

**PUBLIC UTILITY COMMISSION OF OREGON
ADMINISTRATIVE HEARINGS DIVISION REPORT
PUBLIC MEETING DATE: August 20, 2002**

REGULAR **CONSENT** **EFFECTIVE DATE** _____

DATE: July 31, 2002

TO: John Savage through Terry Lambeth

FROM: Ruth Crowley

SUBJECT: AR 444: Open a rulemaking to amend OAR 860-012-0010(2) pertaining to former Commission employees appearing in Commission proceedings on behalf of other parties.

ADMINISTRATIVE LAW JUDGE RECOMMENDATION:

I recommend opening a rulemaking to amend OAR 860-012-0010(2) to delete the term "expert." This deletion will make the language in subsection (2) mirror the language modified in subsection (3) of the rule by Order No. 02-010 (docket AR 419).

DISCUSSION:

In the earlier rulemaking, AR 419, we adopted language requiring former company employees now working for the Commission to have the Commission's written permission to appear as a witness in a Commission proceeding in which the employee took an active part on the company's behalf as a company employee. The amendment proposed in this docket affects participation by former Commission employees in proceedings on behalf of a company and, as subsection (3) did, broadens application of the rule to appearance as any kind of witness, not just as an expert witness.

PROPOSED COMMISSION MOTION:

Rulemaking docket AR 444 should be opened to consider adoption of the proposed amendment to OAR 860-012-0010(2).

860-012-0010

Former Employees

- (1) No former Commission employee may appear on behalf of other parties in a formal proceeding in which the former employee took an active part on the Commission's behalf.
- (2) Except with the Commission's written permission, no former Commission employee shall appear as an ~~expert~~ witness on behalf of other parties in a formal proceeding in which the former employee took an active part on the Commission's behalf.
- (3) Except with the Commission's written permission, no person now working for the Commission, who was formerly employed by a company subject to the jurisdiction of the Commission, or a company appearing before the Commission in a proceeding, or an affiliate of such company, shall appear as a witness on behalf of the Commission in a formal proceeding in which the person took an active part on the company's behalf as an employee of the company. Prior to giving its written permission to the person, the Commission shall notify the affected company and the other parties to the formal proceeding. The Commission shall allow the affected company an opportunity to object to the Commission granting permission to the person. The Commission will also allow the other parties to the formal proceeding an opportunity to respond to the affected company's objection, if any.