

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

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

Respondent.

DOCKET UE-210402

MOTION TO STRIKE ON BEHALF
OF COMMISSION STAFF

I. INTRODUCTION

1 Pursuant to WAC 480-07-375 and WAC 480-07-835(3), Staff of the Washington Utilities and Transportation Commission (“Commission”) moves to strike the Alliance of Western Energy Consumer’s (“AWEC”) response to PacifiCorp’s motion for clarification. AWEC filed its response prior to the Commission requesting such a response in contravention of WAC 480-07-835(3). AWEC also did not properly seek an exemption from WAC 480-07-835(3), pursuant to WAC 480-07-110. Accordingly, Commission Staff requests that the Commission strike AWEC’s response to PacifiCorp’s motion for clarification from the record in this proceeding.

II. BACKGROUND

2 On March 31, 2022, PacifiCorp filed a motion for clarification of Order 06 in this docket. On April 4, 2022, AWEC filed a response to PacifiCorp’s motion for clarification. Accompanying AWEC’s unauthorized filing was a motion for leave to respond to PacifiCorp’s motion. No other party filed a response to PacifiCorp’s motion, because the Commission has not called for such responses.

III. ARGUMENT

3 AWEC’s response to PacifiCorp’s motion for clarification is procedurally improper under WAC 480-07-835(3), and the Commission should strike it from the record. WAC 480-07-835(3) explicitly states that “[n]o party may file a response to a motion for clarification unless the commission requests a response.”¹ Therefore, in order for a party to properly file a response to a motion for clarification the Commission must first request such a response. In other words, the Commission’s request for a response to a motion for clarification is a condition precedent for a party to file a response to a motion for clarification—motions for leave to file such responses notwithstanding. The rule could not be clearer.

4 To date, the Commission has not requested a response to PacifiCorp’s motion for clarification. Nevertheless, AWEC filed a response to PacifiCorp’s motion for clarification. Filing such a response to PacifiCorp’s motion for clarification in the absence of a Commission request for such a response is inconsistent with the plain language of WAC 480-07-835(3). Concurrently filing a motion for leave to file a response does not rescue AWEC’s filing from procedural impropriety. In a gross omission, AWEC fails to even cite WAC 480-07-835(3) in its motion, let alone seek an exemption from the rule. In order to seek an exemption from a Commission rule, a person “must file with the commission a written petition identifying the rule for which the person seek an exemption and providing a full explanation of the reasons for requesting the exemption.”² In sum, because AWEC filed a response to PacifiCorp’s motion in the absence of a Commission request for such response, and because AWEC did not properly seek an exemption from WAC 480-07-

¹ Emphasis added.

² WAC 480-07-110(2)(a) (emphasis added).

825(3), AWEC's April 4th filing is procedurally improper and the Commission should strike AWEC's unauthorized response.

IV. CONCLUSION

5 The Commission should not allow any party to subvert the plain language of WAC 480-07-835(3), which prohibits filing a response to a motion for clarification unless the Commission first requests a response. Not striking AWEC's response would prejudice and be manifestly unfair to the other parties in the docket who adhered to the Commission's rules. Accordingly, the Commission should grant this motion and strike AWEC's April 4th response to PacifiCorp's motion for clarification.

DATED this 5th day of April 2022.

Respectfully submitted,

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