

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

vs.

PACIFICORP d/b/a PACIFIC POWER,

Respondent.

**DOCKET UE- 080220**

PACIFICORP'S RESPONSE TO ICNU'S  
MOTION TO GRANT PETITION TO  
INTERVENE ON AN EXPEDITED  
BASIS

**I. INTRODUCTION**

*1* Pursuant to WAC § 480-07-375(4), PacifiCorp d/b/a Pacific Power (“PacifiCorp” or the “Company”) hereby submits its Response to the Motion to Grant the Petition to Intervene (“Motion”) of the Industrial Customers of Northwest Utilities (“ICNU”) on an expedited basis, filed February 22, 2008. Although PacifiCorp does not oppose ICNU’s intervention, ICNU has not adequately explained why expedited consideration of ICNU’s Motion is necessary at this time. Accordingly, PacifiCorp respectfully requests that the Commission address ICNU’s Motion at the March 6, 2008 prehearing conference, along with any other petitions to intervene filed in this proceeding, concurrent with the Commission’s consideration of a procedural schedule and protective order in this proceeding.

**II. BACKGROUND**

*2* On February 6, 2008, PacifiCorp filed with the Washington Utilities and Transportation Commission (“Commission”) revisions to its currently effective Tariff WN U-74, designed to effect a general rate increase for electric service. On February 19,

2008, ICNU filed a petition for leave to intervene in this proceeding. The following day, February 20, 2008, ICNU submitted its first set of data requests to PacifiCorp, which numbered approximately 138. ICNU requested that PacifiCorp respond to all 138 data requests by March 4, 2008. PacifiCorp immediately contacted counsel for ICNU and expressed concern with responding to ICNU's data requests before ICNU's petition for leave to intervene is granted and ICNU is made a party to this proceeding, which PacifiCorp anticipates will occur at the prehearing conference set for March 6, 2008. PacifiCorp reminded ICNU's counsel that neither a procedural schedule nor protective order has been issued in this proceeding and that, under these circumstances, PacifiCorp had reservations about responding before these events occur.

3           However, in the spirit of cooperation, PacifiCorp requested such additional time as PacifiCorp believed to be reasonable and that would allow the Commission an opportunity to address ICNU's petition for leave to intervene, as well as to issue a procedural schedule and protective order. Counsel for PacifiCorp and ICNU discussed and agreed to a March 12, 2008 response deadline. However, counsel for ICNU requested that PacifiCorp notify ICNU as soon as possible in the event that PacifiCorp determined that it would not be able to respond by the deadline.

4           At the time of the above-described discussion with counsel for ICNU, PacifiCorp had just received the data requests and had not had time to perform a thorough review of all 138 data requests. In making this review, PacifiCorp staff quickly realized that, given and the scope, breadth and number of ICNU's requests and significant workloads resulting from other pending rate proceedings, it would be very difficult to make a timely and complete response on all data requests by March 12, 2008. Indeed, including

ICNU's data requests, PacifiCorp is currently processing responses to approximately 545 data requests.

5 PacifiCorp promptly contacted ICNU on February 22, 2008, to explain that PacifiCorp would require the full amount of time to respond to the data requests provided for under the Commission's rules, which PacifiCorp anticipated would be March 20, 2008, assuming ICNU is granted party status on March 6, 2008, at the prehearing conference.<sup>1</sup> ICNU's counsel responded that it would be filing a motion requesting that the Commission grant its petition for leave to intervene on an expedited basis in order to more quickly initiate data requests.

### III. RESPONSE

6 While PacifiCorp is encouraged that ICNU wishes to proceed expeditiously in the processing of this rate case, PacifiCorp does not feel that ICNU has sufficiently demonstrated why discovery should be accelerated on a faster pace than would be established if the Commission addresses ICNU's intervention (as well as any other interventions) at the March 6, 2008 prehearing conference.<sup>2</sup> ICNU's assertion that discovery must be commenced as soon as possible is all the more puzzling considering the fact that Judge Moss has tentatively set evidentiary hearings in this proceeding not until the last week of October and first week of November, 2008. Given the potentially long lead time before hearings, PacifiCorp did not feel that it was unreasonable to request

---

<sup>1</sup> As correctly noted by ICNU in its Motion, the Commission's discovery rules do not allow formal discovery until a party has been granted formal party status and the discovery rules have been invoked. See WAC § 480-07-405. Although the Commission invoked discovery procedures on February 14, 2008, it has yet to grant ICNU full party status. WUTC v. PacifiCorp, Docket UE-080220, Order No. 1 (Feb. 14, 2008). Pursuant to WAC § 480-07-405(7)(b), a full response to data requests submitted by a party is required within ten business days after the request is received.

<sup>2</sup> ICNU's Motion incorrectly states that the prehearing conference is scheduled for March 26, 2008 (Motion at P. 1).

that it be allowed the full period of time to respond to ICNU's data requests as provided under the Commission's rules.

7           PacifiCorp asserts that ICNU will not be prejudiced or otherwise harmed if its petition for leave to intervene is not granted until March 6, 2008, and it is required to wait ten business days from that date (until March 20, 2008) to receive responses to its 138 data requests. Conversely, PacifiCorp asserts that it will be unduly burdened if discovery is accelerated in the manner requested by ICNU.<sup>3</sup> PacifiCorp's regulatory staff is managing significant workloads as a result of its responsibilities in other regulatory proceedings. It will take considerable time and resources for PacifiCorp to respond to all of ICNU's 138 data requests. As previously noted, PacifiCorp is currently processing approximately 545 responses to data requests in this and other proceedings. PacifiCorp does not understand why the schedule for discovery should be advanced before all interventions have been addressed by the Commission, the parties have had an opportunity to agree upon a procedural schedule, and the Commission has had opportunity to issue a protective order.<sup>4</sup>

8           WHEREFORE, although PacifiCorp will of course endeavor to make a timely response no matter which date the Commission grants ICNU's petition for leave to

---

<sup>3</sup> Even if ICNU's petition for leave to intervene is granted today, the net difference between when ICNU would be expected to receive PacifiCorp's responses versus if its petition was granted at the prehearing conference is approximately seven business days. Whereas the additional seven days should not greatly inconvenience ICNU, PacifiCorp would greatly benefit from having this additional amount of time to prepare and review its responses.

<sup>4</sup> Pursuant to WAC § 480-07-400(4), the Commission may establish a schedule for discovery, which will provide deadlines sufficient to allow timely opportunity for responses and for disputes to be resolved. Although the Commission has invoked discovery procedures, no such schedule has been established. Moreover, the Commission may enter a standard form of protective order when parties reasonably anticipate that discovery in a proceeding will call for the production of confidential information. See WAC § 480-07-420(1). Some of ICNU's 138 data requests will likely call for the production of confidential information. WAC § 480-07-405(7)(a) requires that responses to data requests be served consistent with the terms of any protective order entered in the proceeding.

intervene, for the reasons stated herein PacifiCorp nevertheless respectfully requests that the Commission determine that the proper time to address ICNU's Motion is at the March 6, 2008 prehearing conference.

DATED: February 25, 2008.

Respectfully Submitted,

By 

Sarah E. Edmonds  
Legal Counsel  
PacifiCorp  
825 N.E. Multnomah Blvd., Suite 1800  
Portland, OR 97232  
(503) 813-6840 telephone  
(503) 813-7252 facsimile  
sarah.edmonds@pacificorp.com