

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

THE WALLA WALLA COUNTRY  
CLUB,

Complainant,

v.

PACIFICORP, d/b/a PACIFIC POWER &  
LIGHT CORP.

Respondent.

Docket No. UE-143932

COMPLAINANT'S REPLY TO  
RESPONDENT'S AFFIRMATIVE  
DEFENSES

**I. INTRODUCTION**

1 BY WAY OF REPLY to Pacific Power's affirmative defenses set forth in its Answer to  
Complaint the following is offered.

**II. DISCUSSION**

- A. **The Affirmative Defense Set forth in Paragraph 29 Alleges the Complainant has failed to state a claim upon which relief may be granted.**

2 This proceeding before the Commission follows lengthy negotiations and federal court  
litigation that directly involved both the WWCC and Pacific Power. Before the United States  
District Court, Eastern District of Washington in the matter of The Walla Walla Country Club v.  
PacifiCorp, d/b/a Pacific Power and Light Company, Cause No. CB-13-5101-LRS, Pacific

Power argued that this "dispute is within the WUTC's area of general expertise, authority, and pervasive regulation. Additionally, PacifiCorp notes the instant issues are before the WUTC at this time and a judicial decision risks conflicting with the WUTC's determination." (Exhibit A to Complaint, Order, p. 1). Further, Pacific Power admits that the WWCC requested its electric service be discontinued and that the payment for disconnection demanded by Pacific Power was within the scope of its Tariff and Rule 6. (Answer to Complaint, ¶ 4 and 13).

3 The above shows the "claims for relief" have been acknowledged by Pacific Power to be within the scope of the WUTC's jurisdiction to include whether disconnection fees charged by Pacific Power exceed its Tariff and Rule 6. Before the District Court, PacifiCorp argued that RCW 80.04.220-.240 applies to this case. (Exhibit A, Order, p. 7). The District Court wrote, "the Country Club's complaint is covered by RCW 80.04.220, which provides a formal process for a formal complaint concerning the reasonableness of any charge for any service performed." (Exhibit A, Order, p. 9, ln. 11). Thus, this affirmative defense deserves a reply as it is without factual or legal basis.

4 Pacific Power's affirmative defense set forth in Paragraph 29 is denied.

**B. The Affirmative Defense Set forth in Paragraph 30 Alleges the Complainant may not be the real party in interest or Columbia Rural Electric Association may be an indispensable party to this proceeding.**

5 By way of further answer, the Complainant is the real party in interest with the Commission able to provide complete relief amongst the parties in this matter according to CR 19 and other authority of the Commission.

6 This affirmative defense raises new material (or allegation) that was not set forth in the Complaint. Pacific Power's Answer to the Complaint makes it clear that the WWCC requested it be disconnected from Pacific Power's service. That requests falls squarely within the scope of

Pacific Power's Tariff and Rule 6, which is the basis of the dispute between Complainant and Respondent. The disconnection practices and fees sought to be recovered for facilities that do not need to be removed for safety or operational reasons relate solely to Pacific Power's practices under its Tariff and Rule 6. This demand is a matter strictly between the WWCC and its present electric service provider. The fact that Columbia REA is an electric service provider, properly operating within the State of Washington and is the preferred provider of the WWCC, does not make Columbia REA an "indispensable party" for the simple reason that complete relief can be accorded the Complainant and Respondent by the Commission. CR 19.

7 Pacific Power's affirmative defense set forth in Paragraph 30 is denied.

**C. The Affirmative Defense Set forth in Paragraph 31 Alleges the Complainant's claims are barred by the statute of limitations is disingenuous.**

8 For a number of years, as evidenced in the exhibits attached to the Complaint, the WWCC has desired to disconnect its electric service from Pacific Power. However, Pacific Power refuses to disconnect its services unless it receives an exorbitant payment as a condition of disconnection. Pacific Power's Answer, in paragraph 13, states:

Pacific Power admits Complainant requested that electric utility service be disconnected.

9 The history between these two entities shows this affirmative defense is nothing more than a tactic to delay, frustrate, and further increase the costs and expenses incurred in resolving a known present and pending request. The request to disconnect from Pacific Power has never been abandoned.

10 Pacific Power's affirmative defense set forth in Paragraph 31 is denied.

### **III. CONCLUSION**

11 Having replied to and answered Respondent's affirmative defenses, the Complainant

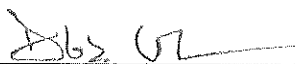
requests that the same be dismissed in its entirety, with prejudice, and for an award of attorney fees and costs in this action to the extent authorized by law.

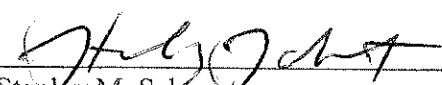
Respectfully submitted,

DATED this 17<sup>th</sup> day of December, 2014.

MINNICK-HAYNER

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