

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

PACIFICORP, d/b/a PACIFIC POWER
& LIGHT COMPANY,

Respondent.

DOCKET UE-220376

ORDER 04

PREHEARING CONFERENCE
ORDER; NOTICE OF HEARING;
**(Set for Thursday, January 19, 2023,
at 9:30 a.m.)**

NOTICE REQUIRING SUBMISSION
**(By Wednesday, September 14, 2022,
at 5 p.m.)**

1 NATURE OF PROCEEDING. On June 6, 2022, the Washington Utilities and Transportation Commission (Commission), through its staff (Staff), issued a Complaint and Notice of Prehearing Conference in Docket UE-220376 (Complaint). The Complaint alleges that PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) violated Commission Order 01 in Docket UE-210829,¹ Revised Code of Washington (RCW) 19.280.030(3)(a)(ii), RCW 19.280.030(3)(a)(iii), Washington Administrative Code (WAC) 480-100-640(7), and WAC 480-100-660(4) by failing to incorporate the social cost of greenhouse gases (SCGHG) in the preferred portfolio of its CEIP. The Complaint requests the Commission find PacifiCorp in violation of statute, Commission rule, and Commission order and assess a penalty of \$1,000 per day for each of the five violations alleged.

2 CONFERENCE. The Commission convened a virtual prehearing conference on June 30, 2022, before Administrative Law Judge Andrew J. O’Connell. The prehearing conference

¹ *In re Petition of PacifiCorp d/b/a Pacific Power & Light Co Seeking Exemption from the Provisions of WAC 480-100-605, Docket UE-210829, Order 01, Denying Petition for Exemption, (Dec. 13, 2021).*

was continued, allowing the Commission to resolve several preliminary issues, and later reconvened on September 6, 2022.

- 3 **APPEARANCES.** Zachary Rogala, Senior Attorney, PacifiCorp, Portland, Oregon, represents PacifiCorp. Nash Callaghan, Assistant Attorney General, Olympia, Washington, represents Staff.² Nina Suetake, Ann Paisner, and Lisa Gafken, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Unit of the Attorney General’s Office (Public Counsel). Sommer J. Moser and Tyler C. Pepple, Davison Van Cleve, P.C., Portland, Oregon, represent the Alliance of Western Energy Consumers (AWEC). Rose Monahan, Staff Attorney, and Jim Dennison, Associate Attorney, Sierra Club Environmental Law Program, Oakland, California, and Boulder, Colorado, represent Sierra Club. Lauren McCloy, Policy Director, NW Energy Coalition (NVEC), Seattle, Washington, represents NVEC. A representative from The Energy Project made an appearance at the conference and expressed an interest in monitoring this proceeding but not in seeking intervention. Contact information for party representatives is attached to this order as Appendix A.
- 4 **PETITIONS TO INTERVENE.** AWEC’s previous petition to intervene was granted by the Commission in Order 01 in this Docket. Sierra Club filed with the Commission its petition to intervene on September 2, 2022. NVEC filed with the Commission its petition to intervene on September 6, 2022, and also petitioned to intervene orally at the prehearing conference. No party objected to Sierra Club’s or NVEC’s petitions. The Commission finds that Sierra Club and NVEC have established a substantial interest in this proceeding and that the participation of each will be in the public interest. Accordingly, the Commission grants Sierra Club’s and NVEC’s petitions.
- 5 **DISCOVERY.** Discovery will be conducted according to this Order, the procedural schedule attached to this Order as Appendix B, the Protective Order, and the Commission’s discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively to avoid having to bring discovery matters forward for formal resolution.

² In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners or presiding officer make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

6 The Parties are instructed to provide each data request to all Parties at the time it is propounded and each data request response at the time it is served on the requestor. This ensures timely notice to all parties of all discovery and helps to avoid duplicative discovery.

7 **PROCEDURAL SCHEDULE.** The parties provided an agreed proposed procedural schedule. NWEC reviewed and agreed to the proposed procedural schedule during the prehearing conference. The proposed schedule indicated an agreement that the evidentiary hearing be held in mid-January 2023. After discussion, the Commission determined that the evidentiary hearing should be set for **Thursday, January 19, 2023, beginning at 9:30 a.m.** The proposed schedule indicates an agreement by the parties to file written post-hearing legal briefs. No date is included. The Commission gives notice that the parties must submit to the Commission the date agreed for post-hearing legal briefs, or indicating the parties' inability to reach an agreement, by **5 p.m. on Wednesday, September 14, 2022.** With these modifications, the Commission adopts the Parties' proposed procedural schedule and attaches it to this Order as Appendix B.

8 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other prefiled materials in compliance with all of the following requirements:

(a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files. Documents that include information designated as confidential must comply with the requirements in WAC 480-07-160 and the Protective Order in this docket.

(b) The Commission accepts only electronic versions of documents for formal filing. The Commission requires electronic copies to be in searchable .pdf format (adobe acrobat or comparable software), or to otherwise comply with WAC 480-07-140(6)(a). Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov provided the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).

(c) Documents filed with the Commission must conform to the formatting and other requirements in WAC 480-07-395 and WAC 480-07-460 and must comply with the requirements in WAC 480-07-160 and the Protective Order in this docket for documents that include information designated as confidential.

(d) Parties must electronically serve the other parties **and provide courtesy electronic copies of filings to Judge O’Connell** (andrew.j.oconnell@utc.wa.gov) **by 5 p.m.** on the filing deadline unless the Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive, only.

9 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on January 12, 2023**. The Commission requires electronic copies in searchable .pdf (adobe acrobat or comparable software). The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits.

10 **EXHIBIT LISTS.** With each submission of prefiled testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for exhibit lists it prepares for evidentiary hearings. Each party must file and serve a final list of all exhibits the party intends to introduce into the evidentiary record, including all prefiled testimony and exhibits, as well as cross-examination exhibits by **5 p.m. on January 12, 2023**.

11 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge (andrew.j.oconnell@utc.wa.gov) and the other parties by **5 p.m. on January 12, 2023**.

12 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold a virtual evidentiary hearing in this docket via Zoom beginning on **January 19, 2023, at 9:30 a.m.** To participate by phone, call (253) 215 8782 and enter the Conference ID: 856 7559 5945# and use passcode 413518#. To participate via Zoom, use the following link: [Click here to join the meeting.](#)

13 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider other means of

resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (rayne.pearson@utc.wa.gov or 360-664-1136).

14 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in these dockets, subject to Commission review.**

DATED at Lacey, Washington, and effective September 8, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*

ANDREW J. O'CONNELL
Administrative Law Judge

**APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET UE-220216**

PARTY	REPRESENTATIVE	PHONE	E-MAIL
PacifiCorp	Zachary Rogala Pacific Power & Light Company 825 NE Multnomah St., Suite 1800 Portland, OR 97232	(435) 319-5010	zachary.rogala@pacificorp.com
	Ariel Son	(503) 813-5410	
	Data Request Response Center PacifiCorp 825 NE Multnomah Street, Suite 2000 Portland, OR 97232		datarequest@pacificorp.com
	Washington Dockets		washingtondockets@pacificorp.com
Commission Staff	Nash Callaghan Assistant Attorney General Office of the Attorney General Utilities and Transportation Division P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1187	nash.callaghan@utc.wa.gov
	Jeanne Roth		jeanne.roth@utc.wa.gov
	Betsy DeMarco		betsy.demarco@utc.wa.gov

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Public Counsel	Ann N.H. Paisner Assistant Attorney General Washington Attorney General's Office Public Counsel Unit 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	(206) 521-3211	ann.paisner@atg.wa.gov
	Lisa W. Gafken	(206) 464-6595	lisa.gafken@atg.wa.gov
	Nina M. Suetake	(206) 464-6451	nina.suetake@atg.wa.gov
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	Brice Hartman		brice.hartman@atg.wa.gov
	Chanda Mak		chanda.mak@atg.wa.gov
	Public Counsel E-Filing		PCCSeaEF@atg.wa.gov
AWEC	Tyler C. Pepple Davison Van Cleve, P.C. 1750 SW Harbor Way, Suite 450 Portland, OR 97201	(503) 241-7242	tcp@dvclaw.com
	Sommer J. Moser Davison Van Cleve, P.C. 1750 SW Harbor Way, Suite 450 Portland, OR 97201		sjm@dvclaw.com
	Jesse O. Gorsuch		jog@dvclaw.com

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Sierra Club	Rose Monahan Staff Attorney Sierra Club Environmental Law Program 2101 Webster Street, Suite 1300 Oakland, CA 94612	(415) 977-5704	rose.monahan@sierraclub.org
	Jim Dennison Associate Attorney Sierra Club Environmental Law Program 1650 38th Street, Suite 102W Boulder, CO 80301	(435) 232-5784	jim.dennison@sierraclub.org
	Maddie Lipscomb		maddie.lipscomb@sierraclub.org
NWECC	Lauren McCloy NW Energy Coalition 811 First Avenue, Suite 305 Seattle, WA 98104		lauren@nwenergy.org
	Charlee Thompson		charlee@nwenergy.org
All Email Addresses	Zachary.Rogala@pacificorp.com ; datarequest@pacificorp.com ; washingtondockets@pacificorp.com ; nash.callaghan@utc.wa.gov ; jeanne.roth@utc.wa.gov ; betsy.demarco@utc.wa.gov ; ann.paisner@atg.wa.gov ; lisa.gafken@atg.wa.gov ; nina.suetake@atg.wa.gov ; stephanie.chase@atg.wa.gov ; thomas.johnson@atg.wa.gov ; brice.hartman@atg.wa.gov ; chanda.mak@atg.wa.gov ; PCCSeaEF@atg.wa.gov ; tcp@dvclaw.com ; sjm@dvclaw.com ; jog@dvclaw.com ; rose.monahan@sierraclub.org ; Jim.dennison@sierraclub.org ; maddie.lipscomb@sierraclub.org ; lauren@nwenergy.org ; charlee@nwenergy.org ;		

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UE-220376**

EVENT	DATE
Submission of Agreed Date for Post-Hearing Briefs	September 15, 2022
First Settlement Conference	September 15, 2022
Staff Initial Testimony and Exhibits	October 21, 2022
Second Settlement Conference	October 28, 2022
Response and Intervenor Testimony and Exhibits	November 28, 2022
Staff Rebuttal and Cross-Answering Testimony and Exhibits	December 19, 2022
Discovery Deadline – Last Day to Issue Data Requests	January 5, 2023
Exhibits List, Cross-Examination Exhibits, Witnesses List, Time Estimates, Exhibits Errata	January 12, 2023
Evidentiary Hearing	January 19, 2023