevant to the Commission's decision to grant or deny the application. This information only becomes relevant if the Commission approves the application. As discussed by Ms. Hathhorn, a new docket would need to be opened to consider the MSA. Since the exhibits are not relevant, they cannot be considered as evidence in this docket.

Staff's motion is denied.

Dated at Salem, Oregon, this 7th day of December, 2004.

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Kathryn A. Logan  
Administrative Law Judge

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Christina M. Smith  
Administrative Law Judge