U-230161

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Kathy Hunter
Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: Docket U-230161—PacifiCorp's Comments on Workshop 4 Agenda

PacifiCorp dba Pacific Power & Light Company (PacifiCorp) appreciates the opportunity to provide comments regarding the Washington Utilities and Transportation Commission's (Commission) Notice of Opportunity to Provide Comments and Agenda issued on October 23, 2023, regarding implementation of the Climate Commitment Act (CCA).

The Company has had limited time to consider the ramifications of the Commission's questions, and as a result the comments below only raise initial concerns with a potential CCA risk-sharing mechanism and Commission-ordered CCA dispatch cost modeling methodologies. PacifiCorp will supplement this general response as necessary in future comments during the upcoming workshop or in additional written comments.

For background, PacifiCorp serves approximately two million customers in six western states (California, Idaho, Oregon, Utah, Washington, and Wyoming). The Company also operates two balancing authority areas (BAA), PacifiCorp East (PACE) and PacifiCorp West (PACW). PacifiCorp also has generation resources (including emitting and non-emitting), that are located both inside and beyond Washington, where shares of these emitting resources are allocated to several PacifiCorp service territories. The Company also participates with CAISO's Energy Imbalance Market (EIM), and has declared its intent to join the Enhanced Day Ahead Market (EDAM).

As an initial matter, the Company does not believe a risk-sharing mechanism would be reasonable, because many of the factors to comply with the CCA are beyond utility control. These factors, to name a few, include weather, changes in demand, the need to adhere to FERC reliability standards that could require increased emissions from emitting generation resources, CCA allowance prices, changes in the broader economy, or evolving legal and regulatory mandates.

To sharpen the issue, consider CCA allowance prices. The CCA establishes economy-wide carbon reduction goals, and incentivizes decarbonization investment decisions based on both the cost and availability of CCA allowances in the market. However allowance costs are subject to supply and demand, and to protect the integrity of the allowance auctions, entities are prohibited from communicating or collaborating on allowance strategies. As a result, utilities cannot predict

if covered entities will trigger a price ceiling unit sale or require purchase of price ceiling units. And because allowances can be freely purchased by any registered entity, CCA allowance auctions are open to price arbitrage and bad actors: While Washington limits the overall volume of allowances that a single entity can procure, all entities can procure up to their allotted allowance limit and can freely engage in financial speculation of CCA allowances.

It would be challenging enough to design a risk-sharing mechanism that distinguished between issues that are and are not within a utility's control. The task becomes unwieldy when CCA compliance could be based on a utility's ability to procure CCA allowances—at prices or volumes that it has no control over.

To that end, the Company questions whether there is any need for a risk-sharing mechanism. Compliance with the CCA is mandated by Washington statute and regulations, utilities are already subject to compliance risk through administrative penalties for failure to comply with the law, and the true-up mechanism for CCA allowances smooths out utility forecasting errors. Similarly, CCA compliance investments are subject to prudence review by the Commission. Given these various protections, PacifiCorp represents that it is premature to discuss what cost recovery mechanisms are appropriate for the CCA.

Finally, PacifiCorp's status as a multi-jurisdictional electrical utility raises unique facts and circumstances that make it unreasonable and impractical to create a risk-sharing mechanism, or mandate specific CCA dispatch cost modeling practices. Consider several examples:

- *PacifiCorp is already subject to material disallowance risks from the CCA, and an additional risk-sharing mechanism only increases this risk.* The Oregon Public Utility Commission recently disallowed the Company's request to recover CCA costs associated with generation that serves Oregon, after determining that the costs should not be paid by Oregon customers.[1] This same issue is also heavily litigated in the Company's current

[1] *In re PacifiCorp 2024 TAM,* Order No. 23-404, at 9–10 (Oct. 27, 2023) ("In short, while portions of the CCA might, if they existed in isolation, constitute a tax or could be characterized as generation-dispatch costs, the program viewed as a whole goes beyond this by providing cost-free allowances to Washington retail customers alone during the path to full CETA compliance in 2045. The end result is a program that implements a state-specific initiative by creating portfolio standards under CETA and then distributing allowances to CETA-obligated utilities under the CCA. The MSP is designed to isolate state-specific electricity policy costs like this one. The fact that Ecology itself stated in federal court that the purpose of the no-cost allowances was to avoid double-counting under CETA makes the connection to the portfolio standards particularly clear.
We understand the position that this conclusion puts PacifiCorp in; and the Company was given guidance by Ecology stating that the no-cost allowances must be allocated only to Washington customers. Accordingly, PacifiCorp is faced with conflicting instructions about cost allocation. However, that does not mean that it becomes appropriate to charge Oregon retail customers for those costs instead. The remedy for this issue falls in the Washington legislature, in the courts, or in the MSP process.").

Wyoming general electric rate case.[2] A Washington CCA cost-sharing mechanism—where the Company could be at risk of further disallowance for CCA-related compliance costs—would be unreasonable given the Company's current ability to recover CCA costs in other jurisdictions.

- *Washington should not administratively determine how PacifiCorp models the dispatch of its emitting resources, because these resources serve multiple states.* As the Commission observed when determining whether to require utilities to incorporate the social cost of greenhouse gases as a planning or dispatch adder, it is an exceedingly complex and technocratic exercise to mandate appropriate modeling methods generally, let alone for specific utilities.[3] This issue is even more difficult where, like here, several of PacifiCorp's emitting resources serve multiple states, though only receive no-cost allowances for the generation that serves Washington retail customers. The Commission should avoid administratively confining how utilities model CCA dispatch costs. Instead, similar to the Commission's CETA rulemaking, the Commission should let utilities determine how to best incorporate CCA dispatch costs or planning adders based on their specific resource portfolios.

PacifiCorp appreciates the opportunity to provide comments and looks forward to the upcoming workshop on November 8, 2023.

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[2] *In re RMP 2023 Rate Case,* Docket No. 20000-633-ER-23 (Record No. 17252), WIEC Ex. No. 202 - Mullins Direct Testimony, at 31 (Aug. 14, 2023) ("In other words, the Company is provided free allowances to cover Chehalis' emissions for the benefit of Washington State ratepayers, while out-of-state ratepayers, such as Wyoming customers, must pay the entirety of the allowance costs. Put another way, this is effectively a Washington-imposed tax that Washington has exempted itself from; only RMP's out of state ratepayers pay this tax."); *Id.* at 35 ("The practical impact is that Wyoming ratepayers would be funding Washington's local programs aimed related to the working families tax rebate, making loans to local governments, advancing renewable resource development, financing technical education in colleges and higher education, and other similar investments, even though RMP's Washington ratepayers, who have exempted themselves, are not doing the same.").

[3] *In re CETA Rulemaking,* Docket Nos. UE-191923 and 190698, General Order R-601, ¶ 37 ("The variety of proposals demonstrates the lack of statutory direction concerning the incorporation, or modeling, of the SCGHG emissions in IRPs. Accordingly, the rules we adopt by this Order do not require a specific modeling approach at this time."); *Id.* ¶ 38 ("If a utility treats the SCGHG as a planning or fixed cost adder in its determination of the optimal portfolio, including retirements and new plant builds, we expect the utility to model at least one other scenario or sensitivity in which the SCGHG is reflected in dispatch. Similarly, if a utility incorporates the SCGHG in modeling dispatch costs, we expect the utility to provide an alternative scenario or sensitivity analysis, such as the planning adder approach, to determine the optimal portfolio, including retirements and new builds. Such modelling will help to inform how best to implement CETA's requirement to include the SCGHG emissions as a cost adder.").

Sincerely,

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