

AR 450
November 5, 2002
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At this public meeting the Commission will consider a Hearings Division recommendation to initiate a permanent rule defining major proceedings and how to participate in oral argument (AR 445). Because of the large number of contentious cases in which parties are requesting oral argument, we believe a temporary rule is necessary to clarify Commission policy while the permanent rule is under consideration.

PROPOSED COMMISSION MOTION:

Adopt the temporary rule of OAR 860-014-0023, as set forth in Appendix A of the proposed order.

ORDER NO. DRAFT

ENTERED

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 450

In the Matter of a Temporary Rule Defining)
"Major Proceeding" as Used in ORS) ORDER
756.518(2).)
)

DISPOSITION: TEMPORARY RULE ADOPTED

The 2001 Legislature passed HB 2899, codified as ORS 756.518(2), which provides:

(2) Upon request of any party in a major proceeding before the commission, the commission shall afford the parties an opportunity for oral argument before a final order is issued. There must be a quorum of the commission present at the time the oral argument is made. The commission shall adopt rules that establish criteria for determining which proceedings give rise to a right to oral argument under this subsection. In addition, the commission may adopt rules governing participation in oral arguments, cross-examination of witnesses, draft or proposed orders or such other matters as the commission deems appropriate.

The temporary rule attached as Appendix A defines "major proceeding" and clarifies participation in oral arguments. Although the Commission is considering a permanent rule on this subject, a temporary rule is advisable to give parties in contested cases guidelines for when the Commission will hear oral argument on a case and to clarify Commission policy on oral argument.

At its Public Meeting of November 19, 2002, the Commission considered and adopted the temporary rule as contained in Appendix A.

ORDER

IT IS ORDERED that:

1. The temporary rule attached as Appendix A, OAR 860-014-0023, is adopted.
2. The temporary rule shall be effective upon filing with the Secretary of State.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A person may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

860-014-0023

Major Proceeding

(1) For purposes of ORS 756.518(2), a “major proceeding” is defined as one which:

(a) Has a substantial impact upon utility rates or service quality for utilities having more than 50,000 customers; or

(b) Has a significant impact upon utility customers or the operations of a regulated utility for utilities having more than 50,000 customers.

(2) A party in a proceeding that does not meet the criteria in (1) above may petition the ALJ for major case status if the case:

(a) Is likely to result in a significant change in regulatory policy; or

(b) Raises novel questions of fact or law.

(3) When a docket is opened, any party may file a motion with the Administrative Law Judge (ALJ) requesting that the case be classified as a major proceeding. The motion shall:

(a) Set out with specificity how the case qualifies as a major proceeding under the criteria listed at (1) above; or

(b) Argue how the case qualifies as a major proceeding under (2) above.

(c) Answers to the motion are due within 10 days of filing.

(d) The ALJ shall rule on the motion within 15 days of filing.

(4) If a case is classified as a major proceeding, parties shall schedule a date for oral argument before the Commission at the prehearing conference or as soon thereafter as possible.

(5) Any party to a case may present argument before the Commission if the case is defined as a major proceeding.

(6) The ALJ shall determine the length of each party’s presentation to the Commission, the right of any party to rebuttal of any other party’s presentation, and the order of presentation.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Stats. Implemented: ORS 756.040 & 756.500 through 756.575

Hist.: New