

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

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

Petitioner,

2023 Power Cost Adjustment
Mechanism Annual Report

DOCKET UE-240461

ORDER 03

GRANTING MOTION FOR
CLARIFICATION IN PART,
DENYING IN PART

MEMORANDUM

- 1 ***Synopsis:** The Commission grants Public Counsel’s Motion for Clarification in part and denies the Motion for Clarification in part. The Commission finds that additional clarification on the basis for decision in Order 02 is appropriate to clarify that Public Counsel and other parties are not precluded from raising perceived issues with individual transactions in future power costs proceedings, but the Commission does not find a need to amend the language of Order 02 for the reasons herein.*

BACKGROUND

- 2 On May 26, 2015, the Washington Utilities and Transportation Commission (Commission) issued Order 09 in Docket UE-140762 (Order 09). Order 09 approved and adopted a full Settlement Agreement that, among other things, authorized PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company)¹ to implement a Power Cost Adjustment Mechanism (PCAM) allowing for positive or negative adjustments to its rates to account for fluctuations in power costs outside of an authorized band for power-

¹ In 2019, PacifiCorp changed its business name with the Commission from “Pacific Power & Light Company” to “PacifiCorp d/b/a Pacific Power & Light Company.” See Pacific Power & Light Company’s Request to Change Name to PacifiCorp, Docket UE-191004 (December 5, 2019).

cost recovery in base rates. PacifiCorp is required to file a request for the Commission to confirm and approve the deferred PCAM balance for the previous calendar year by June 1 of each year.²

3 **PROCEDURAL HISTORY.** On June 14, 2024, PacifiCorp filed testimony, exhibits, and supporting documentation related to power costs deferred under the PCAM for the period January 1, 2023, through December 31, 2023. The proposed revised tariff sheets sought total net power cost variance recovery with interest of \$84.5 million³ representing a 20 percent bill increase to all Schedule 97 affected ratepayers and a PTC variance recovery of \$1.2 million representing a 17.7 percent bill increase or \$23.57 per month for the average residential ratepayer under Schedules 16, 17, and 19.

4 This matter came before the Commission at its regularly scheduled open meeting on September 26, 2024.

5 Commission staff (Staff) reviewed the 2023 PCAM Report and submitted through a memorandum filed in the docket prior to a regularly scheduled Open Meeting, that it contains sufficient narrative testimonies and workbooks.⁴ However, because PacifiCorp's 2022 PCAM filing was adjudicated, and the parties were awaiting a final order from the Commission, Staff recommended the Commission suspend the matter for adjudication.⁵

6 On September 27, 2024, following the Open Meeting, the Commission issued Order 01, which suspended PacifiCorp's 2023 PCAM filing and set the matter for adjudication.

7 On October 30, 2024, the Commission issued Order 07 in Docket UE-230482 approving PacifiCorp's 2022 PCAM.⁶ On December 17, 2024, Staff contacted the Commission on behalf of the parties and indicated that PacifiCorp, Alliance of Western Energy Consumers (AWEC), and Staff (the Settling Parties) had reached a settlement in principle and requested that the procedural schedule be suspended, the parties be given until December 27, 2024, and that the Commission issue a decision on the paper record.

² Settlement Stipulation in Docket UE-140762 at ¶ 19 (May 8, 2015) (Settlement Stipulation).

³ All million-dollar figures (\$MM) described in this memorandum are rounded approximates.

⁴ *In re PacifiCorp d/b/a Pacific Power & Light Company 2022 Power Cost Adjustment Mechanism Annual Report*, Docket UE-240461, Open Meeting Memo for the September 26, 2024 Open Meeting (Sep. 26, 2024) (hereinafter PacifiCorp 2023 PCAM Annual Report).

⁵ PacifiCorp 2023 PCAM Annual Report, Docket UE-240461, Order 01 at ¶ 5 (Sep. 27, 2024).

⁶ *See, In re PacifiCorp d/b/a Pacific Power & Light Company 2022 Power Cost Adjustment Mechanism Annual Report*, Docket UE-230482, Order 07 at ¶¶ 17-19 (Oct. 30, 2024).

- 8 On December 20, 2024, PacifiCorp and AWEC filed a Settlement Stipulation (Settlement) and Joint Testimony in support of the Settlement. On the same day, Staff filed Testimony in support of the Settlement.
- 9 On January 24, 2025, the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel) submitted a declaration of witness Dr. Earle, along with associated workpapers. While Dr. Earle does not explicitly recommend the Commission reject the Settlement, he strongly argues that Washington-allocated PCAM costs should be reduced and reasserts many of the points made in the 2022 PCAM proceeding.
- 10 On January 28, 2025, the Commission issued Order 02 Approving and Adopting Settlement Agreement in this Docket.
- 11 On February 7, 2025, Public Counsel filed a Motion for Clarification (Motion) in this Docket.
- 12 **PARTY REPRESENTATIVES.** Daniel J. Teimouri and Ajay Kumar of PacifiCorp represent PacifiCorp. Jeff Roberson and Josephine Strauss, Assistant Attorneys General, Olympia, Washington, represent Staff.⁷ Tad Robison O'Neill, Jessica Johanson-Kubin, and Robert Sykes, Assistant Attorneys General, Seattle, Washington, represent Public Counsel. Tyler Pebble and Sommer Moser of Davison Van Cleve, PC, represent AWEC.
- 13 **COMMISSION DETERMINATIONS.** The Commission grants Public Counsel's Motion for Clarification in part and denies the Motion for Clarification in part. The Commission finds that additional clarification on the basis for decision in Order 02 is appropriate but does not find a need to amend the language of Order 02 for the reasons discussed below.

STANDARD OF REVIEW

- 14 Pursuant to Washington Administrative Code (WAC) 480-07-835(1), any party may seek clarification of a final order. An appropriate motion for clarification requests that the Commission modify the final order or take other action to clarify the meaning of the final order, make technical changes, or correct errors.⁸

⁷ 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

⁸ WAC 480-07-835(1).

MOTION FOR CLARIFICATION

- 15 Public Counsel requests that the Commission amend Order 02 to resolve what Public Counsel argues is an inconsistency between paragraphs 40 and 46 of the order.⁹
- 16 Public Counsel argues that the underlying inconsistency stems from Dr. Earle’s declaration, which reiterated concerns present in the 2022 PCAM in Docket UE-230482 but also raised “new concerns about the specific transactions used to balance the WIJAM for the purpose of the 2023 deferral balance.”¹⁰
- 17 Specifically, Dr. Earle raised concerns about PacifiCorp overpaying for power in 2023 and broadly engaging in transactions violating the cost causation principles.¹¹ Further, Dr. Earle’s declaration raised concerns about the transactions for Washington eligible power purchase agreements not included in PacifiCorp’s balancing adjustment.¹²
- 18 With this context, Public Counsel notes paragraph 40 of Order 02 states the Commission approved the Agreement because it “sufficiently adopted the resolutions of Docket UE-230482.”¹³ Public Counsel further argues that paragraph 46 incorrectly suggests that the Commission examined actual transactions used to balance the WIJAM in stating, “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[.]”¹⁴
- 19 To correct this perceived error, Public Counsel requests the Commission confirm that it approved the Settlement in this Docket on the basis that it complied with Order 07 in Docket UE-230482 and to clarify that the Commission did not review and completely assess WIJAM balancing transactions.¹⁵ No party sought leave to respond to Public Counsel’s Motion.

⁹ Public Counsel’s Pet. for Clarification, at ¶ 1.

¹⁰ Public Counsel’s Pet. for Clarification, at ¶ 3.

¹¹ Public Counsel’s Pet. for Clarification, at ¶ 4.

¹² Public Counsel’s Pet. for Clarification, at ¶ 4.

¹³ Public Counsel’s Pet. for Clarification, at ¶ 6, *citing* Order 02, ¶ 40.

¹⁴ Public Counsel’s Pet. for Clarification, at ¶ 7, *citing* Order 02, ¶ 46.

¹⁵ Public Counsel’s Pet. for Clarification, at ¶ 8.

Commission Determination.

- 20 The Commission grants Public Counsel’s Motion in part and finds the Motion sufficiently raises a point requiring clarification to ensure the parties know their rights and responsibilities under Order 02.¹⁶
- 21 Specifically, we find that clarification is required to preserve the right of Public Counsel and others to make arguments and assess individual transactions in future power cost proceedings involving PacifiCorp.
- 22 To that end, the Commission clarifies that paragraph 46 was not intended to comment on individual transactions and the Commission did not fully evaluate individual transactions in reaching its decision to approve the Settlement in Order 02. Rather, the Commission reached its decision on the basis that the Settlement complied with the requirements and directions set forth in Order 07 in Docket UE-230482, and the discussion in paragraph 46 was and remains intended to comment on the current state of the WIJAM and how power costs are allocated. This is clear when one reads the remainder of the sentence with which Public Counsel takes issue, where the Commission states that the issues raised by Dr. Earle are “another data point supporting the need for PacifiCorp to propose a new allocation methodology as required in Order 07.”¹⁷
- 23 To eliminate ambiguity, Order 02 is not based on and does not preclude parties from addressing perceived issues with individual transactions in future proceedings. However, the Commission does not agree that the language of Order 02 needs to be amended to address Public Counsel’s concerns. Accordingly, we find Public Counsel’s Motion should be granted to provide further clarity to avoid issue preclusion in future proceedings but denied as to Public Counsel’s request to amend the language of Order 02.

FINDINGS OF FACT

- 24 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the Parties and the reasons therefore, the Commission now makes the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

¹⁶ WAC 480-07-835(1).

¹⁷ Order 02, at ¶ 46.

- 25 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric and natural gas companies.
- 26 (2) PacifiCorp is a “public service company” and an “electrical company,” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. PacifiCorp provides electric utility service to customers in Washington.
- 27 (3) Public Counsel filed a Motion for Clarification on February 7, 2025, requesting the Commission clarify its basis for approving the Settlement in this Docket, particularly as it pertains to language contained in Order 02.
- 28 (4) In approving the Settlement in Order 02, the Commission did not evaluate individual transactions, and its basis for approving the Settlement was not based on a review of individual transactions.
- 29 (5) The language in paragraph 46 does not preclude further evaluation of individual transactions related to PacifiCorp’s power costs in future proceedings.

CONCLUSIONS OF LAW

30 Having discussed above all matters material to this decision, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 31 (1) The Commission has jurisdiction over the subject matter of, and Parties to, this proceeding.
- 32 (2) PacifiCorp is an electric company and a public service company subject to Commission jurisdiction.
- 33 (3) WAC 480-07-835(1) allows any party to seek clarification of a final order and provides that an appropriate motion for clarification requests that the Commission modify the final order or take other action to clarify the meaning of the final order, make technical changes, or correct errors.
- 34 (4) The Commission’s basis for approving the Settlement in Order 02 of this Docket was because the Settlement complied with the requirements and directions of Order 07 in Docket UE-230482 and not based on a full review of individual transactions.

- 35 (5) Parties are not precluded from making arguments regarding perceived issues
related to individual transactions in future PacifiCorp power cost proceedings.
- 36 (6) The Commission should clarify that its decision in Order 02, paragraph 46, does
not purport to support a reading that the Commission reviewed individual
transactions in reaching its decision.
- 37 (7) The Commission should decline Public Counsel's request to amend the language
of Order 02 for the reasons set forth in this Order.

ORDER

THE COMMISSION ORDERS:

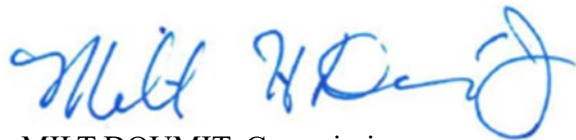
- 38 (1) Public Counsel's Motion for Clarification is GRANTED in part and DENIED in
part.
- 39 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective March 5, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ANN E. RENDAHL, Commissioner



MILT DOUMIT, Commissioner

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to
judicial review, administrative relief may be available through a petition for
reconsideration filed within 10 days of the service of this order pursuant to RCW
34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW
80.04.200 or RCW 81.04.200 and WAC 480-07-870.**