

Davison Van Cleve PC

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com

Suite 400
333 SW Taylor
Portland, OR 97204

inda J. Davison
Admitted OR and WA

January 22, 2007

Via Electronic Mail and US Mail

Judge Dennis Moss
Washington Utilities and Transportation Commission
PO Box 47250
1300 S Evergreen Park Drive, SW
Olympia WA 98504-7250

Re: Modification of the Procedural Schedule
Docket No. UE-061546

Dear Judge Moss:

The Industrial Customers of Northwest Utilities (“ICNU”) and Public Counsel submit this letter urging you or the Washington Utilities and Transportation Commission (“Commission” or “WUTC”) to deny the request of PacifiCorp and Staff of the WUTC (“Staff”) (collectively, the “Settling Parties”) to expedite the procedural schedule in this proceeding. Although the Settling Parties have not yet submitted a specific proposal, they have confirmed their intent to seek a change to shorten the procedural schedule. ICNU and Public Counsel intend to oppose the proposed settlement stipulation, and it would not promote the interests of fairness to require the filing of testimony or an evidentiary hearing earlier than is already scheduled. ICNU and Public Counsel will be attending the prehearing conference scheduled for January 24, 2007; however, we believe that submitting our concerns in advance will assist in resolving the scheduling issue.

On January 17, 2007, the Settling Parties filed with the WUTC a partial settlement stipulation (“Settlement”). The Settling Parties agreed on a Western Control Area Allocation Methodology (“WCA Methodology”) and a \$10 million increase in revenue requirement. The Settling Parties also proposed a bifurcated proceeding in which the Settlement would initially be considered (the “Settlement Phase”), followed by consideration of PacifiCorp’s proposals for a Power Cost Adjustment Mechanism (“PCAM”) (the “Power Cost Phase”). This proposal does not recognize that ICNU and Public Counsel intend to file testimony on PacifiCorp’s direct case.

The posture of this case has not changed because ICNU and Public Counsel are opposed to the settlement. In fact, the case has become more complex

because it now involves review and response to PacifiCorp's initial filing *and* the Settlement. Thus, setting an expedited procedural schedule would be highly prejudicial to the interests of ICNU and Public Counsel. The existing procedural schedule established in this case already represents an expedited schedule, as there are 133 days between the date when briefs are due and the end of the suspension period. In contrast, in UE-050684, PacifiCorp's last general rate case, there were only 36 days between the last briefing date and the end of the suspension period. WAC § 480-07-740(2)(c) ensures that parties opposed to a proposed settlement have the right to present a full case in opposition. Further acceleration of the schedule would not afford ICNU and Public Counsel sufficient opportunity to address the issues involved in this proceeding.

The WUTC was recently confronted with a contested settlement in an Avista rate case, and the Commission chose not to expedite the procedural schedule but to retain the schedule originally established. Re Avista, WUTC Docket Nos. UE-050482/UG-050483, Order No. 4 at ¶¶ 8-9 (Aug. 24, 2005). The WUTC commented that use of the original procedural schedule "allows parties to prefile testimony concerning the proposed settlement, and Response, Rebuttal, and Cross-Answering testimony as previously scheduled, if they wish." Id. As recognized in that proceeding, expediting the procedural schedule in the context of a contested settlement would deprive opposing parties of the right to meaningfully conduct discovery and prepare comprehensive testimony.

There are a number of significant issues remaining in this proceeding. For instance, the issue of an appropriate cost allocation methodology is not resolved by the Settlement other than creating a five year evaluation period, and it remains complex and contentious. ICNU and Public Counsel intend to propose an alternative cost allocation methodology to address problems with the WCA Methodology. Due to the importance of this issue, any decision should be made only after consideration of all available information. This can only be accomplished by affording ICNU and Public Counsel a meaningful opportunity to present evidence opposing the Settlement and responding to PacifiCorp's direct case.


ICNU and Public Counsel also oppose the proposal to bifurcate the proceedings into a Settlement Phase and a Power Cost Phase. The only justification for bifurcating the case and postponing the filing of testimony regarding the PCAM is to provide the Settling Parties additional time to conduct settlement negotiations. There is no reason that additional settlement negotiations cannot continue under the current schedule.


In addition, certain issues that the Settling Parties propose to resolve in the Power Cost Phase are directly related to issues involved in the Settlement. For example, the cost allocation methodology, overall level of power costs assumed in rates, and PCAM involve related issues, and should be considered at the same time.

Judge Dennis Moss
January 22, 2007
Page 3

ICNU and Public Counsel request that the procedural schedule not be further expedited. Based on the history of problems in developing a proper cost allocation methodology, the proposed WCA Methodology deserves careful scrutiny. In the end, keeping the existing procedural schedule not only ensures ICNU and Public Counsel's rights to present a meaningful case opposing the Settlement, but will give the Commission a stronger evidentiary foundation from which to evaluate all relevant issues.

Sincerely yours,


Melinda J. Davison
ICNU


Simon ffitch
Public Counsel

cc: Service List