

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

PACIFICORP d/b/a PACIFIC POWER  
& LIGHT COMPANY,

For an Exemption from WAC 480-109-  
130 and Condition 11(d) of Attachment  
A to Order 01 in Docket UE-190908

DOCKET UE-210352

ORDER 01

GRANTING PACIFICORP'S  
PETITION FOR EXEMPTION  
FROM RULE AND ORDER

**BACKGROUND**

- 1 Under the Energy Independence Act (EIA or Act), electric utilities with 25,000 or more customers are required to set and meet energy conservation targets every two years.<sup>1</sup> The Washington Utilities and Transportation Commission (Commission) promulgated rules implementing the EIA, which further require that each utility must file a report with the Commission identifying its 10-year achievable conservation potential and its biennial conservation target every two years.<sup>2</sup>
- 2 WAC 480-109-130(2) specifies that an electric utility regulated by the Commission “must make a conservation cost recovery filing no later than June 1st of each year, with a requested effective date at least sixty days after the filing. If the utility believes that a filing is unnecessary, then it must file a request for exception and supporting documents no later than May 1st of each year demonstrating why a rate change is not necessary.”

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<sup>1</sup> RCW 19.285.040(a) requires each electric utility to identify its 10-year achievable cost-effective conservation potential using methodologies consistent with those used by the Pacific Northwest Electric Power and Conservation Planning Council in its most recently published regional power plan. At least every two years, a utility must also review and update its assessment for the subsequent 10-year period. RCW 19.285.040(b) requires each qualifying utility to establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in RCW 19.285.040(a) and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro-rata share for that two-year period of its cost-effective conservation potential for the subsequent two-year period.

<sup>2</sup> WAC 480-109-120.

- 3 On November 1, 2019, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed its 2020-2021 Biennial Conservation Plan (BCP or Plan) identifying a 2020-2029 ten-year achievable conservation potential of 509,495 megawatt-hours (MWh) and a 2020-2021 biennial conservation target of 93,189 MWh.
- 4 On December 17, 2019, in Order 01 in Docket UE-190908, the Commission accepted PacifiCorp's 2020-2029 Ten-Year Achievable Electric Conservation Potential of 509,495 MWh; 2020-2021 EIA Target of 93,189 MWh; 2020-2021 EIA Penalty Threshold of 86,979 MWh; and 2020-2021 Decoupling Penalty Threshold of 4,660 MWh. Attachment A to Order 01 also established Condition 11(d), which requires PacifiCorp to "file revisions to its cost recovery tariff (Schedule 191) by June 1 each year, with requested effective date of August 1 of that same year."<sup>3</sup>
- 5 On May 1, 2020, PacifiCorp filed to Docket UE-200406 a petition for exemption from WAC 480-109-130 and from Condition 11(d) of Attachment A to Order 01 in Docket UE-190908. The Company also requested a one-week extension to prepare and file documentation to support the Company's request. The Commission consolidated the two dockets, granted the Company's requests for an exemption from the annual requirement to file revisions to its Schedule 191, System Benefits Charge Adjustment, and granted an extension to file supporting documentation.<sup>4</sup>
- 6 On May 20, 2021, PacifiCorp filed a petition for exemption from WAC 480-109-130 and from Condition 11(d) in Order 01 in Docket UE-190908 (Petition). In the Petition, PacifiCorp requests an exemption from the annual requirement to file an update to its Schedule 191. The Company explains that its Schedule 191 Demand Side Management (DSM) balance account is currently overfunded, but the balance is forecasted to decrease due to higher expected costs and lower revenues in the coming year. PacifiCorp filed supporting documentation with its Petition.
- 7 Commission staff (Staff) has reviewed the Company's Petition and supporting documentation and agrees with PacifiCorp that an update to rates in Schedule 191 is not necessary at this time. Staff therefore believes granting this Petition is in the public interest.

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<sup>3</sup> Docket UE-190908, Order 01, Attachment A, at p. 5 (December 17, 2019).

<sup>4</sup> See generally *In the Matter of PacifiCorp, d/b/a Pacific Power & Light Company*, Dockets UE-190908 and UE-200406 (consolidated) Order 02/01 (May 21, 2020) (Order 02).

8 Staff notes that the Petition was filed on May 20, 2021, 19 days after the May 1 deadline specified in WAC 480-109-130(2). Based on discussions with the Company, Staff understands that this lapse was due to a simple misreading of the WAC; the filing was made with the understanding that the applicable deadline was June 1 rather than May 1. This is further evidenced by the fact that the Company's request does not address the tardiness of the filing. Staff believes this small issue of non-compliance has harmed no party and believes penalizing the Company for a harmless and inadvertent oversight is not warranted in this instance.

### DISCUSSION

9 We grant PacifiCorp's Petition for an exemption this year from the annual requirement to file revisions to its Schedule 191, System Benefits Charge Adjustment, as required by WAC 480-109-130(2) and Condition 11(d) in Order 01 in Docket UE-190908. Pursuant to WAC 480-07-110(2)(c), we apply a public interest standard when evaluating requests for exemptions from Commission rules, considering factors such as whether the effect of applying the rule would be contrary to the underlying purposes of the rule and the public interest.<sup>5</sup> We agree with Staff that granting this petition is in the public interest.

10 Although PacifiCorp did not file this Petition before the May 1, deadline set forth in WAC 480-109-130(2), we decline to assess a penalty for this oversight. Pursuant to RCW 80.04.405, the Commission retains the discretion to remit or mitigate penalties. While the delay made it unlikely that the Commission would consider this petition prior to the June 1 deadline for any required conservation tariff revisions, we agree with Staff that, in this instance, the impact of the accidental non-compliance was minimal. Much as we observed in Docket UE-200406, PacifiCorp's request for an additional week to provide documentation in support of its conservation cost recovery filing "did not significantly hamper the Commission's ability to review it."<sup>6</sup> We expect that the utilities we regulate make every effort to comply with all requirements in the WAC. However, we also recognize that inadvertent mistakes occur on occasion. Given the circumstances of this case, we decline to take punitive action over this matter.

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<sup>5</sup> Order 02 ¶ 15.

<sup>6</sup> Order 02 ¶ 16.

### FINDINGS AND CONCLUSIONS

- 11 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.
- 12 (2) PacifiCorp is an electric company and a public service company subject to Commission jurisdiction.
- 13 (3) On May 20, 2021, PacifiCorp filed a Petition, requesting an exemption from the annual requirement to file revisions to its Schedule 191, System Benefits Charge Adjustment, under WAC 480-109-130(2) and Condition 11(d) in Order 01 in Docket UE-190908.
- 14 (4) This matter was brought before the Commission at its regularly scheduled meeting on July 29, 2021.
- 15 (5) After reviewing PacifiCorp's Petition and giving due consideration to all relevant matters and for good cause shown, the Commission finds that the Company's Petition is consistent with the public interest and should be granted.

### ORDER

#### THE COMMISSION ORDERS:

- 16 (1) PacifiCorp d/b/a Pacific Power & Light Company's Petition is granted.
- 17 (2) PacifiCorp d/b/a Pacific Power & Light Company is exempted from compliance in calendar year 2021 with the annual requirement to file revisions to its Schedule 191, System Benefits Charge Adjustment, under WAC 480-109-130(2) and Condition 11(d) in Order 01 in Docket UE-190908.
- 18 (2) The Commission retains jurisdiction over the subject matter and PacifiCorp d/b/a Pacific Power & Light Company to effectuate the provisions of this Order.

*19* The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective July 29, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON  
Executive Director and Secretary