



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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REQUEST FOR HEARING ON
PROPOSED ADMINISTRATIVE
ENFORCEMENT ORDER

Docket No. H.25-07-005

MOTION TO PARTIALLY WITHDRAW REQUEST FOR HEARING

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MOTION TO PARTIALLY WITHDRAW REQUEST FOR HEARING

Pursuant to Rules 11.1 and 13.5 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”) and Pub. Util. Code § 701, PacifiCorp moves to partially withdraw its July 3, 2025 Request for Hearing on the proposed Administrative Enforcement Order (“AEO”) related to PacifiCorp’s compliance with its 2020 Wildfire Mitigation Plan (“WMP”). PacifiCorp moves to withdraw its Request for Hearing only with respect to the alleged violations of Commission Rule 1.1 and Pub. Util. Code § 8389(d)(3)/Resolution WSD-12; if the motion is granted, PacifiCorp would pay the \$310,000 penalty amount sought by the Safety and Enforcement Division (“SED”) with respect to those alleged violations, without any admission or Commission finding with respect to those alleged violations and without prejudice to PacifiCorp’s Request for Hearing on the nine remaining alleged violations in the proposed AEO.

The Commission should grant PacifiCorp’s motion, which will not prejudice SED, to streamline the issues for the upcoming hearing and avoid unnecessary litigation.

I. PROCEDURAL BACKGROUND

A. Proposed AEO and Request for Hearing

On June 3, 2025, SED issued a proposed AEO to PacifiCorp, pursuant to the Commission Enforcement Policy adopted by Resolution M-4846 and Pub. Util. Code § 701, related to

PacifiCorp’s compliance with its 2020 WMP. The proposed AEO directs PacifiCorp to pay a penalty of \$27,284,000 for eleven alleged WMP compliance violations. Only two of those alleged violations are at issue in this Motion: PacifiCorp’s alleged failure to file a complete quarterly initiative update (QIU) on the details of its 2020 WMP implementation¹; and PacifiCorp’s alleged violation of Rule 1.1, relating to alleged false statements of fact primarily in various data request responses related to PacifiCorp’s 2020 WMP.²

On July 3, 2025, PacifiCorp filed a Request for Hearing on the proposed AEO. Although PacifiCorp contested and requested a hearing on all eleven alleged violations, with regard to the alleged QIU and Rule 1.1 violations, PacifiCorp acknowledged shortcomings in its submissions. Specifically, PacifiCorp’s Request for Hearing states:

PacifiCorp acknowledges shortcomings in its QIU and its data responses, which should have been clearer and more complete. PacifiCorp recognizes the importance of providing complete and accurate information to SED and the Commission and commits to doing better in the future.³

¹ The AEO framed the QIU allegation as a violation of Cal. Pub. Util. Code § 8389(e)(7). In its Request for Hearing, PacifiCorp argued that the AEO’s allegation that PacifiCorp violated § 8389(e)(7) was incorrect because that statute does not require a utility to file a QIU. Request for Hearing at 21–22. Subsequently, via responses to PacifiCorp data requests on the issue, SED changed the basis of its allegation in the AEO regarding PacifiCorp’s QIU submission, asserting that PacifiCorp’s alleged failure to file a complete QIU was a violation of § 8389(d)(3) & Resolution WSD-12, rather than § 8389(e)(7). SED Response to PacifiCorp Data Request 1, Q 16 (Sept. 20, 2025); SED Response to PacifiCorp Data Request 4, Q 2, 14 & 15 (Nov. 13, 2025). The version of § 8389(d)(3) operative in 2020 stated: “By December 1, 2020, and annually thereafter, the commission, after consultation with the division, shall adopt and approve all of the following: . . . A wildfire mitigation plan compliance process.” Pub. Util. Code § 8389(d)(3) (added by Stats. 2019, ch. 79, § 21). The referenced wildfire mitigation plan compliance process, as developed by the Commission’s Wildfire Safety Division (now the Office of Energy Infrastructure Safety), was adopted and approved on November 19, 2020, through Res. WSD-12.

² The AEO also alleges seven violations of Pub. Util. Code § 8386.1, relating to PacifiCorp’s alleged failure to complete individual initiatives in its 2020 WMP; one violation of Pub. Util. Code § 8386(c)(1), relating to PacifiCorp’s alleged failure to file a complete Annual Report on Compliance; and one violation of Pub. Util. Code § 451, relating to various overlapping alleged WMP failures.

³ Request for Hearing at 3.

PacifiCorp acknowledges, however, that there were shortcomings in its QIU and data request responses, and PacifiCorp will submit revised responses. Since filing its Q4 QIU, PacifiCorp has made and continues to make improvements in its data collection processes related to Quality Assurance and through the use of more sophisticated data collection platforms. PacifiCorp commits to continuing its process improvements, including additional validation and review processes, to support complete and accurate responses to future data requests from SED.⁴

PacifiCorp's responses should have made clear, however, that it did not explicitly report noncompliance with the specific initiatives in the Annual Compliance Report, and that it was referencing the Annual Compliance Report for broader context because it disclosed facts about PacifiCorp's spending and some brief discussion of the weather station installation.⁵

PacifiCorp also acknowledges that there were serious flaws in its Q4 QIU, including that, in some instances, certain targets were inconsistent with the targets included in the WMP. As noted, the QIU does disclose that PacifiCorp was noncompliant with certain initiatives. PacifiCorp recognizes that any confusion or other problems that led to these issues with the QIU must be addressed, and it is committed to addressing them.⁶

PacifiCorp's Request for Hearing argued that the penalty proposed in the AEO was excessive.⁷ The AEO, however, did not specify what portion of the proposed penalty related to the two alleged violations at issue in this Motion.

B. Discovery

The matter proceeded to discovery following a Prehearing Conference held on October 1, 2025. PacifiCorp served various data requests on SED, including a request to specify, for each alleged violation, whether SED contends that the violation was continuing, and if so the start and end dates and recommended penalty amount per day, and the total penalty sought for each violation. In response, SED set forth its position as to whether each alleged violation was

⁴ *Id.* at 23.

⁵ *Id.* at 26.

⁶ *Id.* at 27–28.

⁷ Request for Hearing at 28–37.

continuing, and if so the start and end dates, but refused to provide its position as to the daily or total penalty amount it seeks for each violation.

On December 2, 2025, PacifiCorp moved for an order compelling SED to provide complete responses to a number of its data requests, including a response regarding the total penalty amounts it seeks for each discrete alleged violation in the proposed AEO. On January 26, 2026, the Administrative Law Judge granted PacifiCorp’s motion on the issue of penalty amounts, compelling SED to state the penalty it seeks for each alleged failure identified in the proposed AEO, including whether it is assessed on a per-violation or per-day basis. The ALJ reasoned that “this disclosure is necessary to ensure due process, promote efficient adjudication, and allow meaningful review of the proportionality and reasonableness of the proposed enforcement action.”⁸

On February 9, 2026, in response to the ALJ’s ruling on PacifiCorp’s motion to compel, SED provided PacifiCorp with a chart breaking down the proposed \$27,284,000 penalty by individual alleged violation, including whether SED contends that the violation was continuing and if so, the start and end dates and recommended penalty amount per day, and the total penalty sought for each violation. That chart is reproduced below, with highlighting applied to the two alleged violations at issue in this Motion. The penalty amounts assigned by SED to those two alleged violations total \$310,000:

Violation	Continuing/ Non-Continuing	Start and End Dates	# of Days	Daily Fine	Total Fine
Performance on Initiative 5.3.3.3 (Covered Conductor)	Continuing	6/11/2020 – 7/15/2021	399	\$30,000	\$11,970,000
Performance on Initiative 5.3.3.6 (Targeted Pole Replacements)	Continuing	6/11/2020 – 7/15/2021	399	\$1,000	\$399,000

⁸ ALJ Ruling (Jan. 26, 2026) at 5.

Performance on Initiative 5.3.2.1 (Weather Stations)	Continuing	6/11/2020 – 5/5/2021	328	\$1,000	\$328,000
Performance on Initiative 5.3.5.21 (Radial Pole Clearing)	Continuing	6/11/2020 – 7/15/2021	399	\$5,000	\$1,995,000
Performance on Initiative 5.3.5.2 (Distribution Vegetation Detailed Inspections)	Continuing	6/11/2020 – 7/15/2021	399	\$10,000	\$3,990,000
Performance on Initiative 5.3.5.11 (Distribution Vegetation Patrol Inspections)	Continuing	6/11/2020 – 7/15/2021	399	-	Assigned to penalty for Initiative 5.3.5.2
Performance on Initiative 5.3.5.3 (Transmission Vegetation Detailed Inspections)	Continuing	6/11/2020 – 7/15/2021	399	\$10,000	\$3,990,000
Performance on Initiative 5.3.5.12 (Transmission Vegetation Patrol Inspections)	Continuing	6/11/2020 – 7/15/2021	399	-	Assigned to penalty for Initiative 5.3.5.3
Performance on Initiative 5.3.5.20 (Vegetation Management to Achieve Clearances)	Continuing	6/11/2020 – 7/15/2021	399	\$10,000	\$3,990,000
Performance on Initiative 5.3.5.17 (Substation Inspections)	Continuing	6/11/2020 – 7/15/2021	399	-	Assigned to penalty for Initiatives 5.3.5.2 and 5.3.5.3
Performance on Initiative 5.3.5.18 (Substation Vegetation Management)	Continuing	6/11/2020 – 7/15/2021	399	-	Assigned to penalty for Initiatives 5.3.5.2 and 5.3.5.3.
Rule 1.1	Non-Continuing	-	1	\$100,000	\$100,000
PUC § 8386.3(c)(1) (Annual Report)	Continuing	3/31/2021 – 7/15/2021	106	\$2,000	\$212,000
PUC § 8389(d)(3) & Resolution WSD-12 (Quarterly Initiative Update)	Continuing	4/1/2021 – 7/15/2021	105	\$2,000	\$210,000
PUC § 451	Non-Continuing	-	1	\$100,000	\$100,000

C. Revised Data and Responses

While this discovery was ongoing, PacifiCorp was proceeding with the revisions that it committed to make in its Request for Hearing—specifically, revisions to its Q4 QIU and certain of its responses to SED’s 2020 WMP data requests. PacifiCorp provided revised responses to SED’s 2020 WMP data requests on September 17, October 3, and October 14, 2025, on January 23 and 28, 2026, and on March 6 and April 7, 2026. Among the issues that PacifiCorp corrected in these revisions was to clarify in various data request responses that it did not explicitly report noncompliance with certain specific initiatives in its 2020 Annual Report on Compliance, as highlighted in SED’s report on the proposed AEO.⁹ PacifiCorp’s revised responses to SED’s 2020 WMP data requests are attached to this motion as Exhibit A.

On February 25, 2026, PacifiCorp submitted a revised Q4 QIU to SED and the Office of Energy Infrastructure Safety. The revised Q4 QIU was accompanied by a cover letter explaining in detail the errors that PacifiCorp was correcting, including discrepancies between target units and/or target figures for certain initiatives in the Q4 QIU and in the 2020 WMP, as highlighted in SED’s report on the proposed AEO.¹⁰ A copy of PacifiCorp’s revised Q4 QIU and accompanying cover letter is attached to this motion as Exhibit B.

II. THE COMMISSION SHOULD AUTHORIZE PACIFICORP TO PARTIALLY WITHDRAW ITS REQUEST FOR HEARING

PacifiCorp moves to partially withdraw its Request for Hearing on the alleged violations of Rule 1.1 and Pub. Util. Code § 8389(d)(3)/Resolution WSD-12. If the motion is granted, PacifiCorp would pay the \$310,000 SED seeks as a penalty for those alleged violations, without

⁹ See SED Report at 50.

¹⁰ See *id.* at 47–48.

any admission or Commission finding with respect to such alleged violations and without prejudice to PacifiCorp's Request for Hearing on the remaining violations in the proposed AEO.

A. Legal Standard

A respondent to an AEO has the option to pay the proposed penalty amount.¹¹ The AEO established a deadline of July 3, 2025 for PacifiCorp to exercise that option, but it imposes no other conditions. In particular, neither Resolution M-4846 nor the AEO in this case require the respondent to admit to any violation.

The Commission, acting through the Administrative Law Judge, can permit PacifiCorp to exercise the option to pay the proposed penalty for the two alleged violations at issue after the deadline imposed by the AEO, for good cause shown. Although no specific procedural rule addresses this circumstance,¹² the target of a proposed AEO should logically be allowed to partially withdraw its Request for Hearing as to certain alleged violations and pay the associated penalty, thereby reducing the contested issues and the corresponding need for evidence and testimony at hearing. The Commission Enforcement Policy provides that a hearing on a proposed AEO "shall be conducted by an ALJ in accordance with the hearing provisions in the

¹¹ See Resolution M-4846, Appendix A (CPUC Enforcement Policy (Nov. 5, 2020)), at 12 (discussing content of AEO, including directive to pay a penalty). The AEO in this proceeding states that PacifiCorp "must either 1) agree to pay any penalty required by this Proposed Order upon adoption of the Proposed Order by the Commission (Final Order) or 2) request a hearing on the Proposed Order." AEO at 1. See also AEO, Appendix A (Instructions) (stating that Respondent must either agree to pay any penalty required by the Proposed Order and to comply with all corrective actions, or else request a hearing).

¹² There is no statute or rule that prevents PacifiCorp from partially withdrawing its Request for Hearing, either. Commission Rule 1.12 states that an amendment to an "application, protest, complaint, or answer" must be filed before issuance of the scoping memo. A Request for Hearing, however, is not any of those filings, and no scoping memo has issued in this proceeding. PacifiCorp's Motion for Partial Withdrawal is thus not improper under any applicable procedural rule.

Citation Appellate Rules.”¹³ The Citation Appellate Rules imbue the ALJ with wide discretion regarding the manner in which hearings on a proposed AEO are conducted, including authority to alter the order of presentation, grant continuances, and keep the record open.¹⁴ Likewise, the Commission’s Rules of Practice and Procedure—applicable in the event the Citation Appellate Rules are silent on a procedural issue¹⁵—grant the ALJ broad authority as the presiding officer in an adjudicatory proceeding, including the power to “rule upon all objections or motions which do not involve final determination of proceedings” and “take such other action as may be necessary and appropriate to the discharge of his duties.”¹⁶ A motion that addresses the timing and scope of the agreement to pay a penalty does not involve final determination of the proceedings, and as such lies within the ALJ’s discretion. In addition, Commission Rule 13.5 gives the presiding officer the authority to limit the number of witnesses or the time for testimony upon a particular issue. This Motion seeks to limit the number of witnesses and/or time for testimony with regard to the two alleged violations at issue, and the ALJ has the authority under Rule 13.5 to grant such relief.

B. Good Cause Exists To Grant The Relief Sought In The Motion

Granting PacifiCorp’s Motion will streamline the issues set for hearing, “conserving time and the limited resources of the Commission.”¹⁷ If the Motion is granted, PacifiCorp would pay the full \$310,000 penalty that SED seeks for the two alleged violations at issue. In addition, PacifiCorp has acknowledged shortcomings in certain 2020 data request responses and its Q4

¹³ CPUC Enforcement Policy (Nov. 5, 2020) at 13.

¹⁴ Citation Appellate Rules at 7–8.

¹⁵ Citation Appellate Rules at 10.

¹⁶ Commission Rules 9.1, 13.2.

¹⁷ *See, e.g.*, D.01-11-031 at 17.

QIU, served revised data responses and a revised Q4 QIU, and made process improvements to prevent similar issues moving forward. Further proceedings on these issues would serve no useful purpose.

Good cause exists to permit PacifiCorp to partially withdraw its request for hearing at this juncture. Because the AEO did not disclose what portion of the proposed penalty was attributable to the two violations at issue, PacifiCorp was unable to make an informed decision as to its penalty exposure at that time. To preserve its rights, PacifiCorp requested a hearing on all issues. After receipt of SED's data response clarifying the penalty amounts proposed for these two alleged violations, PacifiCorp has concluded that further litigation on these issues is not necessary or warranted.

In proposing to resolve the two alleged violations at issue through the payment of the full penalty amount that SED has sought, PacifiCorp does not admit that it violated Rule 1.1 or § 8389(d)(3)/Resolution WSD-12. Accordingly, PacifiCorp respectfully requests that the Commission accept PacifiCorp's payment of \$310,000 as the full and complete resolution of the two violations at issue, without construing PacifiCorp's payment as an admission of a violation and without making any findings as to whether such violations occurred. The Commission has authority to grant such relief; specifically, the Commission can accept a respondent's agreement to pay a penalty amount without an admission of a violation and without any Commission finding as to whether a violation occurred.¹⁸ If this Motion were denied, however, PacifiCorp

¹⁸ See D.86-08-072, 21 CPUC2d 577, 1986 WL 1318027 (ruling that payment of a citation is not evidence of a violation). The Commission also has approved settlement agreements that do not admit violations and do not result in a Commission finding of a violation. See D.09-08-007 at 7 (approving settlement agreement that recited that it did not constitute an admission or finding of a Rule 1 violation); Resolution ALJ-439 (approving settlement agreement of Zogg AEO). The Commission will not approve settlements that are inconsistent with law, Commission Rule

reserves the right to contest those allegations. For example, PacifiCorp expressly denies that its response to data request SED-02 Q2 violated Rule 1.1. That request asked PacifiCorp whether it was aware of any ignition caused or potentially caused by failure to complete a 2020 WMP initiative.¹⁹ PacifiCorp also expressly denies that the 2022 McKinney Fire was caused by any failure to complete a 2020 WMP initiative.

SED would not be prejudiced by allowing PacifiCorp to withdraw its Request for Hearing as to the Rule 1.1 and QIU allegations. If this Motion is granted, PacifiCorp would pay in full the total combined penalty of \$310,000 that SED has assigned to those two violations. Additionally, as detailed above, PacifiCorp has already acknowledged shortcomings in the data submissions identified in the AEO and the responses underlying those violations, pledged to improve its processes moving forward, and provided SED with revised and corrected data and responses.²⁰ Finally, granting the relief requested would not limit SED's opportunity to present evidence at the hearing on the remaining nine allegations in the AEO, the penalty amounts for which assigned by SED make up 99 percent of the total \$27,284,000 penalty in the proposed AEO.²¹

12.1(d), which demonstrates that the Commission has authority to approve the payment of a penalty without finding a violation.

¹⁹ See SED Report at 24.

²⁰ There are no allegations concerning disclosures related to the 2022 McKinney fire in the AEO. SED first alleged shortcomings in McKinney-related disclosures in November 2025 in response to data requests served by PacifiCorp. PacifiCorp denies SED's allegations with respect to its disclosures related to the McKinney fire, and specifically denies that the McKinney fire was caused by any alleged failure to comply with its 2020 WMP.

²¹ $(\$27,284,000 - \$310,000) / (\$27,284,000) = 98.9\%$. See Penalty Chart in Part I.B above.

III. CONCLUSION

The Commission should allow PacifiCorp to partially withdraw its Request for Hearing on the proposed AEO solely as to the alleged violations of Rule 1.1 and § 8389(d)(3)/Resolution WSD-12, provided (1) PacifiCorp pays a penalty of \$310,000 in respect of such alleged violations, and (2) the withdrawal and payment shall not be construed as an admission of a violation, and the Commission will make no findings of a violation with respect to the two alleged violations at issue.

Respectfully submitted,

By: /s/ Henry Weissmann
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