BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFICORP d/b/a PACIFIC POWER AND LIGHT CO., Respondent	DOCKET UE-250224 PUBLIC COUNSEL MOTION TO COMPEL PACIFICORP ANSWERS TO DISCOVERY

I. INTRODUCTION AND RELIEF REQUESTED

1. The Washington State Office of the Attorney General's Public Counsel Unit (Public Counsel) moves the Washington Utilities and Transportation Commission (Commission) for an order compelling PacifiCorp (the Company) to provide a complete response to Public Counsel Informal Data Request No. 2 by providing its analyses of alternatives to its proposed allocation methodology, complete with workpapers and supporting data. PacifiCorp contends this information is protected by a non-disclosure agreement it provided to MSP participants and by the Commission's ADR rules. The data request at issue and PacifiCorp's objections are attached to this motion.

2. Public Counsel met and conferred with counsel for PacifiCorp on May 27, 2025, and June 18, 2025, in an attempt to informally resolve the company's objections. No agreement was reached. Rather, PacifiCorp persisted in its spurious claims of confidentiality. This motion follows.

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II. BACKGROUND

3. PacifiCorp has a long history of poor resource planning for Washington[1] that has had genuine consequences for Washington ratepayers. PacifiCorp's systemwide planning has left Washington substantially short on generation resources and has placed the company in a position where it can neither prudently manage its power costs nor comply with Washington laws, including Clean Energy Transformation Act (CETA).

4. The Commission has taken steps to address these concerns. First, following PacifiCorp's 2023 general rate case, the Commission ordered PacifiCorp to file a power-cost-only rate case (PCORC) by April 1, 2025, with a rate-effective date of January 1, 2026, to remove coal-fired resources from rates.[2] Removal of coal resources is likely to have a significant effect on NPC and a PCORC enables the parties and the Commission to review other revenue requirement elements that may offset NPC.[3] Second, in its order on PacifiCorp's 2022 PCAM, the Commission also ordered PacifiCorp to propose a new allocation methodology to replace the Washington Inter-Jurisdictional Allocation Methodology (WIJAM).[4]

5. PacifiCorp filed its power-cost-only rate case (PCORC on April 1, 2025, in response to the Commission's directive to do so in its order on its 2023 general rate case. In recognition of PacifiCorp's planning failures, the Commission directed PacifiCorp to propose a new allocation methodology to replace the Washington Inter-Jurisdictional Allocation Methodology (WIJAM),

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[1] *In re PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-111418, Order 01 (Oct. 14, 2011); *In re PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-131670, Order 01 (Oct. 10, 2013; *In re PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-151694, Order 01 (Oct. 29, 2015) *In re PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-170885, Order 01 (Oct. 12, 2017).
[2] *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Dockets UE-230172 & UE-210852, Order 09/07 (May 16, 2024).
[3] *Id.*
[4] *In re Puget Sound Energy Power Cost Adjustment Mechanism*, Docket UE-230313, Order 01 (Nov. 22, 2023).

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which has left Washington disproportionately exposed to market volatility relative to the rest of PacifiCorp's system. In its PCORC filing, PacifiCorp proposes its WIJAM replacement: the 2026 Protocol.

6. PacifiCorp's 2026 protocol is a substantial departure from the WIJAM and has significant effects on Washington-allocated power costs. Specifically, the 2026 protocol makes three specific allocation adjustments impacting Washington: (1) Chehalis is allocated to Washington on a situs basis; (2) Hermiston is removed from Washington rates; and (3) Washington receives a greater allocation of the Rolling Hills wind farm. These re-allocations will have meaningful impacts on ratepayer bills. The Chehalis reallocation, for example, is the single largest contributor PacifiCorp's proposed NPC forecast on account of increased natural gas burn expense. Given the significant cost implications, any reasonable observer would assume PacifiCorp considered and analyzed alternative allocations. Public Counsel asked for precisely this analysis. On May 5, 2025, Public Counsel issued Informal Data Request No. 2: to PacifiCorp, asking for this analysis in relevant part:

Re: Chehalis, Hermiston, and Rolling Hills.

a. Please answer yes or no. Did PacifiCorp consider alternatives to the reassignment of Chehalis, removal of Hermiston, and increasing the allocation of Rolling Hills?
b. If the answer to subpart a. is yes, please provide any and all analysis that PacifiCorp did in consideration of alternatives. In your answer, please provide workpapers with data and calculations in Excel.
c. If the answer to subpart a. is no, please explain why no alternatives were considered.
d. Please answer yes or no. Did PacifiCorp consider increasing the allocation of facilities to Washington other than Rolling Hills?
e. If the answer to subpart d. is yes, please provide any and all analysis that PacifiCorp did in consideration of increasing the allocation of facilities to Washington other than Rolling Hills. In your answer, please provide workpapers with data and calculations in Excel.

7. PacifiCorp responded admitting it had completed an analysis, but interposed an objection to subpart (b), relying on a non-disclosure agreement it provided to participants in its Multi-State Process (MSP):

> Analysis that was conducted for the Framework Issues Workgroup was conducted with stakeholders from all six jurisdictions in which PacifiCorp operates and was conducted under a Non-Disclosure Agreement.

8. By its plain terms, the Non-Disclosure Agreement (attached) applies only to non-company parties to PacifiCorp's Multistate Process. It does not apply to PacifiCorp's own work product. Public Counsel met with counsel for PacifiCorp on May 27, 2025. PacifiCorp's counsel represented it would supplement its response to Informal Data Request No. 2. That supplement came on June 13. Rather than a meaningful supplement, PacifiCorp interposed another objection, this time asserting the protection of the Commission's ADR rules.[5] During a June 18th discovery conference, Company counsel represented the Multistate Process is a "settlement negotiation." Rather, PacifiCorp's Multistate Process is a two-decade-long forum of interested parties across PacifiCorp's six-state system, which discusses, among other issues, cost allocation among jurisdictions, which profoundly affect the interests of Washington ratepayers.

9. PacifiCorp had admitted it conducted analyses of alternative allocations of Chehalis, Hermiston, and Rolling Hills. PacifiCorp refuses to provide those alternative analyses. For reasons that follow, its objections are hollow.

[5] WAC 480-07-700

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III. ARGUMENT AND ANALYSIS

10. PacifiCorp has the burden to justify its proposed rate increase before the Commission and parties are entitled to view the company's support for its rate increase. Parties are entitled to liberal discovery before the Commission. In Commission matters, parties may seek discovery into matters "relevant to the issues in the adjudicative proceeding or that may lead to the production of information that is relevant."[6] A party may not object to discovery on the grounds that it may be inadmissible at a hearing.[7] Commission rules protect *settlement negotiations* from disclosure at a hearing in *Commission-adjudicated*.[8]

11. PacifiCorp's objections to Public Counsel Informal Data Request No. 2 are baseless. The Company admits, through its failure to object, the information sought by Public Counsel is relevant to its position in this adjudication. Its initial objection lacks any merit. The plain language of the attached non-disclosure agreement does not prevent PacifiCorp from sharing its own work product produced during Multistate Process, particularly when that work product considers alternatives to the allocation proposed in this Docket.

12. PacifiCorp's second objection, that matters discussed in the Multistate Process are protected settlement negotiations are also meritless for several reasons. First, the Multistate Process is not Commission alternative dispute resolution within the meaning of Commission

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[6] WAC 480-07-400(3).
[7] *Id.*
[8] WAC 480-07-700 ("The commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest."); WAC 480-07-700(6)(a) ("No statement, admission, or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the commission without the consent of the participants or unless necessary to address the process of the negotiations."); WAC 480-07-700(6)(b) ("Information exchanged exclusively within the context of settlement negotiations will be treated as confidential and will be privileged against disclosure to the extent permitted by law.").

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ADR rules. In fact, the Multistate Process is not a settlement negotiation at all—it is a forum of interested parties discussing the allocation of costs among PacifiCorp jurisdictions. To the extent that negotiation occur, those negotiations directly impact the rights of Washington ratepayers. Even if the Multistate Process itself is a settlement negotiation, Public Counsel Informal Data Request No. 2 asks for *analysis of alternative allocations*. PacifiCorp either did conduct this analysis or it did not. PacifiCorp enjoys significant information asymmetry before the Commission.[9] PacifiCorp's refusal to share its analysis of alternative allocations while hiding behind an inapplicable non-disclosure agreement is a patent abuse of that advantage and works a substantial prejudice on the other parties.

IV. CONCLUSION

13. Public Counsel has requested plainly relevant information from PacifiCorp that goes directly to its burden of proof in this adjudication. For its part, PacifiCorp has interposed plainly inapplicable objections hiding behind a baseless claim of confidentiality. The Commission should reject PacifiCorp's objection and compel PacifiCorp's production of this data within seven days of an order granting this motion.

[9] *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Dockets UE-230172 & UE-210852, Orders 08/06 ¶423 ("the record evidence raises concerns regarding the information asymmetry between PacifiCorp, the other parties, and the commission regarding the DA/RT adjustment").

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DATED this 20th day of June 2025.

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