

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFIC POWER AND LIGHT,

Respondent.

DOCKET UE-152253

PACIFIC POWER & LIGHT
COMPANY'S RESPONSE TO
COMMISSION STAFF'S MOTION TO
REJECT FILING FOR
NONCOMPLIANCE WITH ORDER 12

I. INTRODUCTION

1 Under WAC 480-07-375(4), Pacific Power & Light Company (Pacific Power), a division of PacifiCorp, provides the following response opposing Commission Staff's Motion to Reject Filing for Non-Compliance with Order 12 (Staff's Motion). Pacific Power respectfully requests that the Washington Utilities and Transportation Commission (Commission) deny Staff's Motion and allow Pacific Power's proposed tariff to take effect as filed.¹

II. BACKGROUND

2 On September 1, 2016, the Commission issued a final order in Pacific Power's 2015 Limited Issue Rate Filing (Order 12).² In this order, the Commission approved Pacific Power's decoupling mechanism with an earnings test and deferral trigger, and provided a timeline for the decoupling mechanism.³ This timeline was later modified by the Commission in order to align the decoupling mechanism with the company's mid-

¹ See *Advice 17-09–Schedule 93–Annual Decoupling Revenue Adjustment*, Docket UE-171161, Cover Letter (Dec. 1, 2017) (*hereinafter* Pacific Power's Tariff Revision).

² *WUTC v. Pacific Power & Light Co.*, Docket UE-152253, Order 12 (Sept. 1, 2016) (*hereinafter* Order 12).

³ Order 12 at ¶139.

year Commission Basis Report filing.⁴ The Commission specified that, if needed, Pacific Power should file its first proposed rate adjustment to Schedule 93 (which is the decoupling rate adjustment tariff) by December 1, 2017, and the effective date of such rate adjustment would be February 1, 2018.⁵

3 Consistent with this approved schedule, Pacific Power filed an advice filing for a tariff revision on December 1, 2017,⁶ and noticed this revision in accordance with WAC 480-100-194(2).⁷ On January 19, Staff filed a motion that appears to treat Pacific Power's tariff revision as a compliance filing and requested that the Commission reject it.⁸

III. STANDARD OF REVIEW

4 Pacific Power filed its tariff revision under the requirements of WAC Chapter 480-80 et seq. and consistent with the requirements of Washington law.⁹ Under the applicable law and regulations, the Commission has the ability to suspend the tariffs, reject the tariffs for non-compliance with commission rules, or allow the tariffs to enter force on the effective date.¹⁰

5 While it was filed as a tariff revision, Staff's Motion appears to treat Pacific Power's tariff revision as a compliance filing.¹¹ The Commission must approve or reject

⁴ *WUTC v. Pacific Power & Light Co.*, Docket UE-152253, Order 15 at ¶23 (Sept. 30, 2016).

⁵ *Id.*

⁶ See Pacific Power's Tariff Revision.

⁷ See *Advice 17-09–Schedule 93–Annual Decoupling Revenue Adjustment*, Docket UE-171161, Customer Notice (Dec. 19, 2017).

⁸ *WUTC v. Pacific Power & Light Co.*, Docket UE-152253, Commission Staff's Motion to Reject Filing for Non-Compliance with Order 12 (Jan. 19, 2018) (*hereinafter* Staff's Motion).

⁹ RCW §80.28.060.

¹⁰ *Id.*; WAC 480-80-132.

¹¹ Staff's Motion at ¶2 (“Commission Staff (Staff) requests that the Commission...reject [Pacific Power's] decoupling filing for failure to comply with Order 12.”).

a compliance filing.¹² The Commission may reject a compliance filing that varies from the requirements or conditions of the order authorizing or requiring it.¹³

IV. PACIFIC POWER'S RESPONSE

6 Staff argues that Pacific Power's tariff revision fails to comply with Order 12, and therefore should be rejected. However, Staff's Motion is inconsistent with the plain language and seeming intent of Order 12. Furthermore, to adopt Staff's reading of Order 12 would undermine the purpose of Pacific Power's decoupling mechanism.

A. Pacific Power's tariff revision complies with the Commission's orders in this docket.

7 The company's decoupling filing was made according to the requirements of its Schedule 93 tariff as well as Order 12. In this order, the Commission lays out the parameters for when any over-earnings would be applied to a decoupling adjustment.

Order 12 states:

8 If the actual ROE exceeds the most recently authorized ROE
-any proposed decoupling surcharge will be reduced or eliminated by up to 50 percent of the excess earnings.
-any proposed decoupling surcredit will be returned to customers as well as 50 percent of the excess earnings.¹⁴

9 This earnings test prescribed by the Order does not contemplate an application of excess earnings for the circumstances under which there is neither a proposed surcharge nor a proposed surcredit. Pacific Power's tariff revisions applies the earnings test in exactly this manner.

10 For the period under consideration for the company's decoupling mechanism in this filing, only one of the rate classes (Schedule 40) had a decoupling balance exceeding

¹² WAC 480-07-883(3)(b).

¹³ WAC 480-07-883.

¹⁴ Order 12 at ¶134.

plus or minus 2.5 percent and therefore requiring a proposed rate adjustment.¹⁵ In its filing, the company therefore only applied half of the excess earnings towards the proposed surcharge for Schedule 40.¹⁶ The plain language of the order does not allow for an application of excess earnings when a decoupling adjustment is not proposed.

11 In addition to complying with the plain language of the order, there are good policy reasons for the Commission’s order to stand as written and not be re-interpreted as Staff proposes. The intent of a decoupling mechanism is to track differences in revenue collection, not to track the company’s earnings. This was acknowledged by the Commission in their policy statement on decoupling: “[b]y reducing the risk of volatility of revenue based on customer usage, both up and down, such a mechanism can serve to reduce risk to the company, and therefore to investors, which in turn should benefit customers by reducing a company’s debt and equity costs.”¹⁷

12 It was with the intent of reducing volatility that a threshold of 2.5 percent of allowed revenue was imposed as a trigger for any adjustment to be proposed for a rate class.¹⁸ That Order 12 calls for sharing of excess earnings only when such an adjustment exists is reasonable, because it provides relief for customers who require a surcharge and additional consideration for customers from whom revenues have been over-collected to the point that their deferral balance exceeds 2.5 percent. When the deferral balance falls within the 2.5 percent threshold, either under or over-collected, revenue collection is

¹⁵ Pacific Power’s Tariff Revision at Attachment B.

¹⁶ *Id.*

¹⁷ *In the Matter of the Washington Utilities and Transportation Commission’s Investigation into Energy Conservation Incentives*, Docket No. U-100522, REPORT AND POLICY STATEMENT ON REGULATORY MECHANISMS, INCLUDING DECOUPLING, TO ENCOURAGE UTILITIES TO MEET OR EXCEED THEIR CONSERVATION TARGETS at ¶27 (Nov. 4, 2010).

¹⁸ This deferral trigger was proposed by Staff “to ensure customers do not experience significant changes in rates when the deferral balance becomes too high or too low and to avoid frequent and unnecessary rate revisions.” Order 12 at ¶126.

relatively close to the level reflected in the base period in which rates were set and need not be modified. Therefore, Pacific Power's calculation of the earnings test conforms to both the plain language and the understood intent of the order, and Staff's Motion should be denied.

B. Staff's interpretation of the Commission's Order 12 does not reflect the plain language or intent of that Order.

13 Staff's Motion argues that the statement from Order 12 that the "proposed earnings test, described below, is the same as the earnings test approved for both PSE and Avista" means that any excess amount collected will be shared between the Company and customers and that the customers' share must be returned to customers.¹⁹ The company believes that this is inconsistent with the plain language of the order. The presence of the deferral trigger makes Pacific Power's decoupling mechanism unique, and the company's application of the earnings test in concert with this deferral trigger is logical and consistent with Order 12. The Commission orders for both the decoupling mechanisms of Puget Sound Energy (PSE) and Avista contained language that directly required how the excess earnings would be shared.²⁰ As Order 12 for Pacific Power currently stands, excess earnings are only to be applied when a decoupling adjustment is proposed.

14 This is consistent with the deferral trigger that is contained in the decoupling mechanism. Unlike PSE and Avista's decoupling mechanisms, the company's

¹⁹ Staff's Motion at ¶7.

²⁰ "Accordingly, we determine that to the extent PSE's earnings exceed its currently authorized rate of return (ROR) of 7.80 percent (which will be adjusted slightly downward on its compliance filing due to lower long-term debt costs), the Company and consumers should share 50 percent each of such potential over-earning." *In the Matter of the Petition of Puget Sound Energy and Northwest Energy Coalition for an Order Authorizing PSE to Implement Electric and Natural Gas Decoupling Mechanisms*, Docket UE-121697, Order 07 at ¶165 (June 25, 2013); Avista's decoupling mechanism arose from a settlement where oral testimony "specified that the earnings test applies to all of the Company's earnings, and is not limited to the amount of decoupling surcharges or rebates." *WUTC v. Avista Corporation*, Docket UE-140188, Order 05 at ¶25 (Nov. 25, 2014).

decoupling mechanism is subject to a 2.5 percent rate trigger.²¹ The purpose of the deferral trigger is to “limit the frequency of rate changes[.]”²² However, Staff’s Motion would require more minor and possibly more frequent rate changes by always requiring an adjustment for the earnings test regardless of whether the deferral trigger is met. Therefore, Staff’s Motion appears to be inconsistent with Order 12 and should be denied.

V. CONCLUSION

15 Pacific Power has filed its decoupling rate adjustment consistent with the plain language and intent of the Commission’s Order 12. Staff’s Motion is an attempt to revise the balance that was struck in that order. Therefore Pacific Power requests that the Commission deny Staff’s Motion.

Respectfully submitted this 25th day of January, 2018.


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²¹ “This component is not included in either PSE’s or Avista’s current decoupling mechanisms, which are subject to annual true-ups regardless of the amount in the balancing account.” Order 12 at ¶126.

²² Order 12 at ¶126.