

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

Docket UE-210829

In the Matter of Pacific Power & Light Co., Clean Energy Implementation Plan

**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 13
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Robert D. Sykes, Public Counsel
Witnesses: Public Counsel

PACIFICORP DATA REQUEST NO. 13:

Please list each proceeding, including docket number(s) and order number(s), that Public Counsel is aware of where the Washington Utilities and Transportation Commission has issued penalties against a Washington utility.

RESPONSE:

Public Counsel objects to this request as it expands upon the discovery obligations of WAC 480-07-400, calls for attorney legal theories, and calls for Public Counsel to provide information that is easily obtainable from another source. Subject to and without waiving its objections, Public Counsel answers:

Penalties are authorized by statute (RCW 19.405.090), regulation (WAC 480-100-665) and Commission precedent. *See, e.g., In re Penalty Assessment of PacifiCorp*, Docket UE-031942, Final Order: Order 2 (Feb. 12, 2004) (imposing penalties). Penalties are determined on the facts of each case.

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 14
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Robert D. Sykes, Public Counsel
Witnesses: Public Counsel

PACIFICORP DATA REQUEST NO. 14:

Please list each proceeding, including docket number(s) and order number(s), that Public Counsel is aware of where a party requested the Washington Utilities and Transportation Commission issue penalties against a Washington utility.

RESPONSE:

Public Counsel objects to this request as it expands upon the discovery obligations of WAC 480-07-400, calls for attorney legal theories, and calls for Public Counsel to provide information that is easily obtainable from another source. Subject to and without waiving its objections, Public Counsel answers:

Penalties are authorized by statute (RCW 19.405.090), regulation (WAC 480-100-665) and Commission precedent. *See, e.g., In re Penalty Assessment of PacifiCorp*, Docket UE-031942, Final Order: Order 2 (Feb. 12, 2004) (imposing penalties). Penalties are determined on the facts of each case.

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Docket UE-210829

In the Matter of Pacific Power & Light Co., Clean Energy Implementation Plan

**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 15
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 15:

Please list each proceeding, including docket number(s) and order number(s), that Public Counsel is aware of where Public Counsel has requested the Washington Utilities and Transportation Commission issue penalties against a Washington utility.

RESPONSE:

Public Counsel objects to this request as it expands upon the discovery obligations of WAC 480-07-400, calls for attorney legal theories, and calls for Public Counsel to provide information that is easily obtainable from another source. Subject to and without waiving its objections, Public Counsel answers:

Penalties are authorized by statute (RCW 19.405.090), regulation (WAC 480-100-665) and Commission precedent. *See, e.g., In re Penalty Assessment of PacifiCorp*, Docket UE-031942, Final Order: Order 2 (Feb. 12, 2004) (imposing penalties). Public Counsel has recommended penalties in a number of matters. *See, e.g., Wash. Utils. & Transp. Comm’n v. CenturyLink*, Docket UT-181051; *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-220376.

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 16
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 16:

Please list each proceeding, including docket number(s) and order number(s), that Public Counsel is aware of where Public Counsel has requested, and the Washington Utilities and Transportation Commission has issued, penalties against a Washington utility.

RESPONSE:

Public Counsel objects to this request as it expands upon the discovery obligations of WAC 480-07-400, calls for attorney legal theories, and calls for Public Counsel to provide information that is easily obtainable from another source. Subject to and without waiving its objections, Public Counsel answers:

Penalties are authorized by statute (RCW 19.405.090), regulation (WAC 480-100-665) and Commission precedent. *See, e.g., In re Penalty Assessment of PacifiCorp*, Docket UE-031942, Final Order: Order 2 (Feb. 12, 2004) (imposing penalties). Penalties are determined on the facts of each case.

**BEFORE THE WASHINGTON
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In the Matter of Pacific Power & Light Co., Clean Energy Implementation Plan

**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 17
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 17:

Please list each proceeding, including docket number(s) and order number(s), that Public Counsel is aware of where a party has requested the Washington Utilities and Transportation Commission issue penalties against a Washington utility, without a party first filing an administrative pleading to initiate a penalty proceeding (for example, like an administrative complaint or request for an investigation).

RESPONSE:

Public Counsel objects to this request as it expands upon the discovery obligations of WAC 480-07-400, calls for attorney legal theories, and calls for Public Counsel to provide information that is easily obtainable from another source. Subject to and without waiving its objections, Public Counsel answers:

Penalties are authorized by statute (RCW 19.405.090), regulation (WAC 480-100-665) and Commission precedent. *See, e.g., In re Penalty Assessment of PacifiCorp*, Docket UE-031942, Final Order: Order 2 (Feb. 12, 2004) (imposing penalties). Penalties may be assessed in any proceeding in which a utility’s compliance with chapter 19.405 RCW is at issue. WAC 480-100-665(2)(c).

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 18
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 18:

Please confirm that Public Counsel believes PacifiCorp’s renewable energy interim targets in the CEIP Update do not demonstrate adequate progress toward complying with CETA.

RESPONSE:

Public Counsel objects to this request as it calls for attorney legal theories. Subject to this objection, Public Counsel responds:

As stated in the Response Testimony of Exhibit SDV-1T at 5:13–6:1, “PacifiCorp’s sizeable reduction of its interim targets raises material questions about its ability to meet its CETA obligations by 2030.” Accordingly, Public Counsel maintains its position that PacifiCorp’s CEIP does not demonstrate adequate progress toward complying with CETA.

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 19
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 19:

What renewable energy interim targets for years 2023-2029 does Public Counsel believe would demonstrate adequate progress? Please provide a specific percentage interim renewable energy target for each year, or an average over each four-year period, with supporting analyses and workpapers as appropriate.

RESPONSE:

Public Counsel objects to this request as it calls for attorney legal theories. Subject to this objection, Public Counsel responds:

Public Counsel’s determination that PacifiCorp does not demonstrate adequate progress toward its CETA obligations is based on a holistic evaluation of its CEIP. PacifiCorp bears the burden of proving its CEIP is compliant with CETA.

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In the Matter of Pacific Power & Light Co., Clean Energy Implementation Plan

**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP
DATA REQUEST NO(S). 13-29**

Request No: 20
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Robert Earle, Alea LLC
Witnesses: Robert Earle

PACIFICORP DATA REQUEST NO. 20:

Re: Earle

At RLE-1T at 9, you state that PacifiCorp planning resulting in “willfully disregarding the impacts on its Washington customers.” Please confirm this statement regarding willful intent is unsupported. If it is not, please provide any supporting analyses, communications, or workpapers that demonstrate “willful” intent.

RESPONSE:

Public Counsel objects to this data request because it is vague, misleading, calls for speculation, and plainly misquotes and mischaracterizes Dr. Earle’s testimony and assumes facts not in evidence. First, it is unclear what PacifiCorp means by “At RLE-1T at 9, you state that PacifiCorp planning resulting in “willfully disregarding the impacts on its Washington customers.” This is not a complete sentence and therefore would be speculative to guess at PacifiCorp’s meaning. Second, PacifiCorp does not quote the entire sentence in Dr. Earle’s testimony: “It lumped Washington’s exposure into the exposure of the system as a whole, willfully disregarding the impacts on its Washington customers.” Third, PacifiCorp uses the term “willful intent.” However, PacifiCorp does not define it, while Dr. Earle does not use the term “willful intent.”

Subject to these objections, Public Counsel refers PacifiCorp to the full excerpt from the referenced testimony, which speaks for itself. *See also* RLE-1T at 2:1–19:2 and UE-230482, RLE-1T at 6:16– 13:9.

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Docket UE-210829

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 21
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 21:

At SDV-1T, at 8, you request penalties of \$1,000 per violation per day for PacifiCorp’s “violation of RCW 19.405.060(1) until the Company develops a CEIP that meets its legal obligations under CETA and such plan is approved by the Commission.” Please confirm that your argument for penalties is based on the alleged violation of RCW 19.405.060(1)(b)(iii), that PacifiCorp’s CEIP Update has failed to “demonstrate progress”. If anything other than an unconditional yes, please explain.

RESPONSE:

Public Counsel objects to this request as it calls for attorney legal theories. Subject to this objection, Public Counsel responds:

Public Counsel’s recommendation is based on Washington law and Commission rules, including, without limitation, RCW 19.405.060(1)(b)(iii).

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Docket UE-210829

In the Matter of Pacific Power & Light Co., Clean Energy Implementation Plan

**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 22
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 22:

At SDV-1T, at 9, you also state that the Commission’s enforcement criteria supports the maximum penalty in this case. What is Public Counsel’s maximum requested penalty?

RESPONSE:

Mr. De Villiers’ testimony speaks for itself. Public Counsel recommends the Washington Utilities Commission impose a penalty of \$1,000 per violation per day on PacifiCorp for violation of RCW 19.405.060(1). Penalties of \$1,000 per day would accumulate from the date of the Commission Order in this Docket authorizing them until PacifiCorp develops a CETA-compliant CEIP and that CEIP is approved by the Commission.

**BEFORE THE WASHINGTON
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Docket UE-210829

In the Matter of Pacific Power & Light Co., Clean Energy Implementation Plan

**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 23
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 23:

At SDV-1T at 9-10, you discuss how serious or harmful that PacifiCorp’s alleged violation is to the public. This includes a statement that PacifiCorp’s CEIP Update has “profound consequences for the public by exposing it to the significant threats of climate change.” Please confirm this is an unsupported statement. If it is not, please provide any supporting analyses or workpapers as appropriate.

RESPONSE:

Public Counsel objects to this request as it presents the referenced testimony out of its complete context. Subject to this objection, Public Counsel responds:

The harms posed by climate change are a legislative finding. *See* RCW 19.405.010 (“absent significant and swift reductions in greenhouse gas emissions, climate change poses immediate significant threats to our economy, health, safety, and national security.”). PacifiCorp’s failure to plan to meet its CETA targets exposes Washingtonians to the risks of climate change.

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 24
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 24:

At SDV-1T at 9-10, you discuss how serious or harmful that PacifiCorp’s alleged violation is to the public. This includes a statement that PacifiCorp’s customers will be “significantly financially harmed by its failure to plan.” Please confirm this is an unsupported statement. If it is not, please provide any supporting analyses or workpapers as appropriate.

RESPONSE:

Public Counsel objects to this request as it presents testimony out of context. Subject to this objection, Public Counsel responds:

Mr. De Villiers’ testimony speaks for itself. Exhibit SDV-1T at 9:19–10:2 states that “if, instead, PacifiCorp meets CETA standards by last-minute clean energy investments ‘at any cost’, its ratepayers will be significantly financially harmed by its failure to plan.” Public Counsel rejects the suggestion that this is an unsupported statement. Among other things, last-minute investment at any cost is conducive to rate shock, which this Commission has long sought to mitigate via gradualism in the ratemaking process.

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Docket UE-210829

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 25
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 25:

At SDV-1T at 10, you state that PacifiCorp’s “willful disregard for Washington customer” indicates PacifiCorp’s violation is intentional. Please confirm this statement regarding willful intent is unsupported. If it is not, please provide any supporting analyses, communications, or workpapers as appropriate.

RESPONSE:

Public Counsel objects to this request as it presents testimony out of context and plainly mischaracterizes it by, e.g., inserting the word “willful intent,” which is not used in Mr. De Villiers’ testimony. Subject to this objection, Public Counsel responds:

Mr. De Villiers’ testimony speaks for itself. Exhibit SDV-1T at 10:3–5 states, “As Dr. Robert Earle explains in his testimony, PacifiCorp’s failure to plan comes from a years-long willful disregard for Washington customers specifically.” Public Counsel rejects the suggestion that this is an unsupported statement. Please refer to Public Counsel’s response to PacifiCorp Data Request No. 20.

**BEFORE THE WASHINGTON
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Docket UE-210829

In the Matter of Pacific Power & Light Co., Clean Energy Implementation Plan

**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 26
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 26:

At SDV-1T at 11, you state that PacifiCorp’s failure to plan “places all Washingtonians at risk.” Please confirm this is an unsupported statement. If it is not, please provide any supporting analyses or workpapers as appropriate.

RESPONSE:

Public Counsel objects to this request as it presents testimony out of context. Subject to this objection, Public Counsel responds:

Public Counsel rejects the suggestion that this is an unsupported statement. Please refer to Testimony Exhibit SDV-1T at 9:13–19, as well as Public Counsel’s response to PacifiCorp Data Request No(s). 23 and 24.

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 27
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 27:

At SDV-1T at 11, you state that PacifiCorp has “given no indication that it plans to correct them by revised its CEIP,” which would support a recurring violation. Please refer to MDM-1T at 23, which states that PacifiCorp will file a “new CEIP in 2025, addressing the next four-year period and resource options to move towards the 2030 CETA requirements.” Please confirm that this is at least one indication PacifiCorp plans to address CETA-related procurement needs.

RESPONSE:

Public Counsel objects to this request as it presents testimony out of context. Subject to this objection, Public Counsel responds:

Testimony Exhibit SDV-1T at 11:19–21 states that “PacifiCorp’s violations are ongoing, and the Company has given no indication that it plans to correct them by revising its CEIP.” MDM-1T, as referenced, acknowledges that PacifiCorp will file a 2025 CEIP, as it is required to do by law. It does not provide any indication that PacifiCorp will revise its CEIP to correct the violations that Public Counsel identified or demonstrate adequate progress toward CETA compliance in its 2025 CEIP.

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Docket UE-210829

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**RESPONSE OF PUBLIC COUNSEL TO PACIFICORP DATA REQUEST
NO(s). 13–28**

Request No: 28
Directed to: Tad Robinson O’Neill, Public Counsel
Date Received: October 1, 2024
Date Produced: October 7, 2024
Prepared by: Stefan de Villiers & Robert D. Sykes, Public Counsel
Witnesses: Stefan de Villiers

PACIFICORP DATA REQUEST NO. 28:

At SDV-1T at 12, you state that Staff is recommending penalties against PacifiCorp for its alleged failure to comply with conservation targets, and that this supports a finding regarding the Company’s past performance regarding compliance, violations, and penalties. Given that the Commission declined to assess penalties against PacifiCorp in Docket UE-210830, please confirm that your statement is no longer supported.

RESPONSE:

Public Counsel objects to this request as it presents testimony out of context and mischaracterizes testimony. Subject to this objection, Public Counsel responds:

The statement in Testimony Exhibit SDV-1T at 12:10–13 remains supported by the referenced proceeding in Docket UE-210830, where Staff did recommend that the Commission penalize PacifiCorp in the amount of \$845,297.28.