

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL STAFF**

FROM: SCOTT WOODBURY

DATE: SEPTEMBER 16, 2004

**RE: CASE NO. PAC-E-04-4 (PacifiCorp)
ELECTRIC SERVICE REGULATION 12—LINE EXTENSIONS
APPLICANT-BUILT LINE EXTENSIONS**

On July 16, 2004, PacifiCorp submitted for Commission approval proposed tariff pages associated with its Electric Service Regulation No. 12 rule, which pertains to Line Extensions. The purpose of the filing is to add clarifying language to Regulation 12 provisions regarding availability of the Applicant-Built Line option.

The proposed revision to Regulation 12 Section 5(a), Applicant-Built Line Extensions adds language to explicitly state that the applicant-built option only applies to new construction and is not available for “relocations, conversions from overhead to underground, going from single-phase to three-phase or increasing the capacity of facilities.” PacifiCorp contends that the proposed clarification reflects the Company’s long-standing practice. In conjunction with the foregoing change the Company is also proposing to add clarifying language to the definition of an “Extension” as set forth in Regulation 12 Section 1(d), excluding circumstances where a line has been removed, at customer request, within the prior five years. Finally, the Company proposes a change to Regulation 12 Section 1(c), Engineering Costs, clarifying that “large, complex or speculative” extensions are to be defined from the sole perspective (or judgment) of the Company. The purpose of this change is to avoid disputes between the Company and the customer as to whether a development is “large, complex or speculative.”

On July 30, 2004, the Commission issued a Notice of Application and Modified Procedure in Case No. PAC-E-04-4. The deadline for filing written comments was August 27,

2004. The Commission Staff was the only party to file comments. Staff recommends that PacifiCorp's proposed changes to electric service Regulation No. 12 be approved as filed." Staff's Comments can be summarized as follows:

Availability of the Applicant-Built Line Option

The purpose of the Company-proposed changes to Rule 12 § 5(a)1 and Rule 12 § 1(d), Staff contends, is to more clearly distinguish rules as they apply to new line extensions as opposed to relocations or alterations of existing lines. Staff believes that the proposed changes accurately reflect the manner in which PacifiCorp has interpreted and applied the rules in the past. Staff also believes the Company's interpretation of the rules is reasonable and that the proposed language changes make this interpretation clear.

As set forth in Staff comments, Staff notes as follows:

In response to a Staff production request asking why PacifiCorp restricts the applicant built line extension option to only new line extensions, the Company cites safety and liability concerns. PacifiCorp points out that working within proximity of energized power lines is a clear safety risk. The Company contends that hand digging is required within 2 feet of an insulated buried line, and that Idaho's overhead line safety act limits contractors from working within 10 feet of a standard distribution line. PacifiCorp admits that not all relocations require such work, but notes that many do. The Company believes that the safety risk and potential for liability resulting from electrical contact that could occur by qualified or non-qualified individuals who are working under the direction of an applicant is higher for relocations and alterations simply by virtue of the fact that more of that work would be in closer proximity to energized facilities than is the case with construction of new line extensions.

PacifiCorp also cites the potential for claims against the Company due to failure to provide service to other customers on the line during construction. At a minimum, in addition to connecting the new line to the grid, relocations or alterations have the additional requirement of de-energizing the old line, switching load and removing the old line. This additional work requires additional coordination and greater exposure to problems according to the Company.

Staff believes that PacifiCorp's long standing practice of restricting the applicant built option to only new line extensions is based on sound reasoning. Staff contends that safety should be kept paramount and understands the liability concerns of the Company.

Responsibility for Engineering Charges—“Large, Complex or Speculative” Development

PacifiCorp has informed Staff that on occasion, customers have disputed payment of engineering charges for developments that are “large, complex or speculative.” PacifiCorp’s rules do not require that engineering charges be advanced when developments are not judged to be large, complex or speculative. The dispute generally boils down to differences of opinion between the customer and the Company as to whether the proposed development is, in fact, large, complex or speculative. The proposed tariff change to Regulation 12 § 1(c) will permit the Company to use its own judgment in deciding whether the “large, complex or speculative” standard is met.

Staff believes it would be very difficult to define in the tariff precisely what constitutes “large, complex or speculative.” Furthermore, Staff believes a precise definition is unnecessary. Each line extension is unique, and the possible circumstances associated with each one would make it nearly impossible to develop tariff language where virtually no judgment needed to be exercised. Staff believes this is one instance wherein the Company should be allowed to exercise its judgment. Staff believes the language proposed by the Company is acceptable.

COMMISSION DECISION

PacifiCorp proposes to add clarifying language to its electric service Regulation No. 12 Line Extension Rules as pertains to applicant-built line extensions and payment responsibility for engineering charges for “large, complex or speculative” developments. Staff recommends that the Company-proposed changes be approved. Does the Commission find the proposed changes reasonable and acceptable?

Scott Woodbury

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