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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)
v.) DOCKET UE-140762
PACIFIC POWER & LIGHT COMPANY,) and UE-140617
Respondent.) (Consolidated)

VOLUME VII
Pages 769 through 789

10:03 a.m.
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Olympia, Washington

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OLYMPIA, WASHINGTON; APRIL 10, 2015

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10:03 a.m.

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JUDGE MOSS: Good morning, everybody. My name is
6 Dennis Moss. I'm an administrative law judge with the
7 Washington Utilities and Transportation Commission. We are
8 gathered here this morning in connection with the what I'm
9 thinking of as phase two, although it's not officially
10 designated as such, of the -- of the recent Pacific Power
11 general rate case. Docket UE-140762 is the rate case. There
12 are other dockets consolidated, but I'm not going to bother to
13 list them this morning.

14

Our focus is on just one aspect of the proceeding,
15 which was involving the staff proposal for a power cost
16 adjustment mechanism. We'll get to that in a moment. But the
17 first order of business will be to take appearances. And so
18 we'll start with the company, Ms. McDowell. Just a short form.

19

MS. McDOWELL: Thank you, Judge Moss. Katherine
20 McDowell here on behalf of PacifiCorp. With me this morning is
21 Natasha Siores.

22

JUDGE MOSS: All right. Yes, go ahead.

23

MR. COWELL: Jesse Cowell on behalf of Boise White
24 Paper.

25

JUDGE MOSS: All right, Mr. Cowell. Welcome. And

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1 let's just go over here.

2 MR. OSHIE: Thank you, Judge. Pat Oshie representing
3 commission staff. With me this morning are David Gomez and
4 Brett Shearer.

5 JUDGE MOSS: All right. Thank you very much. And on
6 the conference bridge line, I know we have Mr. Purdy. Would
7 you just quickly enter your appearance.

8 MR. PURDY: Yes, sir. Brad Purdy on behalf of the
9 Energy Project.

10 JUDGE MOSS: And, Mr. ffitch, you're on the line?

11 MR. FFITCH: Simon ffitch on behalf of public counsel.

12 JUDGE MOSS: All right. Any other parties on the
13 bridge line? Anybody else in the room wish to be entered for
14 appearance today? No? All right. Thanks very much.

15 All right. I previously had some e-mail, I think it
16 was, with Ms. Kapla, and she's indicated that the Solar
17 Alliance is not intending to participate in this phase of the
18 proceeding, and so I have so told her that they can be excused
19 without fear of consequence.

20 I'm -- we haven't heard from Wal-Mart counsel this
21 morning. That's not particularly surprising to me. I will say
22 I don't really anticipate that they will be proceeding or
23 participating in this phase of the proceeding, either. So --
24 and if Mr. Roberts asks, I'll excuse him from the potential for
25 any consequences, although, frankly, I don't think there are

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1 any lurking, anyway.

2 Mr. Purdy and I spoke by telephone yesterday. And,
3 Mr. Purdy, I believe you have also indicated it is unlikely
4 that the Energy Project will wish to actively participate in
5 this phase, but you wanted to listen in today to ascertain if
6 you have any interests at stake.

7 MR. PURDY: That's correct, your Honor.

8 JUDGE MOSS: All right. Very well. So with that
9 lineup, then, we can get into the business of the day. I just
10 wanted to remind everyone first that there is a protective
11 order in this proceeding that's in place. It remains in place
12 to facilitate discovery, if necessary. And so that's available
13 to you.

14 I don't really anticipate much need for discovery
15 during this process, if any. If there is such a need, however,
16 I'm going to set a three-business-day turnaround, recognizing
17 that there may have to be a request for an extra day or
18 something from time to time, because that's pretty short.

19 But we are on a tight schedule. The commissioners
20 asked me to set a schedule that would conclude this by the 31st
21 of May, which is not that far off. So that's why I'm
22 accelerating the response date.

23 As I mentioned at the outset, the -- the focus of this
24 phase of the proceeding is on the commission, the portion of
25 the commission's order concerning the power cost adjustment

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1 mechanism that the commission decided was important to put in
2 place for Pacific Power. And of course, we had the staff's
3 proposal along the lines of what the staff -- what the
4 commission has previously said it would find acceptable, and
5 following the precedent that we have in terms of the other
6 power cost adjustment mechanisms in the state and so forth. So
7 that's our starting point.

8 I -- the commission's order included several questions
9 concerning the PCAM that basically put to staff. I
10 appreciate -- I understand you prepared it, Mr. Gomez. So I'll
11 identify you as having prepared the responses for staff.

12 MR. GOMEZ: Yes, your Honor. And I'm prepared to
13 answer any questions --

14 JUDGE MOSS: Sure.

15 MR. GOMEZ: -- that you may have.

16 JUDGE MOSS: We're not going to get too much into the
17 substance today, but I did want to express my appreciation for
18 your proactive effort in providing some additional information
19 to the commission along the lines requested. That moves us
20 along that much further. So that's much appreciated.

21 I've given a lot of thought to this process and what
22 we ought to be about here. We have the commission's order, so
23 we know what we're doing. The question is how best to proceed.
24 And my goal, as is often the case in commission proceedings, is
25 to have the parties work together in a collaborative nature or

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1 fashion, I should say, and achieve a proposal, get to a
2 proposal that can be put before the commission, preferably as a
3 unanimous proposal, but if falling short of that, at least a
4 consensus proposal.

5 And I know there are some different perspectives on
6 how these things should be done. The commission has left us a
7 little bit of latitude, but not a great deal of latitude in
8 terms of the design. Actually, not so much the design, but the
9 details of the design.

10 I encouraged them to let me put in the order that the
11 devil is in the details, but they wouldn't let me do it, so
12 I'll just say it here. It can be devilish. I don't think it's
13 going to be that complicated in this case.

14 The response that staff provided has clarified some of
15 the bases or the bases for staff's specific proposals with
16 respect to the deadband and the sharing bands and so forth. I
17 took some notes as I was working through this the last few
18 days, and I just -- the -- we do have a paragraph 123 in the
19 order that lays out specific questions, "Is it appropriate to
20 use a WCA's jurisdictional divide for wholesale power cost?"

21 The staff response indicates that is not only the
22 case, but a necessary thing to do. Which makes sense to me,
23 since that's how power costs are allocated to Washington in the
24 first place. I'm sure the company or somebody else will tell
25 me if there's some room for discussion about that point.

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1 We did have some evidence, some testimony from
2 Mr. Gomez in the earlier phase of the case concerning the
3 company's decision, determination that it could report actual
4 power costs on the basis of books, and that that was a very
5 helpful evolution in terms of how this is accounted for in
6 terms of addressing one of the concerns that the commission
7 expressed back I believe it was 2007; is that right? I think
8 that's right, 2007 order. I don't remember the docket number.
9 But so that's helpful.

10 The -- I would expect you all may wish to have some
11 discussion among yourselves about the level of the deadband and
12 whether everyone is in agreement that 25 million dollars is the
13 appropriate figure. And that's on a west control area basis;
14 right?

15 MR. GOMEZ: Yes, your Honor.

16 JUDGE MOSS: Okay. So -- and I'll pause there and say
17 one of the things that the commission would be interested in
18 seeing, and this could be developed through -- you could
19 consider it a bench request, I suppose, is how that relates
20 back to the discussion in the 2007 order in which there was a
21 table presented showing the deadband proposals by three parties
22 at that time.

23 The company had its own proposal, staff had a
24 proposal, and I believe it may have been ICNU instead of Boise
25 White Paper, Mr. Cowell, but for all effective purposes, your

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1 client or among your clients, so -- so those proposals were
2 there. We'd like to see how the 25 million WCA deadband
3 relates to that, which is expressed in terms of Washington
4 allocated costs.

5 I'm sure we probably have people on our policy staff
6 who can readily do that, but I can't. And so I'd like to see
7 it from you all, if that would be something you could provide.
8 And of course, all parties are welcome to respond to a bench
9 request. Simply directing it towards staff, since the 25
10 million is your figure. That's one additional piece of data
11 we'd like to have.

12 Let me see. I'm looking at my notes here. All right.
13 That's sufficient on that. Staff's response to the questions,
14 one of which is, "Does 25 million dollars reflect normalized
15 variability in power costs?" does respond to that point. I
16 suppose the missing part of the question was: And how is that?
17 I mean, in terms of what -- what do we think of as normal
18 variability for Pacific Power.

19 I understand how staff arrived at the 20 -- at the
20 figure it did, looking at the Avista experience. It might be
21 useful to look, in addition, at the PSE experience. But most
22 specifically important is to understand whatever data is
23 pertinent to the company itself, to Pacific Power.

24 We want to get a real good solid sense of what the
25 sort of range of normal variability is, because of course

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1 that's what we're trying to capture in a deadband with the idea
2 being that that's manageable and the company either suffers
3 their loss or gathers the gain through that deadband
4 experience, and then beyond that we have the sharing bands.

5 I also understood staff's response on the question of
6 asymmetry in power costs. This was a factor that was
7 identified in the 2007 order as well that had not previously
8 been reflected in power cost adjustment mechanisms. They
9 had -- they had been, prior to that time, always balanced, so
10 it was a 50/50 sharing band or what have you.

11 And then, of course, beyond that, there was an
12 imbalance that was reflecting the nature of the costs that were
13 being experienced so that the extreme variations which would be
14 due to extraordinary events, presumably beyond the power of
15 anyone to control, other than perhaps certain nefarious
16 corporations in America that no longer exist -- and you all
17 know who I'm referring to -- but those extreme excursions in
18 power costs, of course, the company should be allowed to
19 recover most of its additional costs, and so that's reflected
20 in 90/10 sharing bands, that sort of thing.

21 On the other hand, where there's some extreme
22 excursion to the low side, then the customers would gain some
23 benefit in that connection. So -- so that -- that's a matter
24 of keen interest for the commission as well, the how we get to
25 the appropriate balance to reflect any asymmetry. And I think

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1 we probably, if it can be made available, if we could have more
2 detail on this point, it would probably be useful. I can't say
3 "probably." It will definitely be useful to us to be able to
4 analyze that in this -- in this particular instance.

5 And I'll just note and appreciate the candor, staff's
6 candor in saying that some of these things were arrived at and
7 determined to be useful starting points. I thought that was a
8 helpful thing to say. And I will -- I will say, I think they
9 are useful starting points for discussions among you all, and I
10 would encourage you to treat them that way. And again, perhaps
11 you can come back to us with a unanimous discussion about what
12 would be exactly right.

13 So that's about what I wanted to say, I think. And
14 let me open the floor and ask you all if you have some
15 questions for me, and I'll do my best to answer them and
16 sincerely as opposed to sometimes around here I say, "Well, if
17 I don't know, I'll just make something up." I'll try to give
18 you the best answer I can.

19 So do we have any questions from counsel or from
20 Ms. Siores or Mr. Gomez? I'll start with -- well, I normally
21 start with the company. So, Ms. McDowell, I'm going to start
22 with you.

23 MS. McDOWELL: My -- my questions are only procedural.

24 JUDGE MOSS: Sure. Okay.

25 MS. McDOWELL: So if there's substantive follow-up --

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1 JUDGE MOSS: Okay.

2 MS. McDOWELL: -- from staff, I'll defer to them.

3 JUDGE MOSS: And I don't want to get into substance
4 today; okay.

5 MS. McDOWELL: All right. So I was just going to say
6 that we have had some -- you know, we discussed internally a
7 schedule that might work and achieve some of the goals that
8 you've talked about. Some opportunity for collaboration, some
9 opportunity for presentation of a proposal that would,
10 hopefully, be consensus and ideally unanimous, and looked at
11 some dates that might work for that.

12 We've shopped the dates around this morning with the
13 folks in the room. Have not had a chance to talk to Simon or
14 Brad about them.

15 JUDGE MOSS: Okay.

16 MS. McDOWELL: But so far we're -- it looks like we've
17 at least achieved consensus on, you know, the kind of schedule
18 that we were looking at, which just at a high level, a couple
19 of very quick workshops here in the next couple weeks and then,
20 you know, filing, that we present the proposal, a chance for
21 responses if it wasn't a completely unanimous proposal, and a
22 quick chance for a reply. All of that --

23 JUDGE MOSS: And that's consistent with what I have
24 written down here. And I won't spoil things by trying to
25 inject myself into what the parties have or at least some of

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1 the parties have already had an opportunity to discuss, because
2 that sounds like --

3 MS. McDOWELL: That's great.

4 JUDGE MOSS: -- it's sort of along the lines of the
5 approach that I thought we would want to take. Of course we'll
6 hear from others. But yeah; okay. Thank you very much.
7 Appreciate that.

8 MS. McDOWELL: I mean, just because it's wide open
9 before we got too deep into that, I just wanted to make sure
10 the framework we were thinking about --

11 JUDGE MOSS: Yeah, that's consistent.

12 MS. McDOWELL: -- with what you're thinking about.

13 JUDGE MOSS: Yeah, and I will lay out for you what I
14 had in mind before, but just food for thought, so to speak.
15 Anybody else want to be heard on this particular point?

16 MR. OSHIE: Your Honor -- there we go.

17 JUDGE MOSS: There we go.

18 MR. OSHIE: Thank you, your Honor. I just want to add
19 that we're -- this is Pat Oshie from staff. We're comfortable
20 with the schedule. We have some and, you know, happy to tell
21 the court what the dates are. And it's a -- I think it works
22 for staff.

23 JUDGE MOSS: Okay. And anybody else? Mr. ffitch?
24 You don't know yet, do you?

25 MR. FFITCH: We are prepared to be comfortable.

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1 JUDGE MOSS: But you don't know yet. Well, I feel the
2 same way, Mr. ffitch. Let's find out what the dates -- what
3 dates these folks have in mind.

4 MR. FFITCH: Okay.

5 JUDGE MOSS: Somebody? Anybody? Yes.

6 MR. OSHIE: Pat Oshie from staff again, your Honor.
7 So what -- what we're suggesting, and these were proposed by
8 Ms. McDowell, and they work for staff, as I say. April 16th
9 would be a meeting of the parties followed by a second meeting
10 on April 23rd.

11 Those are largely driven, I think, by the fact that
12 all the parties will be here for different meetings that occur
13 on those dates.

14 JUDGE MOSS: Ah, okay.

15 MR. OSHIE: It's an opportune time to get together and
16 not have to make additional trips --

17 JUDGE MOSS: Okay.

18 MR. OSHIE: -- to Olympia or to other places.

19 JUDGE MOSS: Uh-huh.

20 MR. OSHIE: That the company would make its filing, if
21 needed, and there's -- hopefully we can get this through by
22 agreement, but if necessary there would be a filing made on May
23 1st, which either, I'm sure, would be a settlement or -- or at
24 least a proposal from the parties that all parties have joined
25 in for a filing of those parties that can agree or just a

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1 filing by the company.

2 I think I covered all the options on that. And so
3 that's a May 1st filing date followed by a May 11th response
4 date, and if necessary, a date of May 15th for short turnaround
5 response from the company, if -- or whoever is joined in the
6 May 1st filing.

7 JUDGE MOSS: Okay.

8 MR. OSHIE: And hopefully that would give the
9 commission, well, two weeks to issue a decision on whatever
10 matters are in play prior to June 1st.

11 JUDGE MOSS: Okay. All right. That's consistent
12 enough with what I had in mind. I'll just share with you that
13 I had thought -- I was slightly more ambitious. A first
14 meeting on the 15th rather than the 16th, but the 16th is fine.
15 I had in mind the second -- second meeting no later than the
16 20th, but the 23rd works for me since that's convenient for the
17 parties that we've heard from here.

18 And, Mr. ffitch, do those dates work for you?

19 MR. FFITCH: I think so. Just -- you know, just a
20 clarification. The 16th we have the attrition workshop
21 starting at 1:00 in the afternoon, so I'm assuming this would
22 be in the morning.

23 MS. McDOWELL: That's correct.

24 JUDGE MOSS: Okay.

25 MS. McDOWELL: That's correct.

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1 JUDGE MOSS: That's correct.

2 MS. McDOWELL: Simon, that's how we -- I mean, we
3 thought, since folks are here in the afternoon, we could do
4 this workshop in the morning. Similarly, on the 23rd there is
5 a prehearing conference and meeting in PacifiCorp's QF filing.

6 MR. FFITCH: Right.

7 MS. McDOWELL: That's in the morning, so we were
8 thinking the 23rd would be in the afternoon.

9 MR. FFITCH: Okay. Thanks. That's what I thought you
10 had in mind. Went to the calendar, and that would work for us.
11 The other dates sound okay as well. The only additional
12 thought I had is whether the commission would want to add some
13 sort of a date after the paper filing.

14 It may be just a protective or precautionary date if
15 they wanted to bring folks in for some kind of in-person oral
16 argument or back and forth with the parties in real time. I
17 don't know that I'm necessarily requesting that. It's just a
18 thought, an additional option for the commission.

19 JUDGE MOSS: Yeah. Actually, I have reserved a date
20 for that of -- actually, it's perhaps later than it needs to be
21 under this schedule that you've outlined. I have reserved the
22 22nd of May for that oral argument, if needed. I might want to
23 try to move that up if I can find space on the commissioners'
24 calendars in light of the schedule here.

25 And the one other thing I would like to mention is I

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1 have built into my proposed schedule a status conference with
2 me following an opportunity, you all's opportunity to develop
3 sort of a collaborative result, if you will.

4 Do the parties think that would be useful? My
5 thinking is if we -- if you have gotten close or -- but not
6 quite achieved it or if you're just miles apart and we're going
7 to have filings to -- to consider, then it would be good to
8 know that, good for the commission to know that.

9 And of course, the official communications medium is
10 me. So that's what I had in mind. If you're close, it might
11 be that I could help you get there. And I'm also prepared to
12 help you with the facilitator if that would -- if things could
13 benefit from that.

14 We want to do everything we can to support your
15 efforts. And so I was thinking of a status conference couple
16 of days -- let's see. You all were talking about filing on May
17 1st. So I would -- I would say by then -- be before then,
18 certainly, you would know where you're going to be. I guess
19 after your -- after your second conference on the 23rd, you
20 actually have a pretty good sense of --

21 MR. COWELL: Your Honor, I was going to -- Jesse
22 Cowell for Boise. I was going to suggest would it make sense
23 to have it kind of later there in the afternoon on the 23rd?
24 Part of the reason I was thinking of reducing a trip, but --

25 JUDGE MOSS: Yeah. What do the parties think about

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1 that idea? I'm all for reducing trips. I'm here anyway. I'm
2 the judge on the avoided cost matter.

3 MS. McDOWELL: Sure. That makes sense.

4 JUDGE MOSS: Okay. Well, let's set a status
5 conference for let's say, oh, 4:00 in the afternoon. And that
6 will be on the 23rd. All right. And that will give us a
7 chance to catch our breath and see where we are, see if we need
8 to make any changes, tweak anything.

9 That's about -- about halfway through the process in
10 terms of the time that's been made available to us. All right.
11 Well, that sounds good. And I appreciate the fact that
12 everybody's sort of thinking along the same lines here. I
13 think that's good.

14 And, you know, small -- small agreements can create
15 momentum toward larger agreements, and I'm encouraged by what
16 I'm hearing this morning. So I -- I will in turn offer back my
17 encouragement to you to continue in this path and let's get
18 something in place, as the commission has asked us to do, by
19 the 31st of May.

20 Is there anything else we need to talk about this
21 morning? Again, I didn't want to get into substance this
22 morning, because that wasn't noted. So it would be
23 inappropriate to really get into that.

24 MR. FFITCH: Your Honor, this is Simon ffitch. Just
25 with regards to scheduling the oral argument, I just want to

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1 report to you that I have a commitment for the 19th, 20th and
2 21st, unfortunately, so I'll be out of the office for a
3 work-related matter those three days.

4 JUDGE MOSS: Okay. Well, we'll see -- I think we'll
5 probably reassess at the time of the status conference in terms
6 of what we may need and when we may do it. So the date that I
7 had reserved, the commissioners' calendars fill up pretty
8 quickly, so I wanted to go ahead and reserve a date.

9 I probably will go back to them momentarily after this
10 and reserve another date somewhat earlier. But I will -- I
11 will avoid the 19th, certainly, through the 21st.

12 MR. FFITCH: Thank you very much.

13 JUDGE MOSS: All right. Anybody else want to let me
14 know of any unavoidable conflicts in the upcoming month or six
15 weeks?

16 MR. OSHIE: I believe we're okay, your Honor.

17 JUDGE MOSS: All right. Good. All right. Well, it
18 seems that there is no other business for us to conduct this
19 morning, and I appreciate you all being here. And I look
20 forward to working with you to bringing this matter to a speedy
21 and friendly conclusion. So with that we'll be off the record.

22 MS. McDOWELL: Thank you, your Honor.

23 MR. COWELL: Thank you, your Honor.

24 (Proceedings concluded at 10:28 a.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Kathleen Hamilton, a Certified Shorthand Reporter and Notary Public in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings on APRIL 10, 2015, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20TH day of APRIL, 2015.

KATHLEEN HAMILTON, RPR, CRR, CCR