

BPA notes that only one party, Industrial Customers of Northwest Utilities (ICNU), has expressed concerns with the modified rate case schedule. According to BPA, ICNU is concerned that compressing or eliminating certain aspects of the schedule may impair its ability to participate effectively in the proceeding.

On May 15, 2008, the Hearing Officer issued an Order Establishing Deadline for Objections to BPA's Proposed Modified Schedule. On May 16, 2008, ICNU filed a timely objection, including a proposed alternative schedule. ICNU argues that BPA's proposal does not meet the minimum procedural safeguards to allow ICNU to prepare its case and will likely result in an incomplete record. It also argues that BPA's proposed schedule does not provide an adequate opportunity to understand and rebut any changes in the supplemental TRM methodology that BPA may file on July 9, 2008.

ICNU recommends that formal discovery commence immediately, that due dates be established for data requests, that there be no limitation on the number of data requests, and that additional time be allowed between every event in the procedural schedule. ICNU's proposed schedule also allows for data requests and responses on rebuttal testimony, and it proposes dates for cross-examination, legal briefs, and oral arguments that are nearly a month after the dates for those events in BPA's proposed modified schedule.

BPA's proposed schedule is designed to accommodate extended settlement discussions and still allow the rate proceeding to be concluded around the same time as the contracts incorporating the tiered rate methodology are offered. All parties, including ICNU, have indicated that they are willing to accept a compressed rate case schedule in order to achieve that objective. Effectively, that process will require that the parties' final

submission (i.e., oral argument) occur sometime in August to ensure that there is sufficient time to prepare the final Record of Decision (ROD) by September 29, 2008. This aspect of the schedule is consistent with the Federal Register Notice (FRN) which provides for oral argument on August 8, 2008 and issuance of the ROD on September 29, 2008.

ICNU argues that formal discovery must commence immediately in order to properly investigate the TRM proposal and meet minimum due process requirements. This claim does not acknowledge that the current TRM proposal is the product of numerous workshops and clarification sessions which have been held to discuss the proposal. While some formal discovery may still be necessary, the purpose of modifying the schedule to permit extended settlement discussions is to enable the parties to engage in informal discussions regarding the TRM proposal. If formal discovery is authorized at this stage, BPA will likely have to devote substantial resources toward that effort, diverting its focus away from the settlement process. That outcome would not enhance the prospects of settlement. Moreover, it is reasonable to expect that both the settlement process and the subsequent clarification session contemplated by BPA's proposed modified schedule will allow ICNU and other parties to answer many, if not all, outstanding questions regarding the TRM proposal.

Both BPA and ICNU contemplate that a second prehearing conference will be held on July 9, 2008 following the settlement discussions. Because the outcome of those discussions will determine the rate case procedures that should follow, I am persuaded that the dates for those elements of the rate case should be established at that conference, rather than now. I am also persuaded that the schedule that is established at that time

should reflect the parties' recognition that a compressed schedule is necessary to allow the rate proceeding to be concluded around the same time as the contracts incorporating the tiered rate methodology are offered. It will also reflect the necessity of having the parties' final submission (i.e., oral argument) occur sometime in August to allow sufficient time for preparation of the final ROD by September 29, 2008.

BPA's proposed schedule also contemplates that if a settlement does not occur, a clarification session will be held on July 11, 2008, two days after the July 9 prehearing conference. The clarification session should remain in the schedule as proposed. This will facilitate the progress of the rate case in the event the parties cannot reach a settlement.

The following schedule is adopted:

May 13-July 8, 2008	Settlement Discussions (Specific dates to be determined)
July 9, 2008	Second Prehearing Conference (if necessary, BPA files supplemental TRM reflecting the results of settlement discussions)
July 11, 2008	Clarification (if necessary)

The remainder of the procedural schedule will be determined at the second prehearing conference. The parties are advised that if testimony, briefs and oral argument and

discovery are determined to be necessary, they will be scheduled so as to ensure that the final ROD can be issued by the date specified in the FRN.

SO ORDERED, May 18, 2008.

/s/ Samuel J. Petrillo
Samuel J. Petrillo
TRM-12
Hearing Officer