

BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, )
Complainant, )
v. )
PACIFIC POWER & LIGHT COMPANY, )
Respondent.)

EVIDENTIARY HEARING, VOLUME VII MORNING SESSION Pages 434 - 564

ADMINISTRATIVE LAW JUDGE MARGUERITE E. FRIEDLANDER

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9:33 a.m.

JUNE 1, 2016

Washington Utilities and Transportation Commission 1300 South Evergreen Park Drive Southwest Olympia, Washington 98504-7250

A.M. SESSION REPORTED BY: SHERRILYN SMITH, CCR# 2097

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A P P E A R A N C E S

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1 OLYMPIA, WASHINGTON; JUNE 1, 2016  
 2 9:33 A.M.  
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 4  
 5 JUDGE FRIEDLANDER: Let's go back on the  
 6 record. I am Marguerite Friedlander, an  
 7 Administrative Law Judge with the Washington Utilities  
 8 and Transportation Commission. With me are Chairman  
 9 David and Commissioners Philip Jones and Ann Rendahl.  
 10 We are continuing the evidentiary hearing in Docket  
 11 UE-152253, which was recessed on the evening of  
 12 May 2nd.  
 13 So the plan for today is to take abbreviated  
 14 appearances, then we're going to address the admission  
 15 of exhibits. I'll let you know a very quick overview  
 16 of how the closed session will go for the majority of  
 17 the proceeding today.  
 18 So for the record, if I can have counsel state  
 19 your name, title, and who, as far as cocounsel is with  
 20 you, that would be great, beginning with Pacific  
 21 Power.  
 22 MS. McDOWELL: Thank you, Your Honor,  
 23 and good morning, Commissioners. This is Katherine  
 24 McDowell. I am here on behalf of Pacific Power, and  
 25 with me today is Adam Lowney.

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1 JUDGE FRIEDLANDER: Thank you.  
 2 And for Staff?  
 3 MS. CAMERON-RULKOWSKI: Appearing on  
 4 behalf of Staff, Jennifer Cameron-Rulkowski, Assistant  
 5 Attorney General, and with me is Christopher Casey,  
 6 Assistant Attorney General.  
 7 JUDGE FRIEDLANDER: Thank you.  
 8 And appearing today on behalf of Boise White  
 9 Paper?  
 10 MR. COWELL: Thank you, Your Honor.  
 11 Jesse Cowell appearing on behalf of Boise White Paper.  
 12 JUDGE FRIEDLANDER: Thank you.  
 13 Appearing today on behalf of Sierra Club?  
 14 MS. SMITH: Gloria Smith on behalf of  
 15 Sierra Club, with Travis Ritchie.  
 16 JUDGE FRIEDLANDER: Thank you.  
 17 It's my understanding that Mr. Purdy is not  
 18 with us from the Energy Project, so appearing today on  
 19 behalf of Public Counsel?  
 20 MR. FFITCH: Good morning, Your Honor,  
 21 Commissioners. Simon ffitich on behalf of the Public  
 22 Counsel Office. As the judge is aware, the bench is  
 23 aware, we are not actively participating today, so we  
 24 have seated our position at counsel table for other  
 25 folks who need the space, but we will be present at

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1 the hearing today.  
 2 JUDGE FRIEDLANDER: Thank you.  
 3 And appearing today on behalf of the Northwest  
 4 Energy Council [sic]?  
 5 MS. BOSH: No counsel, ma'am, but I am  
 6 Joni Bosh, here for the Northwest Energy Coalition.  
 7 JUDGE FRIEDLANDER: Okay. Thank you.  
 8 And I also want to take a minute just to say  
 9 that this is the last hearing that I believe former  
 10 Commissioner Oshie and Mr. ffitich -- at least it's the  
 11 last hearing you will be in with me. I wanted to  
 12 extend congratulations to both of you, and let you  
 13 know it has been a pleasure to work with you both, so  
 14 thank you.  
 15 MR. FFITCH: Thank you, Your Honor.  
 16 JUDGE FRIEDLANDER: Thank you.  
 17 So is there anyone else on the conference  
 18 bridge or in the hearing room who wishes to make an  
 19 appearance today?  
 20 Hearing nothing, it's my understanding that  
 21 the parties have stipulated amongst themselves to the  
 22 admission of all of the prefiled testimony exhibits,  
 23 including cross-examination and bench requests  
 24 responses; is that correct?  
 25 MS. McDOWELL: Yes, Your Honor, that is

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1 the stipulation we reached over the weekend.  
 2 JUDGE FRIEDLANDER: Thank you.  
 3 MS. CAMERON-RULKOWSKI: Yes, Your Honor,  
 4 that's Staff's understanding as well.  
 5 JUDGE FRIEDLANDER: Thank you.  
 6 A word to counsels. When your witness comes  
 7 up, I would like you to lay a foundation for them  
 8 after I swear them in, and allow them to make any  
 9 corrections to their testimony that they will need to,  
 10 where appropriate, and then we will start cross,  
 11 followed by bench questions.  
 12 So before Mr. Dalley comes up -- actually, you  
 13 can go ahead and come up and take the stand while I  
 14 discuss the confidentiality.  
 15 A large portion of today's hearing is going to  
 16 involve confidential information. In order to prevent  
 17 disclosure of the information, while still fully  
 18 vetting it through the parties' cross-examination, the  
 19 hearing will have to be closed to any and all who have  
 20 not signed a confidentiality agreement. The  
 21 confidential information originates with the Company  
 22 primarily. I think, actually, all of it originates  
 23 with the Company, so you are pretty much in the best  
 24 position to know who has signed confidentiality  
 25 agreements. I will be relying upon Ms. McDowell or

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| <p style="text-align: right;">Page 442</p> <p>1 Mr. Lowney to let me know if there is anybody in the<br/>2 room who should not be in, who has not signed the<br/>3 confidentiality agreement.<br/>4 I will also disconnect the conference bridge<br/>5 when the time comes, since we cannot guarantee that<br/>6 those who have called in or are listening with others<br/>7 actually have or are entitled to access to the<br/>8 information.<br/>9 Finally, the court reporter is going to have<br/>10 to segregate the closed hearing transcript from the<br/>11 public transcript.<br/>12 Are there questions or concerns?<br/>13 MS. McDOWELL: No concerns, Your Honor,<br/>14 but just for a little bit more background.<br/>15 We have, pursuant to your instructions at our<br/>16 last prehearing conference, checked the<br/>17 confidentiality order and the highly confidential<br/>18 order that's in place here. All parties present right<br/>19 now have signed the confidentiality order. I'm not<br/>20 sure about the bridge line, but everybody present in<br/>21 the room has. I think the only issue is the highly<br/>22 confidential protective order. A more limited subset<br/>23 of folks have signed that. That is the place where,<br/>24 if we get into that kind of questioning, we will need<br/>25 to take a moment and have folks leave, because that's</p> | <p>EXAMINATION BY MR. LOWNEY / DALLEY 444</p> <p>1 still under oath from May 2nd.<br/>2 So briefly, if you could, lay the foundation,<br/>3 Mr. Lowney.<br/>4<br/>5 EXAMINATION<br/>6 BY MR. LOWNEY:<br/>7 <b>Q Mr. Dalley, could you please state and spell</b><br/>8 <b>your name for the record?</b><br/>9 A Sure. Bryce Dalley, B-R-Y-C-E, D-A-L-L-E-Y.<br/>10 <b>Q And how are you employed, Mr. Dalley?</b><br/>11 A I am Vice President of Regulation for Pacific<br/>12 Power.<br/>13 <b>Q And in that capacity did you file testimony in</b><br/>14 <b>this case?</b><br/>15 A I did.<br/>16 <b>Q And the testimony has been admitted, so I</b><br/>17 <b>believe Mr. Dalley is available for cross-examination.</b><br/>18 <b>JUDGE FRIEDLANDER: Thank you.</b><br/>19 <b>Is it Mr. Casey or Ms. Cameron-Rulkowski?</b><br/>20 MS. CAMERON-RULKOWSKI: It will be me,<br/>21 Your Honor.<br/>22 JUDGE FRIEDLANDER: Thank you.<br/>23 EXAMINATION<br/>24 BY MS. CAMERON-RULKOWSKI:<br/>25 <b>Q Good morning, Mr. Dalley.</b></p>   |
| <p style="text-align: right;">Page 443</p> <p>1 a much more restricted group of folks who have signed<br/>2 that protective order.<br/>3 JUDGE FRIEDLANDER: Absolutely. And so<br/>4 if Counsel can let me know. And I believe most, if<br/>5 not all, of the highly confidential is involving<br/>6 Mr. Twitchell's testimony and exhibits.<br/>7 MS. McDOWELL: It's actually, I believe,<br/>8 Mr. Fisher's --<br/>9 JUDGE FRIEDLANDER: Mr. Fisher?<br/>10 MS. McDOWELL: Let's see, it's in --<br/>11 it's in Mr. Fisher's -- it's Sierra Club's<br/>12 cross-exhibits for Mr. Teply.<br/>13 MS. SMITH: Mr. Teply.<br/>14 Sierra Club expects to have about five minutes<br/>15 of cross using the highly confidential information. I<br/>16 will certainly stop, full stop, and alert you and the<br/>17 bench to that.<br/>18 JUDGE FRIEDLANDER: I appreciate it.<br/>19 Thank you.<br/>20 Is there anything else before we continue?<br/>21 All right. As Staff has assured me that its<br/>22 cross-examination for Mr. Dalley does not involve<br/>23 confidential information, we won't close the hearing<br/>24 until we get to Mr. Teply.<br/>25 Mr. Dalley, you are reminded that you are</p>  | <p>EXAMINATION BY MS. CAMERON-RULKOWSKI / DALLEY 445</p> <p>1 <b>A Good morning.</b><br/>2 <b>Q You testified on rebuttal about the</b><br/>3 <b>disallowance that Staff has recommended for the SCR</b><br/>4 <b>installation, correct?</b><br/>5 A Yes, I briefly address it. Although, we have<br/>6 other witnesses today that we will hear from that<br/>7 address more of the details.<br/>8 <b>Q You do testify that Staff's recommendation is</b><br/>9 <b>problematic, right?</b><br/>10 <b>And I can point you to your testimony --</b><br/>11 A Yes.<br/>12 <b>Q -- which is Exhibit No. RBD-3T, starting on</b><br/>13 <b>Line 16 -- it's Page 16.</b><br/>14 A Yes, I'm there, and that is correct.<br/>15 <b>Q Now, if a company makes an imprudent</b><br/>16 <b>investment, wouldn't you agree that ratepayers should</b><br/>17 <b>not have to pay for it?</b><br/>18 A Yes. And I believe that's how disallowances<br/>19 have been treated in the past.<br/>20 <b>Q And I have a simple hypothetical. If a</b><br/>21 <b>company makes an expenditure and the Commission finds</b><br/>22 <b>the expenditure to be unnecessary, does the Commission</b><br/>23 <b>have to allow the Company to recover the expenditure</b><br/>24 <b>in rates?</b><br/>25 A No.</p> |

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| <p>EXAMINATION BY MS. CAMERON-RULKOWSKI / DALLEY 446</p> <p>1 Q And if the Commission finds that it is an<br/>2 unnecessary capital investment, does the Commission<br/>3 have to allow the utility to receive a return on the<br/>4 investment through rates?<br/>5 A No, it does not.<br/>6 <b>Q And so if the Commission finds a company's<br/>7 decision to be imprudent, the Commission can decide<br/>8 that the Company should recover zero dollars of that<br/>9 investment in rates, correct?</b><br/>10 A Yes, the Commission can make that<br/>11 determination. Although, I don't believe it's Staff's<br/>12 position, in this case, for the SCRs that it's zero.<br/>13 I believe it's the difference between the cost of the<br/>14 SCR installation versus Staff's calculation of the<br/>15 natural gas conversion.<br/>16 <b>Q And for an imprudent investment, the<br/>17 Commission could also decide that the Company should<br/>18 recover some number between zero and full recovery,<br/>19 right?</b><br/>20 A The Commission has full jurisdiction,<br/>21 discretion on how to handle treatment of the Company's<br/>22 investments and rates.<br/>23 <b>Q Now, I'm going to refer you to your testimony,<br/>24 also on Page 16 in this same exhibit, starting at<br/>25 Line 20. You are testifying about Jim Bridger Units 3</b></p>                                  | <p>EXAMINATION BY MS. CAMERON-RULKOWSKI / DALLEY 448</p> <p>1 Q And now I am going to ask you to refer to<br/>2 Page 17 in this same exhibit, Lines 9 to 10.<br/>3 You testify that if customers do not pay for<br/>4 the SCRs, they should not receive the future benefits<br/>5 of Jim Bridger Units 3 and 4; is that accurate?<br/>6 A Yes. The cost of the SCRs allow those<br/>7 facilities to continue to operate and serve customers<br/>8 beyond the end of '15 in the instance of Jim Bridger<br/>9 Unit 3, and beyond the end of '16 in the instance of<br/>10 Bridger Unit 4. And so without those investments,<br/>11 those units and the benefits of those units would not<br/>12 be accessible for customers.<br/>13 And so I think the symmetry of cost and<br/>14 benefits associated with those resources, if the costs<br/>15 are not reflected in rates, then the benefits<br/>16 associated with those resources also should not be<br/>17 reflected in rates.<br/>18 <b>Q So let's say that the Commission does not<br/>19 allow Pacific Power to recover the full SCR<br/>20 investment. Does your testimony mean that Pacific<br/>21 Power would stop dispatching power to Washington<br/>22 ratepayers from Bridger Units 3 and 4?</b><br/>23 A It's a difficult question to answer assuming<br/>24 the hypothetical. Obviously, any order from this<br/>25 Commission we would take and evaluate and decide how</p> |
| <p>EXAMINATION BY MS. CAMERON-RULKOWSKI / DALLEY 447</p> <p>1 <b>and 4. You say that, with regard to Staff's<br/>2 recommended disallowance, it is unclear how the<br/>3 resources will be treated in rates prospectively; is<br/>4 that accurate?</b><br/>5 A Yes.<br/>6 <b>Q So as in the hypothetical questions that I<br/>7 asked you, you would agree that the Commission can<br/>8 decide that Pacific Power can recover in rates some<br/>9 number between zero and 100 percent of it's SCR<br/>10 investment, right?</b><br/>11 A It certainly could. And I think what I am<br/>12 pointing out here in my testimony is that Staff's<br/>13 recommendation is that the Company should have<br/>14 converted those units to natural gas. I think that<br/>15 that does present some complexities in how those units<br/>16 would be treated in the future because we did not<br/>17 convert those units to natural gas. The SCR for<br/>18 Bridger 3 is already installed, the SCR for Bridger 4<br/>19 will be installed at the end of this year, and so<br/>20 those units will continue to operate on coal.<br/>21 And what I'm describing in this section of my<br/>22 testimony is that it does present some potential<br/>23 complexities in how those units would be reflected in<br/>24 rates on a going-forward basis because they will not<br/>25 be operating on natural gas.</p> | <p>EXAMINATION BY MS. CAMERON-RULKOWSKI / DALLEY 449</p> <p>1 that would be treated going forward. What I am<br/>2 arguing in my testimony here is that those investments<br/>3 were necessary, they were prudent, and that because<br/>4 those investments were made, those resources can<br/>5 continue to be dispatched for the benefit of<br/>6 Washington customers.<br/>7 If the Commission decides to disallow all or a<br/>8 portion of those investments, it creates some<br/>9 ratemaking complexities in the future, or it could,<br/>10 depending on the order, in how that disallowance is<br/>11 articulated by the Commission. Because if the<br/>12 decision were made that those should have been natural<br/>13 gas units and should be reflected in rates as natural<br/>14 gas units, that will require a number of assumptions<br/>15 into the future of what those costs will be, because<br/>16 the actual cost will reflect that of coal, not of<br/>17 natural gas.<br/>18 MS. CAMERON-RULKOWSKI: Thank you,<br/>19 Mr. Dalley. I have no further questions.<br/>20 JUDGE FRIEDLANDER: Thank you.<br/>21 Any redirect?<br/>22 MR. LOWNY: None, Your Honor.<br/>23 JUDGE FRIEDLANDER: Okay. Thank you.<br/>24 Any questions from the bench?<br/>25 Okay. Thank you. You're excused.</p>  |

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|----------|---|----------|
| 1        | I believe for Mr. Teply we will need to close         | 1        |
| 2        | the hearing. So as you have indicated, I don't        | 2        |
| 3        | believe anybody else has come in the room who has not | 3        |
| 4        | signed a confidentiality agreement. So we will go     | 4        |
| 5        | ahead and --  | 5        |
| 6        | MS. McDOWELL: I need a rearview mirror.               | 6        |
| 7        | MS. CAMERON-RULKOWSKI: Your Honor,                    | 7        |
| 8        | while Mr. Teply is getting situated, I was able to    | 8        |
| 9        | segregate the first couple questions of my            | 9        |
| 10       | cross-examination for Mr. Teply. We won't need to     | 10       |
| 11       | close necessarily until after the first couple        | 11       |
| 12       | questions, if you would like to do that.              | 12       |
| 13       | JUDGE FRIEDLANDER: I think just for                   | 13       |
| 14       | consistency sake, and since it is just a couple of    | 14       |
| 15       | questions, I will go ahead and disconnect the         | 15       |
| 16       | conference bridge, we will segregate the transcript   | 16       |
| 17       | for now, and just go that way. So at this point I am  | 17       |
| 18       | going to disconnect the conference bridge.            | 18       |
| 19       | (Pause in the proceedings.)                           | 19       |
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CERTIFICATE

STATE OF WASHINGTON  
COUNTY OF KING

I, Sherrilyn Smith, a Certified  
Shorthand Reporter in and for the State of Washington,  
do hereby certify that the foregoing transcript is  
true and accurate to the best of my knowledge, skill  
and ability.

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(CONFIDENTIAL PORTION.)