

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-220376

STAFF'S MOTION FOR LEAVE TO
FILE SURREPONSE

I. INTRODUCTION

1 In this docket, the Commission has complained against PacifiCorp for allegedly failing to incorporate the social cost of greenhouse gas (SCGHG) emissions into its preferred clean energy implementation plan preferred portfolio as required by various statutes, commission rules, and a Commission order.

2 PacifiCorp has moved to dismiss the Commission's complaint, or, alternatively, what it calls a stay of penalties. Pursuant to leave granted by the presiding administrative law judge (ALJ), PacifiCorp has filed a reply to Staff's response. The ALJ granted that leave based on PacifiCorp's representations that the legal issues before the Commission were complicated enough to warrant a reply. But by offering meritless arguments, PacifiCorp's reply fails to simplify the issues. The Commission should provide Staff leave to file a surresponse to remedy that defect.

II. RELIEF REQUESTED

3 Staff respectfully requests that the Commission grant Staff the ability to file the surresponse submitted concurrently with this motion.

III. BACKGROUND

4 The facts relevant to this motion are straightforward. The Commission
complained against PacifiCorp.¹ PacifiCorp moved to dismiss,² or, alternatively, for what
it called a stay of penalties.³ Staff responded to that motion, and so did Public Counsel.⁴
The presiding ALJ granted PacifiCorp leave to file a reply to any response to its motions
based on PacifiCorp’s representation that the complaint raised “complicated issues.”⁵
Pursuant to that leave, PacifiCorp has filed a reply.⁶

IV. ISSUES PRESENTED

5 Should the Commission grant Staff leave to file the surresponse submitted
concurrently with this motion?

V. ARGUMENT

6 PacifiCorp received leave to reply to any arguments against its motion to dismiss
to simplify the issues before the Commission. As the surresponse submitted concurrently
with this motion shows, the Company’s reply offers the Commission meritless arguments
that do not assist the Commission in making a valid decision as to whether to dismiss the
complaint or stop the accrual of penalties. The Commission should grant Staff leave to
file the surresponse to provide the Commission a basis for rejecting those meritless
arguments, and thus render a proper decision in this matter.

¹ See generally *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-220376, Complaint & Notice of Prehearing Conference (June 6, 2022).

² See generally *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-220376, PacifiCorp Motion to Dismiss (June 27, 2022).

³ See generally *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-220376, PacifiCorp Motion to Stay Penalties (June 27, 2022).

⁴ E.g., *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-220376, Staff’s Response to PacifiCorp Motion to Dismiss and Motion to Stay Penalties (July 12, 2022).

⁵ See *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-220376, Tr. (June 30, 2022), at 18:1-4.

⁶ *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-220376, PacifiCorp Combined Reply, (June 27, 2022).

7 The Commission allows parties to make a “written . . . request for commission action in the context of an adjudicative proceeding.”⁷ Its rules define such a request as a motion.⁸ The Commission “recognizes four basic categories of motions.”⁹ One of these is a “procedural motion[,]” through which a party may “request that the commission establish or modify the process or the procedural schedule in a proceeding.”¹⁰

8 Staff requests that the Commission modify the procedure set out in this case to allow for surreponse. It has good cause to do so. The Commission granted PacifiCorp leave to reply in order to assist it in making a valid decision here. But as the surreponse shows, PacifiCorp’s arguments are meritless, and the Commission should reject them. PacifiCorp’s reply thus fails to achieve its ends, and the Commission should accept Staff’s surreponse for filing so that it has a basis for rejecting PacifiCorp’s arguments.

VI. CONCLUSION

9 For the reasons discussed, the Commission should grant Staff the right to surreponse.

DATED July 26, 2022.

Respectfully submitted,

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⁷ WAC 480-07-375(1).

⁸ *Id.*

⁹ *Id.*

¹⁰ WAC 480-07-375(1)(b).