

**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-191024, UE-190750,
UE-190929, UE-190981, UE-180778
(*Consolidated*)

ORDER 08/06/11

REOPENING RECORD; ALLOWING
MODIFICATION TO SETTLEMENT;
SETTING DEADLINE FOR JOINT
TESTIMONY

(set for November 6, 2020, at 5 p.m.)

BACKGROUND

- 1 On December 13, 2019, PacifiCorp, d/b/a Pacific Power & Light Company, (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective tariff, WN U-75 for Electric Service in Docket UE-191024. On January 9, 2020, the Commission entered Order 01 in Docket UE-191024, suspending operation of the tariff revisions and setting this matter for adjudication.
- 2 On September 13, 2018, PacifiCorp filed a petition for an accounting order in Docket UE-180778, requesting the Commission enter an order authorizing a change in depreciation rates applicable to the Company's depreciable electric plant. The Commission suspended that petition and set it for adjudication.
- 3 On September 6, 2019, PacifiCorp filed a petition for an order approving deferred accounting in Docket UE-190750 related to repowering the Leaning Juniper wind facility.

- 4 On November 8, 2019, PacifiCorp filed a petition for deferral of costs related to purchases of renewable energy credits in Docket UE-190929.
- 5 On November 22, 2019, PacifiCorp filed a petition for an order approving deferred accounting in Docket UE-190981 related to repowering the Marengo I, II, and Goodnoe Hills wind facilities.
- 6 On February 3, 2020, the Commission entered Order 03/01/06 in Dockets UE-191024, UE-190750, UE-190929, UE-190981, and UE-180778, consolidating the dockets in response to an unopposed motion by Commission staff (Staff) and establishing a procedural schedule.
- 7 On June 2, 2020, pursuant to the parties' joint request, the Commission issued a notice in these consolidated dockets suspending the procedural schedule, setting a deadline for the parties to file their settlement agreement and supporting documentation, and holding August 24, 2020, on the Commission's calendar for a possible settlement hearing.
- 8 On July 20, 2020, the parties filed with the Commission two settlement agreements and supporting documentation (Settlement). One settlement agreement addressed only the issues in Docket UE-180778; the other addressed all other issues in the consolidated dockets. Sierra Club neither supported nor opposed either settlement.
- 9 On August 12, 2020, the Commission granted Sierra Club's motion to withdraw as a party in these consolidated matters.
- 10 On August 24, 2020, the Commission held a virtual settlement hearing, at the conclusion of which the record in these consolidated matters was closed.
- 11 On October 23, 2020, PacifiCorp filed with the Commission an update to its net power costs, which had been anticipated by the parties' Settlement.
- 12 On October 28, 2020, PacifiCorp filed with the Commission a petition for rehearing and a motion to amend the Settlement that is supported by all parties (Petition). The Petition requests that the Commission permit the parties to amend their Settlement with a modification to paragraph 21 pertaining to how the Settlement addresses PacifiCorp's net power cost update in October of 2020, and set a deadline of November 6, 2020, to receive from the parties additional joint testimony in support of the modification to the Settlement.

DISCUSSION

- 13 The evidentiary record in an adjudication closes at the conclusion of the evidentiary hearing.¹ A party may file a motion to reopen the record prior to the issuance of a final order by the Commission.² The Commission may reopen the record to receive evidence that is essential to a decision for good and sufficient cause, including that the evidence was unavailable and not reasonably discoverable at the time of the hearing.³ The Commission may rehear an adjudication after issuing its final order upon a petition by a party setting forth sufficient grounds.⁴
- 14 We grant the parties' joint request to reopen the record, modify their Settlement, and provide further joint testimony by November 6, 2020, supporting and explaining the modification to the Settlement.
- 15 The Settlement provided a rate decrease and rate stability for customers. It also included terms regarding an update to PacifiCorp's net power costs in October of 2020. The Settlement anticipated that any deviation in the positive direction to the net power cost baseline from the October update would be offset by the \$9.5 million PCAM deferral account balance. The October update deviated the net power cost baseline by an amount greater than \$9.5 million. The data included in the October update "are the revised forward natural gas and power market prices which were unavailable at the time for the hearing."⁵
- 16 The parties request the Commission allow the parties to modify the Settlement's terms pertaining to a deviation in the net power cost baseline from the October update in order to "enable the Parties to preserve the rate decrease reflected in the settlement for customers on January 1, 2021."⁶ The parties explain that permitting this modification, reopening the record, and allowing "supplemental joint testimony on this amendment . . . is supported by good and sufficient cause because it allows the Parties to provide

¹ WAC 480-07-830(1).

² WAC 480-07-830(2).

³ WAC 480-07-830(3).

⁴ WAC 480-07-830(2); WAC 480-07-870.

⁵ Petition at 4, ¶ 9.

⁶ Petition at 3, ¶ 8

evidence that the amendment will preserve for customers the benefits and rate stability provided by the Stipulation.”⁷ We agree.

- 17 The parties’ modification addresses key elements of the Settlement: the October update and customer rates. If the October update unexpectedly impacted the Settlement’s proposed customer rates, good and sufficient cause exists to permit the parties to modify their agreement and offer joint testimony explaining how they have agreed to resolve such impacts. The parties assert that they can submit joint testimony by November 6, 2020. We agree and find the parties’ recommended deadline is reasonable and justified.
- 18 As the Commission has yet to enter a final order in this matter, rehearing pursuant to WAC 480-07-870 is unnecessary. We find it appropriate, however, to hold open the record beyond November 6, 2020, to permit members of the public an opportunity to submit any additional comments arising from the parties’ Settlement as modified and supported by the parties’ joint testimony. The Commission determines, therefore, that the record in this matter should remain open until November 13, 2020. Additionally, the Commission determines that any public comments received until the record closes should be included in the record as an additional exhibit. Thus, the Commission directs Bench Request No. 8 to the Public Counsel Unit of the Washington Attorney General’s Office, requiring it to file with the Commission by November 20, 2020, an exhibit compiling all public comments submitted from the date of this Order until the record closes on November 13, 2020.
- 19 Accordingly, for the reasons explained above, the Commission determines that PacifiCorp’s request to reopen the record, modify the Settlement, and provide joint testimony by November 6, 2020, should be granted.

ORDER

THE COMMISSION ORDERS:

- 20 (1) PacifiCorp’s, d/b/a Pacific Power & Light Company, request to reopen the record, modify the Settlement, and provide joint testimony by November 6, 2020, as presented in its October 28, 2020 petition, is GRANTED.

⁷ Petition at 4, ¶ 9.

- 21 (2) The record in these consolidated proceedings will remain open until
November 13, 2020.
- 22 (3) Any public comments submitted from the date of this Order until the record
closes will be compiled in an exhibit and filed with the Commission by the Public
Counsel Unit of the Washington Attorney General's Office by November 20,
2020.

DATED at Olympia, Washington, and effective October 29, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*
ANDREW J. O'CONNELL
Administrative Law Judge