

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  PACIFICORP d/b/a PACIFIC POWER AND LIGHT COMPANY,  Respondent.	DOCKET UE-230172 <i>(Consolidated)</i> ORDER 06
In the Matter of  ALLIANCE OF WESTERN ENERGY CONSUMERS’  Petition for Order Approving Deferral of Increased Fly Ash Revenues	DOCKET UE-210852 <i>(Consolidated)</i>  ORDER 04  DENYING STAFF’S MOTION TO REVISE TESTIMONY; DENYING EXEMPTION FROM WAC 480-07- 460(1)(a)(i)

**BACKGROUND**

- 1 On April 19, 2023, PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-76. The purpose of the filing is to increase rates and charges for electric service provided to customers in the state of Washington.
- 2 On May 17, 2023, the Commission convened a virtual prehearing conference, and on May 25, 2023, entered Order 03/01, Prehearing Conference Order; Order Consolidating Dockets; and Notice of Hearing.
- 3 On September 14, 2023, the non-Company parties filed response testimony pursuant to the procedural schedule in this docket.

- 4 On October 4, 2023, Commission staff (Staff) filed a Motion to Compel Discovery (Motion to Compel). The Commission subsequently granted Staff's Motion to Compel by an oral ruling on the record at an October 12, 2023 hearing on the motion.
- 5 On October 27, 2023, Staff filed a Motion for Leave to Revise Testimony and Petition for Exemption from WAC 480-07-460(1)(a)(i) (Motion for Leave to Revise Testimony). Staff notes that the Commission set a deadline of November 30, 2023, for the Company to respond to certain data requests when granting the earlier Motion to Compel, and Staff notes that this is too late to include this evidence in cross-answering testimony due November 27, 2023. Staff also requests an exemption from WAC 480 07-460(1)(a)(i), which requires the movant to submit the proposed revised testimony with its motion, if the Commission finds it necessary.
- 6 Staff further requests that the Commission grant it leave to replace its previously filed Wilson Exhibit JDW-11C, included in response testimony, with a corrected version. Staff notes that it has already provided the other parties a corrected copy of the exhibit on October 11, 2023.
- 7 On November 3, 2023, PacifiCorp filed a Response to Staff's Motion for Leave to Revise Testimony. PacifiCorp generally opposes Staff's motion with the limited exception of Staff's request for leave to file a corrected Exhibit JDW-11C. PacifiCorp argues that Staff's motion would upend the procedural schedule in the case, deprive the Company of due process, and depart from past Commission rulings.

### DISCUSSION

- 8 We deny Staff's Motion for Leave to Revise Testimony with the exception of its request to file a corrected Exhibit JDW-11C, which is not opposed by the Company.
- 9 Parties may move to make changes to prefiled testimony under WAC 480 07-460(1)(a). However, "parties must seek leave from the presiding officer by written motion if they wish to file revise prefiled testimony or exhibits that include substantive changes."<sup>1</sup>
- 10 As the Company correctly observes, the Commission has carefully evaluated requests to file revised testimony, particularly substantive, significant changes, given the overall procedural schedule and the time remaining for other parties to respond.<sup>2</sup> Staff's Motion

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<sup>1</sup> WAC 480-07-460(1)(a)

<sup>2</sup> See *WUTC v. Cascade Natural Gas Corp.*, Docket No. UG-210755, Order 04 at ¶ 7 (Dec. 17, 2021) (granting Cascade's motion for leave to file revised testimony because the motion was filed

for Leave to Revise Testimony would result in a non-Company party filing substantive changes to the testimony of its power cost testimony *after* the deadline for rebuttal and cross-answering testimony. This would limit the Company's ability to respond, foreclosing any realistic opportunity for the Company to submit prefiled testimony in response to these significant changes. In the interests of procedural due process, overall fairness, and consistency with past Commission decisions, Staff's Motion for Leave to Revise Testimony should generally be denied. The evidence obtained through Staff's Motion to Compel—specifically the portion of the Company's response due by November 30, 2023—is more appropriately added to the record as cross-examination exhibits.

11 Because we deny Staff's Motion for Leave to Revise Testimony, we do not reach the issue of whether Staff must be granted an exemption from WAC 480-07-460(1)(a)(i).

12 We grant Staff's request to file a revised version of Exhibit JDW-11C. Staff observes that the initial version of this exhibit was missing worksheets, and it has already provided the other parties with a corrected version of this exhibit. This request does not raise the same concerns with fairness and due process, and it is not opposed by the Company.

### ORDER

#### THE COMMISSION ORDERS:

13 (1) Commission staff is granted leave to file a revised Wilson Exhibit JDW-11C by December 4, 2023.

14 (2) Commission staff's Motion for Leave to Revise Testimony is otherwise DENIED.

DATED at Lacey, Washington, and effective November 29, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Michael Howard*  
MICHAEL HOWARD  
Administrative Law Judge

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well in advance of the deadline for other parties to file responsive testimony); *WUTC v Puget Sound Energy, Inc.*, Docket No. UE-090704 et al., Order 08 at ¶ 9 (Oct. 20, 2009) (granting PSE's motion to file supplemental testimony, which was filed seven weeks before the due date for response testimony, but adjusting the DR response time requirements to ensure parties had adequate time).

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.**