

Docket No. UE-144160 - Vol. I

**Washington Utilities and Transportation Commission v.
Pacific Power & Light Company**

April 23, 2015



1325 Fourth Avenue • Suite 1840 • Seattle, Washington 98101

206.287.9066

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Olympia | 360.534.9066 Spokane | 509.624.3261 National | 800.846.6989

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STATE OF WASHINGTON
UTIL. AND TRANSPORTATION
COMMISSION



BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND) DOCKET UE-144160
TRANSPORTATION COMMISSION,) Pages 1-13

v.)
)
Complainant,)
)
PACIFIC POWER & LIGHT COMPANY,)
)
Respondent.)

PREHEARING CONFERENCE - VOLUME I
Pages 1-13
ADMINISTRATIVE LAW JUDGE DENNIS MOSS

10:02 A.M.
April 23, 2015
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest, Room 206
Olympia, Washington 98504-7250

REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028
Realtime Reporting, LLC
1325 Fourth Avenue
Suite 1840
Seattle, Washington 98101
206.287.9066 | Seattle
360.534.9066 | Olympia
800.846.6989 | National
www.buellrealttime.com

1 OLYMPIA, WASHINGTON, APRIL 23, 2015
2 10:02 A.M.
3 -OOO-
4

PROCEEDINGS

5
6 JUDGE MOSS: Good morning, everybody. My name is
7 Dennis Moss. I'm the administrative law judge with the
8 Washington Utilities and Transportation Commission. We are
9 convened this morning in Docket UE-144160, which is a tariff
10 filing by Pacific Power & Light Company, updating the Company's
11 avoided cost tariff, Schedule 37.

12 I note from the Commission's notice of prehearing
13 conference that I'm looking at right now that this matter was
14 actually filed originally with an effective date of January 9th
15 of this year. It has been extended a couple of times,
16 apparently, with ongoing discussions -- at least with Staff and
17 perhaps other parties as well -- to resolve such differences as
18 may separate people at this point on the issues raised by this
19 docket.

20 So I suppose the starting point after we take
21 appearances will be to discuss with you all where we are today
22 in terms of issues. I understand what a couple of issues were,
23 at least at the time the Commission entered its complaint and
24 order suspending the tariff, and we'll see where things stand in
25 that respect.

1 A P P E A R A N C E S
2 ADMINISTRATIVE LAW JUDGE:
3 DENNIS MOSS
4 Washington Utilities and
5 Transportation Commission
6 1300 South Evergreen Park Drive SW
7 P.O. Box 47250
8 Olympia, Washington 98504-7250
9 360.664.1136
10
11 FOR PACIFIC POWER & LIGHT COMPANY:
12 DUSTIN T. TILL
13 Senior Counsel
14 825 Northeast Multnomah Street
15 Suite 1800
16 Portland, Oregon 97232
17 503.813.6589
18 dustin.till@pacificorp.com
19
20 FOR RENEWABLE ENERGY COALITION:
21 IRION SANGER
22 Sanger Law
23 1117 Southeast 53rd Avenue
24 Portland, Oregon 97215
25 503.756.7533
irion@sanger-law.com
FOR BOISE WHITE PAPER:
JESSE E. COWELL
Davison Van Cleve
333 Southwest Taylor Street
Suite 400
Portland, Oregon 97204
503.241.7242
jec@dvclaw.com
FOR COMMISSION STAFF:
CHRISTOPHER M. CASEY
Assistant Attorney General
1400 South Evergreen Park Drive
Southwest
P.O. Box 40128
Olympia, Washington 98504-0128
360.664.1189
ccasey@utc.wa.gov

1 But let's take appearances, and we'll start with the
2 Company.

3 And you are not known to me, sir, so I look forward
4 to meeting you.

5 MR. TILL: This is Dustin Till on behalf of
6 PacifiCorp.

7 JUDGE MOSS: And the last name again?

8 MR. TILL: Till; T-i, double "l."

9 JUDGE MOSS: Thank you. And you're with the Company?

10 MR. TILL: Yes, sir.

11 JUDGE MOSS: Yes. Okay. All right. Very good.

12 All right. Mr. Sanger, who are you representing
13 today?

14 MR. SANGER: Irion Sanger, representing the Renewable
15 Energy Coalition.

16 JUDGE MOSS: Renewable Energy Coalition. All right.
17 You're not representing anybody today?

18 MR. COWELL: Your Honor, procedurally...

19 JUDGE MOSS: Mr. Cowell?

20 MR. COWELL: Procedurally, I just didn't want to do
21 anything I shouldn't be doing, but for Boise White Paper,
22 Melinda Davison and Tyler Pepple are the attorneys appearing.
23 I'm just coming up to monitor, but I'm not officially on the
24 notice for our petition.

25 JUDGE MOSS: All right. Fine. And I did have an

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1 earlier communication from Mr. Pepple that he would be
 2 unavailable today. And so I appreciate you being here to fill
 3 in, if you will, but you can participate or not as you see fit.
 4 MR. COWELL: Thank you.
 5 JUDGE MOSS: All right. Very good.
 6 And for Staff?
 7 MR. CASEY: Christopher Casey here on behalf of
 8 Commission Staff.
 9 JUDGE MOSS: All right. Very well. Mr. Casey, I
 10 think this is the first time you've appeared before me as well,
 11 so --
 12 MR. CASEY: It is.
 13 JUDGE MOSS: -- I have reached the age where I'm
 14 beginning to see a lot of new faces in the hearing room, which
 15 is maybe a good thing or maybe not. I'm not so sure.
 16 Is there anyone on the teleconference bridge line who
 17 wishes to enter an appearance this morning?
 18 All right. I gather not, then, so let's just start.
 19 And I'll invite you all to speak as you wish on the topic, but
 20 I'll just direct my question to the Company, initially, which
 21 is: Where do we stand in this docket? What issues are
 22 outstanding at this point that I might need to consider?
 23 MR. TILL: Well, Judge, I think the biggest issue
 24 today is resolving a procedural schedule. The parties have
 25 conferred and have an agreed-upon procedural schedule. The

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1 parties are also engaged in settlement conversations with an eye
 2 to hopefully resolving both of the issues that were identified
 3 in the Commission's report, the wind integration charge, and the
 4 manner in which capacity is addressed in the Company's proposed
 5 avoided cost update.
 6 JUDGE MOSS: Okay. And those are the two issues that
 7 I had discerned from the Commission's complaint and order.
 8 I gather there's been no progress on discussion of
 9 those issues since the date of that order?
 10 MR. TILL: The parties, Your Honor, have exchanged
 11 some background information on the manner in which capacity is
 12 looked at in other state jurisdictions, so we've been exchanging
 13 information. There are some more concrete proposals that have
 14 been sent to Staff and to the Renewable Energy Coalition as well
 15 that we'll be discussing after this prehearing conference.
 16 JUDGE MOSS: Very good. There's a lot of discussions
 17 going on today that involve my dockets with Pacific Power, so
 18 we'll see how that goes. And Ms. Siores is here to help out
 19 with all the technical details and all that stuff that's hard
 20 for mere mortals to understand. So all right. Very well.
 21 Does anybody else wish to speak to the issues, or
 22 does anybody else have additional comment on what issues are
 23 outstanding and sort of the general plan for proceeding?
 24 No? Okay. Fine.
 25 Well, I always find it encouraging that parties are

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1 talking and, hopefully, can reach some accommodation. What we
 2 do is complicated, and you all are well equipped to address
 3 these sorts of issues on your own. And, oftentimes, when you
 4 bring us an agreement, it's one we find to be acceptable and in
 5 the public interest, so I'll encourage that process to continue.
 6 But in the meantime, I suppose we should -- you say
 7 you have a procedural schedule that's been discussed?
 8 MR. TILL: Yes, we do, Your Honor.
 9 JUDGE MOSS: Okay. Do you want to hand that up or
 10 read it out loud or whatever you want to do.
 11 MR. TILL: Why don't I read it out loud. It's got my
 12 chicken scratch here, so...
 13 JUDGE MOSS: That will be fine. Just slow enough so
 14 I can take notes.
 15 MR. TILL: So we have on May 7th, a motion to admit
 16 certain documents into the record.
 17 JUDGE MOSS: All right.
 18 MR. TILL: And those are background, stipulated, and
 19 the factual documents the parties have exchanged.
 20 JUDGE MOSS: Great.
 21 MR. TILL: We have a second settlement conference
 22 scheduled for May 15th. I don't know if that needs to appear on
 23 the procedural schedule.
 24 June 12th, we would have the filing of -- what we're
 25 referring to as "policy declarations," so sworn statements, not

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1 in the form of question-and-answer testimony, but more of a
 2 narrative declaration of policy because these issues are really
 3 policy issues versus fact-intensive issues. So that would be
 4 June 12th.
 5 July 14th would be Staff and REC responses, July 24th
 6 would be rebuttals and cross-answering statements --
 7 JUDGE MOSS: Okay.
 8 MR. TILL: -- and August 14th would be a BAP-style
 9 hearing, if necessary.
 10 JUDGE MOSS: Oh, really? Okay.
 11 MR. TILL: September 12th would be initial briefs.
 12 JUDGE MOSS: September 12th.
 13 MR. TILL: Correction. I'm sorry. September 11th.
 14 JUDGE MOSS: Okay. September 11th.
 15 MR. TILL: October 2nd would be response briefs.
 16 JUDGE MOSS: Was that the 7th?
 17 MR. TILL: October 2nd.
 18 JUDGE MOSS: 2nd. I'm sorry.
 19 MR. TILL: Yes. And November 29th suspension date.
 20 JUDGE MOSS: November 29th.
 21 MR. TILL: Correct.
 22 JUDGE MOSS: That's good to know always.
 23 MR. TILL: And, you know, we looked at the schedule
 24 as a way to try to expedite this and to kind of -- to minimize
 25 some of the -- minimize kind of the scope of this proceeding, so

1 we're looking at trying to get this done in a reasonable amount
2 of time.

3 JUDGE MOSS: Okay. Well, certainly, from my
4 perspective, that's a reasonable schedule consistent with, I
5 believe -- I can't speak to all of these dates sitting up here
6 today. I didn't print out a calendar before I came in this
7 morning, which I should have done. But in any event, this looks
8 workable from my perspective, and are all the parties on board
9 with this?

10 MR. SANGER: So, Your Honor, I did not communicate
11 with any of the parties about this, but I didn't hear back until
12 recently.

13 The hearing date will work for us, but only if it's
14 in the afternoon.

15 JUDGE MOSS: Okay. Well, it sounds to me -- let me
16 stop for half a second and offer a commentary.

17 It sounds to me as if this case is either going to
18 settle, or it's going to be one that will be resolved more or
19 less on the basis of a paper record.

20 I see heads nodding in the affirmative from all
21 counsel who have appeared today, so that means that the hearing
22 should be brief. And it's basically oral argument. And you
23 referred to it as a "BAP-style hearing." That, for the record,
24 being a brief adjudicative proceeding under the Administrative
25 Procedure Act, which is a somewhat more relaxed process than the

1 JUDGE MOSS: As necessary?

2 MR. SANGER: Yeah.

3 JUDGE MOSS: Okay. Maybe I'll even note that in the
4 schedule, which we'll set up that we will revisit this at some
5 point.

6 I'm thinking at this juncture that I will not
7 schedule a status conference, although that might be a good idea
8 given what you all are thinking in terms of settlement
9 negotiations and one thing and another, but rather than do that,
10 I think I'll just rely on you all to report to me if you make
11 sufficient process -- or I'm sorry -- sufficient progress to
12 make that an appropriate thing to do and perhaps forestall the
13 need for some of the process we've outlined today. And that
14 might come at the time of the policy declarations, June 12th, or
15 it might come up in some other context if you all just achieve
16 settlement terms.

17 So, you know, put that on your tickler list of
18 something that -- you know, Contact Judge Moss and let him know
19 to have a status conference, if it's appropriate to do so. And,
20 you know, we can always do something like that telephonically,
21 if it's inconvenient for parties to be here, or what have you.

22 I'll put myself in the spirit of this type of
23 proceeding, which is, again, a little bit less formal than
24 perhaps some of the other matters we're dealing with at the
25 Commission, and I want to open the door to that sort of dialogue

1 full-blown APA adjudication, in which we would have
2 cross-examination and so forth.

3 I gather that's not contemplated?

4 Someone needs to confirm or deny for the record.

5 MR. TILL: That's my understanding at least, so...

6 MR. SANGER: Yeah, mine as well, Your Honor.

7 JUDGE MOSS: Okay.

8 Mr. Casey?

9 MR. CASEY: Mine as well. I think these next
10 settlement conferences will provide some further information and
11 clarity of where we'll go from there.

12 JUDGE MOSS: Okay. All right. Now, you have
13 provided dates. I mean, in a sense, this is another way I would
14 handle this. In the context of a full-blown APA adjudication
15 would be to say, Well, we're going to apparently resolve this on
16 cross-motions for summary determination, which is somewhat
17 similar to what you've got in mind here, although I gather
18 you're not contemplating such formal motions, but rather would
19 present the issues as you've described and then brief me, which
20 is fine. I'm good either way. I'm drawing the analogy for
21 purposes of being clear as to how we're going to proceed.

22 MR. SANGER: And also, Your Honor, it might be
23 possible after our policy directions that the parties decide
24 that the briefs are not necessary, so the initial and response
25 briefs are -- we're putting them in the schedule as necessary.

1 with me, keeping all parties apprised, of course, of any
2 communication with me that goes beyond mere procedure.

3 All right. Is there any other business we need to
4 conduct today? I'll adopt this schedule, unless there's some
5 objection.

6 Any other business?

7 All right. Well, we didn't set a record this
8 morning, but that was mercifully brief, I suppose, from
9 everyone's perspective.

10 I thank you all for being here. I look forward to
11 working with you to bring this docket to a satisfactory
12 conclusion in the near term, hopefully. Thank you very much.
13 We're off the record.

14 (Proceeding concluded at 10:14 a.m.)


15 -o0o-

1 CERTIFICATE

2
3 STATE OF WASHINGTON)
) ss
4 COUNTY OF KING)

5
6 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
7 and Notary Public in and for the State of Washington, do hereby
8 certify that the foregoing transcript is true and accurate to
9 the best of my knowledge, skill and ability.

10 IN WITNESS WHEREOF, I have hereunto set my hand and seal
11 this 4th day of May, 2015.

12
13
14 
15 _____
16 SHELBY KAY K. FUKUSHIMA, CCR

17 My commission expires:
18 June 29, 2017
19
20
21
22
23
24
25

<p style="text-align: center;">A</p> <p>a.m 1:14 3:2 12:14 ability 13:9 acceptable 7:4 accommodation 7:1 accurate 13:8 achieve 11:15 Act 9:25 additional 6:22 address 7:2 addressed 6:4 adjudication 10:1 10:14 adjudicative 9:24 administrative 1:12 2:2 3:7 9:24 admit 7:15 adopt 12:4 affirmative 9:20 afternoon 9:14 age 5:13 agreed-upon 5:25 agreement 7:4 amount 9:1 analogy 10:20 anybody 4:17 6:21 6:22 APA 10:1,14 apparently 3:16 10:15 appear 7:22 appearance 5:17 appearances 3:21 4:1 appeared 5:10 9:21 appearing 4:22 appreciate 5:2 apprised 12:1 appropriate 11:12 11:19 April 1:15 3:1 argument 9:22 Assistant 2:20 Attorney 2:20</p>	<p>attorneys 4:22 August 8:8 Avenue 1:21 2:12 avoided 3:11 6:5</p> <hr/> <p style="text-align: center;">B</p> <p>back 9:11 background 6:11 7:18 BAP-style 8:8 9:23 basically 9:22 basis 9:19 beginning 5:14 behalf 4:5 5:7 believe 9:5 best 13:9 beyond 12:2 biggest 5:23 bit 11:23 board 9:8 Boise 2:15 4:21 Box 2:4,22 bridge 5:16 brief 9:22,24 10:19 12:8 briefs 8:11,15 10:24,25 bring 7:4 12:11 business 12:3,6</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1 3:4 13:1,1 calendar 9:6 capacity 6:4,11 case 9:17 Casey 2:20 5:7,7,9 5:12 10:8,9 ccasey@utc.wa.g... 2:23 CCR 1:20 13:14 certain 7:16 certainly 9:3 Certified 13:6 certify 13:8 charge 6:3 chicken 7:12</p>	<p>Christopher 2:20 5:7 clarity 10:11 clear 10:21 Cleve 2:16 Coalition 2:11 4:15 4:16 6:14 come 11:14,15 coming 4:23 comment 6:22 commentary 9:16 commission 1:2,4 1:16 2:3,19 3:8,23 5:8 11:25 13:16 Commission's 3:12 6:3,7 communicate 9:10 communication 5:1 12:2 Company 1:7 2:6 3:10 4:2,9 5:20 Company's 3:10 6:4 Complainant 1:6 complaint 3:23 6:7 complicated 7:2 concluded 12:14 conclusion 12:12 concrete 6:13 conduct 12:4 conference 1:10 3:13 6:15 7:21 11:7,19 conferences 10:10 conferred 5:25 confirm 10:4 consider 5:22 consistent 9:4 Contact 11:18 contemplated 10:3 contemplating 10:18 context 10:14 11:15 continue 7:5 convened 3:9</p>	<p>conversations 6:1 Correct 8:21 Correction 8:13 cost 3:11 6:5 counsel 2:7 9:21 COUNTY 13:4 couple 3:15,22 course 12:1 Cowell 2:15 4:18 4:19,20 5:4 cross-answering 8:6 cross-examination 10:2 cross-motions 10:16</p> <hr/> <p style="text-align: center;">D</p> <p>D 3:4 date 3:14 6:9 8:19 9:13 dates 9:5 10:13 Davison 2:16 4:22 day 13:11 dealing 11:24 decide 10:23 declaration 8:2 declarations 7:25 11:14 Dennis 1:12 2:2 3:7 deny 10:4 described 10:19 details 6:19 determination 10:16 dialogue 11:25 differences 3:17 direct 5:20 directions 10:23 discerned 6:7 discuss 3:21 discussed 7:7 discussing 6:15 discussion 6:8 discussions 3:16 6:16</p>	<p>docket 1:4 3:9,19 5:21 12:11 dockets 6:17 documents 7:16,19 doing 4:21 door 11:25 double 4:8 drawing 10:20 Drive 1:16 2:4,21 Dustin 2:7 4:5 dustin.till@pacif... 2:10</p> <hr/> <p style="text-align: center;">E</p> <p>E 2:1,1,15 3:4,4 13:1,1 earlier 5:1 effective 3:14 either 9:17 10:20 encourage 7:5 encouraging 6:25 Energy 2:11 4:15 4:16 6:14 engaged 6:1 enter 5:17 entered 3:23 equipped 7:2 event 9:7 Evergreen 1:16 2:4 2:21 everybody 3:6 everyone's 12:9 exchanged 6:10 7:19 exchanging 6:12 expedite 8:24 expires 13:16 extended 3:15 eye 6:1</p> <hr/> <p style="text-align: center;">F</p> <p>F 13:1 faces 5:14 fact-intensive 8:3 factual 7:19 filed 3:14</p>
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