

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-210532

In the Matter of

PACIFICORP D/B/A PACIFIC POWER
& LIGHT COMPANY

Petition for an Order Approving Deferral of
Revenues Related to Renewable Energy
Credits.

DOCKET UE-210328

MOTION TO CONSOLIDATE
PROCEEDINGS

I. INTRODUCTION & RELIEF REQUESTED

1 Staff of the Washington Utilities and Transportation Commission (“Staff”) respectfully request that the Commission exercise its discretion to consolidate Docket UE-210532 with Docket UE-210328, pursuant to WAC 480-07-320, because the facts and principles of law at issue in these proceedings are related, because consolidation of these dockets would support judicial economy, and because consolidation would not unduly delay the resolution of either proceeding. PacifiCorp dba Pacific Power and Light Company (“PacifiCorp” or “Company”) is supportive of this motion. The Public Counsel Unit of the Washington Attorney General’s Office (“Public Counsel”), the Alliance of Western Energy Consumers (“AWEC”), and The Energy Project (“TEP”) do not oppose this motion.

II. STATEMENT OF FACTS

2 On May 13, 2021, the Company filed a petition in Docket UE-210328 seeking an order authorizing deferred accounting treatment of revenues generated by renewable energy credits (“RECs”) from the Company’s Pryor Mountain Wind Project.”¹ The Pryor Mountain facility, located in Carbon County, Montana, was “acquired in parallel with an Oregon Tariff Schedule 272 REC purchase agreement where PacifiCorp supplies and retires all of the REC’s generated by the resource on behalf of Vitesse.”² The Company states that its proposed deferred accounting treatment “would allow PacifiCorp to create a regulatory liability so that these revenues from this transaction may be returned to customers for ratemaking treatment in a future rate proceeding.”³

3 On July 1, 2021, the Company filed tariff changes as part of its Limited-Issue Rate Filing (“LIRF”) under Docket UE-210532. In the Company’s 2021 general rate case (“2021 GRC”), it sought approval of major capital additions including, among other things, the capital costs for the Pryor Mountain Wind Project.⁴ In accordance with the Commission-approved settlement in the Company’s 2021 GRC, the Company filed the LIRF to allow for the prudence review of major capital additions that were provisionally included in rates, but that were placed into service after May 1, 2020,⁵ including the Pryor Mountain Wind Project, which was placed into service in April of 2021.⁶

¹ *In re Petition of PacificCorp d/b/a Pac. Power & Light Co.*, Docket UE-210328 (“REC Petition”), Petition of PacificCorp at 2, ¶ 1 (May 13, 2021).

² REC Petition at 3, ¶ 4.

³ *Id.*

⁴ *Wash. Utils. & Transp. Comm’n v. PacificCorp d/b/a Pac. Power & Light Co.*, Docket UE-210532 (“LIRF”), Exh. RTL-1CT at 2:8-10 (July 1, 2021).

⁵ *See Wash. Utils. & Transp. Comm’n v. PacificCorp d/b/a Pac. Power & Light Co.*, Docket UE-191024 et. al., Final Order 09/07/12 at Appx. B, ¶ 14 (Dec. 14, 2020).

⁶ LIRF, Exh. RTL-1CT at 3:8-10.

Through the testimony of witness Rick T. Link, filed in the LIRF, the Company “present[s] and explain[s] the economic analysis that demonstrates that these investments are prudent, used and useful, and further the public interest.”⁷ Link “prepared the economic analysis for the 240 MW Pryor Mountain Wind Project, which supports PacifiCorp’s decision to move forward with the project.”⁸ Link’s testimony notes that, in “June 2019, PacifiCorp and Vitesse, LLC . . . executed an agreement for the purchase of all RECs generated by Pryor Mountain over a 25 year period under PacifiCorp’s Oregon Schedule 272.”⁹ Link also testified that the Schedule 272 agreement was considered in the Company’s economic analysis and “represents a unique opportunity to leverage Vitesse’s desire to purchase RECs from a specified resource while providing a cost-effective energy resource to serve PacifiCorp’s customers.”¹⁰ Link states that “[s]ystem benefits from the development of the Pryor Mountain Wind Project, which includes sale of the associated RECs in accordance with the Schedule 272 Agreement, are based on two [Planning and Risk] simulations.”¹¹ Link concludes, in part, that the “Pryor Mountain Wind Project is expected to provide significant net benefits” for customers,¹² and recommends that the “Commission conclude that PacifiCorp’s . . . Pryor Mountain Wind Project [is] prudent and in the public interest.”¹³ Finally, Link testifies that “[t]he execution of the Schedule 272 agreement with Vitesse was a necessary milestone to ensure the Pryor Mountain Wind Project could move forward and mitigates the risk of deteriorating value under a variety of price and policy scenarios.”¹⁴

⁷ *Id.* at 3:1-3.

⁸ *Id.* at 106:18-19.

⁹ *Id.* at 106:23-107:4.

¹⁰ *Id.* at 107:19-23.

¹¹ *Id.* at 108:8-10.

¹² *Id.* at 110:1-3.

¹³ *Id.* at 112:3-5.

¹⁴ *Id.* at 110:8-12.

5 On August 17, 2021, the Commission issued Order 03 Prehearing Conference Order
and Notice of Hearing in Docket UE-210532.

6 To date, no parties have appeared in Docket UE-210328 and no substantive filings
have been made.¹⁵

7 On September 3, 2021, counsel for Staff emailed counsel for each of the other parties
in this matter and asked that they state their opinion on consolidation. The Company replied
that it is supportive of consolidation. Each of the other parties to this docket (Public
Counsel, AWEC, and The Energy Project) stated that they do not oppose consolidation.

III. STATEMENT OF ISSUES

8 Should the Commission consolidate Docket UE-210532 with Docket UE-210328?

V. DISCUSSION

9 The Commission should exercise its discretion to consolidate Docket UE-210532
with Docket UE-210328 because: (1) there are related issues of fact and law between the
two dockets; (2) there are clear benefits of consolidation to judicial economy; and (3) the
Company supports consolidation, and none of the other parties object. “The commission, in
its discretion, may consolidate two or more proceedings in which the facts or principles of
law are related.”¹⁶ The Commission “examines the extent to which the factual and legal
issues are related and whether consolidation would promote judicial economy and would not
unduly delay the resolution of one or all of the proceedings.”¹⁷ “Parties may request

¹⁵ See, generally, Docket UE-210328.

¹⁶ WAC 480-07-320.

¹⁷ *In re the Petition of Puget Sound Energy, Inc.*, Dockets UE-130583, UE-130617, & UE-131099 (Consolidated), Order 01/Order 05/Order 01, 7, ¶ 14 (Aug. 8, 2013); see also *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-111048 & UG-111049 (Consolidated) & UG-110723, Order 04, 4, ¶ 8 (Sept. 7, 2011) (“The Commission has discretion to ‘consolidate two or more proceedings in which the facts or principles of law are related.’ In determining whether to exercise such discretion, the Commission considers not just the extent to which the factual and legal issues are related but whether consolidation would promote judicial economy and would not unduly delay the resolution of one or all of the proceedings.”).

consolidation or may request the severance of consolidated matters by motion to the commission.”¹⁸

10 First, the Commission should consolidate Docket UE-210532 with Docket UE-210328 because facts or principles of law between the two dockets are related. Witness Link testified that the Schedule 272 agreement with Vitesse was not just considered in the Company’s economic analysis but “*was a necessary milestone to ensure the Pryor Mountain Wind Project could move forward. . . .*”¹⁹ The revenue generated by selling RECs under the Schedule 272 agreement is identified in testimony as a stand-alone net-benefit to customers from the Pryor Mountain project.²⁰ From Company testimony, the decision to invest in the Pryor Mountain project appears to have been, at least in part, based on the “unique opportunity” presented by the Schedule 272 agreement (*i.e.*, “to leverage Vitesse’s desire to purchase RECs from a specified resource while providing a cost-effective energy resource to serve PacifiCorp’s customers.”).²¹ The resolution of the LIRF includes, among other things, review of the Company’s decision to proceed with the Pryor Mountain Wind Project. Based on the Company’s testimony, there is a sufficient nexus between the sale of RECs under the Schedule 272 agreement and the Company’s decision to invest in the Pryor Mountain project to satisfy the standard for consolidation in WAC 480-07-320.

11 Second, the Commission should consolidate Docket UE-210532 with Docket UE-210328 because doing so would support judicial economy and a more efficient resolution of the proceedings. On August 17, 2021, the Commission entered Order 03, Prehearing Conference Order and Notice of Hearing, in the LIRF docket, adopting a

¹⁸ WAC 480-07-320.

¹⁹ LIRF, Exh. RTL-1CT at 110:8-12 (emphasis added).

²⁰ *Id.* at 107:19-23, 108:8-10.

²¹ *Id.* at 107:19-23.

stipulated procedural schedule.²² Consolidating Docket UE-210532 with Docket UE-210328 should have no impact on the procedural schedule set forth in Order 03 in the LIRF. On the other hand, the issues raised in Docket UE-210328 have not yet been addressed.

Consolidation would obviate the process involved in resolving UE-210328 as a procedurally distinct docket. Consolidation of UE-210328 with the LIRF docket, which is both related and further along procedurally, will therefore directly benefit judicial economy. Further, there is little to no risk of unduly delaying either proceeding, because consolidation will facilitate the resolution of the issues in Docket UE-210328.

12 Finally, the Commission should grant Staff's motion and consolidate Docket UE-210532 with Docket UE-210328 because the Company supports consolidation and no other party objects to consolidation. At present, no parties have appeared in Docket UE-210328.

VI. CONCLUSION

13 For the foregoing reasons, Staff respectfully requests that the Commission grant this motion and exercise its discretion under WAC 480-07-320 to consolidate Docket UE-210532 with Docket UE-210328.

DATED this 7th day of September 2021.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General

/s/ Daniel J. Teimouri, WSBA No. 47965
Assistant Attorney General
Office of the Attorney General
Utilities and Transportation Division
P.O. Box 40128, Olympia, WA 98504-0128
(360) 664-1189 | daniel.teimouri@utc.wa.gov

²² *Id.*, Order 03, 8-9 at Appx. B (Aug. 17, 2021).