

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

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

2023 Power Cost Adjustment
Mechanism Annual Report

DOCKET UE-240461

PUBLIC COUNSEL’S MOTION
FOR CLARIFICATION ON ORDER
02, FINAL ORDER APPROVING
AND ADOPTING SETTLEMENT
AGREEMENT

I. INTRODUCTION

I. Pursuant to WAC 480-07-835, the Public Counsel Unit of the Washington State Attorney General’s Office (Public Counsel) requests that the Washington Utilities and Transportation Commission (Commission) clarify Final Order 02 issued January 1, 2025. Public Counsel is not seeking to change the outcome of Final Order 02, which approves the Settlement. Rather, Public Counsel seeks clarification of an apparent inconsistency raised by paragraphs 40 and 46. Paragraph 40 indicates the Commission approved the settlement agreement because it “sufficiently adopted the resolutions of Docket UE-230482[.]”¹ Paragraph 46 states that Dr. Robert Earle’s analysis of specific Washington Inter-Jurisdictional Allocation Methodology (WIJAM) balancing transactions would be “inconsistent with Order 07 in [Docket UE-230482].”² The issues raised by Dr. Earle, however, were not discussed in the prior Power Cost Adjustment Mechanism order and these two paragraphs are inconsistent. Accordingly, Public Counsel requests the Commission amend its Final Order 02 to resolve this inconsistency by stating that it approved the present settlement agreement solely because it complied with the Final Order 07 issued in the 2022 PCAM docket.

¹ Docket UE-240461, Order 02, ¶ 40.

² *Id.* ¶ 46.

II. BACKGROUND

2. PacifiCorp's 2022 PCAM deferral balance was heavily contested, with the Company seeking \$71.5 million in power cost recovery. The non-company parties in that docket contested PacifiCorp's recovery for two principal reasons: its resource allocation and procurement and its systemwide hedging strategy. On October 30, 2024, the Commission resolved these issues in PacifiCorp's favor, finding that the Company prudently applied the WIJAM and applied prudent hedging practices.³ The Commission's findings on those issues are dispositive of the current PCAM docket.

3. Dr. Earle submitted a declaration reiterating his concern—as well as the Commission's—concern about these points. Dr. Earle's declaration also raised new concerns about the specific transactions used to balance the WIJAM for the purpose of the 2023 deferral balance. First, Dr. Earle raises the concern that PacifiCorp likely overpaid for power delivered in 2023. [REDACTED]

[REDACTED]

[REDACTED]⁴ Next,

PacifiCorp [REDACTED]

[REDACTED]

[REDACTED]⁵ These transactions violate the cost causation principle the Commission has long applied. Dr. Earle's declaration also raises concerns about transactions PacifiCorp did not include in its balancing adjustment, namely Washington eligible power purchase agreements.⁶

These are entirely new issues that are unique to this docket. The Commission did not address this

³ *In re PacifiCorp 2022 Power Cost Adjustment Mechanism Annual Report*, Docket UE-230482, Order 07, ¶¶ 111, 121 (Oct. 30, 2024) (hereinafter *Docket UE-230482*).

⁴ Public Counsel, Earle Declaration, ¶ 20 (filed Jan. 24, 2025).

⁵ *Id.* ¶ 22.

⁶ *Id.* ¶ 23.

issue in its October 2024 Order 07 on the prior year’s PCAM balance.

III. LEGAL STANDARD AND ARGUMENT

4. “Any party may request that the commission clarify a final order by filing a motion for clarification. . . . The purpose of such a motion is to ensure that the parties know their rights and responsibilities under the final order.”⁷ A party may bring a motion for clarification to resolve inconsistencies in the Commission's final order.⁸

5. There is an apparent inconsistency in Final Order 02 concerning the Commission’s treatment of Dr. Earle’s declaration and its rationale for approving the Settlement Agreement. These inconsistencies are found in paragraphs 40 and 46.

6. Paragraph 40 of Final Order 02 states the fundamental reason the Commission approved the Settlement Agreement. The Commission approved the Agreement because it “sufficiently adopted the resolutions of Docket UE-230482[,]” i.e., prudent application of the WIJAM and prudent hedging practices.⁹ These were directly addressed in the Commission’s 2022 PCAM Order, and the Commission relied on these findings when it entered Order 07. The Commission also directly addressed Dr. Earle’s concerns over situs resources and long-term planning in Order 07. Although the Commission concluded PacifiCorp had adequately managed its resources for the purposes of the 2022 PCAM, it expressed serious concern about PacifiCorp’s long-term resource procurement practices, writing that PacifiCorp “should have built and should in the future build Washington situs resources . . . to address exposure to wholesale market volatility[.]”¹⁰

⁷ WAC 480-07-835(1).

⁸ WAC 480-07-835(1)(b).

⁹ *Docket UE-230482*, Order 07, ¶¶ 111, 121.

¹⁰ *Id.* ¶ 135.

7. The Commission did **not** examine the actual transactions used to balance the WIJAM in the earlier proceeding and did not do so in this proceeding. Paragraph 46, however, suggests that it did. The Order 07 states, “Earle’s suggested repricing or reallocation of costs under the PCAM would be inconsistent with Order 07 in Docket UE-[230482] and allocation methodology under the WIJAM[.]”¹¹ Yet, the Commission continues, “the Settlement makes adjustments as adopted in Order 07, and we find it reasonable and in the public interest[.]” The Commission is clear throughout Final Order 02 that it approved PacifiCorp’s 2023 PCAM because it complied with Order 07 in the prior docket and because the settlement is reasonable and in the public interest.¹² The Commission did not address specific transaction pricing issues in Docket UE-230482, but Final Order 02 suggests that it did.

8. Public Counsel requests the Commission confirm that it approves the Settlement in this docket solely because it complies with Order 07 in Docket UE-230482. Although the Commission approved the Settlement Agreement in light of the previous PCAM docket, it did so without the benefit of a complete analysis of the WIJAM balancing transactions. The parties were not able to cross examine witnesses and the Commission did not issue any bench requests examining the data Dr. Earle presented. As currently written, the Commission’s order suggests that it has nevertheless decided the issues presented in Dr. Earle’s declaration.

9. The issues presented in Dr. Earle’s declaration are ripe for consideration in future proceedings. The Commission has directed PacifiCorp to “justify the continued application of the WIJAM and provide an alternative for cost allocation more beneficial to Washington

¹¹ *Docket UE-230482* Order 07, ¶ 46.

¹² *Id.*

ratepayers.”¹³ PacifiCorp will likely bring a Power Cost Only Rate Case this year and this issue should be resolved in that docket. To facilitate that resolution, the Commission’s Order should not suggest it entered a decision based on the transaction data in Dr. Earle’s declaration and workpapers.

IV. CONCLUSION

10. For the foregoing reasons, Public Counsel respectfully requests the Commission amend its order to clarify its decision was based on the Settlement Agreement’s compliance with Order 07 in Docket UE-230482. This will enable the issue of the specific transactions used to balance the WIJAM for resolution in a future rate case.

DATED this 7th day of February 2025.

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¹³ *Id.* ¶ 148.