

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Agenda ID# 23474
RESOLUTION E-5398
June 12, 2025

R E S O L U T I O N

Resolution E -5398. PacifiCorp Washington State Cap-and-Invest Program Costs.

PROPOSED OUTCOME:

- Directs PacifiCorp to file an amended Tier 1 Advice Letter 751-E within 20 days of the issuance of this Resolution to comply with the requirements of D.24-11-007 Ordering Paragraph 2 to exclude costs of the Washington Cap-and-Invest Program from California rates.
- Directs PacifiCorp to determine the amount of Washington Cap-and-Invest Program costs already collected from California ratepayers and propose in its 2025 or 2026 Energy Cost Adjustment Clause (ECAC) Application how the funds or outstanding costs, including any interest if applicable, should be returned to or collected from its customers.

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this Resolution.

ESTIMATED COST:

- This Resolution will result in an immediate but small amount of ratepayer savings via a rate reduction.
- Long-run cost implications to ratepayers will depend on the final terms of a linkage or other agreement between Washington and California regarding their carbon regulatory systems.

By Advice Letter 751-E, filed on November 22, 2024.

SUMMARY

This Resolution reaffirms Ordering Paragraph 2 of D.24-11-007 and directs PacifiCorp (d.b.a. Pacific Power in California) to file an amended Tier 1 Advice Letter 751-E within 20 days of the issuance of this Resolution. PacifiCorp must remove costs for compliance with the Washington Cap-and-Invest Program from California rates from Advice Letter 751-E. Costs for compliance with the California Cap-and-Trade Program are included in rates and will continue to be collected.

The Commission finds that California PacifiCorp ratepayers would face additional costs if rates include costs from both the California Cap-and-Trade Program and the Washington Cap-and-Invest Program for the same emissions. This issue should be addressed once the state agencies responsible for each program finalize an agreement to harmonize the two systems. The respective state agencies responsible for these programs, the California Air Resources Board (CARB) and the Washington Department of Ecology (WDOE) are currently considering an agreement that would link their carbon markets and determine a unified compliance obligation for utilities, such as PacifiCorp, that operate under both systems.

Lastly, the Commission directs PacifiCorp to determine Washington Cap-and-Invest Program costs already collected or costs owed from California ratepayers in either the 2025 or 2026 PacifiCorp Energy Cost Adjustment Clause (ECAC) Application.

This Resolution is necessary to inform and dispose of Advice Letter 751-E, clarifying collection of PacifiCorp's carbon cost categories while avoiding an undercollection that could potentially harm ratepayers if 751-E was rejected.

BACKGROUND

Regulation of Greenhouse Gases

California Cap-and-Trade Program

The Global Warming Solutions Act of 2006 (AB 32) directed CARB to create a market-based mechanism to reach California's greenhouse gas (GHG) targets. CARB created the Cap-and-Trade Program, which requires utilities in California to surrender compliance instruments equal to their CARB-determined compliance obligations. Purchase of compliance instruments represents the direct cost of compliance by the IOU for the Cap-and-Trade Program. Costs for compliance with the California Cap-and-

Trade Program were first passed into electric rates in 2014.¹ D.14-10-033 directed the IOUs to file future forecast revenue and reconciliation requests related to these procurement costs as part of the existing Energy Resource Recovery Account (ERRA, used for the state's large IOUs) or Energy Cost Adjustment Clause (ECAC, used for the state's small and multijurisdictional IOUs such as PacifiCorp) annual Applications. Direct costs for Cap-and-Trade Program compliance are currently detailed in Template D-2 in each ERRA or ECAC. Costs in D-2 are reviewed, approved, and passed into customer rates.

Washington Cap-and-Invest Program

Washington State passed the Climate Commitment Act in 2021. As part of the Climate Commitment Act, the Washington Department of Ecology created the Cap-and-Invest Program, which operates similar to California's Cap-and-Trade Program.

Washington's Cap-and-Invest Program requires certain entities within Washington to purchase and surrender compliance instruments on a set schedule for emissions associated with utility-owned generation within Washington State.² The Cap-and-Invest Program became operational January 1, 2023. PacifiCorp owns one GHG-emitting electric generation facility within Washington State, the gas-fired Chehalis Generation Facility.³ As a result, starting January 1, 2023 PacifiCorp became obligated to purchase and surrender compliance instruments for emissions from the Chehalis Generation Facility.

Washington-California Linkage

Washington's Climate Commitment Act directed the Department of Ecology to pursue linkage with the California Cap-and-Trade Program if Washington found that a linkage would be beneficial to Washington residents. Linkage would, among other things, create a common market for compliance instruments between the linked jurisdictions. In September 2024, Washington, California, and Quebec (California and Quebec have shared a linked carbon market since 2014) issued a joint statement that they would continue to pursue a linkage agreement. All three jurisdictions have several regulatory steps that must be concluded before a linkage agreement can be finalized. Washington is currently in the process of making changes to its regulations in order to ensure

¹ D.13-12-041, Phase 1 Decision Adopting Cap-and-Trade Greenhouse Gas Program Cost and Allowance Revenue Forecasts for Incorporation into 2014 Electricity Rates.

² State of Washington Department of Ecology. <https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest>

³ Joint Motion for Approval of Written Settlement. June 28, 2024 in A.23-09-008. Page 9. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M535/K027/535027450.PDF>

compatibility with the existing linked California-Quebec market. The soonest a linkage agreement is expected is late 2025.⁴ Operating a linked market would occur in 2026, or later.

An agreement on GHG regulatory harmonization between Washington and California is important as both states share a common grid – the Western Interconnection. Both states have also previously agreed to a regulatory framework. In 2010, the Western Climate Initiative, which included Washington and California, agreed to the first jurisdictional deliverer (FJD) approach for regulating GHG emissions associated with electricity generation. Under the FJD approach, regulation occurs as close as possible to the point of generation. If jurisdictions with GHG regulatory programs link, regulation is applied at the point of generation within that jurisdiction such that any electricity transacted between linked jurisdictions is already covered by one of the linked programs.⁵

Currently, PacifiCorp's California customers being served by energy generated in Washington are subject to the costs of both programs as any electricity exported from Washington into California by PacifiCorp is first assessed a Washington Cap-and-Invest Program compliance obligation and then assessed another compliance obligation by the California Cap-and-Trade Program upon import. One metric ton of GHG-equivalent emissions at the Chehalis Generation Facility is subject to both the cost of the Washington Cap-and-Invest Program and the California Cap-and-Trade Program.

In Publication No. 23-02-004, "Cap-and-Invest Guidance on Electricity Exports from Washington to California," the Washington State Department of Ecology (WA DOE) recognized that until a linkage or other agreement is reached, energy generated in Washington but exported to California may be subject to GHG regulatory costs twice, once in Washington and once in California.⁶ WA DOE allows PacifiCorp to request a deferral of compliance obligations for 2023-2025 until November 2027. As stated by the Washington State Department of Ecology:

⁴ Washington Department of Ecology New Release. September 23, 2024. California, Québec, and Washington to begin linkage agreement discussions. <https://ecology.wa.gov/about-us/who-we-are/news/2024/california-quebec-and-washington-to-begin-linkage-agreement-discussions>.

⁵ Washington Department of Ecology. Cap-and-Invest Guidance on Electricity exports from Washington to California. January 2023, Publication No. 23-02-004. <https://apps.ecology.wa.gov/publications/documents/2302004.pdf>

⁶ Washington Department of Ecology. Cap-and-Invest Guidance on Electricity exports from Washington to California. January 2023, Publication No. 23-02-004. <https://apps.ecology.wa.gov/publications/documents/2302004.pdf>

*This deferral of annual Washington Cap-and-Invest compliance obligations provides time for the consideration and development of potential measures to address issues related to this situation.*⁷

GHG Costs-in-Rates for PacifiCorp

California Cap-and-Trade Program Costs

On September 15, 2023, PacifiCorp submitted Application A.23-09-008, *Application of PacifiCorp (U 901 E) for Approval of Its 2024 Energy Cost Adjustment Clause and Greenhouse Gas-Related Forecast and Reconciliation of Costs and Revenue*, commonly known as the 2024 ECAC. The Application contained requests for recovery of costs related to direct compliance with the California Cap-and-Trade Program. In compliance with D.14-10-033, PacifiCorp detailed direct compliance costs in Template D-2 (Exhibit PAC/402). PacifiCorp did not include references to costs from the Washington Cap-and-Invest Program in A.23-09-008 or its supporting testimony. The Direct Testimony of Ramon J. Mitchell (Exhibit PAC/100-C) in describing PacifiCorp's net power costs states:

*"For the remaining balance, wholesale sales decreases and purchased power increases to accommodate the increase in total-company load, the slight decline in other generation, and new environmental compliance requirements."*⁸

The "new environmental compliance requirements" are not described further in PacifiCorp's testimony.

On October 26, 2023, the California Farm Bureau Federation (CFBF) filed a timely-served protest to A.23-09-008. CFBF's protest centered on the year-to-year volatility in PacifiCorp's Net Power Costs (NPCs) and the large proposed agricultural customer rate increase (25.6%). CFBF requested adjustments to the schedule to allow for additional scrutiny of the "...massive increase presented by PacifiCorp..."⁹ In PacifiCorp's November 6, 2023, response to the CFBF protest, PacifiCorp again included

⁷ Ibid. Page 3.

⁸ *Application of PacifiCorp (U 901 E) for Approval of Its 2024 Energy Cost Adjustment Clause and Greenhouse Gas-Related Forecast and Reconciliation of Costs and Revenue* (A.23-09-008). Direct Testimony of Ramon J. Mitchell (Exhibit PAC/100-C) Page 12 lines 3-5.

⁹ California Farm Bureau Federation. Protest of the California Farm Bureau Federation to the Application of PacifiCorp (U 901E) for Approval of its 2024 Energy Cost Adjustment Clause and Greenhouse Gas-Related Forecast and Reconciliation of Costs and Revenue. October 26, 2023. See Page 2.

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M520/K613/520613362.PDF>

a reference to “new environmental compliance regulations” as a cost driver with no further description of those new costs.¹⁰

On March 7, 2024, the Commission approved D.24-03-011, “Decision Approving Settlement Regarding PacifiCorp’s 2024 Greenhouse Gas Emissions Allowance Program Costs and Climate Credits” (the GHG settlement). The GHG settlement approved recorded and forecasted costs for direct compliance obligations with the California Cap-and-Trade Program. Ordering Paragraph 2 of D.24-03-011 ordered PacifiCorp to file a Tier 1 Advice Letter to update the GHG surcharge rate “...that recovers the costs for the procurement of Greenhouse Gas allowances for its retail compliance obligation under California’s Cap-and-Trade Program in accordance with the Settlement of PacifiCorp...”

In compliance with D.24-03-011 Ordering Paragraph 2, PacifiCorp filed Advice Letter 734-E on March 12, 2024. This Advice Letter updated PacifiCorp’s costs for the California Cap-and-Trade Program costs-in-rates. The Advice Letter was disposed of on April 10, 2024, with an effective date of March 12, 2024.

Washington State Cap-and-Invest Program Costs

On June 28, 2024, PacifiCorp filed an all-party Joint Motion for Approval of Written Settlement¹¹, resolving the remainder of the 2024 ECAC issues not covered in the D.24-03-011 settlement, which had resolved only the California Cap-and-Trade Program costs and benefits (the Climate Credit). The June 28, 2024 second settlement requested approval for recovery of PacifiCorp’s Net Power Costs, which included Washington State Cap-and-Invest Program costs. As part of the June settlement:

The Parties agree that the 2024 PacifiCorp ECAC Application only seeks recovery in rates of California’s allocated share of Climate Commitment Act (“CCA”) costs from the Washington State Cap and Invest program, and does not include any CCA costs allocated to other states where PacifiCorp provides service.¹²

On November 7, 2024, the Commission approved D.24-11-007, *Decision Approving All-Party Settlement Resolving Remaining Issues Regarding PacifiCorp’s 2024 Energy Cost Adjustment Clause*. However, Ordering Paragraph 2 included an additional requirement

¹⁰ Reply of PacifiCorp to the Protest of The California Farm Bureau Federation. November 6, 2023. Page 3. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M520/K708/520708808.PDF>

¹¹ Joint Motion for Approval of Written Settlement. June 28, 2024. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M535/K027/535027450.PDF>

¹² Ibid. Page 6.

to exclude costs from Washington's Cap-and-Invest Program in order to effectuate the settlement and adjust rates:

2. PacifiCorp d/b/a Pacific Power must file a tier 1 Advice Letter to effectuate the Settlement Agreement in compliance with this decision, and if costs related to the California Cap-and-Trade emissions compliance program have been recovered or are scheduled to be recovered for the Chehalis Generation Facility, costs from Washington's Cap-and-Invest Program must be excluded from PacifiCorp's recovery pursuant to the Settlement and the Settlement's costs must be recalculated by PacifiCorp in its Advice Letter.

PacifiCorp filed Advice Letter 751-E on November 22, 2024. As a Tier 1 Advice Letter the rates went into effect upon filing. In the Advice Letter, PacifiCorp explained that in filing the Advice Letter it followed language in the body of the D.24-11-007 where:

Therefore, PacifiCorp is directed to investigate, analyze, and if necessary clarify and correct the Proposed Settlement to ensure that the Chehalis Generation Facility's emission costs, if already scheduled to be levied by CARB pursuant to compliance with the California Cap-and-Trade program, are not again assessed by the Washington Cap-and-Invest program pursuant to the Proposed Settlement.¹³

PacifiCorp concluded in Advice Letter 751-E that

PacifiCorp... confirms that there are two distinct and separate obligations created by the California and Washington emission reduction obligations, and that there is no "double counting" or duplication of the costs for such obligations, and, therefore, no adjustment to the rates contained in the Settlement Agreement approved in D.24-11-007 is warranted.¹⁴

The Advice Letter was suspended for 120 days on December 19, 2024, until April 21, 2025. The suspension was extended for an additional 180 days on April 8, 2025, until October 18, 2025.

NOTICE

Notice of Advice Letter 751-E was made by publication in the Commission's Daily Calendar. PacifiCorp states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

¹³ D.24-11-007 at 17.

¹⁴ PacifiCorp Advice Letter 751-E. November 22, 2024. Page 4.

PROTESTS

Advice Letter 751-E was not protested.

DISCUSSION

Advice Letter 751-E

The Commission finds that as California Cap-and-Trade Program costs are included in PacifiCorp rates, PacifiCorp did not abide by Ordering Paragraph 2 of D.24-11-007. In A.23-09-008 PacifiCorp observed D.14-10-033 and accounted for recorded and forecast direct California Cap-and-Trade Program costs as part of ECAC Template D-2 (PAC/402). Those costs were approved in D.24-03-011 and passed into rates when PacifiCorp filed Advice Letter 734-E on March 12, 2024. To comply with Ordering Paragraph 2 of D.24-11-007, Washington Cap-and-Invest Program costs must not be included in rates for California customers.

The Commission agrees with PacifiCorp's determination in Advice Letter 751-E that the Washington Cap-and-Invest Program and the California Cap-and-Trade Program are distinct programs with obligations to different agencies in different states. The Commission disagrees, however, with PacifiCorp's conclusion that Washington Cap-and-Invest Program costs can be included in ECAC rates. Whether or not the costs are "double-counted"¹⁵ is irrelevant to Ordering Paragraph 2 of D.24-11-007, which unambiguously states that if California Cap-and-Trade Program costs are included in rates, Washington Cap-and-Invest Program costs cannot also be included in rates.

To protect PacifiCorp's California customers, the Commission does not reject Advice Letter 751-E outright. Rejecting the Advice Letter outright would cause PacifiCorp rates to largely revert to PacifiCorp's 2023 ECAC rates. As those rates are lower than the 2024 ECAC rates, rejecting Advice Letter 751-E could create an ongoing undercollection. This could harm PacifiCorp customers by creating rate volatility by requiring higher rates in the future to address the undercollection. Instead, the Commission orders PacifiCorp to amend the existing Tier 1 Advice Letter 751-E within 20 days of the issuance of this Resolution, calculating rates to exclude any Washington Cap-and-Invest Program costs.

¹⁵ PacifiCorp Advice Letter 751-E. November 22, 2024. Page 4.

Disposition of Collected Washington Cap-and-Invest Program Compliance Costs

Costs for compliance with the Washington Cap-and-Invest Program have been collected from California PacifiCorp customers since November 22, 2024, as a result of Advice Letter 751-E becoming effective upon filing. Therefore, PacifiCorp is directed, as part of either its 2025 or 2026 PacifiCorp ECAC filing, to calculate the amount of Washington Cap-and-Invest Program charges that have been collected from California PacifiCorp customers, any outstanding charges related to the program, and propose how to return or collect the balance of funds to customers.

Planning for Ongoing Washington Cap-and-Invest Program Compliance Costs

The Commission recognizes that as California and Washington operate on the same grid, the issue of Washington Cap-and-Invest Program costs to California customers will be an ongoing regulatory issue for PacifiCorp until the states of Washington and California enter into a linkage agreement or another formal agreement on how to treat energy generated in Washington and exported into California. The Commission directs PacifiCorp to address ongoing handling of Washington Cap-and-Invest Program costs as part of either its 2025 or 2026 PacifiCorp ECAC filing.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this Resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS AND CONCLUSIONS

1. Since 2014, under AB 32 the Global Warming Solutions Act of 2006, investor-owned utilities operating in California such as PacifiCorp have been subject to the Cap-and-Trade Program.

2. Since 2023, under the Washington Climate Commitment Act (2021), investor-owned utilities in Washington have been subject to the Cap-and-Invest Program.
3. Both the California Cap-and-Trade Program and the Washington Cap-and-Invest Program create compliance costs for PacifiCorp.
4. Washington and California operate on the same electric grid and power generated in one state can be exported to the other.
5. The Washington Cap-and-Invest Program and the California Cap-and-Trade Program are not currently linked but are in the process of considering a linkage agreement.
6. Currently, GHG-emitting energy generated in Washington and imported into California is subject to compliance obligations for both the Washington Cap-and-Invest and California Cap-and-Trade Programs.
7. D.24-03-011 approved a Settlement for the 2024 California Cap-and-Trade Program costs and benefits (Climate Credit).
8. Per D.24-03-011, Advice Letter 734-E effective March 7, 2024 adjusted California PacifiCorp rates to account for the latest approved California Cap-and-Trade Program costs.
9. The June 28, 2024 Settlement in A.23-08-009 states that the 2024 Net Power Costs include costs for California's allocated share of Climate Commitment Act ("CCA") costs from the Washington State Cap-and-Invest Program.
10. D.24-11-007 approved the June 28, 2024 settlement in A.23-08-009 and directed PacifiCorp to file an Advice Letter to update rates.
11. D.24-11-007 directed PacifiCorp in its Advice Letter filing to update rates to exclude the costs of Washington Cap-and-Invest Program compliance if costs for California Cap-and-Trade Program compliance were also scheduled for recovery.
12. PacifiCorp submitted Advice Letter 751-E in response to D.24-11-007.
13. PacifiCorp concluded in Advice Letter 751-E that the costs for Washington Cap-and-Invest Program compliance and California Cap-and-Trade Program compliance were distinct costs and included both programs' costs in the costs scheduled for recovery.
14. Advice Letter 751-E went into effect on the day it was filed, November 22, 2024.
15. California customers of PacifiCorp have been paying for Washington State Cap-and-Invest Program costs since Advice Letter 751-E went into effect.
16. Advice Letter 751-E remains suspended.
17. Washington State allows for a deferral (but not cancellation) of Cap-and-Invest Program compliance obligations until 2027, if requested.

THEREFORE IT IS ORDERED THAT:

1. PacifiCorp is directed to file an amended Tier 1 751-E Advice Letter within 20 days of the issuance of this Resolution to comply with the requirements of D.24-11-007 Ordering Paragraph 2 to exclude compliance costs for the Washington Cap-and-Invest Program from costs scheduled for recovery.
2. PacifiCorp is directed to determine the total amount of Washington Cap-and-Invest Program costs collected from California ratepayers and propose in its 2025 or 2026 Energy Cost Adjustment Clause (ECAC) Application how those funds or outstanding compliance costs, including any interest if applicable, should be returned to or collected from customers.

This Resolution is effective today.

The foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 12, 2025; the following Commissioners voting favorably thereon:

Commissioner Signature blocks to be added
upon adoption of the resolution

Dated June 12, 2025, at <Voting meeting location>, California.