

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP D/B/A PACIFIC POWER  
& LIGHT COMPANY'S

Respondent.

DOCKET UE-210829

ORDER 11

PREHEARING CONFERENCE  
ORDER; NOTICE OF HEARING  
**(Evidentiary Hearing set for  
October 21, 2024, at 9 a.m.)**

- 1 **BACKGROUND.** On November 1, 2023, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed a 2024-2025 Biennial Clean Energy Implementation Plan Update (Biennial Update). The Biennial Update is required by Commission rules implementing the Clean Energy Transformation Act (CETA).<sup>1</sup> On January 11, 2024, Commission staff (Staff) and other interested parties filed comments in response to the Biennial Update, recommending that approval of the Biennial Update be subject to conditions.
- 2 The matter came before the Commission at a recessed open meeting on March 22, 2024.
- 3 On March 25, 2024, the Commission suspended the matter and set it for adjudication by Order 09, Suspending Biennial CEIP Update; Setting Matter for Adjudication (Order 09).
- 4 On April 3, 2024, the Commission issued a Notice of Prehearing Conference, setting a prehearing conference for April 23, 2024.
- 5 **CONFERENCE.** The Commission convened a virtual prehearing conference on April 23, 2024, before Administrative Law Judge Paige Doyle.
- 6 **APPEARANCES.** Zachary Rogala, Senior Attorney, represents PacifiCorp. Josephine Strauss, Assistant Attorney General, Olympia, Washington, represents Staff.<sup>2</sup> Tad

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<sup>1</sup> See WAC 480-109-120(1).

<sup>2</sup> 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

Robinson O'Neill, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Unit of the Attorney General's Office (Public Counsel). Sommer J. Moser, of Davison Van Cleve, P.C., Portland, Oregon, represents the Alliance of Western Energy Consumers (AWEC). Stacy Lee and Yochanan Zakai, of Shute, Mihaly & Weinberger LLP, represent The Energy Project. Rose Monahan, Attorney, represents Sierra Club. Melissa Hornbein and Barbara Chilcott, of the Western Environmental Law Center, Seattle, Washington, represent NW Energy Coalition (NVEC) and Renewable NW. Rob Lothrop, Policy Director, and Christine Golightly, Portland, Oregon, represent the Columbia River Inter-Tribal Fish Commission (CRITFC). Contact information for the representatives of those granted party status is attached as Appendix A to this Order.

7 **PETITIONS TO INTERVENE.** AWEC, The Energy Project, NVEC, and Sierra Club were previously granted intervenor status by Order 03 in this Docket. New petitions to intervene in this phase of the proceeding were filed by Renewable NW and the Columbia River Inter-Tribal Fish Commission. No party objected to the petitions.

8 Absent objections to the petitions to intervene of Renewable NW and CRITFC, 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.

9 At the prehearing conference, Sierra Club informed the presiding administrative law judge of its intent to withdraw, and on April 26, 2024, filed a Motion to Withdraw.

10 On April 29, 2024, the Commission granted Sierra Club's motion to withdraw, relieving it from further participation as a party to this proceeding.

11 **PROTECTIVE ORDER.** The Commission entered Order 02, Protective Order (Order 02), in this Docket on May 18, 2024. Order 02 remains in effect.

12 **DISCOVERY.** Discovery will be conducted under the Commission's discovery rules, Washington Administrative Code (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.

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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.

- 13 **PROCEDURAL SCHEDULE.** At the prehearing conference, the parties presented the presiding administrative law judge with an agreed upon schedule up through the evidentiary hearing. The parties disagreed on whether one round of post-hearing briefs would be sufficient.
- 14 With respect to post-hearing reply briefs, PacifiCorp expressed concern that issues beyond the scope of this proceeding might be raised in initial post-hearing briefs, and if those issues remain contested, the Company would need the opportunity to respond to any issues or law or fact presented at that point. The Company additionally argued that due to the complexity of the contested issue of modeling for PacifiCorp's interim targets, the record may be better served by the opportunity to reply to issues of fact.
- 15 Public Counsel argued that by the hearing phase of the adjudication, any issues should be well defined and could be sufficiently addressed in initial briefs, but that if PacifiCorp felt the need to reply, it could seek permission at that time.
- 16 We agree with Public Counsel that once the adjudication has reached the hearing phase, the issues should be sufficiently defined that nothing beyond scope will remain at issue to be raised in post-hearing briefs. We also note that, due to the nature and timing of the CEIP process, adjudicative delays run the danger of rendering the Commission's review less relevant. However, the Commission is committed to ensuring as complete a record as possible, and we consider a two week delay to provide for a scheduled opportunity to reply to initial briefs an acceptable accommodation in that interest.
- 17 After the prehearing conference, it came to the presiding officer's attention that the Commissioners were not available on the evidentiary hearing date agreed to by the parties. The presiding officer reached out to the parties via email, the parties were able to come to an agreed hearing date of October 21, 2024.
- 18 We thus adopt the parties' agreed upon procedural schedule with the addition of PacifiCorp's proposed simultaneous round of reply briefs, and the modified hearing date. The schedule is attached hereto as Appendix B.
- 19 **INTERVENOR FUNDING.** On February 24, 2022, the Commission issued Order 01, Approving Agreement with Modifications, in Docket U-210595.<sup>3</sup> 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.

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<sup>3</sup> *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 01 (February 24, 2022).

- 20 On February 9, 2023, the Commission entered Order 02, Approving Agreement Subject to Condition, Requiring Refiling of Modified Agreement.<sup>4</sup> The Commission approved the Revised Agreement submitted by the parties, subject to conditions not at issue here.<sup>5</sup>
- 21 As relevant here, the Revised Agreement carried forward the same requirements for requests for payments of fund grants.<sup>6</sup>
- 22 The Energy Project, NVEC, and AWEC were all granted case certification in this matter on June 5, 2023, by Order 04, Granting Request for Case Certification (Order 04). Pursuant to the Revised Agreement, in a proceeding with multiple phases such as this one, a grant of case certification encompasses the entire proceeding.
- 23 On April 4, 2024, the Commission issued a Notice Correcting and Amending Notice of Prehearing Conference, which required any additional parties seeking case certification to file such request by April 23, 2024.
- 24 On April 23, 2024, CRITFC filed a request for certification.
- 25 The procedural schedule provides a deadline of May 23, 2024, for those parties granted or requesting case certification who intend to seek funding to file their proposed budgets for this phase of the proceeding.
- 26 **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](http://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

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<sup>4</sup> *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 02 (February 9, 2023).

<sup>5</sup> *Id.* ¶ 20.

<sup>6</sup> Revised Agreement § 7.1.

a submission via email to [records@utc.wa.gov](mailto: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) 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 in this docket for documents that include information designated as confidential.
- (d) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge ([paige.doyle@utc.wa.gov](mailto:paige.doyle@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.
- (e) 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.

27     **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on October 8, 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.

28     **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., October 8, 2024.**

29 **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 ([paige.doyle@utc.wa.gov](mailto:paige.doyle@utc.wa.gov)) and the other parties by **5 p.m., October 8, 2024.**

30 **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 October 17, 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.

31 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold a virtual evidentiary hearing in this docket via Zoom on **October 21, 2024, at 9 a.m.** To participate by phone, call (253) 215 8782 and enter the Conference ID: 891 1081 8612# and use passcode 643569#. To participate via Zoom, use the following link: [Click here to join the meeting.](#)

32 **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. Ideally, settlement among the parties would arise sooner rather than later during these proceedings, thus resulting in a Commission determination at an early stage.

33 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 Michael Howard, Director, Administrative Law Division (360-664-1139).

34 **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 3, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Paige Doyle*

PAIGE DOYLE

Administrative Law Judge

APPENDIX A  
PARTIES' REPRESENTATIVES  
DOCKET UE-210829

PARTY	REPRESENTATIVE	PHONE	E-MAIL
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	Ariel Son	(503) 813-5410	<a href="mailto:ariel.son@pacificorp.com">ariel.son@pacificorp.com</a>
	Service email		<a href="mailto:datarequest@pacificorp.com">datarequest@pacificorp.com</a>
	Service email		<a href="mailto:washingtondockets@pacificorp.com">washingtondockets@pacificorp.com</a>
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	Liam Weiland	(360) 570-3400	<a href="mailto:liam.weiland@atg.wa.gov">liam.weiland@atg.wa.gov</a>
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	Sara L. Breckinridge		<a href="mailto:breckenridge@smwlaw.com">breckenridge@smwlaw.com</a>
Alliance of Western Energy Consumers	Sommer J. Moser Davison Van Cleve, P.C. 1750 SW Harbor Way, Suite 450 Portland, OR 97201	(503) 241-7242	<a href="mailto:sjm@dvclaw.com">sjm@dvclaw.com</a>
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	Corinne O. Olson		<a href="mailto:coo@dvclaw.com">coo@dvclaw.com</a>
	Jesse Gorsuch		<a href="mailto:jog@dvclaw.com">jog@dvclaw.com</a>
NW Energy Coalition and	Melissa Hornbein Western Environmental Law Center 103 Reeders' Alley Helena MT 59601	(406) 708-3058	<a href="mailto:hornbein@westernlaw.org">hornbein@westernlaw.org</a>



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	Katie Chamberlain		<a href="mailto:katherine@renewablenw.org">katherine@renewablenw.org</a>
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	Patrick Oshie		<a href="mailto:Patri50931@aol.com">Patri50931@aol.com</a>

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

EVENT	DATE
Prehearing Conference	<b>April 23, 2024</b>
Intervenor funding Case Certification/Notice of Intent to Seek Funding	<b>April 23, 2024</b>
Settlement Conference (parties only)	<b>May 13, 2024</b>
Intervenor Funding Proposed Budgets	<b>May 23, 2024</b>
PacifiCorp Testimony	<b>June 17, 2024</b>
Second Settlement Conference (parties only)	<b>July 11, 2024</b>
Staff, Public Counsel, and Intervenor Response Testimony and Exhibits	<b>August 21, 2024</b>
Notice Issued for Public Comment Hearing	<b>To be determined (“TBD”) – at least 30 days before the Public Comment Hearing</b>
Public Comment Hearing	<b>TBD</b>
PacifiCorp Rebuttal Testimony and Exhibits; Staff, Public Counsel, and Intervenor Cross-Answering Testimony and Exhibits	<b>September 13, 2024<sup>1</sup></b>
Discovery Deadline - Last Day to Issue Data Requests	<b>October 1, 2024</b>
Exhibit List, Cross-Examination Exhibits, Witness Lists, Time Estimates, Exhibits Errata	<b>October 8, 2024</b>
Evidentiary Hearing	<b>October 21, 2024</b>
Initial Simultaneous Post-Hearing Briefs	<b>November 12, 2024</b>
Simultaneous Reply Briefs	<b>November 27, 2024</b>

<sup>1</sup> Response time to data requests will be seven business days as of this date.