

Docket No. UE-220376 - Vol. II

WUTC v. Pacificorp dba Pacific Power & Light Company

September 6, 2022



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND (DOCKET UE-220376
TRANSPORTATION COMMISSION,)
Complainant,)
vs.)
PACIFICORP, d/b/a PACIFIC)
POWER & LIGHT COMPANY,)
Respondent.)

VIRTUAL PREHEARING CONFERENCE, VOLUME II
Pages 23-43
ADMINISTRATIVE LAW JUDGE ANDREW O'CONNELL

September 6, 2022
1:30 p.m.

Washington Utilities and Transportation Commission
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1 LACEY, WASHINGTON; SEPTEMBER 6, 2022
2 1:30 P.M.
3 --o0o--
4 PROCEEDINGS

5
6 JUDGE O'CONNELL: Let's be on the record.
7 Good afternoon. The time is approximately 1:30 p.m. on
8 September 6, 2022.
9 My name is Andrew O'Connell. I am an
10 administrative law judge with the Washington Utilities
11 and Transportation Commission, and I am presiding in
12 this matter.
13 We're here today for a prehearing conference
14 in Docket UE-220376. This prehearing conference was
15 continued from June 30, 2022, until today.
16 In the interim, the Commission has issued
17 orders resolving several motions, which were necessary
18 before we could move forward with this prehearing
19 conference.
20 I'd like to move forward with appearances
21 now. Please tell me how you would like me to address
22 you during this conference. For me, you can use he/him
23 pronouns and address me as Judge or Judge O'Connell.
24 Okay. Let's start with Commission Staff.
25 MR. CALLAGHAN: Thank you, Your Honor. I am

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1 Nash Callaghan, Assistant Attorney General, on behalf of
 2 Commission Staff. My pronouns are he/him.
 3 JUDGE O'CONNELL: And for PacifiCorp?
 4 MR. ROGALA: Afternoon, Judge. Zack Rogala
 5 on behalf of PacifiCorp. He/him pronouns.
 6 JUDGE O'CONNELL: Thank you.
 7 And for Pacific counsel -- sorry -- Public
 8 Counsel?
 9 MS. PAISNER: Good afternoon, Judge
 10 O'Connell. This is an Ann Paisner for the Public
 11 Counsel Unit of the Washington State Office of the
 12 Attorney General. I'm an assistant attorney general
 13 with the Public Counsel Unit. Thanks.
 14 JUDGE O'CONNELL: Thank you.
 15 And for Sierra -- apologize -- for the
 16 Alliance of Western Energy Consumers?
 17 MS. MOSER: Good afternoon, Your Honor.
 18 Sommer Moser on behalf of AWEC. My pronouns are
 19 she/her.
 20 JUDGE O'CONNELL: Thank you.
 21 And for the Sierra Club?
 22 MS. MONAHAN: Good afternoon, Your Honor.
 23 This is Rose Monahan on behalf of Sierra Club. I use
 24 she/her pronouns. And online also is my colleague, Jim
 25 Dennison, and he uses he/him pronouns.

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1 JUDGE O'CONNELL: Thank you.
 2 For Northwest Energy Coalition?
 3 MS. McCLOY: Good afternoon, Judge
 4 O'Connell. This is Lauren McCloy, policy director for
 5 the Northwest Energy Coalition or NWECC, and I use
 6 she/her pronouns. And we also have on the line, I
 7 believe, my colleague, Charlie Thompson, also with
 8 Northwest Energy Coalition; also uses she/her pronouns.
 9 JUDGE O'CONNELL: Okay. Thank you.
 10 Do you have a counsel who is representing
 11 NWECC in this proceeding or will you be acting on behalf
 12 of NWECC?
 13 MS. McCLOY: We do not have counsel in this
 14 proceeding, and I will be acting on behalf of NWECC.
 15 JUDGE O'CONNELL: Okay. Let's begin with
 16 petitions to intervene. AWEC's petition to intervene
 17 has already been granted. Sierra Club filed a timely
 18 petition to intervene this prior Friday, September 2.
 19 I had not been aware of any other petition
 20 to intervene. However, persons from Northwest Energy
 21 Coalition are here today, and it's my understanding that
 22 you filed a petition to intervene this morning. I do
 23 not have that petition to intervene before me. So I
 24 will need to hear from you regarding your interest in
 25 this proceeding and whether it would be in the public

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1 interest to have you as a party.
 2 Is there -- is there anyone else here at
 3 this conference that intends to intervene other than
 4 Sierra Club and NWECC?
 5 Hearing nothing, let's proceed. Regarding
 6 Sierra Club's petition, are there any objections to
 7 their intervention?
 8 Hearing no objections, the petition to
 9 intervene will be granted and memorialized in the
 10 prehearing conference order.
 11 Let me turn to Northwest Energy Coalition.
 12 Ms. McCloy, if you have video, would you please turn it
 13 on?
 14 And I realize that you've already submitted
 15 a petition to intervene. I don't have it. So I can't
 16 make any judgment because I haven't been able to review
 17 it. But, if you would, please put on the record why you
 18 are intending to intervene, why it's in the public
 19 interest, and how your intervention will not unduly
 20 delay the proceeding.
 21 MS. McCLOY: Yes, Judge O'Connell. I'm
 22 happy to do that. May I have permission to read my --
 23 pieces of my petition into the record?
 24 JUDGE O'CONNELL: Yes.
 25 MS. McCLOY: Thank you. Northwest Energy

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1 Coalition is a nonprofit organization under section
 2 501(c)(3) of the Internal Revenue Code. NWECC's primary
 3 purpose is to promote an energy future that is clean,
 4 reliable, affordable, and equitable. NWECC provides
 5 technical and policy leadership on issues in the region,
 6 and seeks to promote the development of renewable
 7 energy, energy conservation, and affordable energy
 8 services.
 9 THE COURT REPORTER: Ms. McCloy, this is the
 10 court reporter. Can you slow down a little bit, please?
 11 MS. McCLOY: Yes. Apologies.
 12 Due to its historic and ongoing work with
 13 utility companies and others to achieve these goals,
 14 NWECC possesses a substantial interest in the outcome of
 15 this proceeding.
 16 NWECC has a special interest in this
 17 proceeding for the following reasons, including but not
 18 limited to, number one, members of NWECC have a direct
 19 and substantial interest in PacifiCorp's plan to
 20 transition to a clean and equitable energy future.
 21 Two, the outcome of this proceeding will
 22 impact PacifiCorp's compliance with the Clean Energy
 23 Transformation Act, or CETA.
 24 Three, PacifiCorp's application of the
 25 social cost of greenhouse gases has a meaningful impact

1 on its Clean Energy Implementation Plan, or CEIP, and
2 its planned resource acquisitions and specific actions.
3 And, four, the proposed specific actions
4 could impact issues related to PacifiCorp's customer
5 side resources, distribution system investments, energy
6 efficiency, energy assistance, and other affordability
7 issues for low and moderate income customers, which are
8 priorities for NWECC.

9 JUDGE O'CONNELL: Okay. Let me turn to the
10 other parties. I realize that --

11 MS. McCLOY: Judge -- Judge O'Connell, may I
12 have permission to continue?

13 JUDGE O'CONNELL: Oh, I apologize. I thought
14 that you were -- that you had finished. Please.

15 MS. McCLOY: Thank you. I apologize.

16 NWECC seeks to intervene in this proceeding
17 regarding the complaint launched against PacifiCorp
18 alleging that the Company failed to incorporate the
19 social cost of greenhouse gases in the preferred
20 portfolio of its Clean Energy Implementation Plan.

21 NWECC has extensive experience participating
22 in utility resource planning dockets and, in particular,
23 the application of the social costs of greenhouse gases
24 in Washington pursuant to CETA. NWECC commented on this
25 issue during the development of PacifiCorp's IRP and

1 the proceeding. And to avoid duplication of efforts,
2 NWECC contends to work with the Sierra Club, who has also
3 petitioned to intervene in this proceeding. Thank you.

4 JUDGE O'CONNELL: Okay. Ms. McCloy, I am
5 going to find that you timely intervened in this
6 proceeding. Our rules do allow for a party to make an
7 oral motion -- sorry -- an oral petition at the
8 prehearing conference to intervene. And I'm going to
9 consider that you've done that now. So that is -- that
10 will not be an issue.

11 But with that being said, let me move to the
12 other parties and ask, are there any objections to
13 NWECC's petition to intervene?

14 MR. ROGALA: Afternoon, Your Honor. Zack
15 Rogala here.

16 JUDGE O'CONNELL: Yes, please, Mr. Rogala?

17 MR. ROGALA: Thank you. Your Honor, we
18 didn't object to Sierra Club's petition because we
19 welcome that participation. And Sierra Club's petition
20 for intervention explicitly noted that it will not
21 broaden the scope of the complaint. And that is
22 different than NWECC's representation. They noted that
23 they would not unreasonably expand the scope of Staff's
24 complaint. And to the extent NWECC seeks to broaden the
25 scope of Staff's complaint at all, we object.

1 CEIP as well as Puget Sound Energy and Avista's CEIPs.
2 NWECC also commented extensively on this
3 issue during the rulemaking process for RCW 80-28-405.
4 Accordingly, NWECC is able to bring a unique and informed
5 perspective to this docket that may be useful to the
6 Commission and the public interest.

7 And if Judge O'Connell would like, I'm also
8 happy to address the reason for the late filed petition.

9 JUDGE O'CONNELL: Yes, please.

10 MS. McCLOY: Thank you. Pursuant to
11 WAC 48-07-355(1)(b), NWECC has good cause for filing an
12 untimely petition to intervene. NWECC was first made
13 aware of Order 03 denying the motion to consolidate this
14 proceeding with Docket No. 210829 in the notice of
15 deadline for petitions to intervene on Wednesday,
16 August 31. NWECC staff was not able to review those
17 filings until September 1, 2022.

18 On September 2, 2022, Ms. McCloy, myself,
19 experienced a veterinary emergency, which required my
20 immediate attention. And that incident, combined with
21 the Labor Day holiday on Monday, September 5, caused
22 NWECC to file the petition to intervene on this docket
23 after the intervention deadline had passed.

24 NWECC has no intention of unreasonably
25 broadening the issues, burdening the record, or delaying

1 But if they were to align their scope of
2 intervention with the Sierra Club's, that is, confined
3 to the issues raised in Staff's complaint, we do not
4 object. I'm happy to elaborate more on our objection,
5 if you need.

6 JUDGE O'CONNELL: No. I don't think any
7 additional elaboration is necessary at this time.

8 Before I turn back to NWECC, let me hear from
9 any of the other parties, if there is another objection.

10 MR. CALLAGHAN: No objection from Staff,
11 Your Honor.

12 JUDGE O'CONNELL: Okay.

13 MS. PAISNER: No objection from Public
14 Counsel. And if I may take the opportunity to add my
15 pronouns are she/her.

16 JUDGE O'CONNELL: Thank you. Thank you,
17 Ms. Paisner.

18 And hearing no other objections, I want to
19 turn back to NWECC.

20 Ms. McCloy, I heard at the end of what you
21 were telling us that you did not intend to broaden
22 Staff's complaint. Now, I think Mr. Rogala might be
23 referring back to some of the statements you made early
24 on, and I'd like to give you the opportunity to clarify,
25 is it -- what -- what NWECC intends. So please, go

1 ahead.
 2 MS. McCLOY: Thank you, Judge O'Connell.
 3 NWECC does not intend to broaden the issues of this
 4 proceeding, and I would amend my oral petition and my
 5 written petition orally to remove the word
 6 "unreasonably." So NWECC has no intention of broadening
 7 the issues.
 8 JUDGE O'CONNELL: Okay. Well, having heard
 9 from Mr. Rogala, that if that's the case, PacifiCorp has
 10 no objection. I will move forward as if there is no
 11 objection, unless I hear from you again, Mr. Rogala.
 12 MR. ROGALA: Yeah. Your Honor, I hear
 13 Ms. McCloy noting that they're going to -- that they're
 14 orally amending their petition to intervene to strike
 15 that reference to broadening the complaint. So we have
 16 no objection to their intervention.
 17 JUDGE O'CONNELL: Okay. Thank you.
 18 Hearing no objections, then, NWECC's petition
 19 to intervene will be granted.
 20 Let's turn to the procedural schedule. The
 21 parties submitted an agreed procedural schedule for
 22 Commission review. I am interested in whether NWECC has
 23 had an opportunity to see that.
 24 So let me turn to you, Mr. Callaghan. Was
 25 NWECC involved in the discussions about the procedural

1 et cetera, due one week prior to the evidentiary
 2 hearing, and the discovery deadline one week prior to
 3 the exhibit list deadline.
 4 JUDGE O'CONNELL: All right. I have a couple
 5 questions to clarify. So I noted the testimony date for
 6 Staff followed by response and then rebuttal or
 7 cross-answering testimony. On which date are the
 8 intervenors and Public Counsel expected to file
 9 testimony, if at all?
 10 MR. CALLAGHAN: My understanding is that it
 11 would be the response testimony deadline.
 12 JUDGE O'CONNELL: Okay. So to clarify my
 13 understanding, all parties who are not Staff would be
 14 potentially filing testimony on November 28 in response
 15 to Staff's testimony.
 16 And then on December 19, all parties,
 17 including Staff, would file testimony rebutting or in
 18 response to the response testimony filed on November 28;
 19 is that -- is my understanding correct?
 20 MR. CALLAGHAN: That's correct, Your Honor.
 21 JUDGE O'CONNELL: Okay. I do have a question
 22 about the hearing date. But before I get to that, I
 23 want to turn to NWECC.
 24 Ms. McCloy, have you had a chance to look at
 25 the dates? Would you like to have a little bit more

1 schedule at all?
 2 MR. CALLAGHAN: They were not, Your Honor.
 3 At the time, it was not clear to me whether or not NWECC
 4 was going to intervene. I did forward NWECC the schedule
 5 that we had proposed, but they were not -- they had not
 6 agreed to it or had time to discuss it. So I think
 7 that's one of this things that we'll need to clear up
 8 today. Thank you.
 9 JUDGE O'CONNELL: Okay. Well, let me turn to
 10 Ms. McCloy in a second, while we're giving NWECC a little
 11 bit of time to review the schedule.
 12 Mr. Callaghan, will you please read the
 13 proposed schedule into the record, and if we need to
 14 change something later, we will. But please, go ahead.
 15 MR. CALLAGHAN: Thank you, Your Honor. So
 16 the schedule that we proposed includes a first
 17 settlement conference on September 15; a deadline for
 18 Staff filing initial testimony of August 21; a second
 19 settlement conference August 28; a response testimony
 20 due November 28; rebuttal and cross-answering testimony
 21 due December 19; and then the last three deadlines, we
 22 did not include a specific date, but we just included a
 23 evidentiary hearing sometime in mid January. And based
 24 off of that, whatever that particular date would be, the
 25 exhibit list, cross-examination exhibits, witness lists,

1 time and possibly to discuss with the parties off the
 2 record?
 3 MS. McCLOY: Thank you, Judge O'Connell. I
 4 have reviewed the dates. I do not need any more time,
 5 nor do I need to discuss them.
 6 JUDGE O'CONNELL: Okay. And do the dates work
 7 for NWECC?
 8 MS. McCLOY: Yes, they do.
 9 JUDGE O'CONNELL: Okay. Then let me ask my
 10 question about the hearing date. It only says mid
 11 January. So does that mean the parties expected the
 12 Commission could select any date in mid January or are
 13 there specific conflicts or restrictions from any of the
 14 parties during that time frame?
 15 And seeing mid January, to me, that meant
 16 not the first week or not the last week, but sometime
 17 between January 9 and January 26. So let me start with
 18 Staff, and we'll go around the room.
 19 Does Staff have any restrictions or
 20 conflicts during that time period?
 21 MR. CALLAGHAN: We do not, Your Honor. When
 22 I put mid January, my thought was the second and third
 23 week of January.
 24 JUDGE O'CONNELL: Okay. Mr. Callaghan, which
 25 weeks are that? Can you give me the numbers?

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1 MR. CALLAGHAN: Sorry. The -- those would
 2 be the weeks of the 9th and the 16th of January.
 3 JUDGE O'CONNELL: Okay. Okay. Okay. So for
 4 the time period 9th through the 20th.
 5 Does PacifiCorp have any restrictions or
 6 conflicts? Mr. Rogala?
 7 MR. ROGALA: No, Your Honor. I thank you,
 8 Your Honor. Zack Rogala here. We do not have any
 9 conflicts in those two weeks.
 10 JUDGE O'CONNELL: Okay. Thank you.
 11 And for Public Counsel, Ms. Paisner?
 12 MS. PAISNER: We do not have conflicts those
 13 weeks in January. However, I am thinking on -- where
 14 the briefing would fall thereafter. My only conflict
 15 would be the week of February. I know that's sort of,
 16 perhaps, getting ahead of things. So I suppose we don't
 17 have any conflict during those two weeks in January from
 18 the 9th through the 20th, to answer your question.
 19 JUDGE O'CONNELL: Okay. But let me share
 20 what's in my mind. Having looked at the Commission's
 21 calendar, there's an open meeting on Thursday,
 22 January 12, and Staff and Public Counsel are regularly
 23 involved in the open meeting. PacifiCorp might be the
 24 long way off. So that was the one thing on the calendar
 25 I noted that could be a conflict. I don't intend to

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1 schedule the hearing on Thursday, the 12th. I wanted to
 2 point that out.
 3 Okay. Let me turn to AWEC. Do you have any
 4 restrictions or conflicts?
 5 MS. MOSER: Thank you, Your Honor. My only
 6 conflict was on the 12th, which sounds like that won't
 7 be an issue. Other than that, I'm available.
 8 JUDGE O'CONNELL: All right. Thank you.
 9 For the Sierra Club?
 10 MS. MONAHAN: Thank you, Your Honor. This
 11 is Rose Monahan for the Sierra Club. We do not have any
 12 conflicts during those two weeks.
 13 JUDGE O'CONNELL: Okay. And from NWEC?
 14 MS. McCLOY: This is Lauren McCloy for NWEC.
 15 We do not have any conflicts during those two weeks
 16 either.
 17 JUDGE O'CONNELL: Okay. Having looked at the
 18 calendar for the Commission, I am, at this point,
 19 intending to set the evidentiary hearing for the 19th of
 20 January. Okay. And I will include in the prehearing
 21 conference order the direction regarding sharing of all
 22 data requests and responses with each party as the
 23 parties requested when they submitted their agreed
 24 procedural schedule.
 25 Regarding electronic filing and service, all

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1 filings and services are done electronically now,
 2 according to Commission rule. No paper copies will be
 3 necessary when making a filing with the Commission
 4 during this proceeding.
 5 Now, most, if not all, of the parties have
 6 already indicated a lead representative and the names
 7 and email addresses of other representatives or support
 8 staff who should receive electronic courtesy copies.
 9 But if you have not or if you'd like to make changes to
 10 that list, please email that to me before the close of
 11 business tomorrow, Wednesday.
 12 For NWEC, I haven't seen your written
 13 petition to intervene come through. If it has that
 14 information on it, I will see it. If you would email me
 15 any persons who should be added to that list that isn't
 16 in your petition to intervene, please do so by tomorrow,
 17 Wednesday. My email address is Andrew.J.Oconnell,
 18 that's O-C-o-n-n-e-l-l, @utc.wa.gov.
 19 That covers all the topics I had for this
 20 prehearing conference. Is there anything else we need
 21 to address today?
 22 Okay. Hearing nothing, I will issue an
 23 order by the end of the week containing the procedural
 24 schedule and other guidelines for the disposition of
 25 this case. And we are adjourned. Thank you all.

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1 (Adjourned at 1:57 p.m.)
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CERTIFICATE

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.



~~Tayler Garlinghouse~~
Tayler Garlinghouse, CCR 3358

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