

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP d/b/a PACIFIC POWER &
LIGHT COMPANY,

Respondent.

DOCKETS UE-230172 and
UE-210852 (*Consolidated*)

COMMISSION STAFF'S MOTION
TO REVISE TESTIMONY AND
PETITION FOR EXEMPTION FROM
WAC 480-07-460(1)(a)(i)

I. INTRODUCTION

I Staff of the Washington Utilities and Transportation Commission (Commission) submits this Motion to seek leave to revise testimony and exhibits pursuant to WAC 480-07-460(1)(a)(i). Commission staff (Staff) moves to revise the cross-answering testimony of its witnesses John Wilson and Joanna Huang with the corrected versions. The information in these corrected versions cannot be properly incorporated in time for the October 27, 2023 cross-answering testimony deadline. The Commission set a November 30th deadline for PacifiCorp to respond to specific Data Requests (DRs) issued by Staff, and these responses are necessary for Staff witness Wilson to provide specific net power cost recommendations. Staff also seeks exemption from the requirement under WAC 480-07-460(1)(a)(i) that proposed changes are filed with the motion, if such an exemption is necessary. Staff is filing the present motion in advance of changes so as to limit surprise to other parties and give parties advance notice of its intent to amend testimony. Additionally, Staff requests the Commission grant its motion to replace previously filed exhibit JDW-11C with a corrected version.

II. RELIEF REQUESTED

2 Staff respectfully requests the Commission grant Staff's motion to file corrected
testimony and additional exhibits in early December. Staff also requests that the
Commission exempt Staff from submitting its proposed changes with the present motion as
such changes cannot be determined with certainty until after November 30 when responses
are due to Staff. Finally, Staff requests the Commission grant leave to replace exhibit JDW-
11C with a corrected version that includes all pages.

III. STATEMENT OF FACTS

3 Pacific Power and Light – PacifiCorp (the Company) instituted the present case
when it filed its general rate case on March 17, 2023. That initial filing was replaced on
April 19, 2023. On May 2, 2023, the Commission issued Order 01 suspending tariff
revisions and issuing complaint to adjudicate the Company's rate case.

4 Staff filed response testimony on September 14, 2023. Amongst that testimony was
Wilson Exhibit, Exh. JDW-11C. On October 2, 2023, the Company issued Data Request
(DR) 7 to Staff. This request included a question regarding Wilson Exhibit, Exh. JDW-11C.
Upon reviewing the DR and the filed exhibit Staff concluded that the filed document was
missing worksheets. A corrected copy of the exhibit was provided to the parties on October
11, 2023 along with responses to Company DR 7. Staff now seeks to file the corrected
version of the exhibit with the Commission to correct the erroneous filing from September
14, 2023.

5 On September 22, 2023, Staff issued DRs 150-157 to PacifiCorp. On October 2,
2023, Staff received responses from the Company objecting to the DRs. Staff filed a motion
to compel discovery on October 4, 2023. On October 12, 2023, the Commission held a
hearing on Staff's motion to compel discovery. Commission Administrative Law Judge

Howard ruled that PacifiCorp must respond, but extended the deadline, namely for DR 155, allowing the Company until November 30th to respond. The Company objected to DR 160 stating that, consistent with the October 12, 2023 hearing, it would respond on or before October 27, 2023. October 27, 2023 is the same date that cross-answering testimony is due.

IV. LEGAL STANDARD

6 The Commission’s procedural rules, WAC 480-07, permits a party to seek leave from the presiding officer to revise a filed exhibit.¹ The rule requires a written motion to seek leave to amend an exhibit if the revision includes “substantive changes” and to include the proposed exhibit with the motion.²

7 The Commission has the discretion to “grant an exemption from, or modify the application of, any of its rules in individual circumstances.”³ Exemption is permissible if it is in the public interest, and is consistent with the purpose of the underlying regulation and statute.⁴ To obtain exemption, a “person must file with the commission a written petition identifying the rule for which the person seeks and exemption and provid[e] a full explanation of the reason for requesting the exemption.”⁵ When determining whether the petition for exemption meets the public interest standard, the Commission may consider factors such as “whether the rule imposes an undue hardship on the requesting person of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule to the requesting person would be contrary to the underlying purposes of the rule and the public interest.”⁶

¹ WAC 480-07-460(1)(a)(i).

² *Id.*

³ WAC 480-07-110(1).

⁴ *Id.*

⁵ WAC 480-07.110(2)(a).

⁶ WAC 480-07-110(2)(c).

VI. ARGUMENT

A. Staff should be permitted to file corrected testimony after receipt of the Company's November 30th responses as this data is integral to Staff's power cost recommendations and this data is not available at a sooner point in time.

8 Staff's Power Cost expert requires answers to DRs 155 and 160 in order to complete his recommendations and calculate the power cost adjustments in this case; it is very likely that responses to these DRs will constitute "substantive changes" to testimony from two Staff witnesses. These DRs were issued on September 22, 2023 and October 6, 2023 respectively; however, the Company received judicial permission to respond to DR 155 by November 30 and DR 160 by October 27, 2023, rather than the normal discovery deadline that would have permitted Staff to incorporate those responses into cross-answering testimony. Power costs have a significant impact on the overall revenue requirement and Staff anticipates that changes as a result of the responses in these DRs will require an update to Staff's revenue requirement testimony from Staff witness Huang. Due to the deadline the Commission set for the Company, Staff witness Wilson is unable to obtain complete information prior to November 30, 2023.

1. The Commission should permit amendment of Staff witness testimony and exhibits after receipt of outstanding data requests.

9 Staff anticipates that the answers provided in response to DRs 155 and 160 will have significant impact on Staff's power cost adjustment recommendations, and by extension its revenue requirement recommendation. DR 155 requests updates to numerous Company exhibits, workpapers, and other DR responses based on assertions that the Jim Bridger plan is not subject to the final Ozone Transport Rule (OTR) and/or that Aurora modeling should be based on data from a different time period.⁷ Data resulting from these responses may

⁷ Attachment 1, Staff data request 155.

have a substantial impact on Staff's power cost opinions and recommendations. This may be crucial information that Staff believes should be before the Commission in its consideration of this case.

10 DR 160 requested additional modeling data, the results of which may also have significant impact on power costs adjustments and Staff's overall revenue requirement testimony.⁸ This DR requests runs that include corrections which may flow through from changes made as a result of DR 155. DR 160 asks for changes requested in DR 158 to be incorporated into the requested Aurora run. DR 158 covers, amongst other things, the impact on Washington net power costs from the removal of the Ozone Transport Rule from all company plants and a change in the months used for forecasting. This is highly likely to be influenced by the Company's response to DR 155, and be highly influential on the overall revenue requirement.

11 Granting the motion to revise is in the public interest. Staff filed versions of Staff witness Wilson and Huang's testimony on October 27, 2023, with as much information on Staff's cross-answering positions as possible to mitigate any surprise to the other parties. Staff acted quickly in issuing these data requests to the Company.⁹ Staff also acted quickly in response to the Company's objections to data request 155.¹⁰ In short, Staff receiving this data after the cross-answering testimony deadline is not the result of any unreasonable delay in issuing these data requests.

⁸ Attachment 2, Staff data request 160.

⁹ Staff Data Request 155, which sought information from PacifiCorp in order to assess the positions taken by other parties in response testimony, was issued about one week after response testimony was filed on September 14, 2023. Staff Data Request 160, which seeks additional data based on the Company's response to Staff DR 158, was issued on October 17, 2023, one day after Staff received the response to data request 158 from the Company. See Attachment 3, PacifiCorp response to Staff data request 158.

¹⁰ See motion to compel filed October 4, 2023, two days after receiving objections.

2. Updates to power cost adjustments will necessitate amendments to Staff revenue requirement testimony.

12 Power costs adjustments are significant factors in calculating the overall revenue requirement, and thus Staff also seeks permission to amend Staff witness Huang's testimony and file related exhibits after the deadline for DRs 155 and 160. Staff witness Huang takes the adjustment outputs received from Staff witness Wilson and incorporates them into her revenue requirement formula to assist her and Staff in making their recommendation on what the proper revenue requirement allocated to the Company should be for the rate case. Specifically, Staff witness Wilson anticipates needing to update his revisions to Company Exhibits SLC-5.1 and SLC-5.2 which expert Huang needs to complete the analysis discussed in her testimony. Staff anticipates that these power costs adjustments will be significant and have a noticeable impact on revenue requirement. Permitting Staff to amend this testimony will allow a more complete and accurate record before the Commission. Similarly, it is in the public interest to permit these amendments as the results may indicate cost impacts not previously accounted for in testimony, and thus customer rates may be impacted in noticeable ways.

B. If necessary, Staff should be granted an exemption from the rule in WAC 480-07-460(1)(a)(i) requiring submission of proposed changes to testimony with this motion as the testimony will not be available until after the DRs are received and Staff is submitting this motion early to avoid surprise on the other parties.

13 Exemption from the requirement to submit the revised testimony and exhibits with the motion to amend testimony is in the public interest in this case because it is impossible to submit the amended testimony in advance of November 30, and by submitting this motion early Staff is attempting avoid undue surprise on the other parties to this matter. Give the proximity of when this testimony would be revised (early December) in relation to the hearing in this case, Staff is attempting to disclose in advance, as much as possible, the

anticipated impacts it foresees from these DR responses. While Staff cannot predict with 100 percent certainty how its power cost testimony will change, Staff is endeavoring to provide the other parties with as much notice as possible given the situation. WAC 480-07-460(1)(a)(i) states that a party seeking permission make substantive revisions “should submit the proposed revisions with its motion.” This language could be read as mandatory or preferential. Staff therefore seeks an exemption from this portion of the rule if the Commission finds granting an exemption is necessary.

14 The goal of a general rate case is to provide the Commission with as much information as possible to consider in determining proper rates for ratepayers. A key component of that analysis is accurate and complete information. Permitting exemption in this case is in the public interest as it allows the other parties to be on notice that Staff’s testimony will be changing while still maintaining the purpose of Staff’s role in this proceeding: to provide as accurate and complete a case as possible for Commission consideration. To address the factors listed in WAC 480-07-110(2)(c), the effect of applying the rule (specifically, requiring inclusion of the proposed revision with the motion) is contrary to the purposes of the rule in this instance. While Staff has filed as much of the cross-answering testimony as it can at this point, the final numbers are not yet available and waiting to file this motion until those figures are available would cause undue surprise to the other parties. For that same reason, the rule would impose an undue hardship on Staff, given that moving for permission to revise testimony after November 30 might rightly be objected to by other parties for causing unnecessary surprise.

C. The Commission should grant Staff leave to file a corrected version of JDW-11C as inadvertent error caused an incomplete version to be filed and a complete version will allow a more complete record before the Commission.

15 Staff seeks to revise previously filed Exh. JDW-11C with JDW-11Cr¹¹ in order to correct the missing worksheets. This would be considered a “substantive change” as it would be adding new information to the exhibit. The correct version of the exhibit is attached hereto for the Commission’s consideration.¹² The parties have all been provided with the corrected exhibit through Staff’s response to the Company’s DR 7; however, Staff now seeks to correct its filing so the record before the Commission is complete and accurate.

VII. CONCLUSION

16 Staff requests that the Commission grant this motion permitting Staff to file amended testimony on behalf of its witnesses John Wilson and Joanna Huang after receipt of the DR responses that are due November 30, 2023. Staff requests that the Commission grant an exemption to the requirement under WAC 480-07-460(1)(a)(i) that the proposed changes be submitted with the motion as Staff is attempting to avoid surprise on other parties by filing this present motion early before DR responses are available. Furthermore, Staff requests that the Commission grant this motion as it pertains to replacing Exh. JDW-11C with a corrected version that includes pages that were inadvertently omitted when it was initially filed.

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¹¹ Staff denotes that this exhibit is the revised version by adding the “r” to the end of the exhibit name.

¹² Attachment 4.

DATED this 27th day of October 2023.

Respectfully submitted,

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Attorney General

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WUTC Data Request 155

Power Costs - If PacifiCorp agrees that the Jim Bridger plant is not subject to the final Ozone Transport Rule and/or admits that it would be more reasonable to forecast Rate Year 1 NPC based on Aurora model data for April 2024-March 2025 (or some other period), please provide revised versions of all affected exhibits and work papers, also including changes and updates considered in PacifiCorp Response to UTC Staff Data Request No. 135, 1st Revised, Attachment 135-2 (e.g., 230172-PAC-RJM-Aurora2024NPCMasterBaseWA1_WUTC 135b1).

In PacifiCorp's responses to the following questions, please utilize these revised exhibits and work papers as a baseline for any quantitative responses.

Response to WUTC Data Request 155

PacifiCorp objects to this data request as it seeks rebuttal testimony before the schedule established by the Washington Utilities and Transportation Commission in Order 03, issued in this docket on May 24, 2023. PacifiCorp further objects as this request is seeking analysis that has not been performed by the Company.

PREPARER: Counsel

SPONSOR: Counsel

WUTC Data Request 160

Power Costs - Please provide the following modeling results, similar to those provided in response to WUTC DR 135 and requested in WUTC DR 158 but substituting model outputs for January – March 2025 for the January – March 2024 data. This is to support power cost rates becoming effective April 1, 2024 rather than January 1, 2024 as represented in PacifiCorp’s calculations.

- (a) The baseline Aurora run referred to as 135b1_BL in PacifiCorp’s 1st Revised Response to WUTC DR 135.
- (b) The corrected baseline Aurora run referred to as 135b1 in PacifiCorp’s 1st Revised Response to WUTC DR 135, but reflecting the changes requested in 158.
- (c) The revised Clay Basin minimum ending balance Aurora run referred to as 135b2 in in PacifiCorp’s 1st Revised Response to WUTC DR 135.
- (d) The Aurora run including baseline corrections, additional corrections, and the revised Clay Basin minimum ending balance referred to as 135Supp in PacifiCorp’s 1st Supplemental Response to WUTC DR 135, also reflecting the changes requested in 158.

Response to WUTC Data Request 160

PacifiCorp objects to this request as unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding the foregoing objection, the Company responds as follows:

Consistent with Judge Howard’s ruling on October 12, 2023, and as communicated to the Washington Utilities and Transportation Commission (WUTC) staff on October 13, 2023, the Company will provide its response to subpart (b) on or before October 27, 2023.

PREPARER: Counsel

SPONSOR: Counsel

WUTC Data Request 158

Power Costs - WUTC Data Request 135 requested certain model runs that included “Corrections to model inputs that the Company has acknowledged.” It appears from PacifiCorp’s response to WUTC Data Request 153 that on or soon after July 27, 2023, the Company became aware that Washington net power costs (NPC) would be impacted by the removal of the Ozone Transport Rule from all Company plants.

- (a) Please identify any other material issues that the Company has become aware of that it acknowledges would have an effect on Washington NPC but are not addressed in its filed NPC.
- (b) Please provide revised responses to WUTC Data Request 135 also considering the removal of the Ozone Transport Rule from all Company plants as well as any other material issues identified in response to subpart (a) in each portion of the Company’s responses to WUTC Data Request 135 that considers Company-acknowledged corrections to Aurora model inputs.

Response to WUTC Data Request 158

The Company objects to this request to the extent it is unduly burdensome and requesting analysis not preformed by the Company. Notwithstanding the foregoing objection, the Company responds as follows:

- (a) Material issues that the Company has become aware of that affect Washington net power costs (NPC):
 - 1. Contingency reserve requirement calculation.
 - 2. Energy imbalance market (EIM) greenhouse gas (GHG) benefit calculation.
 - 3. In-model shadow price calculation.
 - 4. Short-term physical power transaction calculation.
 - 5. Thermal generation fuel startup cost calculation.
 - 6. Wind capacity factor calculation.
- (b) Consistent with Judge Howard’s ruling on October 12, 2023, and as communicated to the Washington Utilities and Transportation Commission (WUTC) staff on October 13, 2023, the Company will provide its response to subpart (b) on or before October 27, 2023.

PREPARER: Ramon J. Mitchell / Counsel

SPONSOR: Ramon J. Mitchell / Counsel

Attachment 4 is redacted in its entirety.