

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UE-100749
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	ORDER 05
v.)	
)	
PACIFICORP D/B/A PACIFIC)	SECOND PREHEARING
POWER & LIGHT COMPANY,)	CONFERENCE
)	ORDER
Respondent.)	(Evidentiary Hearing rescheduled
)	for January 25, 26, and 27, 2011)
.....)	

1 By Notice issued November 9, 2010, the Washington Utilities and Transportation Commission (Commission) scheduled a second prehearing conference for November 17, 2010, in this matter to address issues raised by the manner in which parties had filed testimony and exhibits. The Commission’s rule, WAC 480-07-510 and Order 04, *Prehearing Conference Order*, dated June 17, 2010, govern the manner in which parties are required to present prefiled testimony and exhibits in this case. The Commission concluded that the testimony of certain parties did not comply with these filing requirements.¹ The purpose of the second prehearing conference was to establish the dates by which the parties were required to submit revised testimony and exhibits and to determine whether a delay in the hearing date was warranted to accommodate filing revised testimony. The parties were required to bring certain witnesses to the prehearing conference. The second prehearing conference convened, as scheduled, on November 17, 2010.

2 **APPEARANCES:** Katherine A. McDowell, McDowell, Rackner, & Gibson, PC, Portland, Oregon, represented PacifiCorp. Donald T. Trotter, Assistant Attorney General, Olympia, Washington, represented the Commission’s regulatory staff

¹ The specific deficiencies in the filing requirements are specified in the Notice of Second Prehearing Conference issued November 9, 2010.

(Commission Staff or Staff).² Irion Sanger, Davison Van Cleve, P.C., Portland, Oregon, represented the Industrial Customers of Northwest Utilities (ICNU). Brad Purdy, Boise, Idaho, represented The Energy Project. Art Butler, Seattle, Washington, represented Wal-Mart Stores Inc., and Sam's West, Inc. (Wal-Mart). Prior to the prehearing conference, the Public Counsel Section of the Washington Office of Attorney General (Public Counsel) advised the presiding officer that it would be unable to attend and that ICNU could adequately represent its interests regarding the testimony it jointly sponsored with ICNU.

- 3 **PROCEDURAL SCHEDULE.** During an off-record explanatory session of the prehearing conference, the Commission made available its policy advisors to specifically describe the parties' filing deficiencies and to respond to any questions from the parties and their witnesses regarding the filing requirements. This discussion was limited to the procedural filing requirements and specifically excluded any substantive discussion of the merits of the issues raised by the parties.
- 4 At the conclusion of that explanatory session, the parties presented an agreed-upon schedule for presenting revised prefiled testimony and exhibits. The parties were specifically informed that revised testimony was to be limited to correcting errors and deficiencies in previously-filed testimony and exhibits and was not an opportunity to raise new issues. The Commission determines that the parties' proposed filing schedule is reasonable and should be adopted. The specific filing deadlines are set forth in Appendix A to this Order.
- 5 It is necessary to reschedule the evidentiary hearing in this matter to accommodate filing revised testimony and exhibits and to afford the Commission a reasonable opportunity to review the revised documents. During the prehearing conference, the parties agreed to the revised hearing schedule subject to confirming the availability of witnesses who were not required to be present at the prehearing conference.³ The

² In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See RCW 34.05.455.*

³ On November 18, 2010, all parties confirmed the availability of all witnesses on the proposed hearing dates.

Commission adopts the hearing schedule, with minor modification to accommodate other regulatory business. Rescheduling the hearing also requires revising the deadlines for filing cross-examination exhibits and other attendant deadlines which are set forth in Appendix A to this Order.

- 6 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning **January 25, 2011**, at 9:30 a.m., and continuing thereafter, as necessary, on **January 26, 27, and 31, 2011**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 7 **NOTICE OF PREHEARING CONFERENCE.** The Commission will convene a prehearing conference in this matter on **January 18, 2011, at 10:00 a.m.**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to mark exhibits, including exhibits on cross examination, if any, and to address any procedural matters that the parties may present. If no matters warrant attention, the conference will be cancelled.
- 8 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective November 19, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge

**APPENDIX A
REVISED PROCEDURAL SCHEDULE
DOCKET UE-100749**

<u>EVENT</u>	<u>DATE</u>
Company Revised Direct Testimony and Exhibits	November 23, 2010
Staff, Public Counsel and Intervenor Revised Responsive Testimony and Exhibits	December 6, 2010
Company Revised Rebuttal Testimony and Exhibits Staff, Public Counsel and Intervenor Revised Cross-Answering Testimony and Exhibits	December 10, 2010
Discovery Deadline – Last day to issue Data Requests	November 19, 2010 (unchanged)
Deadline for Cross-examination Exhibits	January 14, 2011
Prehearing Conference to Mark Exhibits (<i>may be cancelled</i>)	January 18, 2011
Evidentiary Hearing	January 25, 26, and 27, 2011
Initial Post-hearing Briefs⁴ Post-hearing Reply Brief	February 11, 2011 February 18, 2011
Suspension Date	April 3, 2011

⁴ During the prehearing conference, PacifiCorp reserved the right to file a reply brief. If PacifiCorp does not wish to exercise this right, the post-hearing briefs filed on January 5, 2011, will be simultaneous briefs.