

**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-230172 <i>(Consolidated)</i> ORDER 04
In the Matter of ALLIANCE OF WESTERN ENERGY CONSUMERS’ Petition for Order Approving Deferral of Increased Fly Ash Revenues	DOCKET UE-210852 <i>(Consolidated)</i> ORDER 02 GRANTING REQUESTS FOR CASE CERTIFICATION

BACKGROUND

- 1 On April 19, 2023, PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-76. The purpose of the filing is to increase rates and charges for electric service provided to customers in the state of Washington.
- 2 On May 17, 2023, the Commission convened a virtual prehearing conference, and on May 25, 2023, entered Order 03/01, Prehearing Conference Order; Order Consolidating Dockets; and Notice of Hearing.
- 3 On April 4, 2023, the Alliance of Western Energy Consumers (AWEC) filed a Request for Case Certification and Notice of Intent to Seek Fund Grant, citing Sections 5.2.1 and 6.2 of the Extended Participatory Funding Interim Agreement (Extended Interim Agreement). AWEC submits that this is an “Eligible Proceeding” within the meaning of

the Extended Interim Agreement; that it is a non-profit organization representing “broad customer interests”; that it is eligible for participatory funding; and that its participation will not unduly delay the proceeding.

4 On May 12, 2023, the NW Energy Coalition (NWECC) filed a Request for Case Certification and Notice of Intent to Request a Fund Grant. NWECC cites Sections 5.2.1 and 6.2 of the Extended Interim Agreement. NWECC also submits this is an “Eligible Proceeding” and that it is a non-profit organization that represents “broad customer interests.” NWECC states that it is eligible for participatory funding and that its participation will not unduly delay this proceeding.

5 On May 16, 2023, The Energy Project (TEP) filed a Request for Case Certification and Notice of Intent to Request a Fund Grant. TEP submits that this proceeding is an “Eligible Proceeding” under the Extended Interim Agreement. Citing Sections 5.2.1 and 6.2 of the Interim Agreement, TEP requests case certification. TEP submits that it is a non-profit organization; that it represents “broad customer interests,” including thousands of low-income customers; and that TEP has a history of effective representation in regulatory proceedings over the last two decades. TEP submits that it is the only party focusing solely on the interests of low-income customers and that its participation will not unduly delay the proceeding.

DISCUSSION

6 We grant AWECC’s, NWECC’s, and TEP’s requests for case certification.

7 Pursuant to RCW 80.28.430, utilities must enter into funding agreements with organizations that represent broad customer interests. The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility’s rates; and other matters necessary to administer the agreement.¹

8 On November 19, 2021, the Commission issued a Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement).² The Commission provided “high-level guidance regarding the amount of financial assistance that may be provided to organizations, the manner in which it is distributed to participants and recovered in the

¹ RCW 80.28.430(2).

² *In the Matter of the Commission’s Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595 (Nov. 19, 2021) (hereinafter, Policy Statement).

rates of gas or electrical companies, and other matters necessary to administer agreements.”³

- 9 On February 24, 2022, the Commission approved an interim participatory funding agreement (Interim Agreement) subject to certain modifications.⁴ Among other points, the Commission clarified that it is not bound by the timeframes set forth in the Interim Agreement.⁵ On February 9, 2023, the Commission approved an Extended Interim Agreement, subject to conditions, which extended the Interim Agreement for two additional years.⁶
- 10 In relevant part, Section 5.2 of the Extended Interim Agreement provides that the Commission will case-certify an organization that (1) is not a for-profit or governmental entity, (2) represents “broad customer interests,” (3) demonstrates it is able to “effectively represent the particular customers it seeks to represent,” (4) demonstrates that no other case-certified stakeholder adequately represents these interests or that the proceeding will benefit from the organization’s participation, and (5) establishes that it will not unduly delay the proceeding.⁷
- 11 This proceeding is PacifiCorp’s 2023 general rate case. The Commission has already suspended this matter for adjudication. It is therefore a “regulatory proceeding” within the meaning of the statute, which is appropriate for participatory funding.⁸ We address each Request for Case Certification and Notice of Intent to Seek Funding below.
- 12 **AWEC.** AWEC is a nonprofit organization that represents broad customer interests. RCW 80.28.430(1) provides that organizations representing “broad customer interests” includes organizations representing “industrial” customers. In its Policy Statement, the Commission recognized certain “incumbent” organizations that a history of representing these customer interests before the Commission and specifically referred to AWEC.⁹

³ *Id.* ¶ 3.

⁴ *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595, Order 01 (Feb. 24, 2022).

⁵ *E.g., id.*

⁶ Docket U-210595, Order 02 (Feb. 9, 2023).

⁷ Extended Interim Agreement § 5.2.

⁸ *See* Policy Statement ¶ 33 (interpreting the term “regulatory proceeding” broadly). *See also* Interim Agreement § 1(c) (defining “Eligible Proceeding”).

⁹ Policy Statement ¶ 18.

- 13 AWEC demonstrates that it can effectively represent the particular customers it seeks to represent. AWEC routinely appears before the Commission, participates in settlements, and offers testimony at evidentiary hearings without causing undue delays. We agree that the public interest is served by AWEC's participation and that no other party adequately represents the interests of industrial customers. We therefore grant AWEC's Request for Case Certification.
- 14 We also find that AWEC has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PacifiCorp's Customer Representation Sub-Fund. Pursuant to Section 6.5 of the Interim Agreement, however, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets.
- 15 **NWEC.** NWEC is a nonprofit organization that represents broad customer interests. NWEC has appeared before the Commission on numerous occasions. NWEC demonstrates that it can effectively represent the particular customers it seeks to represent. NWEC routinely appears before the Commission without causing undue delays. We agree that the public interest is served by NWEC's participation. We therefore grant NWEC's Request for Case Certification. We also find that NWEC has properly filed a Notice of Intent to seek funding, stating that the organization intends to seek funds from PacifiCorp's Customer Representation Sub-Fund.
- 16 Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any funding proposals until after the deadline for submitting proposed budgets.
- 17 **TEP.** TEP is a nonprofit organization that represents broad customer interests. RCW 80.28.430(1) provides that organizations representing "broad customer interests" includes organizations representing "low-income" customers. In its Policy Statement, the Commission recognized certain "incumbent" organizations that have a history of representing these customer interests before the Commission and specifically referred to TEP.¹⁰
- 18 TEP also demonstrates that it can effectively represent the particular customers it seeks to represent. TEP routinely appears before the Commission, participates in settlements, and offers testimony at evidentiary hearings without causing undue delays. We agree that the public interest is served by TEP's participation and that TEP establishes it will not unduly delay the proceeding. We therefore grant TEP's Request for Case Certification.

¹⁰ Policy Statement ¶ 18.

19 We also find that TEP has properly filed a Notice of Intent to seek funding, stating that
the organization intends to seek funds from PacifiCorp's Customer Representation Sub-
Fund of the Consumer Access Fund.

20 Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any
funding proposals until after the deadline for submitting proposed budgets.

ORDER

THE COMMISSION ORDERS:

- 21 (1) The Alliance of Western Energy Consumers' Request for Case Certification is
GRANTED.
- 22 (2) The NW Energy Coalition's Request for Case Certification is GRANTED.
- 23 (3) The Energy Project's Request for Case Certification is GRANTED.

DATED at Lacey, Washington, and effective May 25, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Rayne Pearson
RAYNE PEARSON
Administrative Law Judge

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission.
Administrative review may be available through a petition for review, filed within
10 days of the service of this Order pursuant to WAC 480-07-810.**