

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP dba
PACIFIC POWER & LIGHT COMPANY,

Respondent.

Docket UE-230172

PACIFICORP’S MOTION FOR
AMENDED PROTECTIVE ORDER
WITH HIGHLY CONFIDENTIAL
PROVISIONS

I. INTRODUCTION

1 In accordance with WAC 480-07-420(2), PacifiCorp dba Pacific Power & Light Company (PacifiCorp or Company) files this Motion for Amended Protective Order with Highly Confidential Provisions. On March 17, 2023, PacifiCorp filed a motion for standard protective order in docket UE-230172 to govern the discovery and use of proprietary and confidential documents in this proceeding. As described in more detail below, however, in order for PacifiCorp to file a supplemental exhibit to its direct filing, the Company must provide highly confidential information that requires greater protection than the standard protective order provides. PacifiCorp therefore files this motion for an amended protective order with highly confidential protections so that the Company can provide this exhibit. Furthermore, an amended protective order will facilitate any future responses to discovery that require highly confidential information.

2 PacifiCorp respectfully requests that the Washington Utilities and Transportation Commission (Commission) (1) issue an amended protective order in docket UE-230172

that includes “highly confidential” provisions; and (2) permit PacifiCorp to serve highly confidential responses to discovery subject to the protection of the amended protective order.

II. STATEMENT OF FACTS

3 On March 17, 2023, PacifiCorp filed a general rate case that initiated this proceeding. The Company is filing an errata to its direct filing with supplemental exhibits in part to provide documents as exhibits to three testimonies, including the direct testimony of Ryan D. McGraw. In particular, PacifiCorp is providing the Build to Transfer Agreement (BTA) for the Rock Creek I and II Wind Projects referred to in Mr. McGraw’s testimony as a supplemental exhibit. The BTA is highly commercially sensitive information, which, if released, would result in unfair competitive injury to the Company, and therefore to customers.

4 Disclosure of the terms of the BTA would provide potential future counterparties a significant commercial advantage at the expense of the Company and its customers because the Company may be engaging in other similar transactions in the near future. Specifically, public disclosure of the BTA could damage the future negotiations by informing counterparties participating in the Company’s 2022 All-Source Request for Proposals of the Company’s position, resulting in the reduced likelihood that future negotiations result in the least-cost, least-risk resources for customers.

5 PacifiCorp anticipates that the Commission’s standard form of protective order will be sufficient to protect materials identified “confidential” and the amended protective order will continue to protect that information.

III. AUTHORITY AND ARGUMENT

6 WAC 480-07-420(2) authorizes the Commission to amend a protective order and
to add protections for highly confidential information. In accordance with WAC 480-07-
420(2), it is necessary to create a separate designation in this case and to establish a
higher degree of protection for certain documents, including the BTA.

7 The Commission has previously amended its standard protective order to allow
for the designation of highly confidential documents under the following circumstances:
(1) the information relevant to the case is sensitive competitive information that would be
of value to competitors if released; (2) a significant risk exists that confidential
information might become available to persons who have no legitimate need for such
information; (3) a disclosing party might suffer harm as a result of the information's
disclosure; and (4) the entry of the protective order will facilitate discovery.¹

8 The material that PacifiCorp seeks to protect is precisely the type of information
that is intended to be eligible for protection as "highly confidential" information in
WAC 480-07-420(2). Information relevant to the case contains highly sensitive
information regarding highly commercially sensitive information that would be valuable
to future counterparties if released and the disclosure of which would harm PacifiCorp.
Disclosure of this highly sensitive information would provide a distinct advantage to
future counterparties and would harm PacifiCorp and, ultimately, its customers.

9 The additional protection provided by a "highly confidential" designation will
help ensure that parties receiving highly confidential information treat it with the utmost

¹ See *WUTC v. Northwest Natural Gas Co.*, Docket No. UG-181053, Order 04 (Mar. 19, 2019); *WUTC v. Puget Sound Energy*, Docket UG-151663, Order 02 (Sept. 9, 2015); *WUTC v. Puget Sound Energy*, Docket No. UE-111048 and UE- UG-111049 (consolidated), Order 01 (June 17, 2011); *WUTC v. Puget Sound Energy*, Docket No. UE-090704 and UE-090705 (consolidated), Order 03 (June 23, 2009).

care, and will limit the forms of duplication and transmission of such information. These enhanced protections will help ensure that highly confidential information does not fall into the possession of market competitors or those who have no legitimate need for such information.

10 PacifiCorp is not seeking to restrict access to “highly confidential” information by Commission Staff or Public Counsel beyond the protections contained in the Commission’s standard protective order for “confidential” information, provided that experts retained by Commission Staff or Public Counsel certify that they will not use the information to achieve a competitive advantage.

IV. CONCLUSION

11 For the reasons set forth above, PacifiCorp respectfully requests that the Commission enter an amended, standard form of protective order in docket UE-230172 with enhanced protection of highly confidential information.

Respectfully submitted this 4th day of April, 2023.



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