

January 31, 2018

VIA ELECTRONIC FILING

Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Received
Records Management
01/31/18 14:47
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

RE: Docket A-130355—Pacific Power & Light Company’s Comments

In response to the Notice of Opportunity to File Written Comments issued by the Washington Utilities and Transportation Commission on December 11, 2017, Pacific Power & Light Company (Pacific Power), a division of PacifiCorp, submits the following written comments on the draft rules for WAC Chapter 480-07.

WAC 480-07-740—Settlement consideration procedure.

Pacific Power generally supports the comments submitted by Puget Sound Energy on this section of the proposed rules. Pacific Power believes that overly prescriptive procedures and requirements will discourage settlements.

If the Commission does not revise the proposed rules in response to Puget Sound Energy’s comments, Pacific Power recommends the following clarifying language. The language in subsection (2)(d) should be clarified to state that the extension of statutory deadlines applies only in situations where those timelines described in subsections (2)(a) or (b) have not been met.

Additionally, the notification requirement language stating a party that “otherwise benefits from that time period must inform the commission whether the party agrees to extend the statutory deadline....” The subsection discusses both suspension of the procedural schedule and extension of the statutory deadline. It is unclear which “time period” is referenced in that language. More importantly, however, it is unclear what parties will be required to submit notice. A party that “otherwise benefits” from an extension of time is a subjective determination and should be clarified in procedural rules to avoid any doubt.

Pacific Power proposes the clarifying language below:

(d) *Extension of statutory deadline.* When requesting to suspend the procedural schedule for commission consideration of a settlement agreement that does not meet the requirements in subsections (a) or (b) in general rate proceedings or other proceedings in which a statute requires final commission action within a specified time period, the party that submitted the suspended tariff at issue ~~or otherwise benefits from that time period~~ must inform the commission whether the party agrees to extend the statutory deadline, if necessary, to add the amount of time the commission requires to consider the settlement.

These revisions will provide timely processing of filings, act as an incentive for parties to meet the deadlines articulated in WAC 480-07-740, and clarify procedural obligations.

WAC 480-07-750—Commission discretion to consider and accept or reject settlement.

The proposed rule language details the possible outcomes parties may expect after submitting a settlement agreement to the Commission. Pacific Power respectfully requests general guidance in the rule language on the appropriate time necessary for the Commission to consider settlement proposals. This will inform the settling parties' discussions and set an expectation on the maximum amount of time remaining in a proceeding. This is necessary for parties to ensure that witnesses and consultants can be available for extended periods in the event that the Commission rejects a settlement agreement or decides to hold a settlement hearing.

WAC 480-07-820—Initial and final orders.

The proposed revisions to WAC 480-07-820 revise the definition and process regarding initial and final orders from the administrative law judges and the commission. Pacific Power generally supports the revisions. Pacific Power, however, requests that a new subsection (4) be added to require the commission to provide any workpapers providing the basis for the calculation of any adjustments if the basis for the adjustments are not already provided in detail in the evidentiary record. This amendment is necessary to facilitate accurate compliance filings when the commission does not adopt the specific position of any one party. Accordingly, Pacific Power proposes the following language:

(4) Workpapers. Within 1 business day following service of an initial or final order, the administrative law judge or commission, respectively, will provide parties references to the evidentiary record or supporting workpapers prepared by the commission that provide the detailed calculation of any adjustments to the rates requested in a rate proceeding under RCW Title 80.

WAC 480-07-825—Initial orders—Finality; Petitions for administrative review; motions for clarification.

Subsection (3)(a) describes the purpose of a motion for clarification. Pacific Power recommends adding language to this section to address situations where parties can seek clarification of an issue that is not explicitly addressed or discussed in the initial order.

Subsection (3)(c) states that the motion for clarification does not toll the time for filing a petition for administrative review or for compliance with the initial order. While understandable, the timing of this may create situations where parties need to submit both a motion for clarification and a petition for administrative review for the same issue. If a motion for clarification did toll time for petitions, it could potentially eliminate the need for a petition altogether. Parties would be able to wait for the decision on a motion for clarification before evaluating the need for a petition for administrative review. Pacific Power requests the Commission to consider allowing motions for clarification to toll the time for filing petitions for administrative review or for compliance.

WAC 480-07-830—Motion to reopen the record prior to entry of a final order.

Pacific Power supports the new language in subsection (1) clarifying when the record closes. Pacific Power, however, suggests the following language to further clarify the procedural process:

(1) Record Closure. The evidentiary record in an adjudication closes at the conclusion of the hearings, unless the commission rules otherwise. Responses to bench requests and public comments received after the conclusion of the hearings will be included in the evidentiary record without motion to reopen the evidentiary record under subsection (2). ~~and after the commission receives responses to bench requests and any exhibit containing public comments, unless the commission rules otherwise.~~

The proposed language could be interpreted as keeping the record open until all three conditions (conclusion of hearings, responses to bench requests, and additional exhibits containing public comments) have been met. Under this interpretation, any party may submit evidence, on any issue, after the conclusion of a hearing if a bench request is issued (or possibly on the belief that the bench request will be issued) or if there is an exhibit containing public comments. This would allow parties to unfairly extend the process and unnecessarily increase costs to litigate matters before the commission by creating evidentiary disputes after the conclusion of the hearing. The clarification above aligns subsections (1) and (2) by clearing requiring a motion to reopen the evidentiary record after the conclusion of the hearing, with the exception of public comment and bench request responses.

WAC 480-07-835—Clarification of final order by motion.

Please refer to Pacific Power's comments on WAC 480-07-825(3)(c). Pacific Power recommends allowing motions for clarification to toll the time for filing petitions for administrative review or for compliance.

WAC 480-07-880—Compliance Filings.

Pacific Power supports the revisions identified in the proposed rules. Pacific Power, however, is concerned over the potential uncertainty over the timing of Commission approval or acceptance of compliance filings before such filings become effective. The proposed rules should include a requirement that Commission staff submit its review of any compliance filing to the Commission with sufficient time for Commission consideration before the requested effective date. Establishing the review period for all parties removes uncertainty about the process and facilitates resolution of any disputes. Pacific Power proposes the following revision to subsection (4):

(4) Responses. Any party in the docket may file a response to the compliance filing within 10 days from the date it is submitted or by such other deadline as the commission may establish. Any such response must be limited to the issue of whether the filing complies with the commission order. Except as otherwise provided in this section, commission staff will review the filing to determine its compliance with the order and submit a letter confirming the commission of the

Washington Utilities and Transportation Commission

January 31, 2018

Page 4

results of that review within 15 days from the date the compliance filing is submitted.

Pacific Power is very appreciative of the Commission's efforts to update and clarify its procedural rules, and looks forward to continuing its participation through comments and future workshops. Please direct any inquiries regarding this filing to me at (503) 813-5410.

Sincerely,

/s/

Ariel Son

Regulatory Affairs Manager

Pacific Power & Light Company

825 NE Multnomah Street, Suite 2000

Portland, OR 97232

(503) 813-5410

ariel.son@pacificorp.com