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January 6, 2014

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: UE-131384 PacifiCorp's Motion for Standard Protective Order

Dear Mr. King,

PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp) submits for filing a standard protective order in conjunction with PacifiCorp's petition for an order approving deferral of costs related to an outage at the Colstrip generating plant, which was filed July 26, 2013.

Please direct any informal inquiries to Gary Tawwater, Manager of Regulatory Affairs, at (503) 813-6805.

Sincerely,

A handwritten signature in cursive script that reads "William R. Griffith / GWT".

William R. Griffith
Vice President, Regulation

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this document upon all parties of record in this proceeding by electronic mail.

Washington Utilities & Transportation Commission

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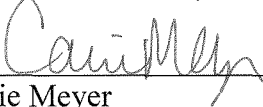
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Pacificorp

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DATED at Portland, OR this 6th day of January 2014.



Carrie Meyer
Supervisor, Regulatory Operations

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PACIFICORP d/b/a PACIFIC POWER &
LIGHT COMPANY

Petition for an Order Approving Deferral of
Costs Related to Colstrip Outage

Docket No. UE-131384

PACIFICORP'S MOTION FOR
STANDARD PROTECTIVE ORDER
(Expedited Treatment Requested)

1 PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp) moves for the entry of the Washington Utilities and Transportation Commission's (Commission) standard protective order in conjunction with PacifiCorp's petition for an order approving deferral of costs related to an outage at the Colstrip generating plant, which was filed July 26, 2013. PacifiCorp's representatives for this proceeding are:

Washington Dockets
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Email: washingtondockets@pacificorp.com

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Senior Counsel
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, OR 97232
Telephone: (503) 813-5865
Email: sarah.wallace@pacificorp.com

I. RELIEF REQUESTED

2 PacifiCorp respectfully requests that the Commission issue its standard form of protective order in this proceeding. PacifiCorp is submitting as Exhibit A to this motion a proposed form of protective order.

II. STATEMENT OF FACTS

3 On July 26, 2013, PacifiCorp filed its petition for deferral of costs related to an outage at the Colstrip generating plant. Since filing this petition, PacifiCorp has

responded to twelve data requests from Commission Staff. One of the attachments to PacifiCorp's data request responses included information marked confidential under WAC 480-07-160. Public Counsel recently intervened in this proceeding and requested copies of all responses to data requests, including confidential responses, through a data request sent to PacifiCorp on December 13, 2013.

4 The information that PacifiCorp has marked "confidential" includes commercially sensitive information regarding PacifiCorp's Colstrip outage rates. Additionally, parties to this proceeding may request other types of information that are commercially valuable to PacifiCorp and that should be protected from public disclosure or disclosure to persons who might make use of such information to PacifiCorp's detriment outside the scope of this proceeding.

5 Release of such information to the public, intervenors, or to potential counterparties of future transactions would harm PacifiCorp and its customers because it would compromise PacifiCorp's ability to compete fairly and impose a business risk to PacifiCorp, *e.g.*, compromise PacifiCorp's subsequent negotiating and litigation positions.

6 PacifiCorp respects the Commission's concern that the confidential designation should not be applied lightly. PacifiCorp has been careful in its filing to minimize the amount of information designated confidential. PacifiCorp believes that the public can generally understand and other parties can productively participate in the proceeding without access to the confidential information.

III. STATEMENT OF ISSUES

7 This Motion for Protective Order presents the following issue: should the
Commission enter its standard protective order to protect commercially sensitive
information provided by or submitted to PacifiCorp from disclosure or dissemination to
the public or potential counterparties to transactions with PacifiCorp.

IV. EVIDENCE RELIED UPON

8 PacifiCorp relies on the pre-filed direct testimony and exhibits in this proceeding.
This evidence explicitly shows the content and context of information that PacifiCorp
seeks to protect with this motion.

V. AUTHORITY AND ARGUMENT

9 Authority for PacifiCorp's requested relief is found in WAC 480-07-423, which
provides for entry of a protective order to protect information that may compromise a
company's ability to compete fairly or that otherwise might impose a business risk if
disseminated without the protections provided in the Commission's protective order.
WAC 480-07-423(3)(a).

10 There is ample Commission precedent for the entry of a protective order,
including the protective order the Commission entered in PacifiCorp's last general rate
case, *WUTC v. PacifiCorp*, Docket No. UE-130043, Order 02 (January 25, 2013).

11 The material PacifiCorp seeks to protect is precisely the type of information that
is intended to be eligible for "confidential" protections in WAC 480-07-423(3)(a). The
likely result of release of any of the "confidential" information to potential counterparties
of PacifiCorp would be increased costs for PacifiCorp and, ultimately, its customers.

VI. CONCLUSION

12 For the reasons set forth above, PacifiCorp respectfully requests that the Commission enter its standard form of protective order in this case, provided as Exhibit A to this motion.

Respectfully submitted this 6th day of January, 2014.



Sarah K. Wallace, WSBA #30863

Senior Counsel

PacifiCorp d/b/a Pacific Power & Light Company

Attorney for PacifiCorp

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of</p> <p>PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY</p> <p>Petition for an Order Approving Deferral of Costs Related to Colstrip Outage</p>	<p>DOCKET UE-131384</p> <p>ORDER 01 (PROPOSED)</p> <p>PROTECTIVE ORDER</p>
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- 1 The Commission finds that a protective order to govern disclosure of proprietary and confidential information is necessary in this proceeding. The Commission finds as follows:
- a. It is likely that proprietary and confidential information will be required to resolve the issues in this proceeding;
 - b. Absent a protective order, a significant risk exists that confidential information might become available to persons who have no legitimate need for such information and that injury to the information provider could result.
- 2 Accordingly, the Commission enters the following protective order under RCW 34.05.446 to govern the discovery and use of proprietary and confidential documents in this proceeding:

ORDER

A. General Provisions

- 3 **Confidential Information.** All access, review, use, and disclosure of any material designated by a party to this proceeding as confidential (referred to in this Order as “Confidential Information”) is governed by this Order and by WAC 480-07-160. The Commission expects Confidential Information to include only numbers, customer names, and planning details. The Commission requires the parties to delete such information from the primary exhibits and provide these “confidential deletions” under separate cover in the manner described below. The Commission may reject a filing or any other submission that fails to segregate Confidential Information or categorizes clearly public information as confidential.
- 4 Parties must scrutinize potentially confidential material and limit the amount they designate “Confidential Information” to only information that truly might compromise their ability to compete fairly or that otherwise might impose a business risk if disseminated without the protections provided in this Order. The first page and individual pages of a document determined in good faith to include Confidential Information must be marked by a stamp that reads: “**Confidential per Protective Order in WUTC Docket UE-131384**” except that materials in PacifiCorp’s data request responses submitted to Washington Utilities and Transportation Commission Staff (Commission Staff) in this docket before the effective date

PROTECTIVE ORDER (PROPOSED)

of this Order designated as “**Confidential Per WAC 480-07-160**” are also subject to the protections and restrictions set forth in this Order for “Confidential Information.” Placing a Confidential Information stamp on the first page of an exhibit indicates only that one or more pages contains Confidential Information and will not serve to protect the entire contents of the multi-page document. Each page that contains Confidential Information must be marked separately to indicate where confidential information is redacted. Confidential Information must be provided on colored paper with references to where each number, customer name, or planning detail is redacted in the original document.

5 **Confidential and Redacted Versions.** Because the parties and the Commission are manipulating data and handling a number of open cases, and because confidentiality is more significant than it has been in the past, we must require complete confidential and redacted versions of testimony, exhibits, and briefs.

6 This extends to electronic versions as well, and requires that **all diskettes** and **all electronic mail** specify whether the file is confidential, redacted, or public.

a. If a witness has a confidential portion of her testimony, the sponsoring party must provide a complete redacted version of the testimony and a complete confidential version, with confidential pages on yellow or canary paper.

b. Parties must submit (at least) two diskettes or e-mail attachments, one with the electronic version of the confidential text and one with the electronic version of the redacted text.

i. Parties **MUST** identify the confidential diskettes with prominent red markings and the word “confidential” in addition to the contents and the docket number. The others must be prominently labeled “redacted” or “public”.

ii. Parties **MUST** identify each confidential digital file with a C in the file name and **MUST** have the legend “**CONFIDENTIAL PER PROTECTIVE ORDER IN WUTC DOCKET UE-131384**” (or, for PacifiCorp’s responses to data requests provided to Commission Staff before the effective date of this Order, “**Confidential Per WAC 480-07-160**”) prominently displayed on the first page (*i.e.*, the page that appears on the computer screen when the file is opened).

7 **Purpose of Access and Use; Confidentiality.** No Confidential Information distributed or obtained under this Protective Order may be requested, reviewed, used or disclosed, directly or indirectly, by any party, expert or counsel or any other person having access under this Order, except for purposes of this proceeding. Persons having access to the Confidential Information under this Order must request, review, use or disclose Confidential Information only by or to persons authorized under this Order, and only in accordance with the terms specified in this Order. Without limiting the foregoing, persons having access to Confidential Information shall not use any Confidential Information to design, develop,

provide, or market any product, service, or business strategy that would compete with any product of the party asserting confidentiality.

B. Disclosure of Confidential Information

- 8 **Persons Permitted Access.** No Confidential Information will be made available to anyone other than Commissioners, Commission Staff, the presiding officer(s), and counsel for the parties for this proceeding, including counsel for Commission Staff, and attorneys' administrative staff, such as paralegals. However, counsel may authorize those persons designated as their party's experts in this matter to access any Confidential Information solely for the purposes of this proceeding. Except for the Commission Staff, no such expert may be an officer, director, direct employee, major shareholder, or principal of any party or any competitor of any party (unless this restriction is waived by the party asserting confidentiality). Any dispute concerning persons entitled to access Confidential Information must be brought before the presiding officer(s) for resolution.
- 9 Staff of designated outside counsel and staff of designated outside consultants who are authorized to review Confidential Information may have access to confidential documents or information for purposes of processing the case, including but not limited to, receiving and organizing discovery, and preparing pre-filed testimony, hearing exhibits, and briefs. Outside counsel and consultants are responsible for appropriate supervision of their staff to ensure the protection of all confidential information consistent with the terms of this Order.
- 10 **Nondisclosure Agreement.** Before being allowed access to any Confidential Information designated for this docket, each counsel or expert must agree to comply with and be bound by this Order on the form of Exhibit A (counsel and administrative staff) or B (expert) attached to this Order. Counsel for the party seeking access to the Confidential Information must deliver to counsel for the party producing Confidential Information a copy of each signed agreement, which must show each signatory's full name, permanent address, the party with whom the signatory is associated and, in the case of experts, the employer (including the expert's position and responsibilities). The party seeking access must also send a copy of the agreement to the Commission and, in the case of experts, the party providing Confidential Information must complete its portion and file it with the Commission or waive objection as described in Exhibit B.
- 11 **Access to Confidential Information.** Copies of documents designated confidential under this Order will be provided in the same manner as copies of documents not designated confidential, in compliance with WAC 480-07-400 and WAC 480-07-405. Requests for special provisions for inspection, dissemination, or use of confidential documents must be submitted to the presiding officer if not agreed by the parties. The parties must neither distribute copies of documents that include Confidential Information to, nor discuss the contents of confidential documents with, any person not bound by this Order. Persons receiving copies of documents under this Order warrant by signing the confidentiality agreement that they will exercise all reasonable diligence to maintain the documents consistent with the claim of confidentiality.

C. Use of Confidential Information in this Proceeding

- 12 **Reference to Confidential Information.** If counsel or persons afforded access to confidential information refer to such information orally or in writing during any part of this proceeding, any public reference (*i.e.*, any reference that will not be placed in a sealed portion of the record) shall be solely by title, exhibit reference, or some other description that will not disclose the substantive confidential information contained in the document. Any other written reference shall be segregated and marked “Confidential Information”, and access to it shall be given solely to persons who are authorized access to the information under this Order. The parties must not disclose to any person not bound by the terms of this Order any confidential information that has been referenced in this proceeding.
- 13 Parties intending to refer publicly to confidential information in oral testimony, cross-examination, or argument must provide as much prior notice as feasible to the affected party and the presiding officer. Unless alternative arrangements are in place to protect the confidential information, as provided below, there must be sufficient notice to permit the presiding officer an opportunity to clear the hearing room of persons not bound by this Order or take such other action as is appropriate in the circumstances. Use of protected information must be made only after finding alternative means of presentation to be inadequate.
- 14 **Protected Use by Agreement.** Any party who intends to use any confidential information in the course of this proceeding, including but not limited to testimony to be filed by the party, exhibits, direct and cross-examination of witnesses, rebuttal testimony, or a proffer of evidence, must give reasonable notice of such intent to all parties and to the presiding officer, and attempt in good faith to reach an agreement to use the confidential information in a manner which will protect its trade secret, proprietary, or other confidential nature. The parties must consider such methods as: (1) use of clearly edited versions of confidential documents; (2) characterizations of data rather than disclosure of substantive data; and (3) aggregations of data. The goal is to protect each party’s rights with respect to confidential information while allowing all parties the latitude to present the evidence necessary to their respective cases.
- 15 If the parties cannot reach agreement about the use of confidential information, they must notify the presiding officer, who will determine the arrangements to protect the Confidential Information to ensure that all parties are afforded their full due process rights, including the right to cross-examine witnesses.
- 16 **Right to Challenge Admissibility.** Nothing in this Order may be construed to restrict any party’s right to challenge the admissibility or use of any Confidential Information on any ground other than confidentiality, including but not limited to competence, relevance, or privilege.
- 17 **Right to Challenge Confidentiality.** Any party may challenge another party’s contention that information should be entitled to protection under this Order. The presiding officer will conduct an *in camera* hearing to determine whether the information will be accorded protection under the terms of this Order. The party asserting confidentiality bears the burden

of proving that confidential designation is proper. Pending determination, the challenged information must be treated in all respects as protected under the terms of this Order.

- 18 The presiding officer may challenge a party's assertion of confidentiality by notice to all parties.
- 19 If the presiding officer determines the challenged information is not entitled to protection under this Order, the information continues to be protected under this Order for ten days thereafter to enable the producing party to seek Commission or judicial review of the determination, including a stay of the decision's effect pending further review.
- 20 **Admission of Confidential Information under Seal.** The portions of the record of this proceeding containing Confidential Information will be sealed for all purposes, including administrative and judicial review, unless such Confidential Information is released from the restrictions of this Order, either through the agreement of the parties or in accordance with a lawful order of the Commission or of a court having jurisdiction to do so.
- 21 **Return of Confidential Information.** Within thirty (30) days after the conclusion of this proceeding, including any administrative or judicial review, every person who possesses any confidential information (including personal notes that make substantive reference to confidential information and transcripts of any depositions to which a claim of confidentiality is made), must return all confidential information to the party that produced it, or at the producing party's election, must certify in writing that all copies and substantive references to confidential information in notes have been destroyed. These provisions apply to all copies of exhibits which contain confidential information and for that reason were admitted under seal. The only exceptions are: (1) that counsel may retain exhibits as counsel records, for only so long as they represent the participant in this proceeding; and (2) that the Commission will retain a complete record of the testimony and documentary evidence admitted to the record or refused admission, including confidential information, as part of the Agency's official records.
- 22 **Freedom of Information Laws.** Any federal agency that has access to or receives copies of the confidential information that becomes the subject of a request under the Freedom of Information Act (5 U.S.C. §552 as amended) must observe the safeguards established for submitters of confidential commercial information set forth in Executive Order 12600 (52 FR 23781) and the corresponding provisions contained in the agency's procedures for processing FOIA requests for records potentially has access to or receives copies of the confidential information must treat the confidential information as being within the exemption from disclosure provided in RCW 42.56.330(1).
- 23 **Notice of Compelled Production in Other Jurisdictions.** If a signatory to this protective order is compelled to produce confidential documents in any regulatory or judicial proceeding by the body conducting the proceeding, the signatory must provide notice to the party that provided the confidential information. Such confidential information must not be produced for at least five days following notice, to permit the party that provided such information an opportunity to defend the confidential nature of the material before the

regulatory or judicial body that would compel production. Disclosure after that date, in compliance with an order compelling production, is not a violation of this Order.

24 **Modification.** The Commission may modify this Order on motion of a party or on its own motion upon reasonable prior notice to the parties and an opportunity for hearing.

25 **Violation of this Order.** Violation of this Order by any party to this proceeding or by any other person bound by this Order by unauthorized use or unauthorized divulgence of Confidential Information may subject such party or person to liability for damages and shall subject such party to penalties as generally provided by law, including, but not limited to, the provisions of RCW 80.04.380-.405.

DATED at Olympia, Washington, and effective _____.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

Administrative Law Judge

EXHIBIT A (ATTORNEY AGREEMENT)

**AGREEMENT CONCERNING CONFIDENTIAL INFORMATION
IN DOCKET UE-131384**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

I, _____, as attorney in this proceeding for _____ (party to this proceeding) agree to comply with and be bound by the Protective Order entered by the Washington Utilities and Transportation Commission in Docket UE-131384 and acknowledge that I have reviewed the Protective Order and fully understand its terms and conditions.

Signature

Date

Address

EXHIBIT B (EXPERT AGREEMENT)

AGREEMENT CONCERNING CONFIDENTIAL INFORMATION
IN DOCKET UE-131384

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

I, _____, as expert witness in this proceeding for _____ (a party to this proceeding) hereby agree to comply with and be bound by the Protective Order entered by the Washington Utilities and Transportation Commission in Docket UE-131984 and acknowledge that I have reviewed the Protective Order and fully understand its terms and conditions.

Signature

Date

Employer

Address

Position and Responsibilities

* * *

The following portion is to be completed by the responding party and filed with the Commission within 10 days of receipt; failure to do so will constitute a waiver and the above-named person will be deemed an expert having access to Confidential Information under the terms and conditions of the protective order.

_____ No objection.

_____ Objection. The responding party objects to the above-named expert having access to Confidential Information. The objecting party must file a motion setting forth the basis for objection and asking exclusion of the expert from access to Confidential Information.

Signature

Date