

June 30, 2016

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

RE: Docket A-130355—Pacific Power & Light Company’s Comments—Part I and Part IIIA

In response to the Notice of Opportunity to File Written Comments issued by the Washington Utilities and Transportation Commission (Commission) on June 1, 2016, Pacific Power & Light Company (Pacific Power or Company), a division of PacifiCorp, submits the following written comments on the draft rules for Part I and Part IIIA of WAC Chapter 480-07.

Part I—General Provisions

- **WAC 480-07-140(3):** Pacific Power recommends excluding workpapers from the requirement that cover letters include identification of all submitted documents. This requirement is overly burdensome for larger filings and filings that include hundreds of supporting workpapers.
- **WAC 480-07-160(2)(a):** This subsection removes “Information protected from inspection or copying under an exemption from disclosure requirements under the Public Records Act, chapter 42.56 RCW” from the types of information protected as confidential. Pacific Power recommends retaining this language to continue protection of any personal, financial, or contact information of utility customers.
- **WAC 480-07-160(2)(c):** Pacific Power recommends deleting the last sentence of WAC 480-07-160(2)(c), “Accordingly, the commission will rarely, if ever, accept the designation of an entire document as confidential.” The Commission, in practice, has accepted many documents that met the definition of confidential information in its entirety. Appropriately designated confidential information should be granted the same protection under the rules whether it is an entire document or only part of one.
- **480-07-160(4)(b):** The subsection heading “Confidential and redacted version” is confusing because the subsection addresses documents that contain confidential *or* highly confidential information. To avoid confusion, the Company recommends changing the heading to “Submitting Documents Including Confidential Or Highly Confidential Information”.

- **480-07-160(4)(c):** This subsection heading is also confusing. To make it parallel to the recommendation above, the Company suggests changing it to “Submitting Documents Including Both Confidential And Highly Confidential Information”.
- **480-07-160(4)(d)(i):** This subsection states:

The email or the disc or electronic storage medium containing the electronic copies of the document must also state that the document contains information designated as confidential or highly confidential....

This requirement is ambiguous because it does not specify how discs or electronic storage medium should be marked. Pacific Power requests that clarifying edits be made to indicate whether the email, disc, or other device should *physically* be labeled confidential or highly confidential, or if the documents contained within be labeled.

- **480-07-160(4)(d)(ii) and (iii):** This subsection requires each page of an electronic document with confidential or highly confidential information to specifically highlight the specific information that is so designated. Similar to the changes to the Public Utility Commission of Oregon recently made to its general protective order, Pacific Power recommends including a “reasonable efforts” standard with respect to designating the specific information within a page that is confidential or highly confidential. In some circumstances (e.g., disclosing extremely voluminous modeling databases as part of the integrated resource planning process) it is not feasible to designate specific cells within the hundreds of spreadsheets that comprise the database. Put another way, there are circumstances where the volume or extensive content of submitted documents would make it unreasonable for the disclosing party to designate with specificity. In such cases, the balance should tip in favor of protecting confidential or highly confidential information.

For documents that are *not* voluminous or extensive, Pacific Power recommends retaining the current rules that allow confidential information to be designated by shading, outlining, or asterisks. While shading or highlighting is the most commonly used method, there may be documents where shading may not be as visible as other methods. The purpose of this provision is to avoid confusion about which information on a page is confidential. Allowing flexibility in methods to do so increases the likelihood that confidential information is clearly marked.

In addition, including the words, “shaded information” into the template language marking each page that contains confidential information is cumbersome and unnecessary. The specific guidelines for highlighting confidential information is outlined elsewhere in the procedural rules, and as discussed above, there are instances where it may not be feasible to highlight all confidential information within a document.

As discussed in the Company’s October 23, 2014 comments, Pacific Power continues to recommend that workpapers be excluded from the requirement of marking individual cells or pages as confidential.

- **480-07-160(4) “Challenges to designation of confidentiality”:** This subsection appears to be mis-numbered—it should be subsection (5). The first sentence also contains a typo, which is corrected below:

“The commission or a party to an adjudicative proceeding in which a provider submits a document with information designated as confidentiality may challenge....”
- **480-07-160(5) “Requests for ‘confidential’ information”:** This subsection also appears to be mis-numbered—it should be subsection (6).
- **480-07-160(6) “Designation or redesignation of confidential information”:** This subsection also appears to be mis-numbered—it should be subsection (7).
- **WAC 480-07-140(6)(b), File Naming Conventions:** As discussed in the Company’s October 23, 2014 comments, Pacific Power continues to recommend that the Commission allow exhibit numbers to be used in lieu of document name and witness name in adjudicative proceedings. This will allow further abbreviation and prevent overly long document titles. In adjudicative proceedings, it is more common for documents to be identified by the exhibit number than by witness or document name.

Part IIIA—Procedural Rules

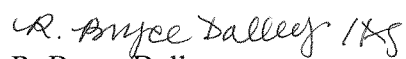
- **480-07-305(5)(b):** In the list of circumstances under which the Commission will not commence an adjudicative proceeding, Pacific Power requests that the Commission consider adding the circumstances where the party seeking to commence the proceeding is not “a person involved in an actual case or controversy” or otherwise aggrieved as required under WAC 480-07-305(2). The list, which appears exhaustive, incorporates the concepts of jurisdiction and ripeness, so standing seems an appropriate content to include. *See* WAC 480-07-355(4) (allowing the Commission to dismiss an intervenor from a proceeding who “has no substantial interest in the proceeding....”)
- **480-07-360(6)(a):** Pacific Power recommends adding “except as otherwise required by law” to the beginning of this subsection regarding mandatory electronic filing. This concept is captured in subsection (b) with respect to the Commission and should apply equally to all parties.
- **480-07-365(2):** Again, Pacific Power recommends adding “except as otherwise required by law” to mandatory electronic filing requirement.
- **480-07-400(c)(iii) “Discovery”:** The proposed rules broaden the scope of discovery to include a requirement to rerun or recalculate models and proprietary formulas and methodologies based on different inputs and assumptions. Pacific Power respectfully requests the revised rules to include a “reasonable efforts” standard as well as a provision for models that are obsolete, no longer available, or no longer in use by the Company. This requirement may be burdensome or impractical in certain circumstances.

Due to the Commission's use of a modified historical test period, there is typically a prolonged time between when models and cost studies are performed and when the Commission and intervening parties review the resulting business decisions. The models may be obsolete, no longer available, or in a new version by the time the Company receives discovery requests to rerun them.

Lastly, Pacific Power requests that the rules allow sufficient time for parties to process any rerun or recalculation as these requests may not be possible to perform within ten business days.

Pacific Power appreciates the Commission's efforts to update and clarify its procedural rules, as well as the opportunity to participate in the process. Please direct inquiries to Ariel Son, Regulatory Projects Manager, at (503) 813-5410.

Sincerely,



R. Bryce Dalley

Vice President, Regulation