

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 390

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2022 Transition Adjustment Mechanism.

PREHEARING CONFERENCE
MEMORANDUM

On April 22, 2021, the Public Utility Commission of Oregon held a prehearing conference in this docket. Representatives appeared on behalf of the Alliance of Western Energy Consumers (AWEC), Calpine Energy Solutions, Commission Staff, Oregon Citizens' Utility Board (CUB), PacifiCorp, dba Pacific Power, Sierra Club, and Small Business Utility Advocates (SBUA).

Procedural Schedule

At the prehearing conference, the parties did not agree on a procedural schedule, instead presenting two options for the Commission's consideration. AWEC, Calpine Solutions, CUB, Sierra Club, and Staff prefer five rounds of testimony while PacifiCorp prefers three rounds. SBUA does not take a position. Arguments by Staff and PacifiCorp are summarized below. After considering all factors, I conclude that a schedule with five rounds of testimony is reasonable for this proceeding.

PacifiCorp states that three rounds of testimony is consistent with previous Transition Adjustment Mechanism (TAM) proceedings prior to the 2017 TAM. PacifiCorp believes that five rounds is unnecessary and creates an administrative burden to produce the last two rounds of testimony near the end of the proceeding. PacifiCorp also states that five rounds may create prejudice when parties raise new issues in rebuttal testimony and PacifiCorp has little chance to respond in its final, surrebuttal testimony. Noting that the last three TAM proceedings have been resolved with stipulations, and this year's TAM proposes a minimal rate increase, was produced with GRID (not AURORA), and does not contain significant issues, PacifiCorp asserts that three rounds of testimony is sufficient.

Staff states that five rounds of testimony would be more appropriate because the new Hunter Coal Supply Agreement (CSA) is in this year's TAM and because the Commission's order from last year's TAM asks parties to respond to a policy issue about coal costs. Staff states that five rounds will not prejudice PacifiCorp because parties are

now aware that new issues should not be raised in parties' rebuttal testimony and that if a new issue is raised, PacifiCorp may file a motion to strike.

I adopt a five round schedule so that Staff and intervenors will have the opportunity to file testimony twice in this proceeding, with opening and rebuttal/cross-answering testimony. PacifiCorp's TAM last used a schedule with three rounds of testimony in 2015, and the Commission's decision on contested issues was found insufficiently supported by the evidentiary record.¹ A five-round schedule produces a more developed record, which supports a stronger Commission decision. The concern of burdening parties with the extra set of filings in late July and mid-August is an important consideration, and I encourage parties to approach the final two rounds of testimony in a manner that reduces the workload, for example, by referencing arguments or data from their initial or opening testimony without re-explaining those points.

The Commission declines to add a Commission Workshop to the schedule, and instead will use issues lists in this proceeding. The issues lists will describe topics or questions that the Commission seeks more information on in testimony. Target dates for AHD to post issues lists have been added to the schedule, with one posting two and a half weeks before Staff and intervenors' opening testimony and the second posting two weeks before PacifiCorp's reply testimony.

The following schedule is adopted:

EVENT	DATE
Staff Workshop	May 14, 2021
Target date for AHD to post an issues list	May 21, 2021
Staff and Intervenor Opening Testimony	June 9, 2021
Beginning of best effort for 7 calendar day turnaround for data requests	June 10, 2021
Settlement Conference	June 22, 2021
Target date for AHD to post an issues list	June 28, 2021
PacifiCorp Reply Testimony	July 9, 2021
Settlement Conference	July 14 or 15, 2021
Staff and Intervenor Rebuttal and/or Cross-Answering Testimony	July 30, 2021
PacifiCorp Surrebuttal Testimony	August 13, 2021
All Parties' Cross-Examination Statements	August 20, 2021
All Parties' Cross-Examination Exhibits	August 23, 2021

¹ *Calpine Energy Solutions LLC v. PUC*, 298 Or App 143, 150 (2019).

Hearing Date (tentative)	August 27, 2021
PacifiCorp Opening Brief	September 15, 2021
Staff and Intervenor Reply Briefs	September 28, 2021
PacifiCorp Rebuttal Brief and Staff and Intervenor Cross-Answering Briefs	October 5, 2021
Target date for Commission order	November 1, 2021
Indicative update	November 8, 2021
Final update	November 15, 2021

This proceeding is a contested case under ORS 183.310(2) and will be conducted under the procedures set forth in OAR 860-001-0300 *et seq.*

Parties are reminded that attorneys not licensed in Oregon wanting to appear before the Commission in this docket must file an application for admission to appear *pro hac vice*.²

Dated this 10th day of May, 2021, at Salem, Oregon.

Sarah Rowe
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

² See UTCR 3.170, OAR 860-001-0320.

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. 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.

Notice to Active Duty Servicemembers: Active Duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

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.

Notice of Contested Case Rights and Procedures continued

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.