

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

THE WALLA WALLA COUNTRY CLUB,

Complainant,

vs.

PACIFIC POWER & LIGHT COMPANY,

Respondent.

Docket UE-143932

**PACIFIC POWER & LIGHT
COMPANY'S RESPONSE TO THE
WALLA WALLA COUNTRY
CLUB'S MOTION TO REJECT
PETITION**

1 In accordance with WAC 480-07-380 and the Notice Establishing Response Dates, Pacific Power & Light Company (Pacific Power or Company), a division of PacifiCorp, responds to the Walla Walla Country Club's Motion to Reject Petition.

I. PACIFIC POWER INTERPRETED THE PREHEARING CONFERENCE ORDER TO MODIFY THE GENERAL OR DEFAULT DEADLINE SET FORTH IN WAC 480-07-145(6)(a)(i).

2 PacifiCorp serves customers in six states.¹ Pacific Power is one of three divisions of PacifiCorp and serves customers in Washington, Oregon, and California.² PacifiCorp maintains a department of Regulatory Operations, which includes what is internally referred to as the "document center."³ Almost all filings with the regulatory entities in the six states of operation, including the Washington Utilities and Transportation Commission, are completed by Company personnel in the document center.⁴ Company personnel in the document center and regulatory affairs stay apprised of all procedural rules of the regulatory entities in the six states of operation.⁵ Upon receipt of a

¹ Declaration of R. Bryce Dalley, p. 1, ¶4.

² *Id.*

³ *Id.* at ¶ 5.

⁴ *Id.*

⁵ *Id.* at ¶ 6.

prehearing conference order or the equivalent in other jurisdictions, Company personnel take note of the deadlines reflected in the order.⁶

3 Upon receipt of the Prehearing Conference Order issued on January 21, 2015 (Order 01), Company personnel interpreted the language of paragraph 15 regarding electronic submission of documents to modify the general or default time of day specification found at WAC 480-07-145(6)(a)(i).⁷ Paragraphs 8, 9, 10 and 15 of the Prehearing Conference Order all include time of day specifications for various acts.⁸ Company personnel interpreted the absence of any reference to 3:00 p.m. in paragraph 15, which addresses electronic submission of documents, to be a modification allowing filing and service up to 5:00 p.m. on the calendar day deadline.⁹ All of Pacific Power's filings, following issuance of the Prehearing Conference Order, were completed after 3:00 p.m., but before 5:00 p.m., reflecting the Company's interpretation.¹⁰

II. GOOD CAUSE EXISTS TO GRANT AN EXTENSION AND DENY THE WALLA WALLA COUNTRY CLUB'S MOTION TO REJECT PETITION, PARTICULARLY GIVEN THE ABSENCE OF ANY PREJUDICE TO THE WALLA WALLA COUNTRY CLUB.

4 Pacific Power filed and served its Petition for Administrative Review sixty-four minutes after 3:00 p.m. on the date of the deadline. As addressed above, doing so was the result of the Company's interpretation of the effect of the Prehearing Conference Order and was consistent with all of the other filings by the Company following issuance of the Prehearing Conference Order. At no point before filing its Motion to Reject Petition did the Walla Walla Country Club raise an issue with the timing of Pacific

⁶ *Id.*, p. 2, ¶ 7.

⁷ *Id.* at ¶ 8.

⁸ *Id.* at ¶ 9.

⁹ *Id.* at ¶ 10.

¹⁰ *Id.* at ¶ 11.

Power's filings.¹¹

5 The normal time for filing an answer to a petition for administrative review is ten days. Loss of approximately one hour from that ten-day period does not amount to actual prejudice. Further, Pacific Power has stated its willingness to stipulate to an extension beyond that set forth in the Commission's Notice Establishing Response Dates.¹² With that stipulation, the Walla Walla Country Club would have well over thirty days from the filing of the Petition for Administrative Review to prepare its answer.

6 As set forth in WAC 480-07-825(2), the Commission may extend the time to file a petition for administrative review upon the showing of good cause. Further, in accordance with WAC 480-07-110(1), the Commission may modify the application of procedural rules during a particular adjudication consistent with other adjudicative decisions.

7 Examples of other such adjudicative decisions include the Commission's Order in *United & Informed Citizens Advocates Network v. Pacific Northwest Bell Telephone Company d/b/a U.S. WEST Communications, Inc.*, No. UT-960659, 1998 WL 223223 (Wash. U.T.C. Feb. 4, 1998) and its Order in *Blessed Limousine, Inc.*, No. TE-151667, (Wash. U.T.C. Jan. 26, 2016) (final order).

8 In this proceeding, Pacific Power seeks administrative review of a number of findings and the ultimate decision in the Initial Order (Order 03). Pacific Power's Petition for Administrative Review is based, in part, upon the fact that the Initial Order would result in an unconstitutional regulatory taking of Pacific Power's property. The substantive issues presented in Pacific Power's Petition are significant and should be

¹¹ *Id.* at ¶ 12.

¹² Pacific Power & Light Company's Response to the Walla Walla Country Club's Alternative Motion to Extend Filing Date for Answer.

addressed by the Commission before any resort to judicial review.

III. PACIFIC POWER SEPARATELY STATED EACH OF ITS CONTENTIONS AND ADDRESSED THOSE CONTENTIONS IN A CAREFULLY-ORGANIZED PETITION WITH A DETAILED TABLE OF CONTENTS.

9 In accordance with WAC 480-07-395(4), the Commission liberally construes pleadings and motions with a view to effect justice among the parties. At every stage of any proceeding, the Commission disregards errors or defects in pleadings, motions, or other documents that do not affect the substantial rights of the parties.

10 Paragraph 5 of Pacific Power’s Petition for Administrative Review includes separate statements of each of Pacific Power’s contentions. Further, although not required under WAC 480-07-825(3), Pacific Power submitted a detailed table of contents.

11 Pacific Power believes that it fully complied with the provisions of WAC 480-07-825(3). The Walla Walla Country Club argues that the separately stated contentions in paragraph 5 should be presented with numbers rather than bullet points. Pacific Power is certainly prepared to submit an amended petition for administrative review, replacing the bullet points with numbers.

12 It appears that the Walla Walla Country Club’s presentation of its concern regarding Pacific Power’s pleading form is directed toward its request to extend the filing date for its answer. By way of the Commission’s Notice Establishing Response Dates and Pacific Power’s Response to the Walla Walla Country Club’s Alternative Motion to Extend Filing Date For Answer, the Walla Walla Country Club would have well over thirty days from the filing of Pacific Power’s Petition for Administrative Review to prepare and file its answer, which is more time than Pacific Power had to prepare its

petition. Accordingly, Pacific Power respectfully submits that the Walla Walla Country Club is in no way prejudiced by the form of Pacific Power's Petition for Administrative Review. Pacific Power urges liberal construction of its Petition for Administrative Review and requests that the Commission disregard any actual or perceived defect which does not affect the substantial rights of the Walla Walla Country Club.

Respectfully submitted this 18th day of February, 2016.

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