

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UE-152253
TRANSPORTATION)	
COMMISSION,)	
)	
Complainant,)	ORDER 03
)	
v.)	
)	PREHEARING CONFERENCE
PACIFIC POWER & LIGHT)	ORDER; NOTICE OF HEARING
COMPANY,)	(Set for May 2-3, 2016)
)	
Respondent.)	
.....)	

- 1 **PROCEEDINGS:** On November 25, 2015, Pacific Power & Light Company (Pacific Power or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-75. The Company seeks authority to increase charges and rates for electric service in a two-year rate plan. Pacific Power’s expedited rate filing (ERF) would increase electric rates by approximately \$10 million, or 2.99 percent, effective May 1, 2016. The Company requests a second year increase in the multi-year rate plan of approximately \$10.3 million, or 2.99 percent, effective May 1, 2017. Pacific Power has also filed a proposed decoupling mechanism which includes a request to record accounting entries associated with the mechanism. The Company seeks expedited treatment of its requests.

- 2 **CONFERENCE/PRESIDING OFFICER.** The Commission convened a prehearing conference in Docket UE-152253 at Olympia, Washington, on December 22, 2015, before Administrative Law Judge Marguerite E. Friedlander, whom the Commission appoints as presiding officer in this proceeding.

- 3 **PARTY REPRESENTATIVES:** Katherine McDowell, McDowell, Rackner & Gibson, PC, Portland, Oregon, and Matthew McVee, Assistant General Counsel, Pacific Power, represent the Company. Simon J. ffitich, Senior Assistant Attorney General, and Lisa W. Gafken, Assistant Attorney General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of Attorney General (Public Counsel). Patrick J. Oshie,

and Jennifer Cameron-Rulkowski, Assistant Attorneys General, Olympia, Washington, represent the Commission's regulatory staff (Staff).¹

4 Jesse E. Cowell, Davison Van Cleve, PC, Portland, Oregon, represents Boise White Paper, L.L.C. (BWP). Brad M. Purdy, attorney at law, Boise, Idaho, represents The Energy Project. Gloria D. Smith, Managing Attorney for Sierra Club Environmental Law Project, San Francisco, California, represents Sierra Club.

5 **PETITIONS FOR INTERVENTION.** BWP filed its petition to intervene on December 2, 2015. Sierra Club filed its petition to intervene on December 4, 2015, while The Energy Project filed its intervention request on December 18, 2015.

6 There is no opposition to the petitions to intervene. Each petitioner demonstrates substantial interest in this proceeding and that their participation will be in the public interest. The Commission grants the petitions to intervene by BWP, Sierra Club, and The Energy Project.

7 **MOTION FOR PROTECTIVE ORDER.** Concurrent with its tariff filing, Pacific Power filed its Motion for Protective Order. It appears that this proceeding will require scrutiny by the parties and the Commission of sensitive commercial information. The Commission entered its standard form of Protective Order as Order 02 on December 8, 2015, to expedite the exchange of such information among the parties and ensure its availability to the Commission, as provided in RCW 80.04.095 and WAC 480-07-420.

8 **DISCOVERY.** Discovery will be conducted under the Commission's discovery rules, WAC 480-07-400 – 425. The response time for data requests initially is ten (10) business days. Following the date for response testimony, the time for data request responses will be seven (7) business days. After the date for rebuttal testimony, the time for responses to data requests will be five (5) business days. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

9 To expedite the exchange of potentially relevant information, in addition to timely responses to discovery requests, all parties are required to provide all work papers,

¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

including model runs and source documents, at the time they pre-file testimony and exhibits.

10 **PROCEDURAL SCHEDULE.** At the prehearing conference, the parties proposed three different procedural schedules, each of which expedited the processing of the case to some extent. Pacific Power's proposed schedule anticipates rates becoming effective June 1, 2016. Staff's procedural schedule would implement new rates on July 1, 2016. Public Counsel, BWP, and Sierra Club initially presented a proposal that the Commission enter a final order on September 8, 2015. During the prehearing conference, BWP proposed a revised procedural schedule that contemplated an August 1, 2016, effective date for new rates. Public Counsel and Sierra Club agreed to the proposed revision.

11 Under RCW 80.04.130(1) the Commission has ten full months, until October 25, 2016,² to review Pacific Power's suspended tariff revisions involving a proposed rate change. We find Staff's proposed schedule strikes a reasonable balance between the parties' expressed concerns about having adequate time consistent with their rights to due process and the Company's request for expedited treatment. It appears that the issues in this docket are reasonably narrow and that a full record can be developed in time to meet Staff's proposed effective date for rates. Should the need arise, the Commission will entertain requests to modify the procedural schedule for good cause. We have slightly modified Staff's proposed hearing dates and cross-examination filing deadline due to scheduling conflicts with the Commission's calendar. Thus, we will convene the evidentiary hearing on Monday and Tuesday, May 2 and 3, 2016. The full procedural schedule is set forth in Appendix A to this Order.

12 **MOTION TO DISMISS.** On December 10, 2015, BWP filed a Motion to Dismiss Pacific Power's ERF; Alternative Motion to Treat as a General Rate Case Filing (Motion). BWP argued that Pacific Power's ERF and multi-year rate plan have not stated a claim upon which the Commission may grant relief as the multi-year rate plan failed to include a "thoroughgoing analysis" of ROE as mandated by the Thurston County Superior Court's (Superior Court's) ruling and the Commission's subsequent order on remand.³ In the alternative, BWP asserted that the ERF should be treated as a general rate case since the filing includes testimony supporting a higher ROE, a topic typically reserved for a general rate case not an ERF. Both Staff and Pacific Power responded to the Motion.

² The suspension date was incorrectly cited as October 8, 2016, at the prehearing conference.

³ Motion to Dismiss, ¶ 5 (citing to *WUTC v. Puget Sound Energy*, Dockets UE-130137 *et al*, Order 10, ¶ 3 (October 8, 2014)).

- 13 At the December 22, 2015, prehearing conference, the Commission denied BWP's Motion. As BWP admitted in the latter part of its Motion, Pacific Power did pre-file testimony addressing ROE as mandated by the Superior Court's opinion. Staff recommended that the Company file cost of capital testimony to further ward off a possible legal challenge. In response, Pacific Power volunteered to file cost of debt and rate of return testimony, though the Company stated it did not believe a cost of capital case is strictly necessary to avoid a possible legal challenge to its ERF. Pacific Power asserted the supplemental testimony would be filed within 10 days following the prehearing. In filing this supplemental testimony, the Company is reminded that it bears the burden of proof.
- 14 With regard to the second part of BWP's Motion, concern as to whether the Commission designates this case an ERF or a general rate proceeding is misplaced. The Company filed a tariff revision involving a rate change, and as stated above, RCW 80.04.130(1) provides the Commission with the full ten months to process the filing as an ERF or a general rate case. ERFs are not a formal creation; such filings have no specialized regulations or statutes apart and separate from the Commission's general rate regulations. The Commission does not recognize this filing as an ERF, but to the extent practicable, we have and will continue to expedite the procedural schedule.
- 15 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and submit electronically all proposed cross-examination exhibits by 2:00 p.m. on April 26, 2016. The Commission requires **6** copies of the fully unredacted version of these exhibits. The Commission also requires **1** copy of a redacted set of any confidential exhibits so that these can be made available by the Commission in response to a public records request or posted to the Commission's web pages. The redacted set of exhibits must be submitted electronically by 2:00 p.m. on April 26, 2016, followed by filing by 3:00 p.m. on April 27, 2016.
- 16 Except as otherwise agreed between parties, proposed cross-examination exhibits must be served on all parties at the time they are filed with the Commission. Two copies must be furnished to the party sponsoring the witness the party intends to cross examine with the exhibits. Parties may waive the right to service of cross-examination exhibits in whole or in part. This may be appropriate, for example, when a proposed exhibit has been previously furnished during the discovery process.
- 17 The exhibits must be accompanied by an exhibit list and must be organized into sets that are **tabbed, labeled, and grouped** according to the witness the party intends to cross examine with the exhibits. Cross-examination exhibits should be marked for numbering using the witnesses' initials but no numbers should be assigned; the Commission will

assign numbers to the exhibits prior to hearing. Cross-examination exhibits not conforming to these requirements may be rejected. Each party's cross-examination exhibit list must be filed with the Commission (**6 copies**) and served on all parties by 2:00 p.m. on April 26, 2016.

18 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning **May 2, 2016, at 9:30 a.m.**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. Hearings will continue from day to day thereafter, or as otherwise scheduled, until completed. The Commission may alter this schedule by subsequent notice.

19 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **6** copies of the unredacted versions of all pleadings, motions, briefs, and other pre-filed materials. Parties must also file the original and one copy of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

20 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

21 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to (records@utc.wa.gov). Alternatively, parties may furnish an electronic copy by delivering with each filing a flash drive including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

22 **ELECTRONIC SUBMISSION OF DOCUMENTS.** The Commission grants a one-day extension of the paper-filing requirement under WAC 480-07-145(6), allowing electronic submission of documents with the Commission on the deadlines established by the procedural schedule. Parties must submit documents through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail to (records@utc.wa.gov), and file an original, plus **6** paper copies, of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to the presiding administrative law judge and the parties to the proceeding.

- 23 The Commission requires parties to submit documents in adjudicative proceedings no later than 2:00 p.m. on the deadline date to give Records Center personnel adequate time to post and distribute them.
- 24 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.
- 25 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective December 29, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A: Procedural Schedule

EVENT	DATE
Company Direct Testimony and Exhibits	11/25/15
Complaint and Suspension (Order 01)	12/08/15
Prehearing Conference	12/22/15
Public Notice Report	01/22/16
Settlement Conference (parties only) ⁴	02/29/16
Public Comment Hearing	TBD
Staff, Public Counsel, and Intervenor Response Testimony and Exhibits ⁵	03/17/16
Settlement Conference (parties only)	03/24/16
Company Rebuttal Testimony / Staff, PC & Intervenor Cross-Answering ⁶	04/07/16
Discovery Deadline – Last Day to issue Data Requests	04/19/16
Deadline for Cross-examination Exhibits	04/26/16
Evidentiary Hearing	05/02/16 and 05/03/16
Simultaneous Post-hearing Briefs	05/23/16
Suspension Date	10/25/16

⁴ The Commission commends the parties for their efforts at accommodating two settlement conferences in this abbreviated schedule. The parties may adjust the settlement conference dates by mutual agreement amongst themselves followed by notice to the Commission via letter. Such changes to the settlement conference dates will not require approval from the Commission in this proceeding. The Commission strongly encourages the parties to hold both settlement conferences during the pendency of the proceeding, despite any scheduling challenges that may occur.

⁵ Response time to data requests after this date will be 7 business days.

⁶ Response time to data requests after this date will be 5 business days.

APPENDIX B - PARTIES' REPRESENTATIVES*
DOCKET UE-152253

PARTY	REPRESENTATIVE	PHONE	FAX	EMAIL
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Commission Staff	Patrick J. Oshie Jennifer Cameron-Rulkowski Assistant Attorneys General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1188 360-664-1186	360-586-5522	poshie@utc.wa.gov Jcameron@utc.wa.gov
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*Please note that this is not the official service list maintained by the Commission's Records Center. This list of party representatives includes persons in addition to those on the official service list to facilitate electronic service of documents and other communications among parties.