

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of)	
)	
PACIFICORP d/b/a PACIFIC POWER,)	JOINT ADVOCATES COMMENTS
)	ON PACIFICORP’S MOTIONS FOR
2022 Integrated Resource Plan.)	EXTENSION TO FILE ITS CLEAN
)	ENERGY PLAN AND LONG-TERM
)	FUEL SUPPLY PLAN WITH
)	EXPEDITED CONSIDERATION

I. INTRODUCTION

The Joint Advocates respectfully submit the following comments in response to Chief Administrative Law Judge Nolan Moser’s Memorandum, issued March 21, 2023, inviting comments on two motions filed by PacifiCorp (also the Company) in the above-captioned docket. The Company’s motions request extensions to file its Clean Energy Plan and Long-Term Fuel Supply Plan (the Motions) filed on March 20 and March 21, respectively.

The Joint Advocates note that PacifiCorp is asking for additional time despite its assurances the previous extension would be sufficient. The Company’s request places strain on the Joint Advocates and other stakeholders because it is coming just over a week before its own deadline to file its Integrated Resource Plan (IRP) and Clean Energy Plan (CEP). The Company reiterates arguments used to justify its draft IRP waiver request and could have reasonably provided interested stakeholders more time to consider its CEP delay request. In addition, it will be harder for stakeholders to provide meaningful comments to the Company’s IRP without any understanding of how the CEP and the Long-Term Fuel Plan (LTFP) interact with the Company’s long-term plans. Finally, PacifiCorp has failed to meet the procedural requirements for an expedited motion and has not shown filing its CEP with its IRP will be unduly burdensome because it has failed to provide sufficient rationale beyond the arguments it has already raised to waive IRP guideline 2(c) back in December 2022.

For these reasons, the Joint Advocates respectfully request the Commission deny the Motions and direct the Company to file its CEP and LTFP, with acknowledgment that both

documents may be modified by May 31, 2023, after receiving public comment on these documents and the preliminary IRP. The Joint Advocates request that a 30-day opportunity to comment on all addendums be provided. In short, the Commission should order the Company to file the best information it has for its CEP and LTFP under the previously established deadline while providing an opportunity for later modification and attendant stakeholder comment.

In the alternative, given that the Company appears to be unprepared to provide either plan, the Commission could grant PacifiCorp a 2-week extension, allowing it to file its IRP, CEP, and LTFP by April 15, 2023, and adjust the remaining deadlines accordingly. Whatever the decision, the Joint Advocates strongly urge the Commission to continue to allow parties and stakeholders to comment on the Company's CEP, IRP, and LTFP as initially filed, revised, or otherwise. The opportunity to provide comments should not be shortened due to the Company's delays.

II. JOINT ADVOCATES' COMMENTS

A. PacifiCorp's Last-Minute Filings Raise Concern.

PacifiCorp filed the Motions just 11 and 10 days before the filing deadline.¹ The timing of the Motions is concerning because it places the Commission in a difficult and uncomfortable position. The Commission must either grant PacifiCorp some amount of delay, or deny the requests and direct PacifiCorp to make its filings within a timeframe that the Company claims is impossible. These last-minute requests are troubling.

While extensions of time to file are often warranted and reasonable, we suggest that PacifiCorp either knew or should have known much earlier than slightly over a week before its filing deadline that it was unlikely to have either document completed. For example, as the Company asserted in its Motion to extend time to file its LTFP, on March 2, it asked Utah for an extension to file its final IRP by May 31, 2023.² Arguably, the Company knew it would need to request an extension well before this week.

Further, we suggest the Company should have reached out to, at a minimum, the parties in LC 77 about these motions. The Joint Advocates are confused as to why the Company chose

¹ While PacifiCorp is not required to file its IRP in Oregon by March 31, 2023, the Company has maintained that there are multiple reasons to file by this self-imposed deadline. Filing of its IRP triggers the deadline to also file both a CEP and a Long-Term Fuel Supply Plan for the Jim Bridger plant.

² *In the Matter of PacifiCorp, dba Pacific Power, 2023 Integrated Resource Plan*, Docket No. LC 82, PacifiCorp's Motion for Extension of Time to File Long-Term Fuel at 2, n 5 (March 21, 2023) (LTFP Motion).

not to err on the side of acting in good faith by conferring with the parties in LC 77 on these expedited motions, particularly since the Company filed its request for more time to file its 2023 IRP in docket LC 77.

In the Motions, PacifiCorp primarily argues that extensions are justified because the Company has yet to finalize its IRP.³ In its CEP motion, the Company argues that filing the CEP with the IRP at the end of the month would create an undue burden because of: the complexities of being a multi-state utility and having less than 6 months to incorporate CEP guidance while working on its IRP; uncertainty of its future Oregon load forecasts; and that the IRP is showing a need to incorporate new technology to meet obligations and needed time to analyze risks and benefits.⁴

In its IRP guideline waiver request, PacifiCorp argued good cause existed for a waiver due to new and developing regulatory requirements from HB 2021 and Commission guidance in UM 2225, which made it “unlikely the Company can provide a complete draft of the 2023 IRP prior to filing the final plan.”⁵ In fact, PacifiCorp requested the waiver, which was ultimately granted, in recognition of the importance that the IRP and CEP be filed together:

PacifiCorp anticipates that 2023 CEP materials will not be sufficiently complete by January 2023 to circulate a draft for public comment. **Given that the 2023 CEP will be an important component of the 2023 IRP**, any draft circulated of the 2023 IRP would likely be incomplete and potentially misleading. Granting this waiver will remove this regulatory requirement and allow the Company to dedicate its resources to the preparation of the final 2023 IRP and 2023 CEP, which it will file with the Commission in March 2023.⁶

Notably, the Company also represented to the 2023 Oregon Legislature that it was prepared to file its IRP and CEP together in the Spring 2023.⁷ This additional delay does not come as too

³ See LTFP Motion at 2; *In the Matter of PacifiCorp, dba Pacific Power, 2023 Integrated Resource Plan*, Docket No. LC 82, Motion for Extension to File PacifiCorp’s First Clean Energy Plan at 2-3 (March 20, 2023) (CEP Motion).

⁴ CEP Motion at 1. In this motion, PacifiCorp also reiterates that technically, it does not have to file an IRP until next year.

⁵ *In the Matter of PacifiCorp, dba Pacific Power, 2021 Integrated Resource Plan*, Docket No. LC 77, PacifiCorp’s Motion for Waiver of Integrated Resource Plan Guideline 2(c) at 4 (Dec. 13, 2022) (Motion for Waiver).

⁶ *Id.* at 3.

⁷ Oregon Senate Committee on Energy and Environment, Informational Meeting: HB 2021 Implementation (Feb. 2, 2023) (see [PacifiCorp House Bill 2021 \(2021\) Implementation presentation](https://olis.oregonlegislature.gov/liz/2023R1/Committees/SEE/2023-02-02-13-00/Agenda) and [meeting recording](https://olis.oregonlegislature.gov/liz/2023R1/Committees/SEE/2023-02-02-13-00/Agenda) (also accessible here: <https://olis.oregonlegislature.gov/liz/2023R1/Committees/SEE/2023-02-02-13-00/Agenda>); Oregon House Committee on Climate, Energy, and Environment, Informational Meeting: HB 2021 Implementation (Jan. 18, 2023) (see [House Committee presentation materials](https://olis.oregonlegislature.gov/liz/2023R1/Committees/HCEE/2023-01-18-15-00/Agenda) and [meeting recording](https://olis.oregonlegislature.gov/liz/2023R1/Committees/HCEE/2023-01-18-15-00/Agenda) (also accessible here: <https://olis.oregonlegislature.gov/liz/2023R1/Committees/HCEE/2023-01-18-15-00/Agenda>)).

much of a surprise given that continued delays have been further evident by the Company's failure to provide any draft modeling or portfolio results through its stakeholder input process, a stark departure from prior IRP cycles.

B. PacifiCorp's current, draft Clean Energy Plan and Long-Term Fuel Supply Plan should be available for public review and comment.

Both the CEP and LTFP are integral parts of PacifiCorp's 2023 IRP. In Order No. 22-206 and the PUC's proposed CEP procedural rules,⁸ the Commission acknowledged the inherent interconnectedness of an electric utility's IRP and CEP by requiring them to be filed concurrently unless the utility shows it would be unduly burdensome to do so. The Company's LTFP has also historically been included in IRPs and not filed separately. Fuel costs are an issue in the annual power cost case, the Transition Adjustment Mechanism (TAM), where PacifiCorp has defended coal costs by calling out their LTFP. In fact, in the 2023 TAM, PacifiCorp noted that it had "committed through deliberations in the 2021 IRP proceeding . . . to complete a revised long-term fuel plan *and include the plan details as assumptions aligned with or as part of the 2023 IRP.*"⁹ The Commission ultimately ordered PacifiCorp to update the LTFP and file it with the 2023 IRP.¹⁰ Asking parties to comment on an IRP without understanding how the CEP and LTFP fit into it makes it harder for commenters to respond with good information and in a meaningful way.

Moreover, although PacifiCorp provides several reasons for why a delay in filing its CEP is reasonable, including that *this* extension will provide a more "robust and thoughtful" CEP, PacifiCorp reiterates similar reasons stated for its IRP guideline waiver request, and sets forth only one real reason for why the delay is necessary: "[t]he Company's CEP is based on the IRP[.]" and the Company has been unable to complete the IRP in time to then finalize its CEP.¹¹

As noted above, PacifiCorp was granted a waiver from preparing a draft IRP to allow for more time to develop both its IRP and CEP. In that request, the Company stated that "[g]iven that the 2023 CEP will be an important component of the 2023 IRP, any draft circulated of the 2023 IRP would likely be incomplete and potentially misleading" if filed prior to the completion

⁸ UM 2225, Order No. 22-477, App. A at 14 (Dec. 14, 2022) and Order No. 22-206, App. A at 1 (June 3, 2022).

⁹ UE 400, Reply Testimony of James Owen at 10:21-23 (emphasis added).

¹⁰ Order No. 22-389 at 3.

¹¹ LC 82, CEP Motion at 3-4.

of the CEP.¹² As a result, stakeholders have been under the impression that PacifiCorp’s CEP is being developed in tandem with its IRP. Now, the Company argues that “[i]t is helpful to Oregon stakeholders for PacifiCorp to maintain the March 31, 2023, filing date for the 2023 IRP, even without the completed CEP, because filing the IRP sooner facilitates HB 2021 implementation.” While PacifiCorp’s CEP may not yet be fully complete for the reasons PacifiCorp set forth in its motion, the Joint Advocates assume that a draft CEP is under development. It is highly likely that the Company would be able to submit some form of a CEP by its previously established March 31 deadline, especially if the Commission provides an opportunity for later refinement.

All stakeholders are very interested in reviewing PacifiCorp’s CEP, as it is the document that will chart the Company’s path to HB 2021 compliance and resource selection. As the Company acknowledged, the first CEPs will be extremely consequential to a utility’s ability to meet HB 2021’s ambitious greenhouse gas reduction targets. The Joint Advocates believe that it would be highly valuable for the Company to provide its current draft CEP with its preliminary IRP on March 31, 2023. Like the preliminary IRP, the draft CEP would then be subject to comment within the first 30 days and subsequent revision before May 31, 2023. This approach would better align with HB 2021’s intention that CEPs and IRPs be developed concurrently.

C. PacifiCorp Should Disclose Jim Bridger Fuel Pricing Assumptions Made in the 2023 IRP When It is Initially Filed on March 31, 2023.

PacifiCorp requests an extension to file its LTFP for the Jim Bridger plant primarily because it will “allow the Company to develop a LTFP that aligns with the 2023 IRP preferred portfolio and action plan.”¹³ The Company goes on to state that in order “[t]o develop a LTFP, the Company must first identify a resource portfolio that will inform the expected generation at the Jim Bridger plant.”¹⁴ While it is true that an IRP preferred portfolio will inform the LTFP, the LTFP also informs the IRP modeling. This is because the LTFP typically contains several fueling options for Jim Bridger that are compared for cost effectiveness. Once a least-cost fueling option has been identified, that price point can be inputted into the IRP modeling to determine whether and how often Jim Bridger should operate, compared to other available

¹² LC 77, Motion for Waiver at 4.

¹³ LC 82, LTFP Motion at 3.

¹⁴ *Id.*

resources. In fact, without a LTFP, it would be unclear how PacifiCorp determined what fuel price assumptions to use in its IRP modeling for Jim Bridger.

As a result, the Commission should direct PacifiCorp to provide, with its preliminary 2023 IRP, the LTFP relied upon in its 2023 modeling. While this would be the most preferable course of action, if the Commission determines that an LTFP is legitimately unavailable, the Commission should direct PacifiCorp to provide, at a minimum, the following information, as a substitute for a LTFP:

1. Coal price assumptions for all coal supplies assumed to supply Jim Bridger in the 2023 IRP, including the Black Butte and Bridger Coal Company mines;
2. Whether minimum take assumptions were assumed in the 2023 IRP for any Jim Bridger coal supply, including the quantity of the minimum take and years in which the minimum take applied;
3. Total assumed quantity of coal purchased from each coal supply for Jim Bridger in the 2023 IRP preferred portfolio.

As the Commission is aware, PacifiCorp's assumptions regarding Jim Bridger fuel purchasing was a contested issue in PacifiCorp's 2021 IRP. While PacifiCorp has indicated that it is taking positive steps in the 2023 IRP (by, for example, removing erroneous must take assumptions at Jim Bridger), no stakeholder has seen the specific assumptions that PacifiCorp made for the 2023 IRP. Fueling assumptions for Jim Bridger have the potential to significantly influence both Jim Bridger's retirement date and dispatch. Accordingly, both the Commission and stakeholders should have access to the Jim Bridger LTFP, or reasonably similar information, with the filing of PacifiCorp's preliminary 2023. Should either the Commission or stakeholders have suggested modifications to Jim Bridger fueling assumptions, changes could feasibly be made within the 30-day window for preliminary comments, as PacifiCorp was able to produce a sensitivity model run in the 2021 IRP modifying fueling assumptions (by removing must take requirements) in a relatively short-term period.¹⁵

D. PacifiCorp's motions fail to meet necessary procedural requirements.

Before filing a procedural motion, a moving party must make "a good faith effort to confer with other parties to seek agreement about the subject of the motion. A procedural motion

¹⁵ Specifically, PacifiCorp produced a sensitivity model run without must take assumptions for Jim Bridger during the 2021 IRP process, after Staff had requested such a sensitivity in opening comments.

must describe the effort to confer and the result of the effort.”¹⁶ If expedited consideration is requested, the moving party must certify that it “attempted to contact the other parties to the proceedings to discuss the motion and state whether the parties support the motion[;]” it also must “include a request to shorten the time for responses.”¹⁷ In its Motions, PacifiCorp indicated there were not yet parties to the LC 82 2023 IRP proceeding so conference was not required, but that the Company had shared its Motions to parties in LC 77 and UM 2225. The Joint Parties do not believe that notification, after the Motions were filed, to parties in LC 77 and UM 2225 demonstrated good faith.

First, it is unclear why the Company would file its request for waiver of an IRP guideline for its 2023 IRP in LC 77, but then file these Motions under a new docket number that had not yet been established until the Motions were filed. Second, it is confusing as to why the Company would not confer with the LC 77 parties about the Motions prior to filing them in LC 82, particularly when expedited consideration was requested. It would have been simple to make the good faith effort and confer with parties in LC 77 where the Company filed its request for more time to file its 2023 IRP. In addition, the Company did not include a request to shorten the time for responses in its Motions, as required under OAR 860-001-0420(6)(c). Based upon these procedural failures of the Motions, the Company’s requests should be denied.

As stated above, last December PacifiCorp asked for a waiver of IRP guideline 2(c) which requires it to circulate a draft IRP for public review. In its waiver request, PAC argued “good cause” for the waiver existed due to new and developing regulatory requirements from HB 2021 and Commission guidance in UM 2225, the fact that rules weren't established yet, and it didn't think its CEP materials would be sufficient to circulate for public comment by January 2023.¹⁸ In its current CEP motion, the Company makes no new arguments. Instead, PacifiCorp argues that filing the CEP with the IRP at the end of the month would create an undue burden because: of the complexities of being a multi-state utility¹⁹ and having less than 6 months to incorporate CEP guidance while working on its IRP; uncertainty of its future Oregon load forecasts; and that the IRP is showing a need to incorporate new technology to meet obligations

¹⁶ OAR 860-001-0420(2).

¹⁷ OAR 860-001-0420(6)(a), (c).

¹⁸ LC 77, PacifiCorp Motion for Waiver at 2-3.

¹⁹ Of note, PacifiCorp Refiled its Clean Energy Implementation Plan in Washington on March 13, 2022. *See* UE 210829, PacifiCorp – 2021 Clean Energy Implementation Plan (Refile) (<https://apiproxy.utc.wa.gov/cases/GetDocument?docID=277&year=2021&docketNumber=210829>).

and need time to analyze risks and benefits.²⁰ Yet, it makes these statements without any supporting facts. The Company has not made any stronger argument than it did in its IRP guideline waiver request. It certainly has not made a showing of undue burden and such a finding would be inappropriate.

Given the urgent need to keep moving forward on these plans, and despite the Company's failure to meet even the necessary procedural requirements for its Motions, the Joint Advocates offer the alternatives expressed in these comments as a reasonable compromise.

III. CONCLUSION

Allowing PacifiCorp to proceed as it requests in its Motions comes at the expense of the public's opportunity to access robust and nearly-complete plans, and at the risk of cutting into the amount of time the public has to provide meaningful comments. For the reasons described above, the Joint Advocates requests the Commission deny PacifiCorp's Motions and direct the Company to file its CEP and LTFP with its IRP on March 31, 2021, and acknowledge that both documents may be modified by May 31, 2023, to incorporate feedback from public comments. The Joint Advocates requests that a 30-day opportunity to comment on all addendums be provided. In short, the Commission should order the Company to file the best information it has for its CEP and LTFP under the previously established deadline while providing an opportunity for later modification and attendant stakeholder comment.

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²⁰ LC 82, CEP Motion at 3-4.

In the alternative, given the Company appears to be unprepared to provide either plan, the Commission could, without a finding of undue burden, grant PacifiCorp a 2-week extension, allowing it to file its IRP, CEP, and LTFP by April 15, 2023, and adjust the remaining deadlines accordingly. Whatever the decision, the Joint Advocates strongly urge the Commission to continue to allow parties and stakeholders to comment on the Company's CEP, IRP, and LTFP as initially filed, revised, or otherwise. The opportunity to provide comments should not be shortened due to the Company's delays.

Respectfully submitted this 23rd day of March 2023,

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