

181 FERC ¶ 61,278
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
Allison Clements, Mark C. Christie,
and Willie L. Phillips.

PacifiCorp

Docket No. IN21-6-000

ORDER APPROVING STIPULATION AND CONSENT AGREEMENT

(Issued December 30, 2022)

1. The Commission approves the attached Stipulation and Consent Agreement (Agreement) between the Office of Enforcement (Enforcement) and PacifiCorp (collectively, the Parties). This order is in the public interest because it resolves on fair and equitable terms (i) an investigation conducted by Enforcement pursuant to Part 1b of the Commission's regulations, 18 C.F.R. Part 1b (2022)(Investigation), and (ii) an Order to Show Cause proceeding resulting from the Investigation (together, the Matter). The Investigation led Enforcement to allege that PacifiCorp violated Federal Power Act (FPA) section 215(b)(1) and 18 C.F.R. § 39.2(b) (2022) between August 31, 2009 and August 2017 (Relevant Period) by failing to comply with Reliability Standard Facilities Design, Connections and Maintenance (FAC) 009-1, Requirement R1, and the successor Reliability Standard FAC-008-3,¹ Requirement R6 (collectively referred to as FAC-009-1 R1), which requires a transmission owner such as PacifiCorp to establish or have facility ratings that are consistent with its Facility Ratings Methodology (FRM). Based on Enforcement's allegations, the Commission issued an Order to Show Cause (attaching an Enforcement Report and Recommendation (Enforcement Report)), directing PacifiCorp to explain why it should not be found to have engaged in the violations alleged in the Enforcement Report and why it should not be assessed a civil penalty, as recommended in the Enforcement Report (Order to Show Cause). *PacifiCorp*, 175 FERC ¶ 61,039 (2021).

2. To fully resolve the Matter, PacifiCorp agrees to: (a) pay a civil penalty of \$4.4 million, of which (i) \$1.9 million will be paid to the United States Treasury, and (ii) as an offset to the remaining \$2.5 million in civil penalty, PacifiCorp will invest \$2.5 million, subject to Enforcement's approval, in reliability enhancement measures identified in this Agreement that go above and beyond what the Reliability Standards require; and (b) be subject to compliance monitoring as provided more fully below. PacifiCorp stipulates to

¹ FAC-008-3 was also the successor to Reliability Standard FAC-008-1.

the facts in Section II of the Agreement, but neither admits nor denies the alleged violations in Section III of the Agreement.

I. Facts

Enforcement and PacifiCorp have stipulated and agreed to the following facts:

3. PacifiCorp is a transmission owner that delivers electricity through two business units serving Oregon, Washington, California, Utah, Wyoming, and Idaho. PacifiCorp has 367 bulk electric system (BES) transmission lines that traverse approximately 10,500 miles. The BES system includes all transmission elements operated at 100 kV or higher, not including facilities used in the local distribution of electric energy.

4. Pursuant to FPA section 215, 16 U.S.C. § 824o, Reliability Standards developed by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization, and approved by the Commission, such as FAC-009-1 R1, are mandatory and enforceable by the Commission.

5. Reliability Standard FAC-008-1 R1 requires transmission owners, like PacifiCorp, to document their FRM in writing. An FRM contains the transmission owner's guidelines for developing its facility ratings. FAC-008-1 R1 also sets forth certain elements that an FRM is required to include. The version of FAC-008-1 in effect for a majority of the Relevant Period required that PacifiCorp's FRM include:

R1.1 A statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. . . .

R1.3. Consideration of the following:

R1.3.2. Design Criteria (e.g. including applicable references to industry Rating practices such as manufacturer's warranty, IEEE [Institute of Electrical and Electronics Engineers], ANSI [American National Standards Institute] or other standards). . . .²

IEEE publishes the National Electrical Safety Code (NESC), which contains, among other things, "rules for overhead lines for clearances and strength and loading."³ IEEE

² FAC-008-1 R1.

³ IEEE SA, (NESC), <https://standards.ieee.org/products-programs/nesc/program/>.

also publishes a specific Standard for Calculating the Current-Temperature Relationship of Bare Overhead Conductors (IEEE 738-2012).

6. The 2013 revised version of FAC-008-1, FAC-008-3, required that PacifiCorp's FRM include:

R3.1. The methodology used to establish the Ratings of the equipment that comprises the Facility shall be consistent with at least one of the following: . . .

- One or more industry standards developed through an open process such as the Institute of Electrical and Electronics Engineers (IEEE) or International Council on Large Electric Systems (CIGRE). . . .

R3.2. The underlying assumptions, design criteria, and methods used to determine the Equipment Ratings. . . .

R3.3. A statement that a Facility Rating shall respect the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. . . .⁴

7. Once a transmission owner, like PacifiCorp, established its written FRM under FAC-008-1 R1, FAC-009-1 R1 then required the transmission owner to "establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology."⁵ A Facility Rating dictates how much power can flow across a facility, such as a transmission line.

8. PacifiCorp's FRM is set forth in its Engineering Policy No. 199 (Policy No. 199), which took effect on August 31, 2009, and has been revised four times since then. Policy No. 199 includes a "Scope" section that applies generally to all types of PacifiCorp facilities, as well as a section that applies to specific types of facilities, including transmission line conductors.

⁴ FAC-008-1 R3.

⁵ FAC-009-1 R1 (effective through December 31, 2012); FAC-008-3 R6 (effective January 1, 2013) (requiring Transmission and Generator Owners to each "have Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings methodology or documentation for determining its Facility Ratings").

9. The Scope section of PacifiCorp's FRM, since its adoption in 2009, has stated that PacifiCorp's various transmission line facility rating methodologies will consider either "IEEE . . . standards," or "design criteria."

10. In addition to the Scope section, PacifiCorp's Policy No. 199 references specific rating methodologies for transmission line ratings based on the year a line was built and the PacifiCorp business unit that owns the line.

11. PacifiCorp's Policy No. 199 directs PacifiCorp to use its TD101 document, titled "Transmission Line Rating Standard," to rate BES lines built by PacifiCorp from 1997 to the present.⁶ TD101, in turn, states that "[t]he National Electrical Safety Code specifies minimum clearances from any obstacle to conductors which must be maintained under the 'maximum conductor temperature for which the line is designed to operate.'"⁷

12. Policy No. 199 directs PacifiCorp to use its 1977/1990 Utah Power Conductor Rating Methodology (Utah Policy) to rate BES lines owned by Utah Power & Light Company (Utah Power) and built prior to 1997.⁸ The Utah Policy, in turn, states, "[a]ll future lines will be designed for conductor temperatures of at least 194°F. However, older lines are still in service that have not been designed for these higher temperatures. Careful monitoring of these older lines will be necessary to insure (sic) that proper ground clearances are maintained. When a line is found to have insufficient ground clearance, it should be re-sagged, or rebuilt if necessary, to maintain proper ground clearance."⁹

13. For Pacific Power lines built prior to 1997, Policy No. 199 directs PacifiCorp to use the 1988 *Thermal Guideline Ratings of Conductors for Planning Studies* (Waters

⁶ PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2a (Sept. 29, 2011).

⁷ PacifiCorp TD101, Transmission Line Rating Standard, Nov. 30, 2009, at Section H (quoting IEEE, National Electrical Safety Code C2-1997, August 1996, Rule 232A2 p. 72). This NESC reference is included in all versions of PacifiCorp's TD101. See PacifiCorp TD101, Transmission Line Rating Standard, Dec. 3, 2010, at Section G; PacifiCorp's TD101, Transmission Line Rating Standard, Apr. 8, 2013, at Section G.

⁸ PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2b (Sept. 29, 2011). PacifiCorp defines the Utah Power service territory as the transmission system owned by Utah Power prior to the 1988 merger with PacifiCorp. *Id.*

⁹ Utah Power Conductor Rating Methodology (Utah Policy) at Section 9.5 (footnote omitted).

Report) and the 1989 *High Temperature Operation of Conductors Report* (Fishback Report), unless otherwise stated.¹⁰ The Fishback Report, in turn, states, “[o]f far greater concern is the reduction of ground clearance due to the sag increase which can result from the creep of the conductor when operated for long time periods at high temperatures. An infinite number of time, temperature and tension scenarios can be considered. It will probably be necessary to review each line and develop a realistic operating scenario.”¹¹

14. Policy No. 199 also contains a “catch-all” provision stating that “BES transmission line ratings may be modified from the above reports or standards [i.e., TD101, the Utah Policy, the Waters Report, and the Fishback Report] by implementing a study to determine the rating of a specific line,” and that such a study may include “specific conductor clearances” and “field condition verification.”¹²

15. An October 2010 NERC “Recommendation to Industry” (NERC Alert) stated that NERC and the Regional Entities had “become aware of discrepancies between the design and actual field conditions of transmission facilities” across the BES that might be “significant and widespread.”¹³ The NERC Alert recommended that transmission owners, like PacifiCorp, review their FRMs “to verify that the methodology used to determine facility ratings is based on actual field conditions.”¹⁴ In response to the multi-year NERC Alert initiative, the industry identified more than 59,000 clearance conditions on transmission lines across the country.

16. PacifiCorp responded to the NERC Alert, self-disclosed known clearance conditions, and thereafter remediated them in tranches, pursuant to the multi-year NERC Alert approach. PacifiCorp spent more than \$132 million to remediate all clearance

¹⁰ PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2a (Sept. 29, 2011). PacifiCorp defines the Pacific Power service territory as the transmission system owned by PacifiCorp prior to the 1988 merger with Utah Power.

¹¹ Carl V. Fishback, *High Temperature Operation of Conductors*, Feb. 22, 1989, at 1.

¹² PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2c (Sept. 29, 2011).

¹³ NERC, Recommendation to Industry, Consideration of Actual Field Conditions in Determination of Facility Ratings at 1 (issued Oct. 7, 2010 and updated Nov. 30, 2010), <https://www.nerc.com/pa/rrm/bpsa/Documents/Ratings%20Recommendation%20to%20Industry%20FINAL-REVISED.pdf>.

¹⁴ *Id.* at 2.

conditions identified on its BES lines, both before and in response to the NERC Alert, and remediated a total of 4,725 clearance conditions. PacifiCorp completed this remediation in 2017. PacifiCorp continued to serve all its customers during these improvements and has never had a system-wide or other large-scale BES failure.

II. Violations

17. Enforcement determined that PacifiCorp violated FPA section 215(b)(1) and 18 C.F.R. § 39.2(b) (2022) between August 31, 2009 and August 2017 by failing to comply with FAC-009-1 R1, which requires a transmission owner, such as PacifiCorp, to establish and have facility ratings that are consistent with its FRM. Enforcement found that PacifiCorp's FRM required it to consider NESC clearance standards when rating its BES transmission lines. Enforcement also found that PacifiCorp knew that clearance conditions existed on a majority of its BES transmission lines. Enforcement concluded that such clearance conditions failed to conform with NESC standards, which Enforcement concluded was required by PacifiCorp's FRM. Enforcement found that there were clearance violations on at least 215 BES transmission lines, or 58 percent of PacifiCorp's total lines. Enforcement also determined that PacifiCorp did not complete the remediation of all of the clearance conditions required to make the facility ratings consistent with PacifiCorp's FRM until August 2017.

III. Stipulation and Consent Agreement

18. Enforcement and PacifiCorp have resolved the investigation and Order to Show Cause proceeding by means of the attached Agreement.

19. PacifiCorp stipulates to the facts set forth in Section II of the Agreement, but neither admits nor denies the alleged violations set forth in Section III of the Agreement.

20. PacifiCorp agrees to pay a civil penalty of \$4.4 million, of which (a) \$1.9 million will be paid to the United States Treasury within 10 business days after the Effective Date of this Agreement, as defined herein, and (b) as an offset to the remaining \$2.5 million in civil penalty, PacifiCorp will invest \$2.5 million, subject to Enforcement's approval, in reliability enhancement measures identified in this Agreement that go above and beyond what the Reliability Standards require.

21. PacifiCorp agrees to submit semi-annual compliance monitoring reports for a period of at least two years, in accordance with the terms of the Agreement.

IV. Determination of Appropriate Sanctions and Remedies

Docket No. IN21-6-000

- 7 -

22. In recommending the appropriate remedy, Enforcement considered the factors in the Revised Policy Statement on Penalty Guidelines.¹⁵

23. The Commission concludes that the Agreement is a fair and equitable resolution of the matters concerned and is in the public interest, as it reflects the nature and seriousness of the conduct and recognizes the specific considerations stated above and in the Agreement.

24. The Commission also concludes that PacifiCorp's civil penalty is consistent with the Revised Policy Statement on Penalty Guidelines.¹⁶

25. The Commission directs PacifiCorp to make the civil penalty payment as required by the Agreement within 10 business days after the Effective Date of the Agreement.

26. The Commission directs PacifiCorp make the investment of \$2.5 million, subject to Enforcement's approval, in reliability enhancements as set forth in the Agreement.

27. The Commission directs PacifiCorp to comply with the provisions in the Agreement also requiring it to submit semi-annual compliance reports for a period of at least two years.

The Commission orders:

The attached Stipulation and Consent Agreement is hereby approved without modification.

By the Commission. Commissioner Danly is not participating.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.

¹⁵ *Enforcement of Statutes, Orders, Rules and Regulations*, 132 FERC ¶ 61,216 (2010) (Revised Penalty Guidelines).

¹⁶ *Id.*

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

Docket No. IN21-6-000

STIPULATION AND CONSENT AGREEMENT

I. INTRODUCTION

1. The Office of Enforcement (Enforcement) of the Federal Energy Regulatory Commission (Commission) and PacifiCorp enter into this Stipulation and Consent Agreement (Agreement) to resolve: (i) an investigation (the Investigation) conducted by Enforcement pursuant to Part 1b of the Commission's regulations, 18 C.F.R. Part 1b (2022), and (ii) an Order to Show Cause proceeding resulting from the Investigation (together, the Matter). The Investigation led Enforcement to allege that PacifiCorp violated Federal Power Act (FPA) section 215(b)(1) and 18 C.F.R. § 39.2(b) (2022) between August 31, 2009 and August 2017 (Relevant Period) by failing to comply with Reliability Standard Facilities Design, Connections and Maintenance (FAC) 009-1, Requirement R1, and the successor Reliability Standard FAC-008-3,¹ Requirement R6 (collectively referred to as FAC-009-1 R1), which requires a transmission owner such as PacifiCorp to establish or have facility ratings that are consistent with its Facility Ratings Methodology (FRM). Based on Enforcement's allegations, the Commission issued an Order to Show Cause (attaching an Enforcement Report and Recommendation (Enforcement Report)), directing PacifiCorp to explain why it should not be found to have engaged in the violations alleged in the Enforcement Report and why it should not be assessed a civil penalty, as recommended in the Enforcement Report (Order to Show Cause). *PacifiCorp*, 175 FERC ¶ 61,039 (2021). PacifiCorp filed an Answer in opposition to the Order to Show Cause.

2. To fully resolve this Matter, PacifiCorp agrees to: (a) pay a civil penalty of \$4.4 million, of which (i) \$1.9 million will be paid to the United States Treasury, and (ii) as an offset to the remaining \$2.5 million in civil penalty, PacifiCorp will invest \$2.5 million, subject to Enforcement's approval, in reliability enhancement measures identified in this Agreement that go above and beyond what the Reliability Standards require; and (b) be subject to compliance monitoring as provided more fully below. PacifiCorp stipulates to the facts in Section II, but neither admits nor denies the alleged violations in Section III.

II. STIPULATIONS

Enforcement and PacifiCorp hereby stipulate and agree to the following facts.

¹ FAC-008-3 was also the successor to Reliability Standard FAC-008-1.

3. PacifiCorp is a transmission owner that delivers electricity through two business units serving Oregon, Washington, California, Utah, Wyoming, and Idaho. PacifiCorp has 367 bulk electric system (BES) transmission lines that traverse approximately 10,500 miles. The BES system includes all transmission elements operated at 100 kV or higher, not including facilities used in the local distribution of electric energy.

4. Pursuant to FPA section 215, 16 U.S.C. § 824o, Reliability Standards developed by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization, and approved by the Commission, such as FAC-009-1 R1, are mandatory and enforceable by the Commission.

5. Reliability Standard FAC-008-1 R1 requires transmission owners, like PacifiCorp, to document their FRM in writing. An FRM contains the transmission owner's guidelines for developing its facility ratings. FAC-008-1 R1 also sets forth certain elements that an FRM is required to include. The version of FAC-008-1 in effect for a majority of the Relevant Period required that PacifiCorp's FRM include:

R1.1 A statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. . . .

R1.3. Consideration of the following:

R1.3.2. Design Criteria (e.g. including applicable references to industry Rating practices such as manufacturer's warranty, IEEE [Institute of Electrical and Electronics Engineers], ANSI [American National Standards Institute] or other standards). . . .²

IEEE publishes the National Electrical Safety Code (NESC), which contains, among other things, "rules for overhead lines for clearances and strength and loading."³ IEEE also publishes a specific Standard for Calculating the Current-Temperature Relationship of Bare Overhead Conductors (IEEE 738-2012).

6. The 2013 revised version of FAC-008-1, FAC-008-3, required that PacifiCorp's FRM include:

R3.1. The methodology used to establish the Ratings of the equipment that comprises the Facility shall be consistent with at

² FAC-008-1 R1.

³ IEEE SA, (NESC), <https://standards.ieee.org/products-programs/nesc/program/>.

least one of the following: . . .

- One or more industry standards developed through an open process such as the Institute of Electrical and Electronics Engineers (IEEE) or International Council on Large Electric Systems (CIGRE). . . .

R3.2. The underlying assumptions, design criteria, and methods used to determine the Equipment Ratings

R3.3. A statement that a Facility Rating shall respect the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. . . .⁴

7. Once a transmission owner, like PacifiCorp, established its written FRM under FAC-008-1 R1, FAC-009-1 R1 then required the transmission owner to “establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology.”⁵ A Facility Rating dictates how much power can flow across a facility, such as a transmission line.

8. PacifiCorp’s FRM is set forth in its Engineering Policy No. 199 (Policy No. 199), which took effect on August 31, 2009, and has been revised four times since then. Policy No. 199 includes a “Scope” section that applies generally to all types of PacifiCorp facilities, as well as a section that applies to specific types of facilities, including transmission line conductors.

9. The Scope section of PacifiCorp’s FRM, since its adoption in 2009, has stated that PacifiCorp’s various transmission line facility rating methodologies will consider either “IEEE . . . standards,” or “design criteria.”

10. In addition to the Scope section, PacifiCorp’s Policy No. 199 references specific rating methodologies for transmission line ratings based on the year a line was built and the PacifiCorp business unit that owns the line.

11. PacifiCorp’s Policy No. 199 directs PacifiCorp to use its TD101 document, titled “Transmission Line Rating Standard,” to rate BES lines built by PacifiCorp from 1997 to

⁴ FAC-008-1 R3.

⁵ FAC-009-1 R1 (effective through December 31, 2012); FAC-008-3 R6 (effective January 1, 2013) (requiring Transmission and Generator Owners to each “have Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings methodology or documentation for determining its Facility Ratings”).

the present.⁶ TD101, in turn, states that “[t]he National Electrical Safety Code specifies minimum clearances from any obstacle to conductors which must be maintained under the ‘maximum conductor temperature for which the line is designed to operate.’”⁷

12. Policy No. 199 directs PacifiCorp to use its 1977/1990 Utah Power Conductor Rating Methodology (Utah Policy) to rate BES lines owned by Utah Power & Light Company (Utah Power) and built prior to 1997.⁸ The Utah Policy, in turn, states, “[a]ll future lines will be designed for conductor temperatures of at least 194°F. However, older lines are still in service that have not been designed for these higher temperatures. Careful monitoring of these older lines will be necessary to insure (sic) that proper ground clearances are maintained. When a line is found to have insufficient ground clearance, it should be re-sagged, or rebuilt if necessary, to maintain proper ground clearance.”⁹

13. For Pacific Power lines built prior to 1997, Policy No. 199 directs PacifiCorp to use the 1988 *Thermal Guideline Ratings of Conductors for Planning Studies* (Waters Report) and the 1989 *High Temperature Operation of Conductors Report* (Fishback Report), unless otherwise stated.¹⁰ The Fishback Report, in turn, states, “[o]f far greater concern is the reduction of ground clearance due to the sag increase which can result from the creep of the conductor when operated for long time periods at high temperatures. An infinite number of time, temperature and tension scenarios can be

⁶ PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2a (Sept. 29, 2011).

⁷ PacifiCorp TD101, Transmission Line Rating Standard, Nov. 30, 2009, at Section H (quoting IEEE, National Electrical Safety Code C2–1997, August 1996, Rule 232A2 p. 72). This NESC reference is included in all versions of PacifiCorp’s TD101. *See* PacifiCorp TD101, Transmission Line Rating Standard, Dec. 3, 2010, at Section G; PacifiCorp’s TD101, Transmission Line Rating Standard, Apr. 8, 2013, at Section G.

⁸ PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2b (Sept. 29, 2011). PacifiCorp defines the Utah Power service territory as the transmission system owned by Utah Power prior to the 1988 merger with PacifiCorp. *Id.*

⁹ Utah Power Conductor Rating Methodology (Utah Policy) at Section 9.5 (footnote omitted).

¹⁰ PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2a (Sept. 29, 2011). PacifiCorp defines the Pacific Power service territory as the transmission system owned by PacifiCorp prior to the 1988 merger with Utah Power.

considered. It will probably be necessary to review each line and develop a realistic operating scenario.”¹¹

14. Policy No. 199 also contains a “catch-all” provision stating that “BES transmission line ratings may be modified from the above reports or standards [i.e., TD101, the Utah Policy, the Waters Report, and the Fishback Report] by implementing a study to determine the rating of a specific line,” and that such a study may include “specific conductor clearances” and “field condition verification.”¹²

15. An October 2010 NERC “Recommendation to Industry” (NERC Alert) stated that NERC and the Regional Entities had “become aware of discrepancies between the design and actual field conditions of transmission facilities” across the BES that might be “significant and widespread.”¹³ The NERC Alert recommended that transmission owners, like PacifiCorp, review their FRMs “to verify that the methodology used to determine facility ratings is based on actual field conditions.”¹⁴ In response to the multi-year NERC Alert initiative, the industry identified more than 59,000 clearance conditions on transmission lines across the country.

16. PacifiCorp responded to the NERC Alert, self-disclosed known clearance conditions, and thereafter remediated them in tranches, pursuant to the multi-year NERC Alert approach. PacifiCorp spent more than \$132 million to remediate all clearance conditions identified on its BES lines, both before and in response to the NERC Alert, and remediated a total of 4,725 clearance conditions. PacifiCorp completed this remediation in 2017. PacifiCorp continued to serve all its customers during these improvements and has never had a system-wide or other large-scale BES failure.

III. VIOLATIONS

17. Enforcement determined that PacifiCorp violated FPA section 215(b)(1) and 18 C.F.R. § 39.2(b) (2022) between August 31, 2009 and August 2017 by failing to comply with FAC-009-1 R1, which requires a transmission owner, such as PacifiCorp, to establish and have facility ratings that are consistent with its FRM. Enforcement found

¹¹ Carl V. Fishback, *High Temperature Operation of Conductors*, Feb. 22, 1989, at 1.

¹² PacifiCorp Facility Rating Methodology/Engineering & Asset Management Policy No. 199, Rev. 3 at 2.2c (Sept. 29, 2011).

¹³ NERC, Recommendation to Industry, Consideration of Actual Field Conditions in Determination of Facility Ratings at 1 (issued Oct. 7, 2010 and updated Nov. 30, 2010), <https://www.nerc.com/pa/rrm/bpsa/Documents/Ratings%20Recommendation%20to%20Industry%20FINAL-REVISED.pdf>.

¹⁴ *Id.* at 2.

that PacifiCorp's FRM required it to consider NESC clearance standards when rating its BES transmission lines. Enforcement also found that PacifiCorp knew that clearance conditions existed on a majority of its BES transmission lines. Enforcement concluded that such clearance conditions failed to conform with NESC standards, which Enforcement concluded was required by PacifiCorp's FRM. Enforcement found that there were clearance violations on at least 215 BES transmission lines, or 58 percent of PacifiCorp's total lines. Enforcement also determined that PacifiCorp did not complete the remediation of all of the clearance conditions required to make the facility ratings consistent with PacifiCorp's FRM until August 2017.

IV. REMEDIES AND SANCTIONS

18. For purposes of settling any and all claims, civil and administrative disputes, and proceedings arising from or related to PacifiCorp's conduct evaluated in Enforcement's Investigation and the Commission's Order to Show Cause proceeding, PacifiCorp agrees with the facts as stipulated in Section II of this Agreement, but neither admits nor denies the violations described in Section III of this Agreement. PacifiCorp further agrees to undertake those obligations set forth in the following paragraphs.

A. Civil Penalty

19. PacifiCorp agrees to pay a civil penalty of \$4.4 million, of which (a) \$1.9 million will be paid to the United States Treasury within 10 business days after the Effective Date of this Agreement, as defined herein, and (b) as an offset to the remaining \$2.5 million in civil penalty, PacifiCorp will invest \$2.5 million, subject to Enforcement's approval, in reliability enhancement measures identified in this Agreement that go above and beyond what the Reliability Standards require.

B. Reliability Enhancements

20. In exchange for the \$2,500,000 offset, PacifiCorp will invest \$2,500,000 in reliability enhancements that go above and beyond the requirements of the NERC Reliability Standards. This reliability enhancement investment will fund the acquisition and development of a new single-source transmission facility ratings database management system (DMS) that will promote enhanced accuracy in the development, updating and communication of facility ratings. In addition, PacifiCorp will install 60 new weather monitoring stations throughout its transmission system, and those stations will feed information about ambient conditions directly into the facility ratings DMS to further enhance the accuracy of ratings being utilized by system operators (the facility ratings DMS and installation of linked weather stations together, Reliability Enhancements). PacifiCorp commits to acquire the new transmission facility ratings DMS, and to install the 60 new weather monitoring stations within two years of the Effective Date of this agreement. PacifiCorp will complete the data conversion necessary

to fully implement the Reliability Enhancements within three years of the Effective Date of this agreement.

C. Compliance Monitoring

21. PacifiCorp shall make semi-annual compliance monitoring reports to Enforcement for (a) the period of two years following the Effective Date of this Agreement or (b) until the end of the six-month period in which the Reliability Enhancements, described above, have been fully implemented and verified by Enforcement, whichever date is later. The first semi-annual compliance monitoring report shall cover the first six-month period after the Effective Date of this Agreement and shall be submitted to Enforcement within 30 days thereafter. Subsequent compliance reports shall be due in six month increments thereafter.

22. Each compliance monitoring report shall detail the following: (1) actions taken as of the end of the six-month period to satisfy the terms of this Agreement, including all Reliability Enhancements; (2) other actions taken to improve reliability compliance, including investments in new measures and training activities during the six-month period; and (3) any additional violations of Reliability Standards that have occurred and whether and how PacifiCorp addressed those new violations.

23. Each compliance monitoring report shall also include an affidavit executed by an officer of PacifiCorp stating that it is true and accurate to the best of his/her knowledge.

24. Upon request by Enforcement, PacifiCorp shall provide to Enforcement documentation supporting the contents of its compliance monitoring reports.

V. TERMS

25. The "Effective Date" of this Agreement shall be the date on which the Commission issues an order approving this Agreement without material modification. When effective, this Agreement shall resolve the matters specifically addressed in the Investigation and the Order to Show Cause that arose on or before the Effective Date as to PacifiCorp and any affiliated entity, and their respective agents, officers, directors, or employees, both past and present.

26. Commission approval of this Agreement without material modification shall release PacifiCorp and forever bar the Commission from holding PacifiCorp, any affiliated entity, any successor in interest, and their respective agents, officers, directors, or employees, both past and present, liable for any and all administrative or civil claims arising out of the conduct covered by the Investigation and the Order to Show Cause, including conduct addressed and stipulated to in this Agreement, which occurred on or before the Agreement's Effective Date.

27. Failure by PacifiCorp to make the civil penalty payment, invest in the Reliability Enhancements, or comply with the compliance monitoring obligations agreed to herein, or any other provision of this Agreement, shall be deemed a violation of a final order of the Commission issued pursuant to the FPA, 16 U.S.C. §792, *et seq.*, and may subject PacifiCorp to additional action under the enforcement provisions of the FPA.
28. If PacifiCorp does not make the required civil penalty payment described above within the times agreed by the parties, interest will be calculated pursuant to 18 C.F.R. § 35.19a(a)(2)(iii)(A), (B) (2022) from the date that payment is due, in addition to the penalty specified above and any other enforcement action and penalty that the Commission may take or impose.
29. This Agreement binds PacifiCorp and its agents, successors, and assignees. This Agreement does not create any additional or independent obligations on PacifiCorp, or any affiliated entity, its agents, officers, directors, or employees, other than the obligations identified in this Agreement.
30. The signatories to this Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer, or promise of any kind by any member, employee, officer, director, agent, or representative of Enforcement or PacifiCorp has been made to induce the signatories or any other party to enter into the Agreement.
31. Unless the Commission issues an order approving the Agreement in its entirety and without material modification, the Agreement shall be null and void and of no effect whatsoever, and neither Enforcement nor PacifiCorp shall be bound by any provision or term of the Agreement, unless otherwise agreed to in writing by Enforcement and PacifiCorp.
32. In connection with the civil penalty provided for herein, PacifiCorp agrees that the Commission's order approving the Agreement without material modification shall be a final and unappealable order assessing a civil penalty under section 316A(b) of the FPA, 16 U.S.C. § 825o-1(b). PacifiCorp waives findings of fact and conclusions of law, rehearing of any Commission order approving the Agreement without material modification, and judicial review by any court of any Commission order approving the Agreement without material modification.
33. This Agreement can be modified only if in writing and signed by Enforcement and PacifiCorp, and any modifications will not be effective unless approved by the Commission.
34. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity, and accepts the Agreement on the entity's behalf.

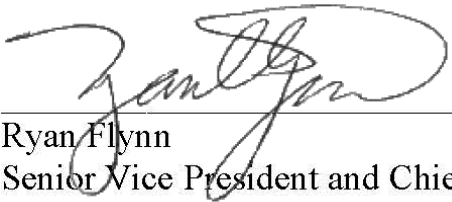
35. The undersigned representative of PacifiCorp affirms that he has read the Agreement, that all of the matters set forth in the Agreement are true and correct to the best of his knowledge, information and belief, and that he understands that the Agreement is entered into by Enforcement in express reliance on those representations.

36. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Agreed to and Accepted:

**Janel
Burdick**  Digitally signed by
Janel Burdick
Date: 2022.12.20
15:33:56 -05'00'

Janel Burdick
Director, Office of Enforcement
Federal Energy Regulatory Commission



Ryan Flynn
Senior Vice President and Chief Legal
Officer
PacifiCorp

Date: December 20, 2022

Date: December 20, 2022

Document Content(s)

IN21-6-000.docx.....1