

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1129

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	MEMORANDUM
OREGON STAFF)	
)	
Investigation Relating to Electric Utility)	
Purchases From Qualifying Facilities.)	

**DISPOSITION: CLARIFICATION OF REQUIREMENTS
REGARDING ADMISSION OF TESTIMONY NOT
SUBJECT TO CROSS-EXAMINATION**

In my memorandum issued January 26, 2006, I indicated that any party that has submitted testimony by a witness that is not scheduled for cross-examination may make a motion at the hearing, or file a motion prior to the hearing, to allow the sponsored testimony and exhibits to be accepted into the record by stipulation and without the live appearance of the witness to authenticate the pre-filed testimony.

Making a motion to admit the testimony **does not**, however, dispense with the need for *sworn* testimony.¹ If the testimony was not submitted with an affidavit, the motion to admit the testimony must be accompanied by an affidavit. The only exception shall be, if good cause can be shown pursuant to OAR 860-011-0000,² that a party may move to substitute a declaration for an affidavit, pursuant to Oregon Rule of Civil Procedure (ORCP) 1E.³ The record will be left open for some period of time, to be

¹ Oregon Administrative Rule (OAR) 860-014-0060(4)(a) provides: "The Commission or ALJ may direct that the testimony of any witness, including supporting exhibits, be submitted in writing prior to hearing. Unless otherwise directed by the Commission or ALJ, such testimony, when sworn to orally or in writing by the witness under oath to be true, will be received in the same manner as an exhibit."

² OAR 860-011-0000(6) provides: "For good cause shown, the Commission may deviate from or waive any of the rules contained in Divisions 011 through 014."

³ ORCP 1E provides: "A declaration under penalty of perjury may be used in lieu of any affidavit required or allowed by these rules. A declaration under penalty of perjury may be made without notice to adverse parties, must be signed by the declarant and must include the following sentence in prominent letters immediately above the signature of the declarant: 'I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.' As used in these rules, 'declaration' means a declaration under penalty of perjury."

determined, after the close of the hearing in order to allow parties to submit all necessary documentation.

With regard to the cross-examination schedule, the last two lines of Attachment A should not have been included. Idaho Power Company will not cross-examine Mr. Galbraith and Portland General Electric Company will not cross-examine Mr. Keto. A revised schedule is attached to this memorandum.

Dated this 1st day of February, 2006, at Salem, Oregon.

Traci A. G. Kirkpatrick
Administrative Law Judge

**ATTACHMENT A:
REVISED UM 1129 (PHASE I COMPLIANCE ISSUES) HEARING SCHEDULE
(February 2, 2006)**

Witness (Party)	Examined By	Issue(s)	Time
Kuns (PGE)	Sherman County Court & J. R. Simplot	Cap on new QF additions; Gas price forecast	20 minutes
	ODOE	Monthly basis differentials; kind of market and volume that exists for the Opal hub forward market	30 minutes
Griswold (PacifiCorp)	Sherman County Court & J. R. Simplot	Off system QFs, sufficiency period	30 minutes
Engberg (PacifiCorp)	Sherman County Court & J. R. Simplot	Gas price forecast	10 minutes
	ODOE	Gas price forecast	30 minutes
Gale (Idaho Power)	ODOE	Financing QF projects; contract price differences in the Idaho v. Oregon markets; types of financing used; number of publicly financed projects	10 minutes
Keto (ODOE)	Idaho Power	Limitations on QF liability for defaults; ODOE's lending criteria	20 minutes
	Staff	Limitations on QF liability (cap) for defaults	15 minutes
Schwartz (Staff)	Idaho Power	Limitations on QF liability for defaults; limitations on QF's obligation to provide energy; computation of minimum delivery amount; recommendation that Idaho Power be required to utilize annual delivery obligation, rather than monthly delivery obligation	20 minutes
	ODOE	Minimum contract delivery requirements; termination damages; commercial operation date	20 minutes
	Sherman County Court & J. R. Simplot	Contract terms; default provisions; security; creditworthiness	45 minutes
Chriss (Staff)	Sherman	Gas price forecast	10 minutes

	County Court & J. R. Simplot		
	ODOE	Gas price forecast	60 minutes
Galbraith (Staff)	Sherman County Court & J. R. Simplot	Sufficiency period	10 minutes