

Docket No. UE-210829 - Vol. I

**In the Matter of: Pacificorp (Revised Clean Energy
Implementation Plan)**

May 5, 2023



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of |
|
PACIFICORP d/b/a PACIFIC POWER |
& LIGHT COMPANY'S | DOCKET UE-210829
|
Revised Clean Energy |
Implementation Plan |

VERBATIM REPORT OF PROCEEDINGS
OF
PREHEARING CONFERENCE
VOLUME I
Pages 1-36

(All participants appeared via videoconference.)

DATE TAKEN: Friday May 5, 2023, 9:30 a.m.
REPORTED BY: Danielle Schemm, CCR 3395

- 1 APPEARANCES
(Continued)
- 2 FOR NWEC:
3 LAUREN McCLOY
Northwest Energy Coalition
4 811 First Ave, Suite 305
Seattle, Washington 98104
5 lauren@nwenergy.org
509.201.3581
- 6
7 FOR SIERRA CLUB:
8 ROSE MONAHAN, ATTORNEY AT LAW
Sierra Club
9 2101 Webster Street, Suite 1300
Oakland, California 94612
10 rosemonahan@gmail.com
415.977.5704
- 11
12 FOR THE ENERGY PROJECT:
13 ELLISON FOLK, ATTORNEY AT LAW
Shute, Mihaly & Weinberger
14 396 Hayes Street
San Francisco, California 94102
15 415.552.7272 x230
folk@smwlaw.com
- 16
17 ALSO APPEARING:
18 CHARLEE THOMPSON
RYAN SMITH, UTC
19 KEITH QUINATA, UTC
LIAM WEILAND
20 JEFF ROBERSON
CORTNEY WAGNER
21 JOSEPHINE STRAUSS
JENNIFER SNYDER, UTC
22 STEPHANIE MEEKS, PACIFICORP
JIM WOODWARD, UTC
23 AARON CAHEN, UTC
ROHINI GHOSH
24 JIMMY NYANWAPOLU
ELIZABETH O'CONNELL, UTC
25 CARLA SCARSELLA, PACIFICROP

- 1 APPEARANCES
- 2 MICHAEL HOWARD, ADMINISTRATIVE LAW JUDGE
Utilities and Transportation Commission
3 PO Box 47250
Olympia, Washington 98504
4 michael.howard@utc.wa.gov
360.664.1139
- 5
6 FOR THE COMMISSION:
7 NASH CALLAGHAN, ATTORNEY AT LAW
Office of the Attorney General
8 Utilities and Transportation Division
P.O. Box 40128
9 Olympia, WA 98504
nash.callaghan@atg.wa.gov
- 10
11 FOR PUBLIC COUNSEL:
12 ANN PAISNER, ATTORNEY AT LAW
LISA GAFKEN, ATTORNEY AT LAW
13 Assistant Attorneys General
800 Fifth Avenue, Suite 2000
14 Seattle, WA 98104
ann.paisner@atg.wa.gov
15 lisa.gafken@atg.wa.gov
- 16
17 FOR PACIFICORP:
18 ZACHARY ROGALA, ATTORNEY AT LAW
PacifiCorp
825 NE Multnomah Street, Suite 2000
19 Portland, Oregon 97232
zachary.rogala@pacificorp.com
20 435.319.5010
- 21
22 FOR AWEC:
23 SOMMER MOSER, ATTORNEY AT LAW
Davison Van Cleve
1750 SW Harbor Way, Suite 450
24 Portland, Oregon 97201
sjm@dvclaw.com
25 971.710.1154

- 1 [Matter commenced at 9:30 a.m.]
- 2 JUDGE HOWARD: Good morning. We're here today for a
3 prehearing conference in Docket UE-210829. This case is
4 captioned In the Matter of PacifiCorp doing business as
5 Pacific Power and Light Company's Revised Clean Energy
6 Implementation Plan.
- 7 This is an adjudicatory proceeding regarding
8 PacifiCorp's Clean Energy Implementation Plan or CEIP.
9 PacifiCorp filed a revised CEIP consistent with Order 6 in
10 Docket UE-220376.
- 11 My name is Michael Howard. I'm an administrative
12 law judge with the commission, and I'll be co-presiding in
13 this matter along with the commissioners, but the
14 commissioners will not be joining us at this conference
15 today.
- 16 With that explanation, let's start by taking
17 appearances, beginning with the company.
- 18 MR. ROGALA: Good morning, your Honor. Zachary
19 Rogala, attorney for PacifiCorp.
- 20 JUDGE HOWARD: Thank you.
- 21 Could we have an appearance for Staff?
- 22 MR. CALLAGHAN: Thank you, your Honor. Nash
23 Callaghan, Assistant Attorney General for Commission
24 Staff.
- 25 JUDGE HOWARD: Thank you.

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1 Could we hear from Public Counsel?
2 MS. PAISNER: Good morning, your Honor. This is Ann
3 Paisner, Assistant Attorney General with the Public
4 Counsel Unit of the Washington State Attorney General's
5 Office.
6 JUDGE HOWARD: All right. Thank you.
7 And could we hear from AWEC?
8 MS. MOSER: Good morning, your Honor. Sommer Moser on
9 behalf of AWEC.
10 JUDGE HOWARD: Thank you.
11 Could I have an appearance for Northwest Energy
12 Coalition or NWECC? All right. Hearing none.
13 Could we have an appearance for The Energy
14 Project?
15 MS. FOLK: Good morning, your Honor. Ellison Folk on
16 behalf of The Energy Project.
17 JUDGE HOWARD: Thank you.
18 Could we have an appearance for The Sierra Club?
19 MS. MONAHAN: Good morning, your Honor. Rose Monahan
20 on behalf of The Sierra Club.
21 JUDGE HOWARD: All right. Thank you. Are there any
22 other organizations on the call that wish to give a verbal
23 notice of appearance this morning?
24 MS. McCLOY: Lauren McCloy for Northwest Energy
25 Coalition.

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1 JUDGE HOWARD: Oh, thank you. All right. That brings
2 us to the petitions for intervention. Are there any
3 petitions for intervention that -- that people on the call
4 would like to raise today other than those that have been
5 filed in writing in the docket? All right. Hearing none,
6 let's continue.
7 We received four petitions to intervene from the
8 following organizations: AWEC, The Energy Project, NWECC,
9 and Sierra Club. Are there any objections to these
10 written petitions to intervene?
11 MR. ROGALA: Your Honor, Mr. Rogala from PacifiCorp.
12 No objections to any of the petitions for intervention.
13 JUDGE HOWARD: All right. Thank you. And I'm not
14 hearing any other objections.
15 Is there anyone else present on the call today
16 that wishes to move to intervene? All right. Hearing
17 none, I will grant the four petitions to intervene filed
18 in writing in the docket from AWEC, The Energy Project,
19 NWECC, and Sierra Club.
20 So with that, let's turn to the procedural
21 schedule. And Mr. Rogala, I just received your email, and
22 I'm reviewing that. I'm going to adjust my planned spiel
23 here.
24 Well, so as I understand with emails between all
25 the parties and myself earlier this week, I had asked the

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1 parties to consider either a schedule modeled on the PSE
2 CEIP proceeding in Docket 210795 or a shorter, more
3 expedited schedule. And more recently those emails raised
4 the issue that the company may wish to file an update to
5 its CEIP - and here I'm, again, talking about the company
6 in this case PacifiCorp - that would lower the interim
7 target for 2025 from 60 percent to 30 percent. That would
8 be an issue to discuss with regards to the schedule today.
9 And Mr. Rogala, I just received your email
10 proposing a schedule for this proceeding, and, before I
11 read that into the record, I wanted to confirm with you
12 whether there were any objections or if this indicated a
13 stipulation among the parties.
14 MR. ROGALA: Your Honor, I wouldn't say it's a
15 stipulation. I think it's fair to say we spent most of
16 our time discussing how to address the company's request
17 to lower interim targets, but I think this is a good faith
18 representation of all the conflicts we've identified so
19 far.
20 So depending on how the commission rules on the
21 appropriate procedural vehicle for us to address this
22 interim target issue, we think we could use this schedule
23 as a good guideline. I think there are probably four or
24 five, you know, scheduling conflicts that folks identified
25 over the last week, and I think this is a good faith

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1 representation of those.
2 JUDGE HOWARD: All right. Thank you. Was -- I'll
3 check in with each of the parties for their position, but
4 can I turn to Staff and hear Staff's position on their
5 proposed schedule?
6 MR. CALLAGHAN: Thank you, your Honor. So Staff would
7 be in agreement with the proposed schedule, obviously with
8 the exception that we need to determine the amendment
9 issue, but there were just a lot of conflicts, and so --
10 but we agree with them, the schedule that PAC has
11 proposed.
12 JUDGE HOWARD: All right. Thank you.
13 Could I hear from Public Counsel?
14 MS. PAISNER: Hi, this is Ann from Public Counsel.
15 This schedule is largely agreeable to Public Counsel,
16 except for the date for the second settlement conference.
17 Our expert is going to be out that week, I believe, so we
18 had said, you know, we'd prefer for that settlement
19 conference to happen the previous week and not the week
20 following. So we are going to have a conflict with that
21 August 2nd date.
22 And then the other concern we had was I know that
23 the PacifiCorp's GRC is proceeding toward a December
24 hearing date as well. So it -- we have some concerns for
25 the overlap there. I know that in your original email

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1 January dates were suggested, and so we would be
2 agreeable -- we could make any of these dates work but do
3 have some concerns of overloading things into December.
4 JUDGE HOWARD: Certainly.
5 Could I hear from AWEC?
6 MS. MOSER: Thank you, your Honor, Sommer Moser for
7 AWEC. In terms of the structure of the schedule, we're
8 largely agreeable also, just pending the issue that Nash
9 brought up about how to proceed with the company's
10 amendment.
11 We also have a conflict with the non-company
12 settlement discussion on August 1st which would implicate
13 or require a change to that second settlement conference,
14 but other than that, the dates of the schedule work.
15 JUDGE HOWARD: All right. Thank you. And if this
16 schedule is adopted, I would -- I would normally include
17 language that the parties can move settlement conferences
18 with written notice to the commission. Encourage the
19 parties to work out conflicts with settlement conferences,
20 along those lines.
21 Could I hear from The Energy Project?
22 MS. FOLK: Yes, your Honor. The schedule is largely
23 -- okay with The Energy Project; although I do think there
24 is an issue with the -- determining the interim target
25 changes.

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1 JUDGE HOWARD: All right.
2 Can I hear from NWEC?
3 MS. McCLOY: The revised schedule proposal works for
4 us. If we were to move the second settlement conference
5 to the week before as suggested by Public Counsel, that
6 would not work for us.
7 JUDGE HOWARD: All right.
8 And could I hear from Sierra Club?
9 MS. MONAHAN: Thank you, your Honor. The schedule
10 largely works for Sierra Club.
11 JUDGE HOWARD: All right. It does sound that the
12 parties are generally in support of this schedule. So I
13 imagine that -- I will take all of this under
14 consideration and look at the dates. I would plan on
15 including language, as I indicated, that the parties can
16 move settlement conference date with written notice to the
17 commission.
18 The -- the issue that stands out to me just in
19 terms of the schedule, and setting aside the interim
20 targets for a moment, is the hearing date. If with what I
21 would think of as a full schedule with three rounds of
22 prefile testimony, I am hesitant to shorten period between
23 rebuttal and cross-answering and the hearing because that
24 is an important time period for the commission in cases
25 like this.

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1 Earlier in my email to the parties, I had proposed
2 the dates of December 7th and 8th possibly for a hearing.
3 Is that a conflict for the parties?
4 MR. ROGALA: Your Honor, let me confirm, but I'm
5 pretty sure that is going to be the proposed week for
6 PacifiCorp's general rate case hearing. That's why we had
7 proposed the week and a half following that, 12/18,
8 December 18th. Yeah.
9 JUDGE HOWARD: Okay. I -- I understand in that case,
10 and I will consider that as well. I doubt everyone wants
11 to do the rate case hearing and then this hearing in
12 two weeks back to back.
13 Well, I will address the issue of interim targets
14 in a moment here. I'm going to take all the parties'
15 input in consideration for the schedule. I'm going to try
16 to identify a hearing date that works for the commission
17 and the commissioners' schedules that hopefully does not
18 conflict with any major common holidays and does not
19 require the parties to do this at the same time as -- as
20 the rate case hearing.
21 Was there anymore feedback on the schedule before
22 we move onto the issue of the potential update to the
23 interim targets?
24 MR. CALLAGHAN: So your Honor, I just wanted to
25 mention something. Typically, and I believe this is also

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1 the case in the PSE CEIP, in the procedural schedule we
2 included language shortening the data request response
3 time. So after the second round of testimony would be
4 shortened to seven business days, and then after
5 cross-answering and rebuttal, it would be five.
6 So I haven't talked with any of the other parties
7 about that specifically, but Staff would ask that that be
8 included.
9 JUDGE HOWARD: Are there any objections or concerns
10 with that?
11 MR. ROGALA: Your Honor, I don't think we generally
12 have concerns with that shortened deadline, but if we
13 could include best efforts language there as well, just
14 given that we have the overlap of the general rate case
15 there. We just want to provide, you know, a reasonable
16 time there.
17 JUDGE HOWARD: Is that all right with you?
18 MR. CALLAGHAN: So that's already reflected in the
19 rules, that a party can let the parties know if they're
20 unable to, and so I don't have an issue, but it is
21 reflected in the commission's rules on data requests.
22 JUDGE HOWARD: All right. I will take those points
23 into consideration.
24 So on the issue -- oh, go ahead.
25 MS. PAISNER: This is Ann Paisner with Public Counsel.

1 I just wanted to express with DR turn around, data request
2 turnaround time, usually if the company needs more time,
3 we're able to communicate about that, and so I feel like
4 we would prefer just to have clarity of what the time
5 period is, and then if there needs to be an extension,
6 then there is a good reason for it, then we can just work
7 that out, other than have -- build in ambiguity like that.

8 JUDGE HOWARD: Uh-huh. And thank you, and all of
9 this, if there was an actual dispute brought, all of
10 this --

11 MADAM REPORTER: I am sorry to interrupt. Your audio
12 cut out.

13 JUDGE HOWARD: I said all of these -- any discovery
14 disputes brought to the commission would be subject to
15 meet and confer requirement.

16 Can you hear me now? All right. Great.

17 All right. So with that, let's turn to the issue
18 of the possible update to the interim targets. I'd like
19 to hear first from Mr. Rogala on that issue. Could you
20 describe what the company would like to do?

21 MR. ROGALA: Yeah. Thank you, your Honor. Without
22 getting into the merits of why we would like to lower our
23 interim targets, because I think that's a fact-specific
24 argument, and I don't think I'm appropriate to make any
25 representations on that argument today, but I'm happy to

1 errata or amendment, and that would be the -- falling on
2 June 23rd.

3 MR. ROGALA: Correct. If we went that route, too, we
4 would be filing an errata, and then our -- looking at the
5 schedule here -- our proposed testimony date of July 7th
6 would be addressing both the errata and then any of the
7 other elements not addressed by the errata.

8 Because we had envisioned that our errata would be
9 specific in nature and just focusing on these interim
10 targets and then any other collateral issues that those
11 targets filtered into, so our testimony in July would
12 address the entire filing.

13 JUDGE HOWARD: And I recognize that this is something
14 of a difficult issue to talk about because we're trying to
15 anticipate where testimony may go, and this is just a
16 prehearing conference, but I'm -- I am wondering what the
17 scope of an errata or amendment would be.

18 It does seem, from my preliminary impression -- or
19 my preliminary thoughts would be that changing the interim
20 targets to that degree would have impacts to other
21 portions of the CEIP filing: The specific actions, the
22 portfolios being proposed, the analysis of benefits and
23 burdens for named communities.

24 So what -- what is the scope of the errata or the
25 amendment that the company contemplates? And again, I

1 address the company's perspective on what we think is the
2 appropriate procedural mechanism here.

3 At least from our perspective, we agree with Staff
4 that there's, you know, pros and cons to either of the
5 options that Staff suggested. First option would be, you
6 know, to resolve our CEIP fully in this proceeding, and
7 then sign post that, we will be considering the amended
8 interim targets for the first Clean Energy Action Plan
9 with our biannual update filed for November.

10 Second option being, obviously, just deal with all
11 of the issues in this proceeding and build a procedural
12 schedule allowing the company to file an errata or an
13 amendment, whatever the commission thought would be most
14 appropriate.

15 We don't have a strong preference here. Our only
16 preference is that whatever option the commission selects,
17 that we don't somehow waive our right to request amending
18 these targets, nor that we would be estopped from raising
19 the argument or, you know, filing a request for lowered
20 targets.

21 So we'd defer to Staff and Commissioners' judgment
22 on the best vehicle here.

23 JUDGE HOWARD: All right. Thank you. And just to
24 confirm, the proposed deadline in the schedule with the
25 footnote is what we're discussing here with the potential

1 recognize that's kind of a difficult question.

2 MR. ROGALA: Sure. Yeah, so right now the errata
3 would be focused on the interim targets of 2022 through
4 2025, and you can see how our more updated interim targets
5 based on our 2023 IRP update could -- can be a general
6 representation of the company's ask for lowered interim
7 targets.

8 Beyond those targets, I don't think I'm prepared
9 to discuss how it could impact, for example, procurement
10 efforts or energy efficiency targets or DSM efforts. That
11 would have to be submitted with our formal request.

12 But I do think if the commission were to proceed
13 down either of Staff's suggested routes, 1 or 2, there's
14 plenty of non-interim-target issues that the commission
15 could consider and resolve.

16 And without getting into settlement discussions,
17 just looking at the comments that stakeholders filed on
18 PacifiCorp's CEIP, there is substantial CBI concerns,
19 substantial, you know, community engagement issues, and we
20 think there is -- there is plenty of opportunity for those
21 issues to be resolved outside of any consideration of the
22 interim targets issues.

23 So while interim targets are important, there are
24 equally important competing issues in the CEIP that the
25 commission could focus on if we took this kind of

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1 staggered proceeding where the commission addresses these
 2 non-interim target issues first and then gets to those
 3 once we refile.
 4 JUDGE HOWARD: All right. Thank you.
 5 So I will turn to the other parties for their
 6 positions on the proposed errata or amendment that would
 7 update the company's interim targets. I'll just go down
 8 the list here. Could I hear from Staff?
 9 MR. CALLAGHAN: Thank you, your Honor. So your Honor,
 10 you've had time to read my email that I sent yesterday; is
 11 that right?
 12 JUDGE HOWARD: Yes.
 13 MR. CALLAGHAN: Okay. So your Honor, this is just a
 14 genuinely difficult issue. There's a lot of pros and cons
 15 to both options that Staff was able to come up with, but
 16 Staff does favor Option 1. So I think there are a few
 17 reasons for that.
 18 First, as Mr. Rogala pointed out, Staff does
 19 believe that it's more likely if this new information and
 20 this proposed update to the interim targets was dealt with
 21 in the biannual update rather than in this docket, we do
 22 think it's more likely that we'd be able to come to a
 23 settlement in this case, and that would allow progress to
 24 be made on all of these other issues from CBIs to
 25 equitable distribution to transparency. So for that

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1 reason, we think that would be Staff's preferred option.
 2 There is also obvious drawbacks. You know, there
 3 is a good argument to be had that if we know the company
 4 is making this -- is going to make this proposed change in
 5 the update, why not address it here.
 6 The real reason that Staff is hesitant to go with
 7 that option is, you know, if we're having a hearing in
 8 December, and this is such a substantial change, like you
 9 mentioned, in Option 2, Staff specifically states that we
 10 would want the prehearing conference order to specifically
 11 state that this update would need to require -- would need
 12 to include any of the impacts that this change in interim
 13 target would have on other aspects of the CEIP.
 14 And essentially this -- in Staff's opinion, this
 15 is almost a completely new CEIP. So we think that this
 16 would require some substantial changes.
 17 But if we get that new CEIP in June and then
 18 testimony supporting it in July, that is a very quick
 19 timeline for adjudicating a lot of new information and
 20 conducting discovery on that new information.
 21 So there are risks on both sides, but I think
 22 Staff is -- Staff wants to go with Option 1 because we
 23 really think that, setting this new information to the
 24 side, trying to make progress on these other issues is the
 25 best course here, and I also think that it is consistent

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1 with the intent behind the biannual updates.
 2 The CEIP IRP Rule Making Order does not talk a
 3 whole lot about the purpose behind biannual updates;
 4 however, the plain language of what's included in -- or
 5 what could be included in biannual updates, it's fairly
 6 clear that the purpose here is to make changes to the CEIP
 7 based on new information, and, in fact, the rule actually
 8 explicitly calls out the IRP progress report as some
 9 potential source of new information.
 10 So that's Staff's position. Thank you.
 11 JUDGE HOWARD: All right. Thank you. And I recognize
 12 we're in something of an awkward situation here because
 13 we're -- we have the biannual update coming in by
 14 November, which is after the close of the record proposed
 15 in the schedule.
 16 So do you have any thoughts on that? Would the --
 17 would we be proceeding in the schedule, in your view, in a
 18 world where the biannual update does not exist?
 19 MR. CALLAGHAN: Yes. So my view of this is that in
 20 the rules the CEIP and the biannual update are subject of
 21 a separate process. So in the rules it states that both
 22 the CEIP and the biannual update will be considered at an
 23 open meeting or be set for adjudication, essentially, and,
 24 in my mind, that means that they're separate processes.
 25 So that is part of our view, but it's really more

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1 about, from a pragmatic standpoint, what's the best
 2 option, what can we accomplish now, and what should be set
 3 aside for later.
 4 But, yeah, in my view the biannual update is
 5 normally a separate process, and so it should be
 6 considered separately; although, I will say in Option 2,
 7 if we are going to consider this, Staff would ask that the
 8 commission grant an exemption that would essentially
 9 incorporate what would otherwise be in the biannual update
 10 into this adjudication process.
 11 And that's because if we are going to have a full
 12 adjudication on this new proposed interim targets, it
 13 seems like it would just be much more efficient to
 14 incorporate the information in the biannual conservation
 15 plan that would normally be included in the November
 16 update.
 17 JUDGE HOWARD: All right. Thank you.
 18 Could I hear from Public Counsel?
 19 MS. PAISNER: Yes. This is Ann Paisner with Public
 20 Counsel. We have concerns that this part of the CEIP is
 21 fundamental and substantial, and we know that it's wrong.
 22 It's incorrect. And so I understand that going with the
 23 second option would require pushing the schedule out even
 24 further. It seems like if this information were to wait
 25 and come in with the November biannual update, that could

1 present, you know, some complication as well.

2 And so I know originally there were some January
3 dates suggested. I wonder if those or perhaps February
4 could be considered just to build this all in and not
5 create a waste of effort knowing that all of this
6 information is not going to be actually implemented with
7 regard to the interim targets. Thank you.

8 JUDGE HOWARD: Thank you. And I do recognize that
9 it's -- it's -- it's something of a difficult time frame
10 to be in and in terms of practicality and what this case
11 could mean if these things are being updated and -- yes.

12 So could I turn next to AWEC?

13 MS. MOSER: Thank you, your Honor. Similar to Public
14 Counsel, we have a strong preference for Option 2. We're
15 also concerned about just time and energy on CEIP that I
16 think we can all agree is a bit outdated at this point,
17 and particularly because it kind of puts us in a position
18 of either litigating or settling and deciding to spend,
19 you know, time energy and resources on that process,
20 again, for information that's outdated, and then we result
21 in a CEIP that's, in theory, approved and that's
22 overlapping with a rate case where we're making you know,
23 sort of decisions about cost in that case, and we don't
24 have the updated information that we kind of should have
25 going into a two-year rate plan as we're making those

1 I'm just trying to kind of picture how that works in
2 actuality.

3 MS. MOSER: Yeah, I think if we went with Option 2,
4 we're comfortable with, you know, having a longer
5 schedule. I think with Option 1, I guess I -- I don't
6 understand how it would -- if it's a completely separate
7 process, I still think we're in the position of the
8 commission making a decision on the CEIP as filed in this
9 case and kind of what the implications of that are rolling
10 that into a rate case. Maybe I'm just not -- I'm not
11 understanding.

12 JUDGE HOWARD: It might not be the best question. I
13 just wanted to pose it. All right.

14 Could I hear from The energy Project?

15 MS. FOLK: Yes, your Honor. I think The Energy
16 Project is leaning towards Option 2 at this point, because
17 it does seem like the changes to the interim targets
18 are -- seem like they will be substantial and will have a
19 real effect on the plan.

20 And I guess our thought was, if we do go with
21 Option 2, that there should be more time built into the
22 schedule to allow for, you know, more understanding of
23 those targets and how they affect the plan. And I thought
24 the idea was that, if we did Option 2, that would dispense
25 with the need for the -- a separate biannual update, and

1 decisions.

2 You know, it's just not an ideal situation, and I
3 understand the concerns with -- with, you know, a longer
4 schedule, but if -- I think from our perspective, just
5 having the most updated information going into the
6 multiyear rate plan, even if it's a little, you know,
7 imperfectly aligned time wise, is going to put us in a
8 better position to, you know, make decisions there.

9 So we would support Option 2.

10 JUDGE HOWARD: All right. Thank you. If, you know,
11 I'm willing to take all of this into consideration and
12 carefully consider it. But if the commission did went
13 with Option 2 which provided for an update in this
14 proceeding, Ms. Moser, would you support extending the
15 close of the record to include the biannual update in this
16 proceeding? Is -- or am I off base there?

17 MS. MOSER: I think -- well, I hadn't thought about
18 that, but that would -- you're talking about extending the
19 record in the rate case to accommodate the filing in
20 November?

21 JUDGE HOWARD: Extending -- extending the date the
22 record closes in this proceeding. I'm just trying to
23 picture here in late fall and winter, we will have the
24 company's biannual update, and the parties are -- some of
25 the parties are going to likely want to refer to it. So

1 that would be wrapped into this.

2 JUDGE HOWARD: Yes. Referring to the potential
3 request for exemption, I believe, that was discussed?

4 MS. FOLK: Yes.

5 JUDGE HOWARD: Could I hear from NWEAC?

6 MS. McCLOY: Yes. Good morning, your Honor. Lauren
7 McCloy for NWEAC. NWEAC has a slight preference for
8 Option 1, supporting Staff's recommendation. I think, you
9 know, we understand the concerns raised by some of the
10 other parties about, you know, the changing of the data.

11 I think, you know, the data is a moving target no
12 matter -- no matter when you sort of stop the clock, and I
13 think at some point in these processes we have to put
14 pencils down and make a decision and move forward, and I
15 think, you know, in this circumstance, we have an
16 unfortunate very long delay for a number of reasons.

17 We don't want to see this process repeated in the
18 future, but I do think for the purpose of wrapping up some
19 of the issues moving ahead, implementing a CEIP consistent
20 with its intent, you know, nearly four years after the
21 legislation was passed, we support Option 1 and think it,
22 you know, would have the greatest success of moving --
23 moving the process along.

24 JUDGE HOWARD: All right. Thank you.

25 Could I hear from Sierra Club?

1 MS. MONAHAN: Thank you, your Honor. I'll try not to
2 repeat what we've already heard thus far. We have a
3 slight preference for Option 2. I think a challenge is
4 knowing precisely what issues could be severed from the
5 interim targets, and that could be a challenge going
6 through with Option 1. Do we just ignore the interim
7 targets altogether and not address that in this proceeding
8 and save it for the biannual?

9 I certainly agree with Ms. McCloy. It's
10 unfortunate it's been drawn out so long. In my mind,
11 maybe one solution to that is wrap in the biannual with
12 this proceeding. But like I said, we don't have a strong
13 preference either way.

14 JUDGE HOWARD: Okay. I appreciate all the parties'
15 input and thoughts. I think that this is -- there's a
16 number of considerations here that affect the value of the
17 case going forward in terms of guidance, and so I will
18 carefully consider all of those points.

19 I imagine the schedule that will be adopted in the
20 prehearing conference order will be some variation of what
21 has been proposed in Mr. Rogala's email.

22 Mr. Rogala? If you're talking, you're on mute.

23 MR. ROGALA: Sorry, your Honor. Can I offer two brief
24 observations?

25 JUDGE HOWARD: Certainly.

1 need to build a procedural schedule around that biannual
2 update because our errata will essentially be our biannual
3 update, and then we just won't have to deal with the
4 November, basically, you know, potentially new filing. We
5 would just update whatever we had to do in June, and that
6 would be our interim targets.

7 JUDGE HOWARD: Hmm. Thank you. So would the company
8 have -- I haven't -- I don't have the exact language of
9 the discussion, the emails, about a potential exemption
10 around the biannual update right in front of me, and I
11 haven't checked the rules, so I don't have the biannual
12 update rule language right in front of me right now.

13 But would the company object to effectively either
14 granting an exemption in some way or otherwise wrapping in
15 the biannual update into this proceeding and then having a
16 hearing in January, as some of the parties are discussing?

17 MR. ROGALA: If we chose Option 2 -- I'm just looking
18 at the schedule right now. If we chose Option 2, I don't
19 think an exemption from the requirement to file a biannual
20 update would be necessary for the commission to consider.

21 I believe the commission's regulations allow the
22 company discretion to either file a CEIP update or don't
23 and just file this conservation plan report instead. So I
24 don't think an exemption would be required, but it's
25 definitely a belt-and-suspenders approach that could

1 MR. ROGALA: First, again, without getting into the
2 merits, I want to represent that I think the interim
3 target issue will be a discrete issue. I don't want to
4 have this take on more importance than I think is needed.

5 Our procurement strategies which we have been
6 following for, you know, the past four or five years are
7 calling for astronomic additions of renewable and
8 non-emitting resources. The interim target issue, I
9 think, can be largely separated from the procurement
10 question.

11 So I just want to make -- I just want to provide
12 that context, that we think this refiling would be narrow
13 in scope, without getting too much into the merits there.

14 And then second, on the biannual update question,
15 so how the company's understanding of Commission's
16 regulations work is that under that update we can kind of
17 take two approaches. We can either do the large update to
18 our CEIP, or we don't do any update and just address -- I
19 believe it's the company's energy efficiency or DSM
20 conservation plan requirements.

21 I'm not sure exactly, you know, what that report
22 entails because I haven't done one yet, but it's not CEIP
23 or not CETA related.

24 And so if we choose this second path, or we just
25 deal with everything in this proceeding, I don't think we

1 be -- could be helpful.

2 But if the commission wants to do that, I think we
3 should withhold any commission ruling until after the
4 commission files -- sorry -- until after the company files
5 an errata and -- because then we would have better insight
6 into, you know, how narrow of an issue this interim target
7 could be.

8 And thinking about the second point of your
9 question about an extended procedural schedule, I don't
10 think the company has objections to a January hearing
11 date. We're very optimistic we can settle this without an
12 evidentiary hearing.

13 But if we choose Path 2, we agree, I think,
14 parties would need more time to get up to speed on what
15 the lowered interim target is, and then a January hearing
16 gives us that time without backing us up against the
17 company's general rate case and all of the other issues
18 that the commission has going in December.

19 JUDGE HOWARD: Okay. All right. Thank you.

20 Well, as I indicated, I'll take this all into
21 consideration. Are there any other points from the
22 parties before I move onto some other issues for this
23 prehearing conference? All right. Hearing none.

24 I'll move onto the issue of intervenor funding. I
25 see that AWEC already filed a request for case

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1 certifications docket, and the proposed schedule includes
2 deadlines for intervenor funding requests. So I believe
3 that is taken care of.
4 On the issue of data request, we already discussed
5 shortening the response time for data requests. Do the
6 parties find it helpful when the prehearing conference
7 order requires each data request to be identified by topic
8 as we have sometimes in the past cases?
9 Ms. Moser?
10 MS. MOSER: I apologize, your Honor, just going back
11 to intervenor funding, and we could save this for later as
12 well, but I just wanted to flag that AWEC actually did
13 file a proposed budget in May of last year and so wanted
14 to, I guess, request that that be approved, and it would
15 be pursuant to the 2022 agreement. It's just been kind of
16 outstanding since it's been filed.
17 JUDGE HOWARD: I see. Thank you. I will make a note
18 of that.
19 MS. MOSER: Thank you.
20 JUDGE HOWARD: So going back to the issue of
21 identifying data request by topics.
22 Ms. McCloy?
23 MS. McCLOY: Your Honor, I actually wanted to address
24 intervenor funding as well.
25 JUDGE HOWARD: Go ahead.

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1 MS. McCLOY: So I did want to flag for you that, you
2 know, AWEC's request came in in 2022 under the 2022
3 interim funding agreement. And if other parties were to
4 request intervenor funding in this docket, we would also
5 want to request funding to cover costs that we incurred in
6 2022 in this docket.
7 And so, you know, I just am flagging that for the
8 commission's consideration, whether or not that's
9 something that's allowed under the current intervenor
10 funding agreement and just wanted to maybe bring that
11 forward here.
12 JUDGE HOWARD: Thank you. I would have to look
13 carefully at both agreements and their language and orders
14 approving them. I imagine that is permitted, but I would
15 need to confirm. So feel free to include any 2022
16 announcing your proposed budget, and we'll address it
17 then.
18 Ms. Folk?
19 MS. FOLK: Yes, your Honor. I just wanted to say that
20 The Energy Project also supports the ability to use 2022
21 funds for 2022 time, and I just wanted to clarify the date
22 that, you know, the notice of intention to requesting
23 intervenor comp would be -- would be due. I'm not sure
24 that's been set yet or not.
25 JUDGE HOWARD: Yes. So I believe, if I recall right,

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1 the interim agreement -- that's a fair question. The
2 interim agreement, as I recall, does normally state that
3 notices of intent to seek funding would be due by the
4 prehearing conference, and the proposed schedule that
5 Mr. Rogala circulated would give additional time. It
6 would give until May 19th.
7 So I can assure the parties at the very least I
8 would intend to adopt these deadlines around intervenor
9 funding so there's additional time. So those requests can
10 be submitted in the docket by May 19th.
11 Any other concerns or questions on that issue?
12 Okay. Hearing none.
13 Going back to the identifying of data requests by
14 topic, is that a helpful or a not-helpful language -- term
15 in working on a conference order for the parties?
16 MR. CALLAGHAN: Thank you, your Honor. Staff would be
17 in favor of that. Thank you.
18 JUDGE HOWARD: Any objections? All right. Hearing
19 none.
20 And then we also frequently include language in
21 the prehearing conference order requiring the parties to
22 share any data requests and responses with every other
23 party to the case. Is that helpful language as well for
24 the parties?
25 MR. CALLAGHAN: Yes, your Honor.

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1 JUDGE HOWARD: All right. Thank you, Mr. Callaghan.
2 Staff supports that. Are there any objections? Hearing
3 none.
4 And finally on the issue of discovery, I would
5 just note that there have been comments in this docket and
6 the associated Staff complaint docket UE-220376 about the
7 refusal to provide certain information. If the parties
8 have discovery disputes, I do expect the parties to meet
9 and confer as required by Commission Rules.
10 If that does not resolve the issue, then a motion
11 to compel may be brought, and I would encourage the
12 parties to closely review the rule on that issue which
13 requires, as I recall, attaching the underlying data
14 requests and any responses.
15 Any further questions on discovery before I move
16 onto some other odds and ends that we need address today?
17 Okay.
18 On the issue of a protective order, as I, based on
19 my review of the docket -- I recently was assigned to this
20 proceeding. On my review of the docket, we have not
21 issued a protective order for this docket. Is there any
22 request for such an order?
23 MR. ROGALA: Your Honor, I don't -- I don't have -- I
24 feel like if there's a request, we could file a motion for
25 a protective order, but I would defer to Staff or other

1 parties if there is a normal course of practice here that
 2 would make it better to be resolved today.
 3 MR. CALLAGHAN: So, your Honor, I think that would be
 4 the normal course of practice for an adjudication like
 5 this. I believe there was one in the PSE CEIP; although,
 6 I'm not certain. But it does seem like this -- CEIP
 7 adjudications have been treated similar to a GRC, and so a
 8 protective order would probably be appropriate.
 9 JUDGE HOWARD: That's my recollection of the CEIP for
 10 Puget Sound Energy as well. Okay. Are there any
 11 objections to entering a protective order on this docket?
 12 All right. In that event, I do plan on issuing a
 13 protective order.
 14 Moving onto electronic filing and electronic
 15 service, the commission requires electronic filing of
 16 documents for all filings. We are continuing to
 17 suspend -- largely suspend the requirements for paper
 18 copies of filed documents, and this will be memorialized
 19 in the prehearing conference order.
 20 Also the commission's rules provide for electronic
 21 service of documents. The commission will serve the
 22 parties electronically, and the parties will serve each
 23 other electronically.
 24 If the parties have not yet designated a lead
 25 representative for service, please do so via an email to

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1 me as soon as possible. My email is
 2 michael.howard@UTC.wa.gov, and I believe all the parties
 3 and the intervenors have already done that.
 4 Also if anyone would like to add names and emails
 5 addresses of other representatives or support staff who
 6 should receive courtesy copies of documents filed in this
 7 proceeding, please email that to us as well.
 8 I normally check at this time whether we have
 9 addressed the issue or errata sheets. And here I'm not
 10 discussing the update to the interim targets and whether
 11 that occurs; I'm referring to errata sheets in general.
 12 And this is normally set seven days prior to the
 13 evidentiary hearing.
 14 I'm not seeing a specific deadline for errata
 15 sheets, but is there any objection to setting that
 16 deadline for any errata sheets and corrections to exhibits
 17 for seven days before the hearing?
 18 MR. CALLAGHAN: None from Staff, your Honor.
 19 JUDGE HOWARD: I'm not hearing any objections. All
 20 right. Is there anything else we should address today
 21 before we adjourn? All right. And I will -- we will be
 22 issuing an order shortly containing the procedural
 23 schedule and other guidelines for the disposition of this
 24 case. We are adjourned. Thank you, all.
 25 [Matter adjourned at 10:21 a.m.]

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