

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 390

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2022 Transition Adjustment Mechanism.

ORDER

DISPOSITION: EXPEDITED MOTION TO AMEND ORDER NO. 21-379
GRANTED IN PART AND DENIED IN PART; ORDER NO. 21-379
AMENDED

I. INTRODUCTION

In this order, we deny PacifiCorp's motion to amend Order No. 21-379 in part, and instead amend the order to put in place alternative dates for the filing of PacifiCorp's long-term fuel plan for the Jim Bridger facility. On November 1, 2022, the Commission issued Order No. 21-379 in docket UE 390 regarding PacifiCorp's 2022 Transition Adjustment Mechanism (TAM). As part of this order, the Commission directed PacifiCorp to file a long-term fuel plan for its Jim Bridger facility as part of its 2023 TAM due March 1, 2022.¹ The order advised PacifiCorp to consider the changing future of the Jim Bridger facility in its updated mine plan, encouraged it to examine scenarios that may involve significant changes in the management of resources, and asked it to ensure the plan allowed for the facility to decrease output as new generation comes online.²

II. DISCUSSION

A. PacifiCorp's Motion

On February 11, 2022, PacifiCorp filed a motion to amend Order No. 21-379 to change the deadline to file its Jim Bridger Long Term Fuel Plan from its 2023 TAM filing due March 1, 2022, to its 2024 TAM filing. PacifiCorp requested expedited consideration of

¹ Order No. 21-379 at 14 (Nov 1, 2021).

² *Id.*

its motion. PacifiCorp states that there have been a number of recent events that have created significant uncertainty regarding its Jim Bridger facility.

First, PacifiCorp states that in May 2020, the Wyoming Department of Environmental Quality (DEQ) accepted PacifiCorp's application proposing to impose stricter nitrogen oxide and sulfur dioxide limits in lieu of installing the selective catalytic reduction (SCR) systems required by its state implementation plan (SIP) for regional haze requirements. According to PacifiCorp, Wyoming filed the revised SIP with the Environmental Protection Agency (EPA) for review and approval, but the EPA did not complete its review in the time required by administrative rules. Wyoming thereafter issued a notice of intent to sue the EPA and granted a four-month emergency stay allowing the continued operation of Jim Bridger Unit 2 through April 2022 without the SCR. Jim Bridger Unit 1 is allowed to operate through December 2022 according to the terms of the SIP currently in place. On January 18, 2022, the EPA filed a pre-publication notice of its intent to disapprove PacifiCorp's revised SIP, which PacifiCorp argues creates a disconnect between state and federal haze requirements and thus creates uncertainty for long-term planning for the Jim Bridger facility.

Second, PacifiCorp states that Idaho Power Company recently filed its 2021 integrated resource plan (IRP), which proposed to exit all Jim Bridger coal units by 2028.³ PacifiCorp maintains that this event, in combination with the uncertainty around federal haze requirements, creates significant uncertainty regarding the future fuel levels required for the Jim Bridger facility and that it would not be able to provide useful information for the Commission at this time.

Instead, PacifiCorp argues that it would be able to provide more useful information as part of its 2024 TAM due in 2023. PacifiCorp states that it wants to be able to incorporate these recent events in its fuel plan and ensure a thorough and robust analysis for the Commission. Additionally, PacifiCorp states that the additional year will allow for additional certainty around the EPA's actions regarding the revised SIP.

B. Sierra Club's Opposition

On February 15, 2022, Sierra Club filed an opposition to PacifiCorp's motion to amend the deadline. First, Sierra Club argues that it is important to have the Jim Bridger Long Term Fuel Plan for the 2023 TAM. Sierra Club states that PacifiCorp is currently negotiating a new coal supply agreement (CSA) with Black Butte for May 2022 and argues that the updated long-term fuel plan could impact negotiations and contract terms,

³ *In the Matter of Idaho Power Company, 2021 Integrated Resource Plan*, Docket No. LC 78, Attachment A at 173 (Dec 30, 2021).

as well as whether a new contract is necessary. Additionally, Sierra Club states that fuel pricing and availability influences the level at which a coal plant should operate and the long-term fuel plan will meaningfully inform the planned operations of the Jim Bridger units. Sierra Club further notes that PacifiCorp's 2021 IRP did not include an evaluation of optimal output from the Bridger mine and thus did not include thorough fueling analysis that would inform future operations. Sierra Club argues that the lack of analysis in PacifiCorp's 2021 IRP means that it is even more important to evaluate the Bridger mine and any Black Butte CSA in the 2023 TAM.

Second, Sierra Club also argues that PacifiCorp has not provided any legitimate reason for delay, noting that none of the events cited by PacifiCorp provided information that it was not already aware of for several months or years. Regarding the EPA's proposed denial of the amended SIP, Sierra Club states that there is no disconnect and that the SCR requirements remained in place unless and until the EPA approved the amended SIP. Sierra Club argues that there is no reason that PacifiCorp could not develop a strategy that addresses any of the potential scenarios for the facility, including installing the SCRs, converting to gas, or closure. Further, Sierra Club argues that Order No. 21-379 had envisioned that PacifiCorp would evaluate multiple scenarios and capacity levels for the facility. Additionally, Sierra Club states that PacifiCorp will almost certainly seek recovery for Jim Bridger expenses as part of its 2023 TAM, and, given the costs involved, the analysis should not be delayed.

Similarly, Sierra Club states that while Idaho Power's 2021 IRP included an earlier exit than it had previously announced, PacifiCorp had been aware for several years that Idaho Power intended to exit the Jim Bridger units. Sierra Club argues this should now create certainty around Idaho Power's participation and that even if it does create significant uncertainty, PacifiCorp could present a fueling strategy through 2028 and update in subsequent TAMs.

C. PacifiCorp's Reply

On February 22, 2022, PacifiCorp filed a reply to Sierra Club's opposition. PacifiCorp argues that Sierra Club mischaracterizes the regional haze process. Specifically, PacifiCorp states that, contrary to the Sierra Club's assertions, it has never argued that Wyoming had unilateral authority to change the terms of a SIP and that the disconnect between federal and state haze requirements refers to the air quality permit issued by the Wyoming DEQ and the SIP approved by the EPA. PacifiCorp states that it began working with the Wyoming DEQ in 2017 and the EPA in 2018 to develop an alternative to installing SCR technology. PacifiCorp further clarifies that EPA Region 8 signed an

approval of its SIP revision on November 20, 2020, but that due to the change in administration that approval was never finalized.

PacifiCorp also notes that it continues to negotiate with the EPA and Wyoming and that it recently entered into a consent decree with the Wyoming DEQ to seek to amend its air quality permits and SIP to reflect the conversion of Units 1 and 2 to natural gas. Additionally, the consent decree requires PacifiCorp to issue a request for proposals for carbon capture technology for Jim Bridger Units 3 and 4.

PacifiCorp asserts that these events make it difficult to determine the assumptions around the long-term fuel plan, and that it is unable to provide analysis based on assumptions for the Idaho Power exit date before the analysis is completed. PacifiCorp argues that if it is required to provide an update now it will have to provide that update based on obsolete information.

Regarding its upcoming CSAs, PacifiCorp argues that the 2021 and 2022 TAM orders provide the expectations for any new agreement that it might sign with Black Butte and that it will provide the required information to stakeholders pursuant to those orders.

Finally, PacifiCorp argues that the Sierra Club is essentially relitigating arguments from PacifiCorp's 2021 IRP proceeding and proposing a pre-approval prudence review inconsistent with precedent. PacifiCorp states that the long-term fuel plan for the Jim Bridger facility is a key decision document for its fueling strategy and reiterates that it is unable to produce this document because the analysis has not been completed due to events around its SIP and the Idaho Power IRP. PacifiCorp asserts that the Sierra Club is proposing a pre-approval prudence review by insisting that it provide the fuel plan and allow Sierra Club to comment on it before the decisions have been made.

III. RESOLUTION

We are not persuaded by PacifiCorp's arguments that the uncertainty around the Jim Bridger fuel units based on recent events prevents it from filing a long-term fuel plan consistent with Order No. 21-379 for the 2023 TAM. In that order, we directed PacifiCorp to examine scenarios that could present a significant change in the management of its resources and to ensure that its plan allowed the facility to decrease output as new generation comes online.⁴ The fact that circumstances have changed with respect to Jim Bridger is a confirmation of the reasons why the Commission believed that a longer-term fueling plan is warranted, to allow a further understanding by the Commission and parties about options PacifiCorp can pursue to manage risk and cost.

⁴ Order No. 21-379 at 14.

The purpose of the long-term fuel plan in this forum is to provide an evaluation and analysis of those different scenarios and to review how PacifiCorp is taking these analyses into consideration as it makes decisions surrounding fuel supply for the Jim Bridger facility. We understand that events may occur that affect PacifiCorp's long-term strategy for the facility, but the analyses provided in the long-term fuel plan are important for the purposes of evaluating its TAM and IRP filings and should contemplate multiple plausible scenarios, including the very foreseeable one that PacifiCorp currently faces.

The TAM proceeding projects the amount of power costs to be reflected in customer rates for the following year, and, as we have stated in the past, the accuracy of these forecasts are of significant importance to setting just and reasonable rates.⁵ While PacifiCorp is correct that any actions it may take regarding upcoming CSAs remain subject to a prudence review, the Commission and the parties still require this analysis to evaluate the projections and forecasts submitted as part of the TAM. Additionally, it is important that PacifiCorp demonstrate that it is conducting the appropriate analysis before it makes potentially costly decisions for ratepayers. PacifiCorp's contract with Black Butte is expiring and a new contract is expected in time for the 2023 TAM.

We deny PacifiCorp's request for an extension until the 2024 TAM. Understanding that the March 1, 2022 deadline is fast approaching, and understanding that PacifiCorp is not prepared to supply an informative plan on March 1, we will modify the order to extend the date to file until April 15, 2022. PacifiCorp's long-term fuel supply plan for the Jim Bridger facility should explore the scale of its Bridger mining operations and evaluate different scenarios as outlined in Order No. 21-379. We note that our order contemplates this plan not only addressing longer term supply, but shorter term needs and strategies through this decade. This plan does not need to include a finalized management strategy. Rather, it should lay out the various considerations and options available to PacifiCorp, and its current thinking about how to approach fueling the facility, based on the best information that the PacifiCorp has available at this time.

IV. ORDER

IT IS ORDERED that:

1. The motion to amend filed by PacifiCorp, dba Pacific Power, is granted in part.
2. Order No. 21-379, p. 14 is amended to read "As we have in past TAMs, we again require PacifiCorp to update and file the Jim Bridger Long Term Fuel Plan

⁵ *In the Matter of PacifiCorp, dba Pacific Power, 2017 Transition Adjustment Mechanism*, Docket No. UE 307, Order No. 16-482 at 2-3 (Dec 20, 2016).

document in the 2023 TAM, submitting this document to the Commission no later than April 15, 2023.”

3. The remainder of the order remains unchanged.

Made, entered, and effective Feb 28 2022.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Mark R. Thompson
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.