

[It] would stipulate to an additional ten days (total of twenty days) after the date of the Commission's order on the merits of the Walla Walla Country Club's motion to dismiss, which would afford the Walla Walla Country Club well over thirty days from the filing of the Petition for Administrative Review to prepare its answer.¹

- 4 The Commission finds as a preliminary matter that the Company's response addresses the practical concern raised by Walla Walla's alternative motion. This is particularly true given that the basis for Walla Walla's late-filing argument is that:

In adjudicative proceedings . . . Commission rules state: "Electronic submissions must be *completed* by 3:00 p.m. on the date established for filing." Under WUTC rules, the filing of a "pleading . . . with the commission in an adjudicative proceeding is not complete *unless* service has been made upon all parties." Given that the Club was not served with the Petition until 4:04 p.m., on February 4, 2016, the Petition was not timely filed and may be rejected by the Commission.²

In other words, the petition at worst was 64 minutes late but made by the calendar deadline (*i.e.*, February 4, 2016) for the filing.

- 5 We consider also Pacific Power's answer to Walla Walla's motion on February 18, 2016, which explains among other things that:

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). Paragraphs 8, 9, 10 and 15 of the Prehearing Conference Order all include time of day specifications for various acts. 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. 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.

¹ Pacific Power Response ¶ 3.

² *Id.* ¶ 2.

While Pacific Power's assumption, leading it apparently to misinterpret the Prehearing Conference Order in one particular, arguably should not have guided its timing of filings in this proceeding, its unchecked course of conduct in adhering to its understanding throughout the proceeding should have been called out by Walla Walla, another party, or the Commission itself were it perceived to be causing any prejudice. We do not think this pattern has caused any prejudice to any party during the conduct of this proceeding, nor does its filing here one hour beyond the specified time do so.

6 The Company argues that good cause exists to deny Walla Walla's alternative motion in light of its explanation and because it was only 64 minutes late in filing its petition for administrative review relative to what WAC 480-07-145(6)(a)(i) requires. The Commission agrees with Pacific Power that good cause exists to excuse its tardy filing.

7 Walla Walla also contends that Pacific Power's petition for review should be dismissed because it does not meet the contents requirements under WAC 480-07-825(3) for a petition for administrative review. Pacific Power responds with the observation that:

[Under] 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.³

8 Pacific Power disputes that its petition for review does not meet the requirements of WAC 480-07-825(3) and discusses the organization of its pleading explaining how it does in fact conform to the requirement that the Company's contentions on review be "separately stated." The Company acknowledges that it did not "separately number" its contentions, but instead used bullet points to distinguish one from another. Pacific Power offers to cure this defect with an amended pleading, if required. However, the Company urges that the Commission follow its rule concerning liberal construction and "requests that the Commission disregard any actual or perceived defect which does not affect the substantial rights of the Walla Walla Country Club."⁴

9 Although the Commission prefers that pleadings and motions conform closely and carefully to all procedural requirements, its most fundamental concern is keep substance elevated above form. When there are departures, slight or not so slight, from strict

³ Pacific Power Response ¶ 9.

⁴ *Id.* ¶ 12.

adherence to requirements for numbered contentions versus bulleted contentions and similar requirements, the Commission will construe the pleading liberally. We will do so here.

- 10 In any event, as Walla Walla's motions make clear, and as Pacific Power observes, Walla Walla's principal concern seems to be that it have an expanded time frame to prepare its answer to the Company's petition for review. As discussed above, the Commission's notice of procedural dates in response to Walla Walla's motions already has expanded the time available for Walla Walla to prepare its answer. Considering this, and Pacific Power's stipulation to yet an additional ten day extension of the filing date for Walla Walla's answer, we will now require that Walla Walla file its answer within 15 days after the date of this order; that is, by March 8, 2016. This is one day later than the extension date requested by Walla Walla in its motions and 33 days after the date Pacific Power filed its petition for review.

ORDER

THE COMMISSION ORDERS:

- 11 (1) The Walla Walla Country Club's Motion To Reject Petition is denied.
- 12 (2) The Walla Walla Country Club's Alternative Motion To Extend Filing Date for Answer is granted.
- 13 (3) Walla Walla Country Club's answer to Pacific Power's Petition for Administrative Review of the Initial Order is due no later than March 8, 2016.

DATED at Olympia, Washington, and effective February 22, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Senior Review Judge