

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of	DOCKET UE-210829
PACIFICORP D/B/A PACIFIC POWER & LIGHT COMPANY'S	ORDER 03
Revised Clean Energy Implementation Plan	PREHEARING CONFERENCE ORDER; NOTICE OF HEARING (Evidentiary Hearing set for February 13, 2024, and February 14, 2024, at 9 a.m.)

1 **BACKGROUND.** On March 13, 2023, the PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed a Revised Clean Energy Implementation Plan (Revised CEIP). PacifiCorp noted that it updated the Revised CEIP consistent with Order 06 in Docket UE-220376. On March 16, 2023, Commission staff (Staff) filed a letter in this Docket. Staff submits that the Revised CEIP complies with the terms of the agreement reached in Docket UE-220376, and requested that the Commission schedule a prehearing conference in this proceeding.

2 On April 27, 2023, the Commission issued a Notice of Prehearing Conference, setting a prehearing conference in the Company's CEIP proceeding for May 5, 2023.

3 **CONFERENCE.** The Commission convened a virtual prehearing conference on May 5, 2023, before Administrative Law Judge Michael Howard.

4 **APPEARANCES.** Zachary Rogala, Senior Attorney, represents PacifiCorp. Nash Callaghan, Assistant Attorney General, Lacey, Washington, represents Commission staff (Staff).¹ Ann Paisner, Lisa W. Gafken, and Nina Suetake, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Unit of the Attorney General's Office (Public Counsel). Tyler C. Pepple, and Sommer J. Moser, of Davison Van Cleve, P.C., Portland, Oregon, represent the Alliance of Western Energy Consumers (AWEC).

¹ 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.

Yochanan Zakai and Ellison Folk, of Shute, Mihaly & Weinberger LLP, represent The Energy Project. Rose Monahan, Attorney, represents Sierra Club. Lauren McCloy, Policy Director, and Charlee Thompson represent NW Energy Coalition (NVEC). Contact information for the representatives of those granted party status is attached as Appendix A to this Order.

5 **PETITIONS TO INTERVENE.** AWEC, The Energy Project, NVEC, and Sierra Club timely filed petitions to intervene.

6 Absent objections to the petitions to intervene filed by AWEC, The Energy Project, NVEC, and Sierra Club, the Commission finds that these petitioners have established a substantial interest in this proceeding and that their participation will be in the public interest. Accordingly, the Commission grants those petitions.

7 **PROTECTIVE ORDER.** No party indicated an objection to the Commission entering a protective order in this docket. The Commission has entered a standard protective order in this Docket with provisions for the protection of confidential information.

8 **DISCOVERY.** Discovery will be conducted under the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution. Response times to data requests will be adjusted as set forth in Appendix B.

9 The Parties agree to certain discovery practices that will facilitate the sharing of all data requests and responses with all Parties as well as the tracking and organizing of those data requests and responses.

10 First, the Parties agree to identify each data request by subject (1) above each data request, (2) in the cover letter, and (3) in the distribution email. Data requests propounded in a single set will be grouped by subject in the cover letter and distribution email. The Parties will cooperate to develop a uniform list of subjects to facilitate discovery tracking. These discovery tracking processes are not intended to limit or restrict discovery in any way.

11 Second, response times to data requests will be adjusted as set forth in Appendix B.

12 Third, the Commission believes it will aid discovery in this case if all responses to data requests are shared with all parties. No party objected to the Commission making the exchange of data request responses with all parties a requirement for discovery in this case. Accordingly, the Commission requires each party to share its data request responses

with all other parties, subject to any confidentiality limitations contained in Commission rule and the protective order issued in this Docket. To be clear, parties must not share data requests and responses with the Commissioners, the presiding administrative law judge, or Commission policy advisors, unless those responses are offered as exhibits to be admitted into the record.

- 13 **PROCEDURAL SCHEDULE.** Prior to the prehearing conference, the presiding administrative law judge emailed the statutory parties and likely intervenors, asking the parties and likely intervenors to consider either an expedited schedule or a schedule modeled on recent proceeding for Puget Sound Energy's CEIP in Docket UE-210795.
- 14 On May 4, 2023, counsel for Staff emailed the presiding administrative law judge, the statutory parties, and likely intervenors indicating that PacifiCorp may seek to update its Interim Targets in the CEIP. The Revised CEIP provides an Interim Target for supplying 60 percent of retail sales with renewable resources by 2025, but the Company may seek to update this Interim Target to reflect a lower target of 33 percent, as set forth in the Company's Integrated Resource Plan (IRP) Progress Report. Counsel for Staff discussed whether the procedural schedule in this Docket should allow for such an update and indicated a preference for not allowing such an update.
- 15 On May 5, 2023, counsel for PacifiCorp emailed the presiding administrative law judge, the statutory parties, and likely intervenors proposing a schedule that included three rounds of prefiled testimony, a discretionary settlement hearing occurring on September 29, 2023, and an evidentiary hearing occurring in November 2023.
- 16 At the prehearing conference, the presiding administrative law judge considered the parties' positions on the proposed schedule, and whether the procedural schedule should allow for the Company to update the Revised CEIP to reflect substantially lower Interim Targets.
- 17 With respect to the schedule, PacifiCorp indicated no objection to holding an evidentiary hearing in January 2024. PacifiCorp and other parties raised concerns that the evidentiary hearing in the Company's general rate case would likely be set for December 2023 and that any conflicts with the general rate case hearing should be avoided. The parties otherwise largely supported the Company's proposed schedule, with the exception of settlement conference dates that may be moved by mutual agreement among the parties.
- 18 With respect to the possibility of updating the Company's CEIP to reflect lower Interim Targets, the parties indicated preferences but no specific objections to either updating or not updating the Revised CEIP. PacifiCorp submitted that the Interim Targets are a

discrete issue, but otherwise could provide relatively little detail about the scope of an update to the Revised CEIP. Staff and NWEC indicated a preference to not update the Revised CEIP's Interim Targets. Public Counsel, AWEC, and Sierra Club indicated preferences for updating the Revised CEIP's Interim Targets. The parties also discussed the issue of whether PacifiCorp may seek an exemption from the requirement for its Biennial Update.

19 After considering all of the circumstances and the parties' comments, we adopt PacifiCorp's proposed procedural schedule with certain modifications. Pursuant to RCW 80.28.425(9), the Commission should align the timing of its review of the Company's CEIP and multi-year rate plan to the extent practical.² However, the Commission has observed that "in the beginning the CEIP will involve a new and significant process and document, one that the utilities have never prepared, and that stakeholders, and this Commission have never reviewed."³ We agree with PacifiCorp and the parties that it is appropriate to adopt a procedural schedule that largely follows the example of Puget Sound Energy's CEIP proceeding in Docket UE-210795, but seeks to avoid conflict with PacifiCorp's pending general rate case. PacifiCorp and the other parties did not indicate any objection to holding an evidentiary hearing in January 2024. In order to avoid having the Commissioners and their policy advisors work over the winter holidays, we have further adjusted this proposal to reflect an evidentiary hearing held in February 2024. We recognize that this results in a longer amount of time between the filing of rebuttal testimony and the hearing, but we have sought to avoid conflicts with PacifiCorp's pending general rate case, and we have maintained the discretionary settlement hearing in September 2023 in the hopes that this proceeding may be suitable for settlement and an earlier disposition.

20 We have carefully considered the issue of whether the procedural schedule should provide for an update to the Revised CEIP's Interim Targets. There is no simple answer to this question. After considering all of the parties' comments, we conclude that the schedule should *not* include an update to the Revised CEIP's Interim Targets. Updating the Interim Target for 2025 from 60 percent to 33 percent would likely have significant implications for the CEIP's specific actions and its analysis of how specific actions may impact named communities, among other issues. There would be concerns with adopting

² See RCW 80.28.425(9).

³ *In the Matter of Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act*, Dockets UE-191023 & UE-190698 (Consolidated), General Order 601 ¶ 25 (General Order 601) (Dec. 28, 2020).

any schedule that would suggest that Interim Targets may be updated to such a significant extent in isolation from other aspects of the CEIP.

- 21 We are also concerned that updating the Revised CEIP’s Interim Targets may require significant additional discovery and tend to hinder any possible settlement in this Docket. The public interest would generally appear to favor reviewing the Revised CEIP in its present form and encouraging a more timely resolution through alternative dispute resolution. For these reasons, we decline to include a deadline for an update or errata to the Revised CEIP.
- 22 We also decline to include a deadline for a “cross-walk” in this proceeding. This deadline was included in the Puget Sound Energy CEIP proceeding in Docket UE-210795 due to the timing of the final order in that Company’s general rate case. The same issue is not presented here.
- 23 Finally, we provide for a deadline for errata sheets. Under WAC 480-07-460(1)(b), a deadline for filing errata sheets to exhibits may be established in the prehearing conference order. In the prehearing conference, no party objected to setting the errata filing deadline for one week prior to the evidentiary hearing. The Commission therefore adopts the procedural schedule in Appendix B.
- 24 **INTERVENOR FUNDING.** On February 24, 2022, the Commission issued Order 01, Approving Agreement with Modifications.⁴ The Commission approved the Interim Agreement filed by the parties on February 23, 2022, subject to certain modifications, and adopted the Interim Agreement as Appendix A to the Order.
- 25 On February 9, 2023, the Commission entered Order 02, Approving Agreement Subject to Condition, Requiring Refiling of Modified Agreement.⁵ The Commission approved the Revised Agreement submitted by the parties, subject to conditions not at issue here.⁶
- 26 As relevant here, the Revised Agreement carried forward the same requirements for requests for payments of fund grants.⁷ It also makes clear that “[e]ligible expenses” may

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

⁵ *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 02 (February 9, 2023).

⁶ *Id.* ¶ 20.

⁷ Revised Agreement § 7.1.

include costs for eligible proceedings incurred prior to the approval of the Revised Agreement.⁸

27 We have provided deadlines following the prehearing conference for parties that wish to seek intervenor funding in this proceeding. The Commission has extended the deadlines proposed by the parties for requests for case certification and notices of intent to seek funding by one week each. The Commission also recognizes that “eligible expenses” may include costs incurred prior to the approval of the Revised Agreement. These deadlines are set forth in Appendix B to this Order.

28 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other pre-filed materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.
- (b) The Commission accepts only electronic versions of documents for formal filing. Parties must submit documents electronically through the Commission’s web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov, provided that the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).
- (c) In light of the COVID-19 pandemic, the Commission is suspending requirements for paper filings in this case for all submissions dating after the Company’s initial testimony.
- (d) Documents filed with the Commission must conform to the formatting and other requirements in WAC 480-07-395 and WAC 480-07-460, and must comply with the requirements in WAC 480-07-160 and the Protective Order

⁸ Revised Agreement § 7.3. *See also* Interim Agreement § 9.3 (providing that the Commission will require a participating utility to pay eligible expenses incurred under an approved fund grant that was awarded before the date of the termination of the Interim Agreement).

in this docket for documents that include information designated as confidential.

- (e) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (michael.howard@utc.wa.gov) by 5 p.m. on the filing deadline unless the Commission orders otherwise. Pursuant to WAC 480-07-365(2)(c), all electronic documents submitted to the Commission must also be delivered to all parties and the presiding administrative law judge “at the same time” that the documents are submitted to the Commission or shortly thereafter. Please note as well that failing to provide a courtesy copy to the presiding administrative law judge may result in a delayed ruling on a motion or other filing. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.
- (f) Attorneys, non-attorney representatives, and witnesses are welcome to include their pronouns in filings or oral testimony if they so choose. The Commission does not assume any person’s pronouns and will use they/them/theirs for witnesses and representatives who do not provide their pronouns.

29 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on February 6, 2024**. The Commission requires electronic copies in searchable PDF (Adobe Acrobat or comparable software). If any of the exhibits contain information designated as confidential, parties must file an electronic copy of the redacted version in searchable PDF (Adobe Acrobat or comparable software) of each such exhibit. The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits.

30 **EXHIBIT LISTS.** With each submission of pre-filed testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for exhibit lists it prepares for evidentiary hearings. The Company will prepare and file its preliminary exhibit list for its direct testimony in this docket. Each party must file and serve a final list of all exhibits the party intends to introduce into the evidentiary record, including all pre-filed testimony and exhibits, as well as cross-examination exhibits by **5 p.m., February 6, 2024**.

31 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to

the administrative law judge (michael.howard@utc.wa.gov) and the other parties by **5 p.m., February 6, 2024.**

32 **PUBLIC COMMENT HEARING.** Consistent with the procedural schedule adopted as Appendix B to this Order, the Commission will hold a public comment hearing in this docket prior to the hearing on the final disposition of this case. The exact date of the public comment hearing is to be determined. The Commission agrees that conducting a virtual public comment hearing is in the public interest and will therefore convene a public comment hearing on or before February 13, 2024. PacifiCorp customers will receive notice of the date, time, and address of each public comment hearing, as well as other information required under WAC 480-90-197 and WAC 480-100-197, at least 30 days prior to the date of the relevant public comment hearing.

33 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold a virtual evidentiary hearing in these dockets via Zoom on **February 13, 2024, at 9 a.m. and, if necessary, continuing on February 14, 2024.** To participate by phone, call (253) 215 8782 and enter the Conference ID: 897 4979 6467 # and use passcode 256742 #. To participate via Zoom, use the following link: [Click here to join the meeting.](#)

34 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. If the Parties reach a settlement in principle and request suspension of the procedural schedule, the Parties should promptly inform the Commission of this agreement. The Commission has indicated a discretionary settlement hearing date on September 29, 2023. If the Commission is presented with a settlement, the Commission may still decline to proceed with the discretionary settlement hearing depending on various factors, such as the timing of the settlement's filing, the number of parties joining the settlement, and other factors. Ideally, settlement among the parties would arise sooner rather than later during these proceedings, thus resulting in a Commission determination at a much earlier stage.

35 Parties are also encouraged to consider other means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. Any party that wishes to explore these services should contact Rayne Pearson, Director, Administrative Law Division (360-664-1136).

36 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of this Order, in the upper right-hand corner. Absent such objection,**

this Order will control further proceedings in this docket, subject to Commission review.

Dated at Lacey, Washington, and effective May 18, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard
MICHAEL S. HOWARD
Administrative Law Judge

**APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET UE-210829**

PARTY	REPRESENTATIVE	PHONE	E-MAIL
PacifiCorp	Zachary Rogala Senior Attorney PacifiCorp 825 NE Multnomah Street, Suite 2000 Portland, OR 97232	(435) 319-5010	zachary.rogala@pacificorp.com
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Alliance of Western Energy Consumers	Tyler C. Pepple Davison Van Cleve, P.C. 1750 SW Harbor Way, Suite 450 Portland, OR 97201	(503) 241-7242	tcp@dvclaw.com
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NW Energy Coalition	Lauren McCloy NW Energy Coalition 811 First Avenue, Suite 305 Seattle, WA 98104	(509) 210-3581	lauren@nwenergy.org
	Charlee Thompson	(618) 315-7775	charlee@nwenergy.org

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKETS UE-210829**

EVENT	DATE
Prehearing Conference	May 5, 2023
Intervenor funding Case Certification/Notice of Intent to Seek Funding	May 26, 2023
Intervenor Funding Proposed Budgets	June 9, 2023
Non-Company Parties Settlement Discussion	July 6, 2023
First Settlement Conference	July 7, 2023¹
PacifiCorp Testimony	July 7, 2023
Non-Company Parties Second Settlement Discussion	August 1, 2023
Second Settlement Conference	August 2, 2023
Staff, Public Counsel, and Intervenor Response Testimony and Exhibits	September 8, 2023²
Notice Issued for Public Comment Hearing	To be determined (“TBD”) – at least 30 days before the Public Comment Hearing
Public Comment Hearing	TBD – based on Commissioner availability
Discretionary Settlement Hearing	September 29, 2023³

¹ *Id.*

² Response time to data requests will be seven business days as of this date.

³ If the Commission is presented with a settlement, the Commission will exercise its discretion in deciding whether to proceed with this September 2023 Settlement Hearing based on various factors, such as the timing of the settlement’s filing, whether the settlement resolves some or all of the issues in the case, and the number of parties joining the settlement.

PacifiCorp Rebuttal Testimony and Exhibits; Staff, Public Counsel, and Intervenor Cross-Answering Testimony and Exhibits	October 6, 2023⁴
Discovery Deadline - Last Day to Issue Data Requests	October 20, 2023
Exhibit List, Cross-Examination Exhibits, Witness Lists, Time Estimates, Exhibits Errata	February 6, 2024
Evidentiary Hearing	February 13, 2024, beginning at 9:00 am, and continuing as necessary to February 14, 2024
Post-hearing briefing	March 14, 2024

⁴ Response time to data requests will be five business days as of this date.