

**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-210829

ORDER 09

ORDER SUSPENDING BIENNIAL CEIP
UPDATE; SETTING MATTER FOR
ADJUDICATION

BACKGROUND

- 1 Revised Code of Washington (RCW) 19.405, Washington’s Clean Energy Transformation Act (CETA), and Washington Administrative Code (WAC) 480-100-640(1) direct electric investor-owned utilities to develop a clean energy implementation plan (CEIP or Plan) every four years. The passage of CETA during the 2019 Washington Legislative Session requires that CEIPs be informed by both a utility’s clean energy action plan and its long-term integrated resource plan.¹
- 2 On December 20, 2021, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed its initial 2021 CEIP in Docket UE-210829. On March 13, 2023, PacifiCorp filed a revised CEIP. The initial 2021 CEIP went through adjudication, resulting in an October 25, 2023, settlement agreement with 50 conditions.² The

¹ *In re Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act and Amending or Adopting rules relating to WAC 480-100-238, Relating to Integrated Resource Planning*, Dockets UE-191023 & UE-109698 (Consolidated), General Order 601, p. 24, ¶ 59 (Dec. 28, 2020) (General Order R-601).

² *In re PacifiCorp’s 2021 Clean Energy Implementation Plan*, UE-210829, Order 06 Final Order Approving and Adopting Settlement Agreement; Approving CEIP Subject to Conditions (October 25, 2023).

Company was required by Order 06 in this docket to file a revised CEIP with the social cost of greenhouse gasses (SCGHG) included.³

3 On November 1, 2023, PacifiCorp filed its “2024-2025 Biennial Clean Energy Implementation Plan Update” (Biennial Update) with the Washington Utilities and Transportation Commission (Commission) in Docket UE-210829. The Biennial Update is required by Commission rules implementing the Clean Energy Transformation Act (CETA).⁴

4 On January 11, 2024, Commission Staff (Staff) filed responsive comments on the Biennial Update. The comments detail Staff’s review of PacifiCorp’s expected interim targets in the 2024-2025 biennium, changes to allocation methodology, thermal resource retirement projections, recent enactment of federal legislation, and an additional focus on PacifiCorp’s Public Participation Plan (PPP).⁵

5 Interested parties filed comments on January 11, 2024. Joint comments filed by Northwest Energy Coalition (NVEC), Sierra Club, and Renewable Energy Northwest⁶ expressed concern with the large reduction in interim targets, and they proposed conditions to be attached to approval of the Biennial Update. Interested parties noted near term targets were being reduced in favor of deeper long-term savings tied to risky and speculative technologies. Further, they noted concerns about PacifiCorp’s proposed procurement plans and reliability modeling criteria.

6 Public Counsel filed comments expressing appreciation of PacifiCorp’s updated customer benefit indicators (CBI) metrics and multicultural outreach efforts.⁷ Public Counsel also recommends that PacifiCorp be required to provide a schedule and status update to their all-source RFP by March 31, 2024.

³ *In re Staff’s Complaint against PacifiCorp for violations related to its Clean Energy Implementation Plan*, UE-220376, Order 06 Granting Motion to Withdraw, at 2 (February 10, 2023).

⁴ See WAC 480-109-120(1).

⁵ Docket UE-210829, “Commission Staff Comments Regarding PacifiCorp’s Biennial Clean Energy Implementation Plan” filed January 11, 2024.

⁶ *Re in PacifiCorp’s Biennial Clean Energy Implementation Plan Update*, UE-210829, Comments, on behalf of NW Energy Coalition, Sierra Club, and Renewable Northwest, Jan. 11, 2024.

⁷ *Re in PacifiCorp’s Biennial Clean Energy Implementation Plan Update*, UE-210829, Comments, on behalf of Public Council, Jan. 11, 2024.

7 Staff and interested parties note that the Company’s Biennial Update contains significant changes to the interim targets. For example, the 2023 projected retail electric sales from renewable and non-emitting energy resources in the Biennial Update as compared to the 2021 CEIP decreased from 31 percent to 26 percent and the 2025 projections decreased from 60 percent to 33 percent.⁸ The Company’s interim targets, expressed as the percentage of retail electric sales estimated to be served by renewable and nonemitting energy is shown in Tables 1 and 2.

Table 1 – PacifiCorp’s 2022-2025 Interim Targets

2021 CEIP Revised on 3/13/2023⁹	2022	2023	2024	2025	Total
Retail Electric Sales	4,051,128	4,076,594	4,091,630	4,069,088	16,288,439
Projected Renewable and Nonemitting Energy	1,262,111	1,251,114	1,637,433	2,450,430	6,601,088
Net Retail Sales	2,789,017	2,825,480	2,454,196	1,618,658	9,687,352
<i>Target Percentage</i>	31%	31%	40%	60%	41%
Interim Compliance Target	1,262,111	1,251,114	1,637,433	2,450,430	6,601,088

Table 2 – PacifiCorp’s 2022-2025 Interim Target Update

Biennial CEIP Update 11/1/2023¹⁰	2022	2023	2024	2025	Total
Retail Electric Sales	4,051,128	4,128,704	4,141,064	4,106,333	16,427,229
Projected Renewable and Nonemitting Energy	1,262,111	1,081,277	1,028,236	1,367,667	4,739,291
Net Retail Sales	2,789,017	3,047,474	3,112,871	2,738,719	11,688,081
<i>Target Percentage</i>	31%	26%	25%	33%	29%
Interim Compliance Target	1,262,111	1,081,277	1,028,236	1,367,667	4,739,291

⁸ Compare *In re in PacifiCorp’s Biennial Clean Energy Implementation Plan Update*, UE-210829, PAC CEIP Biennial Report, at 18-19 (November 1, 2023) with *In re PacifiCorp’s 2021 Clean Energy Implementation Plan*, UE-210829, Revised 2021 Final Clean Energy Implementation Plan, at 12 (March 13, 2023).

⁹ *In re PacifiCorp’s 2021 Clean Energy Implementation Plan*, UE-210829, Revised 2021 Final Clean Energy Implementation Plan, at 12 (March 13, 2023).

¹⁰ *In re PacifiCorp’s Biennial Clean Energy Implementation Plan Update*, UE-210829, PacifiCorp CEIP Biennial Report, at 18-19 (Nov. 1, 2023).

8 The Company's key reasons for the interim target reduction include, but are not limited to, the allocation methodology, thermal assets, resource acquisitions, federal legislation, and load growth.

9 For Staff to recommend that the Commission approve the Biennial Update, Staff determined that along with the 50 conditions finalized in the October 2023 settlement, there should be additional conditions attached to help the Company achieve the targets forecasted.

10 In comments, Staff acknowledges the validity of the underlying assumptions that have led PacifiCorp to revise its targets lower and is encouraged by the Company's projections that they will surpass their CETA mandated targets on an abbreviated timeline.¹¹ However, Staff believes conditions need to be in place to ensure PacifiCorp achieves these targets and achieves compliance with CETA mandated targets.

11 The 2021 CEIP relied on the assumption that a new multi-jurisdictional allocation method would be approved across all six states of PacifiCorp's operating range. As such, PacifiCorp relied on an unapproved methodology in the creation of its 2021 CEIP. As no agreement was reached on this proposed multi-jurisdictional methodology, the Biennial Update reverted to the approved methodology, which changed the Company's renewable energy credit (REC) practices. The change in methodology, combined with increasing load forecasts, resulted in a lower allocation of renewable resource capacity to Washington.

12 Staff also recognizes that in the 2023 Integrated Resource Plan (IRP) the Company changed certain factors related to thermal assets.¹² Specifically, high energy costs have resulted in the continued utilization of the Jim Bridger and Colstrip plants for Washington customers. Additionally, both Chehalis and Hermiston plants are now planned to serve Washington customers until their end-of-life instead of ending in 2024. Hermiston and Chehalis will supply their Washington Interjurisdictional Allocation Methodology (WIJAM) allocation until 2036 and 2043 respectively. Compounding these effects are rising fuel costs due to the retirement of Jim Bridger units 3 and 4.

¹¹ *In re in PacifiCorp's Biennial Clean Energy Implementation Plan Update*, UE-210829, Commission Staff's Comments regarding PacifiCorp's BCEIP Update (Jan.11,2024).

¹² *In re PacifiCorp's 2023 Integrated Resource Plan Progress Report*, UE-200420, at 409, (May 31, 2023).

- 13 Staff have several other specific areas of concern with the Biennial Update. The suspension of the 2022 all-source RFP may delay the Company's progress and endanger future CETA compliance. Currently, there is no firm timeline for the resumption of the all-source RFP. Delays bringing assets online and difficulty procuring CETA qualifying resources have the potential to threaten the Company's targets. Also, Staff believes the Company has not considered in detail the cost savings available through federal legislation such as the Inflation Reduction Act (IRA) and Infrastructure Investment and Jobs Act (IIJA). More holistically incorporating these savings and funding opportunities (e.g., low rate decarbonization loans) may lead to faster CETA compliance.
- 14 To address these concerns and discuss proposed conditions, Staff met with the Company and interested parties (Parties) on January 25, 2024. The Parties agreed to have revised conditions back to Staff by February 12, 2024. AWEC and NVEC (joined by Sierra Club and Renewable Northwest) submitted revisions and Public Counsel submitted input.
- 15 On February 14, 2024, the Company submitted revisions. Based on the Company's revisions, Staff determined that further negotiations would not be fruitful.
- 16 Although Staff, PacifiCorp, and interested parties conducted negotiations on the conditions, Staff determined that resolution through party negotiations was no longer feasible after receiving PacifiCorp's proposed redlines on Staff's draft conditions.
- 17 On March 1, 2024, Staff met with interested parties to share and discuss the conditions and feedback received from the Parties. Staff discussed what redlines and suggestions Staff incorporated into Staff's proposed conditions.
- 18 On March 7, 2024, Staff met with the Company to discuss the reasoning behind the Company's redlines to the conditions.
- 19 Due to Staff's determination that resolution through negotiated conditions is not feasible, Staff recommends the Commission either issue an order accepting PacifiCorp's Biennial Update, filed on November 1, 2023, subject to the 9 new conditions in Attachment A, or suspend and adjudicate PacifiCorp's Biennial Update in Docket UE-210829.
- 20 This matter came before the Commission at its March 22, 2024, Recessed Open Meeting. The Commission heard additional comments from Staff, PacifiCorp, The Energy Project (TEP), Alliance of Western Energy Consumers (AWEC), Public Counsel, Sierra Club, and Renewable Northwest. Staff reiterated its recommendation. PacifiCorp discussed

some of the potential changes to its allocation methodology and the cost considerations underlying its updated targets. PacifiCorp noted concerns with Staff's proposed conditions, including proposed conditions 6, 7, and 9, and recommended that the Commission either approve the Company's Biennial CEIP Update as filed or suspend the matter for adjudication. Staff generally opposed suspending the matter. TEP indicated support for Staff's proposed conditions and expressed concern with whether the Company intended to comply with the 2023 clean energy transformation targets. AWEC questioned whether this was an appropriate proceeding to consider the issues raised and expressed its concern with Staff's proposed condition 9, which would impose significant penalties on the Company and could incentivize non-economic behavior. Public Counsel also spoke in support of Staff's proposed condition 1, which would require an update on the Company's All-Source RFP. Sierra Club also recommended against suspending the proceeding due to the potential delay. Sierra Club supported Staff's recommended condition 3, regarding the potential benefits of federal legislation. Renewable Northwest likewise spoke in favor of Staff's recommended conditions.

DISCUSSION

- 21 While we generally agree with Staff's recommendations, we have concerns over the penalties included in conditions 2 and 9. We share Staff's concerns that PacifiCorp does not appear to be making meaningful progress towards compliance with the 2030 and 2045 standards contained in CETA. Similarly, we share the concerns of the parties that adjudicating this matter is not ideal, however, because the parties have not been able to come to any meaningful agreement on conditions to approving the Biennial Update, the matter should be suspended for adjudication.
- 22 RCW 19.405.060(1) requires electric utilities to develop and submit to the Commission CEIPs every four years which show the utility is adequately planning and taking steps to meet the standards outlined in RCW 19.405.040(1) and RCW 19.405.050(1). The CEIPs must meet specific criteria. WAC 480-100-640 sets out the targets, data, and narrative information that must be included in those plans. WAC 480-100-640(11) requires the utilities to make a biennial CEIP update filing on or before November 1st of each odd-numbered year that the utility does not file a CEIP.
- 23 This suspension does not affect the Company's obligation to comply with CETA and the Commission's rules implementing CETA. We are very disappointed in this outcome and strongly encourage the parties to begin working immediately to address mutually

agreeable conditions. We are similarly discouraged that the Company declined to clearly say that it was on track to meet the 2030 or 2045 CETA standards.

FINDINGS AND CONCLUSIONS

- 24 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, regulations, practices, accounts, and affiliated interests of public service companies and electric companies.
- 25 (2) PacifiCorp is engaged in the business of providing electric services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 26 (3) This matter came before the Commission at its regularly scheduled meeting on March 22, 2024.
- 27 (4) PacifiCorp is required to make a biennial CEIP update filing on or before November 1st of each odd-numbered year that the Company does not file a CEIP.
- 28 (5) The Biennial Update filed by PacifiCorp does not at this time show meaningful progress towards meeting CETA standards.
- 29 (6) In order to carry out the duties imposed upon the Commission by law, the Commission believes it is necessary to further investigate various aspects of PacifiCorp's 2023 CEIP Biennial Update.
- 30 (7) As required by RCW 19.405.060(1) and WAC 480-100-640(11), PacifiCorp bears the burden of showing compliance with CETA and that its CEIP and Biennial Update are making meaningful progress towards CETA standards.
- 31 (8) PacifiCorp's Biennial Update as filed on November 1, 2023, should not be approved at this time.
- 32 (9) After review of the Biennial Update filed on November 1, 2023, and subsequently filed comments and giving due consideration, the Commission finds that PacifiCorp's CEIP Biennial Update should be set for adjudication.

ORDER

THE COMMISSION ORDERS:

- 33 (1) PacifiCorp d/b/a Pacific Power & Light Company's Clean Energy
Implementation Plan Biennial Update, filed on November 1, 2023, is suspended.
- 34 (2) The Commission will hold hearings at such times and places as may be required.
- 35 (3) The Commission will institute an investigation of PacifiCorp d/b/a Pacific Power
& Light Company's Clean Energy Implementation Plan Biennial Update as
described above.
- 36 (4) PacifiCorp d/b/a Pacific Power & Light Company shall pay the expenses
reasonably attributable to the Commission's investigation consistent with RCW
80.20.020.
- 37 (5) The Commission retains jurisdiction over the subject matter and PacifiCorp d/b/a
Pacific Power & Light Company to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective March 25, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner