Service Date: October 16, 1985

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application of PACIFIC POWER & LIGHT COMPANY for Authority to Increase Rates for Electric Service.	))))	UTILITY DIVISION DOCKET NO. 85.10.41

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PROPOSED PROCEDURAL ORDER

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Under the authority of the Administrative Rules of Montana, the Commission is proposing this order setting forth the procedure to be followed in Docket No. 85.10.41. If any person with proper standing seeks a change in any of the dates or procedures proposed herein, such proposed change must be submitted to the Commission and copies served on all parties of record by October 28, 1985. It is anticipated that this Order will be amended and/or finalized November 4, 1985.

1. In this order the term "parties" includes the Applicant, Pacific Power & Light Company (hereafter PP&L), all intervenors, and the Montana Consumer Counsel. Individuals or entities listed on the "service list" for this docket are not "parties" to this docket unless they have been granted intervention by the Commission.

2. Copies of all pleadings, motions, discovery requests, prefiled testimony and briefs filed with the Commission shall be served on all parties to this docket. A copy of a cover letter or transmittal letter describing the filing shall also be served on the remainder of the "service list" who are not parties to this docket. Parties are required to identify for other parties those individuals who should receive data requests and responses to data requests if other than or in addition to counsel of record.

3. All dates listed in the following schedule are mailing dates. Parties must mail all material by the most expeditious method available at reasonable cost.

Schedule

4. Unless otherwise herein specified, the following schedule shall apply in Docket No. 85.10.41:

(a) January 17, 1986: Final day as a matter of right for written discovery and data requests directed to PP&L; final day for timely filing of Petitions to Intervene by parties who are interested in and directly affected by this Docket.

(b) January 31, 1986: Final day for completion by PP&L of all answers and responses to written discovery and data requests directed to PP&L by other parties.

(c) February 14, 1986: Final day for completion and service upon PP&L and other parties of the prepared testimony and exhibits of all parties except PP&L.

(d) February 21, 1986: Final day as a matter of right for written discovery and data requests directed to all parties by PP&L and intervenor data requests of parties other than PP&L.

(e) March 7, 1986: Final day for completion of answers by all parties to discovery and data requests made pursuant to paragraph 4(d).

(f) March 21, 1986: Final day for service of rebuttal testimony by PP&L and testimony of other parties which is in rebuttal to testimony filed pursuant to paragraph 4(c). Final day for any party to conduct depositions as a matter of right.

(g) March 28, 1986: Final day for any party which intends to introduce as evidence, data requests or other discovery as part of its basic case, to notify all parties of the specific data requests or other discovery it plans to so introduce.

(h) April 4, 1986: Final day for the Applicant to provide the Commission and parties with a witness list indicating the sequence that witnesses will be called by the parties at the hearing.

(i) April 15, 1986: Opening day of hearing in Docket No. 85.10.41.

Intervention

5. Parties seeking to intervene after January 17, 1986, must file a Petition to Intervene with the Commission. The petition shall demonstrate (A) the position that the intervenor will take if the intervention is granted, (B) that the proposed intervenor has an interest in and is directly affected by this Docket, (C) that the intervention, if granted, will not delay or prejudice the proceeding in the Docket, and (D) good cause why the petition was not timely filed. (ARM Section 38-2-2401 *et seq.*).

Discovery

6. The term "discovery" as used in this order includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as informal "data requests." The Commission urges all parties to conduct their discovery through the use of data requests as much as possible.

7. Written discovery and data requests will be served on all parties. Hopefully this will serve to reduce the number of duplicate requests. Unless otherwise agreed between individual parties, copies of answers to all written discovery and data requests will be served only on parties specifically requesting them *and* on the Commission. If any party wants material requested by any other party, it should so inform the party to whom the data request or written discovery was directed.

8. The period prior to January 17, 1986 is the time for submission of written discovery and data requests to PP&L. Likewise, the period prior to February 21, 1986 is the time for submission of written discovery and data requests to intervening parties. The party receiving the written discovery or data request has five (5) days from receipt of the same within which to voice any objections it has to the request. The objection and notice thereof shall be served upon the Commission and all parties of record. The Commission may dispose of such objections by prompt ruling, or may schedule arguments on the objections. Failure to object promptly will be deemed acceptance of the request.

9. In the event any requesting party is dissatisfied with the response to any written discovery or data request, such party must, within five (5) days after receipt of such response, serve in writing upon the Commission, and simultaneously upon all parties of record, its objections to such response. The Commission may dispose of such objections by prompt ruling, or may schedule argument on the objections. The Commission will issue its order either sustaining or overruling the objections. If objections are sustained, a time period will be set within which a satisfactory response must be made.

10. Submission of written discovery or data requests after the period established for the same will be allowed by leave of the Commission only. Such requests will not be permitted unless

the party making the request shows good cause as to why the request was not submitted within the time period allowed.

11. Unless excused by the Commission, failure by a party to answer data requests or other discovery from any party may result in:

(a) An order refusing to allow the disobedient party to support or oppose related claims, or prohibiting him from introducing related matters in evidence;

(b) An order striking pleadings, testimony or parts thereof, or staying further proceedings until the request is satisfied, or dismissing the action or proceeding or any part thereof.

Testimony and Evidence

12. The Commission contemplates a progressive narrowing of issues as prefiled testimony proceeds from direct to rebuttal. Introduction of new issues or data in new areas will be carefully scrutinized and disallowed unless reasonably related to issues earlier identified in the application; in Commission orders or in testimony prefiled in conformance with this order.

13. At the hearing, prefiled direct, answer and rebuttal testimony will be adopted into the record without the need of recitation by the witness. This procedure will eliminate retyping of prepared testimony into the hearing transcript.

14. All proposed exhibits and prefiled written testimony shall be marked for the purposes of identification prior to the

start of the hearing. Parties shall arrange in advance with the court reporter the manner of identifying their exhibits.

15. When cross-examination is based on a document, not previously field with the Commission, copies of the document will be made available to the Commission unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each Commissioner, the Commission staff, and all parties.

16. Parties may be permitted to present "live" rebuttal testimony only if it is in direct response to an issue raised for the first time in cross-examination or the testimony of a public witness. Such testimony will be allowed only by leave of the presiding officer.

17. Citizens and citizen groups will, in the discretion of the Commission, be allowed to make statements without having submitted prepared written testimony; in addition, if they have prepared written testimony they may read it if they desire, or they may have it adopted directly into the record.

18. The rules of evidence applicable in the District Courts of the State of Montana will be used at the hearings.

Prehearing Motions and Conferences

19. Motions by any party, including motions to strike prefiled testimony and motions concerning any procedural matter connected with this docket shall be raised at the earliest possi-

ble time. Prehearing motions shall be submitted on briefs unless otherwise requested by a party. If oral argument is requested, and the request is granted, the party requesting oral argument shall notice the same for hearing before the Commission.

20. The Commission may, at any time prior to the hearing, set a final Prehearing Conference. At that prehearing conference there may be discussed, among other things, the feasibility of settlement of any issues in the proceeding, simplification of issues, possibility of obtaining admissions of fact and documents, the distribution and marking of written testimony and exhibits prior to the hearing, and such other matters as may aid in the disposition of the proceeding or settlement thereof.

21. Nothing in this order shall be construed to limit the legally established right of the Commission or its staff to inspect the books and accounts of PP&L at any time.

Intervenor Testimony

22. All adjustments proposed by the Montana Consumer Counsel and any other intervenors must be presented as adjustments to the Company's base case, rather than to the Company's interim rate filing should the Company request interim relief. Intervenor testimony which proposes adjustments to only the Company's interim relief filing will be judged by the Commission as contrary to the Procedural Order and, therefore, unacceptable in this proceeding.

Witness Sequence List

23. At least five days prior to the beginning date of the Docket's public hearing, the Applicant shall provide the Commission with one witness list indicating the sequence that witnesses will be called by the parties at the hearing. It shall be the responsibility of the Applicant and any other parties to this Docket to negotiate among themselves the witness sequence. The Applicant may inform the Commission and parties of the final sequence in writing or by telephone directed to the party's attorney of record, and Commission staff attorney.

DONE AND DATED THIS 15th day of October, 1985 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Trenna Scoffield
Secretary

(SEAL)