

January 13, 2017

***VIA ELECTRONIC FILING***

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**

In response to the Notice of Opportunity to File Written Comments issued by the Washington Utilities and Transportation Commission (Commission) on December 7, 2016, Pacific Power & Light Company (Pacific Power or Company), a division of PacifiCorp, submits the following written comments on the draft rules for WAC Chapter 480-07.

**Part I—General Provisions**

* **WAC 480-07-140(3) and WAC 480-07-140(6)(b):** Pacific Power continues to recommend excluding workpapers from the requirement that cover letters include identification of all submitted documents by file name. This requirement is exceptionally burdensome with certain filings, like rate cases, that include hundreds of supporting workpapers.

Included as Attachment A is an example of a list of documents submitted as part of the Company’s 2013 general rate case. Putting together an index of the workpapers down to the file name, as provided in Attachment A, provides little value to Commission staff or stakeholders, but imposes a significant burden on utilities that are trying to finalize rate cases and other voluminous filings. Pacific Power requests the Commission to consider excluding workpapers from this requirement, or provide a less burdensome alternative such as allowing utilities to provide an outline of the folder organization for workpapers.

* **WAC 480-07-140(6)(a)(ii):** Pacific Power recommends allowing flexibility in utilizing “hidden cells” for spreadsheet formats. Lines and columns are often hidden to present the most relevant information in an otherwise expansive spreadsheet, or to format spreadsheets for effective printing. These types of formatting modifications do not truly “hide” information because the presence of the information is ascertainable and the information itself is easily viewable.

Taking away the ability to format spreadsheets in this manner will, in many instances, result in overly complex, cluttered, and unprintable exhibits and workpapers. Furthermore, confirming compliance with this requirement would obligate utilities to manually inspect hundreds of spreadsheets per year before filing with the Commission.

* **WAC 480-07-160(2)(a):** The proposed rule changes retain robust protections for most types of confidential information. The rules, however, fail to adequately protect utility customers’ personal, financial, or contact information. The rules exclude customers’ personal, financial, and contact information from the definition of “confidential information” even though such information is exempt from public disclosure under RCW 42.56.330(3). Utilities would be required to submit confidential customer information, then provide redacted copies after the fact, but only upon a request by the Commission.

This proposed exclusion hampers utilities’ ability to safeguard their customers’ sensitive information and conflicts with increasing public concern about the security of personal information. Indeed, it compels utilities to produce confidential customer information, and only allows for after-the-fact redaction if requested by the Commission.

Furthermore, the proposed rules are internally contradictory. The prefatory paragraph of WAC 480-07-160 expressly excludes customer confidential information from protection as “confidential information.” But WAC 480-07-160(2) suggests that certain types of customer information (specifically, customer-specific usage information) qualifies as “confidential information.” It is unclear why the proposed rules would protect customer-specific usage information while not similarly protecting customers’ confidential personal or financial information.

Pacific Power strongly encourages the Commission to adopt rules that protect customer personal, financial, and contact information as confidential information.

* **WAC 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.[[1]](#footnote-1) 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.
* **WAC 480-07-160(5):** The proposed rules eliminate the opportunity for parties to resolve disputes regarding challenges to confidential information designations at the Commission. Under the proposed rules, parties who designate confidential information will be required to obtain a court order within ten days if another party challenges the confidential designation. If no order is obtained within that short timeframe, the contested information will no longer be treated as confidential. This framework drastically departs from the Commission’s current rules, where parties may resolve disputes regarding confidential designations via briefing at the Commission, and imposes a significant burden on parties seeking to protect confidential information. The Commission should retain the current framework where disputes regarding confidential designations are resolved before the Commission, rather than requiring designating parties to obtain judicial relief in an extraordinarily short timeframe. Specifically, the Commission should retain the following language:

When a challenge is made, the commission will provide an opportunity to respond before ruling on the challenge. If a confidential designation is challenged, the provider of the confidential information bears the burden to show that part or all of a document should be protected from disclosure under chapter 42.56 RCW, RCW 80.04.095, or a protective order.

* **WAC 480-07-160(6)**: This provision addresses requests for confidential information, and states:

Subject to the requirements of this subsection, the Commission will release information designated as confidential or highly-confidential in response to a written request for public records made in compliance with WAC 480-04-090.

This provision focuses on the validity of the request, not on whether the information is disclosable. To avoid any ambiguity, the following language should be revised as follows:

Subject to the requirements of this subsection, the Commission will release information designated as confidential or highly-confidential in response to a written request for public records made in compliance with WAC 480-04-090, **unless release is prohibited by law, rule, or Commission order.**

**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….”
* **480-07-400(c)(iii) “Discovery”:** Pacific Power continues to request 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.

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

1. *See* Order No. 15-243, Docket No. AR 587 at 2 (Aug. 25, 2015) (adding language to the general protective order “requiring a designating party to use reasonable efforts to ensure that any designated information continues to warrant protection.”) [↑](#footnote-ref-1)