

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • jec@dvclaw.com
Suite 400
333 SW Taylor
Portland, OR 97204

October 2, 2017

Via Electronic Filing

Mr. Steven V. King
Executive Director & Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P. O. Box 47250
Olympia, WA 98504-7250

Re: In the Matter of Pacific Power & Light Company
2016 Power Cost Adjustment Mechanism
Docket UE-170717

Dear Mr. King:

Boise White Paper, L.L.C. (“Boise”) respectfully submits this letter to update the Washington Utilities and Transportation Commission (“WUTC” or the “Commission”) on the party review of Pacific Power & Light Company’s (“Pacific Power” or the “Company”) 2016 Power Cost Adjustment Mechanism (“PCAM”) filing. In short, Boise respectfully requests that the Commission set this matter for adjudicative process, based on the preliminary results of the 2016 PCAM review.

Along with Pacific Power, WUTC Staff (“Staff”), and the Public Counsel Unit of the Attorney General’s Office, Boise agreed to extend the 2016 PCAM review period until today, October 2, 2017.^{1/} Since that time, Boise has attempted to maximize the opportunity for 2016 PCAM review by analyzing the Company’s filing and issuing numerous data requests. Pacific Power has been cooperative with both Boise and Staff in issuing data request responses in a timely manner. That said, the narrow review period has resulted in Staff and Boise receiving these discovery responses just a few business days prior to the review period expiring. Accordingly, Boise submits that additional time for review and analysis of this newly received information would be justified.

^{1/} Letter from Commission Staff re Extending the Time for Review (Sept. 8, 2017) (“Staff’s Letter”). While Boise has no reason to dispute the Company’s timely filing of a report on PCAM deferrals on June 1, 2016, as indicated in Staff’s Letter, Boise had not been served by the Company with a copy of that filing, nor was Boise aware of the Company’s filing, until contacted by Staff in early September.

Received
Records Management
10/02/17 14:31
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

Moreover, based on preliminary analysis, Boise strongly recommends that the Commission set this docket for adjudicative process. To this end, Boise has already petitioned for party intervenor status.^{2/} Adjudicative process would seem highly appropriate, since follow-up discovery reveals that the Company may have incurred considerable costs in an imprudent manner. Thus, if the Commission were to find that the amount of actual 2016 net power costs (“NPC”) was significantly less than what the Company reflected in the 2016 PCAM filing—e.g., once NPC deemed *not* to be prudently incurred are omitted—then the ultimate amount of the credit made to the PCAM deferral balance would be materially increased.

An adjudicative process, complete with all the protections afforded through WUTC rules and the issuance of a standard protective order, also seems imperative, given the volume of confidential data already at issue. Pacific Power discovery responses to both Staff and Boise contained a notable amount of confidential material. So far, parties have handled confidentiality on a functional, if ad hoc basis, via individual confidentiality agreements. But, any further filings with the Commission, including subsequent attempts to discuss confidential information, would be streamlined considerably by the uniform and well-understood conventions used in a standard adjudicative process.

Indeed, Boise is uncertain of the best/preferred way to even frame this present update filing, or how to incorporate confidential analysis in docket filings that exists in something of a semi-official, quasi-adjudicative gray area. As a case in point, Boise considered attaching Company discovery responses to this letter filing, yet the difficulty of presenting helpful information in this way, given the confidential nature of much of the relevant material, gave Boise pause. Plus, Boise is not an official party to this docket, since there has been no action taken on its petition to intervene, which could impact Boise’s rights to use certain discovery material. Yet, the PCAM review process approved by the Commission clearly anticipated the effective participation of Boise, since “interested parties” other than Staff were expressly afforded an opportunity to review deferral information.^{3/} If Boise is denied actual party status, however, then the entire framework of PCAM review—as agreed to by Boise and other settling parties, and as approved by the Commission—becomes meaningless. The Company’s decision not to serve Boise with the 2016 PCAM filing in June has already undermined Boise’s timely and effective participation in the review process.

Notwithstanding, Boise will provide a high-level summary of concerns with the Company’s 2016 PCAM filing, while refraining from explicit reference to confidential material, to avoid any sort of potential controversy at this stage. The Company proposes to credit approximately \$1.2 million to customers within the PCAM balancing account.^{4/} From Boise’s perspective, however, the larger issue is how the Company has reflected its coal fuel expense in the 2016 PCAM. Although Pacific Power has reflected an approximate \$8.9 million decrease in actual coal fuel expense, relative to base NPC, the Company reports that Bridger Coal Company

^{2/} Petition to Intervene of Boise (Sept. 12, 2017). Boise notes that Staff has filed an official notice of appearance, as well. Notice of Appearance of Jennifer Cameron-Rulkowski (Sept. 13, 2017).

^{3/} WUTC v. Pacific Power, Docket UE-140762 *et al.*, Order 09 at ¶ 20 (May 26, 2015).

^{4/} Wilding, Exh. MGW-1T at 2:20-23.

(“BCC”) costs rose by a remarkable \$42.9 million.^{5/} Directly or indirectly, based on analysis of the Company’s filing and further discovery, Boise believes these costs to be largely, if not entirely, attributable to BCC’s failed recovery and ultimate abandonment of the Joy Longwall Mining System (“Joy Longwall”) in the BCC underground mine. More specifically, Boise strongly believes that costs associated with the Joy Longwall were not prudently incurred, and should not be chargeable or reflected in any form that attributes responsibility to ratepayers.

Thus, a more accurate and proper attribution of Joy Longwall cost impacts would notably reduce the \$42.9 million BCC cost *increase* that Pacific Power is now representing for 2016. While this may not rise to the level of an immediate customer refund in Schedule 97—since application of PCAM sharing bands decreases the likelihood of reaching the \$17 million refund trigger in a single year—a much larger credit to the PCAM balancing account may still result. This, in turn, may impact the likelihood of future rate refunds, or even create a stronger buffer against the potential for surcharges, if the Company claims NPC under-recovery in future PCAMs.

Boise’s counsel and consultant in the review of the 2016 PCAM are presently involved in similar proceedings in other Company jurisdictions, including the adjudicative review of the Oregon version of the 2016 PCAM in Public Utility Commission of Oregon (“OPUC”) Docket No. UE 327. In that OPUC proceeding, many of the same Joy Longwall prudence issues have been contested, yet all parties have agreed to suspend the schedule to develop a possible settlement. Likewise, reviewing parties may be able to reach agreement and settle issues about whether certain NPC were prudently incurred, and are properly reflected in the 2016 PCAM. Establishing an adjudicative process in this docket, however, would ensure that issues can be fully resolved, if a settlement cannot be reached.

At present, based on the review of the Company’s filing and all discovery received, Boise does challenge the propriety of the PCAM deferral balance recommended by Pacific Power. Under these circumstances, there was an express contemplation that the Commission would be asked “to conduct appropriate process” to achieve resolution.^{6/} Accordingly, Boise respectfully requests that the Commission begin adjudicative proceedings to determine fair and just 2016 PCAM results.

Sincerely,

/s/ Jesse E. Cowell

Jesse E. Cowell, WSBA # 50725

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242 (telephone)

jec@dvclaw.com

Of Attorneys for Boise White Paper, L.L.C.

^{5/} Wilding, Exh. MGW-1T at 11:20-12:12.

^{6/} Docket UE-140762 *et al.*, Order 09 at ¶ 20.

Letter to S. King
October 2, 2017
Page 4

cc: Service List