

ISSUED: October 1, 2024

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2345

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Continual Progress towards HB 2021
Compliance.

RULING

DISPOSITION: PHASED SCHEDULE ADOPTED

On September 20, 2024, I held a prehearing conference in this matter. Representatives appeared from PacifiCorp, dba Pacific Power, the Commission Staff, Citizens' Utility Board (CUB), Columbia River Inter-Tribal Fish Commission (CRITFC), Sierra Club and Green Energy Institute (GEI), NW Energy Coalition, NewSun Energy LLC, Northwest & Intermountain Power Producers Coalition (NIPPC), Alliance of Western Energy Consumers (AWEC), and Renewable Northwest.

After discussion, the parties were unable to agree on a procedural schedule and offered two competing proposals. PacifiCorp proposes that the Commission begin with an initial phase to address the agency's authority to direct a resource procurement. The company presents a list of legal questions for the parties to address through briefing and oral argument, with a Commission decision by January 31, 2024. AWEC supports PacifiCorp's proposal.

Staff recommends the Commission commence with a full contested case process to timely address all factual policy, and legal issues. Staff offers a proposed schedule that includes settlement conferences, three rounds of testimony, hearing, legal briefing, and a Commission decision by December 30, 2024. NWEC, Sierra Club and GEI, Renewable Northwest, CRITFC, and CUB support Staff's proposal.

RULING

After consideration and consultation with the Commissioners, I adopt a phased schedule to address threshold legal issues in this proceeding. Although I recognize that time is of the essence, I conclude that it is more efficient to address legal questions first instead of requiring the parties to present testimony and evidence prior to any clarification of Commission authority.

As the Commission clarified in Order No. 24-297, the purpose of this docket is to establish a scope and timeline to adjudicate our Commission’s authority to “order PacifiCorp to issue an RFP, establish a date certain by which PacifiCorp must issue an RFP to market, and address the volume and nature of resources PacifiCorp seeks in the RFP.” This Commission has previously held that resource planning and procurement decisions are reserved for the utility.¹ Prior to this docket, the Commission has addressed neither the agency’s legal authority to order a utility to undertake any phase of a procurement action, nor the legal implication of such a decision.

I adopt the following expedited schedule to resolve threshold legal questions:

EVENT	DATE
Initial Concurrent Brief	November 13, 2024
Concurrent Response Brief	December 11, 2024
Oral Argument	9:30am on January 16, 2025
Target Date for Commission Decision	February 12, 2025

In briefs, the parties should address the following issues:

1. Does the Commission have the legal authority to order PacifiCorp to take one or more of the following actions:
 - a. issue an Oregon-focused RFP
 - b. review bids received in an Oregon-focused RFP, and
 - c. procure resources identified through an Oregon-focused RFP?
2. What legally sound options exist for the Commission to ensure reliable energy supply and continual progress toward HB 2021 requirements in the event of utility inaction?
3. If the Commission directs PacifiCorp to issue and conduct an RFP, or to procure resources, what are the implications of such decisions on:
 - a. The Commission’s competitive bidding rules and process?
 - b. 1Future Commission ratemaking decisions related to the resource?
 - c. Allocation of costs under PacifiCorp’s Multi-State Protocol?

Dated: October 1, 2024



Michael Grant
Administrative Law Judge

¹ See, for example, *In the Matter of the investigation into Least-Cost Planning for Resource Acquisitions by Energy Utilities in Oregon*, Docket No. UM 180, Order No. 89-507 (Apr. 20, 1989).