

# Conflict Resolution Committee

## Revised Procedures

Effective June 16, 2011



# Prescriptive Administrative Rules

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- The Oregon Administrative Rules (OAR's) Nos. 860-028-0200 through 860-028-0230 prescribe OJUA's role in dispute resolution (*updated references*)
- Revised committee procedures detail the process parties must follow when seeking opinions from the OJUA Conflict Resolution Committee (CRC)
- Committee (CRC) can hear the following types of disputes:
  1. Dispute over Plans of Correction
  2. Dispute over facts used to impose sanctions
  3. Unreasonable delay in approval of written contract or issuance of a permit
  4. Dispute over loss of Rental Reduction
- The OJUA has no jurisdiction over Contract disputes



# Committee Membership

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- Jeff Kent, PacifiCorp – Chair
- Craig Andrus, Emerald PUD
- Mark Beaudry, Beaver Creek Telephone
- Gary Lee, Charter Communications
- Doug Morton, City of St. Helens
- Stuart Sloan, Consumers Power
- Terry Blanc, Tillamook PUD

*We could use more representation from the Communications Industry*

# Pre-requisite, Eligibility and Fees

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- Before the Conflict Resolution Committee (CRC) will review a Request for Opinion (RFO), it requires documentation that written communication has occurred or been attempted between the parties to resolve the dispute.
  
- Any pole occupant in the State of Oregon may utilize these procedures.
  
- A fee is required from the party filing the complaint
  - OJUA member companies - \$150
  - Non-member companies - \$250
  - Payment to OJUA required up front with each RFO
  - No fee for the party against whom the complaint is filed

# Procedures – proper forms

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- Company filing the RFO must use the OJUA's CRC Application form(s)
- Must provide factual evidence supporting allegations
  - Attachment Records
  - Copies of correspondence
  - Photos
  - Videos
  - Statements of Witnesses
- One hard copy of both the completed form(s) and supporting documentation must be sent via USPS to:  
Oregon Joint Use Association  
Attn: Chairperson Conflict Resolution Committee  
1286 Court Street  
Salem, OR 97301

## Procedures – proper forms (continued)

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- Completed application form(s) and supporting documents must also be filed electronically in PDF format (or similar format that prohibits modification) to [info@ojua.org](mailto:info@ojua.org)
- All incomplete or ineligible submissions will be returned

# Procedures – Confirmation & Acknowledgement

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- Confirmation of receipt of the RFO will be sent to both parties within seven (7) business days
- The other party will also get copies of the OJUA procedures, completed application and supporting documentation
- The other party must acknowledge their willingness to participate in the process in writing within seven (7) business days of receipt of the information from OJUA

# Procedures – Additional Information

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- The other party may supply additional information it would like the CRC to consider within fifteen (15) business days or notify the CRC Chairperson within the same timeframe when such documents will be available
- Copies of the response shall be forwarded to the party filing the RFO
- Both parties are expected to respond in writing to requests for additional information from the CRC Chairperson



## Procedures – Additional Information (continued)

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- Both parties are expected to cooperate fully with the OJUA CRC
- Failure by any party to respond may result in termination of the process
- Additional correspondence, arguments, responses, etc., will be allowed at the CRC Chairperson's discretion

# Procedures – Working Subcommittee

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- The CRC will investigate each RFO and make its recommendation(s) to the affected parties within ninety (90) days of receipt of all documentation
  
- A subcommittee composed of a Chairperson and at least four OJUA members will review the complaints
  - The subcommittee should be comprised of diverse industry interests who are not directly or indirectly involved in either side of the conflict
  - The Chairperson of the CRC may appoint alternates if necessary
  - The Chairperson of the CRC shall be an OJUA Board Member
  - Subcommittee members are expected to refrain from discussing disputes outside of the subcommittee process
  - Failure to adhere to expectations may be cause for removal

# Procedures – Optional Settlement Conference

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- Prior to formulation of a written opinion from the CRC, either party to the dispute may request a settlement conference with the subcommittee
- The purpose of the settlement conference will be to seek resolution of the conflict
- Both parties must be willing to participate in such conference
- The participants are limited to the OJUA CRC subcommittee, a maximum of two representatives from each of the parties involved in the conflict and a note taker designated by the Committee Chairperson

# Procedures – Settlement Conference (continued)

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- The Chair shall moderate the proceedings and determine the duration of the conference
- In no event shall either party have legal representation at the settlement conference
- If the conference resolves the conflict then the process is terminated
- In the event the conflict is not resolved the subcommittee will proceed to the next step in the process

# Procedures – Written Opinion & Board Review

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- The subcommittee will document its opinion in writing and submit the written opinion to the OJUA Board of Directors for review prior to notifying the parties to the dispute
- The written opinion from the subcommittee shall include a background discussion of the dispute along with the subcommittee's findings and an analysis of the adherence to the governing rules
- Once the OJUA Board has completed its review, the Chair of the CRC will notify the parties involved of the subcommittee's findings
- The Oregon PUC Liaison to the OJUA will also be notified at this time

# Procedures – Final Written Opinion

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- The subcommittee's findings shall not be deemed confidential after this point in the process and may distributed to other interested parties no sooner than five (5) business days after the parties to the dispute are notified
- Opinions rendered by the OJUA CRC are final, are not binding and are not subject to appeal within the OJUA
- The parties to the dispute are encouraged to provide feedback to the OJUA Board of Directors after the process has concluded