

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP d/b/a PACIFIC POWER &
LIGHT COMPANY,

Respondent.

In the Matter of the Petition of

PACIFICORP d/b/a PACIFIC POWER
AND LIGHT COMPANY,

For an Accounting Order Approving
Deferral Of Certain Costs Related to the
MidAmerican Energy Holdings Company
Transition

DOCKET NOS. UE-061546 and
UE-060817

REPLY ON BEHALF OF COMMISSION
STAFF TO INDUSTRIAL CUSTOMERS
OF NORTHWEST UTILITIES' MOTION
TO STRIKE PACIFICORP'S REPLY
BRIEF

Facts

1 Commission Staff briefly replies to ICNU's Motion to Strike PacifiCorp's reply brief. The Commission rule involved is WAC 480-07-395. There is no factual dispute: PacifiCorp prepared its reply brief using 24 point line spacing, and compressed the spacing between the letters of each word. All other parties (including Staff) used 28 point line spacing and no letter compression.

Issue

2 The issue is whether PacifiCorp violated WAC 480-07-395(1)(a), which requires the
brief to be “double-spaced,” and to use an acceptable 12 point, “legible” font.

Discussion

3 ICNU argues that PacifiCorp violated the rule because the Company’s reply brief
was not “double-spaced,” and the spacing between letters was compressed (“letter
compression”), thereby enabling the Company to unfairly obtain three¹ additional pages.²

4 As a technical matter, “double spacing” means two times the font size. The
Commission-prescribed font size is 12 points, so the line spacing must be at least 24 points.
ICNU agrees PacifiCorp’s brief uses 24 point line spacing.³ Consequently, PacifiCorp’s
reply brief is double spaced, in compliance with the rule.

5 In evaluating this issue, the undersigned looked to the state appellate court rules for
an example. Like the Commission’s rule, the briefs to the appellate court must be “double
spaced” in at least “12 point” font.⁴ We then examined the pleading templates created by
the Attorney General’s Office (AGO) for use in appellate briefs filed by Assistant Attorneys
General around the state. Those templates use 24 point line spacing. If this line spacing
convention violated the double spacing requirement of RAP 10.4(a)(2), there is no doubt the
appellate courts would promptly reject briefs filed by the AGO, and the AGO would
immediately change the templates. This confirms that 24 point line spacing when using a 12
point font constitutes “double spacing.”

¹ The “corrected” brief ICNU filed as an attachment to its Motion actually added not three, but two additional pages of text (the signature block was on an extra page in each version).

² ICNU also makes arguments directed to the Company’s choice of words (*e.g.*, ICNU Motion at 3-4, ¶ 8), and the Company’s placing of argument in footnotes (*id.* at 3, ¶ 6). Because these arguments implicate no Commission rules, we do not address them.

³ ICNU Motion at 2, ¶ 5.

⁴ RAP 10.4(a)(2).

6 Commission rules do not prescribe requirements for letter spacing, so the issue on that point is whether PacifiCorp's reply brief is "legible." Legibility is "in the eye of the beholder," so the Commission can decide that issue for itself. For its part, Staff can read the Company's Reply Brief, though the words are noticeably "squished." In future proceedings, the Commission may wish to issue hearing directives on the compression issue and/or other issues not specifically addressed in current rules.

7 As PacifiCorp notes, if the letter compression is removed, its Reply Brief would have two lines on page 11, plus the signature block. While PacifiCorp should not have used page 11 for its signature block in either this version of the reply brief, or the version it filed, this does not seem particularly egregious. We doubt ICNU would have filed its motion if that was the extent of the violation.

8 Nonetheless, the rules are meant to be followed. If the Commission deems PacifiCorp's violation of the rules to be material, the Company offers the remedy of ignoring the last two lines. That remedy seems reasonable under the circumstances.

DATED this 11th day of May, 2007.

Respectfully submitted,

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