

**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 REPLY BRIEF ON BEHALF OF
THE COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

November 27, 2024

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I. INTRODUCTION

1 The Columbia River Inter-Tribal Fish Commission offers the following response to the opening briefs of PacifiCorp, d/b/a Pacific Power, Staff, Public Council, and other Parties to this case.¹ All Parties have raised important arguments about PacifiCorp’s resource allocation methodology and proposed CETA (or “Act”) compliance pathway. CRITFC shares many concerns, and has pointed out specific risks posed to tribal resources and vulnerable tribal communities residing in PacifiCorp’s service territory.² We have focused our brief on the provision of CETA which sets the standard for utility compliance—namely, that the Company ensure “the equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities.”³ To achieve the legislature’s goal, words must be put to action. Our proposal offers a roadmap to do this, by requiring PacifiCorp make the direct investments necessary to ensure benefits flow to vulnerable and energy-burdened customers on the Yakama Nation.

2 No party has opposed CRITFC’s proposal. The Company agrees to CRITFC’s position in principle, which it believes align with its existing programs and plans.⁴ Though the Company states its support, CRITFC respectfully requests the Commission ensure PacifiCorp follows through on its commitments by requiring mandatory timeline and reporting actions for each stage of investment: when it consults with and proposes its energy benefits programs to the Yakama

¹ Northwest Energy Coalition and Renewable Northwest (NWECC/RNW); Alliance of Western Energy Consumers (AWEC).

² CRITFC Initial Brief at 18.

³ RCW 19.405.010(6).

⁴ PacifiCorp Initial Brief at 31.

Nation; when it begins an energy needs assessment; and when it invests in concrete energy benefits in the Reservation community.⁵

3 We envision our proposal as a starting point for more intentional utility investment in tribal and vulnerable communities moving forward. For this reason, we support the proposal by NWEC/RNW, Staff, and TEP to require minimum designation of distributed energy investment flow to named communities.⁶ PacifiCorp agrees to minimum designations but seeks reassurance that it will not be bound to achieve successful outcomes.⁷ AWEC, on the other hand, disagrees with minimum designations as a too uncertain requirement, but recommends the Commission order PacifiCorp to propose in its 2025 CEIP how it will concretely ensure benefits reach named communities.⁸ While we agree with AWEC's concern about the uncertainty of minimum designations as a standalone proposal, we believe our recommendation for direct investment in the Yakama Nation would represent a concrete step for achieving equitable outcomes. In addition, we agree with Staff and NWEC that requiring minimum designations of energy benefits builds a needed foundation for consistent, predictable, and fair distribution of benefits to vulnerable communities as the Company achieves CETA compliance.⁹

⁵ CRITFC also expects the Company to submit periodic compliance reports to the Commission regarding these actions.

⁶ CRITFC at 17.

⁷ PacifiCorp at 30-31.

⁸ AWEC Initial Brief at 14.

⁹ Staff Initial Brief at 24; NWEC/ RNW Initial Brief at 39.

II. ARGUMENT

1. The Company states that CRITFC's proposal aligns with its existing plans; the Commission should ensure these plans are tied to the concrete actions we have proposed.

4 In its opening brief, the Company expresses broad agreement with CRITFC's proposal to bring energy benefits to the Yakama Nation, which it "believes align with [actions] already underway in the current CEIP Community Benefits & Impacts Advisory Group, Community Benefits Indicators, BCP, and Tribal Nation outreach activities."¹⁰ CRITFC appreciates the Company's intention to develop its tribal outreach and community benefit programs. On their own, however, these proposals are not sufficient to meet CETA's obligation for the equitable distribution of energy benefits and burden. By its own admission, to date only five percent of the rates PacifiCorp has collected from Yakima County for conservation and efficiency have been reinvested into the Reservation community, and it has never engaged with Yakama Nation about its obligations under CETA to ensure equitable energy investment for vulnerable and energy burdened Reservation customers.¹¹

5 We request the Commission adopt our recommendations to guide PacifiCorp forward under clear goals and requirements. As we outlined in our opening brief, tribes are not stakeholders; they are sovereign nations that must be dealt with as the authority responsible for the wellbeing of their members and the protection of their territory, treaty rights, and cultural resources. With this understanding, CETA's mandate to ensure equitable benefits and burdens for vulnerable and tribal communities calls for both intentional outreach with tribal nations and

¹⁰ PacifiCorp at 30-31.

¹¹ CRITFC at 10-12.

accountable follow through actions. Our proposal to require PacifiCorp engage with Yakama Nation, propose an energy needs assessment, and achieve a five-year plan for delivery of benefits to Reservation customers is a reasonable and achievable framework to guide the Company's tribal engagement efforts. Further, we believe this work would lay a foundation for positive investment in other vulnerable communities.

2. CRITFC's proposal is one path for energy benefits to reach a vulnerable community; requiring minimum designations ensures these efforts develop as a program for equitable investment in vulnerable communities.

6 We support NWECE/RNW's recommendation that the Commission require PacifiCorp to designate 30% minimum benefits from its distributed energy ("DER") programs to reach underserved and vulnerable communities ("named communities").¹² This recommendation is sensible, consistent, and aligned with the Commission's interpretation of CETA's legal requirements and core equity principles.¹³ Moreover, we agree with NWECE's position that, to achieve these goals, the Company must make a systematic and quantitative effort to expand its DER programs, including by increasing outreach, incentives, and participation of named communities.¹⁴

7 We envision our proposal for developing energy benefits on the Yakama Reservation as complementing minimum designations by putting the recommendation into action. Through consulting with Yakama Nation to study energy needs and co-develop benefits outcomes, PacifiCorp will engage in a valuable process and build a foundation for more positive investment

¹² NWECE at 37-38.

¹³ NWECE at 34-36, referencing the Commission's decision, *In re Puget Sound Energy CEIP*, Docket UE-210795, Order 08, Appendix A, ¶ 22 (June 6, 2023).

¹⁴ NWECE at 39, listing four steps PacifiCorp should take to expand its DER program.

in other vulnerable communities. The process of intentionally building trust and accountability is important for reaching all vulnerable communities; likewise, remaining open to the communities' response—their concerns and their definitions of benefits—is important for achieving equitable outcomes.

8 PacifiCorp should be required to meet minimum designations by demonstrating intentional community outreach, consultation, and investment to achieve to a 30% benefit distribution to vulnerable communities. AWEC raises concerns about proscribing minimum targets when the definition of “benefits,” and how they “flow” to communities, is somewhat undefined.¹⁵ However, AWEC’s alternative recommendation—that PacifiCorp propose its own methods to demonstrate community benefits—is also unacceptably vague because it lacks any guiding structure¹⁶ to ensure that the utility’s proposal materially results in equitable outcomes. Staff argued this point effectively in brief, clarifying that “the minimum designation is based on the benefits derived from the [number] of customers participating,” and not merely how many participants the company can enroll.¹⁷ That is the point of equity: to give marginalized people the fair share of time and resources given to other customers. Minimum designations set a consistent and achievable standard to ensure utilities meet CETA’s ambitious goals and equitable principles.

¹⁵ AWEC at 14.

¹⁶ E.g. a minimum designation.

¹⁷ Staff at 24, emphasis added.

III. CONCLUSION

For the foregoing reasons, CRITFC requests its recommendations be adopted by the Commission.

Respectfully submitted this 27th day of November 2024.

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