

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1734

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application to Reduce the Qualifying  
Facility Contract Term and Lower the  
Qualifying Facility Standard Contract  
Eligibility Cap.

RULING

DISPOSITION: PETITION TO INTERVENE GRANTED; MOTIONS TO  
ADMIT COUNSEL *PRO HAC VICE* GRANTED

On September 3, 2015, Sierra Club filed a petition to intervene in this docket. In addition, Sierra Club filed motions to allow Gloria D. Smith and Travis Ritchie to appear as counsel *pro hac vice* for Sierra Club.

Upon review of the petition to intervene, I find that Sierra Club has sufficient interest in the proceedings to participate and that its participation will not unreasonably broaden the issues, burden the record, or delay the proceedings.<sup>1</sup>

In their motions for admission as counsel *pro hac vice*, Ms. Smith and Mr. Ritchie state that they will associate with Mr. Joshua Smith, an active member in good standing with the Oregon State Bar. I have reviewed the motions and find that they comply with the requirements of UTCR 3.170 and OAR 860-001-0320.

No objections have been received by the Commission. The petition to intervene and motions to admit Gloria D. Smith and Travis Ritchie as counsel *pro hac vice* on behalf of Sierra Club are granted. For cases continuing over one year, an attorney appearing *pro hac vice* must file a new application to continue to participate in the case.<sup>2</sup>

Dated this 15th day of September, 2015 at Salem, Oregon.



Allan J. Arlow  
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

<sup>1</sup> See OAR 860-001-0300(6).

<sup>2</sup> See UTCR 3.170(5); OAR 860-001-0320(3).

## NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

**Hearing:** The time and place of any hearing held in these proceedings will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 through 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the Commission's website at [www.puc.state.or.us](http://www.puc.state.or.us). The Commission will hear issues as identified by the parties.

**Right to Attorney:** As a party to these proceedings, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission Staff, if participating as a party in the case, will be represented by the Department of Justice. Generally, once a hearing has begun, you will not be allowed to postpone the hearing to obtain counsel.

**Administrative Law Judge:** The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope of an ALJ's authority is defined in OAR 860-001-0090. The ALJs make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

**Hearing Rights:** You have the right to respond to all issues identified and present evidence and witnesses on those issues. *See* OAR 860-001-0450 through OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 through 860-001-0540.

**Evidence:** Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450. Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Generally, once a hearing is completed, the ALJ will not allow the introduction of additional evidence without good cause.

**Record:** The hearing will be recorded, either by a court reporter or by audio digital recording, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request, if available, a copy of the audio recording from the Commission for a fee set forth in OAR 860-001-0060. The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

**Final Order and Appeal:** After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days from the date of service of the order. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days from the date of service of the order. *See* ORS 756.610.