



requirements of Commission Order Nos. 07-002, 07-047, and 08-339. Under OAR 860-027-0400(5), Commission staff and parties must file comments and recommendations within six months of IRP filing.

In Order No. 07-002, the Commission first adopted guidelines for the development of utility IRPs that included Guideline 2(c), which states that, “The utility must provide a draft IRP for public review and comment prior to filing a plan with the Commission.”<sup>1</sup>

Under OAR 860-027-0400(1), the Commission may waive any obligations imposed on the utility under this rule upon application by an entity subject to the rule for a showing of good cause. In addition, under OAR 860-027-0000(2), upon written request or the Commission’s own motion, any of the Division 27 rules may be waived upon a showing of good cause.

House Bill (HB) 2021 from 2021, as codified at ORS 469A.415 requires large electric IOUs to “develop a clean energy plan for meeting the clean energy targets set forth in ORS 469A.410 concurrent with the development of each integrated resource plan” and file the plan with the Commission with the IRP or no later than 180 days after the IRP is filed. In Docket No. UM 2225, Order No. 22-206, the Commission directed PAC to file the CEP with the utility’s next IRP, as a chapter, appendix, or accompanying filing.

## Analysis

### *Background*

On May 23, 2022, in Order No. 22-178, the Commission acknowledged PAC’s 2021 IRP with some modifications and exceptions. OAR 860-27-0400(3) requires that an energy utility file a new IRP within two years of the acknowledgment of its prior IRP, which would have PAC’s next IRP due to be filed by May of 2024. However, PAC began engaging stakeholders on its next IRP in February 2022, with the goal of filing a new IRP by March 31, 2023.

House Bill 2021 imposed new requirements on some utilities, including the obligation to file a Clean Energy Plan (CEP) as part of their IRPs. The Commission subsequently directed PAC to file its first CEP with its next IRP as a chapter, appendix, or accompanying filing.<sup>2</sup>

On December 13, 2022, PAC filed for a waiver of IRP Guideline 2(c), the requirement to file a draft IRP.

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<sup>1</sup> See UM 1056, Order No. 07-002, January 8, 2007

<sup>2</sup> See UM 2225, Order No. 22-206, June 3, 2022, page 1.

*Justification for Pacific Power's Waiver Request*

PAC states in its filing that it is committed to a transparent and meaningful stakeholder process in developing its 2023 IRP.<sup>3</sup> However, the new requirements imposed by HB 2021 have compressed the planning schedule and would make it difficult to provide a complete and meaningful draft of its IRP prior to filing the IRP with the Commission. The Company avers that any draft provided for public comment would be incomplete and, therefore, potentially inaccurate or misleading.<sup>4</sup>

As PAC notes, the UM 2225 docket remains open and ongoing. For example, the Company states that the Commission has provided recent guidance in Orders 22-390 and 22-446, issued on October 25, 2022, and November 14, 2022, respectively, that have impacted the development of its CEP.<sup>5</sup>

PAC asserts that the stakeholder engagement process it has undertaken over the last year substantially fulfills the requirements of Guideline 2(c) to provide a venue for public input in the process of drafting its IRP. As PAC notes in its filing, the Company has held eight monthly stakeholder meetings as of the filing date and will continue those meetings until its IRP is filed.<sup>6</sup>

*Stakeholder Comments*

Renewable Northwest (Renewable NW) submitted a response to PAC's request on December 20, 2022. While Renewable NW took no position on PAC's motion, it did attach to its filing the comments it had previously submitted on November 29, 2022, under docket LC 73, in response to PGE's substantially similar motion to waive IRP Guideline 2(c). In that filing Renewable NW acknowledged the unique circumstances and procedural challenges arising from HB 2021 implementation.<sup>7</sup>

However, Renewable NW stated, "Moving from Draft to Final IRP concurrent with a public process overseen by the Commission is a more meaningful exercise for non-utility parties than utility-run workshops, however robust."<sup>8</sup> While Renewable NW did not object to PGE's waiver request in docket LC 73—and does not object to PAC's request in this docket—it did caution the Commission to narrowly tailor such a waiver to the current IRP based upon the unique and extenuating circumstances presented by HB 2021 compliance.

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<sup>3</sup> See LC 77, PacifiCorp, d/b/a Pacific Power, 2021 Integrated Resource Plan, December 13, 2022, page 2.

<sup>4</sup> Ibid, page 3.

<sup>5</sup> Ibid, page 2.

<sup>6</sup> Ibid, page 2.

<sup>7</sup> See LC 73, Renewable Northwest's Response to PGE's Motion Requesting waiver of Integrated Resource Plan Guideline 2(c), November 29, 2022, page 2.

<sup>8</sup> Ibid, page 4.

Sierra Club, Northwest Energy Coalition, the Oregon Citizens' Utility Board, and the Green Energy Institute (Joint Parties) filed comments opposing PAC's waiver request on December 20, 2022. The Joint Parties argue that the Company's stakeholder process is insufficient to meet the intent of IRP Guideline 2(c) because that process fails to provide stakeholders with a comprehensive view of the IRP, including all associated modeling.<sup>9</sup> The Joint Parties also maintain that after an IRP is filed with the Commission, the ability of stakeholders to meaningfully influence the plan is limited.<sup>10</sup> The Joint Parties also assert that PAC has consistently failed to meet either the letter or the spirit of IRP Guideline 2(c).<sup>11</sup>

Finally, the Joint Parties suggest that since the Company's most recent IRP acknowledgement occurred on May 23, 2022, the Company is not obligated to file a new IRP by March 31, 2023. While they recognize the procedural difficulties resulting from HB 2021 implementation, the Joint Parties suggest that if the current timeline is too compressed to allow for a draft IRP to be circulated for comments and input, then the Company should slightly alter its current schedule to allow for that additional step to occur, without pushing out the filing too far into 2023 or into 2024.<sup>12</sup>

NewSun Energy (NewSun) also submitted comments opposing PAC's request to waive IRP Guideline 2(c). Like Renewable NW and the Joint Parties, NewSun asserts that PAC's ongoing stakeholder engagement process does not meet the intent of IRP Guideline 2(c). NewSun goes further, contending that PAC's series of public-input meetings do not provide meaningful opportunities for stakeholders to influence the development of the IRP.<sup>13</sup>

NewSun states that the current IRP and its corresponding CEP should be subject to more, not less, public scrutiny given the importance of these plans to overall implementation of HB 2021. NewSun offers that, given the importance of this planning cycle to HB 2021 implementation, the Commission should err on the side of more, not fewer, opportunities for public engagement and input on the IRP.<sup>14</sup>

#### *Pacific Power's Reply to Joint Parties*

In reply comments filed with the Commission, PAC disputes the Joint Parties characterization of its stakeholder process. PAC states, "The Company believes that this existing process, which allows for ongoing and interactive communication with a

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<sup>9</sup> See LC 77, Joint Parties' Opposition to PacifiCorp's Motion for Waiver of IRP Guideline 2(c), December 20, 2022, page 3.

<sup>10</sup> Ibid, page 4.

<sup>11</sup> Ibid, page 3.

<sup>12</sup> Ibid, page 6.

<sup>13</sup> See LC 77, Opposition to PacifiCorp Waiver Request, December 27, 2022, page 2.

<sup>14</sup> Ibid, page 3.

wide public audience, meets the intent of the IRP guidelines adopted by the Commission.”<sup>15</sup>

The Company also argues in its reply that its status as a multijurisdictional utility and its regulatory obligations in other jurisdictions make it unworkable to delay filing its IRP until after its current March 31, 2023, deadline.<sup>16</sup>

*Staff’s Position on Pacific Power’s Waiver Request*

Staff recognizes the procedural issues raised by PAC in its waiver request. The new requirement to file a CEP, and the evolving guidance on CEPs and their relationship to the IRP, have created a unique set of circumstances. Staff is aware that PacifiCorp plans to file its IRP and CEP in late March and may not have the resources to produce a thorough IRP and CEP, while also producing a preliminary draft IRP. In Staff’s view, these issues combine to justify a partial waiver for the 2023 IRP filing of OAR 860-027-0400(2), with its requirement to comply with Order No. 07-002, containing IRP Guideline 2(c).

However, Staff agrees with much of the feedback provided by stakeholders. Circulation of a draft IRP, especially under the circumstances created by HB 2021, provides an important opportunity for public input and to provide additional feedback that can greatly impact Oregon’s path to decarbonization of the electric sector. With this in mind, Staff sees the IRP process as sufficiently flexible to accommodate an amended public comment process once the IRP is filed in March 2023. Staff’s suggested approach will result in a process that largely mirrors the draft IRP process and maintains multiple opportunities for stakeholder input, without compromising PacifiCorp’s current efforts to file a complete IRP and CEP.

*Require an Initial Round of Stakeholder Comments Upfront in the IRP Process*

Staff requests a waiver of the six-month comment period requirement in OAR 860-027-0400(5) on condition that the six-month comment period be supplemented by an initial comment period of approximately 30 days upon PAC filing its IRP. This initial window will allow Staff, stakeholders, and the public at large to raise concerns that ordinarily could have surfaced in the draft stage. Staff’s request is further conditioned on allowing the Company an additional 30 days to file reply comments as well as any associated amendments or additions to the IRP. Like a comment period associated with a draft IRP, the insertion upfront of this initial comment period on the filed IRP is intended to allow stakeholders to seek clarification on aspects of the plan,

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<sup>15</sup> See LC 77, PacifiCorp’s Reply to Joint Parties’ Opposition to Motion for Waiver of Integrated Resource Plan Guideline 2(c), December 27, 2022, page 2.

<sup>16</sup> Ibid, page 4.

highlight immediate concerns, and suggest reasonable changes the utility may be able to undertake in a short time frame.

Staff's expectations for responses and changes by the utility during this initial comment period are consistent with the expectations for a draft IRP process, which can be somewhat limited given the progressive nature of compiling a finalized IRP. This initial comment period is a complement to, not a replacement for, the substantive comment process found in past IRPs. The normal course of substantive discussion, engagement, and review will still have the space to occur throughout the subsequent rounds of comments in this IRP process.

After this initial round of stakeholder comments and utility reply of approximately 60 days has concluded, the ordinary six-month public comment period will commence and a more thorough and substantive discussion of outstanding issues in the IRP will proceed.<sup>17</sup>

Staff finds good cause for both requests as they maintain the IRP process of multiple opportunities for stakeholder input without compromising PAC's current efforts to file a complete IRP and CEP by March 2023. Further, it does not substantially extend the ordinary timeline for a Commission decision on acknowledgement of the plans, allowing for completion of the entire review by December 2023.

Staff believes its waiver request and associated conditions balance the need for focus by PAC over the next few months to produce a high-quality IRP and CEP with the public interest—found in the guidelines and echoed strongly by stakeholders—in ensuring adequate opportunities for public review and comment on the IRP.

#### *Stakeholder Input Process and Draft IRPs*

Finally, Staff also appreciates the Company's efforts to solicit stakeholder feedback through its monthly public input meetings prior to releasing its IRP. Staff finds the public input meetings serve as an important component to the stakeholder engagement process, but in the end do not provide the same levels of transparency and holistic framing as a draft IRP. Staff continues to disagree with the Company's assertion that its current stakeholder process meets the intent of the guideline.

Going forward, as HB 2021 implementation proceeds, Staff understands the public benefit of the PUC IRP guidelines evolving to reflect changes in public policy and technology, while still meeting the public's need and desire for meaningful input. Staff looks forward to that discussion, but at this time and in this docket, Staff finds continuing to have stakeholder input via a process largely similar to a draft IRP is best.

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<sup>17</sup> See UM 1056, Order No. 07-002, January 8, 2007, Guideline 3(c), page 9.

### Conclusion

Staff finds good cause to grant Pacific Power's waiver request. Granting this waiver will provide the procedural flexibility required for PAC to timely file its IRP and CEP by its preferred deadline of March 31, 2023. However, it is Staff's view that this waiver is a response to a unique set of circumstances resulting from the first instance of the Company filing a CEP in addition to its IRP. Staff does not intend indicate that IRP Guideline 2(c) will not apply to future IRPs.

Furthermore, Staff requests a waiver of OAR 860-027-0400(5) conditioned on supplementing the six-month review and comment schedule with a roughly 30-day window for public comments, followed by a roughly 30-day window for the Company to file reply comments and incorporate any changes resulting from this initial comment period. The six-month window review period will commence only after this initial comment period has ended.

### **PROPOSED COMMISSION MOTION:**

Waive OAR 860-027-0400(2) to the extent it requires compliance with Order No. 07-002's IRP Guideline 2(c) requirement to submit a draft IRP for public review prior to filing its next IRP with the Commission.

Waive OAR 860-027-0400(5), requiring comments and recommendations to be filed within six months of IRP filing, with the condition that this six-month docket schedule for the filed IRP be augmented to include an additional initial stakeholder comment period followed by utility responses and associated IRP changes to be completed roughly 60 days from filing the IRP.