Service Date: October 14, 2025

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFICORP d/b/a PACIFIC POWER AND LIGHT CO., Respondent.	DOCKET UE-250224 ORDER 07 DENYING MOTION TO AMEND ORDER 03; GRANTING LEAVE TO RESPOND; GRANTING LEAVE TO FILE REVISED TESTIMONY

BACKGROUND

1 On April 1, 2025, PacifiCorp d/b/a Pacific Power and Light Company (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective WN U-76 Tariff for electric service, as listed in Appendix A of Order 01 in this docket. PacifiCorp characterizes its filing as a power cost only rate case (PCORC). The Company filed this PCORC in accordance with Order 09 in Docket UE-230172, which required the Company to submit a PCORC to reset the baseline to remove coal-fired resources from rates. The Company's proposed revised tariff sheets provide an effective date of January 1, 2026. Further, as part of its filing PacifiCorp requests approval of a new allocation methodology to replace the Washington Interjurisdictional Allocation Methodology (WIJAM).

2 On April 1, 2025, PacifiCorp filed testimony and exhibits with the Commission. In its filing, PacifiCorp agrees to suspend the proposed tariff filing in compliance with Washington Administrative Code (WAC) 480-100-194.

3 On May 21, 2025, the Commission issued Order 02 Prehearing Conference Order and Notice of Hybrid Evidentiary Hearing (Order 02) and Order 03 Protective Order with Provisions Governing Highly Confidential Information (Order 03). Order 02, among other things, established a procedural schedule including a discovery deadline of September 22, 2025. Order 03 governs the discovery and use of information designated as confidential or highly confidential in this proceeding.

4 On June 23, 2025, Public Counsel filed with the Commission a Motion to Compel PacifiCorp Answers to Discovery (Motion to Compel). On July 2, 2025, the Commission held a hearing on Public Counsel's Motion to Compel. On July 17, 2025, the Commission issued Order 05, granting the Motion to Compel.

5 PacifiCorp complied with Order 05 by relinquishing the records at issue. Notwithstanding the resolution of the controversy, PacifiCorp filed a Petition for Interlocutory Review of Order 05. The resolution of that pending Petition, Filing No. 44,[1] will be addressed by separate order.

6 Filing No. 45 On July 29, 2025, PacifiCorp filed a Motion to Amend Order 03 (Motion to Amend). The Motion to Amend included suggestions made by the Washington Department of Ecology and Commission staff (Staff). PacifiCorp explained its belief that previously withheld information was market-sensitive information protected under WAC 173-446-317.[2] PacifiCorp proffers that the materials it seeks to protect "qualify for confidential treatment under WAC 173-446-317. Public disclosure could impair PacifiCorp's competitive position and increase business risks, expose [sic] PacifiCorp to liability, and ultimately lead to higher costs for customers."[3] PacifiCorp's filing included a suggested amendment to Order 03.[4] Order 03 currently contemplates "confidential" and "highly confidential" information.[5] The amendment would add a third category, "highly confidential information concerning cap-and-invest program." The Motion to Amend does not include a citation to another statute, instead citing to the administrative rules adopted by Ecology.[6]

7 Filing No.47 Public Counsel responded to PacifiCorp's Motion To Amend (Public Counsel's Response), arguing that the Commission should deny the request, specifically because:

> Public Counsel's original data requests 21 and 22 sought CCA *quantity data*, not *bidding data* protected by WAC 173-446-317. This data is not

[1] Due to the volume of filings in the docket, this Order will use references to filing numbers in the Commission's case management system.

[2] Filing No. 45, PacifiCorp's Motion to Amend at ¶ 4.

[3] PacifiCorp's Motion to Amend at ¶ 12.

[4] PacifiCorp's Motion to Amend at ¶ 6.

[5] Order 03 at ¶¶ 4-5.

[6] *See* WAC 173-446-390 (designating records which contain bidding as confidential and exempt from public disclosure). S*ee also,* RCW 70A.65.100(9) (protecting records provided to Ecology).

> confidential, much less highly confidential. Further, PacifiCorp's motion erroneously states it shared proposed protective order language with Public Counsel and invited Public Counsel to a meeting to discuss its proposed order on July 22, 2025. Neither occurred. The Commission should deny PacifiCorp's motion for failing to adequately meet and confer per WAC 480-07-425(1)(a).[7]

8 Filing No. 48 Alliance of Western Energy Consumers (AWEC) responded to PacifiCorp's Motion to Amend Order 03 (AWEC's Response) and argued that the Commission should deny the request, specifying that "[th]e exclusionary breadth of PacifiCorp's Modified Protective Order ("MPO") is unreasonable, impacts intervening parties' ability to audit potentially any aspect of the Company's compliance with the Climate Commitment Act ("CCA"), impairs the Commission's ability to issue transparent rate decisions available for public review, and violates the Washington Public Records Act [(PRA)]."[8]

9 AWEC noted that initially neither it nor The Energy Project (TEP) were informed of the discussions or invited to participate. AWEC points out that to the extent there was a press for time to provide information before it was due, it was created by PacifiCorp itself.

10 AWEC raises several relevant points of PRA law – noting that the Commission is an agency subject to the PRA law, such that it cannot bargain away its PRA obligations, and all withholdings of public records must be based on an exemption. AWEC notes that PacifiCorp relies on Revised Code of Washington (RCW) 70A.65.100, which is implemented by WAC 17-446-317, and posits that the exemption only applies to records furnished to Ecology.[9] AWEC proffers further that the WAC appears to apply to information which could impact future CCA auctions.[10]

11 AWEC requests that if the Commission were to grant the Motion to Amend, that it also open a forum to create a standard protective order for all other proceedings.

12 Filing No. 49 TEP responded to the Motion to Amend Order 03 (TEP's Response) and took no position but did assert that "[th]e requirement that a person who signs a highly

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[7] Public Counsel's Response at ¶ 1. *See also* WAC 480-07-425(1)(a) ("Parties must make good faith efforts to resolve informally all discovery disputes").

[8] AWEC's Response at ¶ 1.

[9] AWEC's Response at ¶ 14.

[10] AWEC's Response at ¶ 19-20.

confidential agreement may not work for certain persons for over two years is incredibly burdensome."[11] TEP supports exploring this topic in the CCA policy proceeding, Docket U-230161.[12]

13 Filing No. 53 Pursuant to WAC 480-07-370(5)(b), PacifiCorp filed a Motion for Leave to File a Reply (Reply) to the responses of the parties, which PacifiCorp contests raise additional issues. PacifiCorp's Reply cites to WAC 480-07-160 and RCW 80.04.090.[13] PacifiCorp's Reply to the responses of the parties claims that the proposed "protective order modification resulted from necessary coordination between Ecology's statutory confidentiality authority and the Commission's procedural requirements, ensuring compliance with both agencies' legal frameworks."[14]

14 "Despite PacifiCorp's procedural oversight in omitting Public Counsel during review of the original motion, the Commission should approve the motion because: (1) Ecology—the enforcing agency—recommends this language, as evidenced in the supporting declaration; (2) this is not a discovery dispute subject to WAC 480-07-425(1)(a) meet-and-confer requirements; [15] and (3) the Amended Protective Order does not violate the Public Records Act."[16]

15 PacifiCorp attached to that filing a signed declaration of Derek Nixon of the Department of Ecology in support of the modifications requested in Filing No. 45.

16 The declarant states that they have "helped develop interagency practices for disclosure and confidentiality of market-sensitive information," and overseen the implementation of the confidentiality provisions of RCW 70A.65.100.[17] The declaration asserts that "[u]nder RCW 70A.65.100(9), Ecology is specifically authorized to determine what constitutes 'financial, proprietary, and other market sensitive information' exempt from

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[11] TEP's Response at ¶ 2.

[12] TEP's Response at ¶ 4.

[13] PacifiCorp's Reply at ¶ 1.

[14] PacifiCorp's Reply at ¶ 2. *But see* WAC 480-07-160(4) (describing process for marking and protecting records subject to PRA exemption beyond those provide by RCW 80.04.095 and 81.77.210).

[15]PacifiCorp's Reply ¶ 17.

[16] PacifiCorp's Reply at ¶ 9.

[17] Declaration of Derek Nixon in Support of PacifiCorp's Motion to Modify the Standard Protective Order, at ¶ 3 (Aug. 8, 2025).

public disclosure."[18] Ecology asserts that the rulemaking authority created by RCW 70A.65.100(8) gives it authority to scope the exemption.

17 Ecology goes on to explain that it has adopted such a rule in WAC 173-446-020, which defines such market sensitive information as that which "ecology determines that the public interest in disclosure is outweighed by the public interest served by maintaining the confidentiality. . . ." Such public interest is limited to the "basis that its disclosure would be reasonably expected to have an effect on the price or value of allowances or offset credits and/or enable a registered entity to engage in market manipulation such as bidder collusion, market corning, or extortion of other market participants."[19]

18 Ecology proffers that "compliance instruments holding reports are made available by Ecology quarterly," such that "having knowledge of entity-specific consignment behavior can allow interested parties to infer that entity's market position and place them at risk of extortions."[20] Ecology specifies that:

> Market participants use historical auction data to develop sophisticated bidding models that predict competitor behavior. PacifiCorp's historical purchase quantities, combined with publicly available emissions data, would allow competitors to: (1) Calculate PacifiCorp's compliance deficit patterns and predict future allowance needs; (2) Identify seasonal or operational purchasing strategies that inform timing of competitive bids; (3) Develop algorithmic bidding models that anticipate PacifiCorp's reservation prices and bidding intensity; and (4) Coordinate implicit bidding strategies with other large emitters based on predictable demand patterns.[21]

19 Ecology "recommend[s] convening a special proceeding to develop a model protective order for market sensitive CCA information in future rate proceedings . . . ."[22]

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[18] Declaration of Derek Nixon at ¶ 18. The declaration does not distinguish between the language of RCW 70A.65.100(9)(a), which specifically refers to Ecology's rulemaking authority, and the other subsections of the exemption, which do not.

[19] WAC 173-446-020.

[20] Declaration of Derek Nixon at ¶ 18.

[21] Declaration of Derek Nixon at ¶ 31.

[22] Declaration of Derek Nixon at ¶ 41.

20 Ecology's declaration does not address the scoping of RCW 70A.65.100(9), specifically the language "submitted to the department."[23]

21 PacifiCorp proffers that "[t]o the extent that the information requested by Public Counsel does not meet the definition of information prohibited from disclosure under WAC 173-446-317, the Amended Protective Order is nonetheless warranted under the standard provided by WAC 480-07-420(2)(a)."[24]

22 PacifiCorp argues that this is not a discovery dispute but a "legal compliance facilitation."[25]

23 PacifiCorp offers that "no Commission rule requires meet-and-confer before filing motions generally."[26] "While such consultation represents good practice that PacifiCorp endeavored to follow, here, failing to do so does not violate established procedures."[27]

24 We note, at the Pre-hearing Conference, Judge Thompson orally requested:

> If the parties have discovery disputes, we would ask that you attempt to work those out in good faith.· But if you cannot, then please bring any motions to the commission for resolution.· In those motions, I would ask that you provide that you did make a good faith attempt to resolve any discovery dispute in the motion. With that in mind, I'd encourage any party to pick up the phone or schedule a Zoom call with opposing counsel before filing a motion to compel or a motion to strike testimony for a discovery violation.[28]

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[23] RCW 70A.65.100(9)(c).

[24] PacifiCorp's Reply at ¶ 14.

[25] *Infra* fn. 55.

[26] PacifiCorp's Reply at ¶ 17. *But See* WAC 480-07-375(c) ("(c*) Discovery motions*. Discovery motions are requests to resolve disputes concerning the exchange of information among parties during the discovery phase of a proceeding.). *See also* WAC 4780-07-425(2) ("**Sanctions for failure to comply.** Any party may by motion, or the commission may on its own motion, propose that sanctions be imposed if a party fails or refuses to comply with the commission's discovery rules") (emphasis in original).

[27] PacifiCorp's Reply at ¶ 18.

[28] Thompson, Tr. 25:12-21 (May 16, 2025).

25 Filing No. 62 On September 5, 2025, Staff filed a Motion for Leave to file Revised Testimony, for Witness John Wilson JDW-1T (Motion to Revise). In support, Staff attached a workpaper, which is an altered version of Exhibit JDW-30, which had been provided to the parties in response to DR 1. No objection to Filing No. 62 has been filed.

DISCUSSION

26 Today we address outstanding motions - including motions for leave to file, Filing Nos. 53, 62; amend the protective order, Filing No. 45; and revise testimony, Filing No. 62. Due to the volume of filings in this matter, this Order will use references to docket entry numbers for reviewability of the record.

Motions for Leave - Filing Nos. 53, 62

27 *Leave to reply.* WAC 480-07-370(5)(b) provides:

> A party that wishes to reply to an answer or response must file a motion requesting permission to reply within five business days after the respondent serves the answer or response. The motion must explain why a reply is necessary including, but not necessarily limited to, whether the answer or response raises new facts or legal argument requiring a reply. A party should file a proposed reply as an attachment to its motion. The motion is deemed denied unless the commission grants the motion within five business days after the movant files it.[29]

28 Considering this standard, the Commission finds that PacifiCorp has established good cause to file a reply to the responses to its Filing No. 45 motion. PacifiCorp's explanation of intent provides some clarity as to the original filing -- which enables the conservation of administrative resources in this Power Cost Only Rate Case. PacifiCorp's motion for leave is granted, and Filing No. 53 is considered in this Order.

29 *Leave to revise*. WAC 480-07-460(1)(a)(i) permits parties to seek leave from the presiding officer by written motion if they wish to revise prefiled testimony or exhibits with substantive changes, and WAC 480-07-460(1)(b) requires parties to file motions to make substantive changes as soon as practicable after discovering the need to make the change. Staff explained that:

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[29] *See also* WAC 480-07-370(5)(a) (requiring good cause for the Commission to grant permission to reply).

> This is a minor, though technically substantive, change, revising Witness Wilson's conclusion on the average over-recovery of the Chehalis plant from $5.8 million to $4.9 million. No changes are being made to Witness Wilson's conclusions or recommendations flowing from that calculation. Staff has also submitted a workpaper in support of these calculations. This workpaper is an altered version of Exhibit JDW-30 but does not replace or revise that exhibit. Parties have already received this workpaper through Staff's response to DR 1. Staff now seeks to correct its filing so the record before the Commission is complete and accurate.[30]

30 No party has objected to Staff's Motion to Revise.

31 Considering this standard, the Commission finds that Staff has established good cause to revise the testimony of its witness.

Motion to Amend Order 03 - Filing No. 45

32 PacifiCorp's Filing No. 45 requests the Commission Amend Order 03, which uses the Commission's standard protective order language, in order to accommodate the confidentiality determination, and concerns, of a sister state agency. Specifically, that the current Protective Order is insufficient to protect information which Ecology believes would be detrimental to state policy objectives if made public, because of the perceived risk of extortion.[31]

Treatment of CCA records

33 Because we decide this motion on a procedural basis, we need not reach the ultimate issue regarding the proposed restrictions on use of discovery material. However, for the benefit of the parties, we note several observations of the legal landscape.

34 First, confidential records given to the Commission are covered by RCW 42.56.330(1), which specifies that the term "confidential" refers to two statutes.[32] The Commission's

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[30] Filing No. 62, Staff's Motion to Revise at ¶ 3.

[31] Declaration of Derek Nixon at ¶ 18.

[32] RCW 80.04.095 (stating that "if disclosure would result in private loss, including an unfair competitive disadvantage" then the remedy is a court order); RCW 81.77.210 (providing protection of records specific to solid waste industry where disclosure of records would be "likely to result in private loss, including an unfair competitive disadvantage, and is not necessary for further public review and comment on the appropriate allocation of costs and revenues.").

procedural rules use the same definition.[33] The term "highly confidential" is not a distinction of statute but instead is how the adopting regulations refer to "confidential" records which are subject to further restriction pursuant to a Commission-issued protective order.[34]

35 Second, there is no general commercial information or trade secret exemption in the Washington PRA.[35]

36 Third, information which is otherwise exempt from disclosure which is provided to the Commission is considered "exempt" and must be marked as such when provided.[36] The provider of the information is responsible for clearly marking such records.[37] If there are multiple exemptions, then the provider must distinguish.[38] PacifiCorp's Motion to Amend requests permission to mark records as covered by an exemption, but that is already what the regulations require.

37 Fourth, regulations are not statutes.[39] The Office of the Code Reviser maintains a list of public disclosure exemptions that have been recognized by the state's Sunshine Committee – the list for 2025 contains thirty-five pages of exemptions, all of which refer to an RCW or uncodified statutes.[40] The various WACs cited to by Ecology (Chapter 173-446 WAC) are scoped by their statute.[41] We note that RCW 70A.65.100(9)(a) specifically refers to Ecology's rulemaking authority, and the other four subsections of the exemption do not.

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[33] WAC 480-07-160(2)(b).

[34] WAC 480-07-160(2)(d).

[35] *E.g. Lyft, Inc. v. City of Seattle*, 190 Wn.2d 769, 780 (2018) ("It is undisputed that no provision of the PRA exempts trade secrets from disclosure, so any exemption would need to be pursuant to an 'other statute.'").

[36] WAC 480-07-160(2)(c); WAC 480-07-160(4)(a).

[37] WAC 480-07-160(4)(c).

[38] WAC 480-07-160(7).

[39] *C.f. Dep't of Homeland Sec. v. MacLean*, 574 U.S. 383, 393 (2016) ("If 'law' included agency rules and regulations, then an agency could insulate itself from the scope of Section 2302(b)(8)(A) merely by promulgating a regulation that 'specifically prohibited' whistleblowing. But Congress passed the whistleblower statute precisely because it did **not** trust agencies to regulate whistleblowers within their ranks.").

[40] *Sunshine Committee*, Washington State https://www.atg.wa.gov/sunshine-committee. *See* RCW 42.56.140.

[41] *Brouillet v. Cowles Pub. Co*., 114 Wn.2d 788, 800 (1990) ("The language of the statute does not authorize us to imply exemptions but only allows specific exemptions to stand.").

38 Fifth, the Commission cannot create a PRA exemption on a reasonableness basis, or because it would be good policy.[42] Both RCW 70A.65.100(9) and RCW 42.56.070 are scoped by their plain language. [43] To grant PacifiCorp's motion, the Commission would either have to expand the definition of confidentiality as it is used in RCW 42.56.070 or would have to expand the scope of records covered by RCW 70A.65.100(9). To borrow language from these two statutes might cause confusion.[44]

39 Sixth, we note the parties have not briefed on the applicability of RCW 42.56.290 (formerly RCW 42.17.310(1)(j)):

> Although RCW 42.17.310(1)(j) is awkwardly worded, it is not, however, ambiguous. A plain language interpretation of it is that records relevant to a controversy to which an agency is a party are exempt from public inspection and copying under the public records act if those records would not be available to another party under superior court rules of pretrial discovery.[45]

40 Under the Administrative Procedure Act, presiding officers may resolve procedures authorized by rule 26 of the superior court civil rules.[46] It is not clear if this could be constructed as an "other statute" exemption[47] or would qualify as a "controversy."[48] That is to say the presiding officer's explicit authority to manage proceedings,[49] issue oaths,

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[42] *But see* PacifiCorp's Reply at ¶ 20 ("A number of policy considerations support the process by which PacifiCorp and Ecology developed the Amended Protective Order.").

[43] *See* RCW 70A.65.100(9); RCW 43.56.070.

[44] *See* Public Counsel's Response at ¶ 6.

[45] *O'Connor v. Dep't of Soc. & Health Servs*., 143 Wn.2d 895, 906 (2001) (recognizing adopted court rules as "other statute").

[46] RCW 34.05.443(3) ("Except as otherwise provided by agency rules, the presiding officer may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 36 of the superior court civil rules."); S. CR. 26(c). *See* WAC 480-07-010 ("These rules are authorized by and supplement the Administrative Procedure Act, chapter 34.05, and the statutes that define the commission's authority and responsibilities. . . The commission's procedural rules should be interpreted in conjunction with these statutes"), *See also* WAC 480-07-420 (supplemental procedure for UTC protective orders).

[47] RCW 42.56.070(1) ("unless the record falls within the specific exemptions of subsection (8) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records.").

[48] RCW 42.56.290.

[49] RCW 80.01.060(1) ("The administrative law judges may administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents,

and compel documents, may implicitly include the power to issue effective protective orders, because "[p]rotection orders under the Civil Rules are 'meant to protect the health and integrity of the discovery process, as much as to protect the parties who participate in it.'"[50]

41 Overall, we decline to deviate from the usual process for identifying exempt information as laid out by the Commission rules. We note the affidavit from Ecology[51] is of some value – but we note the impact of granting PacifiCorp's request could impact multiple proceedings and multiple companies.

Procedure – Adjudication or Rulemaking

42 As mentioned herein, we could interpret the Company's motion pursuant to WAC 480-07-420(2)[52] (motion to amend its standard form of protective order), analogous to a S. CR 26(c)(7)[53] motion – given that it appears to explicitly ask the Commission to limit how discovery exchanged in this proceeding is treated after production.[54]

43 This interpretation carries challenges, as PacifiCorp has also represented in its Reply that it does not consider its Motion to be a discovery dispute.[55] If it were a discovery dispute, then the Company would have arguably failed to follow the procedures for requesting the relief it seeks. Indeed, it isn't clear what, if any, records have not been delivered, given the Company's forward looking statement, "PacifiCorp's response to Public Counsel's

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and testimony, examine witnesses, . . . and receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules as the commission may adopt.").

[50] *O'Connor v. Dep't of Soc. & Health Servs*., 143 Wn.2d 895, 905 (2001).

[51] *Infra* ¶¶ 16-19.

[52] PacifiCorp's Motion at ¶ 10 (citing WAC 480-07-420(2)). *See also* Section titled "Discovery-Protective Orders," WAC 480-07-420(2)("The commission may, upon motion by a party, or on its own initiative, amend its standard form of protective order.").

[53] S. CR. 26(c) ("Protective Orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the county where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way[.]").

[54] PacifiCorp's Motion at ¶ 10 (asking for "Commission to amend its standard protective order to accommodate the specific needs of the parties and the proceeding.").

[55] PacifiCorp's Reply at ¶ 17.

Data Requests #21 and #22 may disclose commercially sensitive data governed by WAC 173-446-317. The central issue is not *whether* PacifiCorp will respond—*it will*."[56]

44 However in lieu of engaging in such an analysis at this time, we take the Company's representation in its Reply at face value that it did not intend for the Motion to Amend Standard Protective Order in Filing No. 45 to include a discovery dispute, as PacifiCorp claims to not challenge any request and has not identified to the Commission any specific records it wishes to place special condition on.[57] Given the aim to resolve policy questions that apply to everyone, rather than the specifics of the records in this adjudication, it would appear a rulemaking would be the more appropriate procedural vehicle to review the thoughts of our sister agency on confidentiality.

DECISION

45 The Commission has liberal pleading interpretation standards adopted by WAC 480-07-395(4). As such we decline to treat PacifiCorp's Motion to Amend as a discovery motion, as PacifiCorp claims the filing is not about the production of specific information.[58] Instead, it "becomes apparent during the course of [this] adjudicative . . . proceeding . . . that another form of proceeding under this chapter is necessary, is in the public interest, or is more appropriate to resolve issues affecting the participants . . . ."[59] PacifiCorp would appear to believe that the current regulations are insufficient such that there is need "to establish appropriate legal protections"[60] for the transfer of information it believes to be exempt.

46 Pursuant to RCW 34.05.070 we "advise the parties of necessary steps . . . ." We dismiss this Motion and invite the Company to work with Ecology, other investor owned utilities,

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[56] PacifiCorp's Reply at ¶ 11.

[57] PacifiCorp's Reply at ¶ 17 ("[T]his motion pertains to legal compliance facilitation, not a discovery dispute. PacifiCorp never disputed the validity, scope, or appropriateness of Public Counsel's underlying data request. The Company agreed to provide the requested information and sought only to establish appropriate legal protections to enable full compliance.") We note that all discovery disputes would appear to "pertain to legal compliance facilitation," such that this distinction is not well taken. This is not a distinction known to the presiding officer, and PacifiCorp offers no citation to explain.

[58] *Supra* fn.43. *See also* WAC 480-07-420(5)("The commission or a party to a proceeding may challenge a designation of information as confidential, highly confidential, **exempt**, or otherwise protected from disclosure pursuant to a protective order.") (emphasis added); WAC 480-07-160(9) (setting deadline for redesignation of information).

[59] RCW 34.05.070; WAC 480-07-940.

[60] PacifiCorp's Reply at ¶ 17.

Staff, Public Counsel, and other interested parties, to file a Petition of Proposed Rulemaking pursuant to WAC 480-07-240 in a separate docket, with specific suggestions for WACs 480-07-420 and 480-07-160 – the Commission rules which govern the transfer of information subject to legal protections.

47 Here, it does seem appropriate to clarify that records which are "exempt" but not "confidential" -- as that term of art is used by our disclosure laws -- may still be afforded protection pursuant to the protective order in this case.

ORDER

THE COMMISSION ORDERS

48 (1) PacifiCorp's Motion to Amend is Denied;

49 (2) All parties to this proceeding will treat all information appropriately marked as "exempt" pursuant to WAC 480-07-160(4)(c), as subject to the same process and restrictions described in Order 03, for "highly confidential information."

50 (3) PacifiCorp's Motion for Leave to File a Reply is granted; and

51 (4) Staff's Motion to Revise is granted.

DATED at Lacey, Washington, and effective October 14, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Bijan Hughes*
BIJAN HUGHES
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.