

May 4, 2021

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High Street SE, Suite 100  
Salem, OR 97301-3398

**Re: AR 641 PacifiCorp Redline Edits to Draft Rules for May 7 Workshop**

PacifiCorp d/b/a Pacific Power submits the attached redline edits to the draft rules for discussion at the May 7, 2021 workshop. PacifiCorp's suggested edits primarily address former employee limitations and removing specific location and contact information from the rules to allow for changes to the information without having to update the rules. PacifiCorp looks forward to discussing these draft rules further at the workshop on May 7, 2021.

PacifiCorp appreciates the opportunity to comment on the draft rules. Please contact Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934 if you have any questions.

Sincerely,



Shelley McCoy  
Director, Regulation

## Notice, Records, and Subscriptions

### 860-001-0030 Notice of Commission Proceedings

- (1) A person may request to receive electronic notice of:
  - (a) Commission public meetings;
  - (b) Permanent rulemaking proceedings that involve electric, natural gas, telecommunications, water, wastewater, or procedural matters; and
  - (c) Contested case proceedings that concern particular regulated industries.
- (2) A person without access to electronic mail may request that the Commission provide notice by first-class mail. The Commission may establish a fee for providing notice by mail.
- (3) The Commission will not delete a name from a notice list without prior notification.

### 860-001-0040 Commission Publications

The Commission will charge fees reasonably calculated to reimburse the agency for the costs of annual subscriptions, agency publications, and materials related to agency proceedings, not otherwise available publicly on its website. These fees, which include mailing costs, are:

- (1) Subscriptions to Commission orders: \$100 (annually).
- (2) Subscription to notices of hearings: \$50 (annually).
- (3) Administrative rules update service: \$75 (annually).
- (4) Bound volume of Oregon laws relating to the Commission: At cost.
- (5) Maps of specific area boundaries: \$20.
- (6) Statistical reports: \$15.
- (7) Hearing transcripts: At cost. A copy of a public hearing transcript must be supplied to a party without cost if the party files with the Commission a satisfactory affidavit of indigency under ORS 756.521.
- (8) Notice by mail of Commission proceedings under OAR 860-001-0030(2): \$25 annually.

## 860-001-0060 Public Records Requests

(1) This rule governs requests for access to the Commission's public records under the Public Records Law, ORS 192.311 through 192.478.

(2) A person may request access to the Commission's public records through its public records request platform found on the Commission's website. After receiving a request, the Commission will make public records available for inspection during regular business hours unless the records are exempt from disclosure by law.

(a) The Commission may condition the time and manner of inspection of public records as necessary to protect the records and to prevent interference with the regular discharge of the duties of the Commission and its employees.

(b) The request must be sufficiently specific to allow the Commission to readily identify the document or other material that contains the requested information. The Commission prefers and may require that a request for public records be made in writing through its public records request platform available on its website or at [https://oregonpuc.govqa.us/WEBAPP/\\_rs/S\(jxvvr34klemgj1vst5ll1aio\)\)/SupportHome.aspx](https://oregonpuc.govqa.us/WEBAPP/_rs/S(jxvvr34klemgj1vst5ll1aio))/SupportHome.aspx).

(c) The request must specify the format requested for copies and the date, if any, by which the records are needed. The Commission may provide the information in a format different than requested or provide the information after the requested date if it is impractical to comply with the requests.

(3) The Commission will charge fees reasonably calculated to recover the costs of providing access to and providing physical copies of public records. If records are provided through the public records request platform, there may be charges for employee time, but there will not be charges for physical copies.

(a) Employee time: The Commission will charge for employee time over 30 minutes spent preparing documents for inspection or supervising the inspection. Employee time will be charged in 15-minute increments at the following rates:

(A) Assistant Attorney General: At cost to PUC per hour, excluding time spent determining the application of ORS 192.311 through 192.478.

(B) Administrative Law Judge: \$71 per hour.

(C) Manager: \$53 per hour.

(D) Utility Analyst: \$53 per hour.

(E) Information Services: \$47 per hour.

(F) Law Clerk: \$25 per hour.

(G) General Clerical: \$26 per hour.

(b) Photocopies: The Commission will charge \$0.01 per page to recover the costs of providing black and white photocopies and \$0.05 per page to recover the costs of providing color photocopies. Page refers to one side of a piece of paper. A double-sided copy is two pages.

(c) Certification of true copies of public documents must be specifically requested, and the Commission charges \$10 per document certification.

(d) Facsimile: The Commission charges \$0.75 per page for faxing records. The Commission will not fax more than 30 pages.

(e) Electronic Media: If the request seeks electronic reproduction of public records outside of the public records request platform, then the Commission will provide reproduction media at the following rates:

(A) CD or DVD: \$0.75 each.

(B) USB flash drive: \$5.00 each.

(f) Mailing: When sending voluminous records, the Commission will charge the actual costs of sending the public records.

(4) The Commission will provide notice of the estimated time to make records available and estimated costs of making records available for inspection or providing copies of records. If the estimated costs exceed \$25, then the Commission will provide written notice and not act further to respond to the request until it receives written authorization to proceed. The Commission will require that all estimated fees and charges be paid before public records are made available for inspection or copies provided.

(5) If a public records request seeks the disclosure of information that has been designated as confidential under a protective order or under the Public Records Law, then prior to the release of the information the Commission will provide written notice to the person asserting confidentiality and allow an opportunity for the person to provide a written response to the request.

(a) The person asserting confidentiality must demonstrate that the information is exempt from disclosure.

(b) If the Commission concludes that the information designated as confidential is not protected from disclosure, then the Commission will provide notice of the decision and

delay the release of the information to permit the person asserting confidentiality to seek a court order to protect the records from disclosure.

(c) If the person asserting confidentiality consents in writing to the release of the information or does not commence court proceedings to limit disclosure within 10 days following notice of the decision, then the Commission will remove the confidential designation from the requested information and release the information to the requester.

(6) A person denied the right to inspect or to receive a copy of a public record may appeal the Commission's decision to the Attorney General under ORS 192.411.

#### 860-001-0200 Public Participation

The Commission may informally seek public input before giving notice of intent to adopt, amend, or repeal a rule. A person may request to be notified of informal opportunities for public input by requesting to be placed on a notification list described in OAR 860-001-0030(1)(b).

## **Role of the ALJ**

### 860-001-0090 Delegation of Authority to Administrative Law Judge

- (1) The Commission delegates to the ALJ authority to:
- (a) Regulate the course of rulemaking, contested case, and declaratory ruling proceedings, including scheduling, recessing, reconvening, and adjourning hearings;
  - (b) Administer oaths;
  - (c) Issue subpoenas;
  - (d) Make evidentiary rulings;
  - (e) Supervise and control discovery;
  - (f) Hold appropriate conferences before, during, or after hearings;
  - (g) Decide procedural matters, but not to grant contested motions to dismiss or other contested motions that involve final determination of the proceedings;
  - (h) Change filing deadlines;
  - (i) Grant waivers of rules;
  - (j) Certify a question to the Commission for consideration and disposition;
  - (k) Determine the order in which evidence will be presented;
  - (l) Issue a protective order to limit disclosure of confidential information; and
  - (m) Take any other action consistent with the duties of an ALJ.
- (2) The ALJ must conduct proceedings in a fair and impartial manner and maintain order. If a person engages in conduct that interferes with this duty, then the ALJ may suspend the proceeding or exclude the person from the proceeding.

### 860-001-0100 Impartiality

- (1) An ALJ may be disqualified from presiding over specific proceedings for the same reasons and under the same circumstances as specified in JR 3.10. of the Oregon Code of Judicial Conduct.

(2) A party may move for disqualification of an ALJ if the ALJ's impartiality may reasonably be questioned. The motion must be filed within 15 days after the party learns of the facts supporting the disqualification and contain grounds for supporting the motion. Written responses to the motion for disqualification must be filed within 7 days of receipt of the motion. An ALJ other than the presiding ALJ will rule on the motion.

(3) The parties may waive any ground for disqualification after it is fully disclosed on the record, either expressly in writing or orally on the record, or by failing to move for disqualification within the time limits in section (2) of this rule.

(4) An ALJ's disqualification does not automatically affect the validity of rulings or orders issued prior to the filing of the motion for disqualification.

#### 860-001-0110 Appeal to the Commission from Ruling of Administrative Law Judge

(1) A party may request that the ALJ certify an ALJ's written or oral ruling for the Commission's consideration. A party must request certification of a ruling within 15 days of the date of service of the ruling or date of the oral ruling.

(2) The ALJ must certify the ruling to the Commission under OAR 860-001-0090 if the ALJ finds that:

(a) The ruling may result in substantial detriment to the public interest or undue prejudice to a party;

(b) The ruling denies or terminates a person's participation; or

(c) Good cause exists for certification.

## Ministerial or Other Issues

### 860-001-0330 Former Employees

(1) A former Commission employee may not appear on behalf of other parties in contested case or declaratory ruling proceedings in which the former employee ~~took an active part participated~~ on the Commission's behalf.

(2) ~~Except with the Commission's written permission, Aa~~ former Commission employee may not appear as a witness on behalf of other parties in contested case proceedings in which the former employee ~~took an active part participated~~ on the Commission's behalf.

(3) ~~Except with the Commission's written permission, Aa~~ former employee of a party may not appear as a witness on behalf of the Commission in contested case proceedings in which the person ~~took an active part participated~~ on the party's behalf. ~~Prior to giving its written permission to the person, the Commission must notify the affected party and all other parties to the proceedings, and allow the affected party an opportunity to object to the Commission granting permission to the person. Other parties to the proceedings may respond to the affected party's objection, if any.~~

### 860-001-0020 Hours of Operation, Location, and Contact Information

(1) Office Hours: Commission offices are open to the public between 8:00 a.m. and 5:00 p.m., Monday through Friday, except on legal holidays as defined in ORS 187.010 or when the Commission's office is closed by a Department of Administrative Services directive.

(2) Location and general contact information: ~~The information included in this section is current at the time of rule adoption, but may change. Current information and additional contact information~~ is available on the Commission's website:  
<http://www.puc.state.or.us>

~~(a) Physical Location: 201 High Street SE, Suite 100, Salem, OR 97301~~

~~(b) Mailing Address: PO Box 1088, Salem, OR 97308-1088.~~

~~(c) Telephone:~~

~~(A) Local to Salem: (503) 373-7394, TTY (Oregon Relay Service): (800) 735-2900;~~

~~(B) Consumer Services: (800) 522-2404;~~

~~(C) Telephone Assistance Programs: (800) 848-4442, TTY (800) 648-3458.~~



### 860-001-0050 Late Fees and Penalties

(1) The Commission will impose the following late fees and penalties when applicable:

(a) Check returned for non-sufficient funds: \$25.

(b) Costs incurred by the Commission to collect past-due amounts: At cost.

(2) The Commission will impose the following interest and penalties for the untimely payment of fees required by statute or rule:

(a) Annual Fees: No interest; 2 percent of fee as penalty per month.

(b) Residential Service Protection Fund (RSPF) payments: 9 percent interest per annum; 9 percent penalty of unpaid fee up to \$500 maximum per reporting period.

(3) The Commission will impose the following fees for late-filed statements and reports:

(a) Electric company Annual Fee Statement: \$100.

(b) Gas utility Annual Fee Statement: \$100.

(c) Telecommunications providers Annual Fee Statement: \$100.

(d) Water utility Annual Fee Statement: \$40.

(e) RSPF Remittance Report: \$100.

### 860-001-0000 Applicability and Waiver

(1) These rules govern practice and procedure before the Public Utility Commission of Oregon (Commission). The Commission will liberally construe these rules to ensure just, speedy, and inexpensive resolution of the issues presented. The Oregon Rules of Civil Procedure (ORCP) also apply in contested case and declaratory ruling proceedings unless inconsistent with these rules, a Commission order, or an Administrative Law Judge (ALJ) ruling.

(2) For limited purposes in specific proceedings, the Commission or ALJ may modify or waive any of the rules in this division for good cause shown. A request for exemption must be made in writing, unless otherwise allowed by the Commission or ALJ.