

**EXHIBIT NO. AKD-1T
DOCKET UE-210829
WITNESS: AJA K. DeCOTEAU**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

**PACIFICORP dba PACIFIC POWER &
LIGHT COMPANY,**

Respondent.

Docket UE-210829

RESPONSE TESTIMONY OF

AJA K. DeCOTEAU

ON BEHALF OF

COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

AUGUST 21, 2024

1 **Q. Please state your name and business address.**

2 **A.** My name is Aja K. DeCoteau. My business address is 700 NE Multnomah St.,
3 Suite 1200, Portland, Oregon 97232.

4 **Q. By whom are you employed and in what capacity?**

5 **A.** I am employed by the Columbia River Inter-Tribal Fish Commission (“CRITFC”)
6 and serve as its Executive Director.

7 **Q. Briefly describe your education and background.**

8 **A.** I am a citizen of the Yakama Nation and grew up on my reservation in Wapato,
9 WA. I also have other tribal lineage with the Cayuse, Nez Perce and Turtle
10 Mountain Chippewa. I have worked in tribal natural resource management for
11 over two decades. My career started with the Yakama Nation in forestry, wildlife,
12 and environmental management. For the past fourteen years, I have worked for
13 the Columbia River Inter-Tribal Fish Commission, first as the Watershed
14 Department Manager and now as the Executive Director.

15 I earned a Bachelor of Arts degree from Dartmouth College and a
16 Master’s degree in Environmental Management from Yale University’s School of
17 the Environment. I also sit on numerous boards including the National Park
18 System Advisory Board, Earthjustice, American Rivers, the Native American
19 Agriculture Fund, the Yale Center for Environmental Justice, and the Northwest
20 Power and Conservation Council’s Independent Scientific Advisory Board’s
21 administrative oversight panel.

1 **Q. What are your duties as Executive Director of CRITFC?**

2 **A.** I am responsible for CRITFC’s administrative operations and provide
3 leadership and guidance to its 150 plus employees. I am responsible for
4 planning the organization’s mission objectives with guidance from
5 CRITFC’s Commissioners, a body of elected and appointed tribal leaders
6 representing CRITFC’s four member tribes. A key assignment is to
7 continue the development of scientific knowledge, policy advocacy, and
8 legal research necessary to support the implementation of Wy-Kan-Ush-
9 Mi Wa-Kish-Wit (Tribal Salmon Restoration Plan) with its goal to put
10 fish back in the rivers and protect the watersheds where fish live. This
11 plan incorporates recommendations for habitat improvements,
12 hydrosystem operations, hatchery management, and most recently
13 climate mitigation planning and energy policy. A significant example of
14 our work in the energy space is our *Tribal Energy Vision for the*
15 *Columbia Basin*.¹

16 **Q. Please describe CRITFC and its mission.**

17 **A.** CRITFC is a political subdivision of the Nez Perce Tribe, Confederated Tribes of
18 the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs
19 Reservation of Oregon, and Confederated Tribes and Bands of the Yakama
20 Nation. In 1855, each of CRITFC’s member tribes - the Yakama Nation,
21 Confederated Tribes of Warm Springs, Confederated Tribes of the Umatilla

¹ Columbia River Inter-Tribal Fish Commission, *Tribal Energy Vision for the Columbia River Basin* (2022), <https://critfc.org/energy-vision/>.

1 Indian Reservation, and the Nez Perce Tribe - entered into separate treaties with
2 the United States that ceded title to vast amounts of land in the interior Columbia
3 Basin. Each of the treaties contained provisions securing the right of the tribes to
4 continue to take fish both on their reservations and at all usual and accustomed
5 fishing places.²

6 To protect their treaty rights to take salmon and other resources, these
7 Columbia River treaty tribes founded CRITFC in 1977.³ Its mission is “to ensure
8 a unified voice in the overall management of the fishery resources, and as
9 managers, to protect reserved treaty rights through the exercise of the inherent
10 sovereign powers of the tribes.”⁴

11 Consistent with its mission, CRITFC works with its member tribes to
12 realize the treaty promises made by the U.S. Government and is recognized as a
13 leading technical assistance agency for natural resources management in the
14 Pacific Northwest. Its work also includes providing legal and policy assistance to
15 member tribes that supports the exercise of their treaty rights and the protection of
16 fish and wildlife resources and their habitat in the Columbia Basin. In this role,
17 CRITFC’s expertise includes scientific, legal, and policy expertise in ecology,

² Treaty with the Yakima Tribe, June 9, 1855, 12 Stat. 951; Treaty with the Tribes of Middle Oregon, June 25, 1855, 12 Stat. 963; Treaty with the Umatilla Tribe, June 9, 1855, 12 Stat. 945; Treaty with the Nez Perce Tribe, June 11, 1855, 12 Stat. 957.

³ CRITFC’s four member tribes are the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, and the Nez Perce Tribe.

⁴ CRITFC Mission and Vision, <https://critfc.org/about-us/mission-vision/> (last visited Aug. 21, 2024).

1 fisheries management, hydropower operations, climate, and energy in the
2 Columbia Basin.

3 **Q. Please explain how CRITFC carries out its mission.**

4 **A.** We are currently involved in numerous national and regional policy deliberations
5 regarding the future of the Columbia River's hydropower operations and how its
6 current operations affect the treaty resources guaranteed to our members. Our
7 employees are valued experts in these matters and are regularly called upon to
8 review, analyze, and opine on how development in the Columbia Basin impacts
9 resources dependent upon its natural environment.

10 CRITFC fulfills its mission through four principal initiatives:

- 11 1. Put Fish Back in the Rivers and Protect the Watersheds Where Fish Live
- 12 2. Protect Tribal Treaty Rights
- 13 3. Share Salmon Culture
- 14 4. Provide Fisher Services

15
16 I will briefly describe each of these initiatives in turn.

- 17
18 1. Put Fish Back in the Rivers and Protect the Watersheds Where Fish Live

19
20 We provide our four member tribes and the region with invaluable
21 biological research, fisheries management, hydrology, and other science
22 to support the protection and restoration salmon, lamprey, and sturgeon
23 that use *Nch'i - Wa'na* - the Columbia River. The vision of this goal is to
24 reverse the decline of salmon, lamprey, and sturgeon and rebuild their
25 numbers to full productivity. This work is guided by the holistic
26 principles outlined in Wy-Kan-Ush-Mi Wa-Kish-Wit that addresses

1 recommended restoration actions in every phase of the salmon's
2 lifecycle from stream to ocean and back.⁵

3 2. Protect Tribal Treaty Rights

4 We employ attorneys, policy analysts, and fisheries enforcement
5 officers who work to ensure that tribal treaty rights are protected. All of
6 these activities are done in careful coordination with and under the
7 direction of member tribes. The commission works closely with state and
8 federal agencies to ensure fair harvest sharing between tribal and non-
9 tribal fisheries.

10 3. Share Salmon Culture

11 We use multiple media venues and technologies to share news,
12 information, and the tribal perspective on a variety of issues. Common
13 topics include salmon and lamprey restoration, the nature of treaty
14 fishing rights, and tribal culture. Our target audience ranges from school
15 children to policy makers. By educating the general public on these
16 topics, the tribes hope to increase interest for productive partnerships and
17 support in the effort to restore Columbia River Basin salmon and
18 lamprey.

19 4. Provide Fisher Services

⁵ Columbia River Inter-Tribal Fish Commission, Wy-Kan-Ush-Mi Wa-Kish-Wit (Spirit of the Salmon), The Columbia River Anadromous Fish Restoration Plan of the Nez Perce, Umatilla, Warm Springs and Yakama Tribes (2014), <https://plan.critfc.org/assets/wy-kan-update.pdf>.

1 We provide a variety of services directly to fishers from our member
2 tribes. Our Salmon Marketing program provides fishers with resources to
3 help them carry on the tradition of making a living from fishing, whether
4 that be from commercial, over-the-bank, or value-added fish sales. The
5 organization also operates and maintains 31 fishing sites along the
6 Columbia River for the exclusive or near-exclusive use of the fishers
7 from all four member tribes.⁶

8 **Q. Please provide the Commission with examples of CRITFC’s work to protect**
9 **and restore salmon and lamprey populations.**

10
11 **A.** Our work covers the full life-cycle of salmon and other anadromous species and
12 the habitat they rely upon, including:

- 13 • Supporting tribal efforts to manage and protect salmon populations in the
14 Columbia River basin, including monitoring fish runs and advocating for
15 sustainable fishing practices.
- 16 • Working with our member tribes on projects to improve spawning and rearing
17 habitats for salmon and other native fish species.
- 18 • Conducting scientific research on fish populations, fish genetics, habitat
19 conditions, and the impacts of dams and other human activities on the river
20 ecosystem.

⁶ CRITFC In-lieu/Treaty Fishing Access Sites, <https://critfc.org/for-tribal-fishers/in-lieutreaty-fishing-access-sites> (last visited Aug. 21, 2024).

- 1 • Providing research support to our member tribes for their operation and
2 management of fish hatcheries to supplement wild salmon populations and
3 support tribal fisheries.
- 4 • Monitoring water quality and conditions in the Columbia River, its tributaries,
5 and in the Columbia River estuary and near-shore Pacific Ocean.
- 6 • Working side by side with the four member tribes and representing their
7 interests in negotiations with state and federal agencies regarding fish and
8 wildlife management policies.
- 9 • Employing fisheries enforcement officers to ensure compliance with tribal
10 fishing regulations, protect tribal fishing rights, and provide policing at the
11 federal fishing access sites along the Columbia River.
- 12 • Providing educational programs and materials to raise awareness about tribal
13 fishing rights, salmon conservation, and the cultural importance of fish to
14 Columbia River tribes and the region at large.
- 15 • Developing long-term strategies to help fish populations and tribal
16 communities adapt to the impacts of climate change on the Columbia River
17 ecosystem and the river's hydropower operations.

18 **Q. You referred to the *Tribal Energy Vision for the Columbia Basin* earlier in
19 your testimony, is CRITFC's work in energy matters a new initiative?**

20 **A.** No. CRITFC's Member Tribes decided many years ago to become more active in
21 regional energy matters. CRITFC has assisted the Yakama Nation and other
22 member tribes in numerous Bonneville Power Administration (BPA) rate cases

1 and federal court matters advocating for fish-friendly changes to how BPA
2 operates its hydroelectric system and the protection and restoration of impacted
3 species.⁷

4 In 2003, CRITFC published its first *Energy Vision* in order to bring these
5 same objectives and supporting analyses to the attention of BPA and the region.
6 Our advocacy has always been consistent – operate the Columbia River
7 hydroelectric system in a manner that protects, mitigates and enhances impacted
8 species and respect Treaty rights.⁸

9 **Q. Please share CRITFC’s view on the transformation of the Northwest’s**
10 **energy system?**

11 **A.** We believe the region’s energy transformation to carbon-free resources provides
12 an opportunity to share our concerns and interests with regulatory tribunals and to
13 advocate for outcomes that bring benefits to affected tribal communities and
14 avoid potential harm to these communities and the resources they rely upon.
15 CRITFC’s member tribes envision a future where the region’s electric power
16 system supports healthy and harvestable fish and wildlife populations, protects
17 tribal treaty and cultural resources, and provides clean, reliable, and affordable
18 electricity.

⁷ CRITFC has intervened as co-petition in many BPA rate cases and proceedings and our staff have provided direct testimony in support of such actions. *See, e.g Proposed Wholesale Power Rate Adjustment Proceeding of the Bonneville Power Administration*, BPA Dockets WP-07 (July, 2006); *FY 2024-2025 Proposed Power and Transmission Rate Proceeding*, BPA Docket BP-24 (July, 2023).

⁸ Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839(3), 839(6) (1980).

1 The Pacific Northwest is at a critical crossroads - facing challenges to the
2 health of the planet and the future of iconic fish and wildlife. Addressing these
3 challenges with realistic and doable solutions is especially important to the tribal
4 people that have been sustained by these resources since time immemorial. We
5 envision a path that leads to affordable, carbon-free energy that harmonizes with
6 the ecosystem. This future will prioritize energy efficiency, renewable resources,
7 new storage technologies, reductions in peak loads, and other strategies that are
8 compatible with the needs of fish and wildlife and the protection of our cultural
9 resources. These measures should also reduce the impacts from renewable
10 resource projects and the transmission lines needed to serve them.

11 **Q. Is this why CRITFC decided to intervene in this docket?**

12 **A.** Yes. We see this docket as an opportunity to initiate a conversation with the
13 Commission, its Staff, PacifiCorp, and the other parties regarding the rights and
14 interests of the Yakama Nation and the other CRITFC member tribes. Our
15 advocacy will offer a different perspective on PacifiCorp's Clean Energy
16 Implementation Plan Biennial Update (CEIP Biennial Update) and its compliance
17 with Washington's Clean Energy Transformation Act (CETA). Our perspective
18 reflects the vision, rights, and authorities of our Member Tribes as set forth in our
19 *2022 Energy Vision*.⁹

20 There is no question that the operation and reliability of Pacific Power's
21 Washington electric grid affects tribal communities served by the utility. We

⁹ See CRITFC Energy Vision, *supra* note 1.

1 maintain as well that decisions teed up in this docket regarding the Company's
2 plans to meet its regional loads using market resources also impact these tribal
3 communities and the treaty rights they enjoy.

4 **Q. Please explain.**

5 **A.** The Company's *2021 Integrated Resource Plan* identified a historic reliance on
6 market resources (front office transactions) to meet its system demand and
7 forecast a range of market purchases, with up to 1000 MW required during heavy
8 load hours in its 2021 winter period.¹⁰ While we understand that the amount and
9 timing of future market purchases would be dependent on numerous factors, we
10 are concerned that the Company would first turn to the region's hydroelectric
11 system to balance its loads, given its history of availability, flexibility, and
12 economy.

13 The hydroelectric system under BPA's control is the largest and most
14 flexible generation resource in the region. During the region's low water months
15 (typically late summer through early winter), the region is and would be
16 dependent upon BPA to meet demand during high-load periods - to the detriment
17 of migrating salmon requiring certain pool depths and channel flows. Pulsed
18 flows related to power peaking negatively impacts resident and migrating salmon
19 and lamprey. River fluctuation from power peaking and hourly load-following

¹⁰ See UE-200420, PacifiCorp's *2021 Integrated Resource Plan, Vol. 1*, at pp.114-115, Sept. 1, 2021.

1 disrupts migration, increase exposure to predators and dissolved gasses, reduces
2 spawning, and can cause stranding, among other disturbances.¹¹

3 PacificCorp’s decision to rely upon on market resources to meet its load
4 will only exacerbate these conditions. Furthermore, should the region’s generation
5 output fall precipitously due to weather conditions or mechanical failure, utilities
6 without sufficient capacity would have to rely upon market resources to balance
7 their systems. During such times, the impacts from hydroelectric system operation
8 to both migratory and native resources become secondary, even when mandatory
9 flow regimes are in place to protect these resources.¹² While these occurrences
10 may be infrequent or short-lived, BPA’s management of its pool and instream
11 flows for emergency power production during these periods can have lasting
12 effects on migrating species’ and resident fish survival.¹³ Furthermore, extreme
13 weather events and lower instream flows caused by climate change will put even

¹¹ Hourly hydro load-following can: strand juvenile salmon and steelhead on river banks; cause fish to swim upstream during low flows, delaying migration timing; increase juvenile fish passage numbers through the powerhouse during high flow/generation, especially during evening high demand hours; create ponding in reservoirs, which increases migration time; disrupt spawning and rearing of salmon and steelhead and dewater redds. Paciencia S. Young, Joseph J. Cech Jr. & Lisa C. Thompson, *Hydropower-Related Pulsed-Flow Impacts on Stream Fishes: a Brief Review, Conceptual Model, Knowledge Gaps, and Research Needs*, 21 Rev. Fish Biol. 713, at 715-722 (2011), <https://doi.org/10.1007/s11160-011-9211-0>.

¹² See Bonneville Power Administration, U.S. Bureau of Reclamation, U.S. Army Corps of Engineers, 2024 Water Management Plan at Appendix 1: Emergency Protocols (Jan. 16, 2024), <https://pweb.crohms.org/tmt/documents/wmp/2024/>.

¹³ The Fish Passage Center documented some of these impacts to Columbia River fish associated with “flex spill” operations and maximum load-following during the Spring of 2021, a low flow year. Fish Passage Center, Review of Flex Spill Operations, Memo #59-21 (Aug. 12, 2021), <https://www.fpc.org/documents/memos/59-21.pdf>. See also, Charles C. Coutant, *Hydropower peaking and stalled salmon migration are linked by altered reservoir hydraulics: A multidisciplinary synthesis and hypothesis*, River Research and Applications (April 29, 2023), <https://doi.org/10.1002/rra.4146>.

1 more pressure upon BPA – increasing the region’s reliability risk and the risk of
2 harm to all species.

3 In the *Treaty of 1855*, the Yakama Nation traded away much of their
4 original homeland to protect their right to access and steward the traditional foods
5 produced by *Nch’i - Wa’na*. These species have already borne the weight of the
6 region’s hydroelectric system and are now at the risk of extinction. We are here to
7 express our needs and concerns to the Commission and believe that Washington
8 and the region can transition to a clean energy future without doing more damage
9 to the resources the tribes depend upon.

10 **Q. Earlier in your testimony you referenced CRITFC’s 2022 Energy Vision. Can**
11 **you provide the Commission a brief description of its recommended actions**
12 **as they pertain to this proceeding?**

13 **A.** Yes. As noted earlier in my testimony, the *2022 Energy Vision* responds to the
14 region’s history of hydroelectric operations and how its management has led to
15 the near extinction of salmonid species’ the Yakama Nation and other Columbia
16 River Tribes have relied upon for food and celebrated since time immemorial as
17 an essential element of their cultural and social gatherings and ceremonies.

18 **Q. Please go on.**

19 **A.** The *Tribal Energy Vision* was produced by CRITFC in 2022 and marks its latest
20 iteration – analyzing the current state of the Columbia River, hydroelectric
21 operations, and the regional energy system to detail what is required to improve
22 environmental conditions and protect its natural resources. It recommends that the

1 region take steps to ensure that renewable resources in combination with
2 increased storage, reductions in peak demand, and increased energy efficiency can
3 provide clean, adequate, reliable, and affordable electricity to support the
4 restoration of healthy, harvestable salmon populations, and prevent future damage
5 to salmon and steelhead and other tribal resources caused by the electrical
6 system.¹⁴

7 Commissioner Jeremy Takala will testify in more detail on the Treaty of
8 1855 and the impacts to Treaty rights from the development of the Columbia
9 Basin hydroelectric system.

10 **Q. Why is the *Energy Vision* important to this proceeding?**

11 A. CRITFC believes that the goals of CETA¹⁵ and the Commission align with
12 CRITFC's vision for a future electrical grid that is built upon the highest possible
13 deployment of energy efficiency and weatherization, distributed generation,
14 renewable energy, and storage technologies. These technologies will reduce
15 dependency on the Columbia River hydro system to meet customer load. In turn,
16 we will see a hydroelectric system that can be operated to better protect and
17 produce anadromous and other resources guaranteed to the Yakama Nation in the
18 Treaty of 1855 and used as *First Foods* in our cultural and religious ceremonies.
19 Finally, we know that direct investments in energy efficiency and resiliency are

¹⁴ CRITFC Energy Vision, *supra* note 1.

¹⁵ Clean Energy Transformation Act, RCW 19.450.

1 also critical for tribal communities, whose families face both disproportionately
2 high rates of poverty and outsized energy burdens.¹⁶

3 **Q. Please explain the importance of following the *Energy Vision*'s guidance.**

4 A. The true wealth of our region begins with the health of our rivers, fish, and the
5 ecosystem they support, which is our culture, history, and future. Today, we know
6 that many salmon species are near extinction – a condition exacerbated by climate
7 change in the form of warmer temperatures, reduced snowpack, changes in river
8 runoff timing, and reduced flows during critical salmonid migration periods.
9 Moving away from greenhouse gas emitting energy sources is absolutely critical
10 to salmon survival. Yet we also know that without careful consideration, changes
11 to this region's use and production of electricity could make the grid even more
12 dependent upon the Columbia River hydroelectric system to meet expected
13 loads,¹⁷ thereby exacerbating the existing crisis for salmon and tribal
14 communities.

15 The *Energy Vision* does not suggest a *silver bullet* fix for today's grid, but
16 instead observes the Seven Generations Principle – a worldview we hold that the
17 decisions we make today we make for a more sustainable world that our
18 descendants will inherit seven generations in the future. With this principle in

¹⁶ See, e.g., Clean Energy Transition Institute, *Community-Defined Decarbonization: Reflecting Rural and Tribal Desires for an Equitable Clean Energy Transition in Washington* (September 2022), at 30, www.cleanenergytransition.org/programs/rural-community-decarbonization/community-defined-decarbonization.

¹⁷ “With today's emphasis on producing carbon-free electricity in the West's power grid, and with many retiring coal plants, these [flexible hydropower] services will be even more valuable in the future.” Northwest Power and Conservation Council, *Pacific Northwest Hydropower for the 21st Century Power Grid* (January 2019), <https://www.nwcouncil.org/energy/energy-topics/hydropower/>.

1 mind, CRITFC recommends that the Commission use this docket to build a
2 regulatory foundation for achieving the *Energy Vision*'s key objectives in
3 PacifiCorp's Washington service territory.

4 **Q. How should the Commission begin to build such a regulatory**
5 **foundation?**

6 A. First, PacifiCorp should be required to work directly with the Yakama Nation to
7 assess the full potential for energy efficiency, weatherization, and distributed
8 generation resource development at its customer meter locations within the
9 Yakama Reservation and the tribal communities nearby. As part of this
10 assessment, the Company should identify the barriers to development and the
11 resources needed to overcome them.

12 Second, PacifiCorp should develop a five-year development plan and
13 budget for the energy efficiency, weatherization, and distributed generation
14 resource development identified in its assessment.

15 Third, PacifiCorp should be required to model the impacts of the
16 Columbia Basin's mainstem hydroelectric system operations on anadromous and
17 other natural resources under current operating limits set for salmonid protection
18 and the costs associated with the protective limits on operations. The purpose of
19 this exercise is to better understand the true costs of market resources during
20 certain load hours wherein hydroelectric, nuclear, and carbon-based generators
21 are the only generators producing electricity at those times.

22 Finally, we request that PacifiCorp work with the Yakama Nation and
23 CRITFC to develop Community Benefit Indicators that reasonably reflect the

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Yakama Nation's treaty rights and the lives of its people, as expressed through their traditions, culture, and needs.

Q. Does that conclude your testimony?

A. Yes.