

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

PACIFICORP d/b/a PACIFIC POWER &
LIGHT COMPANY,

Respondent.

DOCKET UE-210829

POST-HEARING BRIEF ON BEHALF OF
THE COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

November 12, 2024

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I. INTRODUCTION

1 The question before the Commission is how to effectively address PacifiCorp’s inability to timely demonstrate reasonable progress toward achieving the core purpose of Washington’s Clean Energy Transformation Act (“CETA,” or “Act”) – reaching greenhouse gas neutrality by 2030 and to eliminate carbon emissions from PacifiCorp’s Washington electric grid by 2045.¹ In fact, PacifiCorp’s principal policy witness, Mr. Matthew McVee, stated clearly that the Company has no plans to present interim achievement targets to the Commission, until it submits its next Clean Energy Implementation Plan in 2025.² He went on to suggest that interim targets would not be necessary because the Company would soon offer a technology alternative that would meet the CETA 2035 target in 2032.³ In the end, the Company stood on its position in the case – summarized by the Bench in succinct phrases such as: “Don’t worry.”⁴ Closely followed by “Hey, we’ll -- you know, we’ll be okay in 2030.”⁵

2 Without commenting here on whether the Company’s litigation position is pragmatic, the Commission does not have the luxury to sit and wait for a new nuclear generator design to become operational at utility scale before ensuring compliance with CETA. Even if the Company’s development of such a nuclear power plant could be complete and operational by 2032, there is the nagging question of cost and how those costs would be spread between customer classes. It is this combination of operational uncertainty and interim market reliance

¹ RCW 19.405.040-0.50.

² McVee, TR 244:7-25

³ Id. at 246:5-10.

⁴ Id. at 243:17-20.

⁵ Id. at 244:2-6.

that produces two surprisingly dynamic and undeniable regulatory risks – when will PacifiCorp provide CETA-compliant service to ratepayers and at what cost?

3 CRITFC offers the Commission a reasonable and achievable alternative to the Company’s “wait and see” proposition in its direct testimony. This alternative would advance CETA’s goals and spread “no regrets” investment funds to vulnerable communities, creating more efficient homes and appliances and provide opportunities to share the benefits of energy assistance, distributed generation, and demand response. These investments will help ensure that CETA’s implementation is achieved equitably and at costs to customers that are fair, just, and reasonable.⁶

4 The first step to such an outcome is respectfully submitted by Ms. DeCoteau in her pre-filed testimony wherein she recommends that the Company should be required to “to assess the full potential for energy efficiency, weatherization, and distributed generation resource development at its customer meter locations within the Yakama Reservation and the tribal communities nearby.”⁷ This too is a “no regrets” outcome that would define the scope and depth of weatherization and energy efficiency needs within the Yakama Reservation and how distributed generation might be deployed to reduce demand and provide resiliency for households and communities.

5 Building on this assessment, a second recommendation submitted by Ms. DeCoteau asks the Commission to direct PacifiCorp to seek out the guidance of the Yakama Nation Tribal Council and staff to develop customer benefits indicators (CBI) that reflect the needs of the tribal

⁶ *In re PacifiCorp’s 2023 Rate Case*, Docket UE-230172 and UE-210852, Order 08-06, at 7 (Mar. 19, 2024).

⁷ DeCoteau, Exh. No. 1T, at 15:4-6. Ms. DeCoteau goes on to urge the Commission to ensure that PacifiCorp “identify the barriers to development and the resources needed to overcome them.”

community within PacifiCorp Washington service territory.⁸ These needs may include energy efficiency, weatherization, and distributed generation investment. Tribal leadership may also identify different priorities for the Company to provide to reservation customers. Critically, since the passage of CETA, the Company has yet to initiate formal discussion with Yakama Nation—whether through leadership or staff—on the design of CBI or provision of energy benefits. While the ultimate decision of engagement rests with Yakama Nation, the Company bears an up-front responsibility of making a good-faith effort to consult with the tribal government and address the energy needs of its highly vulnerable customers.

6 In addition, CRITFC supports the testimony of Staff, The Energy Project (TEP), and Northwest Energy Coalition (NVEC) in requesting that a minimum designation of the Company’s distributed energy benefits flow to Named Communities across its service territory. This is a clear-eyed proposal to ensure the most impacted are best positioned to benefit from the increased efficiency, reliability, affordability, and habitability of these resources.

7 Finally, we voice our concern for PacifiCorp’s apparent wait-and-see approach to CETA compliance. We see real risks on the horizon from the Company’s continued market reliance and failure to procure CETA-compliant resources to serve Washington. In the past, unreliable forecasts and unstable markets have threatened reliability and created emergency demands on the Columbia Basin hydroelectricity system that resulted in devastating impacts to migrating salmon. PacifiCorp’s proposed outcome would set up this collision of competing demands should system reliability become uncertain, putting both salmon and vulnerable communities at risk of future impacts.

⁸ Exh. AKD -1T, at 15:22-16:2.

CETA’s vision and CRITFC’s *Energy Vision* are very much aligned, and the realization of their mutual goals would benefit all PacifiCorp customers. Furthermore, by taking these relatively small individual steps, pressure upon the Columbia River Basin hydropower system can likewise be reduced to help protect and restore the salmon and other anadromous fish resources relied upon by the Yakama Nation and other members of CRITFC. These issues and others will be fully developed in the sections that follow and, if accepted by the Commission, would move the state closer to achieving CETA’s climate goals and benefit the communities most in need of support.

II. PACIFICORP’S OBLIGATIONS TO THE YAKAMA NATION AND CUSTOMERS ON THE RESERVATION

A. CETA Requires PacifiCorp Engage with Yakama Nation as a Sovereign and Provide Benefits to its Highly Impacted Community.

9. With the passage of CETA, the Washington legislature recognized the public interest goal to achieve “the equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities.”⁹ CETA defines highly impacted communities in two ways: through cumulative impacts designated by the Washington health authority, and separately, as communities within census tracts designated as “Indian Country”—the geographic boundary of Tribal Nations.¹⁰

⁹ RCW 19.405.010(6). Included in this goal is achievement of environmental and energy justice outcomes: “long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency.”

¹⁰ RCW 19.405.020(22) (“Highly impacted community” means a community designated by the department of health based on cumulative impact analyses in RCW 19.405.140 or a community located in census tracts that are fully or partially on ‘Indian country’ as defined in 18 U.S.C. Sec. 1151.”).

10. Achieving equitable outcomes for highly impacted communities is a fundamental goal of CETA and a new factor in the Commission’s public interest review of utility actions. CETA requires utilities to ensure equitable energy outcomes through both their clean energy implantation plans (“CEIP”)¹¹ and as a result of achieving greenhouse gas neutrality.¹² Additionally, CETA requires electric utilities to “make programs and funding available for energy assistance to low-income households,”¹³ and demonstrate their effort to “encourage participation of eligible households, including consultation with community-based organizations and Indian tribes as appropriate.”¹⁴ CETA requires not only an understanding of impacts to vulnerable populations, but meaningful actions to provide for low-income customers and ensure benefits flow to the most impacted communities.

11. The sections that immediately follow are intended to provide the Company well-intended advice and assistance on how to meaningfully engage with tribal governments for the purpose of complying with CETA’s directives regarding “Indian Tribes” and more broadly “vulnerable communities.” For purposes of this brief, the term “Indian Tribes” refers directly to the Yakama Nation.

12. A significant part of the Yakama Indian Reservation is located within PacifiCorp’s Washington service territory.¹⁵ To achieve the equitable distribution of energy benefits described the Act, PacifiCorp must ensure benefits flow to customers within the boundaries of the Yakama

¹¹ RCW 19.405.060(1)(c)(iii); (2)(b)(iii).

¹² RCW 19.405.040(8).

¹³ RCW 19.405.120(2).

¹⁴ RCW 19.405.120(4)(a)(iii).

¹⁵ *In re PacifiCorp’s 2024-2025 Biennial Clean Energy Implementation Plan Update*, Docket UE-210829, PacifiCorp’s Revised 2021 Clean Energy Implementation Plan, at 31-2 (March 13, 2023) (2021 CEIP); McVee, TR. 207:18 – 208:2.

Reservation by taking concrete steps to identify customer needs on the Reservation, consult with the Yakama Nation tribal government, and provide material benefits to its members and residents.

1. PacifiCorp should meaningfully engage with Tribal Nations as sovereign governments.

13. To begin, we offer the following points to consider. First, CETA's express inclusion of Indian Country in its definition of "highly impacted communities" demonstrates the legislature's intent to ensure benefits flow to tribal communities and reflects its consideration of tribal sovereignty.¹⁶ CETA sets forth these standards for a purpose: PacifiCorp and other utilities operating in Washington must give tribes and other "vulnerable communities" a voice in decisions made by them and consequently the Commission.¹⁷

14. Next, Tribes are not stakeholders or voluntary organizations; they are sovereigns, responsible for the health and welfare of their members and those living on their reservations.¹⁸ To achieve CETA's purposes, utilities must provide benefits and reduce burdens for reservation communities by engaging with tribal sovereigns directly. They are the governmental authorities best equipped to understand and guide the equitable distribution of energy benefits to their communities.

¹⁶ The original bill defined highly impacted communities by the health authority cumulative impact analysis alone. Members of the Environment, Energy, and Technology Committee expanded the definition to include Indian Country during an executive session on January 29, 2019. SB 5166 - Supporting Washington's Clean Energy Economy and Transitioning to a Clean, Affordable, and Reliable Energy Future. Executive Session of the Washington State Senate Environment, Energy, & Technology Committee (January 29, 2019) [.https://app.leg.wa.gov/committeeschedules/Home/Documents/24996](https://app.leg.wa.gov/committeeschedules/Home/Documents/24996).

¹⁷ See, 19.405.020 (39) "Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to: (a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and (b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

¹⁸ *United States v. Wheeler*, 435 U.S. 313, 323 (1978).

15. To give meaning to CETA's provisions, two fundamental objectives must be realized: a) take steps necessary to ascertain each community's interests and needs; and b) create and implement actions that address each community's unique circumstances and needs. We address these objectives below. First and foremost, the diverse interests of tribal communities must be ascertained, understood, and considered by the affected utility. In this case, PacifiCorp. The next step is intuitive. The utility's comprehension of tribal interests must result from direct engagement with the tribes and their elected officials. At a fundamental level, such engagement must recognize and acknowledge the sovereignty of tribal governments, their authority to govern activities occurring within reservation boundaries, and the scope and meaning of treaty rights reserved to the tribe.

16. Importantly, each tribal government is shaped by their singular culture, traditions, and unique history. As a result, they may or may not share the specific interests of other tribes or may give a specific issue different weight in importance or immediacy. To put this in context, CRITFC is empowered to advocate on its behalf, but only the Yakama Nation can speak to the needs of its people when it comes to energy-related matters affecting the Yakama Nation, its Reservation, and members. It holds the status of a sovereign nation, governing approximately 1.2 million acres that include numerous cities and towns, and empowered by the authorities reserved in its *Treaty of June 9, 1855*, including the powers to regulate and exclude.¹⁹

17. Given its unique size, status, and broad authority, the Yakama Nation is not a stakeholder and bristles when such a term is used to describe its participation in regional matters. It is governed by an elected Tribal Council vested with the authority to control the business and other

¹⁹ Treaty with the Yakima Tribe, June 9, 1855, 12 Stat. 951; Takala, Exh. No. JT-1T, at 3:1-15.

activities of its members and others within the Yakama Indian Reservation. To treat the Yakama Nation as a “stakeholder” in the business conducted by PacifiCorp would ignore its governing authority and the importance of protocol designed to imbue its engagements with due respect for its authority and governance responsibilities.

18. In the end, the interests of each tribe will be driven by its needs and what its governing body believes essential to assuring the safety, health, and welfare of its members. For PacifiCorp, the range and complexity of the Yakama Nation’s interests can only be learned by meaningful interaction with its governing body on the multitude of subjects and outcomes offered in its CEIP/IRP. This task may be formidable but is nonetheless required to comply with express provisions of CETA.

2. PacifiCorp’s current approach to engagement with the Yakama Nation is inadequate.

23. To date, PacifiCorp has not met its obligations to the Yakama Nation. Since the passage of CETA, the Company made no independent effort to meet with Yakama Nation’s elected Tribal Council or staff to discuss its clean energy and equity requirements, available energy assistance and weatherization programs, or distributed energy opportunities.²⁰

24. On May 24, 2022, the Company did meet with a Yakama Nation staff member, Mr. Ray Wiseman, General Manager of Yakama Power on one occasion, as part of his service on PacifiCorp’s Equity Advisory Group (EAG).²¹ Notes from this meeting indicate Mr. Wiseman shared with the Company a culturally-sensitive engagement approach for use when meeting with

²⁰ McVee, Exh.MDM-21X at 2, 5.; McVee, TR 209:23.

²¹ Id. at 3; McVee, TR. 210:8.

the Reservation community,²² and Yakama Power’s interest in developing community-scale solar projects to bring benefits to “hard to reach reservation customers.”²³ The Company recorded these comments, but indicated no next steps in response to Mr. Wiseman’s suggestions, nor does the record reflect any subsequent actions to follow-up on community-scale solar opportunities.²⁴

25. Another indicator related to PacifiCorp’s lack of engagement with the Yakama Nation is its comparative lack of CETA-supported investment in Yakima County communities generally. As Mr. McVee affirmed at hearing, the Company estimated that, since the passage of CETA, between July 2021 and September 2024, it collected \$40,075,826 in Schedule 191 (or “System Benefits Charge Adjustment”) rates from Yakima County, WA.²⁵ Out of this total, PacifiCorp estimates it invested approximately \$23.8 million in Home Energy Savings, Low Income Weatherization and Wattsmart Business energy efficiency (EE) projects during the same period. Of the \$23.8 million investment, the Company estimates just \$2 million went to projects located on the Yakama Indian Reservation—less than 10% of the total invested in Yakima County, and a mere 5% of the total collected from rates.²⁶

26. Compare these investments with the following figures from the Company’s 2021 CEIP that show the relative size of the Reservation within its service territory and its cumulative impact score.²⁷ While many factors shape investment decisions, including density of homes and

²² McVee, Exh. MDM-22X at 3.

²³ Id. at 3; McVee, TR 211:5-25.

²⁴ McVee, Exh. MDM-21X at 3. When asked about meetings with Yakama representatives the company listed only the one EAG meeting with Mr. Wiseman. On cross examination, witness McVee suggested additional meeting may have occurred to discuss energy efficiency with local community groups, and possibly Yakama Power. McVee, TR 211:19-25, 212:1-10.

²⁵ McVee Exh. MDM-21X at 6.

²⁶ Id. at 6-8.

²⁷ PacifiCorp’s 2021 CEIP, *supra* note 14 at 31-32.

businesses in an area, these figures reveal a significant and concerning picture. A clear segment of PacifiCorp's service territory is highly vulnerable Reservation community, yet less than 5% of dollars collected from customer rates from the area went to providing these communities with needed energy benefits.

Figure 2.2 – Overall Environmental Health Disparities in PacifiCorp Service Area

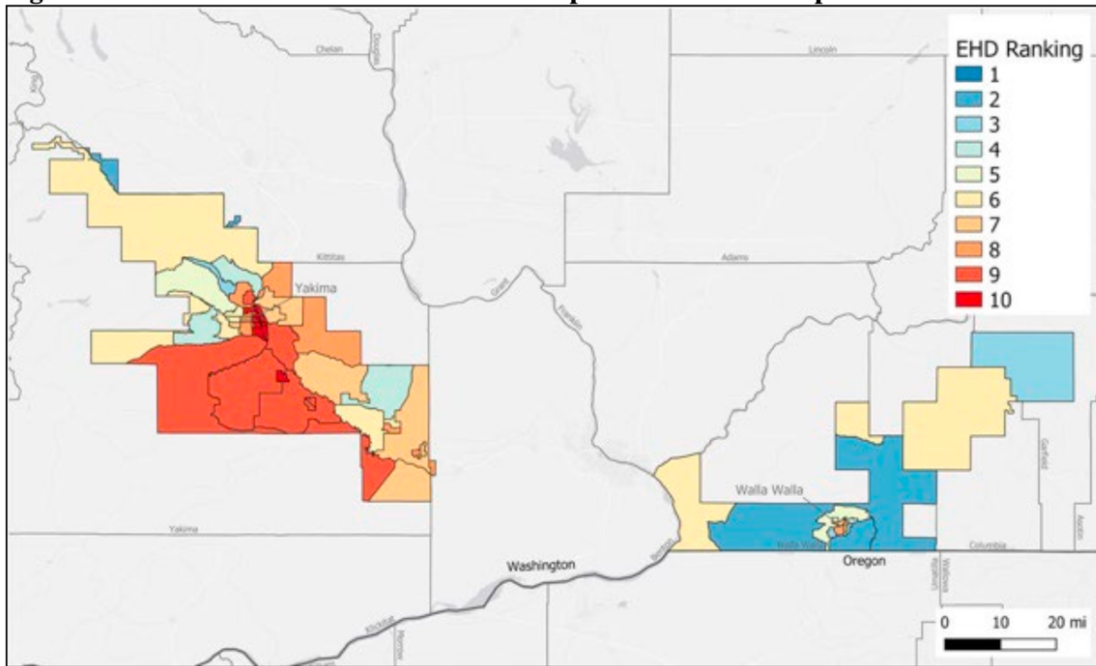
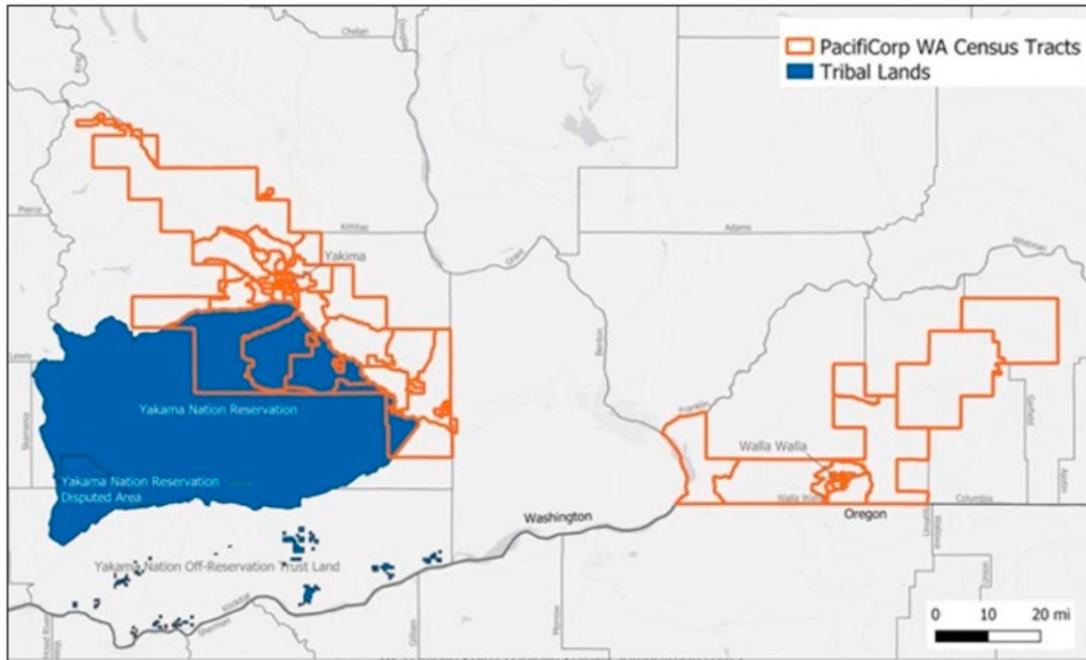


Figure 2.3 shows the census tracts that are located on Tribal Lands: the Yakima area has six (Yakama Nation Reservation) and the Walla Walla area has none.

Figure 2.3 – Tribal Land and PacifiCorp Service Area



Source: PacifiCorp’s Revised 2021 Clean Energy Implementation Plan, at 31-2 (March 13, 2023).

3. Tribal Perspective: Successful Engagement Recommendations

27. PacifiCorp’s successful engagement with the Yakama Nation starts with the recognition and acknowledgement of its sovereignty and authority to govern activities occurring within Reservation boundaries – starting with its reserved treaty rights. It is also necessary to recognize and embrace the elements of protocol that will determine the success of interactions with the Yakama Nation and other tribal governments.

Tribal elected officials expect an equivalent level of power and authority in the party seeking their time and attention. It is a sign of respect to initially approach tribal officials with representatives from the utility’s top levels of leadership. In other words, individuals with the

authority to change outcomes or strategies based upon tribal input. After the initial meeting, delegates will likely be designated to carry out the details of the remaining engagement.

28. In each instance of tribal/utility interaction, the success of the engagement will be dependent upon the development of open and organic lines of communication with the affected tribes and their elected officials. The tribes have sovereign oversight of their lands and will expect the utility to engage with a purpose, such as explaining the utility's plans to ensure the delivery of reliable and efficient electric service to tribal members while meeting CETA's requirements.
29. Other likely topics could include planning exercises that include weatherizing or otherwise making more efficient on-Reservation housing; providing tribal communities with financial support for demand-side generation and load control; or adding new or changing existing facilities on-Reservation or within ceded areas.
30. Another very important element is the timing of the interaction. In each example above, the elements of PacifiCorp's plan should be shared with the Yakama Nation at a *pre-decisional* stage. Nothing is more frustrating in Indian country than having an entity bring an already complete action plan to the tribes for presentation. It is seen as the "take or leave it" method of "consultation." There is a distinctive difference between a "consultation" to tell a tribe what will be done and a *pre-decisional* meeting that allows for tribal input and an alignment of tribal objectives and rights *before* a plan is filed with the Commission or any government authority. As submitted, there is no indication that PacifiCorp's CEIP/IRP preparation included such interactive engagements with the Yakama Nation prior to being filed.

31. CRITFC understands that PacifiCorp has recently hired a tribal liaison whose position is dedicated to more meaningfully engaging with tribal nations.²⁸ This is a step in the right direction and aligns with the recommendations we propose below.

III. RECOMMENDATIONS

A. Energy Needs Assessment

32. CRITFC respectfully requests the Commission to require PacifiCorp to study the energy needs of its customers within the Yakama Indian Reservation and develop a five-year action plan to address these needs and any identified barriers to success. This recommendation is supported by Staff, NVEC, and TEP.²⁹

33. To develop its energy needs study and five-year action plan, PacifiCorp should engage with the Yakama Nation using the principles we have described above to initiate contact and encourage collaboration at each phase of the process.

34. At this early stage and at a high-level, we see the study and action plan proceeding in the following stages: 1) working with the Yakama Nation, the Company should assess the full potential for energy efficiency, weatherization, and distributed generation resource development at its customer meter locations within the Yakama Reservation and the tribal communities nearby; 2) as part of this assessment, the Company should identify the barriers to development and the resources needed to overcome them; and 3) in consultation with the Yakama Nation, the Company would develop a five year plan based on need and designed to deliver demand-side

²⁸ Mcvee, TR. 219:3-20.

²⁹ Simmons, Exh. No. JNS-25HCT at 15:6-19; Thompson, Exh. No. 3T-CT at 3:13-20, 4:1-9; TEP Opening Statement, TR. at 148:24-25, 149:1-6.

and other fish-friendly resources to its affected customers such as weatherizing, distributed energy, and energy efficiency programs.³⁰

35. If helpful, CRITFC can help facilitate early conversations between PacifiCorp and the Yakama Nation. We emphasize the need to understand tribal needs and barriers as an important starting point and fully understand that even under ideal circumstances, the actual delivery of energy projects to affected customers will not happen overnight. We believe the steps needed to assure success of this effort and compliance with CETA will require:

- Relationship building with tribal decision makers and program staff responsible for project oversight.
- Long-term financial commitments to ensure that projects can be implemented in realistic funding cycles.
- Investment in workforce training, technical capacity development, and programmatic assessments of project compatibility with tribal planning goals.

B. Tribal-Specific CBI

36. Second, and concurrently, CRITFC requests the Commission require PacifiCorp develop new CBI to reflect the needs of its Yakama Nation customers. The Company has agreed to this recommendation in principle.³¹ The Company further acknowledges that CBIs can be a tool for not only understanding impacts of resource decisions but also shaping portfolio development over time.³²

37. Developing actionable CBI should be an iterative process. Following the principles of positive engagement described above, PacifiCorp should develop CBI from *pre-decisional*

³⁰ DeCoteau, Exh. No. AKD-1T at 15:6-14.

³¹ McVee, TR 215:3-14; McVee, Exh. No. MDM-21X at 9; McVee Exh. No. MDM-2T at 21:15-21.

³² Ghosh, TR 325:4-25, 326, 327, 328:1-18.

discussion, ensuring that the information shared by Yakama Nation representatives leads to actual metrics that reflect the energy needs of their tribal community. Further, these CBI should not only collect information on existing impacts but inform the Company's decision making as it seeks to achieve its CETA obligations to provide for equitable distribution of energy benefits.

C. CRITFC Supports Minimum Designations of Energy Benefits for Named Communities.

38. Third, CRITFC supports the recommendations by Staff, TEP, and NVEC to require a minimum designation of distributed energy program benefits to flow to named communities of highly impacted and vulnerable customers. The Company has stated in principle that it agrees to this recommendation.³³
39. Specifically, CRITFC supports NVEC and TEP's recommendation for a 30% minimum designation to named communities. This is a clear-eyed proposal that aligns with CETA's public interest goals and the principles of CRITFC's *Energy Vision*. As Witness Thompson demonstrates in her testimony, the environmental, social, and health benefits of these programs are clear and attainable.³⁴
40. The 30% minimum designation is also reasonable. PacifiCorp's 2021 CEIP demonstrated that at minimum 27.1% of its Washington customers reside in highly impacted communities.³⁵ The national Justice40 Initiative requires 40% of the overall benefits of Federal investments in clean energy and energy efficiency flow to disadvantaged communities, and Washington's 2021

³³ The Company prefers, however, a 27% target benefit to named communities. McVee, Exh. No. MDM-2T at 12:6-12, 28:4-11 (agreeing to the proposal by Ms. Strauss, witness for Staff, and Ms. Thompson, witness for NVEC); McVee, TR 217:8-25, 218:1-16 (confirming agreement on cross-examination to achieve minimum designations through consultation with Yakama Nation).

³⁴ Thompson, Exh. No. 1T at 7:4-15.

³⁵ Id. at 8:5-7.

Healthy Environment for All Act also directs 40% of grants and expenditures create environmental benefits to vulnerable populations.³⁶

41. Any less than 30% risks undercounting named communities, and at best meets only a target for equal benefits to customers, which does not necessarily align with CETA's standard for the equitable distribution of benefits. Further, as Witness Stokes points out, the Company and Staff's preferred recommendation for a lower 27% benefit is based on the percentage of highly impacted communities in PacifiCorp's service territory but does not necessarily account for vulnerable populations who may reside outside these areas. For these reasons, CRITFC agrees with TEP and NVEC's proposed designation and recommends the Commission adopt their sensible recommendation for a 30% minimum designation of benefits to named communities.

D. Risks of Delayed Action for Reliability, Rates, and Salmon Protections.

42. While CRITFC does not take a position on the overall sufficiency of PacifiCorp's proposed resource acquisition strategy, we are deeply concerned by the Company's wait-and-see approach. Delaying the transition to clean energy and relying on market purchases create the risk of unforeseen outcomes that would harm already energy burdened tribal communities, salmon, and treaty resources.
43. Past energy crises demonstrate the risks of an unreliable market position dependent on federal hydropower system for backup. This situation was the impetus for CRITFC's first *Energy Vision*, drafted in October of 2001. That summer, a long-standing drought met unplanned market upheavals, causing a regional energy shortage that resulted in dam operators going to emergency

³⁶ Stokes, Exh.No. SNS-1T at 4:5-13.

operations, causing the premature death of tens of thousands of juvenile salmon.³⁷ Without adequate preparation, the region could see an energy crisis like 2001 again, where salmon are left vulnerable to emergency hydropower operations and tribal treaty rights are left collecting the balance.³⁸ CRITFC drafted its *2022 Energy Vision* to inform regulators and policymakers about the risks and opportunities of the clean energy transition, and to ensure it leads to a more resilient system as a whole—one that does not pit the needs of operators, communities, and salmon against one another.³⁹

44. We are concerned that PacifiCorp’s proposed resource actions create conditions that will exacerbate competing energy needs in the future. The Company’s approach is vague and unpersuasive. Questioned on how market dynamics shaped its portfolio selection, the Company’s principal policy witness, Mr. McVee, explained that the Company made its decision at a time when the market was lower than the price of new resources.⁴⁰ But this situation can change, or has already:

But with the market increasing, now we’re looking at a new reality. So, in that situation, yes, that's when we would start looking at is there a different way to address CETA or address [...] the needs of the load beyond CETA, actually just for least-cost service with the market.⁴¹

Clearly, the ‘new reality’ is fast approaching. Yet, paradoxically, the Company claims its path to compliance simultaneously depends on undeveloped technologies and, somehow, is readily

³⁷ DeCoteau, Exh. No. AKD-2, Columbia River Inter-Tribal Fish Commission, *Tribal Energy Vision for the Columbia River Basin* (2022), <https://critfc.org/energy-vision/>, at 18, 186-187.

³⁸ Id.

³⁹ DeCoteau, Exh. No AKD-1T at 12:19-22, 13:1-15.

⁴⁰ McVee, TR, 226: 9-24.

⁴¹ Id.

achievable through market purchases if needed.⁴² Ultimately, the Company made its position clear: if compliance cannot be achieved, they will take the “reliability [...] off-ramp.”⁴³

45. Neither salmon nor vulnerable customers have the benefit of this “off-ramp.” When crisis hits, rates soar and hydropower operations go into overdrive until demand is met—whatever the cost.⁴⁴ These risks are compounded by climate change, which may create higher hydro flows short-term, but is also likely to reduce overall hydro capacity due to intermittency and extreme weather changes. As Ms. DeCoteau testified, without thoughtful consideration, new renewable resources have the potential to deepen the region’s reliance on the federal hydro system at a time when skyrocketing demand and climate-constrained hydro operations leave little room for salmon protections.⁴⁵

IV. CONCLUSION

46. We close by noting that tribal nations and their reservation communities are already some of the most energy burdened places in the state, with an energy bill to income ratio far exceeding the majority of communities in Washington.⁴⁶ CETA demands that such inequity be addressed by the Company. We offer solutions here that would help mitigate the financial burden placed

⁴² McVee, TR 236:12-15; 246:5-10.

⁴³ McVee, TR 239: 21.

⁴⁴ DeCoteau, Exh. No. AKD-1T at 11:3-12 (*referencing* 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/Appendices/Appendix_1_Emergency_Protocols_February_25_2022_with-ATTACHMENT-1.pdf.)

⁴⁵ Exh. AKD-1T, 14:4-14.

⁴⁶ Exh. AKD-1T, 14:2, *citing* Clean Energy Transition Institute, *Community-Defined Decarbonization: Reflecting Rural and Tribal Desires for an Equitable Clean Energy Transition in Washington*, 30 (September 2022), <https://www.cleanenergytransition.org/programs/rural-community-decarbonization/community-defined-decarbonization>.

upon PacifiCorp’s customers living on the Yakama Reservation and if implemented, would give the Commission a significant new knowledge base on customer housing conditions and energy burdens, allowing it to tailor the evidence-based solutions called for by CETA.

47. Should CRITFC’s recommended outcomes be accepted by the Commission, it would assure at least limited compliance with CETA’s emissions’ targets by requiring the Company to make “no regrets” investments in energy efficiency, weatherization, and distributed generation within the Yakama Indian Reservation and elsewhere, using to the extent possible unspent monies already collected from Yakima County ratepayers through its Schedule 191. This outcome would increase grid reliability and resilience, while making small but concrete take steps to decrease carbon emissions and afford benefits to vulnerable communities within its service territory.

Respectfully submitted this 12th day of November 2024.

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