

**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 MOTION TO STRIKE
SECTION III OF SIERRA CLUB'S
CROSS-ANSWERING TESTIMONY
OR ALTERNATIVE MOTION FOR
LIVE REBUTTAL

I. MOTION TO STRIKE OR TO PRESENT LIVE REBUTTAL

1 In accordance with WAC 480-07-375(1)(d), Pacific Power & Light Company (Pacific Power or Company), a division of PacifiCorp, moves to strike or for leave to provide live rebuttal to Section III of the supplemental cross-answering testimony of Dr. Jeremy Fisher on behalf of the Sierra Club.¹ This testimony is related to Pacific Power's request that Washington Utilities and Transportation Commission (Commission) determine that the Company was prudent in installing selective catalytic reduction systems (SCRs) for Jim Bridger Units 3 and 4. Pacific Power submits that Section III of Dr. Fisher's testimony exceeds the proper scope of cross-answering testimony by offering an entirely new analysis to which the Company cannot adequately respond.²

2 Pacific Power has conferred with counsel for parties who are directly participating in the SCR phase of this case. Sierra Club objects to the motion to strike and to the

¹ The cross-answering testimony is Exhibit No. JIF-24CT. The Company also requests that the Commission disregard those portions of Dr. Fisher's introduction (Section I) and the conclusion (Section IV) that reference Section III of Dr. Fisher's supplemental cross-answering testimony.

² *Wash Utils. Trans. Comm. v. Avista Corp. d/b/a Avista Utils.*, Docket Nos. UE-100467 and UG-100468, Order 04 n. 3 (Apr. 22, 2010) (interjection of new information is not permitted through cross-answering testimony).

alternative motion for live supplemental rebuttal, Boise White Paper, L.L.C. is not taking a position on the motion, and Staff has not yet responded with its position on the motion.

II. ARGUMENT

3 In Order 08, the Administrative Law Judge (ALJ) allowed Staff to file supplemental testimony on the Jim Bridger Units 3 and 4 SCRs regarding alleged coal costs increases under the Bridger Coal Company's (BCC) October 2013 mine plan. This testimony responds to the Company's economic analysis showing that the SCRs are the most cost-effective way to comply with emissions requirements for Jim Bridger Units 3 and 4.³

4 In Order 09, the ALJ set a schedule for Staff's supplemental testimony. The ALJ allowed Pacific Power to file supplemental rebuttal testimony and allowed other parties to file cross-answering testimony responding to Staff's supplemental testimony and exhibits. On May 6, 2016, Staff filed its supplemental testimony on alleged cost increases under the October 2013 mine plan. On May 13, 2016, Pacific Power filed its supplemental rebuttal testimony.

5 On May 13, 2016, Sierra Club filed its supplemental cross-answering testimony. Sierra Club's cross-answering testimony is in Section II of Dr. Fisher's testimony, entitled "Staff's Supplemental Testimony."⁴ While Sierra Club's cross-answering testimony is very broad (and includes some arguably improper responses to Pacific

³ See generally Link, Exh. No. RTL-1CT.

⁴ Fisher, Exh. No. JIF-24CT 6:12.

Power's rebuttal),⁵ the Company does not object to this testimony as procedurally improper.

6 Sierra Club's improper supplemental testimony is in Section III of Dr. Fisher's testimony, entitled "Analysis of Four-Unit and Two-Unit Scenarios."⁶ In this section, Sierra Club sponsored an all-new "alternative" SCR analysis.⁷ Sierra Club's original analysis was based on the Company's 2015 integrated resource plan long-term fueling plan (which was developed using a BCC mine plan from July 2014).⁸ Sierra Club's "revised" analysis is based on the October 2013 mine plan and differs from its original analysis in all material respects.⁹ Sierra Club also acknowledges that its "re-analysis" uses "a completely different methodology" than Staff's.¹⁰

7 Unlike Staff, Sierra Club never requested nor received permission to file supplemental testimony. Sierra Club attempts to justify the wholesale revision of its analysis on the basis that Staff's supplemental testimony clarified the Company's previous discovery on capital expenditures, including those in the October 2013 mine plan. Dr. Fisher's extensive testimony on this issue in other proceedings undermines this claim. Sierra Club's witness has been involved in three previously litigated cases involving the Jim Bridger Units 3 and 4 SCRs, including one case in which Dr. Fisher unsuccessfully challenged the SCRs based on the October 2013 mine plan.¹¹ Sierra Club

⁵ See, e.g., Fisher Exh. No. JIF-24CT 8:16-23.

⁶ Fisher, Exh. No. JIF-24CT 12:10.

⁷ Fisher, Exh. No. JIF-24CT 1:8-10.

⁸ Fisher, Exh. No. JIF-24CT 10: 1-2.

⁹ Fisher, Exh. No. JIF-24CT 15:16 9:20-25.

¹⁰ Fisher, Exh. No. JIF-24CT 18:14-16.

¹¹ Dr. Fisher testified in both the Utah voluntary pre-approval case and the Wyoming Certificate of Public Convenience and Necessity Case. Fisher, Exh. No. JIF-2 9-10. Dr. Fisher also testified in the 2014 Utah

has also participated extensively in the Company's 2013 and 2015 Integrated Resource Planning processes, which have also included much of the same analysis.¹² Irrespective of the merits of Sierra Club's claim, it is improper for Sierra Club to unilaterally expand the scope of its cross-answering testimony to include an entirely new analytical framework at this stage of the case.

8 In Order 09, the ALJ set a schedule allowing Staff to file supplemental testimony and the Company to file supplemental rebuttal, with discovery for both parties. If Sierra Club had joined in Staff's motion for leave to file supplemental testimony, presumably the ALJ would have provided the same processes as a condition of granting Sierra Club's motion. By instead adding Section III to Dr. Fisher's cross-answering testimony, Sierra Club has eliminated these procedural safeguards and thwarted the orderly development of the record.

9 As an alternative to its motion to strike, the Company requests an opportunity to present brief, live testimony from Ms. Cindy Crane rebutting Section III of Dr. Fisher's testimony at the evidentiary hearing on June 1, 2016. Given the broad and technical scope of Section III and the myriad problems in Dr. Fisher's analysis, live rebuttal is the only effective way for the Company to respond to it. Without live rebuttal from the Company, the record in this case will be incomplete and inaccurate.

III. CONCLUSION

10 To ensure an orderly record and procedural fairness, Pacific Power requests that the Commission strike Section III of Dr. Fisher's cross-answering testimony on behalf of

rate case where he relied on the October 2013 mine plan to challenge the SCRs. Fisher, Exh. No. JIF-1CT 14:7-9; Fisher, Exh. No. JIF-22CX.

¹² See e.g. Fisher, Exh. No. JIF-20CX and 21CX.

Sierra Club. In the alternative, Pacific Power requests an opportunity to present live rebuttal testimony from Ms. Cindy Crane responding to Section III.

Respectfully submitted this 24th day of May, 2016.



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