WUTC v. PacifiCorp dba Pacific Power & Light Company

Docket No. UE-230877 - Vol. I

February 6, 2024



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Docket No. UE-230877 - Vol. I - 2/6/2024

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BEFORE THE WASHINGTON	1 February 6, 2024 - 11:00 a.m.
UTILITIES AND TRANSPORTATION COMMISSION	2 -000-
WASHINGTON UTILITIES AND)	3
TRANSPORTATION COMMISSION,	4 JUDGE BROWN: Now we're on the record. Good
) Complainant,)	5 afternoon. We're here today for a prehearing conference in
)	6 Docket UE 230877, which is captioned Washington Utilities
vs.) DOCKET UE-230877	7 and Transportation Commission versus PacifiCorp, d/b/a
) PACIFICORP d/b/a PACIFIC POWER &)	8 Pacific Power & Light Company.
LIGHT COMPANY,)	9 My name is James E. Brown II. I am an
	10 administrative law judge with the commission, and I will be
Respondent.) PAGES 1-15	11 co-presiding in this matter along with the commissioners.
· · · · · · · · · · · · · · · · · · ·	12 And let's start by taking appearances and
PREHEARING CONFERENCE - VOL. I BEFORE ADMINISTRATIVE LAW JUDGE JAMES BROWN II	13 addressing, if there are any, petitions for intervention.
February 6, 2024	 And I don't see any petitioning parties, unless I'm mistaken. I'm sure at some point someone will speak up if I
Washington Utilities and Transportation Commission	16am incorrect. So let's begin with PacifiCorp.17ATTORNEY ROGALA: Thank you, your Honor.
621 Woodland Square Loop SE	18 Zachary Rogala, attorney for PacifiCorp.
Lacey, Washington 98504	19 JUDGE BROWN: Okay. And let's go to staff.
	20 ATTORNEY CALLAGHAN: Thank you, your Honor.
	21 Nash Callaghan, AAG for commission staff.
	JUDGE BROWN: Okay. And let's go to public
	23 counsel.
TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY,	ATTORNEY O'NEILL: Good morning, your Honor.
FAPR, RPR, WA CCR 2731	Tad Robinson O'Neill on behalf of public counsel.
Page 2	Page 4
1 APPEARANCES 2	1 JUDGE BROWN: Okay. And are there any attendees 2 that would wish to intervene as a party, potentially?
FOR COMMISSION STAFF:	3 Okay. Hearing none, let's move to a procedural
Nash Callaghan	4 schedule. Have the parties had a chance to confer regarding
4 nash.callaghan@atg.wa.gov Attorney General of Washington	5 any potential dates for the procedural schedule at this
5 PO Box 40128	6 point?
Olympia, Washington 98504 6 360.664.1187	7 ATTORNEY CALLAGHAN: We have not, your Honor. I
7 FOR THE RESPONDENT:	8 was hoping that we could go off the record and briefly
8	9 discuss it in this hearing.
2 Zachary Rogala 9 zachary.rogala@pacificorp.com	10 JUDGE BROWN: Okay. All right. Well, we can go
PacifiCorp 10 825 NE Multnomah St Ste 2000	11 off the record, and the parties can at this time discuss a
Portland, Oregon 97232	12 proposed schedule.
11 503.813.6338 12	13 Is someone on from the commission? Okay. Can I
FOR PUBLIC COUNSEL:	14 be taken off and then notified when they are back on?
13 Tad Robinson O'Neill	15 ATTORNEY CALLAGHAN: Yes, your Honor. I usually
14 Tad.ONeill@atg.wa.gov	16 will send the ALJ a message when we're done.
Attorney General of Washington 15 Public Counsel Unit	17 JUDGE BROWN: Okay. That's fine. I will now
800 Fifth Avenue, Suite 2000 16 Seattle, Washington 98104	18 leave, and the parties can confer. Someone is going to
206.464.6595	19 notify me. Thank you. I'll be back.
17 18	20 ATTORNEY CALLAGHAN: Thank you.
19	21 (Recess)
20 21	22 JUDGE BROWN: Okay. Good. So now that we're
22	 back on the record, and the parties have agreed to a procedural schedule. Can you now read into the record,
23 24	24 procedural schedule. Can you now read into the record,25 Mr. Callaghan?
25	
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1 (Pages 1 to 4)

	Page 5	Page 7
1	ATTORNEY CALLAGHAN: Oh, yes, your Honor. So	1 JUDGE BROWN: Okay. And replies will be in May,
2	your Honor, what the parties are proposing is a series of	2 May 3?
3	dates for filing briefs that cover both legal and policy	3 ATTORNEY CALLAGHAN: The response would be
4	issues, as well as prefiled exhibits that do not include	4 May 3.
5	testimony.	5 And then the reply from the company would be
6	So in our conversation, we felt that this could	6 May 23.
7	probably be resolved with briefs on legal and policy issues,	7 JUDGE BROWN: Gotcha. All right. May 23 would
8	but those would need to be supported by some kind of factual	8 be the reply.
9	record, which is why we are proposing just to include	9 ATTORNEY CALLAGHAN: Correct. Yes.
10	exhibits that are not testimony.	10 JUDGE BROWN: Okay. All right. Let me check
11	But the dates that we had proposed were an	11 all right. Go ahead. So after May 23, what did we have
12	initial brief from the company due March 8, a response brief	12 again?
13	due May 3, and a reply brief from the company on May 23.	13 ATTORNEY CALLAGHAN: So after May 23, we didn't
14	And then we would need to or we had assumed	14 have any definitive dates because we didn't know what the
15	that the commission would want a public comment hearing in	15 commission's availability is for a potential and I should
16	this docket. So we were thinking that that would be	16 note we're not even sure if the commission wants an oral
17	sometime in June after the reply brief.	17 argument hearing. But if the commission does, then we were
18	We were thinking of an evidentiary hearing	18 thinking that that would be sometime at the end of June,
19	sometime at the end of June, with a discovery cutoff two	19 with the public comment hearing sometime between May 23 and
20	weeks before that, and a final date for filing any prefiled	20 whenever the oral argument hearing would be set.
21	exhibits one week before that hearing.	21 JUDGE BROWN: I will take that into advisement
22	And I think I've covered everything. But please	22 with regard to the oral argument, and how the commissioners
23	jump in if I've missed something.	23 would regard or feel about an oral argument on this
24	JUDGE BROWN: All right.	24 issue, and whether or not it's necessary or will briefs
25	ATTORNEY ROGALA: Sorry, your Honor.	25 suffice without an oral.
		Dago 8
1	Page 6	Page 8
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1	JUDGE BROWN: Okay. All right. And any	1	rather, prehearing conference order.
2	thoughts on the potential date for a final order?	2	Let me see if there's anything that we need for
3	ATTORNEY CALLAGHAN: I don't think we've	3	scheduling in order to confirm. All right.
4	discussed that.	4	So going forward, I guess the next issue we'll
5	JUDGE BROWN: Okay.	5	address, or parties should be aware of, is that the
6	ATTORNEY CALLAGHAN: Oh, sorry. I did want to	6	commission will require that all electronic filing of
7	include something.	7	documents for formal filings let me restate that.
8	JUDGE BROWN: Yes.	8	The commission requires electronic filing of
9	ATTORNEY CALLAGHAN: So for the public comment	9	documents for formal filings. And the commission's rules
10	hearing, Mr. O'Neill is they're typically set at 6:00,	10	provide for electronic service of documents. So the
11	and Mr. O'Neill would only be available on Tuesdays and	11	commission will serve the parties electronically, and
12	Thursdays. So we would appreciate if it was set on one of	12	parties will serve each other electronically. I take it
13	those days of the week.	13	everyone is clear with that?
14	JUDGE BROWN: Mr. O'Neill is available which	14	ATTORNEY CALLAGHAN: Yes, your Honor.
15	dates for what?	15	JUDGE BROWN: All right. Anyone who has not yet
16	ATTORNEY O'NEILL: The public comment hearing in	16	designated a lead representative for service, please do so
17	June. After the reply brief is filed, the public counsel	17	via e-mail. And e-mail me at my e-mail address at
18	will request a public comment hearing on a Tuesday or	18	James.Brown@UTC probably skip the script here
19	Thursday in June before the oral argument.	19	WA@WA.gov.
20	JUDGE BROWN: Okay. And all right.	20	And if anyone would like to add any names and
21	(Inaudible). So just out of curiosity, with regard to	21	email addresses of other representatives or support staff
22	these, we're not (inaudible) but for procedure's sake, with	22	what should receive electronic courtesy copies of all
23	regard to the exhibits that will be exchanged, I take it	23	documents filed in this proceeding, please e-mail that to us
24	this will be done would they mainly be an exchange of	24	as well.
25	data requests involved in this, or everything will be based	25	And the deadline for errata sheets to any
	Page 10		- 10
			Page 12
1		1	5
1 2	on exhibits that the parties will file? ATTORNEY CALLAGHAN: So the Order 1 has allowed	1	Page 12 exhibits may be established in the prehearing conference order.
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1	ATTORNEY ROGALA: I really hope we're going to	1	CERTIFICATE
2	avoid one. I think this should best be resolved on	2	
3	briefing.	3	STATE OF WASHINGTON)
4	But I guess and what we had talked about too,		
5	you know, is to the extent we need an evidentiary hearing,	4	COUNTY OF KING)
6	the burden is on us to, like, ask for an amendment to the	5	I, Elizabeth Patterson Harvey, a Certified
7	procedural schedule	7	Court Reporter and Registered Professional Reporter
8	JUDGE BROWN: Okay.	8	within and for the State of Washington, do hereby certify
9	ATTORNEY ROGALA: and get kind of, like, that	9	under penalty of perjury that the foregoing legal recordings
10	track proceeding schedule.	10	were transcribed under my direction; that I received the
11	But this schedule is assuming we're not going	11	electronic recording in the proprietary format; that I am
12	down that path.	12	not a relative or employee of any attorney or counsel
13	JUDGE BROWN: Okay. Understood. This does seem	13	employed by the parties hereto, nor financially interested
14	as if it's more of a legal question than a fact question at	14	in its outcome.
15	this point.	15	IN WITNESS WHEREOF, I have hereunto set my
16	ATTORNEY ROGALA: Yeah, that's right.	16	hand this 21st day of February, 2024.
17	JUDGE BROWN: So we'll stick to the schedule	17	
18	based on under that based on that premise.	18	
19	And is there anything else that any of the	19	101CA
20	parties have at this time?	20	
21	Is there anything else we need to address	21	Elizaber Take attarney
22	today?	22	
23 24	Any further questions or comments from the parties?	23 24	Elizabeth Patterson Hafvey, CCR 2731
24	ATTORNEY ROGALA: I don't think from PacifiCorp,	24	
20		25	
	Page 14		
1			
1 2	your Honor.		
3	JUDGE BROWN: Okay. Anyone else?		
4	ATTORNEY CALLAGHAN: Nothing from staff, your Honor.		
5	ATTORNEY O'NEILL: Nothing from public counsel.		
6	JUDGE BROWN: Okay. Great. Then we will issue		
7	an order shortly containing the procedural schedule and any		
8	other guidelines that will be involved for the disposition		
9	of this case. And we are adjourned, and going off the		
10	record.		
11	(Proceedings concluded at 11:58 a.m.)		
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