

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP d/b/a PACIFIC POWER
& LIGHT COMPANY,

Respondent.

DOCKET UE-230172

ORDER 01

COMPLAINT AND ORDER
SUSPENDING TARIFF REVISIONS

BACKGROUND

- 1 On March 17, 2023, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective tariff WN U-76, as listed in the appendix attached to this Order.
- 2 PacifiCorp requests a two-year rate plan, with an increase in revenues of approximately \$26.8 million for rate year one and an increase of approximately \$27.9 million for rate year two. Under the Company's proposal, the average residential customer using 1,200 kilowatt-hours per month would receive a \$12.11 increase in the first year, followed by a \$9.34 increase in the second year.
- 3 On March 31, 2023, Administrative Law Judge Rayne Pearson convened a status conference with counsel for statutory parties to this proceeding to discuss the Company's filing timeline (Filing Status Conference).¹ Counsel for Commission staff (Staff) explained that there were "a lot of problems with the initial filing,"² including, among

¹ The statutory parties are PacifiCorp, Commission Staff, and the Public Counsel Unit of the Attorney General's Office.

² Filing Status Conference at 1:47.

other things, broken links in documents, issues with document naming conventions, folder stacking, and aspects of testimony that were inconsistent with Commission rules. Staff provided the Company with a list of outstanding issues on March 30, 2023.

- 4 At the Filing Status Conference, Judge Pearson explained that the Company’s general rate case would be considered filed on the date when corrected documents were received because more than three weeks would elapse between the original filing date (March 17, 2023) and the date the Company anticipated that its filing would be complete (April 10, 2023).³ Judge Pearson further explained that applying the original filing date would hamper or impair the Commission’s ability to timely review, analyze, or act on the merits of the case. Specifically, accepting corrected documents on April 10, 2023, with an effective date of May 1, 2023, would reduce the Commission’s 10-month statutory timeframe for considering the Company’s proposed tariff revisions by 10 days.
- 5 On April 10, 2023, PacifiCorp filed a revised cover letter requesting an amended protective order (April 10 Letter). In its letter, the Company claims, among other things, that the Commission “rejected” its filing and denied it the opportunity to make corrections.
- 6 On April 13, 2023, Staff notified the presiding officer that Staff had identified both recurring and additional issues with the Company’s revised filing.
- 7 On April 14, 2023, Judge Pearson sent an email to the parties that included the list of deficiencies Staff identified and, pursuant to WAC 480-07-141(2)(b), established a deadline of April 20, 2023, for the Company to correct its filing. Judge Pearson reiterated that the Company’s filing would not be considered received by the Commission until it was correct and complete. In its response, the Company requested clarification regarding whether its filing was rejected. Judge Pearson sent the following reply:

I was clear on March 31 that the Commission had not rejected, and did not reject, the Company’s filing. I did misspeak at the conference when I cited WAC 480-07-141(2)(c) – I was actually referring to (and spoke only about) the second full paragraph in WAC 480-07-141(2), related to the Commission’s determination of a filing date, as explained above. Nor is my earlier email a rejection of the filing.

³ WAC 480-07-141(2) provides that the Commission will consider corrected documents to have been filed on the date the original documents were submitted if the deficiencies are not substantive or otherwise do not impair or hamper the Commission’s ability to timely review, analyze, or act on the merits of the submission. Otherwise, the Commission will consider the documents to have been filed on the date the corrected documents are submitted.

The Company should, however, interpret both my prior email and this email as notification of noncompliance consistent with WAC 480-07-141(2)(b) establishing a deadline for making corrections.⁴

- 8 On April 19, 2023, the Company submitted a revised filing with a proposed effective date of May 19, 2023. In its revised cover letter, the Company states that it “continues to respectfully request a rate effective date of March 1, 2024.”
- 9 On April 28, 2023, Staff notified the presiding officer via email that it accepts the Company’s filing as complete.

DISCUSSION AND DECISION

- 10 As a preliminary matter, we address several mischaracterizations in PacifiCorp’s April 10 Letter. First, the Company incorrectly claims it was informed at the Filing Status Conference that “under WAC 480-07-141(2)(c), the Commission was rejecting the filing.”
- 11 WAC 480-07-141(2), in its entirety, provides as follows:

(2) **Notice of, and opportunity to correct, noncompliance.** The commission will identify any areas of noncompliance in the submission and will notify the person who made the submission within two business days, or as soon thereafter as practicable, of any areas of noncompliance that require corrective action before the commission can accept the document for filing. The notification will indicate one of the following:

- (a) A requirement to submit one or more additional documents (e.g., a cover letter, certificate of service, etc.);
- (b) A requirement to resubmit the document with the deficiencies corrected within a specified period of time; or
- (c) Rejection of the document and its return to the sender.

The commission will consider corrected documents to have been filed on the date the original documents were submitted if the deficiencies are not substantive or otherwise do not impair or hamper the commission’s ability to timely review,

⁴ Judge Pearson’s April 14, 2023, email to statutory parties.

analyze, or act on the merits of the submission. Otherwise, the commission will consider the documents to have been filed on the date the corrected documents are submitted.

- 12 Referencing the second full paragraph of WAC 480-07-141(2), Judge Pearson informed the Company that the Commission would consider its documents filed on the date corrected copies were submitted because applying the original filing date would impair the Commission’s ability to timely review, analyze, or act on the merits of the case.⁵ Judge Pearson also expressly stated that the filing had not been rejected.
- 13 Additionally, the parties discussed Staff’s ability to recommend the Commission reject the Company’s filing at the Filing Status Conference. Staff explained that it chose not to take that course of action, instead giving the Company multiple opportunities to correct its filing. Thus, the Company’s assertion that “[e]ven though no party had requested that the filing be rejected, the Company was denied the opportunity to cure the filing despite working with Staff and the non-substantive nature of the errata”⁶ is not accurate. Both the Company and Staff stated that the parties intended to continue to work together to perfect the Company’s filing. Staff also noted that some of the deficiencies in the Company’s filing were, in fact, substantive. Deficiencies, however, need not be substantive to hamper or impair the Commission.⁷
- 14 The presiding administrative law judge correctly concluded that the Commission’s analysis has been hampered by the Company’s delay in this case. The Commission was unable to issue a suspension order, schedule a prehearing conference, entertain petitions to intervene, or establish a procedural schedule until Staff accepted the Company’s filing on April 28, 2023. Accordingly, the Commission denies the Company’s request for a March 1, 2024, effective date. It is the Company’s responsibility to ensure its filing is correct so that the Commission’s strict statutory timeline for considering its case is not compromised. As such, the statutory suspension date remains March 19, 2024, as

⁵ Although Judge Pearson incorrectly cited the portion of the rule she referenced as WAC 480-07-141(2)(c), it is not reasonable to interpret the second full paragraph of the rule as a secondary clause of that subsection because the Commission would neither consider which filing date to assign, nor accept corrections made, to a filing that has been rejected and returned to its sender. Judge Pearson clarified this error in her April 14, 2023, email to the Company.

⁶ PacifiCorp’s April 10, 2023, Cover Letter.

⁷ The rule differentiates between deficiencies that are “not substantive” and deficiencies that “otherwise impair or hamper the Commission’s ability to timely review, analyze, or act on the merits of the submission.”

reflected in the Company's revised April 19, 2023, tariff filing.

- 15 Because PacifiCorp's requested tariff revisions might injuriously affect the rights and interests of the public, and PacifiCorp has not demonstrated that the revisions would result in rates that are fair, just, reasonable, equitable, and sufficient, the Commission suspends the tariff filings pursuant to RCW 80.04.130(1) and will hold public hearings, if necessary, to determine whether the proposed tariff revisions are fair, just, reasonable, equitable, and sufficient.

FINDINGS AND CONCLUSIONS

- 16 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, and practices of public service companies, including electric companies.
- 17 (2) PacifiCorp is an electric company and a public service company subject to Commission jurisdiction.
- 18 (3) The tariff revisions filed with the Commission by PacifiCorp on April 19, 2023, would modify the charges and rates for service provided by PacifiCorp and might injuriously affect the rights and interest of the public.
- 19 (4) PacifiCorp has not yet demonstrated that the tariff revisions would result in rates that are fair, just, reasonable, and sufficient.
- 20 (5) In order to carry out the duties imposed upon the Commission by law, and as authorized in RCW 80.04.130, the Commission believes it is necessary to investigate PacifiCorp's books, accounts, practices, and activities; to make a valuation or appraisal of PacifiCorp's property; and to investigate and appraise various phases of PacifiCorp's operations.
- 21 (6) The Commission finds that this Docket meets the criteria of WAC 480-07-400(2)(b)(i) and that the parties may conduct discovery pursuant to the Commission's discovery rules in WAC 480-07-400 – 425.
- 22 (7) As required by RCW 80.04.130(4), PacifiCorp bears the burden to prove that the proposed tariff revisions are fair, just, reasonable, equitable, and sufficient.
- 23 (8) PacifiCorp may be required to pay the expenses reasonably attributable and allocable to such an investigation, consistent with RCW 80.20.

ORDER

THE COMMISSION ORDERS:

- 24 (1) The tariff revisions filed with the Commission by PacifiCorp d/b/a Pacific Power
& Light Company on April 19, 2023, are suspended.
- 25 (2) The Commission will hold hearings at such times and places as may be required.
- 26 (3) PacifiCorp d/b/a Pacific Power & Light Company must not change or alter the
tariffs filed in this Docket during the suspension period unless authorized by the
Commission.
- 27 (4) The Commission will institute an investigation of PacifiCorp d/b/a Pacific Power
& Light Company's books, accounts, practices, activities, property, and
operations as described above.
- 28 (5) The parties may conduct discovery pursuant to the Commission's discovery rules
in WAC 480-07-400 – 425.
- 29 (6) PacifiCorp d/b/a Pacific Power & Light Company shall pay the expenses
reasonably attributable and allocable to the Commission's investigation to the
extent required in Chapter 80.20 RCW.

DATED at Lacey, Washington, and effective May 2, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner

**Appendix
WN U-76**

3 rd Revision of Sheet No. INDEX.2	Canceling	2 nd Revision of Sheet No. INDEX.2
5 th Revision of Sheet No. INDEX.3	Canceling	4 th Revision of Sheet No. INDEX.3
3 rd Revision of Sheet No. 15.1	Canceling	2 nd Revision of Sheet No. 15.1
N /A	Cancel	3 rd Revision of Sheet No. 15.2
3 rd Revision of Sheet No. 16.1	Canceling	2 nd Revision of Sheet No. 16.1
4 th Revision of Sheet No. 17.1	Canceling	3 rd Revision of Sheet No. 17.1
N/A	Cancel	Original Sheet No. 18.1
N/A	Cancel	Original Sheet No. 18.2
4 th Revision of Sheet No. 19.1	Canceling	3 rd Revision of Sheet No. 19.1
1 st Revision of Sheet No. 24.1	Canceling	Original Sheet No. 24.1
3 rd Revision of Sheet No. 24.2	Canceling	2 nd Revision of Sheet No. 24.2
1 st Revision of Sheet No. 24.3	Canceling	Original Sheet No. 24.3

3 rd Revision of Sheet No. 29.1	Canceling	2 nd Revision of Sheet No. 29.1
1 st Revision of Sheet No. 36.1	Canceling	Original Sheet No. 36.1
3 rd Revision of Sheet No. 36.2	Canceling	2 nd Revision of Sheet No. 36.2
4 th Revision of Sheet No. 40.1	Canceling	3 rd Revision Sheet No. 40.1
1 st Revision of Sheet No. 40.2	Canceling	Original Sheet No. 40.2
1 st Revision of Sheet No. 40.3	Canceling	Original Sheet No. 40.3
3 rd Revision of Sheet No. 48T.1	Canceling	2 nd Revision of Sheet No. 48T.1
1 st Revision of Sheet No. 48T.2	Canceling	Original Sheet No. 48T.2
1 st Revision of Sheet No. 48T.3	Canceling	Original Sheet No. 48T.3
3 rd Revision of Sheet No. 51.1	Canceling	2 nd Revision of Sheet No. 51.1
3 rd Revision of Sheet No. 53.1	Canceling	2 nd Revision of Sheet No. 53.1
N/A	Cancel	Original Sheet No. 53.2
3 rd Revision of Sheet No. 54.1	Canceling	2 nd Revision of Sheet No. 54.1

N/A	Cancel	Original Sheet No. 54.2
3 rd Revision of Sheet No. 80.1	Canceling	2 nd Revision of Sheet No. 80.1
3 rd Revision of Sheet No. 91.1	Canceling	2 nd Revision of Sheet No. 91.1
6 th Revision of Sheet No. 93.1	Canceling	5 th Revision of Sheet No. 93.1
3 rd Revision of Sheet No. 97.1	Canceling	2 nd Revision of Sheet No. 97.1
1 st Revision of Sheet No. 99.1	Canceling	Original Sheet No. 99.1
1 st Revision of Sheet No. 135.1	Canceling	Original Sheet No. 135.1
1 st Revision of Sheet No. 135.2	Canceling	Original Sheet No. 135.2
Original Sheet No. 135.3	New	N/A
Original Sheet No. 138.1	New	N/A
Original Sheet No. 138.2	New	N/A
Original Sheet No. 138.3	New	N/A
Original Sheet No. 138.4	New	N/A
3 rd Revision of Sheet No. 191.1	Canceling	1 st Revision of Sheet No.

		191.1
2 nd Revision of Sheet No. 197.1	Canceling	1 st Revision of Sheet No. 197.1
1 st Revision of Sheet No. R1.2	Canceling	Original Sheet No. R1.2
1 st Revision of Sheet No. R1.3	Canceling	Original Sheet No. R1.2