

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of AVISTA CORPORATION d/b/a AVISTA UTILITIES, PUGET SOUND ENERGY, and PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY Regarding the 2020 Colstrip Coal Supply Agreement	DOCKET UE-200069
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, V. PACIFICORP DBA PACIFIC POWER & LIGHT COMPANY, Respondent.	DOCKET UE-191024 (Expedited Treatment Requested)

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

I. INTRODUCTION

I In accordance with WAC 480-07-420(2), PacifiCorp dba Pacific Power & Light Company (PacifiCorp or the Company) files this Motion for Amended Protective Order with Highly Confidential Provisions in Docket UE-191024. Until now, the standard protective order issued on January 13, 2020, in Docket UE-191024 has been sufficient to govern the discovery and use of proprietary and confidential documents in this

proceeding.¹ As described in more detail below, however, in order for PacifiCorp to respond to a recent petition from Washington Utilities and Transportation Commission (Commission) Staff, the Company must refer to 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 a complete response to Staff’s petition. PacifiCorp also expects that the issues addressed in the petition will be subject to discovery in Docket UE-191024 and an amended protective order will facilitate that discovery.

2 PacifiCorp respectfully requests that the Commission: (1) issue an amended protective order in Docket UE-191024 that includes “highly confidential” provisions; (2) permit PacifiCorp to file its highly confidential response to Staff’s petition in Docket UE-191024 subject to the protection of the amended protective order; and (3) allow expedited consideration of this motion. PacifiCorp has conferred with the other parties in Docket UE-191024 and none object either to this motion or to the request for expedited treatment.

II. STATEMENT OF FACTS

3 On January 30, 2020, Staff filed a Petition to Initiate a Joint Investigation requesting the creation of a new docket.² Staff’s petition was also filed in Docket UE-191024 due to Staff’s alternative request for relief and because Staff’s petition refers to issues in PacifiCorp’s pending general rate case.³ To respond to this petition, PacifiCorp

¹ Order 02, Protective Order (Jan. 13, 2020).

² Commission Staff’s Petition to Initiate Joint Investigation (Jan. 30, 2020).

³ *Id.* at 4 n.14.

will need to provide highly sensitive information regarding the new coal supply agreement Colstrip Units 3 and 4 and ongoing negotiations for a new coal refinement methodology. This information, if released to current or potential counterparties or competitors, could cause significant harm to PacifiCorp by providing competitors with a substantial advantage to PacifiCorp's financial detriment.

III. AUTHORITY AND ARGUMENT

4 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 information contained in PacifiCorp's response to Staff's Petition to Initiate a Joint Investigation.

5 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.⁴

6 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

⁴ 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).

information regarding the new coal supply agreement and ongoing negotiations for a new coal refinement methodology that would be valuable to competitors if released and the disclosure of which would harm PacifiCorp. Disclosure of this highly sensitive information would provide a distinct advantage to PacifiCorp's competitors and would harm PacifiCorp and, ultimately, its customers.

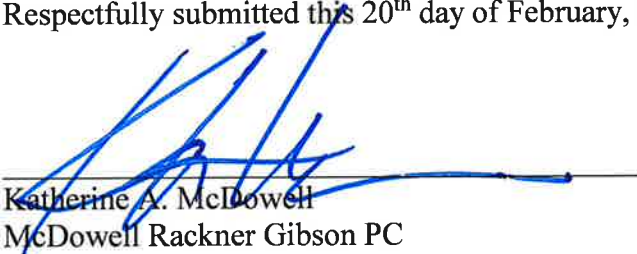
7 The additional protection provided by a "highly confidential" designation will help ensure that parties receiving highly confidential information treat it with the utmost care, and will limit the forms of duplication and transmission of such information. These enhanced protections will help ensure that highly confidential information does not fall into the possession of market competitors or those who have no legitimate need for such information.

8 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

9 For the reasons set forth above, PacifiCorp respectfully requests that the Commission enter an amended, standard form of protective order in Docket UE-191024 with enhanced protection of highly confidential information.

Respectfully submitted this 20th day of February, 2020.



Katherine A. McDowell
McDowell Rackner Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
Telephone: (503) 595-3924
Email: katherine@mrg-law.com

Ajay Kumar
Carla Scarsella
Matthew McVee
825 NE Multnomah Street, Suite 2000
Portland, OR 97232
Phone: (503) 813-5161 (Kumar)
(503) 813-6338 (Scarsella)
(503) 813-5585 (McVee)
Email: ajay.kumar@pacificorp.com
Carla.scarsella@pacificorp.com
Matthew.mcvee@pacificorp.com

Attorneys for PacifiCorp