

ORDER NO. 24-466

ENTERED Dec 31 2024

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2023 Integrated Resource Plan.

ORDER

DISPOSITION: ADMINISTRATIVE HEARINGS DIVISION'S
RECOMMENDATION ADOPTED

At its public meeting on December 31, 2024, the Public Utility Commission of Oregon adopted Administrative Hearings Division's recommendation in this matter. The report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



Alison Lackey

Chief Administrative Law Judge



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 Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
ADMINISTRATIVE HEARINGS DIVISION REPORT
PUBLIC MEETING DATE: December 31, 2024**

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: December 20, 2024

TO: Public Utility Commission

FROM: Michael Grant, Administrative Law Judge

THROUGH: Alison Lackey, Chief Administrative Law Judge **SIGNED**

SUBJECT: IN THE MATTER OF PACIFICORP, DBA PACIFIC POWER,
2023 INTEGRATED RESOURCE PLAN:
(Docket No. LC 82)

RECOMMENDATION:

Deny PacifiCorp, dba Pacific Power's motion to postpone compliance with Order No. 24-297.

DISCUSSION:

On October 28, 2024, PacifiCorp filed a petition seeking an order postponing compliance with Order No. 24-297, which codified the Commission's decision made at an August 8, 2024 Special Public Meeting. At that meeting, the Commission found that PacifiCorp's Clean Energy Plan did not show continual progress towards meeting the state's emission reduction goals required by House Bill 2021. To address that deficiency, the Commission opened Docket UM 2345 to address the agency's authority to require PacifiCorp to issue a Request for Proposal by a date certain.¹ The Commission also directed PacifiCorp to file a small-scale resource acquisition strategy that includes timelines by April 2025.

PacifiCorp explains that it has appealed Order No. 24-297 to the Marion County Circuit Court. Because of the appeal, PacifiCorp contends the Commission should postpone compliance with the order to allow a court to first address the questions regarding the PUC's authority to order the relief mandated. PacifiCorp also contends that a postponement will conserve administrative resources by preventing the expenditure of time and resources addressing an order that the reviewing court may determine is beyond the agency's power to award. PacifiCorp adds that, if unsuccessful here, it will seek a stay with the Marion County Circuit Court.

¹ In a separate motion, PacifiCorp requests a suspension of the schedule in Docket UM 2345.

Docket No. LC 82
December 20, 2024
Page 2

PacifiCorp's motion to stay compliance is opposed by Staff, the Columbia River Inter-Tribal Fish Commission (CRITFC), the Community Renewable Energy Association (CREA), and a consortium of parties: Sierra Club, the Green Energy Institute at Lewis & Clark Law School, Mobilizing Climate Action Together, Northwest Energy Coalition, and the Oregon Citizens' Utility Board (the Joint Parties)

APPLICABLE LAW

The appeal of a Commission order does not automatically stay its effect. ORS 756.565 provides that, once entered, an order by the Commission shall remain "in force and shall be prima facie lawful and reasonable, until found otherwise[.]"

OAR 860-001-0700 allows a party to ask the Commission to postpone the time to comply with an order:

(1) Within 60 days of the date of service of a Commission order, any party may file a petition for extension or postponement of an effective date or of time to comply with the order.

(2) The petition must specify reasons for the requested extension or postponement.

That rule provides no specific standards for a motion to postpone the time to comply with a decision made at a public meeting. The Commission generally requires a showing of good cause for an extension of time to comply with an order.² To stay a contested case order that has been appealed to a court, ORS 183.482(3)(a) requires the showing of: (A) irreparable injury to the petitioner and (B) a colorable claim of error in the order.

DISCUSSION

PacifiCorp's motion to stay the effect of Order No. 24-297 should be denied. The company has failed to provide adequate justification to stay the order.

² The Commission has delegated to the Chief Administrative Law Judge the authority to modify timelines specified in an order. See *In the Matter of the Public Utility Commission of Oregon, Delegation of Certain Duties and Powers*, Docket No. CD 26, Order No. 23-321, Appendix E (Sept. 6, 2023).

Docket No. LC 82
December 20, 2024
Page 3

As noted above, PacifiCorp makes two primary arguments in support of its motion. First, PacifiCorp contends a stay will allow a court to address the company's legal challenges to the Commission's authority to order the relief mandated. But that argument, if accepted, would effectively render ORS 756.565 meaningless and essentially warrant stay of any appealed order pending court review.

Second, PacifiCorp contends that a stay will conserve administrative resources by preventing the expenditure of time and resources addressing the legal questions here. To be clear, no further proceedings addressing the agency's legal authority are scheduled in this docket. The Commission has opened a separate contested case proceeding, docket UM 2345, to address the issues regarding its legal authority, and PacifiCorp's request to suspend the procedural schedule in that case will be addressed in a separate order. Additionally, the Commission's review of the scope and extent of its authority in that proceeding, informed by agency stakeholders and the agency's own expertise of its enabling statutes and regulatory authority, may ultimately prove more efficient.

PacifiCorp has made no showing of irreparable harm in support of its request. Although not explicitly required by OAR 860-001-0700, a request for an indefinite postponement of an order pending court review should be consistent with requests for a stay of an order under ORS 183.482(3) and supported with such evidence. PacifiCorp has provided no evidence that the Commission's decisions codified in Order No. 24-297—to order a separate investigation into the agency's authority to require the company to hold an RFP and file a small-scale resource acquisition plan—will cause significant and irreversible harm.

PROPOSED COMMISSION MOTION:

Deny PacifiCorp's motion to postpone compliance with Order No. 24-297 pending appeal of the order to the Marion County Circuit Court.