Service Date: February 15, 2018

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFIC POWER & LIGHT COMPANY, Respondent.	DOCKET UE-152253 ORDER 16 ORDER GRANTING STAFF'S MOTION, REJECTING PACIFIC POWER'S PROPOSED DECOUPLING TARIFF SHEET FILED DECEMBER 1, 2017, AND REQUIRING COMPLIANCE FILING

1 On January 19, 2018, the regulatory staff (Staff) of the Washington Utilities and Transportation Commission (Commission) filed a Motion to Reject Filing for Noncompliance with Order 12 (Motion). Staff asserts that Pacific Power & Light Company (Pacific Power or the Company) filed a decoupling tariff that failed to return its customers' portion of the Company's excess earnings, contrary to the Commission's instruction in Order 12.[1] Staff recommends that the Commission reject the nonconforming decoupling tariff sheet and direct Pacific Power to refile in compliance with Order 12.

MEMORANDUM

I. Procedural History

2 On September 1, 2016, the Commission entered Order 12, Final Order Rejecting Tariff Sheets As Filed; Granting Accelerated Depreciation with Modifications; Granting Recovery of, but not Return on, SCR Investment; Granting Request for Two-Year Rate Plan; Authorizing Decoupling Proposal with Modifications; and Requiring Compliance Filings (Order 12). In relevant part, Order 12 authorized Pacific Power's decoupling mechanism with several conditions. Pacific Power was directed to file any proposed

[1] Staff's Motion, ¶ 7.

decoupling rate adjustment to Schedule 93, its decoupling tariff, by December 1, 2017.[2] The timeline provided that the rate adjustment, if properly filed, should become effective February 1, 2018.[3]

3 On December 1, 2017, the Company filed a revised tariff sheet in Schedule 93, proposing its first decoupling rate adjustment. Of the four decoupled customer classes, Pacific Power requested an increase of $0.288 per kilowatt-hour only in Schedule 40 (Irrigation).[4] If the compliance tariff is accepted, the Schedule 40 surcharge is expected to result in $464,117 of additional revenue for the Company.[5]

4 On January 19, 2018, Staff filed its Motion, stating that Pacific Power incorrectly applied the 2.5 percent rate adjustment trigger prior to allocating a proportional share of the Company's excess earnings to each of the decoupled customer classes.[6] Staff states that the Company's calculations do not comply with Order 12, and Pacific Power's proposed decoupling tariff filing should be rejected.[7]

5 On January 25, 2018, Pacific Power filed its Response to Staff's Motion (Pacific Power's Response). The Company argues that language within Order 12 does not allow for sharing of its excess earnings with customers when a decoupling rate adjustment is not proposed.[8]

6 The Public Counsel Unit of the Washington Office of the Attorney General (Public Counsel) also filed a Response to Staff's Motion (Public Counsel's Response) on January 25, 2018. Public Counsel agrees with Staff that Order 12 does not anticipate Pacific Power retaining all of its excess earnings unless the decoupled schedules' deferred balances meet the 2.5 percent rate adjustment trigger.[9]

7 On January 29, 2018, Staff filed a Reply to Pacific Power's Response (Staff's Reply). Staff contends that the Commission approved the Company's decoupling mechanism with an earnings sharing provision that is the same as PSE and Avista, requiring a 50

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[2] Order 12, ¶ 139 (Table 1). A subsequent order, Order 15 in this proceeding, made minor adjustments to the schedule, but the December 1, 2017, filing date and the February 1, 2018, proposed rate effective date have not changed.

[3] Order 12, ¶ 139 (Table 1).

[4] Cover letter to Decoupling Mechanism Tariff Filing at 1 (December 1, 2017).

[5] Staff does not contest Pacific Power's calculation of the proposed surcharge in Schedule 40.

[6] Staff's Motion, ¶ 8.

[7] Staff's Motion, ¶ 11.

[8] Pacific Power's Response, ¶ 10.

[9] Public Counsel's Response, ¶ 1.

percent division of over-earnings between the Company and all of its decoupled customer classes.[10] Staff also argues that the Pacific Power misinterprets the earnings test language in Order 12.[11]

II. Order 12

8 The Commission approved Pacific Power's proposed decoupling mechanism with several conditions. The decoupling mechanism required a true-up between Pacific Power's allowed decoupled revenue and the actual non-weather adjusted decoupled revenue per class at the end of each year-long deferral period.[12] The Commission also required the Company to apply the same earnings test as it implemented in the decoupling mechanisms for Puget Sound Energy (PSE) and Avista Corporation, d/b/a Avista Utilities (Avista).[13] Like these utilities, Pacific Power must share its over-earnings with its decoupled customer classes if the Company's actual ROE is greater than its authorized ROE.[14] Finally, Order 12 imposed a 2.5 percent rate adjustment trigger such that Pacific Power would only seek a rate adjustment at the end of the decoupling deferral period if a customer class had a deferral balance that reached 2.5 percent or greater of the allowed revenue at the end of the true-up.[15]

III. Arguments

9 **Staff's Motion.** Staff does not question Pacific Power's calculation of its over-earnings. Rather Staff contends that the Company applied the 2.5 percent trigger to each decoupled class prior to allocating the classes' share of Pacific Power's over-earnings, which is contrary to the plain language of Order 12.[16] This results in Pacific Power retaining most of the excess earnings which were intended to be returned to the decoupled customer classes.[17]

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[10] Staff's Reply, ¶ 3.

[11] Staff's Reply, ¶ 4.

[12] Order 12, ¶ 124.

[13] *Id.*, ¶ 133.

[14] *Id.*, ¶ 134.

[15] *Id.*, ¶ 128.

[16] Staff's Motion, ¶ 8.

[17] Staff's Motion, ¶ 7. Pacific Power attributes the excess earnings to each schedule, for a total allocation of the $3,231,597 as follows:

Decoupled Schedule 16 (Residential): $1,330,982
Decoupled Schedule 24 (Small General Service): $490,782

10 Staff argues that the earnings sharing between the Company and its decoupled customers was meant to occur regardless of whether the customer schedules' deferral balances triggered a rate adjustment.[18] Staff points out that the Commission expressly stated its intent that Pacific Power's earnings test mirror PSE and Avista's earnings tests, both of which require any excess earnings to be shared equally with customers and that the monies be returned to customers.[19] Staff asks that the Commission reject the Company's proposed decoupling filing and order Pacific Power to refile consistent with the Commission's guidance in Order 12.

11 **Pacific Power's Response.** The Company cites language from Order 12 that, it argues, only requires application of the earnings test if Pacific Power is proposing a surcharge or surcredit:

> If the actual [return on equity] exceeds the most recently-authorized ROE:
>
> - Any proposed decoupling surcharge will be reduced or eliminated by up to 50 percent of the excess earnings, and
> - Any proposed decoupling surcredit will be returned to customers as well as 50 percent of the excess earnings.[20]

Pacific Power contends that its compliance tariff applies the earnings test in accordance with this provision in Order 12.[21] Only one customer schedule, Schedule 40, had a decoupling balance that met the 2.5 percent trigger, either plus or minus, and Pacific Power therefore, only applied the 50 percent excess earnings share to that schedule.[22]

12 Pacific Power asserts that its decoupling mechanism can be distinguished from the mechanisms the Commission approved for PSE and Avista, and therefore the earnings test should be applied differently.[23] The Company maintains that neither PSE nor

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> Decoupled Schedule 36 (Large General Service): $729,968
> Decoupled Schedule 40 (Irrigation): $151,320
> Non-decoupled Schedules 48/47: $502,377
> Non-decoupled Lighting Schedule: $26,168

Attachment C to Decoupling Mechanism Tariff Filing at 2 (December 1, 2017).

[18] Staff's Motion, ¶ 8.

[19] Staff's Motion, ¶ 7 (citing Order 12, ¶ 133).

[20] Pacific Power's Response, ¶ 8 (citing Order 12, ¶ 134).

[21] Pacific Power's Response, ¶ 9.

[22] Pacific Power's Response, ¶ 10.

[23] Pacific Power's Response, ¶ 13.

Avista's decoupling mechanisms had a rate adjustment trigger.[24] Pacific Power asserts that its tariff filing complies with the intent of Order 12 and recommends that the Commission deny Staff's Motion.

13 **Public Counsel's Response.** The Commission, Public Counsel states, conditioned Pacific Power's decoupling on an earnings sharing with customers if the Company's actual ROE exceeded its authorized ROE.[25] Public Counsel argues that "to give full effect to the earnings test, the decoupling surcharge and surcredit amount should be adjusted" for each of its decoupled customer classes.[26]

14 **Staff's Reply.** Staff reiterates that the Commission specifically designed the earnings test to mirror the earnings tests in PSE and Avista's decoupling mechanisms.[27] PSE's earnings test requires the utility to share "50 percent of any over-earning with customers, with the customers' share being returned over the next year."[28]

15 Staff also addresses Pacific Power's argument that the plain language of Order 12 requires earnings sharing with customers only in the presence of a surcharge or surcredit. The language the Company relies upon is not, Staff asserts, intended to summarize all possible instances when Pacific Power's excess earnings must be returned to customers.[29] The sharing of these excess gains is not dependent upon a decoupling surcharge or surcredit, and Staff argues that such a connection is misplaced.[30] Staff maintains that the paragraph discussing the earnings test in Order 12 does not even reference the 2.5 percent rate adjustment trigger.[31] Linking the two distinct requirements of the Company's decoupling mechanism, Staff contends, would treat the rate adjustment schedule customers differently than other customer classes.[32] Staff elaborates that "[t]he

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[24] Pacific Power's Response, ¶ 14.

[25] Public Counsel's Response, ¶ 2.

[26] Public Counsel's Response, ¶ 2.

[27] Staff's Reply, ¶ 3 (quoting Order 12, ¶ 133: "proposed earnings test, described below, is the same as the earnings test approved for both PSE and Avista.").

[28] Staff's Reply, ¶ 3.

[29] Staff's Reply, ¶ 5.

[30] Staff's Reply, ¶¶ 5 and 6.

[31] Staff's Reply, ¶ 6.

[32] Staff's Reply, ¶ 6.

disadvantaged class would fail to see the benefit from the sharing of any excess earnings, while the other classes would share in the benefit of excess earnings."[33]

16 Staff notes that the Company's decoupled residential customers had a cumulative surcredit balance of $1,377,224, to which Pacific Power then applied the 2.5 percent rate adjustment.[34] The amount did not meet the decoupled residential classes' rate adjustment trigger, and so Pacific Power did not apply the classes' share of the excess earnings. Staff points out, though, that with its proportional share of the excess earnings, residential customers would be owed another $1,330,982.[35] Staff asserts that the aggregated amount of $2,708,206 exceeds the 2.5 percent rate adjustment trigger and should thus be refunded to customers.[36] Staff requests that the Commission grant the Motion, reject the Company's filing, and direct Pacific Power to make a decoupled tariff filing that conforms to the language of Order 12, including a rate adjustment for its decoupled residential customers.[37]

17 **Commission Decision.** We grant Staff's Motion and reject Pacific Power's proposed decoupling tariff revision. Staff correctly states that we modelled the Company's earnings test on those of PSE and Avista. Specifically, we stated that Pacific Power's earnings test "is the same as the earnings test approved for both PSE and Avista."[38] These utilities share their over-earnings equally with their decoupled customers. While it is true that neither utilities' decoupling mechanisms contain the 2.5 percent rate adjustment trigger Pacific Power's does, this provision is separate and distinct from our earnings test requirement.

18 The language of Order 12 does, as the Company alleges, provide for the results of the earnings test to mitigate any surcharge or surcredit to be imposed upon a customer class. However, it does not automatically follow that a surcharge or surcredit is necessary prior to the refunding of any excess earnings. Decoupling mechanisms are a tool for utilities to protect against under-recovery of fixed costs. Pacific Power's view that the 2.5 percent trigger must be met prior to any requirement that the Company refund excess earnings wrongfully penalizes customers and rewards Pacific Power well beyond the intended protection against under-recovery.

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[33] Staff's Reply, ¶ 6.

[34] Staff's Reply, ¶ 8.

[35] Staff's Reply, ¶ 8.

[36] Staff's Reply, ¶ 8.

[37] Staff's Reply, ¶ 8.

[38] Order 12, ¶ 133. (Emphasis added).

19 Finally, Pacific Power's currently effective decoupling tariff provides the correct interpretation of our intent in Order 12 and the relationship of the earnings test to the 2.5 percent rate adjustment trigger. It states:

> [f]ollowing application of the earnings test, if the deferral balance for any decoupled rate schedule is greater than 2.5 percent (plus or minus) of the allowed revenue for the rate schedule, then the December 1 filing will include surcharge or surcredit rates on Schedule 93 to recover or refund the full deferral account balance for the rate schedule, subject to a 5 [percent] limitation on any surcharge.[39]

The Company has not requested to modify this sheet in its tariff, and it remains in effect.

20 Staff's Motion should be granted, Pacific Power's decoupling rate adjustment filing should be rejected, and Pacific Power should be directed to refile its decoupling tariff revision in accordance with Order 12, its own tariff Schedule 93, and the guidance we provide in this order.

FINDINGS AND CONCLUSIONS

21 (1) The Washington Utilities and Transportation Commission (Commission) is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies. RCW 80.01.040, RCW 80.04, RCW 80.08, RCW 80.12, RCW 80.16 and RCW 80.28.

22 (2) Pacific Power & Light Company (Pacific Power or Company) is an electric company and a public service company subject to Commission jurisdiction.

23 (3) The Commission entered Order 12 on September 1, 2016, approving Pacific Power's proposed decoupling program with conditions. Two of those conditions included an earnings test, which directed the Company to share over-earnings with decoupled customer classes, and a 2.5 percent rate adjustment trigger.

24 (4) On December 1, 2017, the Company filed its decoupling tariff revision at the end of the decoupling deferral period.

25 (5) On January 19, 2018, the Commission's regulatory staff (Staff) filed a Motion to Reject Filing for Noncompliance with Order 12 (Motion). Staff argued that Pacific Power applied the 2.5 percent rate adjustment trigger prior to the earnings

test, resulting in Pacific Power retaining excess earnings meant to be returned to customers.

26 (6) On January 25, 2018, both Pacific Power and the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel) filed Responses to Staff's Motion. Public Counsel supported Staff's Motion and recommended that the Commission reject the Company's tariff filing.

27 (7) On January 29, 2018, Staff filed a Response to Pacific Power's Reply. Staff pointed out that Order 12 required the Company's earnings test to be the same as the earnings tests for Puget Sound Energy and Avista Corporation d/b/a Avista Utilities. Each of these utilities' earnings tests refund half of the companies' over-earnings to customers.

28 (8) Both Order 12 and Pacific Power's tariff Schedule 93 require the Company to apply the earnings test prior to applying the 2.5 percent rate adjustment trigger.

29 (9) In addition, Order 12 mandates the application of excess earnings to decoupled customer deferral accounts regardless of whether a rate adjustment is triggered.

30 (10) Staff's Motion should be granted, Pacific Power's decoupling tariff revision filed December 1, 2017, should be rejected, and the Company should be directed to file a decoupling revision in compliance with Order 12, its own tariff Schedule 93, and the Commission's guidance in this Order.

ORDER

THE COMMISSION ORDERS That:

31 (1) The Motion to Reject Filing for Noncompliance with Order 12, filed by the Commission's regulatory staff, is granted.

32 (2) The tariff sheet revision filed by Pacific Power & Light Company on December 1, 2017, is rejected.

33 (3) Pacific Power & Light Company is authorized and required to file tariff sheets that are necessary and sufficient to effectuate the terms of this Order.

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[39] Pacific Power's tariff, WN U-75, Schedule 93.3 (October 4, 2016).

34 (4) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this order.

35 (5) The Commission retains jurisdiction to effectuate the terms of this order.

Dated at Olympia, Washington, and effective February 15, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.