

July 11, 2018

***VIA ELECTRONIC FILING***

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

**RE: Docket A-130355—Pacific Power & Light Company’s Comments on  
WAC 480-07-160 and WAC 480-07-420**

In response to the Notice of Opportunity to Submit Written Comments issued by the Washington Utilities and Transportation Commission (Commission) on June 8, 2018, Pacific Power & Light Company (Pacific Power or Company), a division of PacifiCorp, submits the following written comments on the draft rules for WAC 480-07-160 and WAC 480-07-420.

Pacific Power appreciates the time and thoughtful effort staff and other stakeholders have put into this rulemaking. In large part, staff’s latest draft of WAC 480-07-160 incorporates many of the suggestions Pacific Power has raised in its comments and discussions at workshops. There is, however, one critical issue that remains unresolved—options for addressing designating and redacting confidential information in voluminous filings like integrated resource plan data sets and workpapers.

In our September 29, 2017 comments, Pacific Power recommended including a “reasonable efforts” standard applicable to designating confidential or highly confidential information within voluminous filings.<sup>1</sup> We explained that there are circumstances where designating specific cells or passages is, at best, impractical. Take, for example, the thousands of individual spreadsheets included within integrated resource planning databases. It is essentially impossible to designate confidential and highly confidential information on a cell-by-cell basis.

The problem is exacerbated by the way confidential data flows through myriad calculations spread across numerous worksheets. Under the proposed rules, a utility must not only designate the initial cell containing the confidential or highly confidential information, it must also designate all cells that are linked to the designated cells; otherwise, there is a real risk that readers could back into protected information using simple math.

Some latitude should be granted to utilities to make broader designations for administrative efficiency. The circumstances justifying broader designations should be limited, but the option should be available to allow utilities to protect commercially sensitive information in voluminous filings. A rule that rigidly obligates parties to designate protected information on a cell-by-cell basis within voluminous data sets would disincentivize the cooperative and proactive disclosures that have proven very useful to staff and other stakeholders. If utilities cannot use reasonable efforts to protect their confidential information, they will be reluctant to voluntarily disclose data

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<sup>1</sup> Pacific Power’s comments focused on proposed WAC 480-07-160(5)(c)(iii), (6)(c)(iii), (7)(c)(iii), and (8)(c)(iii).

sets containing confidential information out of administrative necessity. There would be a risk that the data disclosure process in integrated resource planning or other data intensive dockets would necessitate cumbersome and inefficient formal discovery that would not be necessary if some reasonable discretion on designation was available to parties.

Finally, in its response matrix to comments, staff for the first time advanced a legal argument that the balance between statutory provisions governing the protection of confidential and highly confidential information and statutory provisions governing public disclosures “always tips in favor of disclosure under Washington law.” Pacific Power has not identified any Washington cases addressing this balancing in the context of the statutory provisions at issue in this docket. But we have identified Commission precedent where the balancing between confidentiality and public disclosure obligations tipped in favor of maintaining confidentiality on a narrow basis. *See, e.g., In re: Matter of the Notice of Transaction and Application of Century Link*, Order 03, UT-170042 (July 27, 2017). In that case, the Commission ruled that a telecommunication company could submit an initial report containing confidential information without redacting it, and the entire report would be treated as confidential. The telecommunication company was obligated to later provide a precise redacted version that would be subject to public disclosure.

Pacific Power very much appreciates staff’s offer for “further discussion on how best to accommodate the competing interests” of confidentiality and public disclosure. Pacific Power suggests a workshop focused on this specific issue, perhaps preceded by comments more focused on the legal issues associated with such balancing.

Once again, the company appreciates staff’s thoughtful consideration of comments and development of much improved rules. Pacific Power looks forward to working with staff and other stakeholders on this final critical issue.

Sincerely,

\_\_\_\_\_/s/  
Etta Lockey  
Vice President, Regulation  
Pacific Power & Light Company  
825 NE Multnomah Street, Suite 2000  
Portland, OR 97232  
(503) 813-5701  
[etta.lockey@pacificorp.com](mailto:etta.lockey@pacificorp.com)