

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY, Respondent.	DOCKET UE-230172 and UE-210852 <i>(Consolidated)</i> ORDER 09
In the Matter of ALLIANCE OF WESTERN ENERGY CONSUMERS' Petition for Order Approving Deferral of Increased Fly Ash Revenues	ORDER 07 GRANTING MOTION FOR CLARIFICATION; GRANTING MOTION FOR LEAVE TO REPLY; GRANTING LEAVE TO RESPOND

- 1 On March 19, 2024, the Washington Utilities and Transportation Commission (Commission) issued Final Order 08/06, Rejecting Tariff Sheets; Approving Settlement Subject to Conditions; Requiring Compliance Filing (Final Order 08/06). The Commission approved and adopted a partial multiparty settlement, subject to limited conditions, which resolved the majority of the litigated issues in the general rate case filed by PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company). The Commission also ruled on the issues pertaining to forecasted net power costs (NPC) and the Company's Power Cost Adjustment Mechanism (PCAM), which were not included in the Settlement.
- 2 On March 27, 2024, AWEC filed a Motion for Clarification of Final Order 08/06 (Motion for Clarification). AWEC requests clarification on an issue the Commission did not directly address in Final Order 08/06. The issue relates to the process whereby PacifiCorp must remove Jim Bridger Units 3 and 4 and Colstrip Unit 4 from rates to comply with the

Clean Energy Transformation Act's (CETA) mandate that requires coal-fired resources to be removed from Washington rates before January 1, 2026.¹

- 3 AWEC seeks to clarify whether PacifiCorp must file a power-cost-only rate case (PCORC) to update its net power costs to remove Jim Bridger Units 3 and 4 and Colstrip Unit 4 from rates effective January 1, 2026.² AWEC argues that currently Final Order 08/06 is unclear on the process the Company must use to update its NPC to meet CETA requirements, which was a contested issue in the proceeding.³
- 4 AWEC argues that AWEC and Staff raised concerns regarding PacifiCorp's proposal to provide a single limited update to NPC for rates effective January 1, 2026, in October 2025 because of the "substantial impact that removing these resources will have on Washington rates and other changes that will have occurred that could offset these impacts."⁴ AWEC also states that AWEC and Staff recommended that PacifiCorp be required to file a PCORC on or before April 1, 2025, to properly address NPC for rates effective January 1, 2026.⁵ AWEC argues that PacifiCorp has failed to respond to AWEC and Staff's PCORC proposal and thus believes that PacifiCorp will move forward with providing a single limited NPC update in October 2025 to remove only Jim Bridger Units 3 and 4 and Colstrip Unit 4 from rates as specified in its proposal.⁶ AWEC also notes that its Motion for Clarification is supported by Staff.⁷
- 5 On April 1, 2024, PacifiCorp submitted a Motion for Leave to File a Response to AWEC's Motion for Clarification (Motion for Leave to Respond), with a proposed response included as Attachment 1 (Response). PacifiCorp requests the Commission allow the Company to remove coal costs from Washington rates either through a PCORC as requested by AWEC or other means including but not limited to a NPC update or a petition to amend the multi-year rate plan approved in Order 08/06.⁸ PacifiCorp agrees with AWEC that a PCORC is a possible process to remove coal-fired resources from rates, but notes there are other processes that are available such as filing an NPC update in October 2025 or filing a new general rate case for a multi-year rate plan (MYRP) with

¹ AWEC Motion for Clarification ¶ 1.

² *Id.* at ¶ 10.

³ *Id.* at ¶ 10-11.

⁴ *Id.* at ¶ 10-11.

⁵ *Id.* at ¶ 10-11.

⁶ *Id.* at ¶ 10-11.

⁷ *Id.* at ¶ 1.

⁸ PacifiCorp's Response to AWEC's Motion for Clarification ¶ 1.

rates effective January 1, 2026.⁹ PacifiCorp submits that coal-fired resources provide economic benefits to its customers, and when these resources are removed from Washington rates, PacifiCorp's NPC will increase. Thus, PacifiCorp is likely to modify its future resource allocations to Washington customers.¹⁰ PacifiCorp also asserts that a PCORC might not be an appropriate tool to mitigate impacts to customers because of uncertainty and the potential cost increases that can arise due to the removal of coal-fired resources from Washington rates.¹¹

6 PacifiCorp also addresses AWEC's request for the Commission to provide a process for removing coal fired resources from its rates.¹² PacifiCorp highlights that the Commission has authority to amend the MYRP if required in the future pursuant to RCW 80.04.210.¹³ However, PacifiCorp argues that it is appropriate that the Company have flexibility to amend its MYRP to a future date because the MYRP process should work alongside with the Company's obligations under CETA.¹⁴ PacifiCorp recommends the Commission to amend PacifiCorp's MYRP by allowing the Company to file a new MYRP to remove coal-fired sources from Washington rates before the end of the MYRP term that the Commission recently approved.¹⁵

7 On April 4, 2024, AWEC submitted a Motion for Leave to Reply and a proposed Reply to PacifiCorp's Response to AWEC's Motion for Clarification included as Attachment 1. First, AWEC argues that PacifiCorp's Response exceeds the scope of the Motion for Clarification, because the Company offers new facts and legal argument, including the Company's proposal for filing a new MYRP.¹⁶

8 Second, AWEC argues that neither PacifiCorp nor any other party argued in the earlier phase of this proceeding that the Commission should "leave open" the pathway for the Company's compliance to meet CETA requirements. AWEC argues that PacifiCorp's

⁹ *Id.* at ¶ 7.

¹⁰ *Id.* at ¶ 8.

¹¹ *Id.* at ¶ 9.

¹² *Id.* at ¶ 13.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ AWEC Motion for Leave to Reply ¶ 5.

proposal is therefore unsupported by the record, contrary to the approved Settlement Stipulation, and would be detrimental to Washington customers.¹⁷

- 9 Lastly, AWEC argues that the Commission should not make a determination about its authority to amend PacifiCorp's MYRP within the context of clarification of its Final Order 08/06.¹⁸ AWEC also notes that Staff supports AWEC's Motion for Clarification and Reply to PacifiCorp's Response.¹⁹

DISCUSSION

- 10 **PacifiCorp's Motion for Leave to File a Response.** We grant PacifiCorp's Motion for Leave to Respond, and we consider the Company's Response in this Order. Pursuant to Washington Administrative Code (WAC) 480-07-835(3), no party may respond to a motion for clarification unless the Commission requests a response. The Commission did not request a response to AWEC's Motion for Clarification. Under the circumstances, though, we find it appropriate to grant PacifiCorp an exemption from this rule.²⁰ Granting PacifiCorp's Motion for Leave will not further delay the resolution of the Motion for Clarification. It is also appropriate to consider PacifiCorp's position on this material issue.

- 11 **AWEC's Motion for Leave to Reply.** We grant AWEC's Motion for Leave to Reply, and we consider AWEC's Reply in this Order. WAC 480-07-370(5)(a) provides that "[a] party must not file a reply without permission from the commission, which the commission will grant only upon a showing of good cause." Granting AWEC's Motion for Leave to Reply will not further delay the resolution of the Motion for Clarification. It is also appropriate to consider the Reply given AWEC's concerns that the Company is providing a new position on the process for removing coal from rates.

- 12 **AWEC's Motion for Clarification.** We grant AWEC's Motion for Clarification. Pursuant to 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

¹⁷ *Id.* at ¶ 8.

¹⁸ *Id.* at ¶ 7.

¹⁹ *Id.* at ¶ 1.

²⁰ Pursuant to WAC 480-07-110, the Commission may, in response to a request or on its own motion, grant an exemption from its own rules when "consistent with the public interest, the purposes underlying regulation, and applicable statutes."

or take other action to clarify the meaning of the final order, make technical changes, or correct errors.²¹

- 13 AWEC requests clarification of Final Order 08/06, which does not directly address the process that PacifiCorp should use to remove Jim Bridger Units 3 and 4 and Colstrip Unit 4 from Washington rates to meet the CETA requirement that coal resources must be removed from Washington before January 1, 2026. AWEC recommends that PacifiCorp file a PCORC by April 1, 2025, with a rate effective date of January 1, 2026.²² Staff also made the same recommendation to PacifiCorp in its post-hearing brief.²³ AWEC submits that PacifiCorp has failed to respond substantially to AWEC and Staff's proposals, at least until the Company filed its Response to the Motion for Clarification.²⁴
- 14 The Commission agrees with AWEC that PacifiCorp should be required to file a PCORC by April 1, 2025, with a rate effective date of January 1, 2026, to remove coal-fired resources from rates. As AWEC witness Mullins explains, removing coal-fired resources from rates is likely to have a significant effect on NPC, and it would be appropriate to consider other revenue-requirement elements that may offset increases to NPC.²⁵ A simple NPC update, however, would not provide a sufficient opportunity for the parties or the Commission to consider these issues.
- 15 While the Company has raised the possibility of amending its MYRP for a shorter term, we decline to comment on this suggestion until properly presented with the issue.

ORDER

THE COMMISSION ORDERS:

- 16 (1) The Motion for Clarification filed by the Alliance of Western Energy Consumers is GRANTED and Final Order 08/06 is clarified as set forth in paragraphs 14-15 of this Order.
- 17 (2) The Request for Leave to Respond filed by PacifiCorp d/b/a Pacific Power & Light Company is GRANTED.

²¹ WAC 480-07-835(1).

²² AWEC Motion for Clarification ¶ 5.

²³ *Id.* at ¶ 8.

²⁴ *See id.* at ¶ 11.

²⁵ Mullins, Exh. BGM-1T at 22:7-23:9.

- 18 (3) The Motion for Leave to Reply filed by Alliance of Western Energy Consumers is GRANTED.

Dated at Lacey, Washington, and effective May 16, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner