

UNITED STATES OF AMERICA
U.S. DEPARTMENT OF ENERGY
BEFORE THE
BONNEVILLE POWER ADMINISTRATION

2020 RATE PROCEEDING

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Docket Number BP-20

ORDER AMENDING PROCEDURAL SCHEDULE

BACKGROUND:

Following its most recently completed proceeding to set power and transmission rates, Bonneville¹ amended its Rules of Procedure (“Bonneville’s Rules” or the “Rules”).² The amended Rules were intended, among other things, to address matters that required instructions from the Hearing Officer in previous proceedings.³

In reviewing the schedule for this proceeding (as amended by Hearing Officer Order [BP-20-HOO-09](#)) in conjunction with Bonneville’s Rules, I noticed that (a) the initial deadline for notices of intent to cross-examine (April 18, 2019) would have made it difficult for Litigants to file timely cross-examination exhibits as required by Section 1010.14(k)(1) of Bonneville’s Rules, and (b) several matters remained for which Litigants would need further information. After consulting informally with Bonneville staff, I decided to modify the deadline for notices of intent to cross-examine, include several additional entries in the procedural schedule, and support the amended schedule with further guidance to Litigants.

MODIFIED DATE:

To allow sufficient time for Litigants to file their cross-examination exhibits ahead of the dates on which cross-examination will occur, this order shifts the deadline for notices of intent to cross-examine as follows:

Parties Give Notice of Intent to Cross-Examine
(Cross-Examination Statements):

April 16, 2019

¹ Capitalized terms not otherwise defined in this order have the meanings given to them in Bonneville’s Rules of Procedure.

² See, generally, *Bonneville Power Administration, Final Rules of Procedure*, 83 Fed. Reg. 39,993 (Aug. 13, 2018).

³ *Id.*

Section 1010.14(b) requires that, at the time specified in the procedural schedule, a Litigant intending to cross-examine a witness must file a “cross-examination statement.” The cross-examination statement must, at a minimum:

- (1) Identify the witnesses the Litigant intends to cross-examine and the Prefiled Testimony and Exhibits sponsored by the witnesses that will be the subject of the cross-examination;
- (2) Briefly describe the subject matter and portions of the Prefiled Testimony and Exhibits for cross-examination;
- (3) Specify the amount of time requested for cross-examination of each witness; and
- (4) Provide any other information required in an order issued by the Hearing Officer.

I ask that any Litigant filing a cross-examination statement also include information concerning availability of the Litigant’s witnesses for cross-examination, as well as availability of Litigant’s counsel to conduct and defend cross-examination. In other words, if either April 22 or April 23, 2019 (the dates specified in the procedural schedule for cross-examination) would be a preferred date or an unworkable date, the cross-examination statement should include this information, as well as any time of day limitations.

ADDED DATES:

To help Litigants plan for remaining stages of this proceeding (and to reduce the number of additional scheduling orders needed), I have added the following new entries to the procedural schedule:

Hearing Officer Issues Cross-Examination Scheduling Order:	April 17, 2019 ⁴
Litigants File Cross-Examination Exhibits:	April 18-19, 2019 ⁵
Deadline for Litigants to Enter Prefiled Testimony and Exhibits and Data Responses into Evidence by Declaration:	April 26, 2019 ⁶

⁴ See Section 1010.14(d) of Bonneville’s Rules.

⁵ See Section 1010.14(k)(1) of Bonneville’s Rules. Cross-examination exhibits for cross-examination to be conducted on April 22, 2019 should be filed by April 18, 2019. Cross-examination exhibits for cross-examination to be conducted on April 23, 2019 should be filed by April 19, 2019.

⁶ See Sections 1010.13(c) and 1010.12(g) of Bonneville’s Rules.

Hearing Officer Issues Order Admitting Prefiled
Testimony and Exhibits and Data Responses
into Evidence:

April 30, 2019

Deadline for Litigants to Give Notice of Intent
to Present Oral Argument:

May 1, 2019⁷

Hearing Officer Issues Oral Argument
Scheduling Order:

May 2, 2019⁸

The first section of Bonneville's Rules governing filing of cross-examination exhibits (Section 1010.14(k)(1)) states:

A Litigant must file each Cross-examination Exhibit to be presented to a witness for any purpose two Business Days before the witness is scheduled to appear. For example, for a witness appearing on a Monday, the due date for documents is the preceding Thursday at 4:30 p.m.

Section 1010.14(k)(2) of Bonneville's Rules provides:

A Litigant must provide physical copies of each Cross-examination Exhibit to the Hearing Officer, the Hearing Clerk, each panel witness, witness's Counsel, and the court reporter at the beginning of cross-examination on the day the witness is scheduled to appear.

With respect to entering Prefiled Testimony and Exhibits into Evidence (other than by motion at the end of cross-examination), Section 1010.13(c) of Bonneville's Rules provides:

If there is no cross-examination of a Litigant's witness(es), a Litigant that intends to introduce the witness(es)'s Prefiled Testimony and Exhibits into Evidence shall, by any deadline established by the Hearing Officer, file a declaration of the witness(es) made in accordance with 28 U.S.C. § 1746 that lists the Prefiled Testimony and Exhibits and certifies that the material is the same material previously filed in the proceeding and is true and correct to the best of their knowledge and belief.

With respect to any Litigants that wish to enter responses to Data Requests into Evidence, Section 1010.12(g) of Bonneville's Rules states:

A Response to a Data Request must be admitted into Evidence to be considered part of the Record. A Litigant that intends to introduce a response to a Data Request into Evidence must either: (1) attach the full

⁷ See Section 1010.18(b) of Bonneville's Rules.

⁸ See Section 1010.18(c) of Bonneville's Rules.

text of each such response as an exhibit in the Litigant's Prefiled Testimony and Exhibits; or (2) submit a motion to admit the response, by the deadline(s) established by the Hearing Officer.

Because the schedule for this proceeding, as amended by this order, does not include a separate deadline for admitting responses to Data Requests by motion, I request that Litigants seeking to enter responses to Data Requests into Evidence do so either by motion during the cross-examination stage or under Section 1010.12(g)(1) of Bonneville's Rules.

Any Litigants wishing to present oral argument should remember that, under Section 1010.18(b) of Bonneville's Rules, notices of intent to present oral argument must identify the speaker(s), include a brief description of the subject matter to be addressed, and state the amount of time requested.

GENERAL REMINDER TO REVIEW APPLICABLE PROCEDURAL RULES:

This proceeding (together with the TC-20 Terms and Conditions Tariff Proceeding) is the first to be conducted under Bonneville's newly issued Rules. The new Rules are less familiar to all Litigants than those previously in effect, and there has been a handful of minor oversights (such as proper marking, signing, and conversion to PDF format) with filings submitted in this and the TC-20 Terms and Conditions Tariff Proceeding. I ask that as deadlines approach for filings and activities in remaining stages of this proceeding, Litigants prepare themselves by refreshing their familiarity with the relevant portions of the new Rules.

ORDER:

The procedural schedule for the BP-20 proceeding is amended consistent with the discussion above. For ease of reference, the complete procedural schedule for this proceeding, as amended by this order, is set forth in Attachment 1 to this order.

SO ORDERED, March 20, 2019.

/s/ Sarah Dennison-Leonard

Sarah Dennison-Leonard
BP-20 Hearing Officer

ATTACHMENT 1
AMENDED SCHEDULE FOR BP-20

A. Prehearing Stage

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|----|---|--------------------------------------|
| 1. | Prehearing Conference: | December 7, 2018 |
| | a) Petition to Intervene Deadline: | December 11, 2018 |
| | b) BP-20 Initial Proposal Released: | January 14, 2019 |
| | c) Clarification: | January 22 & 23, 2019 |
| | d) Motions to Strike: | January 31, 2019 |
| | e) Data Request Deadline: | January 31, 2019 |
| | f) Answers to Motions to Strike: | February 7, 2019 |
| | g) Data Response Deadline: | February 7, 2019 |
| 2. | Supplemental Testimony: | |
| | a) BPA files Supplemental Testimony: | February 6, 2019 |
| | b) Telephonic Clarification regarding Supplemental Testimony: | February 8, 2019 |
| | c) Data Request Deadline regarding Supplemental Testimony: | February 11, 2019 |
| | d) Data Response Deadline regarding Supplemental Testimony: | February 14, 2019 |
| 3. | Parties File Direct Cases (prehearing brief optional): | February 21, 2019 |
| | a) Clarification: | February 28, 2019 -
March 1, 2019 |
| | b) Motions to Strike: | March 8, 2019 |
| | c) Data Request Deadline: | March 8, 2019 |
| | d) Close of Participant Comments: | March 1, 2019 |
| | e) Answers to Motions to Strike: | March 15, 2019 |
| | f) Data Response Deadline: | March 15, 2019 |

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| 4. | Litigants file Rebuttal Cases: | March 28, 2019 |
| a) | Clarification: | April 4, 2019 |
| b) | Motions to Strike: | April 8, 2019 |
| c) | Data Request Deadline: | April 8, 2019 |
| d) | Answers to Motions to Strike: | April 15, 2019 |
| e) | Data Response Deadline: | April 15, 2019 |

B. Hearing Stage

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| 1. | Parties Give Notice of Intent to Cross-Examine
(Cross-Examination Statements): | April 16, 2019 |
| 2. | Hearing Officer Issues Cross-Examination
Scheduling Order: | April 17, 2019 |
| 3. | Litigants File Cross-Examination Exhibits: | April 18-19, 2019 |
| 4. | Cross-Examination: | April 22-23, 2019 |
| 5. | Deadline for Litigants to Enter Prefiled
Testimony and Exhibits and Data Responses
into Evidence by Declaration: | April 26, 2019 |
| 6. | Hearing Officer Issues Order Admitting Prefiled
Testimony and Exhibits and Data Responses
into Evidence: | April 30, 2019 |

C. Briefing and Decision Stage

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| 1. | Deadline for Litigants to Give Notice of Intent
to Present Oral Argument: | May 1, 2019 |
| 2. | Hearing Officer Issues Oral Argument
Scheduling Order: | May 2, 2019 |
| 3. | Initial Briefs filed: | May 6, 2019 |
| 4. | Oral Argument: | May 13, 2019 |
| 5. | Draft Record of Decision Issued: | June 13, 2019 |
| 6. | Briefs on Exceptions: | June 28, 2019 |
| 7. | Final Record of Decision – Final Studies: | July 25, 2019 |

All documents must be uploaded to the 2020 Rate Case Secure Website by 4:30 p.m., Pacific Time, or sent via email, as appropriate, by the dates stated above.