

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PACIFIC POWER & LIGHT
COMPANY,

Petition For a Rate Increase Based on a
Modified Commission Basis Report, Two-
Year Rate Plan, and Decoupling
Mechanism.

DOCKET NO. UE-152253

PACIFIC POWER & LIGHT
COMPANY'S RESPONSE TO
STAFF'S MOTION FOR LEAVE TO
FILE SUPPLEMENTAL TESTIMONY
AND EXHIBITS

I. INTRODUCTION

I In accordance with WAC 480-07-375(4), Pacific Power & Light Company (Pacific Power or Company), a division of PacifiCorp, provides the following response opposing Commission Staff's Motion for Leave to File Supplemental Testimony and Exhibits (Motion). Staff did not ask the Company for its position or otherwise confer with the Company before filing this Motion.¹ Staff did not include its proposed testimony with its Motion and did not provide a copy in response to the Company's request.² Without Staff's proposed testimony and exhibits, the Commission cannot fairly evaluate the Motion. The Commission should deny the Motion as incomplete and insufficient.

¹ Staff informed the Company of its intent to file the Motion at 3:30 pm on Monday, April 25, 2016. Staff filed the Motion approximately 90 minutes later. Declaration of Sarah E. Kamman in Support of Pacific Power's Response to Staff's Motion to File Supplemental Testimony and Exhibit ¶ 15 (Kamman Declaration).

² Upon receiving the Motion on April 25, 2016, counsel for Pacific Power immediately requested a copy of the testimony from Staff. Pacific Power also asked Staff how voluminous its proposed testimony would be; Staff could not provide this information to Pacific Power. On Tuesday, April 26, Staff informed Pacific Power it did not plan to provide a copy of the testimony to Pacific Power before the Commission ruled on the Motion. Kamman Declaration ¶ 16.

2 The Commission should also deny the Motion on the merits. Staff seeks leave to
file new testimony and exhibits to incorporate Pacific Power’s October 2013 mine plan
into Staff’s analysis of the prudence of the Company’s investment in selective catalytic
reduction systems (SCR) at Jim Bridger Units 3 and 4. Staff’s Motion is based on the
claim that it did not receive a copy of the October 2013 mine plan until April 18, 2016.³
This claim is incorrect.

3 Staff’s Motion seeks leave to file new testimony and exhibits only one or two
business days before hearing, without disclosing any detail about the scope and length of
this testimony and the number and complexity of the exhibits.⁴ The evidence required to
support such an extraordinary request is missing in this case.

II. STATEMENT OF FACTS

A. Overview of Bridger Coal Company Mine Plans.

4 Pacific Power seeks a prudence determination on its investment in the Bridger
SCRs. In support of its request, the Company provides an economic analysis showing
that the investment was the most cost-effective way to comply with emissions
requirements for Jim Bridger Units 3 and 4 (SCR analysis).⁵

5 Pacific Power’s SCR analysis incorporates a long-term fuel plan for the Jim
Bridger plant, based on a Bridger Coal Company (BCC) mine plan prepared in January
2013 (January 2013 mine plan).⁶ This is the plan that was used to develop the costs
provided in Exhibit Nos. RTL-3C (which provides the cash coal costs for the Bridger

³ Motion at 7; Declaration of Jeremy B. Twitchell ¶ 24. (Twitchell Declaration).

⁴ Kamman Declaration ¶¶ 15-16.

⁵ See generally Link, Exh. No. RTL-1CT.

⁶ Ralston, Exh. No. DR-1CT 2:14-17.

plant included in the SCR analysis) and RTL-5C (which provides the capital costs for the BCC mine included in the SCR analysis).⁷ The Company's decision-making documentation for the Bridger SCRs, attached to Staff's testimony as Exhibit No. JBT-10C, explains that the SCR analysis reflected coal costs updated in early 2013.⁸

6 In October 2013, the Company produced a new BCC mine plan (October 2013 mine plan).⁹ The Company used the October 2013 mine plan to update the Company's budget and support rate filings (including the 2014 Utah and Washington rate cases), but not to develop a new long-term fuel plan for the Jim Bridger plant.¹⁰ The October 2013 mine plan was not used in the Company's SCR analysis.¹¹

B. Timeline of When and How Staff Received BCC Mine Plans.

7 The following timeline explains when and how Staff received both the January 2013 and October 2013 mine plans, and other circumstances relevant to Staff's Motion.

- **January 20, 2016:** Company responds to Sierra Club Data Request No. 1.6 (Sierra Club 1.6), with a copy to Staff, providing Cindy Crane's testimony from the 2014 Utah rate case.¹² Ms. Crane's Utah rate case testimony refuted Sierra Club's claim that the SCR analysis should have accounted for the coal costs in the October 2013 mine plan.¹³ Among other things, Ms. Crane's Utah rate case testimony explained why it was unreasonable to compare the coal costs reflected in the October 2013 mine plan (including non-cash costs) to the January 2013 mine plan included in the SCR analysis (which excluded non-cash costs).¹⁴

⁷ *Id.*

⁸ Twitchell, Exh. JBT-10C 22. While the Company references the SCR analysis as the February 2013 analysis in its investment documentation, Staff's testimony refers to it as the "2012 analysis," apparently because it used the September 2012 Official Forward Price Curve. See Twitchell, Exh. No. JBT-1T 19:15-21.

⁹ Ralston, Exh. No. DR-1CT 3:8-15.

¹⁰ *Id.*

¹¹ *Id.* at 3:16-19.

¹² Kamman Declaration ¶ 10.

¹³ Fisher, Exh. No. JIF-8.

¹⁴ *Id.* at 5:84 – 6:94; 6:107-7:116; 6:132-135.

- **January 20, 2016:** Company responds to Sierra Club Data Request No. 1.8(a) (Sierra Club 1.8(a)), with a copy to Staff, with the Company’s work papers for the calculation of capital costs included in Exhibit No. RTL-5C in the SCR analysis.¹⁵ The Company provides the January 2013 mine plan in these work papers.¹⁶
- **January 20, 2016:** Company responds to Staff Data Request No. 11 (WUTC 11) clarifying that coal costs in the SCR analysis, Exhibit No. RTL-3C, were based on the 2013 mine plan and were not updated in fall 2013.¹⁷
- **January 27, 2016:** Company provides its first supplemental response to Sierra Club 1.6, with a copy to Staff, with work papers from Ms. Crane’s 2014 Utah rate case testimony.¹⁸ The October 2013 mine plan was provided in an electronic folder clearly marked “BCC Budget 10-4-2013.”¹⁹
- **February 1, 2016:** Company meets with Staff to provide Engineering, Procurement, and Construction (EPC) contract review and discuss SCR analysis.²⁰
- **February 10, 2016:** Pacific Power responds to Staff Data Request No. 99 (WUTC 99): “Bridger Selective Catalytic Reduction (SCR): Please provide the Jim Bridger Mine’s 2013 Mine Plan, as well as forward-looking costs for the mines output that were identified in that plan.”²¹ Because WUTC 99 expressly related to the SCR analysis, the Company referred Staff to the January 2013 mine plan produced in response to Sierra Club 1.8(a).²²
- **March 17, 2016:** Staff and Sierra Club file testimony opposing SCR investments. Sierra Club’s testimony explains that the January 2013 mine plan was used in the SCR analysis, while the October 2013 mine plan was used in later rate case filings.²³ Sierra Club cites the work papers produced in Sierra Club 1.6 for documentation of the October 2013 mine plan.²⁴ Sierra Club’s testimony also included Ms. Crane’s 2014 Utah rate case testimony as an exhibit.²⁵

¹⁵ Kamman Declaration ¶ 8.

¹⁶ *Id.*

¹⁷ *Id.* ¶¶ 4-6.

¹⁸ *Id.* ¶ 10.

¹⁹ *Id.* ¶ 11.

²⁰ Twitchell Declaration ¶ 13.

²¹ Kamman Declaration ¶¶ 7-8.

²² *Id.* ¶ 7.

²³ Fisher, Exh. No. JIF-1CT 16.

²⁴ *Id.* at 16 n. 42.

²⁵ Fisher, Exh. No. JIF-8.

- **March 18, 2016:** Sierra Club serves work papers, including files for the January 2013 and October 2013 mine plans.²⁶
- **April 7, 2016:** Company rebuttal testimony explains that Staff’s adjustment appears to have been derived from a comparison of coal costs with and without non-cash costs in the January 2013 mine plan.²⁷

C. Staff’s Response to its SCR Coal Adjustment Error.

8 On Friday, April 15, 2016, eight days after the Company filed its rebuttal testimony, Staff requested that the Company update WUTC 99. By email, Staff indicated that it “has now discovered that Pacific Power provided the January 2013 plan in response to [WUTC 99] but did not provide the October 2013 plan.”²⁸ The email explained that, “Staff understood that the mine plan provided [in response to WUTC 99] was the plan that Pacific Power witness Cindy Crane referred to as ‘the most recent BCC mine plan, which was finalized in October 2013’” in her Washington 2014 rate case testimony.²⁹

9 On Saturday, April 16, 2016, counsel for the Company responded, explaining that because WUTC 99 sought the mine plan used in the SCR analysis, the Company properly responded with the January 2013 mine plan.³⁰ The Company informed Staff that, had it asked for the October 2013 mine plan supporting the Company’s 2014 Washington rate case, the Company would have referred Staff to Sierra Club 1.6.³¹ Finally, the Company pointed to the location of the October 2013 mine plan in Sierra Club’s work papers, which Staff had received one month earlier, and attached a copy of the work paper.³²

²⁶ Kamman Declaration ¶ 12.

²⁷ Link, Exh. No. RTL-11CT 7:4-9.

²⁸ Kamman Declaration ¶¶ 13-14, Attachment 5.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

10 On Tuesday, April 19, 2016, Staff counsel emailed the Company explaining:
“Staff has reviewed your explanation and determined that we now have a complete
response to the data request. We much appreciate your prompt attention to this matter.”³³
Staff waited one additional week before filing the Motion.

III. **RESPONSE TO MOTION**

A. Staff’s Error Regarding the Mine Plans was not Caused by Pacific Power.

1. The Company Responded Reasonably to Staff’s Data Requests.

11 Staff contends that it requested the October 2013 mine plan on January 27, 2016,
when it issued WUTC 99 to Pacific Power.³⁴ But, as discussed above, WUTC 99 related
to the “Bridger Selective Catalytic Reduction” and requested “Jim Bridger Mine’s 2013
Mine Plan.”³⁵ Given that the Company’s SCR analysis relied on the January 2013 mine
plan, the Company reasonably understood that Staff was requesting this plan. The
October 2013 mine plan is not related to the SCR analysis. For example, while the
January 2013 mine plan looked at two- and four-unit scenarios (*i.e.*, the two-unit scenario
considered the impact of closure or conversion of Jim Bridger Units 3 and 4), the October
2013 mine plan reflected only a four-unit budget. Staff never served a data request
referencing the October 2013 mine plan or specifically inquiring about the mine plan
used in the Company’s 2014 Washington rate case.

12 The Company responded to WUTC 99 by referring Staff to Sierra Club 1.8(a),
which included the January 2013 mine plan.³⁶ Sierra Club 1.8(a) asked the Company for

³³ *Id.*

³⁴ Motion at 2-3.

³⁵ Kamman Declaration ¶¶ 7-8.

³⁶ *Id.* ¶ 8.

work papers that were used to develop Exhibit No. RTL-5C, which provided the BCC mine capital costs that the Company used in its SCR analysis.³⁷ Upon receipt of this response, it should have been clear to Staff that Pacific Power provided the January 2013 plan.

13 Staff claims that the mine plan provided in response to WUTC 99 was undated and lacked any identifying information that would have lead Mr. Twitchell to understand that it was not the October 2013 mine plan.³⁸ But the mine plan began its analysis with projections for January 2013 and the data that populated the plan indicates it was prepared in January 2013.³⁹ Staff does not explain why it is reasonable to interpret a plan with projections beginning in January 2013 as an October 2013 mine plan.

2. Staff Had the October 2013 Mine Plan Before Filing Rebuttal Testimony.

14 Staff had the October 2013 mine plan in its possession as of January 27, 2016, when it was served on Staff as part of the Company's response to Sierra Club 1.6.⁴⁰ Staff acknowledges that it received the October 2013 mine plan on January 27, 2016, but did not realize it was in the discovery until April 18, 2016.⁴¹ Staff argues that it could not have known that the Company provided the October 2013 mine plan in January because it was part of a large set of work papers provided in response to a Sierra Club data request.⁴² But these work papers were all tied to the testimony of Ms. Crane in the 2014

³⁷ *Id.*

³⁸ Motion at 3; Twitchell Declaration ¶ 17.

³⁹ Kamman Declaration ¶ 9, Attachment 2.

⁴⁰ *Id.* ¶ 10.

⁴¹ Twitchell Declaration ¶¶ 25-26.

⁴² *Id.*

Utah rate case, which was also provided in Sierra Club 1.6. Ms. Crane’s 2014 Utah rate case testimony made clear that the October 2013 plan was in her work papers.⁴³ Ms. Crane’s 2014 rate case testimony also discusses how non-cash costs, such as amortization, depletion, and depreciation, were excluded from the SCR analysis.⁴⁴

15 Staff contends that it could not be expected to know that one of Excel files provided in response to Sierra Club 1.6 included the October 2013 mine plan.⁴⁵ If Staff had opened the file, however, it would have found a folder clearly labeled “BCC Budget 10-4-13,” which contained the October 2013 mine plan as the first file.⁴⁶ The naming convention for the October 2013 mine plan file is similar to the file Staff already had for the January 2013 plan because both files referred to operating cost schedules.⁴⁷

3. Staff’s Motion Comes Too Late to Avoid Disruption at the Hearing.

16 The Commission and the parties are making final preparations for the hearing, now just three business days away. Staff proposes to supplement its testimony and exhibits with an analysis that has not yet been provided, but which Staff states will be complex enough that “it would not lend itself well to being addressed in live examination at hearing.”⁴⁸

17 At the latest, Staff should have recognized its error upon review of Sierra Club’s testimony and work papers, which were filed on March 17 and 18, 2016, respectively.⁴⁹ There is no explanation for why Staff waited until the eve of hearing to bring this motion.

⁴³ Fisher, Exh. No. JIF-8 4:66-5:71.

⁴⁴ *Id.* at 5:84 – 6:94; 6:107-7:116; 6:132-135.

⁴⁵ Motion at 6.

⁴⁶ Kamman Declaration ¶ 11, Attachment 4.

⁴⁷ Kamman Declaration ¶¶ 9, 11.

⁴⁸ Motion at 4.

⁴⁹ Kamman Declaration ¶ 12.

Staff's unreasonable delay in requesting supplemental testimony warrants the denial of its motion.

CONCLUSION

18 Staff had the October 2013 mine plan in its possession as early as January 27, received it again on March 18, and yet again on April 16. Staff waited until just days before the hearing to request leave to file a new analysis of the Company's SCR investments. Staff's Motion undermines the Commission's ability to conduct an orderly hearing and is prejudicial to Pacific Power. The Commission should deny the motion.

Respectfully submitted this 27th day of April, 2016.



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