

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

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

Respondent.

DOCKET UE-250086

ORDER 03

REFUNDING UNINVESTED
CAPITAL TO RATEPAYERS FOR
FOOTE CREEK II-IV

BACKGROUND

- 1 On March 19, 2024, the Washington Utilities and Transportation Commission (Commission) issued Order 08/06 in Consolidated Dockets UE-230172 and UE-210852 in the PacifiCorp d/b/a/ Pacific Power and Light Company (PacifiCorp or Company) 2023 general rate case. Order 08/06 approved a settlement stipulation and required the Company to file an annual provisional capital review report (Report). Order 08/06 required the Company to include in the Report information about all plant placed into service subject to refund for a given rate year.
- 2 Order 08/06 required the Company to file its Report for the investment period of January 1, 2023, through December 31, 2023, by July 15, 2024.¹ On July 15, 2024, PacifiCorp filed its annual provisional capital review report in Docket UE-250086.
- 3 Commission staff (Staff) reviewed the compliance filings and issued informal data requests. Staff met with the Company and parties to discuss the Company's investments in the Foote Creek II-IV wind project.
- 4 Staff raises concerns about PacifiCorp's treatment of Foote Creek II-IV in the Report. Namely, Staff has concerns that PacifiCorp improperly included investments in Foote Creek II-IV with other capital investments when determining whether it must refund

¹ *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power and Light Company*, Dockets UE-230172 & UE-210852, (Consolidated) Order 08/06 (March 19, 2024).

provisionally collected rates. Staff's concerns are based on the language of Order 08/06, which excludes new wind resources from provisional capital reviews.² However, Order 08/06 included that new wind resources, along with other larger projects including Gateway South and Gateway West would be tracked separately and included in the Report, and that PacifiCorp would refund "all amounts for plant not placed in service by the forecasted date, regardless of the Company's earnings."³

5 PacifiCorp contends that although Foote Creek came in under budget, PacifiCorp put into service more capital rate base than customers in Washington are currently paying for through rates.⁴ Accordingly, PacifiCorp argues that although one project came in slightly below budget, there should be no refund under the Capital Review on balance, and that ordering a refund for one larger project that came in under budget disincentivizes managing costs and achieving savings.⁵ Staff, concedes that provisional capital for 2023 included in rates is \$79.3 million, while actual plant placed in service is \$85.5 million, but maintains the plain language of the Settlement and Order is that amounts collected and unspent for Foote Creek II-IV as a new wind resource are refundable.

6 This matter came before the Commission during its regularly scheduled February 28, 2025, Open Meeting. At the Open Meeting Staff reiterated its concerns with PacifiCorp's treatment of Foote Creek II-IV. PacifiCorp reiterated its position and argued ordering a refund in this instance would discourage cost savings. The Commission also heard comments from Public Counsel, AWEC, and The Energy Project (TEP), who support requiring PacifiCorp to refund Foote Creek II-IV savings to customers.

DISCUSSION

7 In determining whether a refund is due, we look to the plain language of the Settlement and Order 08/06. Order 08/06 states:

The Settling Parties agree that the annual provisional pro-forma capital reviews

² *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power and Light Company*, Dockets UE-230172 & UE-210852, (Consolidated) Order 08/06 at ¶ 244 (March 19, 2024).

³ *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power and Light Company*, Dockets UE-230172 & UE-210852, (Consolidated) Order 08/06 Attachment A Settlement Stipulation at ¶¶ 29-30 (March 19, 2024).

⁴ Staff's Memorandum, at pg. 3, *quoting* PacifiCorp Response to Informal Data Request 14.

⁵ *Id.* at pgs. 3-4.

will be performed at the portfolio level except for Gateway South, Gateway West, and new wind resources. . . .⁶

Next, the settlement stipulation states:

The Parties agree that the annual provisional pro-forma capital reviews will be performed at the portfolio level, with the exception of Gateway South, Gateway West, and new wind resources. However, the review of the costs of these projects will be included in the same provisional pro-forma review filing.⁷

Further the Settlement Stipulation states:

The Parties agree to the following structure for the earnings test and provisional pro-forma capital review:

- a. PacifiCorp will make a filing to initiate the provisional pro-forma capital review proceeding, which will determine if any refund is necessary through that process (Capital Review Refund). For the avoidance of doubt, PacifiCorp will refund all amounts for plant not placed in service by the forecasted date, regardless of the Company's earnings.⁸

8 In the Report, the Company identified approximately \$6.5 million investment included provisionally in rates for the Foote Creek II-IV project during the 2023 investment period, while the actual investment costs in service are \$6.0 million, for a variance of (\$484,165). The estimated revenue requirement differential for this investment is approximately \$64,000. The Company did not provide a refund when it filed its Report. Given the plain reading of the Settlement, Gateway South, Gateway West, and new wind resources are excluded from the *portfolio level* provisional pro-forma capital review. However, they are to be included in the Report. Further, PacifiCorp agreed to refund any amount of plant not placed in service by the forecasted date, regardless of earnings.

⁶ *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power and Light Company*, Dockets UE-230172 & UE-210852, (Consolidated) Order 08/06 at ¶ 244 (March 19, 2024).

⁷ *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power and Light Company*, Dockets UE-230172 & UE-210852, (Consolidated) Order 08/06 Attachment A Settlement Stipulation at ¶ 29 (March 19, 2024).

⁸ *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power and Light Company*, Dockets UE-230172 & UE-210852, (Consolidated) Order 08/06 Attachment A Settlement Stipulation at ¶ 30 (March 19, 2024).

9 Taking these provisions together, we agree with Staff, and find that Gateway South, Gateway West, and new wind projects are required to be included in the Report, and as such are subject to refund if costs fall under budget, but because of the size of these projects, they are excluded from portfolio review, or said differently, reviewed individually. Accordingly, PacifiCorp is required to refund approximately \$64,000 in provisional rates collected from ratepayers for the Foote Creek II-IV new wind project.

FINDINGS OF FACT

- 10 (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.
- 11 (2) PacifiCorp d/b/a/ Pacific Power and Light Company is an electric company and a public service company subject to Commission jurisdiction under RCW 80.04.010.
- 12 (3) Staff reviewed the Company's Annual Provisional Capital Review Report filed in Docket UE-250086 on July 15, 2024.
- 13 (4) This matter came before the Commission at its regularly scheduled meeting on February 28, 2025.
- 14 (5) Based upon Order 08/06 in Consolidated Dockets UE-230172 and UE-210852, the Company's Annual Provisional Capital Review Report filed in Docket UE-250086 on July 15, 2024, informal data requests and Staff meetings with the Company, new wind projects are evaluated separately from the portfolio.

CONCLUSIONS OF LAW

- 15 (1) WAC 480-07-885 permits the Commission's supplemental filing for review of the Company's 2023 Provisional Capital Review Report filed in Docket 250086 on July 15, 2024.
- 16 (2) The Commission agrees with Staff's interpretation of Order 08/06 and the Settlement and the under budget amount calculated in paragraph 6 of this order for Foote Creek II-IV is subject to refund based upon the plain language of Order 08/06 and Attachment A.
- 17 (3) An Order requiring the Company to refund approximately \$64,000 in provisional rates collected from rate payers for the investment period of January 1, 2023, through December 31, 2023, for the Foote Creek II-IV new wind project is fair, just and reasonable under RCW 80.28.010(1).

ORDER

THE COMMISSION ORDERS:

- 18 (1) PacifiCorp d/b/a/ Pacific Power and Light Company shall refund the revenue requirement differential for investment period January 1, 2023 through December 31, 2023, for the Foote Creek II-IV project to rate payers.
- 19 (2) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it. Nor shall this Order granting Refund be construed as an agreement to any estimate or determination of costs, or any valuation of property claimed or asserted.
- 20 (3) The Commission retains jurisdiction over the subject matter and PacifiCorp d/b/a/ Pacific Power and Light Company to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective February 28, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner