

Docket No. UE-230172 - Vol. I

WUTC v. Pacificorp dba Pacific Power & Light Company

May 17, 2023



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

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

Respondent,

DOCKET NO. UE-230172

VERBATIM REPORT OF PROCEEDINGS
OF
PREHEARING CONFERENCE

VOLUME I
Pages 1-21

(All participants appeared via videoconference.)

DATE TAKEN: Wednesday May 17, 2023, 9:30 a.m.

REPORTED BY: Danielle Schemm, CCR 3395

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1 [Matter commenced at 9:30 a.m.]

2 JUDGE PEARSON: Good morning. We're here for a
3 prehearing conference in Docket UE-230172 which is
4 captioned Washington Utilities and Transportation
5 Commission versus PacifiCorp doing business as Pacific
6 Power and Light Company.

7 Today is Wednesday May 17th, 2023, and the time is
8 approximately 9:30 a.m. My name is Rayne Pearson. I use
9 she/her pronouns. I'm an administrative law judge with
10 the commission, and I will be presiding in this matter
11 along with the commissioners.

12 So let's start by taking appearances and
13 addressing the petitions for intervention as well as
14 AWEC's motion to consolidate. So let's begin with
15 PacifiCorp.

16 MR. KUMAR: Thank you, your Honor. On behalf of the
17 company, my name is Ajay Kumar, and along with me I have
18 Carla Scarsella and the law firm of McDowell, Rackner, and
19 Gibson with Jocelyn Pease, Adam Lowney, and Katherine
20 McDowell.

21 JUDGE PEARSON: Great. Thank you.

22 And for Staff?

23 MR. CALLAGHAN: Good morning, your Honor. Nash
24 Callaghan, Assistant Attorney General on behalf of
25 Commission Staff.

1 JUDGE PEARSON: Thank you.

2 And Public Counsel?

3 MS. GAFKEN: Good morning. This is Lisa Gafken,
4 Assistant Attorney General, appearing on behalf of Public
5 Counsel. Also with me is my cocounsel Ann Paisner.

6 JUDGE PEARSON: All right. Thank you.

7 And AWEC or Alliance of Western Energy Consumers?

8 MS. MOSER: Thank you. Good morning, your Honor.
9 Sommer Moser on behalf of AWEC.

10 JUDGE PEARSON: Good morning. Thank you.

11 All right. And The Energy Project?

12 MR. ZAKAI: Good morning, your Honor. Yochanan Zakai
13 on behalf of The Energy Project.

14 JUDGE PEARSON: Good morning. Thank you.

15 And for Walmart?

16 MS. CAVIGLIA: Good morning, your Honor. Justina
17 Caviglia on behalf of Walmart.

18 JUDGE PEARSON: Good morning. Thank you.

19 And Sierra Club?

20 MS. MONAHAN: Good morning, your Honor. Rose Monahan
21 on behalf of Sierra Club.

22 JUDGE PEARSON: Good morning. Thank you.

23 And for NWECC?

24 MS. SLIGER: Good morning, your Honor. This is Joni
25 Sliger with Sanger Law here today for the Northwest Energy

1 Coalition.

2 JUDGE PEARSON: Great. Thank you. Is there anyone
3 else who wishes to enter an appearance? That's all I have
4 on my list. Okay. Hearing nothing, let's turn to the
5 petitions for intervention.

6 Are there any petitions for intervention other
7 than the ones that have been filed in advance? I'm
8 assuming not. All right. Hearing nothing, let's proceed.

9 I have reviewed the petitions to intervene filed
10 by AWEC, The Energy Project, NWECC, Walmart, and Sierra
11 Club. I'm unaware of any written objections to these
12 petitions. Are there any objections?

13 MR. KUMAR: The company has no objections, your Honor.

14 MR. CALLAGHAN: None from Staff, your Honor.

15 MS. GAFKEN: No objections from Public Counsel.

16 JUDGE PEARSON: Great. The petitions to intervene are
17 granted. AWEC also filed a motion to consolidate its
18 petition for an order approving the deferral of increased
19 fly ash revenues with this proceeding. AWEC indicated
20 that Public Counsel supports its motion and that the
21 Company, Staff, Walmart, The Energy Project, and Sierra
22 Club do not oppose the motion.

23 So I would ask if anyone has a change in position
24 or whether NWECC opposes the motion?

25 MS. SLIGER: NWECC is not opposed, your Honor.

1 JUDGE PEARSON: Thank you.

2 MR. KUMAR: Your Honor, there's no change in position
3 from PacifiCorp, but I would note that PacifiCorp does
4 reserve the right to address the substantive issues of
5 that petition in this proceeding.

6 JUDGE PEARSON: Oh, of course, yes. All right.
7 Hearing nothing else, that motion is granted, and Dockets
8 UE-230172 and UE-210852 are consolidated.

9 So I want to remind the parties, the Commission
10 requires electronic filings of documents for formal
11 filings, and the Commission's rules provide for electronic
12 service of documents. So the Commission will serve the
13 parties electronically, and the parties will serve each
14 other electronically.

15 If any party has not yet designated a lead
16 representative for service, please do so via email to me
17 as soon as possible. And for the record, my email address
18 is rayne.pearson@utc.wa.gov, and if anyone would like to
19 add names and email address of other representatives or
20 support staff who should receive electronic courtesy
21 copies of all documents filed in this proceeding, please
22 email that to me as well.

23 And then because parties often request that any
24 data requests and responses are shared with every other
25 party, it would make it easier on the parties to include

1 this requirement in the prehearing conference order. Is
2 there any objection to including that requirement?

3 MR. KUMAR: None from the company.

4 MS. GAFKEN: None from Public Counsel. We support it.

5 JUDGE PEARSON: Great. So that brings us to the
6 procedural schedule, and I have the parties' proposals for
7 the procedural schedule. Thank you so much for providing
8 that in advance, and I just kind of want to go over what
9 looks like maybe just one sticking point, from what I
10 understand, which is the due date for Staff and Intervenor
11 response testimony.

12 Staff and the Company have proposed
13 September 14th, and Public Counsel has proposed
14 September 20th. Having not heard from any of the other
15 parties - it looked like they were all on the email - I
16 didn't know if other parties wanted to weigh in or if the
17 parties are interested in taking a recess to talk amongst
18 themselves.

19 MS. GAFKEN: Your Honor, I can jump in really quickly.
20 The 14th is fine for Public Counsel.

21 JUDGE PEARSON: Okay.

22 MS. GAFKEN: So it may not be a sticking point.

23 JUDGE PEARSON: Okay.

24 MS. GAFKEN: Or it doesn't have to be a sticking
25 point.

1 JUDGE PEARSON: Okay.

2 MR. CALLAGHAN: So and, your Honor, just so the record
3 is clear, the -- what I sent you was just Staff's
4 proposal.

5 JUDGE PEARSON: Uh-huh.

6 MR. CALLAGHAN: I have not necessarily heard from all
7 parties, and I do know that there is another slight
8 disagreement between Staff and the Company regarding those
9 last two items.

10 I don't think it's a big deal either way. Staff
11 just felt like they were unnecessary, but, yeah, I mean,
12 if no other party objects to the 14th being the response
13 testimony date, then I haven't heard any objections from
14 other parties. Although there has been a lot of emails
15 going back and forth so.

16 JUDGE PEARSON: Okay. Yeah, and I'll just let the
17 parties know right now that I will not be including in the
18 procedural schedule the order and compliance filing due
19 dates as proposed, because the statute gives the
20 Commission until the day prior to the effective date to
21 issue an order, and the rule gives Staff five business
22 days to review the Company's compliance filing and the
23 Commission will not be waiving either provision.

24 So that settles that matter. Do the parties want
25 to confer, or are we so close that we can finalize this

1 here, I guess is my question. So I guess I'm looking to
2 hear from the parties who did not respond to the emails.

3 MS. MOSER: Sommer Moser on behalf of AWEC. We are
4 comfortable with the Staff proposed schedule.

5 JUDGE PEARSON: Okay. Thank you. And for the
6 company, I guess I interpreted your email to be
7 comfortable with Staff's proposal and explaining why you
8 asked for those other two dates, but is there anything
9 else that the Company wants to address?

10 MR. KUMAR: No, your Honor. I think as long as you
11 kind of understood our -- I don't think we specifically
12 requested those dates be in the schedule for those final
13 two days. I guess we just wanted to -- for the Commission
14 to be mindful of the timing for that compliance filing in
15 that schedule.

16 JUDGE PEARSON: Okay. And we always are. So thank
17 you.

18 MR. ZAKAI: Your Honor, this is Yochi Zakai for The
19 Energy Project. As I indicated in the email, I would just
20 request that we use the first date for the first
21 settlement conference of August 9th because we're not
22 available on the 10th. Thank you.

23 JUDGE PEARSON: Okay. Yes, I was going to make note
24 of that. It looks like it will be August 9th because that
25 date does work for everyone else. So I will adopt that

1 date as the first settlement conference date.

2 MS. SLIGER: Joni Sliger for NWECC. Staff's proposed
3 schedule works for us as well.

4 JUDGE PEARSON: Okay.

5 MS. CAVIGLIA: This is Justina from Walmart. The
6 dates are fine from Staff so we didn't respond.

7 JUDGE PEARSON: Okay. All right. Well, let me go
8 ahead and read the dates into the record, and then we'll
9 just make sure that I'll ask if anyone has any objections
10 so that everyone doesn't have to affirmatively say that
11 they agree with it.

12 We have the first non-company party settlement
13 conference for July 21st; the first settlement conference
14 for August 9th; the second non-company party settlement
15 conference, August 16th; the second settlement conference,
16 August 18th; Staff and Intervenor response testimony due
17 September 14th.

18 The Company will circulate the joint issues matrix
19 October 4th. Company rebuttal testimony and exhibits,
20 Staff and Intervenor cross-answering testimony and
21 exhibits due October 27th. The notice issued for public
22 comment hearing and the public comment hearing are still
23 to be the determined.

24 The discovery deadline last day to issue data
25 requests, November 27th. The Company files a joint issues

1 matrix December 4th. Exhibit lists, cross-examination
2 exhibits, witness list, time estimates, and exhibits
3 errata due December 4th also.

4 The hearing on December 11th and continuing on
5 December 12th as needed. Post-hearing briefs on
6 January 12th. It looks like there's only going to be one
7 round of briefs based on this schedule, and then the
8 suspension date, of course, is March 19th.

9 So does anyone have any modifications to that?
10 All right. Hearing nothing, it sounds like we have a
11 schedule established. So I will reflect that in the
12 prehearing conference order.

13 The public comment hearing, Commission rules
14 require the prehearing conference to address the time and
15 location and amount of customer notice the Company is
16 required to give in advance of the public comment hearing.
17 The Commission will schedule those hearings for the
18 parties via Zoom on the dates -- or the date or dates
19 selected.

20 And because the date is still TBD, we will note in
21 the prehearing conference order that the public comment
22 hearing will be held virtually via Zoom before any hearing
23 on the final disposition of the case, that customers will
24 receive at least 30 days' notice of those hearing dates,
25 and that the notices will contain information required in

1 WAC 480-90-197.

2 And then also Commission rules sets a deadline --
3 or says that we can establish in the prehearing conference
4 order a deadline for filing errata sheets. Does anyone
5 have an objection to setting the deadline a week prior to
6 the evidentiary hearing? Okay. Hearing nothing, we'll
7 incorporate that date into the prehearing conference
8 order.

9 So before we adjourn today, I want to ask if there
10 is anything else? I also just wanted to put out there for
11 the parties that because this hearing is in December, most
12 likely it will be hybrid at Commission headquarters, just
13 to kind of put that out there now for planning purposes.

14 MR. KUMAR: Thank you.

15 MR. ZAKAI: It is not typical for us to include the
16 non-company party settlement conferences in the procedural
17 schedule, but I appreciate the parties' openness to doing
18 that at TEP's request.

19 And although the dates work for everyone now, I
20 just wanted to clarify it that was my assumption that
21 the -- like the regular settlement conferences, if the
22 participating parties agreed to move that date, that we
23 could do so without the need to get Commission approval.
24 Thank you.

25 JUDGE PEARSON: Absolutely. Yes, we just require

1 notification.

2 MR. KUMAR: And, your Honor, with regards to the
3 hybrid hearing, I think I've -- I noted it in my email
4 that we have some conflicts on the 12th for some of our
5 witnesses.

6 JUDGE PEARSON: Yes.

7 MR. KUMAR: And so we're just requesting some
8 flexibility about our appearance -- or our witnesses to
9 appear virtually on the 11th.

10 JUDGE PEARSON: Absolutely. And we encourage
11 witnesses to appear virtually, I mean, just to save travel
12 expenses and things like that. We just want to be able to
13 have whoever wants to to be in the room, you know,
14 attorneys mostly, probably.

15 MR. KUMAR: Of course.

16 JUDGE PEARSON: Yes. And it sounds like the parties
17 are fine with accommodating PacifiCorp's needs with having
18 most of their witnesses go on that first day. All right.

19 Thank you very much. Is there anything else that
20 we need to address today?

21 MR. CALLAGHAN: So your Honor, in my initial email I
22 included a DR topics list. This is something that I had
23 circulated. It did include a proposal to incorporate that
24 list in some way into the prehearing conference order.

25 JUDGE PEARSON: Oh, okay.

1 MR. CALLAGHAN: This is just an administrative
2 efficiency step in Staff's opinion. It makes it easier
3 for each party that has members that are focused on a
4 specific topic to easily be able to identify DRs from
5 other parties that are on that same topic.

6 We're just asking that it be included so that
7 parties who are asking the same questions but are listing
8 slightly different topics are just listing it under a same
9 label and including that in the emails back and forth.

10 JUDGE PEARSON: Okay.

11 MR. CALLAGHAN: I don't believe I heard objections,
12 except that the Company didn't believe it was necessary to
13 include in the order. We'd like it to be in the order
14 just because it -- it's somewhere where everyone can find
15 it and identify it.

16 JUDGE PEARSON: Sure.

17 MR. KUMAR: Your Honor, if I could speak on this
18 issue. I don't think we're necessarily opposed to having
19 the list in the order. I think our concerns are -- I
20 mean, no problem as long as, you know, people identify the
21 topic when they send us the requests. We have no problem
22 with using that when we send out the responses. Not a
23 huge issue on our part.

24 I think we did have some concerns about the list,
25 and the fact that it seemed to include certain topics that

1 were not at issue in our proceeding. AMI, for example, we
2 don't have AMI meters. Virtual power plant, we don't have
3 that in our -- we don't have anything about that in our
4 case.

5 So there's a number of topics in there that we
6 felt were maybe outside the scope of the case, and so just
7 because the topics are included in the prehearing
8 conference, we don't want to prejudge any issues of, you
9 know, the relevance or objections we may have to the
10 actual discovery requests themselves.

11 JUDGE PEARSON: Okay.

12 MR. KUMAR: And we also -- we are -- we, you know,
13 this is, again, not necessarily our concern, but we may
14 have an issue about flexibility. It may be all the topics
15 that are identified in the case may not necessarily be in
16 that list.

17 JUDGE PEARSON: I see what you're saying. So this is
18 what I was thinking. I was thinking of including language
19 similar to what we did in the prehearing conference for
20 the last Cascade rate case - actually identical to that -
21 which just says that "Requesting parties will; number one,
22 include a list in the email serving the data request that
23 identifies each data request by number and the subject or
24 issue of each data request being issued; and number two,
25 group the data requests by subject or issue in the cover

1 letter serving the data request."

2 And that was what I was going to leave it at that.

3 MR. KUMAR: That is certainly acceptable to the
4 Company.

5 JUDGE PEARSON: Okay. Does that work for Staff?

6 MR. CALLAGHAN: Yes, your Honor. Thank you.

7 JUDGE PEARSON: All right. And then I also see - and
8 we didn't address; I apologize for this - Staff's request
9 to shorten the data request response times after
10 cross-answering and rebuttal testimony is filed.

11 Does anyone object to that proposal? So it would
12 be shortening to seven business days after response
13 testimony and five business days after cross-answering and
14 rebuttal testimony. Okay. Hearing -- oh, sorry.

15 Go ahead.

16 MR. KUMAR: Sorry, your Honor. I hadn't seen that in
17 Staff's schedule.

18 JUDGE PEARSON: It's in the email beneath the
19 schedule, which I also didn't see, and I apologize for
20 that.

21 MR. KUMAR: No, and I apologize for missing that as
22 well. I guess if you could -- I think that's probably
23 acceptable. Those are business days, correct?

24 JUDGE PEARSON: Yes.

25 MR. KUMAR: Yeah, there's no issue from the Company.

1 JUDGE PEARSON: Okay. Sounds good. All right. We
2 will include those provisions in there, and did we get
3 everything else that Staff proposed? I think we did. It
4 looks we did.

5 MR. CALLAGHAN: Yes, your Honor.

6 JUDGE PEARSON: Okay. Perfect. All right. Anything
7 else? No? Okay. Hearing nothing. Thank you all so very
8 much for joining us this morning, and I will get the
9 prehearing conference order out soon. Thank you. Have a
10 great day. And we're adjourned.

11 [Matter concluded at 9:48 a.m.]

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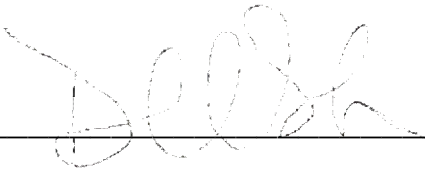

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15 JULY 16, 2023

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