

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WALLA WALLA COUNTRY CLUB,)
)
 Complainant,) DOCKET UE-143932
)
 v.)
)
PACIFIC POWER & LIGHT)
COMPANY,)
)
 Respondent.)
_____)

REDACTED COMPLAINANT TESTIMONY OF DAVID J. MARNE, P.E.

**ON BEHALF OF
THE WALLA WALLA COUNTRY CLUB**

June 24, 2015

**TABLE OF CONTENTS TO THE
DIRECT TESTIMONY OF DAVID J. MARNE, P.E.**

	<u>Page</u>
I. INTRODUCTION	1
II. SAFETY STANDARDS ASSOCIATED WITH PERMANENT DISCONNECTION ..	3

EXHIBIT LIST

Exhibit. No.__(DJM-2)—Marne Curriculum Vitae

Exhibit. No.__(DJM-3C)—Pacific Power Responses to Club Data Requests

Exhibit. No.__(DJM-4)—NESC Rule Excerpts

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is David J. Marne, P.E., and my business address is 619 S.W. Higgins Avenue,
4 Suite C, Missoula, Montana 59803. I am the President and Senior Electrical Engineer for
5 Marne and Associates, Inc.

6 **Q. PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE.**

7 A. I graduated from Montana State University with a Bachelor of Science in Electrical
8 Engineering. I am a registered professional engineer and the author of McGraw-Hill's
9 National Electric Safety Code (NESC) Handbook. I serve on NESC Subcommittee 4 -
10 Overhead Line Clearances, Subcommittee 7 - Underground Lines, Subcommittee 3 -
11 Electrical Supply Stations, and the Interpretations Subcommittee. I frequently speak and
12 present seminars on the NESC. I provide training for power and communication
13 workers, including engineering design training, and I provide expert witness services
14 related to the NESC. My curriculum vitae is attached.^{1/}

15 **Q. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

16 A. I am testifying on behalf of the Walla Walla Country Club, which I understand desires to
17 disconnect its electric services from Pacific Power and avoid the costly, destructive, and
18 unnecessary removal of installed underground conduit and related vaults that have been
19 used to supply electric energy.

20 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

21 A. The purpose of my testimony is to address the NESC as it relates to Pacific Power's Rule
22 6 and the permanent disconnection of Pacific Power's facilities.

^{1/} Exh. No.__(DJM-2) (Marne Curriculum Vitae).

1 **Q. PLEASE SUMMARIZE YOUR TESTIMONY IN THIS PROCEEDING.**

2 A. Pacific Power's Rule 6.I.1 provides, in summary, that when a customer requests
3 permanent disconnection from Pacific Power the customer shall pay to Pacific Power the
4 actual costs for removal, less salvage, "of only those facilities that need to be removed for
5 safety or operational reasons."^{2/} In this regard, it is my understanding that Pacific Power
6 has claimed that removal of the facilities is required by the governing Net Removal Tariff
7 (Rule 6.I.1).

8 Specifically, Pacific Power writes "[i]n accordance with WAC 296-45-045 and
9 the National Electric Safety Code, Part 3, lines and equipment permanently abandoned
10 shall be removed or maintained in a safe condition. Removal of facilities upon
11 permanent disconnection eliminates future and perpetual liability for maintaining those
12 facilities in a safe condition."^{3/}

13 Pacific Power continues by stating "[f]ailing to remove underground facilities
14 creates a safety risk, as a worker may fail to perceive the necessity of securing locates.
15 Empty conduit only increases that possibility."^{4/} Taking into consideration Pacific
16 Power's position, my opinion is that the NESC does not prohibit the abandonment of
17 underground conduit. NESC Rule 313.B.3 does not provide specific details for
18 individual circumstances. NESC Rule 012.C applies when particulars are not specified in
19 the NESC rules. Rule 012.C requires accepted good practice for the given local
20 condition. It is a typical, accepted good practice to abandon underground conduit in
21 place for the simple reasons that the removal of abandoned underground conduit is

^{2/} Pacific Power Tariff WN U-75, Rule 6.I.1.

^{3/} Exh. No.__(BGM-4C) (Company Response to Club Data Request ("DR") 008).

^{4/} Id.

1 impractical, not cost effective, can be a waste of resources and facilities, and that an
2 abandoned empty conduit does not pose a safety risk.

3 **II. SAFETY STANDARDS ASSOCIATED WITH PERMANENT DISCONNECTION**

4 **Q. ARE YOU AWARE PACIFIC POWER HAS OFFERED TO SELL THE**
5 **UNDERGROUND FACILITIES TO THE CLUB IN CONNECTION WITH**
6 **THEIR DISCONNECTION REQUEST?**

7 A. Yes, I have reviewed a letter from Pacific Power with attachments dated January 25,
8 2013, to include the Bill of Sale to convey used electric facilities consisting of conduit
9 and vaults to the Walla Walla Country Club.^{5/} The Bill of Sale also contains a disclaimer
10 of warranties, a limitation of liability and an indemnity. Specifically, the Country Club
11 “shall assume sole and exclusive responsibility and legal liability for the design, location,
12 repair, replacement, construction, installation, and maintenance of the Facilities”
13 transferred by seller.^{6/}

14 **Q. DO YOU AGREE THAT “SAFETY REASONS” NECESSITATE FACILITIES**
15 **REMOVAL?**

16 A. No, and Pacific Power essentially conceded the issue by offering to sell the facilities to
17 the Club in lieu of removal. That is, the Company’s option of selling facilities to the
18 Club instead of removing them demonstrates that “safety reasons” cannot be claimed as a
19 legitimate basis to demand that the Club pay estimated removal costs as a precondition to
20 permanent disconnection.

^{5/} Complaint of the Walla Walla Country Club (“Complaint”), Exh. D at 7-8.
^{6/} Complaint, Exh. D at 8.

1 **Q. ARE YOU AWARE OF PACIFIC POWER'S ALLEGED "SAFETY REASONS"**
2 **THAT COULD POTENTIALLY JUSTIFY FACILITIES REMOVAL UNDER**
3 **RULE 6.I.1?**

4 A. Yes. I understand that the Commission, in approving Rule 6 terms, received from Pacific
5 Power testimony explaining relevant "safety reasons" as follows: "Certain facilities
6 should be removed to avoid placing electric supplier employees and public safety
7 personnel such as firemen in a potentially harmful situation where duplicative electric
8 distribution facilities are present; some energized, some not."^{7/} But such a duplicative
9 facilities situation would not be a feature of the Club's permanent disconnection, so there
10 is no basis to conclude that the "safety reasons" considered and envisioned by the
11 Commission exist to justify mandatory facilities removal and reimbursement under Rule
12 6.I.1.

13 **Q. PLEASE EXPLAIN.**

14 A. The facilities that are to be abandoned and sold are on the Country Club's property. The
15 maps, drawings, and pictures I have reviewed, produced by the Company in discovery,
16 show that the facilities can be reused to supply power to buildings, pumps and other
17 improvements on the Club's property. There is no reason or necessity to install additional
18 conduit to serve the property. Further, the local, alternative electric service provider has
19 separate facilities on public and private property, which would be the new point of
20 connection. Thus, there will not be duplicative facilities on the Club's property and
21 "safety reasons" for removal do not exist in this circumstance.

^{7/} Exh. No.__(BGM-3) at 5 (Rebuttal of Clemens at 4).

1 **Q. IS THE COMPANY REQUIRED TO FOLLOW NESC, PART 3 SAFETY**
2 **RULES?**

3 A. Yes, but only in regard to the Company’s own facilities—which is why selling and/or
4 transferring facilities to a departing customer is a perfectly viable alternative to requiring
5 facilities removal. Pacific Power and other regulated utilities in Washington need only
6 “maintain *their* lines and equipment according to the requirements of” NESC, Part 3.^{8/}
7 Once facilities are sold by a utility, such facilities are no longer “their” facilities.
8 Accordingly, the NESC requirements no longer apply to Pacific Power in relation to
9 these sold facilities.

10 **Q. PLEASE EXPLAIN NESC PART 3, SECTION 313.B.3.**

11 A. Section 313.B.3 of the NESC states the following with regard to underground lines.
12 “Lines and equipment permanently abandoned shall be removed or maintained in a safe
13 condition.”^{9/} It should be noted that by definition a “line” includes the supporting or
14 containing structures.^{10/} The NESC clearly allows abandoned lines and equipment to be
15 maintained in a safe condition. Thus, if Pacific Power were to sell its facilities, they will
16 not have to be maintained by Pacific Power since it will be transferring all interest and
17 responsibility to the Country Club. If and when future electric services are received by
18 the Club, any remaining facilities could be reused with the new electric service provider
19 assuming responsibility under the Washington Administrative Code and NESC.

20 The reuse of conduit is a recognized and common practice within the utility
21 industry especially when upgrading, changing or modifying electric service facilities
22 regardless of the electric power provider. NESC Section 313.B.3 allows the electrical

^{8/} WAC § 296-45-045(1) (emphasis added).

^{9/} Exh. No.__(DJM-4) (NESC Part 3, Section 313.B.3, Lines Permanently Abandoned).

^{10/} Id. (NESC, Part 1, Section 2, Definitions).

1 utility to either remove or maintain the conduit and facility in their location. Rule 6
2 recognizes this practice and requires payment for the actual cost of removal, less salvage,
3 of only those facilities that need to be removed for safety or operational reasons. Here,
4 there is no reason to remove or destroy the underground conduit and facilities on the
5 Club's property. It may be abandoned without causing a safety issue under the NESC.
6 Moreover, as explained in the testimony of Mr. Bradley G. Mullins, abandonment would
7 not implicate any operational reasons for removal, given the Country Club's willingness
8 to purchase facilities at a cost equal to net book value.^{11/}

9 **Q. COULD YOU EXPLAIN YOUR UNDERSTANDING OF HOW THE NESC**
10 **APPLIES TO THE COMPANY'S PERMANENT DISCONNECTION POLICY?**

11 A. Yes. First, I should point out that Pacific Power claims it had no written, internal policy
12 relating to removals associated with permanent disconnection requests in 2012 or 2013,
13 when the Country Club made its original disconnection request.^{12/}

14 That said, I have also reviewed Pacific Power's 2014 T&D Operations Process,
15 which was intended to apply to requests for permanent service disconnection and removal
16 of company facilities under Rule 6.I. The T&D Operations Process at Section 3.d.
17 discusses removal of underground facilities. With regard to subsurface facilities such as
18 cable and conduit, Pacific Power's policy states: [REDACTED]

19 [REDACTED]^{13/} In my opinion, this means
20 that management will review the abandonment of conduit, in place, according to the
21 NESC as mandated by the Washington Administrative Code. It is important to note that
22 the sample [REDACTED] map in Section 3.a. has a note that says

^{11/} See Exh. No.__(BGM-1CT).

^{12/} Exh. No.__(DJM-3C) (Pacific Power Responses to Club DRs 062, 022).

^{13/} Id. (Pacific Power Responses, Exh. G, T&D Operations Process, page 8 of 21).

1 [REDACTED]^{14/} I am aware that underground facilities such as conduits are
2 abandoned in place in order to avoid their costly removal, as typically a safety or
3 operational concern does not exist with an empty conduit. In this case, there is not an
4 operational or safety reason associated with the abandonment of the conduit and facilities
5 on the grounds of the Country Club. This is especially true in light of the removal of
6 electric wires and energizing equipment and the proposed Bill of Sale and transfer of the
7 facilities to the Country Club.

8 **Q. WHEN PACIFIC POWER ABANDONS THE CONDUIT, WHAT IS THEIR**
9 **RESPONSIBILITY FOR THAT CONDUIT UNDER THE NESC?**

10 A. Section 1 - Introduction to the National Electric Safety Code, states the following in the
11 Rule entitled "Purpose,"

12 The purpose of these rules is the practical safeguarding of
13 persons during the installation, operation, or maintenance
14 of electric supply,.... [u]nder the specified conditions.^{15/}

15 The next Rule entitled "Scope," states that the NESC covers

16 [S]upply and communication lines, equipment, and
17 associated work practices employed by a public or private
18 electric supply, communications, railway, or similar utility
19 in the exercise of its function as a utility. They cover
20 similar systems under the control of qualified persons, such
21 as those associated with an industrial complex or utility
22 interactive system.^{16/}
23

24 The above statement of scope provides the NESC will not apply to Pacific Power when it
25 abandons the underground conduit on the Country Club property and transfers it through
26 the Bill of Sale or similar release document to the Country Club. As noted above, the

^{14/} Id. (Pacific Power Responses, Exh. G, T&D Operations Process, page 4 of 21).

^{15/} Exh. No.__(DJM-4) (NESC, Part 1, Introduction, Rule 010).

^{16/} Id. (NESC Part 1, Introduction, Rule 011.A).

1 NESC applies to underground facilities that are owned or operated by electric utilities.
2 Following a sale, Pacific Power would not be responsible for the underground conduit
3 and thus it would not be under its control.

4 **Q. WHAT IS THE BASIS FOR THE ABOVE OPINION?**

5 A. The basis for my opinion concerning the application and interpretation of the NESC to
6 the existing underground facilities on the Walla Walla Country Club's property is my
7 understanding of the proposed terms for abandonment of the underground facilities
8 between Pacific Power and the Country Club, the scope and application of the NESC, my
9 education, experience, training, and practice with regard to the NESC, as well as my
10 knowledge of accepted good utility practices for abandonment of facilities throughout the
11 United States.

12 I have also reviewed exhibits cited in this testimony, photos and drawings of the
13 Country Club's property provided in discovery, and the NESC.

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 A. Yes.