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**FILED**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

01/26/26

03:28 PM

H2507005

Request for Hearing on Proposed  
Administrative Enforcement Order.

Hearing 25-07-005

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING IN PART  
AND DENYING IN PART PACIFICORP'S MOTION TO COMPEL  
FURTHER RESPONSES TO DATA REQUESTS  
SETS ONE, TWO, AND THREE AND RULING GRANTING IN PART AND  
DENYING IN PART SAFETY AND ENFORCEMENT DIVISION'S MOTION TO  
LIMIT PACIFICORP'S DATA REQUEST SET FIVE**

**1. Background**

On June 3, 2025, the Safety and Enforcement Division (SED) of the California Public Utilities Commission (Commission) issued the proposed Administrative Enforcement Order (AEO) to PacifiCorp doing business as Pacific Power (PacifiCorp) related to its 2020 Wildfire Mitigation Plan (WMP). The proposed AEO directs a penalty of approximately \$27.3 million for alleged violations of Public Utilities Code Sections 8386.1, 8386.3(c)(1), 8389(e)(7), 451 and Commission Rules of Practice and Procedure 1.1.<sup>1</sup>

On July 17, 2025, SED filed its compliance filing. On October 1, 2025, a Status Conference was conducted to discuss the schedule of this proceeding.

On December 2, 2025, PacifiCorp filed a Motion to Compel SED to provide further responses to Data Requests Sets One, Two, and Three. SED filed a response to this motion on December 12, 2025. PacifiCorp requested permission to file a reply to SED's response. Permission was granted via an email ruling that

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<sup>1</sup> Future references to the Rules of Practice and Procedure will be referred to as Rule or Rules.

was issued on December 26, 2025. PacifiCorp filed its reply on December 29, 2025.

On December 24, 2025, SED filed a Motion to Limit PacifiCorp's Data Request Set Five. On January 5, 2026, PacifiCorp filed an opposition to SED's Motion to Limit PacifiCorp's Data Request Set 5. SED requested permission to file a reply to PacifiCorp's opposition, which was granted by email ruling on January 7, 2026. SED filed its reply on January 15, 2026. A Law and Motion hearing was conducted on January 16, 2026, to discuss both the Motion to Compel and Motion to Limit Discovery.

## **2. Issues in Dispute for the Motion to Compel**

- a. Data Requests Related to SED's Contention Regarding the Amount of Any Proposed Penalty (Data Requests 1.1, 1.3-1.7).
- b. Data Requests Seeking the Factual Basis for SED's Penalty Assessment (Data Requests 1.19-1.20)
- c. Data Requests Seeking SED's Contention Regarding the Relevance of PacifiCorp's Parent Entity (Data Request 1.23).
- d. Data Requests Seeking Communications with Energy Safety and the Independent Evaluator (Data Requests 2.1-2.3).
- e. Data Requests Related to the Risk of Ignitions and Wildfires (Data Requests 1.21, 3.1-3.2).
- f. Data Requests Related to Energy Safety's Findings (Data Requests 3.7-3.9).
- g. Data Requests Related to the Date by Which PacifiCorp was required to Complete Work (Data Requests 3.17-3.19).
- h. Data Requests Related to SED's Position as to Notice of the Compliance Standard (Data Request 3.21).

### **3. Parties Positions on PacifiCorp's Motion to Compel**

PacifiCorp argues that the SED has failed to meet its discovery obligations in connection with the proposed \$27.28 million AEO alleging noncompliance with PacifiCorp's 2020 Wildfire Mitigation Plan. After PacifiCorp fully responded to more than fifty discovery requests served by SED, SED issued the AEO and then largely refused to provide reciprocal discovery supporting its allegations and penalty calculations.

According to PacifiCorp, SED repeatedly asserted boilerplate privilege objections, referred PacifiCorp back to the AEO instead of providing substantive responses, failed to clarify its legal and factual contentions, and produced no documents despite requests for evidence underlying its claims. PacifiCorp contends that this conduct prevents it from understanding how penalties were calculated, what evidence SED intends to rely on, whether SED agrees with key findings by the Office of Energy Infrastructure Safety, and what facts are genuinely in dispute.

PacifiCorp maintains that its discovery request is proper, necessary, and consistent with Commission practice, and that SED's objections are unsupported and, in some cases, waived. PacifiCorp therefore requests that the Commission compel SED to provide complete responses and produce responsive documents within 14 days to ensure fair preparation for evidentiary hearings.

SED argues that PacifiCorp's Motion to Compel should be denied because the requested discovery exceeds the scope of permissible Commission discovery, is unduly burdensome, and seeks privileged and irrelevant information. SED contends that the Commission is not bound by the California Code of Civil Procedure discovery rules and that PacifiCorp improperly relies on civil discovery standards, particularly interrogatories and requests for admission,

which SED alleges are disfavored in Commission practice. According to SED, PacifiCorp conflates its own discovery rights under Rule 10.1 with the Commission's independent investigatory authority under Public Utilities Code Section 314.

SED maintains that it has already provided PacifiCorp with all evidence it intends to rely upon at the evidentiary hearing, largely consisting of materials previously produced by PacifiCorp itself during the investigation and compiled as SED Exhibit 1. SED argues that PacifiCorp's additional discovery requests would require staff to reanalyze, re-cite, and re-characterize existing evidence solely to aid PacifiCorp's litigation preparation, rather than to uncover new admissible evidence. SED asserts that such requests impose an undue burden on limited Commission resources and interfere with ongoing wildfire investigations.

SED further argues that many of PacifiCorp's requests improperly seek disclosure of SED's litigation strategy, mental impressions, and legal theories, and are therefore protected by the attorney-client privilege, attorney work-product doctrine, deliberative process privilege, and official information privilege. This includes requests for per-day penalty calculations, internal communications with the Office of Energy Infrastructure Safety, positions on disputed factual findings, and interpretations of compliance standards. SED emphasizes that discovery may not be used to force staff to reveal how it intends to argue its case or what evidence it will emphasize at hearing.

Finally, SED contends that PacifiCorp has received adequate notice of the alleged violations, penalty range, factual basis for the Administrative Enforcement Order, and applicable compliance obligations. Any remaining disputes regarding interpretation of evidence, weight of mitigating factors, or

legal standards are properly resolved through evidentiary hearings and post-hearing briefing and not discovery. Accordingly, SED requests that the Commission deny the Motion to Compel in full and limit further discovery.

#### **4. Ruling on PacifiCorp's Motion to Compel**

##### **4.1. Data Requests Related to SED's Contention Regarding the Amount of Any Proposed Penalty (Data Requests 1.1, 1.3-1.7).**

SED should be compelled to state the penalty it seeks for each alleged failure identified in the proposed AEO. Requiring this disclosure is necessary to ensure due process, promote efficient adjudication, and allow meaningful review of the proportionality and reasonableness of the proposed enforcement action.

First, identification of the penalty associated with a specific alleged failure is fundamental to fair notice. An enforcement action that alleges multiple, distinct violations but presents only a single, aggregated penalty deprives the respondent of a clear understanding of the consequences tied to each alleged failure. Without knowing the penalty attributable to a particular failure, PacifiCorp cannot determine which allegations materially drive the proposed penalty or assess how the penalty would change if one or more allegations are not sustained. Due process requires not only of the alleged misconduct, but also of the sanctions the enforcing agency seeks to impose for that misconduct.

Second, the requested information is directly relevant under Rule 10.1 because penalty assessment is itself an issue in dispute. The Commission must determine whether the proposed penalty is reasonable, proportionate, and supported by the record. That determination cannot be meaningfully made without understanding how SED translated specific alleged failures into specific penalty amounts. Requiring SED to state the penalty for each alleged failure allows the Commission to evaluate whether penalties are consistent with the

severity, duration, and nature of each failure and whether they align with Commission precedent.

Third, compelling SED to state the penalty for a particular failure does not require disclosure of privileged material. Once SED issued the AEO proposing a penalty, its enforcement position became final for purposes of this proceeding. Stating the penalty associated with a specific failure merely articulates that position; it does not expose internal deliberations, legal advice, or mental impressions. Nor does it reveal litigation strategy in the improper sense. An agency's position on the penalty it seeks is not strategy, it is the substance of the enforcement action.

Fourth, SED's argument that statutory penalty ranges alone provide sufficient notice is unpersuasive. While statutory ranges establish outer limits, they do not explain how the enforcing agency exercised its discretion within those limits. In a case involving numerous alleged failures and a wide penalty range, reliance on the statutory maximum and minimum does not inform the respondent or the Commission how SED evaluated individual failures or why particular failures warrant greater or lesser penalties. Without this information, the penalty assessment becomes opaque and difficult to test.

Fifth, requiring SED to state the penalty for each alleged failure will narrow issues and improve hearing efficiency. If SED identifies which failures carry material penalties and which do not, the parties and the Commission can focus evidentiary presentations on the issues that meaningfully affect the outcome. Absent this clarity, the proceeding risks unnecessary litigation over allegations that may have little or no impact on the ultimate penalty.

Finally, transparency in penalty attribution serves the public interest. Enforcement decisions must be reasoned, explainable, and subject to review.

Requiring SED to link specific alleged failures to specific penalty amounts ensures that the Commission's ultimate decision rests on a clear and reviewable record and reinforces confidence in the fairness and consistency of Commission enforcement.

For these reasons, SED should be compelled to state the penalty it seeks for each alleged failure identified in the AEO, including whether it is assessed on a per-violation or per-day basis.

**4.2 Data Requests Seeking the Factual Basis for SED's Penalty Assessment (Data Requests 1.19-1.20)**

PacifiCorp's Data Requests 1.19 and 1.20 are denied as moot. Discovery before the Commission is intended to obtain information and relevant documents, not to compel a party to articulate legal reasoning, policy judgments, or argumentative characterizations of its position. To the extent these requests require the responding party to explain why certain conclusions were reached or to defend the relevance or sufficiency of its actions, they improperly seek legal conclusions and advocacy rather than discoverable facts.

Second, the requests are not proportional to the needs of the case. Responding fully would require the responding party to engage in expansive narrative analysis untethered to specific documents or factual assertions, imposing an undue burden relative to any potential probative value. Commission discovery rules do not require parties to create new analyses or prepare explanatory narratives solely to satisfy a discovery request.

Third, the information sought by Data Requests 1.19 and 1.20 is either cumulative of, or readily available in, the existing record. Counsel for SED stated on the record at the Law and Motion hearing that SED did not intend to rely on any evidence that is not already part of the record and that if any evidence is

discovered that is not already part of the record, SED will turn that information over to PacifiCorp.

**4.3 Data Requests Seeking SED’s Contention Regarding the Relevance of PacifiCorp’s Parent Entity (Data Request 1.23).**

SED should be compelled to respond directly to PacifiCorp’s data request asking whether SED contends that the Commission should consider the financial resources of PacifiCorp’s parent entities in assessing any penalty. A clear response is necessary to ensure fair notice, permit meaningful preparation for hearing, and allow the Commission to evaluate the legal and factual basis of the proposed penalty.

First, the relevance of a parent entity’s financial resources is a material issue in penalty assessment. The Commission routinely considers a regulated entity’s financial resources when evaluating whether a proposed penalty is reasonable and proportionate. If SED’s position is that PacifiCorp’s parent entities’ resources should be considered that position materially affects the scope of evidence PacifiCorp must present, the issues to be litigated, and the Commission’s ultimate evaluation of penalty severity. Conversely, if SED does not rely on parent-entity resources, that issue can be removed from dispute. A clear “yes” or “no” response will therefore narrow issues and promote efficient adjudication.

Second, requiring SED to state its position does not compel disclosure of privileged information. The data request does not seek internal deliberations, legal advice, or mental impressions; it seeks SED’s contention in this proceeding. Once SED issued the proposed AEO, its theory of penalty assessment became a subject of adjudication. Identifying whether parent-entity resources are part of

that theory merely clarifies the scope of SED's position and does not intrude on protected communications or work product.

Accordingly, SED is compelled to simply state "yes the assets of the parent company should be considered" or "no the assets of the parent company should not be considered."

**4.4 Data Requests Seeking Communications with Energy Safety and the Independent Evaluator (Data Requests 2.1-2.3).**

This request is moot as SED stated on the record at the Law and Motion hearing that if any documents exist relevant to this request, SED will produce them. This includes any non-attorney-client communications that may reveal any weaknesses in SED's case.

**4.5. Data Requests Related to the Risk of Ignitions and Wildfires (Data Requests 1.21, 3.1-3.2).**

This request is moot as SED stated on the record at the Law and Motion hearing that they will or already produced all relevant documents or said documents are already part of the record and that they are not intending to rely on any documents outside of the record.

**4.5 Data Requests Related to Energy Safety's Findings (Data Requests 3.7-3.9).**

3.7 is moot as a reasonable person could conclude that the COVID-19 pandemic and related supply chain issues could have contributed to PacifiCorp's failure to implement some of its initiatives. PacifiCorp's request to compel further responses to Data Requests 3.8 and 3.9 is granted. As it relates to 3.8 and 3.9, if SED has a position, they should provide relevant responses as set forth below.

Data Requests 3.8 and 3.9 ask the SED to state whether it agrees with specific findings made by the Office of Energy Infrastructure Safety regarding

PacifiCorp's 2020 Wildfire Mitigation Plan compliance and to explain the basis for any disagreement. These requests seek clarification of SED's contentions on material issues that bear directly on liability and penalty and are therefore proper. SED should provide responses as to whether it agrees or disagrees with the specific findings made by the Office of Energy Infrastructure Safety. Explaining the basis for any disagreement shall only be required if it does not require SED to perform a legal analysis or provide information protected by attorney work-product or the attorney-client privilege.

SED's responses, which consist primarily of objections and generalized references to the proposed AEO and related materials, are insufficient. Cross-referencing pleadings or reports without clearly stating whether SED agrees or disagrees with the identified findings does not provide the level of particularity required to permit PacifiCorp to understand SED's position or to prepare for evidentiary hearing. Commission practice recognizes that contention discovery serves to clarify positions, narrow disputed issues, and promote efficient adjudication.

SED's objections based on privilege and deliberative process are unavailing in this context as it relates to stating whether SED agrees or disagrees with the finding. Data Requests 3.8 and 3.9 do not seek internal deliberations, draft analyses, or attorney mental impressions. They seek SED's position in this proceeding i.e., whether SED agrees or disagrees with specific, published findings and the non-privileged facts or documents that support or undermine that position.

Nor is it sufficient for SED to argue that PacifiCorp may explore these issues through cross-examination at hearing. Discovery is intended, in part, to identify what issues are genuinely in dispute before hearing and to avoid

unnecessary litigation over matters that may be undisputed. Requiring SED to state its position now will narrow the scope of the hearing and conserve Commission and party resources.

Accordingly, SED is ordered to serve full and complete supplemental responses to Data Requests 3.8 and 3.9 within 14 days of the effective date of this ruling. Each response shall:

1. State clearly whether SED agrees or disagrees with the specific Energy Safety finding identified in the data request;
2. Identify with reasonable specificity any portions of the AEO or supporting materials on which SED relies;
3. State whether SED possesses or intends to rely on any evidence beyond the AEO and its attachments regarding these issues, and, if so, produce such non-privileged evidence; and
4. Nothing in this ruling requires SED to disclose privileged communications or attorney work-product. Specifically, if SED has a position that is not attorney work-product to 3.8 and 3.9 then SED shall respond to data requests 3.8 and 3.9.

**4.6 Data Requests Related to SED's Position as to Notice of the Compliance Standard (Data Request 3.21).**

PacifiCorp's Motion to Compel further responses to Data Request 3.21 is granted.

Data Request 3.21 seeks identification of the sources that, in 2020, would have placed PacifiCorp on notice of the "substantial compliance" standard that SED applies in the proposed AEO. This request is directed at a material issue in this proceeding: whether PacifiCorp had adequate notice of the compliance standard against which its conduct is now being judged. Information on notice is relevant to both liability and penalty and is reasonably calculated to lead to admissible evidence.

SED's response, which relies on objections and a cross-reference to the current definition articulated in the AEO, is insufficient. Referencing a definition adopted after the fact does not answer the question posed – namely, what guidance, if any, existed in 2020 that informed PacifiCorp of the applicable standard. Without a clear response, PacifiCorp cannot determine whether SED contends that notice existed at the relevant time or, if so, what authority SED relies upon to support that contention.

SED's objections based on privilege and burden are unavailing. Data Request 3.21 does not seek attorney mental impressions, internal deliberations, or legal advice. It seeks SED's contention regarding the existence or nonexistence of sources providing notice in 2020 and identification of those sources if SED contends, they existed. Clarifying that contention does not require legal research on PacifiCorp's behalf, nor does it intrude on protected communications. A statement that no such sources existed is likewise responsive and appropriate.

Nor is it sufficient for SED to assert that questions regarding "substantial compliance" are legal determinations reserved to the Commission. While the Commission will ultimately determine the applicable legal standard, SED must still state the basis for the standard it applies in its enforcement action and whether it contends PacifiCorp had notice of that standard at the time of the alleged conduct. Discovery that clarifies SED's enforcement theory promotes due process and narrows issues for hearing.

Accordingly, SED is ordered to serve a full and complete supplemental response to Data Request 3.21 within 14 days of the effective date of this ruling. The response shall:

1. Identify with specificity any statutes, Commission decisions, resolutions, guidance documents, or other sources in effect in

2020 that SED contends provided notice of the “substantial compliance” standard; or

2. State clearly that SED contends no such sources existed in 2020.

Nothing in this ruling requires disclosure of privileged communications or attorney work-product. Nor does this require SED to conduct or provide PacifiCorp with a legal analysis.

SED’s contention that PacifiCorp’s requests are unduly burdensome or irrelevant is not supported by the record. The information sought goes directly to the core issues to be litigated at hearing: compliance, risk, causation, penalty assessment, and notice. Requiring SED to provide complete and particularized responses will narrow the issues in dispute and promote a more efficient and orderly hearing process.

PacifiCorp’s Motion to Compel is granted in part and denied in part as set forth above. SED shall serve full and complete responses to Data Request Sets One, Two, and Three, and produce all responsive, non-privileged documents, within 14 days of the effective date of this order per the guidelines set forth above.

## **5. Issues in Dispute Concerning SED’s Motion to Limit Discovery**

PacifiCorp’s fifth set of Data Requests contained ten discrete requests. Eight of these requests were in the form of interrogatories or requests for admission. Two of the requests strictly requested records.<sup>2</sup>

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<sup>2</sup> Attachment A of SED’s Motion to Limit Discovery reproduces PacifiCorp’s request that are the subject of dispute for the Motion to Limit Discovery.

## **6. Parties Positions on SED's Motion to Limit Discovery**

SED supports granting its Motion to Limit Discovery and ordering PacifiCorp to withdraw Data Request Set Five. SED contends that the challenged discovery improperly seeks privileged, irrelevant, and inadmissible information and imposes an undue and disproportionate burden on Commission staff. Under the Rules, discovery is limited to non-privileged material that is relevant and reasonably calculated to lead to admissible evidence. SED contends that PacifiCorp's requests do not meet this standard.

SED asserts that several requests seek disclosure of attorney work-product, including SED's legal theories, mental impressions, and litigation strategy concerning PacifiCorp's alleged noncompliance with its 2020 Wildfire Mitigation Plan. SED maintains that compelling responses would improperly require staff to explain and marshal its case strategy rather than produce new factual evidence. SED further argues that requests asking for staff opinions about what the Commission "must" consider are irrelevant because such determinations rest solely with the Commission, not its enforcement staff.

SED also opposes discovery related to the 2022 McKinney Fire, explaining that the investigation remains ongoing and confidential. According to SED, materials related to that investigation are protected by the official information privilege and attorney-client privilege, and disclosure would interfere with the Commission's ability to carry out its regulatory and law-enforcement responsibilities. Finally, SED argues that requests seeking comparisons between PacifiCorp's compliance filings and those of other utilities are irrelevant to the Commission's determination of PacifiCorp's compliance and improperly seeks staff opinions rather than admissible evidence.

For these reasons, SED maintains that Data Request Set Five is burdensome, invasive, and unlikely to lead to admissible evidence, and should be limited in its entirety as requested.

PacifiCorp opposes SED's Motion to Limit Discovery of Data Request Set Five and urges the Commission to deny the Motion in its entirety. PacifiCorp contends that the challenged data requests are relevant, proportional, and necessary to ensure due process in an enforcement proceeding in which SED bears the burden of proof and seeks to impose an extraordinary, proposed penalty of \$27.28 million.

PacifiCorp argues that its discovery is narrowly tailored to identify the factual bases for SED's allegations, the positions SED intends to advance at hearing, and the evidence SED will rely upon, all of which are essential to preparing an effective defense and to narrowing the issues for hearing. According to PacifiCorp, SED's claim that its positions are "irrelevant" because the Commission is the ultimate decision-maker misconstrues Commission precedent; while staff interpretations do not bind the Commission, SED must still articulate and support the positions it will advocate to meet its burden of proof.

PacifiCorp further maintains that responding to the disputed requests does not implicate privilege. Information concerning the facts SED intends to prove and the interpretations it will urge at hearing cannot be shielded as attorney work-product, particularly where that information must ultimately be disclosed through testimony and evidence. Discovery, PacifiCorp argues, exists precisely to surface such positions in advance so they may be tested.

PacifiCorp also disputes SED's assertions of undue burden, noting that SED has offered only conclusory claims unsupported by any factual showing of time, cost, or effort. In PacifiCorp's view, the disputed requests could be

answered succinctly and would require far less effort than the motion practice SED has chosen instead.

With respect to specific requests, PacifiCorp explains that discovery concerning Initiative 5.3.5.2 and related inspection targets may eliminate entire issues from dispute if SED acknowledges factual errors or clarifies its interpretation. Similarly, PacifiCorp argues that SED cannot inject a new theory of liability based on the 2022 McKinney Fire while simultaneously refusing to disclose the factual basis and evidence supporting that theory. Finally, PacifiCorp asserts that information regarding how SED evaluated other utilities' Annual Reports on Compliance is directly relevant to understanding SED's interpretation of the Compliance Operational Protocols and assessing whether PacifiCorp's report was deficient.

For these reasons, PacifiCorp maintains that SED's Motion to Limit Discovery lacks merit and, if granted, would improperly restrict relevant discovery, undermine due process, and hinder the fair and efficient resolution of this enforcement proceeding.

## **7. Ruling on SED's Motion to Limit Discovery**

Other than information relating to the alleged Rule 1.1 violation, SED should not be required to turn over information concerning the McKinney Fire because doing so would exceed the proper scope of discovery, intrude on privileged and confidential investigative materials, and undermine the fairness and efficiency of this enforcement proceeding.

As discussed at the Law and Motion hearing, the Commission is still investigating the McKinney Fire. As such the investigation shall remain

confidential until such time as the Commission decides to bring a proposed enforcement action against PacifiCorp relating to the McKinney Fire.<sup>3</sup>

First, the remaining McKinney Fire materials are irrelevant unless and until they are an element of the charged violation.

Second, the McKinney Fire investigation is ongoing and protected. Other materials related to the McKinney Fire are part of an active enforcement and safety investigation. Such records are protected by the official information privilege and, where applicable, attorney-client and attorney work-product protections. Compelling disclosure would risk revealing investigative methods, preliminary conclusions, and internal assessments, and could interfere with SED's ability to carry out its law-enforcement responsibilities effectively.

Third, discovery would improperly force premature disclosure of unadjudicated theories. Requiring SED to produce McKinney Fire materials would compel staff to disclose tentative or developing theories about causation and compliance that may never be relied upon in this case. Discovery should not be used to probe uncharged theories or to test hypothetical enforcement positions that SED has not placed at issue.

Fourth, allowing such discovery would expand the case beyond its pleadings. Opening discovery into the McKinney Fire would effectively transform a narrow Rule 1.1 issue into a broader inquiry about wildfire causation and WMP compliance, issues that are not being adjudicated in this proceeding and would substantially expand the scope, burden, and complexity of the case.

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<sup>3</sup> SED asserts in this proceeding that PacifiCorp is guilty of an alleged Rule 1.1 violation relating to the alleged failure to report relevant information about the McKinney Fire. To the extent that SED asserts that the proposed penalty in this matter was influenced by this alleged Rule 1.1 violation or SED intends to introduce evidence on this alleged Rule 1.1 violation, then SED shall provide relevant data responses pertaining to this alleged Rule 1.1 violation.

This would be inconsistent with proportionality principles and the Commission's interest in focused adjudication.

Fifth, limiting discovery avoids unfair prejudice and confusion.

Introducing extensive evidence about catastrophic wildfire risks prejudicing the proceeding and diverting attention from the discrete question of whether a statement was false or misleading. Excluding McKinney Fire discovery preserves clarity and ensures the hearing remains centered on the conduct charged.

In sum, unless SED affirmatively relies on the McKinney Fire as a necessary factual basis to prove the alleged Rule 1.1 violation, SED should not be compelled to produce information related to that fire. Requiring disclosure would be irrelevant, intrusive, disproportionate, and inconsistent with established protections for ongoing investigations.

SED's Motion to Limit Discovery is granted in part and denied in part. To the extent that SED relies on documents from the McKinney Fire as a factual basis to prove the alleged Rule 1.1 violation, then SED shall provide the relevant information that is not subject to a valid privilege. As noted at the Law and Motion hearing, SED will be excluded from presenting evidence or relying on any information that was not disclosed during the discovery process. Any information relating to the McKinney Fire that is beyond the scope of the Rule 1.1 analysis shall remain confidential until such time as SED issues a new proposed enforcement action against PacifiCorp or until SED determines that the investigation has been completed and the information obtained in the investigation is no longer confidential.

**IT RULED** that:

PacifiCorp's Motion to Compel is granted in part and denied in part as set forth above. SED's Motion to Limit Discovery is granted in part and denied in part as set forth above.

Dated January 26, 2026, at San Francisco, California

/s /GERALD F. KELLY

Gerald F. Kelly  
Administrative Law Judge