Exh. MDM-2T
Docket UE-210829
Witness: Matthew D. McVee

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFICORP dba PACIFIC POWER & LIGHT COMPANY Respondent.	Docket UE-210829

PACIFICORP

REBUTTAL TESTIMONY OF MATTHEW D. MCVEE

September 2024

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ATTACHED EXHIBIT

I. PURPOSE OF TESTIMONY

Q. Are you the same Matthew D. McVee who submitted direct testimony in this proceeding?

A. Yes.

Q. What is the purpose of this testimony?

A. I respond to the testimonies of Staff of the Washington Utilities and Transportation Commission (Staff), the Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel), Renewable Northwest and Northwest Energy Coalition (RNW-NWEC), and the Columbia River Inter-Tribal Fish Commission (CRITFC).

Q. Can you summarize your rebuttal testimony?

A. I continue to recommend the Washington Utilities and Transportation Commission (Commission) approve PacifiCorp's Clean Energy Implementation Plan (CEIP) Biennial Update.

II. STAFF REBUTTAL

A. Staff's primary recommendation lacks any support, analysis, or recognition of external circumstance and Staff's prior agreements.

Q. What is Staff's primary recommendation to the Commission?

A. Staff recommends the Commission reject PacifiCorp's CEIP Biennial Update, and instead require PacifiCorp to adhere to the interim targets from the 2021 Revised CEIP, because the Company's interim targets do not demonstrate how PacifiCorp will make reasonable progress towards achieving Washington's Clean Energy Transition Act's (CETA) requirements.[1]

[1] *E.g.*, JNS-1HCT, at 9-10.

Q. Do you agree with Staff's recommendation?

A. No, I do not. While I understand the 2030 compliance concerns raised by Staff, PacifiCorp's CEIP Biennial Update continues to show procurement of sufficient resources to meet compliance in 2030. Neither Staff, nor any other party, has presented any analysis supporting a contrary conclusion. Further, Staff has not conducted any analysis of the potential impact to customers of advancing compliance beyond the least cost approach supported by PacifiCorp's planning studies.

Q. Staff states that the CEIP Biennial Update "should report on progress made towards compliance in that period."[2] How do you respond?

A. That is not the sole purpose of a biennial update. WAC 480-100-640(11) states that a biennial CEIP Biennial Update must "include an explanation how the update will modify the targets in its CEIP" and it may include "other proposed changes to the CEIP as a result of the integrated resource plan progress report." This is important for proper decision making because it allows the Commission to consider changed circumstances of, among other things, utility resource planning and the potential impacts to interim targets on customers and the utility.

Q. What are Staff's arguments supporting its recommendation?

A. Staff presents three main arguments: (1) that Company's data responses did not provide enough evidence to show proof of making progress towards compliance; (2) that cancellation of the 2022 All Source Request for Proposals (2022AS RFP) inhibits PacifiCorp's ability to procure resources; and (3) that PacifiCorp's explanation for cancelling the RFP and planning for future procurement efforts are inadequate. None

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[22] *Id.* at 2.

of these arguments justify rejecting the CEIP Biennial Update. The arguments could, however, lead to significant policy issues for the Commission, utilities in Washington, and customers, which Staff fails to discuss in testimony.

Q. What has Staff provided to support its testimony recommending rejection of the CEIP Biennial Update?

A. Staff has attached a number of PacifiCorp's responses to data requests, an order from the Public Utility Commission of Oregon, and special report from the California Independent System Operator, a news article, and a document suggesting how to incorporate the Federal Inflation Reduction Act in planning.

Q. Did Staff present any independent analysis on the potential impact to customers or the company?

A. No. As confirmed by PacifiCorp data requests and detailed by PacifiCorp witness Dr. Rohini Ghosh, Staff has not conducted any analysis that supports, or conflicting evidence that discredits, the justifications for PacifiCorp's interim targets.[3] Instead, Staff's primary recommendation is based on the perceived fear for future clean energy planning and a slower compliance trajectory due to lowered interim targets, and the termination of an RFP that would not have added resources in the current compliance period.[4] Based on these representations, Staff concludes that PacifiCorp's CEIP Biennial Update has not demonstrated reasonable progress.

This is problematic because any conclusion that PacifiCorp has not demonstrated reasonable progress needs to evaluate the actual reasons for

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[3] Exh. MDM-3 (Staff Response to PacifiCorp Date Request No. 6 - "Staff did not directly discuss the modeling analysis supporting PacifiCorp's interim targets.").

[4] *See* Exh. JNS-1HCT, at 21, referencing Exh. JNS-3 (a discussion on the basis of changes to the interim targets in the 2022-2025 compliance period).

PacifiCorp's lowered interim targets. That is especially the case where, like here, the Commission has not provided any guidance on what "reasonable progress" requires. Staff's position that the utility bears the burden of proof, but does not have guidance on the specific requirements to implement CETA, can place a utility in an untenable position when faced with the complex realities of operating an electric utility.

Q. What are the flaws in Staff's review?

A. There are several. First, Staff's testimony does not consider or reference information that is readily available to, and agreements previously made by, Staff. PacifiCorp was transparent in its use of the prospective allocation methodology that was used in the 2021 CEIP, with Staff attending multiple presentations where it was discussed prior to in 2021. And to PacifiCorp's knowledge, Staff never protested the use of this prospective allocation methodology. Staff also signed the stipulation in PacifiCorp's 2023 general rate case that extended the continued use of PacifiCorp's coal generation to benefit customers during a period of high market prices for power.[5] Yet Staff's testimony does not discuss how these thermal resource assumptions, which were Staff-supported and Commission-approved, reasonably lead to reductions in PacifiCorp's CEIP Biennial Update interim targets. The lack of discussion on Staff's prior positions is concerning.

Second, PacifiCorp's interim targets are based on what PacifiCorp's resource modeling determined is the least-cost, least-risk approach to achieve CETA's relevant requirements. As discussed in PacifiCorp's direct testimony in this case, the CEIP Biennial Update includes several adjustments to PacifiCorp's modeling and

[5] *In re PacifiCorp's 2023 Rate Case,* Consolidated Docket Nos. UE-230172 and UE-210852, Multiparty Agreement (Dec. 14, 2023).

operational decisions that have lowered the Company's near-term interim targets compared to the 2021 Revised CEIP. This is the purpose of a biennial update – to address changed circumstances. Yet Staff's approach would require compliance outside of CETA's statutorily required least-cost approach. This would either require that PacifiCorp not comply in the future at the risk of administrative penalties (because Staff's recommended interim targets are not supported by any resource planning analyses), or comply with Staff's recommended interim targets and bear the risk disallowance from imprudent resource procurement (because PacifiCorp's resource planning would not support the procurement).

Indeed, the Commission has already approved several of the adjustments in the CEIP Biennial Update in other proceedings. For example, the Commission's final decision in dockets UE-230172 and UE-210852 (consolidated) approved PacifiCorp's request to: (1) serve Washington customers with Colstrip Unit 4 and Jim Bridger Units 3 and 4 through 2025; (2) that Washington continues to receive electricity from Jim Bridger Units 1 and 2 through 2029 after both are converted to run on natural gas in 2024; (3) that Washington retains a system share of Chehalis and Hermiston natural gas-fired plants; and (4) incorporate resources that were procured from the 2020AS RFP (which were lower than what the Company had anticipated it would procure from the 2020AS RFP). PacifiCorp's CEIP Biennial Update is based in part on these changed circumstances.

Q. Has Staff identified any errors in PacifiCorp's modeling?

A. No. Staff concedes it has not identified any errors in PacifiCorp's modeling,[6] and

[6] Exh. MDM-3 (Staff Response to PacifiCorp Data Request No. 6 – "Staff did not directly discuss the modeling analysis supporting PacifiCorp's interim targets.").

confirms that PacifiCorp's CEIP Biennial Update correctly incorporated the revised assumptions justifying PacifiCorp's lowered interim targets.[7] Nonetheless, Staff recommends the Commission reject PacifiCorp's CEIP Biennial Update, which would require PacifiCorp to meet the interim targets in the 2021 Revised CEIP, based on data that is now out of date. And Staff concedes the interim targets from the 2021 Revised CEIP no longer reflects least-cost, least-risk planning or analyses.[8]

This means there is no evidence to support Staff's conclusion that PacifiCorp is not making reasonable progress towards compliance with the CETA requirements.

Q. How would Staff's recommendation expose PacifiCorp to disallowance risk?

A. Staff's testimony deviates from fundamental ratemaking principles, including the requirement to use the most recent information available to inform prudent decision making by the utility. Requiring PacifiCorp to adhere to the Company's 2021 Revised CEIP targets would accelerate our compliance trajectory for CETA's 2030 greenhouse gas (GHG) neutral standard by: 5 percent for 2023; 15 percent for 2024; 27 percent for 2025; 27 percent for 2026, 28 percent for 2027; 20 percent for 2028; and 11 percent for 2029.

This means that PacifiCorp would be required to procure resources or unbundled renewable energy credits to achieve these heightened targets to the extent PacifiCorp's existing resources could not meet these targets. Yet these interim targets from the 2021 Revised CEIP are no longer supported by least-cost, least-risk planning. Any intervenor in a subsequent PacifiCorp rate case could simply argue that

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[7] *Id.* (Staff Response to PacifiCorp Data Request Nos. 1, 2, 4, and 5).
[8] *Id.* (Staff Response to PacifiCorp Data Request No. 19(a) – "With this assumption, Staff acknowledges that the 2023 IRP and 2023 IRP Update provide more recent data and updated assumptions, which reflect current market conditions and technological advancements that differ from those in 2020 and 2021.").

the costs from PacifiCorp's additional procurement efforts should be disallowed because they would not be least-cost, least-risk resources.

Q. Can you provide an example of the potential disallowance risks?

A. To highlight this concern, consider one example. PacifiCorp proposed that it continue to use coal-fueled generation for 2024 and 2025, rather than removing Colstrip and Jim Bridger from serving Washington customers in 2023. Staff supported this proposal, and the Commission approved the stipulation, saving customers approximately $70 million in forecast net power costs.[9] This decision is contrasted with the interim targets in PacifiCorp's 2021 Revised CEIP, which assumed that Washington customers would stop receiving electricity from these resources several years earlier at the end of 2023.[10]

If the Commission rejects PacifiCorp's CEIP Biennial Update and requires the Company to adhere to the interim targets in the 2021 Revised CEIP, PacifiCorp would need to procure resources as if Colstrip and Jim Bridger were not serving Washington customers through 2025. It is difficult to imagine a scenario where intervenors would not seek to disallow these additional costs that would be required to account for this compliance deficit that would be based on the fiction that Washington customers weren't actually receiving power from these thermal

[9] *E.g.*, *In re PacifiCorp's 2023 Rate Case,* Docket Nos. UE-230172 and UE-210852, Order 08 (approving forecast net power costs that include initially estimated savings of approximately $72 million for customers); *see also* PacifiCorp Direst Testimony in Docket Nos. UE-230172 and UE-210852, Exh. MDM-1T, 11-12 and RJM-1CT (R), at 34).

[10] 2021 Revised CEIP, at 19 ("Washington is currently served by two coal-fired facilities within PacifiCorp's resource portfolio: Colstrip Unit 4 in Colstrip, Montana, and Jim Bridger Units 1-4 in Point of Rocks, Wyoming. The allocation of resources to Washington, in accordance with WAC 480-100-610(1), will no longer include these resources by December 31, 2023.").

resources. Not only would it present disallowance risks, but it would deviate from the Commission-approved stipulation in the rate case.

Q. Has the Company quantified what the costs to comply with these heightened interim targets would require?

A. Generally yes. Please see Dr. Ghosh's testimony that provides a rough estimate of the $37 million to $113 million in incremental CETA compliance costs it would take to implement Staff's heightened interim targets. Because these additional investments would not be supported by PacifiCorp's current modeling, these amounts could be disallowed in a future PacifiCorp rate case because PacifiCorp would not have contemporaneous documentation supporting the prudency of the procurements.

Q. How else would Washington customers be harmed by Staff's recommendation?

A. Because these higher interim targets would not be supported by PacifiCorp modeling, these would be Washington-specific procurement efforts. This means that Washington customers would be responsible for the entire costs of these resources. This is contrasted with system procurement, where Washington customers receive a percentage of the costs and benefits of all system resources consistent with the Washington Inter-Jurisdictional Allocation Methodology (WIJAM).

Washington has benefited tremendously from PacifiCorp's system resources since the merger of PacifiCorp's Pacific Power and Rocky Mountain Power divisions. To that end, PacifiCorp's incremental costs to comply with CETA in the CEIP Biennial Update indicate a largely de minimis cost to comply with CETA in the near-term, because of the value provided by PacifiCorp's system resources.[11] Staff's

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[11] *E.g.*, *CEIP Update*, at 36, Table 4.3 (indicating a $1.35 million average revenue requirement incremental cost to comply with CETA through the first planning period).

recommendation would erase this benefit, and force Washington customers to pay for the entire costs of all Washington-specific procurement.

Q. Do you have other concerns with how forced procurement could harm Washington customers?

A. Yes. As discussed in this proceeding and elsewhere, PacifiCorp's credit was recently downgraded. Forced state procurement would impact PacifiCorp's financial metrics, and could lead to further credit downgrades, which could increase PacifiCorp's borrowing costs.

Because these procurements would be required by Washington, and not for system resources, Washington customers would be responsible for this increased borrowing costs: Not only for the borrowing costs incurred for specific resources, but also for system assets as well, because PacifiCorp does not have a Washington-specific credit profile.

Q. In summary, what is your response to Staff's primary recommendation?

A. The Commission must reject Staff's primary recommendation, as PacifiCorp's 2021 Revised CEIP interim targets no longer accurately reflect least-cost least-risk analyses, would directly contradict previous Commission rulings that are incorporated in the CEIP Biennial Update, and would require PacifiCorp (through disallowance) or its customers (through Washington-specific procurement efforts or increased borrowing costs) to bear the full incremental costs to comply with these otherwise unsupported targets.

B. PacifiCorp supports several of Staff's alternative recommendations, but has material concerns with Conditions 2, 4, 5, and 6.

Q. Does Staff propose an alternative recommendation?

A. Yes. If the Commission declines to reject PacifiCorp's CEIP Biennial Update, Staff proposes that the Commission could approve the CEIP Biennial Update with eight conditions. These conditions include:

1. PacifiCorp will update its Public Participation Plan by May 1, 2025, to include suggested actions listed in Staff's January 11, 2024 comments in this proceeding.
2. PacifiCorp will only use the allocation methodology approved by the Commission in all future planning documents. PacifiCorp must also present "several new allocation methodology options" in its next general rate case that unilaterally increases Washington's share of system non-emitting resources.
3. PacifiCorp will follow the Commission's policy statement in docket U-240013 regarding the Inflation Reduction Act and Infrastructure Investment Jobs Act into the planning process, starting in the 2025 Integrated Resource Plan (IRP) and 2025 Clean Energy Implementation Plan.
4. PacifiCorp shall submit a plan 90 days after issuance of the final order detailing how, and on what timeline, resource needs will be met, including:
    i. How PacifiCorp will meet the 2030 CETA requirements;
    ii. How PacifiCorp intends to acquire resources to fulfill that plan outside of the 2022 all-source request for proposals;
    iii. What resources PacifiCorp has already acquired;
    iv. When the projected resources are expected to be online;

v. Outline the steps taken to ensure equity is considered throughout the acquisition process; and

vi. Outline all steps taken to ensure that the acquisition of resources occurs at the lowest reasonable cost.

5. PacifiCorp will be prohibited from cancelling, suspending or terminating any request for proposals identified in the 2025 IRP, while withholding any prudency review until a subsequent rate proceeding.

6. PacifiCorp will set its 2029 interim target as at least 73 percent of retail sales supplied by non-emitting and renewable resources, as modeled in the Revised CEIP, which was modeled on 2021 data.

7. PacifiCorp will designate at minimum 27 percent of benefits measured across each component of distributed energy resources to flow to named communities during the 2026-2029 compliance period.

8. PacifiCorp will provide additional narrative and any supporting work papers on capacity calculation regarding any resource for which effective load carrying capacity is not used in all future CEIPs and IRPs.

Q. Does PacifiCorp agree with any of the recommendations from Staff?

A. PacifiCorp does not oppose adopting aspects of Conditions 1, 7, and 8. Because Condition 3 is already a separate regulatory requirement, there is no need for the Commission to re-address general policy statements that have been issued in other proceedings. PacifiCorp, however, has concerns with Conditions 2, 4, 5, and 6.

Q. What is PacifiCorp's position on Staff's Condition 1?

A. PacifiCorp views Staff's recommended Condition 1 simply as an improvement to the company's public participation plan. While these concerns could have been better communicated through the normal collaborative participation plan processes, and incorporated into the required May 1, 2025 filing, the Company does not have material concerns with this condition.

Q. What is PacifiCorp's position on Staff's Condition 7?

A. The Company will work with our relevant advisory groups to designate at minimum 27% of benefits measured across the Company's distributed energy resources to flow to named communities by the end of the 2026-2029 CEIP compliance period. Because actual customer participation is outside the Company's control, this target must be non-binding and failure to meet the target would not be a violation of Washington law. The allocation of costs among customer rate classes shall be determined in future Commission proceedings.

Q. What is PacifiCorp's position on Staff's Condition 8?

A. PacifiCorp can incorporate the requested additional narrative and any supporting workpapers on capacity calculation regarding any resource for which effective load carrying capacity is not used into its future filings.

Q. What general concerns does PacifiCorp have with the other recommended alternative conditions from Staff?

A. Fundamentally, many are arbitrary, not based on any supporting analysis, seek to confiscate additional shares of existing PacifiCorp non-emitting resources that have been, and continue to be paid for by customers in other states, and do not recognize PacifiCorp's right and obligation to prudently manage its business.

Q. What are the Company's concerns with Condition 2 regarding required resource methodology proposals?

A. While the initial requirement that PacifiCorp only use the Commission-approved allocation methodology is reasonable and appropriate, Staff's additional recommendations in Condition 2 are problematic on several levels. First, during development of the 2021 CEIP, Staff was aware of PacifiCorp's choice to use the anticipated post-interim period methodology outlined in the 2020 PacifiCorp Inter-Jurisdictional Allocation Protocol (2020 Protocol). Staff was also a participant in the Framework Issues Workgroup under the 2020 Protocol, which was negotiating the post-interim period methodology. Yet instead of trying to better understand the issues and engaging with the company to work through them (or raising any of these concerns with the Company has initially proposed relying on the post-interim methodology), Staff has resorted to requesting the submission of new allocation alternatives that would confiscate non-emitting capacity from customers in other states.

Q. Can you elaborate?

A. Staff's proposed Condition 2 would require that PacifiCorp submit several new allocation methodology options, with each option including an increase in the proportion of renewable and non-emitting resources to Washington.[12]

Q. Why is PacifiCorp concerned with increasing the allocation of existing renewable and non-emitting resources to serve Washington?

A. Staff essentially seeks to claim additional shares of non-emitting resources that have

[12] Exh. JNS-IHCT, at 4.

been paid for by customers in other states, which the Company uses to meet load requirements in other balancing authorities, and which PacifiCorp may be relying on for compliance with other state energy policies. Without agreement from other state commissions of this Washington-forced re-allocation of existing CETA-compliant resources, Staff's proposal would require PacifiCorp to double count the renewable attributes generated by these resources, negating certifications required by various green energy policies.

More importantly, Staff's proposal would require customers outside Washington to give up partially paid-for non-emitting resources, which provide zero-fuel cost energy in additional to renewable energy certificates to meet state energy policies, renewable portfolio standards, or additional customer credits from renewable energy certificate sales.

It is unlikely that all the utility commissions would agree to this bargain.

Q. Staff specifically requests that PacifiCorp be required to submit "several new allocation methodology options" to the Commission.[13] Is this concerning?

A. Yes, very much so. To be fair to the utility and its customers across all states, a comprehensive allocation methodology should add up to 100 percent, to provide the utility with the opportunity to recover all of its costs. The assumption behind requiring the submission of several different allocation methodologies is that PacifiCorp would have the freedom to re-allocate existing CETA-compliant resources for the benefit of Washington customers, and to the detriment of non-Washington customer who are already paying for, and receiving benefits from, these resources.

[13] *Id*. at 14.

Staff's suggestion not only confiscates capacity paid for by customers in other states, but goes one step further to seek options with power cost modeling. This would in effect require the filing of multiple rate cases to show the cost impacts, and more importantly, it is not the principled approach that led to agreement on the WIJAM and 2020 Protocol. Instead, it is an ends-driven, provincial approach that would come at the expense of the utility and its non-Washington customers.

Q. What is the suggested timing for this Condition?

A. Staff states that PacifiCorp should be required to file the new allocation options in its next general rate case, or before the start of 2026 and must be approved before use in any planning documents.[14] This does not, however, align with PacifiCorp's requirements to submit its 2025 IRP or 2025 CEIP, both of which occur well before the start of 2026 and are currently under development.

Q. What is your recommendation regarding Condition 2?

A. PacifiCorp does not object to a condition that states all PacifiCorp planning efforts, meaning forecasting, must be based on the allocation methodology approved by the Commission at the time of these modeling efforts. This would avoid any confusion by parties on what allocation methodology should inform PacifiCorp's planning efforts. The Company recommends the Commission reject the rest of Staff's Condition 2.

Q. What are the Company's concerns with Condition 4 regarding discussions of current resource acquisitions?

A. The Company believes Staff's Condition 4 is reasonable, though has concerns with the proposed timing and reporting requirements. Staff's conditions, in essence, are

[14] *Id.*

requirements that PacifiCorp believes it is already required to include in its CEIPs. For example, CEIPs must demonstrate how a utility will comply with CETA's requirements (including the 2030 GHG standard); how PacifiCorp will acquire resources to meet those standards; how supply and demand-side resources have been acquired and will serve Washington customers; when new resources will come online; how equity is considered in the acquisition process; and how resources are procured consistent with least-cost least-risk planning principles.

Yet Staff requests the Company provide this plan within 90 days after a final order is issued in this proceeding. Given that a final order in this proceeding is likely to be issued some time in winter of 2025, a report that implements this condition will likely be due the second quarter of 2025. This is only several months prior to when PacifiCorp's 2025 CEIP will be due (October 1, 2025). This condition would duplicate, in its entirety, the work that PacifiCorp will be performing for the 2025 CEIP.

Effectively, Staff's Condition 4 would result in a "2025 Interim CEIP." The Commission should not require PacifiCorp to implement this condition, because it detracts from PacifiCorp's planning, stakeholder engagement, and procurement efforts that will inform the actual 2025 CEIP. Instead, the Commission could direct PacifiCorp to address these issues in the 2025 CEIP.

Q. Are there other issues raised by Staff related to Condition 4 that need to be discussed?

A. Yes. In support of the proposed Condition 4, Staff questions how procurement of battery storage will not affect PacifiCorp's credit rating, yet other types of procurement will.[15]

I would like to clarify the record on this point. Fundamentally, this is an issue of volume. The number of resource contracts that PacifiCorp enters into will affect PacifiCorp credit metrics, so PacifiCorp needs to prioritize its acquisition of resources. Having three credit cards when you are out of work may not significantly impact your credit rating, but signing up for 20 credit cards is much more likely to lower your credit score.

This is the similar situation presented by PacifiCorp's procurement efforts over the past year, and supported the Company's battery procurement efforts. The relatively modest capacity and smaller number of battery storage resources that PacifiCorp recently procured, compared to significantly greater number of resources that were called for in the 2022AS RFP, have a relatively high-capacity contribution and provide large reliability benefits relative to their cost. Battery storage resources also have relatively short lead times and can achieve CODs in mid-year 2026.

While contracting for other renewable resources would also negatively impact credit metrics, these resources would not provide the same degree of capacity and reliability benefits as battery storage. Similarly, contracting for resources with later CODs, as contemplated in the design of the approved 2022AS RFP, would impact credit metrics without contributing to near-term capacity and reliability requirements.

Q. What is Staff's Condition 5 regarding a potential 2025 RFP?

A. Staff recommends the Commission order PacifiCorp to not "cancel, suspend, or terminate any RFP that originates from resource needs identified in the 2025 IRP."[16]

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[15] *Id.* at 36.
[16] *E.g., Id.* at 6.

Staff believes this condition will ensure the Company "will choose to obtain cost-effective resources over no resources at all."[17]

In subsequent DRs, Staff appears to have confirmed that: it is not recommending that the Commission require PacifiCorp to procure resources;[18] that the recommendation to issue an RFP is limited to only if the 2025 IRP demonstrates a resource need within four years;[19] and that Staff is not recommending either a state-specific or system-specific RFP.[20]

If this interpretation of Staff's condition is correct, PacifiCorp does not have material concerns with this condition.

However it is also possible this condition could be read to require PacifiCorp to procure resources from a future RFP, regardless if, similar to the circumstances surrounding the 2022AS RFP, changed circumstances have removed the need for the RFP. If this is the case, PacifiCorp has material concerns with this condition, which would raise the same or similar concerns to RNW-NWEC's recommendation to require the Commission to direct PacifiCorp to issue an RFP. PacifiCorp's concerns regarding any state-mandated procurement are discussed in more detail below in response to RNW-NWEC's recommendations below.

Q. What are the Company's concerns with Condition 6?

A. Staff recommends the Commission order PacifiCorp to achieve a 73 percent interim

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[17] *Id.* at 27.
[18] Exh. MDM-3 (Staff response to PacifiCorp Data Request No. 18(c) – "PacifiCorp would not be required to procure resources from this future RFP, though if the Company's IRP identified a resource need, it would stand to reason the Company would complete said procurement.").
[19] *Id.* (Staff Response to PacifiCorp Data Request No. 18(a) – "Staff recommends that the Company follow WAC 480-107-009(2) and issue an all-source RFP if the Company's 2025 IRP demonstrates a resource need within four years.").
[20] *Id.* (Staff response to PacifiCorp Data Request No. 8(b) – "Staff does not make a recommendation as to whether PacifiCorp should issue state-specific or system-wide resources.").

target for 2029.[21] This is based on the modeled targets from PacifiCorp's 2021 Revised CEIP.[22] I restate the same concerns above, that relying on outdated modeling data exposes PacifiCorp to material disallowance risks, and will harm our customers through increased compliance costs.

That said, the Company is willing to agree this 73 percent figure, but only if PacifiCorp can revise this interim target in future CEIPs or CEIP Biennial Updates, and if the Company can get some sort of certainty for cost recovery for procurement of resources to meet this figure given the disallowance concerns discussed above. This would not only be consistent with Washington law, which allows utilities to amend its interim targets based on then-current utility analyses, but would also be reasonable to ensure Washington customers do not shoulder the cost of unnecessarily increased compliance costs.

III. PUBLIC COUNSEL REBUTTAL

Q. What does Public Counsel recommend?

A. Public Counsel recommends the Commission reject PacifiCorp's CEIP Biennial Update, and assess administrative penalties until PacifiCorp develops a CEIP and IRP that protects Washington consumers and reasonably meets CETA's requirements.[23] I respond to the recommendations of Public Counsel Witness Stefan de Villiers, while Dr. Ghosh responds to the testimony of Public Counsel Witness Dr. Robert Earle.

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[21] *E.g.*, Exh. JNS-1HCT, at 24.
[22] *Id.* at 25.
[23] *E.g.*, SDV-1T, at 8; RLE-1T, at 19.

Q. Public Counsel witness de Villiers claims that PacifiCorp's CEIP Biennial Update does not answer questions about the company's ability to meet its CETA obligations by 2030.[24] How do you respond?

A. I believe this statement is contradicted by the record in this proceeding. PacifiCorp has been transparent about the drivers for the changed interim targets and its modeling continues to show compliance in 2030.

Q. Does Public Counsel explain the basis for the claim of consistent failure to maintain compliance?

A. Public Counsel witnesses Earle and de Villers argue that penalties are warranted because of an alleged failure to demonstrate progress towards complying with CETA. This appears to be based on four arguments: that PacifiCorp has a history of noncompliance, primarily due to Commission Staff's complaint on PacifiCorp's 2021 Revised CEIP in docket UE-220376;[25] that prior PacifiCorp power cost and rate proceedings somehow establish that PacifiCorp has failed to plan for Washington;[26] PacifiCorp's justifications for reduced interim targets are incorrect or unsupported,[27] and because PacifiCorp has not proposed new procurement efforts to replace the 2022AS RFP.[28]

As discussed in Dr. Ghosh's testimony, prior power cost and rate proceedings are not relevant to a determination of whether PacifiCorp's interim targets for future years are supported or reasonable, Public Counsel's arguments against our interim

[24] Exh. SDV-1T, at 6.
[25] *Id*. at 4.
[26] Exh. RLE-1T, 3-15.
[27] Exh. SDV-1T, at 4-6; Exhibit RLE-1T, 16-19.
[28] Exh. SDV-1T, at 6-7.

targets are incorrect, and procurement from the 2022AS RFP would have almost immaterial impacts to PacifiCorp's compliance during this first compliance period. And regarding the prior Staff complaint, this complaint was withdrawn, with no finding of fault or assessment of administrative penalties.

It is unclear how a withdrawn complaint can serve as the basis for any claims for planning impropriety. Together, I do not believe Public Counsel has established that PacifiCorp has violated any Commission order, regulation, or Washington statute.

Q. Do you have any concerns with the Commission assessing administrative penalties in this proceeding?

A. Yes. If the Commission believes that administrative penalties could be warranted, it should initiate a separate proceeding to develop an appropriate record. Public Counsel has requested an unbounded administrative penalty, running "until PacifiCorp files—and the Washington Utilities and Transportation Commission (Commission) approves—a compliant CEIP and IRP that plans to protect Washington customers and reasonable meets CETA requirements."[29] This means PacifiCorp has no adequate notice of the extent of penalties that are at issue in this proceeding, no adequate opportunity to be heard on exactly what the range of penalties could be, and no opportunity to provide appropriate evidence to mitigate or suspend those penalties, prior to any final Commission decision.

[29] *Id.* at 3.

IV. RNW-NWEC REBUTTAL

Q. Do you have any concerns with RNW-NWEC's testimonies?

A. Yes. RNW-NWEC's testimony recommends the Commission require PacifiCorp to procure resources to comply with CETA. I respond to the policy implications from State-required utility procurement proposed by RNW-NWEC witness Katie Ware, and to the recommendations of witness Charlee Thompson. Dr. Ghosh responds to witness Ware's criticism of PacifiCorp's modeling efforts. While I believe RNW-NWEC's request raises many concerns, I limit my testimony below to the evidentiary and policy issues raised by the request.

Q. What concerns do you have with Ware's testimony?

A. RNW-NWEC's proposal is unprecedented, and if approved, would materially harm Washington customers to the benefit of RNW-NWEC developers.

Q. Please explain.

A. Because RNW-NWEC recommends the same outcome as Staff's primary recommendation (reject PacifiCorp's CEIP Biennial Update and hold PacifiCorp to our 2021 Revised CEIP interim targets), RNW-NWEC's proposal raises the same concerns that I have with Staff's recommendation. Because PacifiCorp's 2021 Revised CEIP interim targets are no longer supported by least-cost, least-risk analyses, requiring PacifiCorp to plan to those targets exposes PacifiCorp to material disallowance risks, and could harm Washington customers by increasing financing costs associated with procurement efforts to meet these arbitrary targets. Additional discussion on these issues can be found above.

However, RNW-NWEC's takes one step further, and requests the Commission direct PacifiCorp to issue an all-source RFP to be released to the market no later than April 2025, with further mandated procurement if necessary ahead of 2030. This would be an unprecedented step for the Commission to direct the procurement of resource by a utility, and it would be inappropriate to do so outside of a full rulemaking process to investigate the Commission's legal authority to direct such action and the broader policy and rate implications. This recommendation is well beyond the scope of PacifiCorp's CEIP Biennial Update.

Q. What are some of the policy issues raised by this recommendation?

A. The Commission would need to revise its fundamental approach to ratemaking. Currently, utilities are obligated to plan for load and procure resources in a prudent manner. The utility bears the burden of showing its decisions were prudent based on the information available at the time, and, in Washington, providing contemporaneous documentation supporting those decisions. The utility also has to manage its finances to provide the greatest benefit to customers.

Directing a utility to conduct an RFP fundamentally changes these concepts.

Q. Isn't it true that conducting an RFP does not require the execution of eventual power purchase agreements?

A. Only in theory to those that do not understand, or are intentionally ignoring,[30] the nuances or operating a regulated utility in the current market environment. Forcing a utility to issue an RFP removes the utility's ability to negotiate the lowest possible

[30] Exh. MDM-3 (RNW-NWEC response to PacifiCorp Data Request No. 33(a) – When asked whether PacifiCorp would be required to procure resources from a future Commission-ordered RFP, RNW-NWEC responded "This is outside the scope of our recommendation.").

price and best terms for customers. A legal requirement to issue an RFP means that bidders know the utility will have to procure because if the utility waits for future resources they will be judged against the RFP shortlist, or as evidenced by parties in this proceeding, will immediately expose the utility to claims of not making ‘reasonable’ progress. This is especially problematic when coupled with parties’ positions on mandating penalties rather than working collaboratively with the utility to implement state energy policy. The result is an environment that is simply too risky for a utility to not execute power purchase agreements.

Yet a utility’s risk doesn’t end there. Parties to subsequent rate proceedings will have the RFP data and future least-cost, least-risk planning documents, potentially creating arguments for intervenors to seek future disallowances. Additionally, the forced procurement would still be subject to the deadbands and sharing bands in the company’s Power Cost Adjustment Mechanism (PCAM), meaning that the utility has to absorb the cost of resources procured to avoid penalties.

Q. Do you believe that RNW-NWEC’s request for mandated procurement should be considered in this proceeding?

A. I do not. CETA does not specifically authorize the Commission to order, or require the Company to procure, resources to meet its targets absent an otherwise identified capacity need. CETA merely outlines financial incentives and disincentives to prioritize generation via renewable and non-emitting resources within the Company and Commission’s existing resource planning and procurement framework. The Commission should disregard RNW-NWEC’s recommendation to order the Company to conduct an RFP on the basis that there is no identified capacity need, and CETA does not otherwise specifically authorize the procurement of resources in support of CETA’s renewable targets.

Q. Could the Commission’s new statutory authority be addressed in briefing in this docket?

A. The Commission has broad discretion to determine the scope of a proceeding and neither I, nor PacifiCorp, can dictate the Commission’s process. That said, however, this is a significant issue of first impression, which should mandate the need for, at minimum, a broader rulemaking process open to all interested parties.

Q. Please explain.

A. To my knowledge, the Commission has never directed a Washington utility to procure resources. I believe this reflects the Commission’s traditional role as a regulator of utility rates, and not as a manager of utility operations. If the Commission were to take this step, it needs to consider all of the consequences and what other components of the current regulatory structure need to change to accommodate the new mandate.

RNW-NWEC’s request seeks to fundamentally upset the Commission’s current role, and the Commission should be wary to accept that invitation in a single utility’s docket, let alone a biennial update to a CEIP. The Commission should not mandate procurement without thorough consideration of the consequences, especially since the recommendation comes from a party that represents developers that stand to benefit financially from such a mandate.

Q. If the Commission directs PacifiCorp to issue an RFP, do you have concerns with what resources, and for what customers, PacifiCorp should be directed to procure?

A. Yes. Because PacifiCorp is a multi-state utility, it is important for the Commission to consider that any procurement could only apply to Washington customers. The Commission cannot require PacifiCorp to procure system resources that would be paid for, even partially, by PacifiCorp's retail customers in Oregon, California, Idaho, Wyoming, or Utah. Because PacifiCorp's 2021 Revised CEIP interim targets are no longer supported by least-cost, least-risk analyses, and resources procured to meet targets from this stale planning document would not be supported as a prudent decision in ratemaking determinations before other state regulatory commissions. Without a demonstrated system need, PacifiCorp would be subject to material disallowance risk in each state where customers disagreed with a Washington procurement requirement.

Q. If the Commission were to direct PacifiCorp to issue an RFP for Washington situs-allocated resources, would that be sufficient to balance risk to the utility?

A. No. As I discussed above, any mandated procurement that is not supported by PacifiCorp's current least-cost, least-risk planning exposes PacifiCorp to disallowance risks and/or our customers to increased costs. To mitigate these concerns, the Commission would have to modify its process to preapprove selected power purchase agreements to prevent subsequent challenges due to changed circumstances as well as provide full recovery of net power costs under the PCAM.

Q. Can you explain what you mean by preapproval?

A. Yes. A process whereby the Commission will make a determination regarding the prudency of executing power purchase agreement either prior to execution, or in accordance with a contractual condition precedent that allows the utility to terminate the contract.

Q. How would preapproval address your concerns about disallowance risks?

A. It removes the risk associated with executing the power purchase agreement, limiting PacifiCorp's risk to ongoing prudent management of the power purchase agreement.

Q. Why would the PCAM need to be modified?

A. As discussed above, directing that PacifiCorp issue an RFP removes all negotiating leverage, which would include negotiating for the best possible performance guarantees to ensure procured resources can reasonably deliver to meet PacifiCorp's needs. This fact, paired with the variability of CETA-compliant, non-dispatchable resources from year to year, will expose the utility to under-recovery absent a full pass through of costs under the PCAM. Amending the PCAM to exclude resources procured from any Commission-ordered RFP would address these harms.

Q. Would you like to respond to any other issues raised in RNW-NWEC's testimony?

A. Yes. RNW-NWEC witness Thompson recommends the Commission hold PacifiCorp to the same guidance that the Commission provided to Puget Sound Energy on minimum designations and distributed energy resource program design.[31] Thompson

[31] Exh. CT-1T, at 16.

recommends PacifiCorp adhere to these guidelines by the 2027 Biennial CEIP Biennial Update.

Q. Do you have concerns with these recommendations?

A. Not materially. Similar to PacifiCorp response to Staff Alternative Condition 7, the Company would agree to work with our relevant advisory groups to designate at minimum 27% of benefits measured across the Company's distributed energy resources to flow to named communities by the end of the 2026-2029 CEIP compliance period. Because actual customer participation is outside the Company's control, this target should be non-binding and failure to meet the target should not be found to be a violation of Washington law. The allocation of costs among customer rate classes shall be determined in future Commission proceedings.

V. CRITFC REBUTTAL

Q. What does CRITFC recommend?

A. CRITFC witness Takala recommends the Company "reduce demand on the Columbia River hydroelectric system and operate the dams in a manner that minimizes harm to aquatic species; protect tribal fishers and the harvest they depend upon; and respect our salmon culture and Treaty rights as fundamental benefits of a more equitable energy future."[32] To implement these recommendations, CRITFC witness DeCoteau recommends the Commission direct PacifiCorp to: (1) work directly with the Yakama Nation to assess the full potential for energy efficiency, weatherization, and distribution generation resources within the Yakama Reservation and nearby tribal communities; (2) develop a 5-year plan and budget for energy efficiency,

[32] Exh. JT-1T, at 6.

weatherization, and distribution generation resources; and (3) model the impacts of the Columbia Basin's hydroelectric generation system on anadromous and other natural resources under current operating limits for salmonid protection and the costs associated with limits on operations; and (4) develop Community Benefit Indicators (CBI) that reasonably reflect Yakama Nation treaty rights and the lives of its people.[33] This would help under "the true costs of market resources" that are supported by purchases of market resources that include Columbia Basis hydroelectric power.[34]

Q. Are all of the recommendations within PacifiCorp's ability to implement?

A. No. CRITFC witness DeCoteau's recommendation that the Commission direct PacifiCorp to model the impacts of the Columbia Basin's hydroelectric generation system on anadromous and other natural resources is outside of PacifiCorp's expertise and available data.

Q. What is your response to the other recommendations from CRITFC witness DeCoteau?

A. PacifiCorp believes these recommendations generally align with the company's ongoing planning and engagement activities. PacifiCorp's Tribal Nation Liaison provides assistance in engagement and input on engagement with Tribal Nations, and we look forward to our continued Tribal Nation engagement efforts as we develop our 2025 CEIP. PacifiCorp believes those engagement efforts can assist in the potential development of a specific CBI related to PacifiCorp's Yakama Nation customers. PacifiCorp is also committed to continue working with the Yakama

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[33] Exh. AKD-1T, at 15-16.
[34] *Id.*

Nation to address the needs of its members served by the company, and to continue its collaboration with Yakama Power.

VI. CONCLUSION

Q. Does this conclude your rebuttal testimony?

A. Yes.