Service Date: October 25, 2023

**BEFORE THE WASHINGTON
UTLITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION Complainant, v. PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY Respondent,	DOCKET UE-210829 ORDER 06 FINAL ORDER APPROVING AND ADOPTING SETTLEMENT AGREEMENT; APPROVING CEIP SUBJECT TO CONDITIONS

BACKGROUND

1 Revised Code of Washington (RCW) 19.405, Washington's Clean Energy Transformation Act (CETA), and Washington Administrative Code (WAC) 480-100-640(1) direct electric investor-owned utilities to develop a clean energy implementation plan (CEIP or Plan) every four years. The passage of CETA during the 2019 Washington Legislative Session requires that CEIPs be informed by both a utility's clean energy action plan and its long-term integrated resource plan.[1]

2 On November 1, 2021, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed a Draft CEIP with the Commission. That same day, PacifiCorp filed a Petition for Exemption from WAC 480-100-605 (Petition), which requires that the "alternative lowest cost and reasonably available portfolio" include the social cost of greenhouse gases (SCGHG) "in the resource acquisition decision."

3 On November 9, 2021, the Commission issued notice that PacifiCorp's Petition would be heard at the Commission's regularly scheduled open meeting on December 9, 2021, and that any written comments must be filed by December 6, 2021. Renewable Northwest, the Public Counsel Unit of the Attorney General's Office (Public Counsel), Earthjustice, NW Energy Coalition (NWEC), Sierra Club, and Commission staff (Staff) submitted written comments by this deadline.

[1] *In re Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act and Amending or Adopting rules relating to WAC 480-100-238, Relating to Integrated Resource Planning*, Dockets UE-191023 & UE-109698 (Consolidated), General Order 601, p. 24, ¶ 59 (Dec. 28, 2020) (General Order R-601).

4 The Commission subsequently heard PacifiCorp's Petition at its December 9, 2021, open meeting. The Commission then entered Order 01, Denying Petition for Exemption (Order 01) on December 13, 2021.

5 On December 30, 2021, PacifiCorp filed a Final CEIP with the Commission.

6 On January 7, 2022, the Commission issued a Notice of Opportunity to File Written Comments, requiring any comments on the Final CEIP to be filed by May 6, 2022.

7 On April 19, 2022, PacifiCorp filed a Revised Errata to the Final CEIP, along with confidential and redacted work papers. PacifiCorp again filed a second errata to the Final CEIP on April 27, 2022.

8 On June 6, 2022, in Docket UE-220376, the Commission issued a Complaint and Notice of Prehearing Conference (Complaint). The Complaint alleged that PacifiCorp violated RCW 19.280.030, WAC 480-100-640, WAC 480-100-660 and Order 01 by failing to properly incorporate the social cost of greenhouse gasses (SCGHG) in the CEIP preferred portfolio and failing to properly reflect the SCGHG in the incremental cost calculation. The Complaint requested that the Commission assess a penalty of at least $730,000 for ongoing violations of statute, rule, and order.

9 On June 27, 2022, Staff filed a Motion to Consolidate, requesting that the Commission consolidate the present docket with Docket UE-220376. The Commission subsequently denied this motion by order dated August 26, 2022.

10 On December 1, 2022, in Docket UE-220376, Staff filed a Motion to Withdraw Complaint (Motion to Withdraw Complaint) and a Settlement Agreement to Withdraw Staff's Complaint. PacifiCorp, Staff, Sierra Club, and NWEC agreed that the Company would file a Revised CEIP in Docket UE-210829. The Company would use the P02-SCGHG portfolio as the basis of the CEIP preferred portfolio and to develop the alternative lowest reasonable cost portfolios in the Revised CEIP. The Revised CEIP would also be subject to a "preclearance" requirement. This agreement was not opposed by AWEC, but it was opposed by Public Counsel.

11 On February 10, 2023, in Docket UE-220376, the Commission entered Order 06, Granting Motion to Withdraw Complaint. This effectively brought the proceedings in Docket UE-220376 to a close.

12 On March 13, 2023, in the present docket, PacifiCorp filed a Revised CEIP (Revised CEIP), as provided by the earlier settlement in Docket UE-220376.

13 On April 27, 2023, The Commission issued a Notice of Prehearing Conference, formally initiating an adjudication in this Docket.

14 By May 2, 2023, Sierra Club, The Energy Project (TEP), NWEC, and AWEC filed petitions to intervene.

15 On May 5, 2023, the Commission held a prehearing conference before administrative law judge Michael Howard.

16 On May 18, 2023, the Commission entered Order 03, Prehearing Conference Order and Notice of Hearing (Order 03). Among other points, Order 03 noticed an evidentiary hearing on February 13, 2024, and February 14, 2024. The Commission granted petitions to intervene filed by Sierra Club, TEP, NWEC, and AWEC.

17 On May 30, 2023, PacifiCorp filed a Motion for Clarification or Review of Order 03, requesting clarification on whether the Company was permitted to update interim targets in its Biennial CEIP update due in November 2023. The Commission construed this motion as a request for administrative review and assigned a different administrative law judge to assist the Commissioners. However, PacifiCorp subsequently withdrew this motion in an email to the administrative law judge assigned to the request for review.

18 On June 6, 2023, PacifiCorp filed a Petition for Exemption from WAC 480-100-650(4)(a)(i), which requires the Company to provide hourly retail sales information in the Company's annual clean energy progress report until they install an Automatic Metering Infrastructure or another similar system. PacifiCorp later filed a Revised Petition for Exemption from WAC 480-100-650(4)(a)(i) on June 9, 2023. The Commission subsequently granted the Company's requested exemption through an open meeting order entered on June 29, 2023.

19 On July 3, 2023, the Company filed its CEIP 2023 Progress Report.

20 On July 7, 2023, the Company filed direct testimony consistent with the procedural schedule set forth in Order 03.

21 On August 21, 2023, counsel for Staff emailed the presiding administrative law judge indicating that the parties, with the exception of AWEC and Public Counsel, had reached a settlement in principle. Staff requested that the Commission suspend the procedural schedule and require the filing of a settlement by September 22, 2023. Public Counsel and AWEC subsequently responded by email to the parties and the presiding administrative law judge indicating that they did not object to proceeding on a paper record.

22 That same day, August 21, 2023, the Commission issued a Notice Suspending Procedural Schedule and Requiring Filing of Settlement Documents by September 22, 2023.

23 On September 22, 2023, PacifiCorp filed a Full Multi-Party Settlement Agreement (Settlement Agreement), joined by the Company, Staff, Public Counsel, NWEC, Sierra Club, and TEP (Settling Parties). The Company submitted that the only party who did not join the Settlement Agreement, AWEC, did not oppose the Settlement Agreement. PacifiCorp filed Joint Settlement Testimony the same day.

24 On September 29, 2023, the Commission convened a public comment hearing. The Commission received comments from a member of the public, who spoke in favor of the Company serving customer load with renewable energy resources.

25 On October 20, 2023, Public Counsel submitted a public comment exhibit, noting a total of 24 comments. Public Counsel notes 19 of the comments were generally opposed to the Company's CEIP, and 5 of the comments were undecided.

26 **REPRESENTATIVES.** Zachary Rogala, in-house counsel, represents PacifiCorp. Nash Callaghan, Jackie Neira, Josephine Strauss, and Liam Weiland, Assistant Attorney Generals, Olympia, Washington, represent Staff.[2] Lisa Gafken, Nina Suetake, and Ann Paisner, Assistant Attorneys Generals, Seattle, Washington, represent Public Counsel. Yochanan Zakai and Ellison Folk, Shute, Mihaly & Weinberger LLP, represent TEP. Lauren McCloy, Policy Director, represents NWEC. Rose Monahan, Staff Attorney, represents Sierra Club. Tyler Pepple and Sommer Moser, Davison Van Cleve, P.C., represent AWEC.

DISCUSSION

27 The Commission approves and adopts the Settlement Agreement, which is not opposed by any party and resolves all outstanding issues in connection with PacifiCorp's Revised CEIP.

28 Pursuant to RCW 19.405.060(1), CEIPs must propose specific and interim targets for meeting CETA's requirements and describe the "specific actions" that the utility will take to meet these clean energy targets. The Commission shall approve, reject, or approve with conditions a CEIP, considering factors such as safety, reliability, lowest reasonable cost, the equitable distribution of benefits, and the reduction of burdens to Vulnerable Populations

[2] In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners 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

and Highly Impacted Communities (Named Communities).[3] WAC 480-100-640 sets forth more detailed requirements for the contents of CEIPs and WAC 480-100-645 provides additional detail as to the Commission's process for reviewing CEIPs.

29 The Commission will approve a settlement "when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission."[4]

30 We approve and adopt the Settlement Agreement. We accordingly approve PacifiCorp's Revised CEIP, including the Revised CEIP's interim targets and specific targets, subject to the conditions set forth in the Settlement Agreement.[5] The Settlement Agreement recognizes, however, that PacifiCorp will update its interim and specific targets in the Biennial Update coming due this November 2023.[6] This settlement is not opposed by any party, and the Commission finds it appropriate to decide this matter on a paper record without the need for a settlement hearing.

31 To begin, the Company filed the Revised CEIP subject to the conditions set forth in Staff's Motion to Withdraw Complaint and the associated settlement in Docket UE-220372. The Commission is not presently deciding any issues raised by the Complaint in Docket UE-220372, which has clearly been withdrawn. But the Company has provided additional explanation in the Revised CEIP as to how it modeled the SCGHG.[7] The Company has appropriately provided a CEIP portfolio and alternative lowest-reasonable cost portfolio that both include the SCGHG carbon price assumption as the base assumption for all portfolios considered in the CEIP and that both reflect Washington-allocated resources. This additional explanation and evidence helps establish that the Settlement Agreement is lawful, supported by an appropriate record, and consistent with the public interest. The Commission is hopeful that the foundational work by the parties in this docket, and in Docket UE-220376, will narrow the scope of disagreement in future proceedings and allow for more efficient resolution of future CEIP filings.

[3] RCW 19.405.060(1)(c). *See also* WAC 480-100-640 (setting forth the requirements for CEIP contents)

[4] WAC 480-07-750(2).

[5] To be clear, the Commission does not set forth any additional conditions on the approval of the Revised CEIP beyond those set forth in the Settlement Agreement.

[6] *E.g.*, Joint Testimony, Exh. JS-1T at 17:5-17.

[7] *See* Joint Testimony, Exh. JS-1T at 6:4-10. *See also* Revised CEIP, App. E, F.

32 The Settlement Agreement continues with an emphasis on transparency and allowing for non-Company parties to understand the Company's detailed modeling.[8] The Settling Parties agree, for example, that the Company will provide paid PLEXOS licenses for Staff to understand and vet the Company's modeling.[9] The Commission placed a similar condition on Puget Sound Energy's (PSE's) CEIP.[10] This focus on transparency appears to be informed, in part, by the allegations raised in the Complaint in Docket UE-220376, and these conditions similarly weigh in favor of approving the Revised CEIP.

33 The Settlement Agreement provides a path forward for PacifiCorp and the non-Company parties on several other issues. Given the timing of the Settlement Agreement, many of these conditions are appropriately focused on the July 2024 Progress Report and the 2025 CEIP filing, instead of requiring a re-filing of the present CEIP or extensive changes in the Biennial Update due in November 2023. For instance, the Settling Parties agree that PacifiCorp will engage with interested parties for up to two workshops "to review and improve the Company's approach to identifying and tracking vulnerable populations."[11] We agree that understanding vulnerability and improving the identification of vulnerable populations requires listening to the voices of those most affected.[12] We commend the Company for adjusting its communication plans, given feedback from its Equity Advisory Group, to help make this possible.[13]

34 Furthermore, the vulnerability factors listed by the Settling Parties recognize the numerous factors contributing to vulnerability, as recognized by RCW 19.405.020(40). The vulnerability factors are also consistent with our guidance that "[t]he information should be reasonably pertinent to issues within the utility's control, and the information should be actionable."[14] PacifiCorp witness Matthew McVee explains that the Company takes a customer-based, rather than a geographic-based, approach, to identifying vulnerable populations.[15] But the Company anticipates that before the 2025 CEIP it will need to

[8] *See* Settlement Agreement, Conditions 17-24 (Transparency Conditions 1-8).

[9] Settlement Agreement, Condition 22.

[10] *In the Matter Puget Sound Energy Clean Energy Implementation Plan*, Docket UE-210795, Order 08 ¶ 93 (June 6, 2023) (PSE CEIP Order).

[11] Settlement Agreement, Condition 16 (CBI Condition 14).

[12] *See* PSE CEIP Order ¶ 146 ("Many of these questions require the incorporation of input from affected communities and those that represent those communities.").

[13] *See* Joint Testimony, Exh. JS-1T at 10:4-16.

[14] *Id.* ¶ 150.

[15] *See id.* at 13:21-15:12.

consider whether it should continue with a census-tract based approach.[16] The Settlement Agreement provides a path forward for dialogue between the Company, the parties, and other interested persons on these complex issues. We therefore conclude that conditions related to identifying vulnerable customers set forth in the Settlement Agreement are consistent with the public interest.

35 Overall, we commend the Settling Parties for working collaboratively to improve PacifiCorp's CEIP and subsequent CEIP filings with additional, robust conditions that will benefit all customers, and, importantly, will help ensure the equitable distribution of benefits from the transition to clean energy for members of Highly Impacted Communities and Vulnerable Populations. We particularly note PacifiCorp's extensive engagement with the Washington Equity Advisory Group, Demand-Side Management Advisory Group, Low-Income Advisory Committee and the Company's customers, and encourage the Company to continue its collaborative process for future CETA compliance planning.[17] We also recognize that the Settling Parties have provided testimony and evidence on several important issues, such as Customer Benefit Indicators, which we do not address at length in this Order.[18] After reviewing the Settlement Agreement resolving the issues in this case, we conclude that it is lawful, supported by an appropriate record, and consistent with the public interest. Accordingly, we approve PacifiCorp's CEIP subject to the conditions in the Settlement Agreement.

FINDINGS AND CONCLUSIONS

36 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.

37 (2) PacifiCorp is an electric company and a public service company subject to Commission jurisdiction.

[16] *Id.*

[17] *E.g.*, Joint Testimony, Exh. JS-1T at 3:5-8 (noting the Company's engagement with advisory groups and customers).

[18] *E.g.*, *id.* at 20:15-21 (providing testimony from Staff witness Molly Brewer regarding the need for more granular evaluation of the impacts on named communities), 25:7-19 (providing testimony from NWEC witness Lauren McCloy on the benefits of the CBI report card).

38 (3) PacifiCorp is subject to RCW 19.405.060, which requires investor-owned electric companies to file CEIPs with the Commission every four years beginning January 1, 2022.

39 (4) Pursuant to RCW 19.405.060(1)(c), the Commission must approve an investor-owned utility's CEIP, reject the CEIP, or approve the CEIP subject to conditions. The Commission may require more stringent targets than those proposed by the investor-owned utility.

40 (5) On March 13, 2023, PacifiCorp filed its Revised 2021 Final Clean Energy Implementation Plan.

41 (6) On September 22, 2023, the Settling Parties filed a Full Multi-Party Settlement Agreement resolving all contested issues and recommending approval of the Revised CEIP subject to 50 agreed conditions.

42 (6) The conditions proposed in the Settlement Agreement are supported by the record and consistent with the public interest.

43 (7) The Commission should approve the Revised CEIP's interim targets, including its 2025 interim target of supplying 60 percent of Washington retail load with renewable and non-emitting energy.

44 (8) The Revised CEIP is consistent with the public interest and should be approved subject to the conditions set out in the Settlement Agreement.

ORDER

THE COMMISSION ORDERS:

45 (1) The Full Multi-Party Settlement Agreement filed by PacifiCorp d/b/a Pacific Power & Light Company on behalf of Commission Staff, NW Energy Coalition, Sierra Club, The Energy Project, and the Public Counsel Unit of the Washington State Office of the Attorney General, and attached to this Order as Appendix A, is approved and adopted.

46 (2) PacifiCorp b/d/a Pacific Power & Light Company's Revised Clean Energy Implementation Plan meets the requirements of RCW 19.405.060 and WAC 480-100-640 and should be approved subject to the conditions set out in Appendix A to this Order.

47 (3) The Commission retains jurisdiction over the subject matter and PacifiCorp d/b/a Pacific Power & Light Company to effectuate the provisions of this Order.

Dated at Lacey, Washington, and effective October 25, 2023

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner

APPENDIX A

MULTIPARTY SETTLEMENT AGREEMENT