

**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-220376

ORDER 03

DENYING MOTION TO
CONSOLIDATE

BACKGROUND

- 1 On November 1, 2021, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) its Draft Clean Energy Implementation Plan (CEIP) in Docket UE-210829 along with a Petition for Exemption from WAC 480-100-605 (Petition).
- 2 On December 9, 2021, PacifiCorp's Petition was heard at the Commission's regularly scheduled Open Meeting.
- 3 On December 13, 2021, the Commission issued Order 01 in Docket UE-210829, denying PacifiCorp's Petition.
- 4 On December 30, 2021, PacifiCorp filed with the Commission its final CEIP in Docket UE-210829.
- 5 On June 6, 2022, the Commission, through its staff (Staff), issued a Complaint and Notice of Prehearing Conference in Docket UE-220376 (Complaint). The Complaint alleges that PacifiCorp violated Commission Order 01 in Docket UE-210829,¹ Revised Code of Washington (RCW) 19.280.030(3)(a)(ii), RCW 19.280.030(3)(a)(iii),

¹ *In re Petition of PacifiCorp d/b/a Pacific Power & Light Co Seeking Exemption from the Provisions of WAC 480-100-605, Docket UE-210829, Order 01, Denying Petition for Exemption, (Dec. 13, 2021).*

Washington Administrative Code (WAC) 480-100-640(7), and WAC 480-100-660(4) by failing to incorporate the social cost of greenhouse gases (SCGHG) in the preferred portfolio of its CEIP. The Complaint requested the Commission find PacifiCorp in violation of statute, Commission rule, and Commission order and assess a penalty of \$1,000 per day for each of the five violations alleged.

- 6 On June 27, 2022, PacifiCorp filed with the Commission an Answer, a Motion to Stay Penalties, and a Motion to Dismiss.
- 7 On June 28, 2022, Staff filed a Motion to Consolidate Docket UE-220376 with Docket UE 210829 (Motion).
- 8 The Commission convened a virtual prehearing conference on June 30, 2022, before Administrative Law Judge Andrew J. O’Connell.
- 9 On July 5, 2022, the Commission issued Order 01, granting among other things, a motion to continue the prehearing conference until a number of issues were resolved by Commission order, including Staff’s Motion.
- 10 On August 1, 2022, the Commission issued Order 02, denying PacifiCorp’s Motion to Dismiss and Stay Penalties and giving notice that responses to Staff’s Motion must be filed with the Commission by 5 p.m. on August 10, 2022. Notice was also issued in Docket UE-210829 to allow any interested person to respond to Staff’s Motion.
- 11 On August 5, 2022, PacifiCorp filed with the Commission a response to Staff’s Motion, supporting the Motion.
- 12 On August 10, 2022, the Alliance of Western Energy Consumers (AWEC) and the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel) filed with the Commission separate responses to Staff’s Motion. AWEC opposes Staff’s Motion. Public Counsel supports Staff’s Motion.

DISCUSSION

- 13 A party to a proceeding may request that the Commission consolidate matters before it.² The Commission has discretion to consolidate two or more proceedings in which the

² WAC 480-07-320.

facts or principles of law are related.³ Ultimately, we agree with AWEC that Dockets UE-220376 and UE-210829 should not be consolidated at this time.

- 14 In Docket UE-210829, the Commission must determine whether to approve, reject, or approve with conditions PacifiCorp's CEIP. To do so, the Commission must consider whether PacifiCorp's CEIP complies with all applicable statutes, rules, and Commission orders. PacifiCorp is responsible for demonstrating its compliance.
- 15 In Docket UE-220376, the order, rules, and statutes Staff alleges that PacifiCorp has violated are a portion of what must be considered in Docket UE-210829, but Staff first must prove that the violations have occurred.
- 16 The Commission may determine whether a violation of an order has occurred in a new docket, separate from the one in which the order was issued. The existence of a clear relationship between dockets does not necessarily mean that those matters should be consolidated. Here, the Complaint's allegations raise questions regarding only a subset of PacifiCorp's CEIP, and no interested person in Docket UE-210829 has requested that docket be adjudicated. Although we do not exclude the possibility in the future, we find that consolidation at this time will not further judicial economy or administrative efficiency. For now, we determine that public participation would benefit from maintaining a separation of these two dockets.⁴
- 17 Accordingly, we determine that Staff's Motion should be denied.

³ *Id.*

⁴ See *In the Matter of Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, In the Matter of Amending or Adopting rules relating to WAC 480-100-238, Relating to Integrated Resource Planning*, Dockets UE-191023 and UE-190698 (*Consolidated*), General Order R-601, ¶¶ 134-184 (Dec. 28, 2020).

ORDER

18 THE COMMISSION Denies Commission Staff's Motion to Consolidate this proceeding with Docket UE-210829.

DATED at Lacey, Washington, and effective August 25, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*

ANDREW J. O'CONNELL

Administrative Law Judge

NOTICE TO PARTIES: Administrative review of this Order may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.