

August 24, 2015

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 No. U-140621—Rulemaking to Consider Adoption of Rules to Implement
RCW Ch. 80-54, Relating to Transmission Facilities
Comments of Pacific Power & Light Company**

In accordance with the Notice of Opportunity to Submit Written Comments issued July 24, 2015 (Notice), Pacific Power & Light Company, a division of PacifiCorp (Pacific Power or Company), provides comments responsive to the Notice.

Pacific Power appreciates the Commission’s efforts to draft rules for pole attachments in Washington. The proposed draft rules balance the need for clear attachment procedures with the need for flexibility for pole owners and pole attachers to accommodate specific needs. Pacific Power supports the Commission’s adoption of these draft rules, subject to the following recommendations.

I. 480-054-030

Proposed WAC 480-54-030(1) provides that a pole owner

“may not deny access to a pole based on insufficient capacity if the requester is willing to compensate the owner for the costs to replace the existing pole with a taller pole *or* otherwise undertake make-ready work to increase the capacity of the pole to accommodate an additional attachment[.]” (emphasis added).

As written, this rule creates confusion regarding what costs the requester must pay the pole owner. For example, while replacement of an existing pole with a taller pole may be necessary to increase capacity, it may also be necessary to perform make-ready work on nearby poles or structures to accommodate the installation of a new, taller pole. This type of make-ready work would only be necessary because of the replacement of an existing pole. In these instances, the requester should be required to pay for both the pole replacement *and* any associated make-ready work.

Pacific Power recommends replacing the “or” in proposed WAC 480-54-030(1) with “and” to clarify the extent of the requester’s cost responsibility. Pacific Power recommends the rule read as follows:

An owner deny such access to specific facilities on a nondiscriminatory basis where is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles; provided that the owner may not deny access to a pole based on insufficient capacity if the request is willing to compensate the owner for the costs to replace the existing pole with a taller pole *and* otherwise undertake make-ready work to increase the capacity of the pole to accommodate an additional attachment.

The use of the term “and” makes clear that the requester must be willing to pay for both the replacement of an existing pole and any associated make-ready work, including work on poles that are not being replaced.

Pacific Power supports the comments of Avista and Puget Sound Energy and share the concerns raised with respect to overloading and mandatory capacity expansions. The Company has provided comments regarding its concerns with overloading and mandatory capacity expansions in previous comments and workshops in this rulemaking proceeding.

II. 480-54-050

a. WAC 480-54-050(1) should limit “directly benefit” to 60 days.

Proposed WAC 480-54-050(1) assigns the costs of increasing capacity on a pole to the requester, however, if existing occupants or pole owners “directly benefit” from the capacity increase, the existing occupants or pole owner must share in the costs at a level proportionate to their use of the new or increased capacity. Existing occupants and pole owners are deemed to “directly benefit” from the increased capacity if they add to their attachment or make modifications to their attachment.

As drafted, proposed WAC 480-54-050(1) would assign cost responsibility to existing occupants and pole owners if, at any time after a capacity increase, the existing occupants or pole owner add to or make modifications to their attachment. Previous versions of proposed WAC 480-54-050(1) limit the time during which an existing occupant or pole owner can “directly benefit” from a capacity increase to 60-days.¹

Pacific Power does not have this obligation in any other jurisdiction and does not have an automated system capable of tracking this information. Any after the fact cost-sharing information would need to be gathered and calculated manually after notification from the requester. Pacific Power strongly recommends the Commission include a time limit in WAC 480-54-050(1) to avoid the administrative burden of tracking and refunding capacity increase costs indefinitely.

The May 27, 2015 version of proposed WAC 480-54-050(1) adequately addressed Pacific Power’s concern and reads as follows:

¹ See the May 27, 2015 version of proposed WAC 480-54-050(1), provided with the Notice of Opportunity to Respond to Small Business Economic Impact Statement Questionnaire (SBEIS Notice), which included the 60-day time limit.

An occupant or owner with an existing attachment to the modified facility shall be deemed to directly benefit from a modification if, *within 60 days* after receiving notification of such modification, that occupant or owner adds to its existing attachment or otherwise modifies its attachment.” (emphasis added).

b. WAC 480-54-050(1) and (2) require clarification.

Proposed WAC 480-54-050(1) addresses the assignment of costs for increasing capacity on a pole. Proposed WAC 480-54-050(2) addresses the assignment of costs for bringing an existing attachment into compliance with safety requirements. However, the following sentence contained in proposed WAC 480-54-050(2) appears to contradict proposed WAC 480-54-050(1):

An occupant with an existing conforming attachment to a facility shall not be required to bear any of the costs to rearrange or replace the occupant’s attachment if such rearrangement or replacement is necessitated solely as a result of *creating capacity* for an additional attachment[.]” (emphasis added).

To the extent this sentence is meant to only apply to the creation of capacity necessary to comply with safety requirements—consistent with the rest of proposed WAC 480-54-050(2)—the above-mentioned sentence should be clarified to read “...as the result of *creating capacity to comply with safety requirements*[.]” This clarification avoids any confusion with regard to the cost assignment provisions in proposed WAC 480-54-050(1) and proposed WAC 480-54-050(2).

For further clarification of which parties bear costs when poles are replaced to create additional capacity and consistent with industry practice, Pacific Power recommends changes to require existing occupants transfer their existing attachments from the old pole to the new pole at their own costs. Pacific Power recommends changing the last sentence of WAC 480-54-050(2) to read as follows:

Except for the cost of transferring its existing attachments from the old pole to the new pole, an occupant with an existing conforming attachment shall not be required to bear any of the costs to rearrange or replace the occupant’s attachment if such rearrangement or replacement is necessitated solely as a result of creating capacity for an additional attachment or to accommodate modifications to the facility or another occupant’s existing attachment made to bring that attachment into conformance with applicable safety requirements.

Pacific Power appreciates the opportunity to provide these comments and supports adoption of the proposed rules, subject to the recommendations made in these comments. Please direct informal questions to Ariel Son, Manager, Regulatory Projects, at (503) 813-5410.

Sincerely,



R. Bryce Dalley
Vice President, Regulation