Decision 25-08-013 August 14, 2025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PacifiCorp (U901E) for Approval of its 2024 Energy Cost Adjustment Clause and Greenhouse Gas-Related Forecast and Reconciliation of Costs and Revenue.	Application 23-09-008

DECISION GRANTING PETITION FOR MODIFICATION OF DECISION 24-11-007

Summary

This decision grants the Petition for Modification filed on January 31, 2025, by PacifiCorp. This proceeding is closed.

1. Background

PacifiCorp d/b/a Pacific Power (PacifiCorp) is an investor-owned utility providing electric retail service to customers in California, Idaho, Oregon, Utah, Washington and Wyoming. In California, PacifiCorp does business as Pacific Power. In its operations as a California electric utility, it services approximately 46,000 customers.

On September 15, 2023, PacifiCorp filed Application (A.) 23-09-008.[1] Principally, PacifiCorp's Application requested authority to: i) update its Balancing Rate and Offset Rate pursuant to its Energy Cost Adjustment Clause (ECAC); ii) update the surcharge that recovers costs for the procurement of Greenhouse Gas (GHG) allowances; and iii) update the 2024 California Climate Credit that returns revenue from the consignment at auction of GHG allowances to eligible customer classes. On October 26, 2023, both the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) and the California Farm Bureau Federation[2] (CFBF) filed timely protests to PacifiCorp's Application.

On November 28, 2023, the assigned Administrative Law Judge (ALJ) held a prehearing conference to discuss the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. On December 8, 2023, an Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued. The Scoping Memo established the issues to be determined in the proceeding, set forth the proceeding schedule, and enabled parties to seek an evidentiary hearing.

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[1] Schedule ECAC-94 of PacifiCorp's California Tariff, approved as part of Advice Letter 603-E, provides that PacifiCorp shall file its annual ECAC application on or before August 1st each year. On June 20, 2023, PacifiCorp submitted a timely request for a 45-day extension to the filing deadline for its 2024 ECAC application from August 1, 2023, to September 15, 2023. The Commission authorized the ECAC application extension request.

[2] CFBF asserts it is California's largest farm advocacy organization, with more than 26,000 members statewide and part of a nationwide network of more than 5.8 million members.

On January 5, 2024, pursuant to the Commission's Rules of Practice and Procedure (Rules or Rule) Rule 12, PacifiCorp, Cal Advocates, and CFBF jointly filed a Motion for approval of their all-party Partial Settlement regarding all issues concerning the GHG Emissions Allowance program costs and regarding all issues concerning the California Climate Credits (GHG Settlement). On January 5, 2024, the parties also jointly filed a Motion Requesting Admission of Documents into evidence, and on January 8, 2024, PacifiCorp filed a Motion for Confidential Treatment for certain exhibits admitted into evidence. On February 1, 2024, a Ruling was issued granting the Request for Admission of Documents and the Motion for Confidential Treatment.

On March 14, 2024, the Commission issued Decision (D.) 24-03-011. That Decision granted in full the Joint Motion for GHG Settlement. In sum, the GHG Settlement set the GHG Emission Allowance auction proceeds to be returned through the California Climate Credit, less GHG Administration Expenses, Customer Outreach Costs, and funding for energy efficiency programs. Following approval of the GHG Settlement, there remained a number of scoped issues to be determined.

On June 28, 2024, all parties to this proceeding filed a Joint Motion for approval of their Proposed Settlement of the remaining ECAC Application issues. The all-party Joint Motion included a Proposed Settlement as an attachment (Joint Proposed Settlement). In their Joint Motion and in the Joint Proposed Settlement, the parties sought acceptance of some of the remaining Application requests verbatim, and the parties modified some of the remaining Application requests.

The 2024 ECAC Application originally sought recovery for costs related to compliance with Washington's Cap-and-Invest program related to emissions from the Chehalis Generation Facility. The Chehalis facility is located in Washington and provides power to California and is potentially subject to both Washington's Cap-and-Invest and California's Cap-and-Trade emissions compliance programs. Among the terms of the Proposed Settlement, the parties agreed that PacifiCorp only seeks recovery in rates of California's allocated share of the Climate Commitment Act (CCA) costs related to the Washington State Cap-and-Invest Program, and would not include for recovery any CCA costs allocated to other states where PacifiCorp provides service.

On November 12, 2024, D.24-11-007 (Decision) was issued, approving the Joint Proposed Settlement of the remaining ECAC issues, and resolving all outstanding issues related to PacifiCorp's 2024 ECAC Application. The Decision highlighted for discussion the Joint Proposed Settlement's treatment of the costs related to the Washington State Cap-and-Invest program. The Decision agreed with the Joint Proposed Settlement's proposed treatment of the costs, but stated that modifications to the Joint Proposed Settlement were needed for clarity and to avoid risk of confusion. The Decision stated that Washington and California are developing an agreement on how to treat electricity exported from Washington to California under the two emissions programs, and therefore determined that PacifiCorp should not be allowed to recover costs related to Washington's program at this time.

The Decision therefore directed PacifiCorp to "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."[3] The Decision, in the body of the document, directed that PacifiCorp file an Advice Letter regarding investigation and findings on this issue, along with revised rates if needed to exclude the specified Chehalis Generating Facility emissions costs.[4]

On January 31, 2025, PacifiCorp filed the instant Petition for Modification (Petition), arguing that Ordering Paragraph (OP) 2 of the Decision is inconsistent with discussion in the body of the decision and not based on record evidence. No responses to the Petition were filed.

2. Issues Before the Commission

The Commission must determine whether to grant the Petition and make modifications to D.24-11-007 as requested, make some of the modifications requested, or deny the Petition.

3. Procedural Requirements Under Rule 16.4

Rule 16.4[5] governs the process for the filing and consideration of petitions for modification. Rule 16.4(b) requires that a petition for modification concisely state the justification for the proposed relief and propose specific wording for all requested modifications. Any factual allegations must be supported with specific

[3] D.24-11-007, at 17.

[4] *Id*. at 17.

[5] Unless otherwise specified, all references to a Rule are to the Commission's Rules of Practice and Procedure.

citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit. As the initial Applicant, PacifiCorp was originally a party to the proceeding. The Petition was filed on January 31, 2025, within one year of the date of issuance of D.24-11-007, and therefore complies with the requirement of Rule 16.4(d) that petitions for modification be filed within one year of the decision they seek to modify.

PacifiCorp states that D.24-11-007, OP 2, disallows any recovery by PacifiCorp for Washington Cap-and-Invest compliance costs related to the Chehalis Facility, no matter what is later determined, if any costs are recovered for California Cap-and-Trade compliance costs related to the Chehalis Facility. Petitioner states that OP 2 is internally inconsistent with dicta in the Decision, and not based on record evidence.

First, PacifiCorp states that its investigation determined that it is subject to two independent compliance obligations, one in California and one in Washington, and per the dicta on page 17 of the Decision should be allowed to submit an Advice Letter detailing these findings. PacifiCorp states that OP 2 of the Decision as written precludes recovery of any Washington costs, even if PacifiCorp is subject to compliance obligations in both states (as it has determined) and should be allowed to seek recovery for both costs.

PacifiCorp also states that the findings upon which the Decision determined that the costs should be excluded is based on evidence not in the

record and parties were not given an opportunity to refute the evidence.[6] PacifiCorp also presents arguments as to why OP 2 as written is poor policy and will preclude PacifiCorp from potential recovery. PacifiCorp asks that changes be made to the Ordering Paragraphs, Findings of Fact, and Conclusions of Law of D.24-11-007 to allow for consideration of the issue in a future PacifiCorp ECAC proceeding.

A declaration by Kieran O'Donnell, Director of Carbon Policy and Reporting for PacifiCorp, is attached in support of the Petition,

We conclude that the Petition facially complies with the procedural requirements of Rule 16.4.

4. Petition

The Petition is underpinned by interpretation of OP 2 to prevent PacifiCorp from recovering any Washington Cap-and-Invest costs related to the Chehalis Generating Facility, if any costs related to that facility are also charged by the California Cap-and-Trade program. In response to this interpretation, Petitioner presents a number of arguments for modifying the Decision to allow for recovery following an analysis of the issue by PacifiCorp and the Commission via the Advice Letter process and future ECAC Applications.

PacifiCorp notes that page 17 of the Decision directs PacifiCorp to investigate and determine whether any Chehalis Generating Facility emissions costs should be excluded because those costs are being or are scheduled to be levied by both the Washington State Cap-and-Invest program and the California

[6] Petition at 15.

Cap-and-Trade program, and if so, to explain and propose revised rates resolving that issue in an Advice Letter. PacifiCorp states that per the evaluation it conducted pursuant to the dicta on page 17 of the Decision, it has determined (and filed an Advice Letter stating[7]) that the Washington and California compliance obligations related to the Chehalis Generation Facility are distinct, independent obligations that do not present a double counting issue.[8] PacifiCorp also states that the Decision incorrectly states that the Washington compliance obligations have been deferred, based on an inaccurate interpretation of a guidance document that is not in the evidentiary record and that parties were not given the opportunity to rebut or address.[9] PacifiCorp finally states that it has in fact incurred Washington compliance costs for the Chehalis Generating Facility for 2023.[10]

The Petition also states that PacifiCorp decided against deferral of the compliance costs for the Chehalis Generating Facility (as was proposed as an option in the Guidance Document cited in the Decision) from the Washington Cap-and-Invest program because deferral of the costs would have likely increased customer rates, as greenhouse gas allowance prices are likely to increase as the program continues, as has been seen in other such programs.[11]

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[7] PacifiCorp Advice Letter AL-751-E.

[8] Petition, at 7-8.

[9] Petition, at 9-10, 15.

[10] Petition, at 10-11.

[11] Petition, at 11-13.

Finally, PacifiCorp argues that if a future ECAC proceeding later determines that the Chehalis Facility Washington compliance costs are later found to be recoverable, prohibitions against retroactive ratemaking may prevent recovery of those costs if OP 2 is not addressed.[12] PacifiCorp particularly notes that 2023 and 2024 Washington compliance costs may be unrecoverable by the 2027 ECAC.

To remedy this issue, the Petition asks that modifications be made to OP 2 of D.24-11-007 to match the dicta in the Decision and allow PacifiCorp to submit an Advice Letter detailing its findings with regards to the Chehalis Facility's compliance costs and ultimately resolve the issue in a future ECAC proceeding. The Petition states that this change will protect both PacifiCorp and its customers.[13]

OP 2 of D.24-11-007 currently states:

> 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.

[12] Petition, at 13-14.

[13] Petition at 9.

The Petition requests that OP 2 of D.24-11-007 be modified to read as:

> PacifiCorp d/b/a Pacific Power must file a Tier 1 Advice Letter to effectuate the Settlement Agreement in compliance with this decision. The issue of whether PacifiCorp may recover costs related to the California Cap-and-Trade emissions compliance program and Washington's Cap-and-Invest program for the Chehalis Generation Facility will be considered in PacifiCorp's next annual Energy Cost Adjustment Clause proceeding.

5. Analysis

We agree with PacifiCorp that the language in OP 2 is inconsistent with the dicta and the Joint Proposed Settlement. As written, current OP 2 prevents recovery of any Washington Cap-and-Invest compliance costs for the Chehalis Facility, if any California Cap-and-Trade compliance costs are levied on the Chehalis Facility. This precludes the possibility of any recovery even if it is later determined that the costs are independent and non-duplicative and therefore recoverable. PacifiCorp should be allowed to show that the California and Washington Chehalis Facility compliance costs, which are currently being incurred, are independent and recoverable. A future ECAC proceeding will determine if Washinton compliance costs are recoverable going forward as well as how already collected costs should be disposed of. Language on page 16 of the Decision is also struck, as it is based on documents not in the evidentiary record.

The Petition is therefore granted, pursuant to Attachment A to this decision. The language requested by PacifiCorp is slightly modified to allow for consideration of the issue in any future ECAC Application. OP 2 of D.24-11-007 is modified to read:

PacifiCorp d/b/a Pacific Power must file a Tier 1 Advice Letter to effectuate the Settlement Agreement in compliance with this decision. The issue of whether PacifiCorp may recover costs related to the California Cap-and-Trade emissions compliance program and Washington's Cap-and-Invest program for the Chehalis Generation Facility will be considered in a future PacifiCorp Energy Cost Adjustment Clause proceeding.

6. Summary of Public Comment

No public comments have been received related to the Petition.

7. Waiver of Comments Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, as provided in Rule 14.6(c)(2), the otherwise applicable 30-day public review and comment period for this decision is waived.

8. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Garrett Toy is the assigned ALJ in this proceeding.

Findings of Fact

1. D.24-07-011 is internally inconsistent with regards to the dicta on page 17 and Ordering Paragraph 2.
2. PacifiCorp has submitted an Advice Letter showing that the Washington Cap-and-Invest and California Cap-and-Trade compliance costs related to the Chehalis Generating Facility are independent and recoverable.
3. D.24-07-011 cites to non-record evidence regarding the deferral of Washington Cap-and-Invest costs for the Chehalis Generating Facility.

Conclusion of Law

D.24-11-007 should be modified in response to the Petition.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Decision 24-11-007, filed on January 31, 2025, is granted.
2. Decision 24-11-007 is modified pursuant to Attachment A to this decision.
3. Application 23-09-008 is closed.

This order is effective today.

Dated August 15, 2025, at Sacramento, California

ALICE REYNOLDS
President
JOHN REYNOLDS
KAREN DOUGLAS
DARCIE L. HOUCK
Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration

Attachment 1

(D2411007 (A.23-09-008) November 7, 2024)

(END OF ATTACHMENT 1)