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H2507005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Request for Hearing on Proposed
Administrative Enforcement Order.

Hearing 25-07-005

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING REQUEST
TO REOPEN DISCOVERY**

This ruling denies the Safety and Enforcement Division's (SED) Motion to Reopen Discovery.

1. Background

On August 10, 2026, the Safety and Enforcement Division (SED) filed a Motion to Reopen Discovery in this proceeding. SED seeks leave to serve a second set of data requests consisting of fourteen questions concerning (1) PacifiCorp's revised Fourth Quarter Initiative Update (QIU) and (2) implementation of the weather station initiative in PacifiCorp's 2020 Wildfire Mitigation Plan (WMP).

PacifiCorp opposes the motion. PacifiCorp filed its Response to the Motion on September 20, 2026. PacifiCorp contends that SED has not demonstrated a sufficient connection between the information produced after the discovery deadline and the proposed additional discovery; that SED did not act diligently; and that reopening discovery at this stage would prejudice PacifiCorp and expand the scope of the proceeding.

SED requested permission to file a Reply to PacifiCorp's Response. This request was granted. SED filed a Reply on September 4, 2026.

For the reasons discussed below, the motion is denied.

2. Applicable Standard

Rule 11.3 of the Commission's Rules of Practice and Procedure provides the procedural framework for motions concerning discovery. The Commission has discretion to manage discovery in a manner that promotes a fair and efficient proceeding.

In determining whether to reopen discovery, the Commission may consider the factors identified in California Code of Civil Procedure section 2024.050(b): (1) the necessity and reasons for the proposed discovery; (2) the diligence of the party seeking discovery and the reasons the discovery was not completed earlier; (3) the likelihood that reopening discovery will interfere with the hearing schedule or prejudice another party; and (4) the time elapsed between the previously scheduled and currently scheduled hearing dates.

These factors are considered considering the circumstances of this proceeding and the Commission's responsibility to maintain an orderly and fair adjudicatory process.

3. Discussion

A. SED Has Not Demonstrated That the Proposed Discovery Is Necessary

SED's principal argument is that PacifiCorp continued to produce information after the January 30, 2026, discovery deadline and that the later production warrants an opportunity for follow-up discovery.

The Commission agrees that a party's production of information after a discovery deadline may, in appropriate circumstances, justify limited additional discovery. The fact of a post-deadline production, however, does not automatically establish good cause to reopen discovery. SED must demonstrate a

sufficient connection between the subsequently produced information and the additional discovery it seeks.

SED has not made that showing with respect to the proposed Data Request Set Two as a whole.

The proposed requests encompass subjects extending beyond the information that SED identifies as newly produced. Several requests seek information that was available, or could reasonably have been sought, substantially earlier in the proceeding.

For example, SED seeks information concerning the meaning of “RAWS,” although PacifiCorp's 2020 WMP itself defines the term as “Remote Automatic Weather Station.” SED also seeks additional information concerning weather-station locations and data transmission. PacifiCorp represents, without meaningful contradiction from SED, that the April 30 production included a spreadsheet containing information concerning the weather stations and that the May 6 revised response supplied two invoices that had inadvertently been omitted from an earlier response.

SED has not adequately explained why those supplemental materials create a need for the additional weather-station discovery now proposed.

The same problem exists with several of the QIU-related requests. SED seeks, among other things, information concerning all PacifiCorp transmission and distribution circuits, the identities of employees who entered information into particular cells of the QIU, and extensive documentation concerning asset-inspection initiatives. SED has not sufficiently demonstrated that these requests are necessary consequences of the revised QIU rather than additional discovery that could have been pursued earlier.

The revised QIU itself does not establish otherwise. PacifiCorp served the revised QIU on February 25, 2026, before SED withdrew its motion to compel. The revised QIU addressed issues concerning PacifiCorp's reporting of certain WMP initiatives, including the conversion of facility counts into line-mile measurements. SED did not seek follow-up discovery concerning the revised QIU at that time, nor did SED seek relief from the Commission before withdrawing its motion to compel.

Accordingly, SED has not demonstrated that the proposed discovery is sufficiently necessary to warrant reopening discovery.

B. SED Has Not Demonstrated the Required Diligence

The record establishes that SED was aware of the QIU reporting issues well before the present motion. The issues concerning PacifiCorp's reporting of asset-inspection initiatives were identified before the proposed Administrative Enforcement Orders (AEO) and were among the matters addressed in SED's investigation. SED therefore had a substantial opportunity to seek discovery concerning those issues during its investigation and during the discovery period established in this proceeding.

SED likewise had an opportunity to pursue additional discovery concerning the QIU after PacifiCorp served the revised QIU on February 25, 2026. Instead, SED ultimately represented to the Commission that it was satisfied that PacifiCorp had provided all responsive material and withdrew its motion to compel.

With respect to the weather-station requests, SED had previously obtained information concerning PacifiCorp's implementation of the weather-station initiative, including the dates by which the remaining weather stations were

installed. The 2020 WMP also contained information concerning RAWs stations. SED has not shown why the additional information it now seeks could not have been requested earlier.

SED argues that its inability to obtain the newly produced information before the discovery deadline excuses any lack of diligence. That argument has some force with respect to genuinely new information. It does not, however, explain why SED waited approximately three months after the May 13, 2026 meet and confer to seek Commission intervention, particularly where the principal subjects of the proposed discovery had been known to SED for considerably longer.

SED asserts in the Reply that from May 13, 2026, until the filing of the Motion to Reopen Discovery on August 10, 2026, that it was reviewing the voluminous number of documents to ensure there was any additional information needed. Although sympathetic to this argument, there was nearly a three month delay until the Motion was filed. The diligence factor therefore weighs against reopening discovery.

**C. The Existing Hearing Schedule
and Scope of the Proceeding Weigh
Against Reopening Discovery**

The timing of SED's motion is also significant. The evidentiary hearing has already commenced. PacifiCorp represents that it has already cross-examined some of SED's witnesses, including the witness addressing SED's proposed penalty. SED now seeks discovery that, in several instances, could introduce information concerning initiatives and factual issues not expressly alleged in the AEO.

Reopening discovery at this stage could require additional document production, review, analysis, and potentially further examination of witnesses. It could therefore disrupt the orderly completion of the evidentiary record.

SED characterizes its request as limited because it consists of fourteen data requests. The number of requests, however, is not dispositive. Several proposed requests are themselves broad, including requests for “all” documents or information concerning particular initiatives. The potential burden and effect on the proceeding must therefore be evaluated based on the substance of the requests, not merely their numerical count.

The Commission also recognizes that PacifiCorp has a legitimate interest in preparing for the resumed evidentiary hearing without simultaneously responding to broad new discovery that could expand the issues being litigated. This factor weighs against reopening discovery.

**D. PacifiCorp’s Supplemental Productions
Do Not Compel a Different Result**

The Commission has considered SED’s argument that PacifiCorp should not be permitted to rely on the discovery cutoff after producing information after that deadline.

The Commission does not condone untimely or incomplete discovery. Parties are expected to comply with Commission directives and to produce responsive information in a timely manner. Nor does the Commission hold that a party may immunize itself from the consequences of a genuinely material late production merely by pointing to a discovery cutoff. The present record, however, does not establish that the post-deadline productions justify the breadth of the discovery SED seeks.

The April 30 production consisted of twelve documents, including demonstratives, an email concerning permitting, an inspection spreadsheet, and

three emails and attachments concerning weather stations. The May 6 revised response corrected an omission by providing two invoices concerning RAWS stations. SED has not demonstrated that these materials materially changed PacifiCorp's previously disclosed position concerning implementation of the weather-station initiative.

Similarly, the revised QIU corrected or clarified reporting issues that were already known to SED and addressed in the record. The Commission therefore concludes that the supplemental productions do not, on this record, establish the extraordinary circumstance necessary to reopen discovery at this late stage.

**E. Denial of the Motion Does Not Prevent
SED From Relying on Evidence
Properly in the Record**

Nothing in this ruling prevents SED from relying upon information that is properly part of the evidentiary record or from addressing the significance of PacifiCorp's revised QIU and supplemental productions through the evidence and arguments otherwise permitted in this proceeding or by simply questioning a witness on the witness stand.

Nor does the ruling determine the ultimate evidentiary weight to be given to PacifiCorp's revised QIU, its weather-station documentation, or any other evidence already admitted or properly offered. The ruling addresses only whether SED has demonstrated sufficient cause to reopen discovery and serve the proposed Data Request Set Two.

4. Conclusion

SED has not demonstrated that the proposed additional discovery is sufficiently necessary, that SED acted with sufficient diligence in seeking the discovery or seeking relief from the discovery cutoff, or that reopening discovery

at this stage can occur without disruption or prejudice to the orderly completion of the evidentiary hearing.

Although PacifiCorp made supplemental productions after the January 30, 2026, discovery deadline, those productions do not establish a sufficient basis for reopening discovery for the broad range of information sought in SED's proposed Data Request Set Two.

Accordingly, good cause has not been demonstrated.

IT IS SO RULED.

1. The Safety and Enforcement Division's Motion to Reopen Discovery is Denied
2. This ruling does not preclude either party from using evidence properly admitted or otherwise permissible under the Commission's Rules of Practice and Procedure and prior rulings governing the evidentiary hearing.

Dated September 24, 2026, at San Francisco, California.

/s/ GERALD F. KELLY
Gerald F. Kelly
Administrative Law Judge