

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
))
) Docket No. UE-152253
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

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* * * * *

EVIDENTIARY HEARING
VOLUME VII: INDEX

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2
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8
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10
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12
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14
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16
17
18
19
20
21
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WITNESSES:	PAGE
R. BRYCE DALLEY	444
Examination by:	
Mr. Lowney	444
Ms. Cameron-Rulkowski	444
CHAD A. TEPLY	450
Examination by:	
Ms. McDowell	451
Ms. Cameron-Rulkowski	452
Ms. Smith	476
Ms. McDowell	531
Commissioner Jones	541

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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.

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 ffitch 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

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. Ffitch -- 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

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

1 Mr. Lowney to let me know if there is anybody in the
2 room who should not be in, who has not signed the
3 confidentiality agreement.

4 I will also disconnect the conference bridge
5 when the time comes, since we cannot guarantee that
6 those who have called in or are listening with others
7 actually have or are entitled to access to the
8 information.

9 Finally, the court reporter is going to have
10 to segregate the closed hearing transcript from the
11 public transcript.

12 Are there questions or concerns?

13 MS. McDOWELL: No concerns, Your Honor,
14 but just for a little bit more background.

15 We have, pursuant to your instructions at our
16 last prehearing conference, checked the
17 confidentiality order and the highly confidential
18 order that's in place here. All parties present right
19 now have signed the confidentiality order. I'm not
20 sure about the bridge line, but everybody present in
21 the room has. I think the only issue is the highly
22 confidential protective order. A more limited subset
23 of folks have signed that. That is the place where,
24 if we get into that kind of questioning, we will need
25 to take a moment and have folks leave, because that's

1 a much more restricted group of folks who have signed
2 that protective order.

3 JUDGE FRIEDLANDER: Absolutely. And so
4 if Counsel can let me know. And I believe most, if
5 not all, of the highly confidential is involving
6 Mr. Twitchell's testimony and exhibits.

7 MS. McDOWELL: It's actually, I believe,
8 Mr. Fisher's --

9 JUDGE FRIEDLANDER: Mr. Fisher?

10 MS. McDOWELL: Let's see, it's in --
11 it's in Mr. Fisher's -- it's Sierra Club's
12 cross-exhibits for Mr. Teply.

13 MS. SMITH: Mr. Teply.

14 Sierra Club expects to have about five minutes
15 of cross using the highly confidential information. I
16 will certainly stop, full stop, and alert you and the
17 bench to that.

18 JUDGE FRIEDLANDER: I appreciate it.
19 Thank you.

20 Is there anything else before we continue?

21 All right. As Staff has assured me that its
22 cross-examination for Mr. Dalley does not involve
23 confidential information, we won't close the hearing
24 until we get to Mr. Teply.

25 Mr. Dalley, you are reminded that you are

1 still under oath from May 2nd.

2 So briefly, if you could, lay the foundation,
3 Mr. Lowney.

4
5 E X A M I N A T I O N

6 BY MR. LOWNEY:

7 Q Mr. Dalley, could you please state and spell
8 your name for the record?

9 A Sure. Bryce Dalley, B-R-Y-C-E, D-A-L-L-E-Y.

10 Q And how are you employed, Mr. Dalley?

11 A I am Vice President of Regulation for Pacific
12 Power.

13 Q And in that capacity did you file testimony in
14 this case?

15 A I did.

16 Q And the testimony has been admitted, so I
17 believe Mr. Dalley is available for cross-examination.

18 JUDGE FRIEDLANDER: Thank you.

19 Is it Mr. Casey or Ms. Cameron-Rulkowski?

20 MS. CAMERON-RULKOWSKI: It will be me,
21 Your Honor.

22 JUDGE FRIEDLANDER: Thank you.

23 E X A M I N A T I O N

24 BY MS. CAMERON-RULKOWSKI:

25 Q Good morning, Mr. Dalley.

1 A Good morning.

2 Q You testified on rebuttal about the
3 disallowance that Staff has recommended for the SCR
4 installation, correct?

5 A Yes, I briefly address it. Although, we have
6 other witnesses today that we will hear from that
7 address more of the details.

8 Q You do testify that Staff's recommendation is
9 problematic, right?

10 And I can point you to your testimony --

11 A Yes.

12 Q -- which is Exhibit No. RBD-3T, starting on
13 Line 16 -- it's Page 16.

14 A Yes, I'm there, and that is correct.

15 Q Now, if a company makes an imprudent
16 investment, wouldn't you agree that ratepayers should
17 not have to pay for it?

18 A Yes. And I believe that's how disallowances
19 have been treated in the past.

20 Q And I have a simple hypothetical. If a
21 company makes an expenditure and the Commission finds
22 the expenditure to be unnecessary, does the Commission
23 have to allow the Company to recover the expenditure
24 in rates?

25 A No.

1 Q And if the Commission finds that it is an
2 unnecessary capital investment, does the Commission
3 have to allow the utility to receive a return on the
4 investment through rates?

5 A No, it does not.

6 Q And so if the Commission finds a company's
7 decision to be imprudent, the Commission can decide
8 that the Company should recover zero dollars of that
9 investment in rates, correct?

10 A Yes, the Commission can make that
11 determination. Although, I don't believe it's Staff's
12 position, in this case, for the SCRs that it's zero.
13 I believe it's the difference between the cost of the
14 SCR installation versus Staff's calculation of the
15 natural gas conversion.

16 Q And for an imprudent investment, the
17 Commission could also decide that the Company should
18 recover some number between zero and full recovery,
19 right?

20 A The Commission has full jurisdiction,
21 discretion on how to handle treatment of the Company's
22 investments and rates.

23 Q Now, I'm going to refer you to your testimony,
24 also on Page 16 in this same exhibit, starting at
25 Line 20. You are testifying about Jim Bridger Units 3

1 and 4. You say that, with regard to Staff's
2 recommended disallowance, it is unclear how the
3 resources will be treated in rates prospectively; is
4 that accurate?

5 A Yes.

6 Q So as in the hypothetical questions that I
7 asked you, you would agree that the Commission can
8 decide that Pacific Power can recover in rates some
9 number between zero and 100 percent of it's SCR
10 investment, right?

11 A It certainly could. And I think what I am
12 pointing out here in my testimony is that Staff's
13 recommendation is that the Company should have
14 converted those units to natural gas. I think that
15 that does present some complexities in how those units
16 would be treated in the future because we did not
17 convert those units to natural gas. The SCR for
18 Bridger 3 is already installed, the SCR for Bridger 4
19 will be installed at the end of this year, and so
20 those units will continue to operate on coal.

21 And what I'm describing in this section of my
22 testimony is that it does present some potential
23 complexities in how those units would be reflected in
24 rates on a going-forward basis because they will not
25 be operating on natural gas.

1 **Q** And now I am going to ask you to refer to
2 **Page 17 in this same exhibit, Lines 9 to 10.**

3 **You testify that if customers do not pay for**
4 **the SCRs, they should not receive the future benefits**
5 **of Jim Bridger Units 3 and 4; is that accurate?**

6 **A** Yes. The cost of the SCRs allow those
7 facilities to continue to operate and serve customers
8 beyond the end of '15 in the instance of Jim Bridger
9 Unit 3, and beyond the end of '16 in the instance of
10 Bridger Unit 4. And so without those investments,
11 those units and the benefits of those units would not
12 be accessible for customers.

13 And so I think the symmetry of cost and
14 benefits associated with those resources, if the costs
15 are not reflected in rates, then the benefits
16 associated with those resources also should not be
17 reflected in rates.

18 **Q** So let's say that the Commission does not
19 **allow Pacific Power to recover the full SCR**
20 **investment. Does your testimony mean that Pacific**
21 **Power would stop dispatching power to Washington**
22 **ratepayers from Bridger Units 3 and 4?**

23 **A** It's a difficult question to answer assuming
24 the hypothetical. Obviously, any order from this
25 Commission we would take and evaluate and decide how

1 that would be treated going forward. What I am
2 arguing in my testimony here is that those investments
3 were necessary, they were prudent, and that because
4 those investments were made, those resources can
5 continue to be dispatched for the benefit of
6 Washington customers.

7 If the Commission decides to disallow all or a
8 portion of those investments, it creates some
9 ratemaking complexities in the future, or it could,
10 depending on the order, in how that disallowance is
11 articulated by the Commission. Because if the
12 decision were made that those should have been natural
13 gas units and should be reflected in rates as natural
14 gas units, that will require a number of assumptions
15 into the future of what those costs will be, because
16 the actual cost will reflect that of coal, not of
17 natural gas.

18 MS. CAMERON-RULKOWSKI: Thank you,
19 Mr. Dalley. I have no further questions.

20 JUDGE FRIEDLANDER: Thank you.

21 Any redirect?

22 MR. LOWNEY: None, Your Honor.

23 JUDGE FRIEDLANDER: Okay. Thank you.

24 Any questions from the bench?

25 Okay. Thank you. You're excused.

1 I believe for Mr. Teply we will need to close
2 the hearing. So as you have indicated, I don't
3 believe anybody else has come in the room who has not
4 signed a confidentiality agreement. So we will go
5 ahead and --

6 MS. McDOWELL: I need a rearview mirror.

7 MS. CAMERON-RULKOWSKI: Your Honor,
8 while Mr. Teply is getting situated, I was able to
9 segregate the first couple questions of my
10 cross-examination for Mr. Teply. We won't need to
11 close necessarily until after the first couple
12 questions, if you would like to do that.

13 JUDGE FRIEDLANDER: I think just for
14 consistency sake, and since it is just a couple of
15 questions, I will go ahead and disconnect the
16 conference bridge, we will segregate the transcript
17 for now, and just go that way. So at this point I am
18 going to disconnect the conference bridge.

19 (Pause in the proceedings.)

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C E R T I F I C A T E

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.

SHERRILYN SMITH