

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP,

Respondent.

DOCKET UE-210829

ORDER 16

FINAL ORDER – REJECTING
CLEAN ENERGY
IMPLEMENTATION PLAN
BIENNIAL UPDATE

SUMMARY

Synopsis: *The Commission rejects PacifiCorp d/b/a Pacific Power & Light Company's (PacifiCorp or Company) Biennial Update to its Clean Energy Implementation Plan (CEIP). The Commission expects PacifiCorp to submit new interim targets for years 2026-2029 in their 2025 CEIP.*

In rejecting the Company's Biennial Update (Biennial Update or BCEIP), there is no need for the Commission to consider whether to impose conditions on acceptance as proposed by Staff and other parties. However, having reviewed and considered all of the evidence in this proceeding, including the proposed conditions and PacifiCorp's agreement to adopt many of the proposals, the Commission encourages the Company to adopt many of the proposed conditions as their own in the 2025 CEIP, 2027 BCEIP, and other filings, including:

- *Providing specific information in future filings regarding specific actions being taken to achieve CETA's targets;*
- *Abiding by a standard of practice for public outreach and the consideration of equitable concerns;*
- *Making specific changes to its methodology, including refraining from modeling using average bid price instead of lowest reasonable price, removing cost adders from future IRPs, beginning in 2025, and instead using appropriate costs, such as those modeled by the National Renewable Energy Lab (NREL);*

- *Taking specific actions to plan for the acquisition of resources for identified deferred needs;*
- *Setting a minimum designation of 27 percent for each of its distributed energy resource (DER) programs and modifying its DER design consistent with the recommendations of Northwest Energy Coalition and The Energy Project; and*
- *Adopting and implementing Conditions 1, 2, and 4, as proposed by the Columbia River Inter-Tribal Fish Commission.*

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I. BACKGROUND

- 1 **PROCEDURAL HISTORY.** On December 20, 2021, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed its initial 2021 Clean Energy Implementation Plan (CEIP or Plan) with the Washington Utilities and Transportation Commission (Commission) in Docket UE-210829. On March 13, 2023, PacifiCorp filed a revised CEIP. The initial 2021 CEIP was contested and adjudicated, resulting in an approved multiparty settlement agreement with 50 conditions.¹
- 2 One of the conditions contained in the 2023 settlement required the Company to file a revised CEIP including the social cost of greenhouse gases (SCGHG).²
- 3 On November 1, 2023, PacifiCorp filed its 2024-2025 Biennial CEIP Update (Biennial Update or BCEIP) with the Commission in Docket UE-210829. The Biennial Update is required by Commission rules implementing the Clean Energy Transformation Act (CETA).³
- 4 On January 11, 2024, Commission staff (Staff) and the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel) each filed responsive comments on the Biennial Update. The same day, Northwest Energy Coalition (NVEC), Sierra Club, and Renewable Northwest (RNW) jointly filed comments. All of the comments submitted raised concerns with the Biennial Update.
- 5 On March 22, 2024, this matter came before the Commission at a Recessed Open Meeting where the Commission heard additional comments from Staff, PacifiCorp, The Energy Project (TEP), Alliance of Western Energy Consumers (AWEC), Public Counsel, and RNW.
- 6 On March 25, 2024, the Commission issued Order 09 suspending the Biennial Update and setting the matter for adjudication.⁴

¹ *In re PacifiCorp’s 2021 Clean Energy Implementation Plan*, Docket UE-210829, Order 06 (Oct. 25, 2023).

² *In re Staff’s Complaint against PacifiCorp for violations related to its Clean Energy Implementation Plan*, Docket UE-220376, Order 06 at 2 (Feb. 10, 2023).

³ See, WAC 480-109-120(1).

⁴ *WUTC v. PacifiCorp*, Docket UE-210829, Order 09 (Mar. 25, 2024).

- 7 On April 23, 2024, the Commission convened a virtual prehearing conference before Administrative Law Judge Paige Doyle.
- 8 On May 3, 2024, the Commission issued Order 11, memorializing the prehearing conference proceedings and granting intervention to RNW and the Columbia River Inter-Tribal Fish Commission (CRITFC). AWEC, NWEAC, TEP, and Sierra Club were also present and previously were granted intervenor status.⁵ All of these parties are collectively referred to as Intervening Parties or Intervenors. Staff and Public Counsel both participated in the prehearing conference and are statutory parties to the proceeding.
- 9 On October 21, 2024, the Commission held an evidentiary hearing in this matter before the Commissioners, with Administrative Law Judge Connor Thompson presiding.
- 10 The parties submitted initial and responsive briefs in the proceeding on November 12, 2024, and on November 27, 2024.
- 11 **PARTY REPRESENTATIVES.** Zachary Rogala, Senior Attorney, represents PacifiCorp. Josephine Strauss, Assistant Attorney General, Olympia, Washington, represents Staff.⁶ Tad Robinson O'Neill, Assistant Attorney General, Seattle, Washington, represents Public Counsel. Sommer Moser, of Davison Van Cleve, P.C., represents AWEC. Stacy Lee and Yochanan Zakai, of Shute, Mihaly & Weinberger LLP, represent TEP. Melissa Hornbein and Barbara Chillcott, of the Western Environmental Law Center, Seattle, Washington, represent RNW and NWEAC (collectively RNW-NWEAC). Elijah Cetas, Patrick Oshie, and Christine Golightly, represent CRITFC.

II. DISCUSSION AND DECISION

A. STANDARD OF REVIEW

- 12 Chapter 19.405 Revised Code of Washington (RCW), which codifies CETA, and Washington Administrative Code (WAC) 480-100-640(1) direct electric investor-owned

⁵ *WUTC v. PacifiCorp*, Docket UE-210829, Order 11 at ¶ 7 (May 3, 2024). The Commission notes that AWEC, TEP, NWEAC, and Sierra Club were each granted intervenor status in the Docket in Order 03, and all but Sierra Club who withdrew from the proceeding, maintained Intervenor status for the purpose of the Biennial Update adjudication. *Id.* at ¶ 7; *see also*, *WUTC v. PacifiCorp*, Docket UE-210829, Order 10 (Apr. 29, 2024).

⁶ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

utilities to develop a CEIP every four years.⁷ CETA requires that CEIPs be informed by both a utility's clean energy action plan and its long-term integrated resource plan.⁸

- 13 In the face of immediate and significant threats posed by climate change, CETA envisions Washington state leading a transition to a clean energy economy.⁹ Washington must transform its energy supply and modernize its electricity system, and, at the same time, ensure “that the benefits of this transition are broadly shared throughout the state.”¹⁰
- 14 CETA requires that electric utilities remove all coal-fired resources from rates by 2025.¹¹ CETA further requires that all retail sales of electricity are greenhouse gas neutral by 2030,¹² and that by January 1, 2045, 100 percent of all electricity sales to Washington customers are supplied by either non-emitting or renewable electricity generation resources.¹³
- 15 The Commission is charged with implementing CETA as the law relates to investor-owned utilities. Pursuant to RCW 19.405.060(1), investor-owned utilities must submit a CEIP to the Commission every four years that meets specific criteria. WAC 480-100-640 sets out the targets, data, and narrative information that must be included in those plans. WAC 480-100-640(11) requires the utilities to make a Biennial Update filing on or before November 1st of each odd-numbered year that the utility does not file a CEIP. “The utility must file its biennial CEIP update in the same docket as its most recently

⁷ Laws of 2019, ch. 288 (subsequently codified as chapter 19.405 RCW).

⁸ *In re Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act and Amending or Adopting rules relating to WAC 480-100-238, Relating to Integrated Resource Planning*, Dockets UE-191023 & UE-109698 (Consolidated), General Order 601 at 24 ¶ 59 (Dec. 28, 2020) (General Order R-601).

⁹ RCW 19.405.010(1).

¹⁰ *Id.* See also RCW 19.405.010(6) (finding that the public interest includes, but is not limited to, “[t]he equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities.”)

¹¹ RCW 19.405.030.

¹² RCW 19.405.040(1).

¹³ RCW 19.405.050(1).

filed CEIP and include an explanation of how the update will modify targets in its CEIP.”¹⁴

- 16 CEIPs must propose interim targets for meeting CETA’s requirements and describe the “specific actions” that the utility will take to meet these clean energy targets.¹⁵ Further, the specific actions identified within a CEIP must demonstrate progress towards meeting the interim targets and standards in RCW 19.405.040(1) and 19.405.050(1).¹⁶ The Commission must approve, reject, or approve with conditions a CEIP, considering factors such as safety, reliability, lowest reasonable cost, the equitable distribution of benefits, and the reduction of burdens to vulnerable populations and highly impacted communities, which the Commission refers to collectively as Named Communities, all of which involves the consideration of the public interest.¹⁷
- 17 Pursuant to WAC 480-100-640(2)(a)(i), interim CEIP targets – which may be updated in the Biennial Update – must “[d]emonstrate how the utility will make reasonable progress toward meeting the standards . . . in WAC 480-100-610(2) and (3).”¹⁸
- 18 The Commission reviews CEIP and Biennial Updates through an open public meeting or adjudication, and “will enter an order approving, rejecting, or approving with conditions the utility’s CEIP or CEIP update”¹⁹ The Commission may recommend or require more stringent targets, and may otherwise adjust or expedite interim and specific target timelines.²⁰ Any intervening party requesting more stringent targets or adjustment of timelines bears the burden of showing the utility can achieve the targets or timelines proposed.²¹
- 19 PacifiCorp argues that in reviewing CEIPs and Biennial Updates the Commission should review compliance through the lens of primarily ensuring targets and specific actions are

¹⁴ WAC 480-100-460(11). The rule provides that a Biennial Update “may be limited to the biennial conservation plan requirements under chapter [480-109](#) WAC.” *Id.* Thus, a utility is not required to make changes to the interim targets in its Biennial Update, but if the utility does so, it must “include an explanation of how the update will modify targets in its CEIP,” and those changes to the targets must meet the standards for interim targets in WAC 480-100-610(2) and (3).

¹⁵ *Id.*

¹⁶ RCW 19.405.060(1)(b)(iii).

¹⁷ RCW 19.405.060(1)(c).

¹⁸ WAC 480-100-640(11).

¹⁹ WAC 480-100-645(2).

²⁰ WAC 480-100-645(2), (2)(a).

²¹ WAC 480-100-645(2)(b).

“at the lowest reasonable cost, considering risk.”²² Further, PacifiCorp argues that the Commission should approve its Biennial Update because it is supported by substantial evidence, or in the alternative, that concerns with the Biennial Update lack substantial evidence.²³

- 20 Staff argues that the applicable standard in this case is whether the Biennial Update properly identifies specific actions that further the public interest identified by the statute.²⁴ In passing CETA, the legislature did not identify a standard of review for the Commission in approving, denying, or approving with conditions CEIPs.²⁵ However, the Commission finds that in reviewing utilities’ plans, it is appropriate to review them under a public interest standard and whether the components identified in RCW 19.405.060(1)(a)-(b) further the public interest generally and the stated goals of CETA.
- 21 The legislature has expanded the Commission’s consideration of the “public interest” beyond the purely economic concerns of traditional ratemaking. “[T]he public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency.”²⁶ The consideration of costs and risks is further expressed in CETA as considering achievement of targets at the lowest reasonable cost, considering risk.²⁷ In advancing CETA’s public interest objectives, utilities are meant to be “fully empowered, through regulatory tools and incentives, to achieve the goals of this policy.”²⁸ Further, it “is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to highly impacted communities.”²⁹
- 22 PacifiCorp’s CEIP filings are required to identify “specific actions to be taken” that “demonstrate progress towards meeting the standards . . . and the interim targets proposed.”³⁰ The Company or Commission may modify these specific actions as part of

²² Post-Hearing Brief of PacifiCorp at ¶ 45 (*citing* RCW 19.405.060(1)(c)(ii)).

²³ Post-Hearing Brief of PacifiCorp at ¶ 46. *See also, id.* at ¶ 48 fn. 88, ¶ 50 fn. 95, ¶ 52 fn. 101.

²⁴ Reply Brief of Staff at ¶ 17 (*citing* RCW 80.01.040(3)).

²⁵ *See*, RCW 19.405.060(1).

²⁶ RCW 19.405.010(6).

²⁷ RCW 19.405.060(1)(c)(i).

²⁸ RCW 19.405.010(5).

²⁹ RCW 19.405.010(6).

³⁰ RCW 19.405.060(1)(a)(iii).

the BCEIP submission and review.³¹ Therefore, the Commission reviews the proposed actions contained in the filing, along with the supporting evidence, to determine whether there is substantial evidence that they “demonstrate progress” towards meeting CETA’s targets. In turn:

The commission may periodically adjust or expedite timelines if it can be demonstrated that the targets or timelines can be achieved in a manner consistent with the following: (i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system; (ii) Planning to meet the standards at the lowest reasonable cost, considering risk; (iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and the reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and (iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.³²

- 23 A CEIP or BCEIP filing would be insufficient if it failed to demonstrate progress in the public interest, and if the actions identified were inconsistent with the utility’s long-range resource plan and resource adequacy requirements. That is to say, if there is an incongruity between the reasonably expected outcome of a utility’s proposed actions and the targets the utility has set, or that the targets or specific actions do not further the public interest and objectives of CETA, the Commission may reject the filing or modify interim targets and timelines to align with specific actions that will set the utility on the path towards meeting its targets.³³ Similarly, the Commission may order a utility to take specific actions in any proceeding involving compliance with CETA to ensure a utility is appropriately addressing the requirements of chapter 19.405 RCW.³⁴ As this is an iterative process, where a CEIP informs a Biennial Update, and that update informs the next CEIP, the Commission finds adjustments to targets and specific actions apply to Biennial Updates as well as CEIPs. To do otherwise, when the Commission finds such adjustments are appropriate, would not be in the public interest or consistent with CETA.

³¹ See, WAC 480-100-640(11); WAC 480-100-645.

³² RCW 19.405.060(1)(c).

³³ RCW 19.405.060(1)(c); WAC 480-100-645.

³⁴ WAC 480-100-665(2)(c), (3)(c).

- 24 As for PacifiCorp’s proposed standard of review, while Commission decisions must be supported by substantial evidence, i.e., a quantum of evidence necessary for each factual finding, substantial evidence is not itself a legal standard of review for Commission decisions.³⁵ To the extent that there are conflicting expert opinions in a proceeding, the Commission is empowered to resolve those conflicts. We do not accept PacifiCorp’s proffered summary conclusions of sufficiency and note that whether or not there is substantial evidence is a determination that requires the careful weighing of all the evidence.
- 25 Further, while PacifiCorp is correct that Commission decisions must ensure a utility is “[p]lanning to meet the standards at the lowest reasonable cost, considering risk[,]” the Commission must consider whether the specific actions identified within a CEIP or Biennial Update demonstrate progress towards meeting the interim targets and standards.³⁶ This assessment includes all of the public interest factors contained in RCW 19.405.060, such as safety, reliability, lowest reasonable cost, considering risk, the equitable distribution of benefits, and the reduction of burdens to vulnerable populations and highly impacted communities, leveraging the “agency’s experience, technical competency, and specialized knowledge” to the extent that it “bears on the issues presented.”³⁷ While the lowest reasonable cost consideration is a component of the Commission’s evaluation of a utility’s CEIP or Biennial Update, such an evaluation is more expansive within CETA and should also include whether the filing and its contents are in the public interest.³⁸
- 26 Accordingly, consistent with the intent of the legislature in passing CETA, we review CEIPs and Biennial Updates under the requirements of the law, which incorporates a number of factors, including cost impacts. We do so in an effort to ensure a utility’s planned targets and specific actions demonstrate progress and are consistent with the public interest objectives as outlined in CETA and the public interest more broadly, including whether the plans will significantly impact customer costs. Further, we assess compliance through the lens of the Commission’s expertise to the extent it bears on the issues.

³⁵ See e.g., *City of Seattle, Seattle Police Dep’t v. Werner*, 163 Wash. App. 899, 907 (2011) (“‘Substantial evidence’ is the existence of a sufficient quantity of evidence to persuade a fair-minded, rational person of the truth of the finding.”).

³⁶ RCW 19.405.060(c)(ii).

³⁷ RCW 19.405.060(1); RCW 34.05.461(5).

³⁸ See, RCW 80.28.425(1).

B. PARTIES' POSITIONS ON PACIFICORP'S BCEIP

- 27 PacifiCorp characterizes its Biennial Update and the case before the Commission as “routine.” The Company argues that its BCEIP incorporates four assumptions from its most recent long-term resource supply plan, and contends that three of the assumptions are uncontested:³⁹ 1) use of the Washington Inter-Jurisdictional Allocation Methodology (WIJAM) to inform resource allocations; 2) incorporation of actual versus planned for resources from the 2020 All Source Request for Proposals (AS RFP), and; 3) use of its most recent retail sales forecast.⁴⁰ PacifiCorp argues that the single point of contention in this case, that PacifiCorp’s BCEIP includes reduced interim targets, is moot. The Company asserts that the issue is moot because the reduction in interim targets is a result of its approved revenue requirement, which the parties supported during the Company’s most recent general rate case (GRC).⁴¹
- 28 PacifiCorp argues the Commission should reject RNW-NWEC’s argument that the Company’s cost assumptions for renewables should be rejected because they are not consistent with the 2022 NREL Annual Technology Baseline (2022 NREL ATB) cost assumptions.⁴² The Company states that COVID-19 impacts on supply chains and inflation resulted in higher prices and that no party contests that the Company received significantly higher bids in the 2020 AS RFP. As such, PacifiCorp contends it pulled out of the 2020 AS RFP because going forward with the projects would have been uneconomic.⁴³ The Company maintains that the NREL ATB assumptions do not incorporate these prices, and that the Commission should not adopt RNW-NWEC’s position, as doing so would result in Washington customers paying for almost 2 GW of resources procured at heightened prices.⁴⁴ PacifiCorp similarly disagrees with Staff’s position. Staff asserts that PacifiCorp’s renewable pricing data is based on too small of a sample size.⁴⁵ PacifiCorp asserts that conducting more RFPs in the time between the 2020 AS RFP and the BCEIP would be impractical, and the Company has committed to

³⁹ Post-Hearing Brief of PacifiCorp at ¶¶ 2-3.

⁴⁰ Post-Hearing Brief of PacifiCorp at ¶ 3.

⁴¹ Post-Hearing Brief of PacifiCorp at ¶¶ 3, 53-61.

⁴² Post-Hearing Brief of PacifiCorp at ¶ 62.

⁴³ Post-Hearing Brief of PacifiCorp at ¶ 63 (*citing* Ghosh, Exh. RG-2T at 23).

⁴⁴ Post-Hearing Brief of PacifiCorp at ¶¶ 63-66.

⁴⁵ Post-Hearing Brief of PacifiCorp at ¶ 67.

using NREL ATB pricing for its 2025 Integrated Resource Plan (IRP) and CEIP, remedying the perceived problem.⁴⁶

- 29 Next, PacifiCorp argues that the cancellation of the 2022 AS RFP is not relevant to this proceeding because it occurred five months after the Company filed the BCEIP.⁴⁷ The Company maintains that because of the cancellation's timing, it was impossible for the Company to develop and plan for alternative procurement within the BCEIP.⁴⁸ Despite Staff and RNW-NWEC's arguments that the cancellation is a major setback and makes achieving interim targets impossible for the Company, PacifiCorp contends the impacts are immaterial because no new resources would have come online before 2026.⁴⁹
- 30 PacifiCorp asserts that procuring resources from the 2022 AS RFP would have been imprudent, as the Company's analysis no longer supported the level of resources called for.⁵⁰ The Company further maintains that despite cancellation of the 2022 AS RFP, it contracted for CETA-compliant resources, amounting to 2,600 MWs of new system resources that will be online by 2026.⁵¹ Finally, the Company notes plans for an RFP initiated in 2025 that may result in a variety of offers for renewable resources coming online between 2028 and 2030.⁵²
- 31 Finally, in its post-hearing brief, the Company argues it has agreed to several party positions over the course of this proceeding, including Staff's proposed first, seventh, and eighth alternative conditions; RNW-NWEC's recommendations on minimum designations and distributed energy resource program design; and CRITFC's recommendations one, two, and four.⁵³ Additionally, PacifiCorp indicates it has limited concerns with Staff's fifth and sixth alternative conditions.⁵⁴

⁴⁶ Post-Hearing Brief of PacifiCorp at ¶¶ 67-69.

⁴⁷ Post-Hearing Brief of PacifiCorp at ¶¶ 70-71.

⁴⁸ Post-Hearing Brief of PacifiCorp at ¶ 72.

⁴⁹ Post-Hearing Brief of PacifiCorp at ¶¶ 73-74 (*citing* Simmons, Exh. JNS-1HCTr at 9; Ware, Exh. KW-1T at 15; McVee, Exh. MDM-2T at 21).

⁵⁰ Post-Hearing Brief of PacifiCorp at ¶ 74.

⁵¹ Post-Hearing Brief of PacifiCorp at ¶ 74. The Company notes these contracts will increase the CETA compliant energy serving Washington by nine percent. Ghosh, Exh. RG-3.

⁵² Post-Hearing Brief of PacifiCorp at ¶ 76.

⁵³ Post-Hearing Brief of PacifiCorp at ¶ 78.

⁵⁴ Post-Hearing Brief of PacifiCorp at ¶¶ 79-80.

- 32 Accordingly, PacifiCorp asks the Commission to approve the Company's BCEIP, especially for the Company's first four-year period covering 2022-2025.⁵⁵
- 33 Staff recommends that the Commission reject the 2023 BCEIP for failure to show progress, improper resource acquisition avoidance, and failure to provide assurance that the Company will comply with Washington law.⁵⁶ Alternatively, if the Commission allows PacifiCorp to revise its interim targets, Staff requests the Commission order PacifiCorp to comply with Staff's eight recommended conditions, discussed in more detail below.⁵⁷
- 34 Public Counsel recommends the Commission reject the BCEIP.⁵⁸ Public Counsel argues that PacifiCorp's BCEIP represents a planning failure because the Company has not demonstrated that it is making adequate progress towards meeting CETA targets.⁵⁹ Public Counsel contends this failure makes PacifiCorp's CETA compliance unrealistic to achieve.⁶⁰ Additionally, Public Counsel recommends the Commission penalize the Company \$1,000 per day until PacifiCorp takes actions to demonstrate progress towards meeting CETA's goals.⁶¹
- 35 AWEC recommends that the Commission approve the Company's 2023 BCEIP and its proposal to reduce interim targets. In cross-answering testimony, AWEC notes that if the Commission rejects the Company's BCEIP, then the Company may have to acquire resources at a premium, and the cost would be passed on to customers. AWEC raises further concerns about the Commission stepping beyond rate setting decision making into mandating management decisions of the Company. AWEC cautions that the role of the Commission is to adjudicate the actions of the Company after the fact with penalties if the Company is not in compliance with CETA requirements.
- 36 CRITFC did not state a position with respect to the Company's BCEIP but recommends that the Commission require the Company to work with the Yakama Nation and affected Tribal communities to build a regulatory foundation for achieving the key objectives of CRITFC's *2022 Energy Vision* within the Company's Washington service territory for

⁵⁵ Post-Hearing Brief of PacifiCorp at ¶ 82.

⁵⁶ Post-Hearing Brief of Staff at ¶ 1.

⁵⁷ Post-Hearing Brief of Staff at ¶ 1.

⁵⁸ Post-Hearing Brief of Public Counsel at ¶ 33.

⁵⁹ Post-Hearing Brief of Public Counsel at ¶¶ 1, 5-7.

⁶⁰ Post-Hearing Brief of Public Counsel at ¶¶ 19-20.

⁶¹ Post-Hearing Brief of Public Counsel at ¶ 29; De Villiers, Exh. SDV-1T at 14:13-19.

compliance with CETA and the *Yakama Treaty of 1855 (Treaty)*.⁶² CRITFC recommends the following four conditions in addition to those Staff recommends:

- (1) PacifiCorp should be required to work directly with the Yakama Nation to assess the full potential for energy efficiency, weatherization, demand response, and distributed generation resource development at customer meter locations within the Yakama Reservation and nearby Tribal communities. The Company should identify barriers to development and identify the resources needed to overcome them.
- (2) PacifiCorp should develop a five-year development plan and budget for energy efficiency, weatherization, demand response, and distributed generation resource development identified in its assessment.
- (3) PacifiCorp should be required to model the impacts of the Columbia Basin's mainstem hydroelectric system operations on anadromous and other natural resources under current operating limits set for salmonoid protection and the costs associated with the protective limits on operations.
- (4) PacifiCorp should work with the Yakama Nation and CRITFC to develop Community Benefit Indicators that reasonably reflect the Yakama Nation's *Treaty* rights and the lives of its people, as expressed through their traditions, culture, and needs.⁶³

37 CRITFC also supports Staff's proposed Condition Seven for minimum designations, but requests that 30 percent of the energy benefits flow to Named Communities rather than Staff's proposed 27 percent. CRITFC also raises concerns that the Company's reliance on market purchases is delaying its transition to clean energy, which will negatively impact Tribal communities, salmon, and *Treaty* resources. CRITFC requests that the Commission consider its *2022 Energy Vision* and Tribal *Treaty* rights in its decision in this docket.

38 NWECA recommends that the Commission reject the Company's 2023 BCEIP, hold the Company to the same standard as Puget Sound Energy (PSE), and require PacifiCorp to commit to achieving a minimum of 30 percent of energy benefits flowing to Named

⁶² Treaty with the Yakama Tribe, June 9, 1855, 12 Stat. 951; Treaty with the Tribes of Middle Oregon, June 25, 1855, 12 Stat. 963; Treaty with the Umatilla Tribe, June 9, 1855, 12 Stat. 945; Treaty with the Nez Perce Tribe, June 11, 1855, 12 Stat. 957.

⁶³ Post-Hearing Brief of CRITFC at ¶¶ 4, 32-35; DeCoteau, Exh-AKD-1T at 15:6-23, 16:1-2.

Communities by its 2027 Biennial CEIP Update for both its demand response (DR) and energy efficiency (EE) programs. NWEAC and RNW filed separate testimony but were represented jointly and filed a joint Post Hearing Brief, where both intervenors affirmed their recommendations that the Commission hold the Company to its interim targets in 2021 CEIP. NWEAC further asks that the Company release an all-source request for proposal at the time of the 2025 IRP and implement minimum designations of energy benefits to Named Communities following the same standard that the Commission ordered of PSE.⁶⁴

- 39 RNW recommends that the Commission reject the Company's 2023 Biennial Update as it does not show forward momentum in meeting CETA standards, and that the Company is not showing that it is making reasonable progress toward CETA compliance. Further, RNW raises concerns about the Company's reliance on future technology that has yet to be developed and adopted to meet 2030 goals, as well as the Company inflating the cost of renewable resources in its modeling. RNW requests that the Commission require the Company to pursue near-term procurement of new clean energy resources on an expedited basis to meet its CETA obligations. RNW, along with NWEAC, recommends that the Commission require the Company to release an AS RFP by the time it files its 2025 IRP and that the AS RFP follow an accelerated schedule to meet the 2030 mandate.
- 40 TEP recommends that the Commission order the Company to set minimum designations for each of its distributed energy resource (DER) programs at 30 percent. TEP is concerned that 27 percent may not adequately cover Named Communities. Specifically, TEP requests that the Company should make its DER programs available to all low-income customers and Named Communities. TEP notes that the Company's Low-Income Weatherization Program applies to low-income customers, but not low-income customers within Named Communities, and the Home Energy Savings and Wattsmart Business programs provide incentives to customers in highly impacted communities but not vulnerable populations or low-income customers who do not reside within highly impacted communities. TEP recommends the development of enhanced energy efficiency options for customers in Named Communities who may not be income qualified and that the Company start a program to provide moderate-income customers with higher rebates, similar to PSE's Efficiency Boost program. TEP also recommends that the Company adopt RNW-NWEAC's proposed minimum threshold of 30 percent participation in DR programs for Named Communities within its service territory.

⁶⁴ *In the Matter of Puget Sound Energy*, Docket UE-210795, Order 08 at ¶ 278 (June 06, 2023).

**C. SUFFICIENCY OF 2023 BCEIP FILING AND CHANGES TO
INTERIM TARGETS**

- 41 PacifiCorp argues that there are several uncontested elements as to the sufficiency of its BCEIP. These include the Company's use of the WIJAM to inform resource allocations, incorporation of actual versus planned-for resources from the 2020 AS RFP, and the Company's use of its most recent retail sales forecast.⁶⁵
- 42 PacifiCorp disagrees that use of the WIJAM in the BCEIP "reduces the numerator when calculating PacifiCorp's interim targets" ⁶⁶ PacifiCorp notes that RNW, NWEA, and Staff support use of the WIJAM. ⁶⁷ The Company argues that rejecting the BCEIP without acknowledging the impacts of the WIJAM on the interim targets would be arbitrary and capricious. ⁶⁸
- 43 On the Company's use of its updated retail sales forecast and incorporation of actual results from the 2020 AS RFP, PacifiCorp asserts that neither Staff, Public Counsel, RNW, nor NWEA contest the updated forecast or the use of actual procurement. ⁶⁹ PacifiCorp notes that the updated retail sales forecast shows nearly a one percent increase in retail sales over a four-year period, impacting the denominator in calculating interim targets. ⁷⁰ PacifiCorp again argues that rejecting the BCEIP without acknowledging the changes of lower than anticipated procurement and increased sales would be arbitrary and capricious. ⁷¹
- 44 PacifiCorp maintains that the single point of contention in this case, the inclusion of reduced interim targets, is moot. The Company states that the issue is moot because the reduction in interim targets is a result of its approved revenue requirement, which parties supported during the Company's most recent GRC. ⁷²

⁶⁵ Post-Hearing Brief of PacifiCorp at ¶ 3.

⁶⁶ Post-Hearing Brief of PacifiCorp at ¶ 47.

⁶⁷ Post-Hearing Brief of PacifiCorp at ¶ 47 (*citing* Ghosh, Exh. RG-4; Simmons, Exh. JNS-1HCTr at 14; Ware, Exh. KW-1T).

⁶⁸ Post-Hearing Brief of PacifiCorp at ¶ 48.

⁶⁹ Post-Hearing Brief of PacifiCorp at ¶¶ 49, 51.

⁷⁰ Post-Hearing Brief of PacifiCorp at ¶ 49 (*citing* Ghosh, Exh. RG-1T at 17-18).

⁷¹ Post-Hearing Brief of PacifiCorp at ¶¶ 50, 52.

⁷² Post-Hearing Brief of PacifiCorp at ¶¶ 3, 53-61.

45 PacifiCorp proposes a change to the annual interim target values in this BCEIP.⁷³ The proposed changes reflect a significant departure from previously set targets.⁷⁴ As described by Staff in briefing:

Under the proposed Biennial Update revisions, PacifiCorp will not serve retail load with more than 30 percent renewable non-emitting generation until 2025. This trajectory is not one that demonstrates progress. As stated by PacifiCorp during the hearing, under the Biennial Update, it will take PacifiCorp four years to get to 30 percent, another four years to double that and get to just over 60 percent, and then it plans to reach the rest of the 80 percent mandate in just under a year.⁷⁵

46 Staff disagrees that the issue of changed interim targets is moot.⁷⁶ In support of Staff's primary recommendation – that the Commission reject PacifiCorp's filing – Staff contends that the 2023 BCEIP shows the Company is not making progress towards CETA mandates.⁷⁷ Even though Staff supported inclusion of PacifiCorp's thermal resources in rates during the Company's last GRC, Staff argues that support does not excuse or negate PacifiCorp's obligations to comply with Commission rules, orders, and CETA.⁷⁸

47 Staff recognizes that PacifiCorp faces a steep path in achieving the CETA 2030 and 2045 standards. However, Staff notes that per Commission rules, interim targets must "[d]emonstrate how the utility will make reasonable progress" towards the 2030 and 2045 CETA standards. Staff is concerned about the changes to the interim targets because PacifiCorp is proposing that it "take another four years to reach 62 percent, but then achieve an additional 18 percent in a one-year time frame."⁷⁹ Instead, Staff believes that setting a goal of 73 percent by 2029, would more realistically distribute the proposed progress. Staff states that cutting interim targets in the BCEIP by nearly 50 percent not

⁷³ Post-Hearing Brief of PacifiCorp at ¶ 22.

⁷⁴ Post-Hearing Brief of Staff at ¶ 9 ("In its Biennial Update, PacifiCorp slashed its interim targets by nearly 50 percent.").

⁷⁵ Post-Hearing Brief of Staff at ¶ 9.

⁷⁶ Reply Brief of Staff at ¶ 10.

⁷⁷ Post-Hearing Brief of Staff at ¶ 6.

⁷⁸ Reply Brief of Staff at ¶¶ 13-14.

⁷⁹ Post-Hearing Brief of Staff at ¶ 60.

only fails to demonstrate progress as required by CETA but would result in less load being served by non-emitting resources in the 2022-2025 period than in 2022.⁸⁰

- 48 As 2030 draws near, Staff sees the risk of stalled progress towards the 2030 CETA standard as outweighing the risk that PacifiCorp may come up short of its original interim target. For this reason, Staff does not support approval of PacifiCorp’s proposed changes to its interim targets.
- 49 Further, Staff argues that the Company’s projections in its BCEIP show non-emitting power trends remaining relatively flat until 2028, when significant additions of CETA compliant non-emitting resources are expected to reach 82 percent of load served by 2030. Staff contends this planned increase over such a short time is unreasonable and unlikely given the Company’s long refusal to acquire CETA compliant resources for Washington load, despite more than a decade of Commission warnings of overreliance on market purchases and frustration over the Company’s longstanding short position to serve Washington load.⁸¹
- 50 Staff maintains that the changes PacifiCorp proposes to interim targets are far greater and more concerning than those proposed by PSE, which Staff notes, the Commission rejected, and asks the Commission to similarly reject PacifiCorp’s proposed targets.⁸²
- 51 Staff argues that PacifiCorp is not meeting Washington law for pursuing resources,⁸³ specifically that CETA requires investor-owned utilities (IOUs) to “pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response.”⁸⁴
- 52 Staff points to PacifiCorp’s cancellation of the 2022 AS RFP and admission during a March 22, 2024, Open Meeting that the Company “does not have a smooth path” to meeting CETA compliance in 2030, as recent examples of the Company’s unacceptable “wait and see” approach.⁸⁵

⁸⁰ Post-Hearing Brief of Staff at ¶ 9 (*citing In re PacifiCorp’s 2021 Clean Energy Implementation Plan (CEIP)*, Docket UE-210829, CEIP Progress Report at 2, Table 1 (Jul. 3, 2023)).

⁸¹ Post-Hearing Brief of Staff at ¶¶ 11-12 (*citing In re PacifiCorp*, Docket UE-230482, Order 07 at ¶¶ 107, 133, 135-37 (Oct. 30, 2024)).

⁸² Post-Hearing Brief of Staff at ¶¶ 13-17.

⁸³ Post-Hearing Brief of Staff at ¶ 19.

⁸⁴ Post-Hearing Brief of Staff at ¶ 18 (*citing* RCW 19.405.040(6)(a)).

⁸⁵ Post-Hearing Brief of Staff at ¶¶ 19-20 (*citing* WUTC, *Recessed Open Meeting*, at 12:14:14 (Mar. 25, 2024, <https://wutc.app.box.com/v/OpenMeetings/file/1481530852585>)).

- 53 Staff also recommends rejecting PacifiCorp’s argument that the stay of the Ozone Transport Rule (OTR) should impact acceptance of the BCEIP. The Company provided this argument as a basis for ending the 2022 AS RFP, which Staff argues is merely a delay in procuring resources.⁸⁶ Staff also argues that PacifiCorp’s arguments on mootness hinge largely upon the Company’s last GRC including thermal resources in rates and the stay of the OTR. Staff notes that the stay of OTR does not require the use of thermal generation but is instead merely a pause on the rule for some jurisdictions. Staff also contends that PacifiCorp’s change in resource assumptions is a choice – contrary to Washington law – made to the detriment of Washington.⁸⁷ Staff argues the same holds true for PacifiCorp’s other justifications including wildfire liability risk and waiting for prices to come down. Staff asserts that these justifications lack support, and that there is no evidence resource procurement prices will decrease.⁸⁸
- 54 As noted above, Staff argues that PacifiCorp has a long history of failing to heed Commission warnings to close its short position for Washington, and notes that Oregon rejected the Company’s Clean Energy Plan for failure to show progress in meeting Oregon emission reduction laws.⁸⁹ Staff maintains that the Company’s disagreement with the Oregon Public Utility Commission (OPUC) decision is “absurd” and that PacifiCorp “is the only [IOU subject to such laws] asserting that renewable, non-emitting generation can only be acquired in theory.”⁹⁰ Staff also states that during this proceeding PacifiCorp has made no effort to achieve its established goals in its 2021 CEIP, instead making excuses for not procuring resources to comply with Washington law.⁹¹ Lastly, Staff cautions the Commission against affording much weight to PacifiCorp’s interpretation of least cost, least risk, in that PacifiCorp seems to indicate this is the only or strongest factor to be weighed. Staff also raises concerns that the Company’s pricing adjustments result in an overpricing of renewable and non-emitting resources when compared to standard pricing models like NREL’s.⁹² However, Staff proposed eight conditions

⁸⁶ Post-Hearing Brief of Staff at ¶ 21.

⁸⁷ Reply Brief of Staff at ¶¶ 12-13.

⁸⁸ Post-Hearing Brief of Staff at ¶ 22.

⁸⁹ Post-Hearing Brief of Staff at ¶¶ 23-25 (*citing Determination of Continual Progress in the 2023 Integrated Resource Plan and Clean Energy Plan*, Docket LC-82, Public Utility Comm’n of Oregon Redacted Staff Report at 10-11 (Aug. 8, 2024); McVee, MDM-11X at 1).

⁹⁰ Post-Hearing Brief of Staff at ¶¶ 25-26.

⁹¹ Post-Hearing Brief of Staff at ¶¶ 27-28.

⁹² Post-Hearing Brief of Staff at ¶ 31.

(Proposed Conditions) if the Commission does choose to allow PacifiCorp to adjust its interim target downward.

- 55 Public Counsel agrees with Staff and recommends that the Commission reject the BCEIP on the basis that PacifiCorp has failed to show adequate progress towards CETA’s targets.⁹³ Like Staff, Public Counsel notes PacifiCorp relied on market purchases to meet Washington load rather than procuring resources to cover Washington’s short position.⁹⁴ This procurement has now manifested itself as a failure to adequately plan for and comply with CETA.⁹⁵ Public Counsel argues the Commission should reject PacifiCorp’s filing, which would effectively revert the interim targets to those approved in 2021.⁹⁶ Further, Public Counsel describes the change in interim targets as “inadequate” and argues that the changes to interim targets in the BCEIP “[place] CETA compliance functionally out of reach”⁹⁷
- 56 Public Counsel also argues that PacifiCorp’s assertions that long-term procurement will have significant costs to ratepayers is unsubstantiated by the record and does not account for power cost benefits that would offset procurement costs.⁹⁸
- 57 Public Counsel contends that PacifiCorp is now promising “grandiose interim targets” in future filings or towards the later years of current targets to account for its current BCEIP significantly reducing interim targets in the near term, but that the Company can offer no assurance it will meet those targets.⁹⁹ Public Counsel maintains the current reduction is likely to result in PacifiCorp failing to meet CETA targets and that the Company’s deliberate past choices and systemwide IRP planning fail to account for the needs for long-term planning for Washington under CETA.¹⁰⁰ Public Counsel, like Staff, asserts that PacifiCorp’s interim targets unrealistically rely on large resource additions in 2028 through 2030, stating that a portion of this relies on the Company’s Natrium project

⁹³ Post-Hearing Brief of Public Counsel at ¶¶ 5, 8-12 (*citing* RCW 19.405.060(1)(a)(ii); *In re PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-230482, Order 07 at ¶¶ 135-37 (Oct. 29, 2024)).

⁹⁴ Post-Hearing Brief of Public Counsel at ¶ 6.

⁹⁵ Post-Hearing Brief of Public Counsel at ¶ 6.

⁹⁶ Post-Hearing Brief of Public Counsel at ¶¶ 1, 33.

⁹⁷ Post-Hearing Brief of Public Counsel at ¶ 20, Reply Brief of Public Counsel at ¶ 11.

⁹⁸ Post-Hearing Brief of Public Counsel at ¶¶ 14-16. Public Counsel notes that PacifiCorp admits closing Washington’s short position with long term procurement of renewables will stabilize power costs. *See, id.* at ¶ 16 (*citing* McVee, Tr. at 179:20-23).

⁹⁹ Post-Hearing Brief of Public Counsel at ¶ 18.

¹⁰⁰ Post-Hearing Brief of Public Counsel at ¶ 19.

coming online in 2030. Public Counsel argues this project is likely to be delayed, and that all other resource additions may face delays of their own.¹⁰¹

58 Public Counsel asserts that this strategy is a planning failure, that PacifiCorp's choice to acquire system resources ignores its obligations in Washington, and that PacifiCorp has done nothing to demonstrate a commitment to meeting CETA's targets.¹⁰²

59 RNW-NWEC argues that the Commission should require the Company to hold to its approved interim targets in the Revised 2021 CEIP and effectively reject the BCEIP.¹⁰³ RNW-NWEC agrees with Staff and Public Counsel that the Company has not demonstrated progress toward CETA mandates as required by RCW 19.405.060(1)(b)(iii).¹⁰⁴

60 RNW-NWEC notes that when PSE recently reduced its interim targets, the Commission rejected the company's backsliding, holding the utility to its 2021 CEIP targets.¹⁰⁵ As it pertains to PacifiCorp's reduced interim targets, RNW-NWEC specifically takes issue with the Company's cost assumptions and cancellation of the 2022 AS RFP.¹⁰⁶

61 RNW-NWEC argues that the Company's assumptions for renewable resource costs are "substantially higher than those found in any data source for comparable utilities."¹⁰⁷ According to RNW-NWEC, and reiterated by Staff, PacifiCorp's manipulation of model outputs is problematic and results in significantly reduced interim targets.¹⁰⁸ RNW's witness Ware discusses how Lazard's 2023 Levelized Cost of Energy+ (LCOE+) provides a tool to compare generation resources on costs, and that LCOE+ shows capital costs 32 percent and 25 percent below PacifiCorp's capital costs for solar PV and wind, respectively.¹⁰⁹ RNW-NWEC argues that no publicly available data supports the

¹⁰¹ Post-Hearing Brief of Public Counsel at ¶¶ 20-21 (*citing* Ghosh, Tr. at 331:9-17).

¹⁰² Post-Hearing Brief of Public Counsel at ¶¶ 21-25.

¹⁰³ Post-Hearing Brief of RNW-NWEC at ¶ 19.

¹⁰⁴ Post-Hearing Brief of RNW-NWEC at ¶ 21.

¹⁰⁵ Post-Hearing Brief of RNW-NWEC at ¶ 22 (*citing In re Puget Sound Energy CEIP*, Docket UE-210795, Order 12 at ¶ 11 (Mar. 25, 2024); *In re Puget Sound Energy CEIP*, Docket UE-210795, Order 14 at ¶ 10 (Nov. 8, 2024)).

¹⁰⁶ Post-Hearing Brief of RNW-NWEC at ¶¶ 23, 29.

¹⁰⁷ Post-Hearing Brief of RNW-NWEC at ¶ 23 (*citing* Ware, Exh. KW-1THC at 6:19 – 7:2, Exh. KW-3).

¹⁰⁸ Post-Hearing Brief of RNW-NWEC at ¶¶ 23-25.

¹⁰⁹ Post-Hearing Brief of RNW-NWEC at ¶ 25 (*citing* Ware, Exh. KW-1THC at 7:11 – 8:2, KW-5).

Company's renewable cost escalations.¹¹⁰ RNW-NWEC also notes that the Company's witness Ghosh admitted that the Company has received substantial feedback on its cost adders and will not be using those adders in the next CEIP filing.¹¹¹

- 62 RNW-NWEC further contends that the cancellation of the 2022 AS RFP is telling, as the Company previously identified the 2022 AS RFP as "the bedrock of the Company's supply-side procurement actions for the Revised CEIP."¹¹² RNW-NWEC argues PacifiCorp's characterization of the cancellation as irrelevant to the current planning period is seemingly at odds with the 2022 AS RFP being a "specific action" taken in support of the Revised 2021 CEIP's targets.¹¹³
- 63 RNW-NWEC asserts that while the cancellation may have been due to the stay of the OTR, without cancellation the Company would have had more reliable cost information for renewable resources.¹¹⁴ RNW-NWEC also emphasizes that the Company's use of 2020 AS RFP averages is contrary to the RFP process, in which the lowest bids are awarded contracts.¹¹⁵
- 64 RNW-NWEC also notes that the OPUC found that the Company is not demonstrating progress towards meeting Oregon's clean energy standards.¹¹⁶
- 65 On Reply, PacifiCorp argues its 7.36 GWs of renewable and non-emitting resource additions over the last ten years, with an additional 2.6 GWs anticipated to come online by 2026, demonstrate reasonable progress toward CETA goals.¹¹⁷
- 66 PacifiCorp also maintains that Staff's primary recommendation to reject the BCEIP is prohibited by Washington law, as CEIPs are required to demonstrate reasonable progress, and that those plans must be the lowest reasonable cost, considering risk.¹¹⁸ The

¹¹⁰ Post-Hearing Brief of RNW-NWEC at ¶ 26.

¹¹¹ Post-Hearing Brief of RNW-NWEC at ¶ 28 (*citing* Ghosh, Tr. at 271:19-25).

¹¹² Post-Hearing Brief of RNW-NWEC at ¶ 30 (*citing* Joint Settlement Testimony of PacifiCorp, Commission Staff, NW Energy Coalition, Sierra Club, and The Energy Project, Docket UE-210829, Stokes, Exh. JS-1T at 8:13-16).

¹¹³ Post-Hearing Brief of RNW-NWEC at ¶ 31.

¹¹⁴ Post-Hearing Brief of RNW-NWEC at ¶¶ 33, 35.

¹¹⁵ Post-Hearing Brief of RNW-NWEC at ¶ 33.

¹¹⁶ Post-Hearing Brief of RNW-NWEC at ¶ 38 (*citing* Ware, Exh. KW-7X; *In re PacifiCorp, 2023 Integrated Resource Plan*, OPUC Docket LC 82, Order No. 24-297 at 1 (Aug. 28, 2024)).

¹¹⁷ Reply Brief of PacifiCorp at ¶¶ 2-5, *see* Table 1.

¹¹⁸ Reply Brief of PacifiCorp at ¶¶ 6-7 (*citing* RCW 19.280.030(1)(j); 19.405.060(1)(b)(iii); WAC 480-100-640(1); WAC 480-100-620(11)(a)).

Company asserts Staff's focus on demonstration of progress ignores least-cost, least-risk principles, despite Staff's recognition that the 2021 Revised CEIP no longer reflects least-cost planning.¹¹⁹

- 67 PacifiCorp also reiterates its position that the Company's thermal resource assumptions reflect resources currently serving Washington, as approved in the Company's last GRC, and accordingly, Staff's contention that it was inappropriate to use the assumptions is moot.¹²⁰ The Company argues that incorporating these assumptions was the only prudent course of action given that the resources would reduce customer rates in the 2021 IRP Progress Report, and the issue of whether to include these resources in rates has been resolved.¹²¹
- 68 In reply to RNW-NWEC's arguments regarding renewable cost assumptions, the Company states that the concerns are unfounded. PacifiCorp argues that no party asserts the 2022 NREL ATB incorporates price impacts from COVID-19. The Company maintains that those cost estimates are not reasonable, and reliance on those costs would have unreasonably resulted in customers paying for 2 GWs of resources at prices not reflected in NREL pricing.¹²²
- 69 PacifiCorp next states it is "sensitive to Staff and Public Counsel's concerns regarding Washington's exposure to market purchases."¹²³ The Company also states it takes the Commission's directions on this point seriously.¹²⁴ However, the Company asserts its procurement efforts in Washington have been prudent and argues Staff and Public Counsel do not analyze or submit evidence contradicting the Company's modeling or inputs.¹²⁵
- 70 AWEC argues that the Commission should accept PacifiCorp's revised interim targets for 2023-2025 and separately argues that the Commission should not mandate specific interim targets for future years.¹²⁶ For the 2023-2025 targets, AWEC argues that ordering PacifiCorp to comply with the targets, as approved in the 2021 CEIP, would effectively

¹¹⁹ Reply Brief of PacifiCorp at ¶¶ 7-8 (*citing* Ghosh, Exh. RG-4 (Staff Responses to PacifiCorp DR 19(a) and 6)).

¹²⁰ Reply Brief of PacifiCorp at ¶¶ 19-20.

¹²¹ Reply Brief of PacifiCorp at ¶¶ 21-23.

¹²² Reply Brief of PacifiCorp at ¶¶ 25-27.

¹²³ Reply Brief of PacifiCorp at ¶ 29.

¹²⁴ Reply Brief of PacifiCorp at ¶ 29.

¹²⁵ Reply Brief of PacifiCorp at ¶¶ 29-33.

¹²⁶ Post-Hearing Brief of AWEC at ¶¶ 9-14, 24.

force PacifiCorp to make what AWEC deems as imprudent short term procurements.¹²⁷ AWEC argues these resources would be solely to meet short term interim targets and would not assist PacifiCorp in achieving CETA's 2030 mandates.¹²⁸ AWEC further argues that mandating certain targets be set in future years "predetermines" outcomes of future proceedings.¹²⁹

Commission Decision

- 71 We reject PacifiCorp's BCEIP, finding that the Company's proposed adjustments to interim targets in the BCEIP do not meet the standards in CETA, in particular RCW 19.405.060(c)(1), to demonstrate reasonable progress toward meeting the CETA standards.
- 72 At the outset, the Commission notes that we have broad discretion in whether to accept, reject, or accept with conditions CEIP and CEIP Update filings.¹³⁰ As discussed above, the appropriate standard for conducting such a review is pursuant to the factors outlined in CETA, while ensuring that the planning documents are in the public interest.
- 73 PacifiCorp's BCEIP proposes to significantly decrease interim targets during the current four-year compliance period and beyond. Rejecting the BCEIP and requiring the Company to adhere to the existing interim targets, as the other parties propose, amounts to requiring more stringent standards than the Company proposes. In determining whether to allow more stringent standards than those proposed by the Company, the Commission must consider the following:
- (i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;
 - (ii) Planning to meet the standards at the lowest reasonable cost, considering risk;
 - (iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and non-energy benefits, and the reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

¹²⁷ Post-Hearing Brief of AWEC at ¶¶ 9-14.

¹²⁸ Post-Hearing Brief of AWEC at ¶¶ 9-14.

¹²⁹ Post-Hearing Brief of AWEC at ¶ 24.

¹³⁰ RCW 19.405.060.

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.¹³¹

- 74 As discussed above, consistent with the intent of the legislature in passing CETA, we review this BCEIP in an effort to ensure planned targets and specific actions are in the public interest and comply with the mandates of CETA.¹³²
- 75 As a threshold issue, Staff and RNW-NWEC notes the Commission rejected PSE's attempts to reduce its interim targets and should therefore reject PacifiCorp's BCEIP as well.¹³³ While the Commission did reject PSE's proposed interim targets in Orders 12 and 14 in Docket UE-210795, we view the changes and related filings as distinct. First, PSE's CEIP update, while similarly required to be filed, was in part a compliance filing addressing several deficiencies found in its 2021 CEIP.¹³⁴
- 76 Further, the companies are differently situated. PSE is making progress towards meeting CETA mandates, and petitioned the Commission to reduce its targets due to the perceived need to purchase short term resources to meet its interim targets due to changes in actual versus projected median hydro conditions.¹³⁵ Importantly, these short term resources would have no bearing on changing whether PSE could reasonably meet the 2030 CETA targets, but were intended to ensure compliance with a near term interim target. In rejecting PSE's petition, we noted that interim targets are not a justification for imprudent spending on short term resources, and the Commission would consider PSE's petition and progress in assessing compliance – noting that as it applied solely to PSE's situation – “rote adherence to interim targets is not anticipated.”¹³⁶ We decide each case involving CEIP and Biennial Update targets on the specific record before us.
- 77 The situation in this proceeding is different. Unlike PSE's filing, this is not a compliance filing. Further, PacifiCorp's BCEIP poses serious questions regarding the Company's

¹³¹ RCW 19.405.060(1)(c).

¹³² Specifically, whether the plan is consistent with the public interest objectives as outlined in CETA, and RCW 80.28.425(1).

¹³³ See, Post-Hearing Brief of Staff at ¶¶ 13-17; Post-Hearing Brief of RNW-NWEC at ¶ 22 (citing *In re Puget Sound Energy CEIP*, Docket UE-210795, Order 12 at ¶ 11 (Mar. 25, 2024); *In re Puget Sound Energy CEIP*, Docket UE-210795, Order 14 at ¶ 10 (Nov. 8, 2024)).

¹³⁴ *In re Puget Sound Energy*, Docket UE-210795, Order 08 at ¶ 381 (Jun. 6, 2023).

¹³⁵ *In re Puget Sound Energy*, Docket UE-210795, Order 14 at ¶¶ 3, 6, 9-10 (Nov. 8, 2024).

¹³⁶ *In re Puget Sound Energy*, Docket UE-210795, Order 14 at ¶¶ 10-11 (Nov. 8, 2024).

ability and intent to comply with CETA and raises questions anew about the Company's modeling and resource acquisition strategy.

- 78 Given the difference in the CEIP updates proposed by PSE and PacifiCorp, and in part due to the concerns raised by Staff, Public Counsel, and RNW-NWEC, we find that it is in the public interest to reject PacifiCorp's BCEIP.¹³⁷ This is a difficult choice. The timing of this order falls near the end of the first CEIP period, when there is not much PacifiCorp can do to meet targets for prior years. Rejecting the BCEIP holds PacifiCorp to its 2021 CEIP interim targets, which the Company has made clear due to certain events and changes in circumstances, it's unlikely to achieve. Approving the Company's proposed interim targets, however, would reduce the Company's risk for noncompliance under CETA, creating a disincentive for the Company to meet CETA requirements for this four-year period and beyond.
- 79 Interim targets serve the purpose of creating guideposts and incentives for utilities to meet CETA requirements. Prior orders addressing this issue provide useful guidance. In rejecting PSE's petition for lower interim targets, the Commission concurred with Staff that "retroactively changing the target ... to match actual achievement for past years defeats the purpose of setting a target."¹³⁸ The Commission also noted that "the factors PSE cites as motivating the changes are more appropriately addressed at the end of the compliance period, and that if PSE ultimately does not meet its interim targets, the Commission has discretion in its assessment of and relief from penalties."¹³⁹ In the Commission's order approving the rules implementing CETA, specifically rules on enforcement and penalties in RCW 480-100-665, the Commission noted that "[i]nterim targets ... would be largely meaningless if the utility does not in good faith establish and comply with those targets. We expect the Commission to use discretion, as opposed to rote adherence, in enforcing the interim targets."¹⁴⁰
- 80 Thus, we are reticent to allow utilities to reduce targets to avoid compliance obligations, understanding that when it comes time for determining compliance, the Commission has discretion to consider the changed circumstances that may have occurred during the four-year period. We understand that this may have consequences for the utility as well as its customers. However, consistent with our order addressing PSE's proposal, we find that meeting interim targets is not a justification for imprudent spending on short term

¹³⁷ See, *supra* ¶¶ 46-68.

¹³⁸ *In re Puget Sound Energy*, Docket UE-210795, Order 12 at ¶ 10 (Mar. 25, 2024).

¹³⁹ *In re Puget Sound Energy*, Docket UE-210795, Order 12 at ¶ 10 (Mar. 25, 2024).

¹⁴⁰ General Order R-601, n.34.

resources, i.e., “rote adherence to interim targets is not anticipated.”¹⁴¹ As with PSE, the Commission will consider the information PacifiCorp put forward in this petition as well as the Company’s progress when assessing compliance at the end of the four-year compliance period.

- 81 In fact, many of the arguments PacifiCorp puts forward to justify lowering the interim targets focus on the factor of lowest reasonable cost, including risk, and appear focused on justifying why the Company is not likely to meet the requirements of the first compliance period. These arguments are more appropriately made in a compliance docket. While the Commission is concerned about the cost impact to customers in this proceeding, the Commission must also address other factors, including whether the Company is taking actions to meet the requirements in CETA and provide benefits to all customers. Further, decisions the Commission makes in general rate cases are not based on the Company meeting its CETA requirements, but on whether the Company has established that its requested increase in rates will result in fair, just, reasonable and sufficient rates, and whether investments in capital expenses are prudent, used and useful.
- 82 Because we reject the BCEIP, we need not reach the other parties’ proposals for conditions. However, as we discuss further below, many of the conditions and changes recommended by Staff, RNW-NWEC, CRITFC, and Public Counsel, would improve upon the BCEIP and PacifiCorp’s future CEIPs and filings, helping to course correct towards demonstrating progress under CETA’s mandates. In addition, the Company agrees to pursue many of the conditions. In particular, we note that PacifiCorp has made commitments, which we hold them to, to correct errors in modeling that resulted in renewable cost adders in the BCEIP. These changes must be made in the Company’s 2025 CEIP to aid in this course correction.¹⁴²
- 83 Turning to the change in interim targets, we recognize that the targets that PacifiCorp previously submitted, and were approved as part of the 2021 CEIP, no longer appear feasible.
- 84 The Commission also recognizes that conditions have changed since PacifiCorp initially set its CEIP interim targets. Among other changes, since the 2021 Revised CEIP was

¹⁴¹ *In re Puget Sound Energy*, Docket UE-210795, Order 14 at ¶¶ 10-11 (Nov. 8, 2024).

¹⁴² Ghosh, Tr. at 271:19-25.

approved, PacifiCorp has updated its forecasted retail electric sales; and reverted to the WIJAM for system allocation.¹⁴³ Further, PacifiCorp has updated its cost assumptions.¹⁴⁴

85 However, CETA is not aspirational. It is the law, and PacifiCorp must either comply or be subject to penalties at the end of the compliance period if no good cause exists for failure to comply. Here, PacifiCorp's revised interim targets for the period from 2023 through 2025 do not demonstrate progress or compliance with CETA. Accordingly, we reject adjustments to the interim targets for the years 2023 through 2025.

86 For the same reason, the record does not support accepting the targets proposed by PacifiCorp for the years 2026 through 2029. The Commission rejects the PacifiCorp's targets beyond 2025 and requires the Company to submit new Interim Targets for 2026-2029 in its 2025 CEIP.

87 The rejection of adjustments to targets for the years 2023 through 2025, and requirement of new targets for the years 2026 through 2029 is appropriate in the context of this filing. At issue is compliance with RCW 19.405.060, which requires a demonstration of progress towards CETA's mandates and the goals in RCW 19.405.040 and RCW 19.405.050.

88 Here, the Commission finds that adjustments to interim targets up to now is not in the public interest because PacifiCorp has not demonstrated that those changes demonstrate progress towards compliance with CETA. Further, the requirement to revise future interim targets strikes a balance between those targets originally approved in the Company's 2021 CEIP, and its revised interim targets.¹⁴⁵ This outcome accounts for planning changes made by PacifiCorp¹⁴⁶ but also takes into consideration that in making deliberate changes to its planning, PacifiCorp engaged in practices which may have artificially reduced interim targets, such as utilizing non-standard renewable energy pricing data.¹⁴⁷

89 Further, while PacifiCorp offers that it "continued to contract for CETA-compliant resources, amounting to 2,600 MWs of new CETA-compliant energy that will come online prior to 2026. ... [and that] these efforts demonstrate adequate 'progress' for

¹⁴³ Post-Hearing Brief of PacifiCorp at ¶ 23.

¹⁴⁴ Post-Hearing Brief of PacifiCorp at ¶ 23.

¹⁴⁵ See, Post-Hearing Brief of PacifiCorp at ¶ 22.

¹⁴⁶ Post-Hearing Brief of PacifiCorp at ¶ 21-23.

¹⁴⁷ See, e.g., Post-Hearing Brief of Staff at ¶ 31.

purposes of compliance with the law,” these efforts fall short.¹⁴⁸ As Staff notes in its brief, “under the WIJAM, Washington will only see approximately eight percent of this acquisition, roughly 208 MW of generation.”¹⁴⁹ The Company’s argument here amounts to stating a number as proof of statutory sufficiency under RCW 19.405.060(1)(b)(iii), and yet the Company provides little detail about the resources and how they would serve Washington customers.¹⁵⁰ More importantly, despite these efforts, PacifiCorp has revised its interim targets downwards, essentially claiming that resource acquisition is occurring and should sufficiently demonstrate progress, yet the Company is asking to reduce its rate of progress towards CETA’s goals. This is contrary to the statutory language and the demonstration of progress is lacking.

90 Additionally, we have concerns with PacifiCorp’s claims because (1) they would credit actions that do not meet CETA’s requirement of proposed actions being consistent with resource adequacy requirements;¹⁵¹ (2) the number of megawatts being added itself does not clearly demonstrate progress;¹⁵² and (3) the Company relies on claims that Natrium and other “developing technologies,” will reach market with sufficient time and sufficient cost-efficiency to validate.¹⁵³ We note that PacifiCorp’s position here, would be more tenable if we were looking for “progress” generally, instead of “progress toward” a specific standard articulated by the statute. The question is not whether the number went up, but whether it is rising fast enough. PacifiCorp suggests that, “by 2026, ... increase[ing] the percentage of electricity serving Washington customers with clean

¹⁴⁸ Post-Hearing Brief of PacifiCorp at ¶¶ 74-75.

¹⁴⁹ Reply Brief of Staff at ¶ 6.

¹⁵⁰ See also Reply Brief of RNW-NWEC at ¶ 16 (“As an initial matter, this is the first time PacifiCorp has referenced this 2,600 MW of new resources, and it is unclear where these resources come from or where they are referenced in the record.”)

¹⁵¹ Reply Brief of Staff at ¶ 6 (“Even after that, by PacifiCorp’s own admission, it acknowledges that according to its Biennial Update Washington is still short an additional 240 MWs of CETA-compliant resources.”) (*citing* Ghosh, Exh. RG-1T at 21).

¹⁵² Post-Hearing Brief of Staff at ¶ 12-14. See also Reply Brief of Staff at ¶ 7 (“Even more importantly, *the proposed interim targets in the Biennial Update are not indicative of progress.* The proposed Biennial Update leaves PacifiCorp’s interim targets in a flat line through 2025 and only slightly inclined until 2028. And things get no better after 2028.”). See also Figure 1.1 in the Biennial Update.

¹⁵³ Reply Brief of Staff at ¶ 7 (*citing* Post-Hearing Brief of PacifiCorp at 3 ¶ 9).

energy *by 9 percent*,”¹⁵⁴ is a fast enough rate to be considered progressing “toward meeting the standards.”¹⁵⁵

91 However, as discussed herein, the Company’s downward revisions in its interim targets, changes to model methodology, and past failures to procure resources that comply with Washington law undermine and strain PacifiCorp’s arguments that this is the least-cost, least risk path forward. Accordingly, we find it is in the public interest - including interests in meeting greenhouse gas reductions, promoting environmental health, ensuring all Washingtonians benefit from the transition to clean energy, and consistently implementing CETA’s language that utilities must demonstrate progress towards achieving CETA’s 2030 and 2045 targets – that we reject PacifiCorp’s change to interim targets and require the Company to propose new interim targets for the years 2026 through 2030. It is the expectation that the Company will propose new interim targets in its 2025 CEIP filing and that those new targets will demonstrate clear progress towards CETA compliance and be accompanied by meaningful, specific actions to achieve those targets.

D. PUBLIC COUNSEL’S REQUEST FOR PENALTIES

92 Pursuant to WAC 480-100-655 and RCW 19.405.060(1), Public Counsel argues that “[p]enalties are appropriate here.”¹⁵⁶ “PacifiCorp has had five years to plan to meet CETA’s clean energy goals.”¹⁵⁷ Indeed, Public Counsel posits that the proposed changes to the interim targets “are not the result of unanticipated circumstances or forces beyond its control. They are a result of core planning failures on the part of PacifiCorp.”¹⁵⁸ Public Counsel’s expert witness De Villiers opines that these failures warrant statutory penalties.¹⁵⁹ Further, witness De Villiers identifies how an analysis of the UTC Enforcement Criteria weigh against any mitigation. Put simply, Public Counsel is concerned that the failure to plan appropriately will have downstream “ratemaking impacts” which “will work profound hardship on Washington ratepayers and the future health of the environment.”¹⁶⁰ Public Counsel posits that this is not an isolated instance and that “PacifiCorp has a long history of being granted ‘significant leniency’ when it

¹⁵⁴ Post-Hearing Brief of PacifiCorp at ¶ 74.

¹⁵⁵ See 19.405.060(1)(iii).

¹⁵⁶ See Post-Hearing Brief of Public Counsel at ¶ 28.

¹⁵⁷ Post-Hearing Brief of Public Counsel at ¶ 26.

¹⁵⁸ Post-Hearing Brief of Public Counsel at ¶ 26.

¹⁵⁹ Post-Hearing Brief of Public Counsel at ¶ 29 (*citing* De Villiers, Exh. SDV-1T).

¹⁶⁰ Post-Hearing Brief of Public Counsel at ¶ 30.

comes to the issue of planning. The Commission has waived requirements, extended deadlines, and granted exemptions for PacifiCorp.”¹⁶¹ As a result of this history, Public Counsel requests the Commission impose a “penalty of \$1,000 per day -- \$365,000 a year,” as a penalty for these deficiencies.¹⁶² Public Counsel characterizes PacifiCorp as not having “altered its resource planning despite the passage of CETA, which fundamentally changed PacifiCorp’s planning environment.”¹⁶³ In Public Counsel’s view a continuous penalty is necessary to “end PacifiCorp’s willful indifference to Washington’s needs.”¹⁶⁴

- 93 PacifiCorp disagrees and asks the Commission to reject Public Counsel’s penalty proposal. PacifiCorp maintains that it has been transparent about changes to interim targets, and that its modeling shows that it will be CETA compliant in 2030.¹⁶⁵ Further, PacificCorp challenges Public Counsel’s premise that a continuous fine would be appropriate here, because of an apparent lack of notice.¹⁶⁶ Instead, PacifiCorp requests a separate proceeding should the Commission determine penalties are warranted here.¹⁶⁷ PacifiCorp rejects Public Counsel’s argument that Staff’s withdrawn complaint regarding PacifiCorp’s 2021 Revised CEIP in Docket UE-220376 indicates that PacifiCorp has a history of noncompliance, and notes that there was no finding of fault or assessment of penalties.¹⁶⁸
- 94 AWEC “understands and shares parties’ frustration that more progress toward CETA’s requirements has not been made at reasonable cost to customers, but the remedy for this, if one is needed, is the Commission’s penalty authority. The Legislature clearly identified the consequence for a utility’s failure to achieve CETA’s requirements, and it was not for the Commission to step into the managerial shoes of the utility.”¹⁶⁹
- 95 The Company makes a variety of strongly worded arguments against penalties. PacifiCorp recommends that the UTC disregard Public Counsel’s arguments related to its changing load and retail sales, given the forecasts in the CEIP Biennial Update are

¹⁶¹ Post-Hearing Brief of Public Counsel at ¶ 31.

¹⁶² Post-Hearing Brief of Public Counsel at ¶ 32.

¹⁶³ Post-Hearing Brief Reply Brief of Public Counsel at ¶ 15.

¹⁶⁴ Post-Hearing Brief Reply Brief of Public Counsel at ¶ 16.

¹⁶⁵ McVee, Exh. MDM-2T at 20:1-6.

¹⁶⁶ McVee, Exh. MDM-2T at 21:12-20

¹⁶⁷ McVee, Exh. MDM-2T at 21:11-12

¹⁶⁸ McVee, Exh. MDM-2T at 20:11-21-8.

¹⁶⁹ Post-Hearing Brief of AWEC at ¶2.

consistent with Commission-approved methodologies, which Public Counsel does not contest.¹⁷⁰ Witness Ghosh notes that issues with PacifiCorp's revised thermal resource assumptions are misplaced as those thermal resource assumptions were made to lower cost impacts to customers, and that the issue was already settled during PacifiCorp's 2023 general rate case.¹⁷¹ Finally, Ghosh rejects Earle's argument that the WIJAM has dictated resource decisions for Washington and claims that Public Counsel does not contest PacifiCorp's use of the WIJAM.¹⁷²

Commission Decision

- 96 We do not agree with Public Counsel that penalties are warranted at this time. This is not a docket to determine PacifiCorp's compliance with the first CEIP period, but a docket to consider modifications to the 2021 CEIP and interim targets. While we note that Public Counsel does not contest PacifiCorp's modeling of future CETA compliance, the Company's path towards CETA compliance grows steeper with every passing year. As Public Counsel witness De Villiers notes, if PacifiCorp does not make progress, the Company gets closer to a position where it must acquire resources "at any cost" to become compliant.¹⁷³
- 97 The Company claims it has not had adequate notice for penalties or an opportunity to provide evidence for itself.¹⁷⁴ While the statute and Commission rules governing CETA compliance should be sufficient notice for the Company that it is subject to penalties for non-compliance, we note again that this proceeding is not focused on determining whether the Company has met the terms of the Commission's order for this first compliance period or under CETA's requirements under RCW 19.405.040(1). In such proceedings, all companies should expect to be subject to penalties for failure to comply.
- 98 The Commission has the authority to issue penalties for failure to comply, both under CETA and our organic statutes.¹⁷⁵ If PacifiCorp's trajectory under its CEIP effort remains flat, the Commission will need to address penalties for non-compliance through an appropriate proceeding. The Commission is and has been willing to extend the benefit

¹⁷⁰ Ghosh, Exh. RG-2T at 19:1-10.

¹⁷¹ Ghosh, Exh. RG-2T at 20:8-21:7.

¹⁷² Ghosh, Exh. RG-2T at 21:8-22.

¹⁷³ de Villiers, Exh. SDV-1T at 9:13-10:2.

¹⁷⁴ Reply Brief of PacifiCorp at ¶¶ 52-55.

¹⁷⁵ See RCW 19.405.090 and RCW 80.04.380.

of the doubt to the Company on these issues. That cannot continue if the Company does not modify its performance.

- 99 CETA allows the Commission to approve CEIPs with conditions and may recommend or require more stringent targets (*see* RCW 19.405.060(1)(c)) including the consideration of risk relative to lowest reasonable cost. By failing to plan adequately for CETA targets – through the Company’s continued adherence to a system allocation that fails to result in resource acquisition for the Washington market – the Company risks incurring noncompliance costs.¹⁷⁶ The lack of a feasible path towards 2030 compliance can and may well result in penalties. While we would have welcomed a better showing here, the Commission declines to assess penalties at this time.

E. STAFF PROPOSED CONDITIONS

- 100 Having rejected PacifiCorp’s BCEIP, we recognize that we need not address the parties’ arguments about conditions the Commission should consider. However, as we note above, PacifiCorp has agreed to adopt many of these conditions, and we find that many of the conditions would provide helpful guidance to PacifiCorp going forward. Thus, we discuss the various proposed conditions and whether it would be appropriate to encourage PacifiCorp to adopt the parties’ recommendations. We begin with Staff’s proposed conditions.
- 101 Staff lays out eight conditions for the Commission to consider should the Commission choose not to fully reject the Company’s BCEIP. These conditions include: (1) an updated Public Participation Plan; (2) changes to allocation methodology; (3) incorporation of Inflation Reduction Act (IRA) and Infrastructure Investment Jobs Act (IIJA) modeling; (4) changes to resource acquisition, (5) including preventing the cancellation of future RFPs; (6) revised interim targets; (7) setting minimum designations and DER program design; and (8) improved incorporation of resource adequacy modeling. We will address each proposed condition individually.
- 102 PacifiCorp witness McVee testifies that the Company “does not oppose adopting aspects of Conditions 1, 7, and 8.”¹⁷⁷ Additionally, McVee believes that Condition 3 is already a

¹⁷⁶ Because we decline to impose administrative penalties, *see supra* ¶ 99, we will not reach or opine on every argument raised by the parties related to the permissibility of penalties. *See* Post-Hearing Brief of Public Counsel at ¶¶ 26-32; Reply Brief of Public Counsel at ¶¶ 15-16.

¹⁷⁷ McVee, Exh. MDM-2T at 11:18.

separate regulatory requirement and is thus unnecessary for the Commission to readdress.¹⁷⁸ McVee further testifies that PacifiCorp contests Conditions 2, 4, 5, and 6.¹⁷⁹

1. Condition 1 (Public Participation Plan)

103 Staff's Proposed Condition 1 is:

Public Participation Plan (PPP) – PacifiCorp will provide an updated public participation plan that includes the action items in the Suggested Actions section of Staff's January 11, 2024, comments filed in the docket, due by May 1, 2025, in the PPP.¹⁸⁰

104 Staff witness Simmons contends that PacifiCorp's PPP describes past actions instead of establishing a clear engagement plan going forward. Simmons states that the PPP "fails to address the inequity in engagement opportunities."¹⁸¹ Simmons also notes that the PPP is under-inclusive of limited English proficiency populations,¹⁸² appearing to focus primarily on Spanish to the exclusion of all other non-English language groups. In short, Staff argues that this specific action is insufficient and should be modified by the addition of certain conditions.

105 The action items referred to in Staff's January 11, 2024, comments include a variety of proposed changes to PacificCorp's operations to enable public participation and help ensure an equitable distribution of costs and benefits. First, Staff recommends that PacifiCorp define processes and methods to further participation and communication objectives. To facilitate this task, Staff provided the following questions for PacifiCorp:

- a. What are the issues for which the Company requires specific public input that the Company will consider at specific stages of decision-making?
- b. In what issues is early public engagement critical and required throughout the process?
- c. What are the issues for which a diverse stakeholder group needs to work on a problem and potentially seek consensus?

¹⁷⁸ McVee, Exh. MDM-2T at 11:18-21.

¹⁷⁹ McVee, Exh. MDM-2T at 11:21.

¹⁸⁰ Simmons, Exh. JNS-1HCTr at 3:18-19, 4:1-2.

¹⁸¹ Simmons, Exh. JNS-1HCTr at 12:11-13.

¹⁸² Simmons, Exh. JNS-1HCTr at 12:14-16 ("the PPP is also limited regarding inclusivity and outreach, with a primary focus on Spanish-speaking communities and a lack of diversity in cultural partnerships.").

- d. What are the issues where the company is ready to give decision-making authority partly or fully to the public?

- 106 Second, Staff asks that the Company be required to evolve beyond existing Company methods of public communication, to include reaching out to the general customer base through bill inserts, breakout rooms at CEIP public participation meetings, open houses, go-to-you meetings, and through the Company's Equity Advisory Group (EAG) partners.
- 107 Third, Staff suggests that PacifiCorp develop a comprehensive forward-looking plan that outlines specific actions and milestones for public participation throughout the CEIP period. Staff recommends that this includes the Company identifying and addressing diverse participation barriers, and continuing to work on building relationships and networks before asking for support or participation. Staff asserts that the Commission should require PacifiCorp to perform a comprehensive assessment of cultural, economic, and other barriers to participation, as well as plan to ensure that all customers, regardless of barriers, have equitable opportunity to participate in the planning process, and provide meaningful participant education. Staff emphasizes that educational initiatives should go beyond basic information sharing, ensuring participants are well-informed and engaged in the planning process.
- 108 PacifiCorp does not object to this condition.¹⁸³

Discussion

- 109 While we reject the Company's BCEIP Interim Targets, and do not impose conditions, Staff's recommended Condition 1 provides appropriate guidance for PacifiCorp in its efforts in future CEIPs, BCEIPs and other filings. In fact, PacifiCorp has indicated its support for this recommendation.
- 110 The work of equity requires clear-eyed assessment, and the framework described in this condition will support the type of institutional awareness that CETA requires. We suggest that the specific technical recommendations Staff provides would further the public interest by promoting an equitable transition to a cleaner energy system.¹⁸⁴ Staff correctly identified limitations in the Company's outreach plan.¹⁸⁵ Ensuring an equitable energy transition requires both recognition justice and procedural equity; the Company must

¹⁸³ McVee, Exh. MDM-2T at 11:22 – 12:4.

¹⁸⁴ See RCW 19.405.010 ("the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities[.]").

¹⁸⁵ Simmons, Exh. JNS-1HCTr at 12:14-16

grant opportunities for all communities to participate.¹⁸⁶ Ensuring diverse participation with the public will assist both the Company and the Commission in future equity determinations, by increasing participation and feedback. We further note that the Legislature, in other contexts of environmental justice, has articulated the importance of providing services to all limited English proficiency groups.¹⁸⁷

111 We recognize that the delay in issuing this decision has made the original timeline Staff contemplated for this condition unrealistic. Still, we encourage PacifiCorp to file a PPP consistent with the substantive requirements of Staff Condition 1, prior to its 2025 CEIP to allow participation in its development.

2. Condition 2 (Allocation Methodology)

112 Staff's Proposed Condition 2 is as follows:

Allocation Methodology – PacificCorp agrees to use only the allocation methodology approved by the Commission, which is currently the Western Interjurisdictional Allocation Methodology or WIJAM, beginning with the 2025 Integrated Resource Plan (IRP) and any future planning documents.¹⁸⁸

(a) Moreover, in its upcoming general rate case (GRC), PacifiCorp will submit several new allocation methodology options. Each option will include an increase in the proportion (from what the WIJAM currently allocates) of renewable and non-emitting resources to Washington. This new methodology must be incorporated into the next GRC, implemented by the beginning of 2026, and approved before its application in any planning dockets.¹⁸⁹

(b) In addition to presenting several different methodology options for increasing the allocation of renewable and non-emitting resources to Washington, the Company shall provide power cost modeling for each methodology option presented to allow for the evaluation of the potential rate impact of each.¹⁹⁰

¹⁸⁶ *WUTC v. Cascade Natural Gas Corp.*, Docket UG-210755, Order 09 at 18 ¶ 56 (August 23, 2022).

¹⁸⁷ RCW 70A.02040(2)(a) (reminding agencies of the need to provide “meaningful access to people with limited English proficiency . . .”).

¹⁸⁸ Simmons, Exh. JNS-1HCTr at 4:3-6.

¹⁸⁹ Simmons, Exh. JNS-1HCTr at 4:7-12.

¹⁹⁰ Simmons, Exh. JNS-1HCTr at 4:13-16.

- 113 Simmons testifies that “PacifiCorp states that changing the allocation methodology is one of the main factors leading to the reduction of its interim CETA targets.”¹⁹¹ As such, Simmons believes that a Commission order is needed to prevent any confusion as to which allocation methodology PacifiCorp should use going forward.¹⁹² Additionally, Simmons states that “the WIJAM and 2020 Protocol state that ‘If the Company determines that it is unlikely that a Post-Interim Period Method agreement will be reached before the end of the Interim Period, then the Company will propose an allocation method for the Post-Interim Period for consideration by the Commissions.’”¹⁹³
- 114 Simmons notes that an agreement on a Post-Interim Period Methodology had not been reached.¹⁹⁴ As such, Simmons opined that “ordering PacifiCorp to submit a new methodology to the Commission will fulfill this requirement in the 2020 Protocol. This is to be filed separately and must be approved by the Commission before the Company may use it in its planning documents.” We take notice that since the close of the record, PacifiCorp has filed a new allocation methodology.¹⁹⁵
- 115 Kaufman testifies that AWEC “does not necessarily oppose the portion of Staff’s Condition 2 that requires the Company to use an approved allocation methodology in future CEIP filings.”¹⁹⁶ However, Kaufman contends that “it may not be ideal for the Commission to be unnecessarily prescriptive such that flexibility in the future is removed[.]”¹⁹⁷ Kaufman testifies that AWEC “opposes the second requirement of Staff’s Condition 2 insofar as it effectively requires the Commission to predetermine outcomes in this proceeding that would be subject to a Commission decision in a future docket.”¹⁹⁸ Kaufman states that AWEC cannot support this condition in a vacuum, as it will require the Company to predetermine an allocation method.¹⁹⁹ Instead, Kaufman argues that “PacifiCorp should propose an allocation methodology supported by evidence and analysis on what is reasonable for its Washington customers, and then each party should

¹⁹¹ Simmons, Exh. JNS-1HCTr at 15:6-8.

¹⁹² Simmons, Exh. JNS-1HCTr at 15:5-8.

¹⁹³ Simmons, Exh. JNS-1HCTr at 15:9-13.

¹⁹⁴ Simmons, Exh. JNS-1HCTr at 15:13-14.

¹⁹⁵ Simmons, Exh. JNS-1HCTr at 15:14-17.

¹⁹⁶ Kaufman, Exh. LDK-1Tr at 5:17-18.

¹⁹⁷ Kaufman, Exh. LDK-1Tr at 6:3-5.

¹⁹⁸ Kaufman, Exh. LDK-1T at 6:12-14.

¹⁹⁹ Kaufman, Exh. LDK-1T at 6:17-18.

have the opportunity to respond to that proposal in due course through the proceeding.”²⁰⁰

- 116 McVee maintains that “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.”²⁰¹ McVee explains that “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.”²⁰²
- 117 McVee contends that “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.”²⁰³ McVee further asserts that “Staff’s proposal would require customers outside Washington to give up partially paid-for non-emitting resources, which provide zero fuel cost energy in addition to renewable energy certificates to meet state energy policies, renewable portfolio standards, or additional customer credits from renewable energy certificate sales.”²⁰⁴
- 118 Staff addresses these contentions by highlighting the Commission’s statutory authority to regulate in the public interest utility service for compensation “within this state.”²⁰⁵ Staff notes that when PacifiCorp argued to the U.S. District Court for the Western District of Washington, attempting to challenge Climate Commitment Act costs, the Company acknowledged that Commission approval of rates in this state did not and could not pass such costs on to non-Washington customers. Further, that court noted one of the Commission’s past decisions relating to the 2006 Revised Protocol and the order denying the application of that methodology, which stated that PacifiCorp “bears the risk of inconsistent allocation methods adopted by the states. In short, any claim of entitlement to a uniform allocation methodology among the states is inconsistent with the ‘deal’

²⁰⁰ Kaufman, Exh. LDK-1T at 6:18-21.

²⁰¹ McVee, Exh. MDM-2T at 13:3-5.

²⁰² McVee, Exh. MDM-2T at 13:17-19.

²⁰³ McVee, Exh. MDM-2T at 14:3-7.

²⁰⁴ McVee, Exh. MDM-2T at 14:8-12.

²⁰⁵ Post-Hearing Brief of Staff at ¶ 46.

[PacifiCorp] agreed to in the merger [with Utah Power].”²⁰⁶ In short, Staff highlights that there is no requirement that the Commission reach consensus with the other utility commissions – as that was explicitly the cost of the merger’s approval.²⁰⁷

119 Additionally, McVee testifies that “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.”²⁰⁸ However, McVee advocates that the Commission reject the rest of Staff’s Proposed Condition 2.²⁰⁹ Put more directly in its briefing, “Staff’s Condition 2 is either unconstitutional, or it lacks record evidence and would improperly limit the Commission’s ability to consider more cost-effective, less-risky allocation methodologies[.]”²¹⁰

120 However, the Company notes:

PacifiCorp and Staff may be talking past each other on this issue. PacifiCorp is not concerned with using the current Commission-approved allocation methodology for each CEIP. While this condition limits the Commission’s flexibility and discretion in the future, the Company has no strong concerns with this requirement. Nor is PacifiCorp concerned, generally, with a requirement to submit a new allocation methodology in the future, as PacifiCorp already has several independent obligations to do so.²¹¹

²⁰⁶ *PacifiCorp v. Washington Utils. & Transp. Comm’n*, 194 Wash.App. 571, 580, 376 P.3d 389 (2016) (citing the Commission’s rejection of the Revised Protocol in *Wash. Utils & Transp. Comm’n v. PacifiCorp d/b/a Pac. Power & Light Co.*, Dockets UE-050684 & UE-050412, Order 04/03 at ¶ 56 (Apr. 17, 2006)).

²⁰⁷ Post-Hearing Brief of Staff at ¶¶ 48-49.

²⁰⁸ McVee, Exh. MDM-2T at 15:14-16.

²⁰⁹ McVee, Exh. MDM-2T at 15:16-18.

²¹⁰ Reply Brief of PacifiCorp at 4. We note that PacifiCorp makes a variety of arguments related to the Dormant Commerce Clause in its Reply brief. *See* Reply Brief of PacifiCorp at ¶¶ 10-18. However, we choose to not rigorously engage in that discussion, given PacifiCorp’s characterization of CETA as being simple economic protectionism, without due consideration to the Act’s explicit consideration of ecology, equity, and all of the ways that climate change affects the health and welfare of Washingtonians. *See also Bibb v. Navajo Freight Lines*, 359 U.S. 520, 524 (“Unless we can conclude on the whole record that ‘the total effect of the law as a safety measure in reducing accidents and casualties is so slight or problematical as not to outweigh the national interest in keeping interstate commerce free from interferences which seriously impede it’ ... we must uphold the statute.”).

²¹¹ Reply Brief of PacifiCorp at 4.

Discussion

121 While we reject the Company’s BCEIP Interim Targets, and do not impose conditions in this Order, the first part of Staff’s recommended Condition 2 is consistent with direction the Commission has provided in prior orders. Thus, we encourage the Company to follow this recommendation. PacifiCorp has indicated its support for this portion of the recommendation. In fact, as Staff and the Company recognize, the Commission has already directed the Company to file a new allocation methodology to replace WIJAM; the Company has in fact has filed a proposed methodology which is currently subject to Commission review and adjudication in a separate docket.²¹²

3. Condition 3 (IRA/IIJA Modeling)

122 Staff’s Proposed Condition 3 is as follows:

IRA and IIJA Modeling – PacifiCorp will follow the Commission’s policy statement in Docket U-240013 regarding the Inflation Reduction Act (IRA) and Infrastructure Investment Jobs Act (IIJA) implementation into the planning process. Due: Starting in the 2025 IRP (due March 31, 2025), CEIP (due October 1, 2025), and beyond.²¹³

123 PacifiCorp does not object to this condition but posits that it is not necessary because U-240013 already exists.²¹⁴ Staff responds by noting that under the State Administrative Procedure Act, interpretive and policy statements are “advisory only,” which reflect “the current approach of an agency” in implementing a law.²¹⁵ As such, they do not carry the force of law; the guidance issued by the Commission in U-240013 regarding the IRA and IIJA are by their nature not binding regulatory requirements.²¹⁶

Discussion

124 While we do not impose conditions in this Order, having reviewed Staff’s recommended Condition 3, we encourage PacifiCorp to adopt the guidance in Staff’s recommendation. the Company has indicated that it does not object to the Staff’s recommendation.²¹⁷ We recognize that the guidance contained in Docket U-240013 is not binding. However,

²¹² See, Docket UE-250224.

²¹³ Simmons, Exh. JNS-1HCTr at 4:17-18, 5:1-3.

²¹⁴ Post-Hearing Brief of PacifiCorp at ¶ 45.

²¹⁵ RCW 34.05.230(1); RCW 34.05.010(15).

²¹⁶ See Post-Hearing Brief of Staff at ¶¶ 44-45.

²¹⁷ Post-Hearing Brief of PacifiCorp at ¶¶ 44-45.

because of concerns raised over the Company's resource planning in recent years, it is appropriate to reinforce that guidance for PacifiCorp through this Order.

4. Condition 4 (Order Resource Acquisition Plan)

125 Staff's Proposed Condition 4 is as follows:

4. Resource Acquisition – PacifiCorp shall submit a plan detailing how – and on what timeline – resource needs will be met, including:²¹⁸
 - a. How PacifiCorp is going to meet 2030 CETA standards;²¹⁹
 - b. How it intends to acquire resources to fulfill that plan outside of the 2022 all-source request for proposals (ASRFP);²²⁰
 - c. What resources the Company has already acquired, in nameplate MWs and projected annual MWh (both total and Washington customer allocated per WIJAM);²²¹
 - d. When the projected resources are expected to be online (i.e., commercial operation dates) for new resources, or contract start dates for existing resources;²²²
 - e. An outline of the steps taken to ensure equity is considered throughout the acquisition process;²²³
 - f. An outline of all steps taken to ensure that the acquisition of resources occur at the lowest reasonable cost;²²⁴ and
 - g. The plan shall be due 90 days after the final order is issued.²²⁵

126 Staff's Proposed Condition 4 requires PacifiCorp to submit a detailed plan of how the Company intends to meet the 2030 CETA mandate, given the Company's history of not acquiring resources identified as needed in the 2021 IRP.²²⁶ PacifiCorp argues that this

²¹⁸ Simmons, Exh. JNS-1HCTr at 5:4-5.

²¹⁹ Simmons, Exh. JNS-1HCTr at 5:6.

²²⁰ Simmons, Exh. JNS-1HCTr at 5:7-8.

²²¹ Simmons, Exh. JNS-1HCTr at 5:9-11.

²²² Simmons, Exh. JNS-1HCTr at 5:12-14.

²²³ Simmons, Exh. JNS-1HCTr at 5:15-16.

²²⁴ Simmons, Exh. JNS-1HCTr at 5:17-18.

²²⁵ Simmons, Exh. JNS-1HCTr at 5:19.

²²⁶ Post-Hearing Brief of Staff at ¶ 54.

condition is duplicative of the 2025 CEIP.²²⁷ Staff, however, argues this condition is to address the Company's delayed pursuit of needs it identified in 2021, and which were not addressed due to the Company's decision to cancel the 2022 AS RFP.²²⁸

Discussion

- 127 While we do not impose conditions in this Order, having reviewed Staff's recommended Condition 4, we encourage PacifiCorp to adopt the guidance in Staff's recommendation. We recognize the Company's concerns that following Staff's recommendation may result in duplication in its efforts to develop the 2025 CEIP. However, PacifiCorp has a history of not addressing Washington-specific needs.²²⁹ Staff's recommendation is intended to address the Company's failure to respond to the Commission's concerns about PacifiCorp's system-wide planning and overreliance on markets to close its short position in Washington state.
- 128 Because we encourage the Company to adopt this recommendation and do not condition the Order on the Company doing so, we recognize that the timing of this Order makes it reasonable for the Company to report on its efforts to follow Staff's proposed Condition 4 in its 2025 CEIP filing, and conduct a complete analysis by the 2027 CEIP update.
- 129 Further, in consideration of our discussion of Proposed Condition 2 above, we interpret Proposed Condition 4's reference to "WIJAM" to refer to whichever system allocation methodology the Commission approves.

5. Condition 5 (Prohibit Cancellation of Next ASRFP)

- 130 Staff's Proposed Condition 5 is as follows:

2025 Resource Acquisition – PacifiCorp shall not cancel, suspend, or terminate any RFP that originates from resource needs identified in the 2025 IRP. All prudency decisions will be determined by the Commission in a general rate case or other appropriate filing such as annual power cost adjustment filings.²³⁰

- 131 Staff's Proposed Condition 5 would prohibit PacifiCorp from terminating, cancelling, or suspending any RFP resulting from the 2025 IRP. Staff is not asking that the Company be required to procure resources; but instead to remain open to the opportunity to receive

²²⁷ McVee, Exh. MDM-2T at 16:8-15.

²²⁸ Post-Hearing Brief of Staff at ¶ 55.

²²⁹ *Supra* ¶ 54.

²³⁰ Simmons, Exh. JNS-1HCTr at 6:1-5.

resource bids. Ultimately, any investments will be subject to a prudency review in an appropriate filing.²³¹

- 132 Simmons testifies that “assuming the Company’s 2025 IRP demonstrates a near-term resource need, PacifiCorp will still be required to issue an all-source RFP per rule.”²³² Simmons notes that Staff’s proposed condition will “prevent the Company from canceling, suspending, or terminating that RFP as it did with its 2022 ASRFP, [which] will guarantee the Company is evaluating bids for needed resources that are CETA-compliant.”²³³ Based on the response from the Company, Simmons believes that “if the required ASRFP is issued, and cannot be ended prematurely, the Company will choose to obtain cost-effective resources over no resources at all.”²³⁴
- 133 PacifiCorp “does not have material concerns with this condition.”²³⁵
- 134 AWEC’s Kaufman stated that their “concern with Staff Condition 5 is...that it again seeks to constrain future outcomes, which unreasonably shifts risk to PacifiCorp’s customers.”²³⁶ Kaufman explains that “circumstances may come to pass in the future that nevertheless warrant cancellation, suspension or termination of a future RFP stemming from the Company’s 2025 IRP. Aside from whether the Commission retains the legal authority to impose and enforce this condition, it should not do so as a matter of policy.”²³⁷
- 135 To the extent that this condition becomes onerous, as discussed in the hearing, Staff notes that PacifiCorp has procedural options it could pursue.²³⁸

²³¹ Post-Hearing Brief of Staff at ¶ 56.

²³² Simmons, Exh. JNS-1HCT at 27:12-13.

²³³ Simmons, Exh. JNS-1HCTr at 27:14-17.

²³⁴ Simmons, Exh. JNS-1HCTr at 27:12-19.

²³⁵ McVee, Exh. MDM-2T at 18:8-9. *See also* McVee, Exh. MDM-2T at 18:3-7 (“[I]n subsequent DRs, Staff appears to have confirmed that: it is not recommending that the Commission require PacifiCorp to procure resources; that the recommendation to issue an RFP is limited to only if the 2025 IRP demonstrates a resource need within four years; and that Staff is not recommending either a state specific or system-specific RFP.”).

²³⁶ Kaufman, Exh. LDK-1T at 7:11-12.

²³⁷ Kaufman, Exh. LDK-1T at 7:15-19.

²³⁸ Simmons, TR. at 342:23 – 344:16.

Discussion

136 While we do not impose conditions in this Order, having reviewed Staff's recommended Condition 5, we encourage PacifiCorp to adopt the guidance in Staff's recommendation.

137 The Company has consistently failed to heed Commission warnings to close Washington's short position and procure non-emitting resources consistent with Washington law. Accordingly, we believe it is appropriate to encourage PacifiCorp to take specific actions, in the form of issuing an RFP – and ideally not cancelling that RFP – to demonstrate meaningful progress towards meeting CETA's requirements.²³⁹

138 It is important to note that the Commission is encouraging that the Company undertake this process but does not extend this encouragement to PacifiCorp purchasing resources from the bids that it may receive.²⁴⁰ If, however, the Company chooses to cancel this RFP, the Commission requests the Company provide the Commission with a written explanation within 45 days of cancellation.

6. Condition 6 (Interim Targets as binding)

139 Staff's Proposed Condition 6 is as follows:

Interim Targets – PacifiCorp's 2025 CEIP will include a 2029 interim target of at least 73 percent of retail sales supplied by non-emitting and renewable resources, as modeled in its Revised 2021 CEIP. Due: 2025 CEIP, on or before October 1, 2025.²⁴¹

140 Staff proposes changing these targets because it is “not confident that PacifiCorp can truly achieve 80 percent renewable, non-emitting [generation] in 2030 if it currently plans to take another four years to reach 62 percent, but then achieve an additional 18 percentage in a one-year time frame.”²⁴²

141 The Company is willing to agree to 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.”²⁴³ McVee explains that “this would not only be consistent with Washington law... but would also be reasonable to

²³⁹ See WAC 480-100-665(3)(c).

²⁴⁰ See *supra* fn. 235.

²⁴¹ Simmons, Exh. JNS-1HCTr at 6:6-9.

²⁴² Post-Hearing Brief of Staff at ¶ 60.

²⁴³ McVee, Exh. MDM-2T at 19:5-8.

ensure Washington customers do not shoulder the cost of unnecessarily increased compliance costs.”²⁴⁴ Absent this concession, PacifiCorp asserts that “Staff’s Primary Recommendation and Alternative Condition 6 are prohibited by Washington law.”²⁴⁵

- 142 Staff asserts strongly that PacifiCorp should not be granted the power to revise future targets or guarantee cost recovery for procurement.²⁴⁶ The ability to further change targets, amounts to an unnecessary “escape valve” that parallels existing rules.²⁴⁷ Moreover, Staff is concerned that a guarantee of cost recovery for a to-be-determined procurement “decision would violate existing Commission policy, state law, and established case law.”²⁴⁸
- 143 Simmons testifies that Staff “used the modeled interim targets data from PacifiCorp’s 2021 Revised CEIP in which the modeled interim target for the year 2029 is 73 percent.”²⁴⁹ Simmons further testifies that “the BCEIP is modeled to achieve 62 percent CETA compliance by 2029. While this does represent progress from the proposed BCEIP interim targets for the current (2023-2025) compliance period, it represents a significant reduction in progress when compared to the approved interim targets in the Company’s 2021 CEIP.”²⁵⁰ Simmons explains that “the modeled interim target for 2029 in the BCEIP is 11 percent less than what was set in the original 2021 CEIP. Allowing such drastic changes to the interim targets effectively negates any progress toward CETA compliance.”²⁵¹
- 144 Kaufman explains that “like Staff Conditions 2 and 5, my concern with Staff Condition 6 is that it predetermines the outcome of PacifiCorp’s 2025 CEIP, or in the very least, asks the Company to file with a particular outcome regardless of what its analysis

²⁴⁴ McVee, Exh. MDM-2T at 19:8-12.

²⁴⁵ Reply Brief of PacifiCorp at ¶¶ 6-9.

²⁴⁶ Post-Hearing Brief of Staff at ¶ 61 (citing McVee, Exh. MDM-2T at 19:5-6).

²⁴⁷ Post-Hearing Brief of Staff at ¶ 61 (citing WAC 480-07-875(1)(a)-(b)).

²⁴⁸ Post-Hearing Brief of Staff at ¶ 61 (citing *In the Matter of the Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used and Useful after Rate Effective Date*, Docket No. U-190531, Policy Statement on Property that Becomes Used and Useful after Rate Effective Date (Jan. 31, 2020); RCW 80.04.130(1), (4); *People’s Org. for Wash. Energy Resources v. Wash. Utils & Transp. Comm’n*, 101 Wash.2d 425, 430, 679 P.2d 922 (1984); *People’s Org. for Wash. Energy Resources v. Wash. Utils. & Transp. Comm’n*, 104 Wash.2d 798, 711 P.2d 319 (1985)).

²⁴⁹ Simmons, Exh. JNS-1HCTr at 25:5-6.

²⁵⁰ Simmons, Exh. JNS-1HCTr at 25:10-13.

²⁵¹ Simmons, Exh. JNS-1HCTr at 25:13-16.

demonstrates are reasonable interim targets in order to meet CETA requirements.”²⁵² Kaufman further testifies that “as a matter of policy, the Company should undertake the process of analyzing and considering – based on....all relevant evidence prior to developing interim targets for its 2025 CEIP. While a 73 percent interim target may be an outcome of that process, mandating that outcome in this case comes at a risk to customers.”²⁵³ Kaufman concludes that “the Commission’s approval of this condition would also effectively predetermine the outcome of its decision on PacifiCorp’s 2025 CEIP, because the Company’s filing will simply have been following a Commission mandate from this proceeding.”²⁵⁴

Discussion

145 While we do not impose conditions in this Order, we do review the parties’ recommended conditions to see if they provide appropriate guidance to the Company.

146 As we discuss above, the Commission will consider compliance with CETA on an ongoing basis, and will further consider compliance and factors impacting compliance with interim targets at a later date.

7. Condition 7 (Set Minimum Designations for Energy Benefits)

147 Staff’s Proposed Condition 7 is as follows:

Minimum Designation and Program Design – The Company will work with Advisory groups to designate at minimum 27% of benefits measured across each component of distributed energy resources to flow to named communities during the 2026-2029 compliance period. Due: 2025 CEIP, on or before October 1, 2025.²⁵⁵

148 PacifiCorp agrees to this term but believes it should be non-binding on the basis that “actual customer participation is outside the Company’s control.”²⁵⁶

149 Staff responds to the Company’s concern directly by clarifying the scope of the term:

Staff disagrees with this amendment as customer participation will not impact the Company’s ability to meet the condition, when the condition is interpreted as follows. As stated in the condition list, the minimum

²⁵² Kaufman, Exh. LDK-1T at 8:18-21.

²⁵³ Kaufman, Exh. LDK-1T at 9:2-6.

²⁵⁴ Kaufman, Exh. LDK-1T at 9:7-10.

²⁵⁵ Simmons, Exh. JNS-1HCTr at 6:10-14.

²⁵⁶ McVee, Exh. MDM-2T at 12:9-10.

designation is based on the benefits derived from the amount of customers participating. For example, if customer participation results in 30 percent of benefits, then 27 percent of those benefits will flow to Named Communities. Conversely, if customer participation is low and leads to the generation of no benefits, 0 percent will flow to Named Communities. As such, the condition does not require the Company to recruit customers to participate in EE or DR programs, it requires the Company to designate whatever portion of benefits result from existing or future participation in those programs to flow to Named Communities.²⁵⁷

- 150 NWEC acknowledges that the “Company’s Customer Benefit Indicator (CBI) metric/condition 3 . . . incorporates directionality (i.e. “increase”).”²⁵⁸ However, NWEC notes that “directionality is not the same as a minimum participation goal. Directionality can be achieved with minimal increase to participation while a minimum participation goal can help drive a meaningful increase in named community participation.”²⁵⁹ NWEC argues that PacifiCorp should be held to the same 30% standard that was set for PSE.²⁶⁰ NWEC posits that this number closely aligns to the proportion of customers identified to be in deepest need.²⁶¹
- 151 TEP witness Stokes “strongly support[s] the recommendations regarding Minimum Designations and DER Program Design made by Witness Thompson.”²⁶² Stokes testifies that “PacifiCorp should set minimum designations for each of its DER program offerings. Low-income customers and customers who reside in named communities face significant barriers to participation in utility programs. Requiring utilities to provide a specific amount of benefits from their DER programs ensures that these benefits ultimately flow to those hard-to-reach communities.”²⁶³ TEP “also agree with Witness Thompson’s recommendation that the minimum designation be set at 30%.”²⁶⁴
- 152 CRITFC supports RNW-NWEC and TEP in their request that a minimum designation of distributed energy benefits flow to Named Communities. CRITFC specifically recommends a 30 percent designation to Named Communities, citing alignment with

²⁵⁷ Post-Hearing Brief of Staff at ¶ 42.

²⁵⁸ Thompson, Exh. CT-1T at 12:11-13.

²⁵⁹ Thompson, Exh. CT-1T at 12:13-18.

²⁶⁰ Thompson, Exh. CT-1T at 9:7-9.

²⁶¹ Thompson, Exh. CT-1T at 6:20-24 and at 7:1-2.

²⁶² Stokes, Exh.SNS-1T at 3:7-9.

²⁶³ Stokes, Exh.SNS-1T at 4:16-20.

²⁶⁴ Stokes, Exh.SNS-1T at 4:20-21.

public interest goals and the principles of CRITFC's *2022 Energy Vision*.²⁶⁵ CRITFC raises concerns that any designation less than 30 percent risks undercounting Named Communities and only meets the target for equal benefits to customers, which is not aligned with CETA's standard for equitable distribution of benefits.²⁶⁶ CRITFC reasons that Staff's recommendation of 27 percent is based upon highly impacted communities but does not account for vulnerable populations who may reside outside of these communities.²⁶⁷

Discussion

153 While we do not impose conditions in this Order, having reviewed Staff's recommended Condition 7, we encourage PacifiCorp to adopt the guidance in Staff's recommendation. It is clear from the record in this proceeding that setting the minimum designation in Staff's Proposed Condition 7 will help PacifiCorp to achieve an equitable energy transition for its customers in Washington.²⁶⁸

154 CRITFC, RNW-NWEC, and TEP asked for a minimum designation of 30%; whereas Staff asked for 27%. Staff puts forth the argument that 27% aligns most closely with PAC's Washington territory.²⁶⁹ We agree. Further, while we acknowledge that this percentage is different than the one set in PSE's recent case, that is the result of a difference in customer bases.

155 Given that the Company suggests that it is already required to abide by Staff's Proposed Condition 7, we expect the Company to follow through by discussing the energy benefits of this minimum designation in its 2025 CEIP, and to apply the 27% minimum designation for each DER program (DER solar, DER storage, DR, and EE) in the Company's 2027 BCEIP, , including a complete narrative of the Company's achievement of the 27% designation in the 2027 BCEIP.

²⁶⁵ Post-Hearing Brief of CRITFC at ¶ 39.

²⁶⁶ *Id.* at ¶ 41.

²⁶⁷ *Id.*

²⁶⁸ Thompson, Exh. CT-1T at 7:4-8. ("minimum designations are one of the simplest and clearest ways to ensure that the energy benefits of PacifiCorp's DER programs are equitably distributed. Unlike other methods such as bolstered utility marketing and outreach, minimum designations guarantee that a certain amount of capacity or energy resources will directly benefit underserved communities.").

²⁶⁹ Post-Hearing Brief of Staff at ¶ 41 ("Staff recommends 27 percent as the starting point since PacifiCorp reported that Highly Impacted Communities make up 27.3 percent of its service territory.") (*citing* Simmons, Exh. JNS-1HCTr at 37:11-16.)

8. Condition 8 (Resource Adequacy)

156 Staff's Proposed Condition 8 is as follows:

Resource Adequacy – PacifiCorp will provide additional narrative and any supporting work papers on capacity calculation regarding any resource for which effective load carrying capacity (ELCC) is not used. The Company must include a qualitative and quantitative analysis showing how the other method improves the time dynamic aspects of its firm capacity calculations and explain if there are any other incremental improvements to the Company's previous methods and metrics. Due: This directive applies to all subsequent CEIP-related documents and IRPs 2025 and beyond.²⁷⁰

157 Simmons testifies that "the Company should demonstrate that it is incorporating a resource adequacy methodology that considers all time-dynamic aspects of the resource mix required under CETA."²⁷¹ Simmons explains that "the ELCC does this, but if another methodology is used, Staff will need a detailed description of that method to ensure that generator sizing, seasonal variability, historical lookbacks, and other reliability metrics have been considered consistent with best practices."²⁷²

158 Staff further argues that:

ELCC is the best practice for measuring carrying capacity, which feeds into an assessment of how much a resource can generate and, therefore, the capacity and reliability of the system. ELCC is typically used with wind and solar, but as PacifiCorp employs thermal resources Staff wants to see this method applied to analysis of those resources, and if ELCC is not used, an explanation of how capacity of these resources is measured. This condition is essential to ensuring that PacifiCorp's resources adequately meet need, and that the system meets long-term needs in reliably supplying power to customers.²⁷³

159 PacifiCorp agrees to comply with the substance of this condition.²⁷⁴

²⁷⁰ Simmons, Exh. JNS-1HCTr at 6:15-20, 7:1-2.

²⁷¹ Simmons, Exh. JNS-1HCTr at 41:2-4.

²⁷² Simmons, Exh. JNS-1HCTr at 41:4-7.

²⁷³ Post-Hearing Brief of Staff at ¶ 43.

²⁷⁴ McVee, Exh. MDM-2T at 11:18 ("PacifiCorp does not oppose adopting aspects of Conditions 1, 7, and 8."); McVee, Exh. MDM-2T at 12:13-16 ("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.").

Discussion

- 160 While we do not impose conditions in this Order, having reviewed Staff's recommended Condition 8, we encourage PacifiCorp to adopt the guidance in Staff's recommendation. Staff's proposed Condition 8 seems to us appropriate for the Company to include in its 2025 CEIP and beyond, and the Company does not object to it.²⁷⁵
- 161 As Staff witness Simmons discusses in the testimony quoted above, the Company's long term planning and adequate resource planning would benefit from more specific analysis of the ELCC, or some other analysis that considers all time-dynamic aspects of the resource mix required under CETA. We expect the Company to apply best practices for measuring the carrying capacity of its thermal resources, so as to better assess the reliability of the system. PacifiCorp's incorporation of Staff's proposed Condition 8 in its upcoming CEIP and future filings will further the "energy security and resiliency" of the system by improving the data upon which the Commission makes future assessments.²⁷⁶ Doing so should have the effect of making risk assessments more accurate, which should further the public interest by informing future cost/risk assessments.²⁷⁷

F. INTERVENOR RECOMMENDED CONDITIONS

- 162 In addition to the conditions recommended by Staff, RNW-NWEC and TEP separately request the Commission impose various conditions. RNW-NWEC specifically requests that the Commission order PacifiCorp to initiate a near-term resource procurement process and to make certain amendments to the DER program design as discussed below.²⁷⁸ TEP supports RNW-NWEC's recommendations concerning the DER program design, with the addition that TEP recommends "preserving the low-income weatherization program's income eligibility criteria..."²⁷⁹

I. Mandate an RFP

- 163 RNW-NWEC recommends that the Commission require PacifiCorp to conduct near-term resource procurement through an RFP to address PacifiCorp's reduction in interim targets

²⁷⁵ McVee, Exh. MDM-2T at 12:13-16.

²⁷⁶ RCW 19.405.010(6) ("The legislature recognizes that the public interest includes, but is not limited to: . . . energy security and resiliency.")

²⁷⁷ RCW 19.405.010(6) ("The legislature recognizes that the public interest includes, but is not limited to: . . . reduction of costs and risks.")

²⁷⁸ Post-Hearing Brief of RNW-NWEC at ¶¶ 49, 52, 61.

²⁷⁹ Stokes, Exh. SNS-1T at 6:23 – 7:1.

and concerns for whether PacifiCorp can meet CETA targets.²⁸⁰ This is separate from Staff's Proposed Condition 5. PacifiCorp and AWEC request the Commission disregard the recommendation and argue that the Commission lacks authority to direct PacifiCorp to engage in State-directed procurement.²⁸¹

- 164 In support of its recommendation, RNW-NWEC argues that interim targets are meant to demonstrate progress towards meeting CETA targets, and that CEIPs and BCEIPs must include specific actions that the utility will undertake to achieve those goals.²⁸² RNW-NWEC asserts that the Company's BCEIP interim targets and testimony show that without new technologies coming online, the Company will not be able to make its stated 20 percent leap between 2029 and 2030, and will instead have to rely on CETA's "off ramp."²⁸³
- 165 RNW-NWEC contends that given the circumstances in this case and PacifiCorp's actions, the Commission has authority and discretion to regulate in the public interest and "require more stringent targets than those the utility proposes."²⁸⁴ RNW-NWEC maintains that CETA recognizes that "utilities in the state have an important role to play in this transition, and must be fully empowered, through regulatory tools and incentives, to achieve the goals of this policy."²⁸⁵ Paired with the Commission's organic statute, RNW-NWEC asserts the Commission is empowered to grant the requested relief.²⁸⁶
- 166 RNW-NWEC argues that given the number of challenges PacifiCorp faces, and its lack of commitment to pursuing a 2025 RFP, that the Company would benefit from "Commission direction to 1) make progress now, not later, toward CETA's 2030

²⁸⁰ Post-Hearing Brief of RNW-NWEC at ¶¶ 51-52.

²⁸¹ Reply Brief of PacifiCorp at ¶¶ 38-43; Reply Brief of AWEC at ¶¶ 2-6.

²⁸² Post-Hearing Brief of RNW-NWEC at ¶ 42 (*citing* WAC 480-100-640(2), (5)-(6)).

²⁸³ Post-Hearing Brief of RNW-NWEC at ¶ 43 (*citing* Ghosh, Tr. at 282:6 – 283:4; McVee, Tr. at 239:16-21).

²⁸⁴ Post-Hearing Brief of RNW-NWEC at ¶ 46 (*citing* *People's Org. for Washington Energy Res. v. WUTC*, 104 Wash. 2d 798, 808, 711 P.2d 319, 325 (1985); RCW 19.405.010(5); WAC 480-100-645(2)).

²⁸⁵ RCW 19.405.010(5).

²⁸⁶ Post-Hearing Brief of RNW-NWEC at ¶ 47 (*citing* RCW 19.405.010(5); RCW 80.01.040(3)). RNW-NWEC also cites to the Commission's authority to promulgate and issue rules and duty to enforce the provisions of all acts affecting public service companies in support of its position. *Id.* (*citing* RCW 80.04.160; RCW 80.04.470).

mandate, 2) prioritize compliance with state policies during resource planning, and 3) improve the level of transparency in its planning.”²⁸⁷

- 167 On reply, PacifiCorp argues that RNW-NWEC’s brief does not cite any authority in CETA to mandate procurement, and instead relies on legislative findings in RCW 19.405.010(5), the Commission’s organic statute, and general powers of the Commission.²⁸⁸ The Company asserts that legislative findings are not binding, but serve as a guide in understanding the intent of statute, such that the Commission cannot rely on a statement of intent to override unambiguous elements of CETA.²⁸⁹
- 168 Further, PacifiCorp states that the legislative intent RNW-NWEC cites to pertains to utilities and empowering utilities and does not pertain to the Commission, whose powers are discussed later in the same statutory provision.²⁹⁰
- 169 PacifiCorp also contends that the Commission should reject RNW-NWEC’s proposal as bad policy, arguing that the Commission would be stepping in as a manager of utility operations, potentially limiting the ability to conduct prudency evaluations, and creating various other issues including scoping the RFP, liability, and sovereign immunity.²⁹¹
- 170 AWEC opposes RNW-NWEC’s proposal on similar grounds, and asserts that RCW 19.405.010(5) supports utilities remaining in the “driver’s seat” when it comes to resource procurement decisions.²⁹² AWEC argues that CETA provides the Commission with enforcement capabilities and authority to address non-compliance, but does not include fashioning a remedy in the manner suggested by RNW-NWEC.²⁹³ AWEC asserts that RNW-NWEC’s proposal has broader implications, such that granting the proposal under RNW-NWEC’s reading of the statutes gives the Commission “effective managerial authority over a utility...”²⁹⁴

²⁸⁷ RNW-NWEC Post-Hearing Brief, at ¶¶ 50-51.

²⁸⁸ Reply Brief of PacifiCorp at ¶ 37.

²⁸⁹ Reply Brief of PacifiCorp at ¶ 39 (*citing State v. Van Wolvelaere*, 195 Wn.2d 597, 607, 610(2020) (quoting *State v. Alvarez*, 74 Wn. App. 250, 258 (1994)); *State v. Evans*, 177 Wn.2d 186, 192 (2013) (“Plain language that is not ambiguous does not require construction.”)).

²⁹⁰ Reply Brief of PacifiCorp at ¶ 40 (*citing* RCW 19.405.010(5)).

²⁹¹ Reply Brief of PacifiCorp at ¶¶ 43-49.

²⁹² Reply Brief of AWEC at ¶ 3.

²⁹³ Reply Brief of AWEC at ¶ 4. AWEC cites similar arguments made in relation to Staff’s Proposed Condition 5, *see* Post-Hearing Brief of AWEC at ¶ 20.

²⁹⁴ Reply Brief of AWEC at ¶ 5.

Discussion

- 171 While we do not impose conditions in this Order, as we discussed above in relation to Staff's Proposed Conditions 4 and 5, the issues the parties raise in this proceeding, together with prior orders this Commission has entered concerning PacifiCorp suggest to us that the Company would benefit from pursuing RNW-NWEC's recommendation as their own in the upcoming CEIP and future filings. In particular, regardless of whether a system-wide RFP indicates a need for resources, there is clearly a need in the Company's Washington service territory. Thus, we strongly encourage PacifiCorp to initiate an RFP for Washington resources. Such a request does not usurp the Company's ability to make business decisions, and may not result in the Company entering into contracts with any entities submitting bids.
- 172 While we impose no conditions in this Order, we interpret the rules in WAC 480-100-665(2)(c) and WAC 480-100-665(3)(c) to permit the Commission, consistent with our mandate to regulate in the public interest, to require a utility to conduct an RFP. Pursuant to WAC-480-100-665(2)(c), the Commission may take enforcement action in any proceeding in which a utility's compliance with chapter 19.405 RCW is at issue. WAC 480-100-665(3)(c) provides that the Commission may order a utility "to take specific actions necessary to comply with chapter 19.405 RCW."
- 173 We agree with Staff, Public Counsel, and RNW-NWEC that PacifiCorp's BCEIP is lacking in demonstrating progress towards meeting the targets outlined in CETA. This is in part due to the Company's long-standing failure to heed Commission warnings to close Washington's short position and procure non-emitting resources consistent with Washington law. With the passage of CETA, this issue has expanded beyond a power cost issue and now the Company's current trajectory poses risks for non-compliance and penalties. Given this history, we strongly encourage PacifiCorp to issue an RFP, to demonstrate meaningful progress towards meeting CETA's requirements.²⁹⁵
- 174 Requesting that the Company conduct an RFP to fill a resource need the Company identifies is not the same as requiring the Company to engage some or all of the bidders in negotiating contracts. Requesting the Company to conduct an RFP is not tantamount to assuming business operations of the Company or forcing it into imprudent decision making. In fact, Commission rules in WA 480-107 require utilities to conduct an RFP if their IRP demonstrates a need. Further, the Company initiating an RFP will allow PacifiCorp, not the Commission, to acquire sufficient information to evaluate the

²⁹⁵ See WAC 480-100-665(3)(c).

business case for investments suitable to meet Washington-specific needs, addressing another concern raised by Staff and RNW-NWEC.

2. DER Program Design

175 RNW-NWEC also ask the Commission to provide guidance to PacifiCorp as it relates to energy equity.²⁹⁶ NWEC's witness Thompson recommends the Commission require PacifiCorp to set minimum designations for each of its DER program offerings for its Named Communities.²⁹⁷ RNW-NWEC further argues that the 30 percent minimum designation imposed on PSE be applied here, providing consistency across Washington utilities.²⁹⁸ TEP supports this proposed minimum designation, with the condition that the Commission preserve the low-income weatherization program's income eligibility criteria.²⁹⁹ As discussed above, Staff generally supports RNW-NWEC's proposal, although Staff recommends a minimum designation of 27 percent for PacifiCorp.³⁰⁰ AWEC opposes the imposition of minimum designations and does not support RNW-NWEC's proposal.³⁰¹ As discussed above, PacifiCorp does not take issue with the minimum designation, but requests the minimum designation be 27 percent consistent with Staff's recommendation and that it be non-binding.³⁰²

176 RNW-NWEC further recommends that the Commission require the following of PacifiCorp:

- 1) Allocation of a specified portion of each DER program budget for named community outreach, recruitment, and participation; 2) minimum participation goals to ensure named community and low-income customer representation and greater access by these populations to the benefits associated with DER program benefits; 3) dedicated outreach, education, and recruitment strategies which clearly establish how PacifiCorp will target named communities – including vulnerable populations – for involvement in its DER programs; and 4) expansion of existing incentives

²⁹⁶ Post-Hearing Brief of RNW-NWEC at ¶ 56.

²⁹⁷ Thompson, Exh. CT-1T at 6:20 – 7:2.

²⁹⁸ Post-Hearing Brief of RNW-NWEC at ¶ 62.

²⁹⁹ Stokes, Exh. SNS-1T at 4:14 – 5:9, 6:20 – 7:11.

³⁰⁰ Simmons, Exh. JNS-25HCT at 3:12 – 4:3.

³⁰¹ Kaufman, LDK-1T at 9:13 – 10:3.

³⁰² McVee, Exh. MDM-2T at 28:3-11.

beyond highly impacted populations to include low-income and vulnerable populations.³⁰³

177 Both Staff and TEP support these recommendations.³⁰⁴ TEP further recommends PacifiCorp “investigate starting a program similar to PSE’s ‘Efficiency Boost,’ which provides moderate-income customers higher rebates than those generally available to obtain energy efficiency services.”³⁰⁵ PacifiCorp does not take issue with RNW-NWEC’s or TEP’s DER design recommendations.³⁰⁶

Discussion

178 While we do not impose conditions in this Order, we encourage PacifiCorp to implement RNW-NWEC’s and TEP’s recommendations.³⁰⁷ PacifiCorp is also encouraged to investigate implementing a program similar to PSE’s “Efficiency Boost” and provide an update on consideration of such a program to be made part of the Company’s next CEIP filing later in 2025, with final plans to be presented in the Company’s 2027 CEIP filing.

G. TRIBAL NEEDS

1. Background

179 CRITFC intervened in this matter citing impacts to the Yakama Nation and nearby Tribal communities as a result of the Company’s strategy to meet interim targets. CRITFC requests that the Commission require the Company to involve the Yakama Nation and affected Tribal communities in the Company’s planning process as it works to conform with CETA compliance. Of particular issue, CRITFC asserts the Company and Bonneville Power Administration’s (BPA) reliance on hydropower to meet clean energy targets pose a hazard to migrating salmon and other fish populations that are culturally significant to the Yakama Nation.

180 CRITFC is organized as a political subdivision of the Nez Perce Tribe, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon and Confederated Tribes and Bands of the Yakama Nation.³⁰⁸ As CRITFC Witness Jeremy Takala testified, “CRITFC’s fundamental purpose is to support

³⁰³ Post-Hearing Brief of RNW-NWEC at ¶ 64.

³⁰⁴ Stokes, Exh. SNS-1T at 6:18 – 7:21; Simmons, Exh. JNS-25HCT at 3:1-3.

³⁰⁵ Stokes, Exh. SNS-1T at 7:12-16.

³⁰⁶ McVee, Exh. MDM-2T at 28:3-11.

³⁰⁷ Recommendations related to minimum designations are addressed above.

³⁰⁸ DeCoteau, Exh-AKD-1T at 2:17-21, 3:1.

the Yakama Nation and the other member tribes to realize the promises made by the U.S. Government in the *Treaty of 1855*”, with the restoration of the Columbia Basin fisheries as central to its mission.³⁰⁹

- 181 On August 21, 2024, CRITFC filed the testimony of Jeremy Takala, who serves as a Tribal Councilman and citizen of the Yakama Nation and Chair of CRITFC. Takala testified that on June 9, 1855, leaders of 14 confederated tribes and bands of Indians entered into the *Yakama Treaty of 1855 (Treaty)* with the U.S. Government (Government), in which the tribes ceded tracts of land to the Government in exchange for land and fishing resources.³¹⁰ The provisions of the *Treaty* preserved the rights of the tribes to practice customs and ceremonies associated with salmon and other culturally significant fish, foods, and medicines throughout their ceded lands.³¹¹ In particular salmon resources from the Columbia River are of cultural significance to the Yakama Nation, which historically saw between 10 and 16 million salmon return each year.³¹² Takala testified that in some tributaries the salmon runs have been reduced as low as 0.1 percent of historical populations, asserting this is primarily the result of hydropower operations on the Columbia River.³¹³ CRITFC advocates for fish friendly changes to hydroelectric systems along the Columbia River while protecting and restoring *Treaty* rights and ecosystems.³¹⁴
- 182 CRITFC also filed the testimony of Aja K. DeCoteau, who serves as CRITFC’s executive director. Specifically, DeCoteau testifies to the Tribal Salmon Restoration Plan which incorporates recommendations for habitat improvements, hydro system operations, hatchery management, and climate mitigation planning and energy policy to work on restoring salmon and fish populations.³¹⁵ Prior to this proceeding, CRITFC has participated in BPA rate cases where it advocated for fish friendly changes in BPA’s hydroelectric operations. DeCoteau states that the Company’s operation of the electric grid and plans to meet regional loads using market resources will affect Tribal communities. Specifically, DeCoteau argues that PacifiCorp’s decision to primarily rely

³⁰⁹ Takala, Exh-JT-1T at 2:8-12.

³¹⁰ *Id.* at 3:1-7

³¹¹ *Id.* at 3:8-12.

³¹² *Id.* at 4:18-22, 5:1-2.

³¹³ *Id.* at 4:18-22, 5:2-8.

³¹⁴ *Id.* at 6:1-3.

³¹⁵ DeCoteau, Exh-AKD-1T at 2:10-13.

on market resources to meet its load has a detrimental impact on migrating salmon and lamprey.

- 183 On October 8, 2024, CRITFC filed in this proceeding a copy of its *2022 Energy Vision*, which analyzes the current state of the Columbia River hydroelectric operations and recommends that the region:

[E]nsure that renewable resources in combination with increased storage, reductions in peak demand, and increased energy efficiency can provide clean, adequate, reliable, and affordable electricity to support the restoration of healthy, harvestable salmon populations, and prevent future damage to salmon and steelhead and other tribal resources caused by the electrical systems.³¹⁶

- 184 DeCoteau testifies that CRITFC believes that the goals of CETA and the Commission align with CRITFC’s vision for an electrical grid that is “built upon the highest possible deployment of energy efficiency and weatherization, distributed generation, renewable energy, and storage technologies.”³¹⁷ CRITFC requests that the Commission use this proceeding to build a regulatory foundation to achieve the key objectives of the *2022 Energy Vision*.³¹⁸

- 185 In its *2022 Energy Vision*, CRITFC provides forty-three recommendations for ways to produce and store energy in a manner that promotes a healthier ecosystem for salmon populations. These recommendations include utilizing solar power, wind energy and battery storage resources. In addition, CRITFC explains that energy spikes during peak loads cause fluctuations in river flows that hurt migrating salmon and steelhead, which can be mitigated by energy efficiency programs.³¹⁹

- 186 In its Post-Hearing Brief, CRITFC reiterates its recommendation for four specific conditions and supports Staff’s request for a minimum designation of the Company’s distributed energy benefits to flow to Named Communities across its service territory. CRITFC opposes the Company’s “wait and see” approach, asserting the risk of failure to obtain CETA compliant resources will further strain hydropower resources on the Columbia River.³²⁰

³¹⁶ *Id.* at 13:1-6.

³¹⁷ *Id.* at 13:12-14.

³¹⁸ *Id.* at 15:1-3.

³¹⁹ DeCoteau, Exh-AKD-2 at 24-25.

³²⁰ Post-Hearing Brief of CRITFC at ¶ 7.

187 CRITFC recommends that the Commission implement its four conditions in addition to Staff's proposed conditions to achieve the key objectives of its *2022 Energy Vision*. The four conditions are discussed below.

1.Full potential for energy efficiency, weatherization, demand response, and distributed generation resource development assessment

188 CRITFC's first proposed condition is for the Company to work directly with the Yakama Nation and affected Tribal communities to assess the full potential for energy efficiency, weatherization, and distributed generation resource development, and to identify the barriers to development and the resources needed to overcome them.³²¹ CRITFC revised its request to include demand response in its opening statement at the evidentiary hearing.³²² CRITFC argues that these investments in energy efficiency will reduce the strain on tribal families who face disproportional rates of poverty and outsized energy burdens.³²³ To fulfill this objective, CRITFC requests that the Company work to develop an open line of communication with elected officials within the Yakama Nation and other affected Tribal communities to seek engagement at the pre-decisional planning stages. CRITFC discusses the necessity for the Company to engage the Yakama Nation and other Tribal communities as sovereign governments and to engage Tribal elected officials with similarly positioned leadership within the Company who have the authority to change outcomes based upon tribal input. This outreach would ensure that the Company engages with Tribal communities "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."³²⁴ CRITFC asserts that to assure success and the Company's compliance with CETA would 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, and investment in workforce training, technical capacity development, and programmatic assessments of project compatibility with tribal planning goals.³²⁵

³²¹ DeCoteau, Exh-AKD-1T at 15:6-11.

³²² Cetas, Tr. at 154:5-8.

³²³ *Id.* at 14:1-2.

³²⁴ Post-Hearing Brief of CRITFC at ¶ 28.

³²⁵ Post-Hearing Brief of CRITFC at ¶ 35.

- 189 DeCoteau testifies that the Company identified a historic reliance on market resources to meet demand and raises concern that the Company would turn to the region's hydroelectric system to balance its load.³²⁶ DeCoteau further testified that the hydroelectric system under BPA is the largest and most flexible generation resource in the region, which the Company would be reliant upon to meet demand during high load periods.³²⁷ This reliance would harm migrating salmon populations.³²⁸
- 190 Staff recognizes that: "CETA requires an equitable distribution of energy and non-energy benefits to vulnerable populations and highly impacted communities, including consultation with community-based organizations and Indian tribes."³²⁹
- 191 Staff does not oppose "additional processes and requirements" with respect to the Company including the Yakama Nation and nearby Tribal communities and states that doing so is fundamental to the objectives of CETA.³³⁰
- 192 Company Witness McVee testifies that CRITFC's request "generally align[s] with the company's ongoing planning and engagement activities."³³¹ The Company specified in its post-hearing briefing that it generally agrees with CRITFC recommendations one, two, and four, which the Company believes align with the Company's current CEIP Community Benefits & Impacts Advisory Group, Community Benefits Indicators, Biennial Conservation Plan, and Tribal Nation outreach activities.³³² No other party in this Docket objects to CRITFC's first recommended condition or the modification requested by CRITFC and RNW-NWEC.
- 193 NWEC witness Thompson supports CRITFC's first recommended condition and agrees that "demand response" should be included in the assessment.³³³

³²⁶ DeCoteau, Exh-AKD-1T at 10:5-12.

³²⁷ *Id.* at 10:13-16.

³²⁸ *Id.* at 10:16-17.

³²⁹ Simmons, Exh-JNS-25HCT at 15:8-10; RCW 19.405.060(1)(c)(iii). Specifically, "[h]ighly impacted community" is defined in RCW 19.405.020(22) as "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."

³³⁰ Simmons, Exh-JNS-25HCT at 15:17-19.

³³¹ McVee, Exh-MDM-2T at 29:15-16.

³³² Post-Hearing Brief of PacifiCorp at ¶ 78.

³³³ Thompson, Exh. CT-3T at 4:18-20.

Discussion

- 194 Utilities are required under state law to submit biennially an assessment of “outreach strategies used to encourage participation of eligible households, including consultation with community-based organizations and Indian tribes as appropriate, and comprehensive enrollment campaigns that are linguistically and culturally appropriate to the customers they serve in vulnerable populations.”³³⁴
- 195 While we do not impose conditions in this Order, as we discussed above in relation to several of the other parties’ proposed conditions, we suggest the Company would benefit from adopting a number of these conditions as their own in the upcoming CEIP and future filings. The same is true for several of CRITFC’s recommendations.
- 196 The Yakama Nation and affected Tribal communities are sovereign nations that hold *Treaty* rights to resources that are culturally significant. It appears to us that CRITFC’s first recommended modified condition aligns with the requirements of CETA and would allow the Company to specifically demonstrate progress for the Company in reaching its CETA standards. The Company would rely on data directly from the Yakama nation when it reinvests rates collected for conservation and efficiency into the Yakama Nation pursuant to CETA mandate.³³⁵ It is in the public interest for PacifiCorp to engage with, and provide meaningful opportunities for input from, the Yakama Nation and affected Tribal communities.
- 197 PacifiCorp has agreed to this request from CRITFC. Thus, we encourage the Company to accept CRITFC’s recommendation that the Company work with the Yakama Nation and affected Tribal communities to assess the full potential for energy efficiency, weatherization, demand response, and distributed generation resource development, and to identify barriers to development and the resources needed to overcome them.

2. *Develop a five-year development plan and budget for energy efficiency, weatherization, demand response, and distributed generation resource development identified in its assessment*

- 198 CRITFC’s second recommendation was initially for the Company to develop a five-year development plan and budget for energy efficiency, weatherization, and distributed

³³⁴ RCW 19.405.120(4)(a)(ii).

³³⁵ Post-Hearing Brief of CRITFC at ¶ 4; RCW 19.405.060(1)(c)(iii); CRITFC Exh.MDM-4X at p. 7-8, the Company stated that from July 2021 through September 2024 it provided \$23.8 million for Home Energy Savings, Low Income Weatherization and Wattsmart Business energy efficiency projects in Yakima County but that only approximately \$2 million of that was provided to customers located on census tracts all or partially on Yakama Nation Reservation land.

generation resource development identified in the assessment required by the first recommended condition.³³⁶ CRITFC modified this condition upon recommendation of RNW-NWEC to include demand response. CETA requires the Company to assess energy efficiency across its service territory in the context of the BCEIP and through the EIA, in which processes the Company must include public participation.

- 199 Staff believes that CRITFC's request for an assessment with a specific interest in Yakama Nation and affected Tribal communities aligns with CETA's requirements.³³⁷ Staff further notes that the Company reported that approximately 6.2 percent of its Washington allocated hydropower would flow through tribal lands, although not all Indigenous populations live on tribal lands.³³⁸ Company witness McVee testifies that CRITFC's request "generally align[s] with the company's ongoing planning and engagement activities."³³⁹
- 200 NWEC witness Thompson supports CRITFC's second recommendation. NWEC recommends that "demand response" should be included in the five-year plan, which would ensure that benefits are realized in a timely and organized manner.³⁴⁰
- 201 Staff supports and the Company agrees to CRITFC's recommended modified condition two. CRITFC revised its request to include demand response.³⁴¹ No party opposes this condition. TEP expressly agreed to this condition during the evidentiary hearing.³⁴²

Discussion

- 202 Consistent with our discussion of other parties' proposed conditions, while we do not impose conditions, we suggest that the Company would benefit from adopting a number of these conditions, including CRITFC's recommended and modified condition two. As the Company has signaled its agreement, we encourage the Company to adopt CRITFC's second modified condition that the Company work with the Yakama Nation and affected Tribal communities to develop a five-year development plan and budget for the energy efficiency, weatherization, demand response and distributed generation resource

³³⁶ DeCoteau, Exh-AKD-1T at 15:12-14.

³³⁷ Simmons, Exh-JNS-25HCT at 15:3-5.

³³⁸ *Id.* at 13:11-15.

³³⁹ McVee, Exh-MDM-2T at 29:15-16.

³⁴⁰ Thompson, Exh-CT-3T at 4:18-20.

³⁴¹ Cetas, Tr. at 154:5-8

³⁴² Zakai, Tr. at 148:24 – 149:6.

development identified in the assessment to be performed under CRITFC's recommended condition one.

3. Model the impacts of the Columbia Basin's mainstem hydroelectric system operations on anadromous and other natural resources

- 203 CRITFC's third recommendation is that the Company be required to model the impacts of the Columbia Basin's mainstem hydroelectric system operations on anadromous and other natural resources under current operating limits set for salmonid protection, and the costs associated with the protective limits on operations. CRITFC contends that this would help the Company "better understand the true costs of market resources during certain load hours wherein hydroelectric, nuclear, and carbon-based generators are the only generators producing electricity at those times."³⁴³ DeCoteau raises concerns that during low water months (late summer through early winter), the region depends upon BPA's hydropower generation to meet demand during high load periods, which is detrimental to migrating salmon that need certain pool depths and channel flows.³⁴⁴
- 204 The Company reports that it purchases hydropower to meet its clean energy mandates from BPA, which markets hydropower produced in federal dams along the Columbia River.³⁴⁵ CRITFC raises concerns that because the hydroelectric system under BPA's control is the largest and most flexible generation resource in the region, the Company will likely be dependent on BPA during high load periods, which CRITFC has argued will have a detrimental impact on migrating salmon and lamprey.³⁴⁶
- 205 CRITFC's *2022 Energy Vision* states that "without updated and reliable modeling that better addresses the role of energy efficiency, the region will regret any reduction in this valuable resource that has proven to be compatible with the river's ecosystems."³⁴⁷
- 206 In response to CRITFC's requested third condition, McVee testifies that modeling the impacts of the Columbia Basin's hydroelectric generation on anadromous and other natural resources is outside the Company's expertise and available data, so it is unable to implement this recommendation. In response to Data Request 1.12 from CRITFC, the Company stated that it models long term-rights to shares of Grant County's Priest Rapids

³⁴³ DeCoteau, Exh-AKD-1T at 15:18-21.

³⁴⁴ *Id.* at 10:13-16.

³⁴⁵ Simmons, Exh-JNS-25HCT at 12:11-12; DeCoteau, Exh-AKD-2.

³⁴⁶ DeCoteau, Exh-AKD-1T at 10:13-19.

³⁴⁷ *Id.*

and Wanapum hydro projects, which amount to less than 2 percent of its peak annual load and suggests that changes would have a limited impact.

- 207 In response to Data Request 1.13 when asked if the Company’s modeling tools include federal hydropower capacity as an available market resource during fall and winter months, of the years covered by the Company’s most recent IRP, the Company states that its modeling tools do not include federal hydropower capacity and do not specify the source of market purchases. The Company further indicates that its modeling tools do not reflect the specific stream flow limitations placed on BPA’s hydropower operations and that its IRP modeling assumed stream flow and generation capacity limits imposed for fish conservation, such as minimum flow requirements and water used for fish ladders, will remain constant over the planning horizon.³⁴⁸
- 208 Further, in response to data requests from CRITFC, the Company states that it does not have long-term contracts for power from BPA and that its long-term IRP does not include power from BPA.³⁴⁹
- 209 Staff witness Simmons does not address CRITFC’s third recommendation and testifies that Staff does not have any recommendations regarding hydropower but looks forward to more information on the Company’s past and future collaboration with the Yakama Nation, Yakama Reservation, and nearby Tribal communities on hydropower matters.³⁵⁰
- 210 NWECA agrees with CRITFC’s third recommendation but requests a modification: “Convene with CRITFC, the Yakama Nation, and other interested parties to discuss the modeling process, including key parameters and data sources.”³⁵¹ NWECA further recommended the following: “Inform CRITFC, the Yakama Nation, and other interested parties on PacifiCorp’s progress to include the collaboratively-determined modeling process in the 2025 IRP and future IRPs.”³⁵²
- 211 AWECA witness Kaufman generally agrees with CRITFC’s conditions, simply stating that AWECA does not oppose the conditions proposed.³⁵³

³⁴⁸ CRITFC Exh.MDM-4X at p. 14-18.

³⁴⁹ CRITFC Exh.MDM-4X at p. 20.

³⁵⁰ Simmons, Exh-JNS-25HCT at 14:1-3.

³⁵¹ Thompson, Exh-CT-3T at 7:1-3.

³⁵² *Id.* at 7:4-6.

³⁵³ Kaufman, Exh-LDK-1T at 4:12:13.

Discussion

212 We decline to recommend or encourage the Company to adopt CRITFC's recommended condition three. The record in this proceeding shows that the Company may not be able to reasonably implement the modeling CRITFC requests.

213 Although CRITFC inquired about modeling in data requests to the Company, there was no follow up by CRITFC on methodology or whether the Company could reasonably implement the recommended modeling. The Commission understands CRITFC's concern about the critical impact hydropower production may have on salmon and fish habitats, and the *Treaty* rights to these resources, and looks forward to learning more about collaboration between the Yakama Nation and nearby Tribal communities with the Company on hydropower matters.

4. Work with the Yakama Nation and CRITFC to develop Community Benefit Indicators that reasonably reflect the Yakama Nation's treaty rights and the lives of its people, as expressed through their traditions, culture, and needs

214 CRITFC also recommends that the Commission require the Company to create new Community Benefits Indicators (CBI) that reflect the needs of its Yakama Nation customers and that the Yakama Nation should be included in the pre-decisional discussion.³⁵⁴ CRITFC requests that the CBIs collect information on existing impacts and inform the Company's decision making as it seeks to achieve its CETA obligations.³⁵⁵

215 The Company describes its process for creating CBIs as (1) identifying key communities who are experiencing disproportionate challenges; (2) pinpointing challenges that can be reduced or improved by the utility and clean energy resources; and (3) developing metrics to track process relative to those challenges and benefits.³⁵⁶ The Company further explains that there is not an internal deadline for the development of new CBIs and that the process of creating new CBIs is always evolving and improving. The Company admits that it does not have a specific plan for a CBI for members of the Yakama Nation, but that it welcomes further input on the matter.³⁵⁷

216 In rebuttal testimony, McVee testifies that engagement efforts with the Yakama Nation can assist in development of specific CBI related to "Yakama Nation customers[,] and

³⁵⁴ Post-Hearing Brief of CRITFC at ¶¶ 36-37.

³⁵⁵ *Id.* at ¶ 37.

³⁵⁶ CRITFC Exh.MDM-4X at p. 9.

³⁵⁷ CRITFC Exh.MDM-4X at p. 10.

that it is committed to working with the Yakama Nation to address the needs of its community and to continue collaboration with Yakama Power.³⁵⁸ During cross examination, McVee testified that the Company acknowledges that its service territory includes a segment of the Yakama Nation and that this is an area where highly impacted communities reside.³⁵⁹ In its Post-Hearing Brief, the Company agrees with the request from CRITFC to develop CBIs that reasonably reflect the Yakama Nation's *Treaty* rights and the lives of its people, as expressed through their traditions, culture, and needs.³⁶⁰

- 217 Staff agrees with CRITFC that the Company should collaborate with the Yakama Nation, CRITFC, and nearby Tribal communities who are within the service territory of the Company, to develop CBIs "as the rule mandates an equitable distribution of energy and non-energy benefits to vulnerable populations and highly impacted communities."³⁶¹ Further, Staff recognizes that CEIPs require the inclusion of customer benefit data and proposed CBIs.³⁶² Staff recommends that the Commission require the Company to work with the Yakama Nation and CRITFC to develop CBIs that identify the needs of Tribal communities within its service territory.
- 218 NWECA support CRITFC's fourth recommended condition and describes CBIs that reflect *Treaty* rights as "low-hanging fruit in the work needed to advance tribal energy justice."³⁶³ NWECA recommends that the Company "be more proactive and inclusive by collaborating with the Yakama Nation and CRITFC in the EAG and other venues outside of the EAG in advance of filing a draft CEIP in order to gather feedback on existing CBIs/metrics and potential new ones."³⁶⁴

Discussion

- 219 CETA mandates that utilities must:

[E]nsure that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and

³⁵⁸ McVee, Exh-MDM-2T at 29:19-21; 30:1-2.

³⁵⁹ McVee, Tr. at 207:21 – 208:2.

³⁶⁰ Post-Hearing Brief of PacifiCorp at ¶ 78.

³⁶¹ Simmons, Exh-JNS-25HCT at 14:8-11.

³⁶² Simmons, Exh-JNS-25HCT at 14:8-11.

³⁶³ Thompson, Exh-CT-3T at 7:10-11.

³⁶⁴ Thompson, Exh-CT-3T at 9:16-18; 10:1.

environmental benefits and reduction of costs and risks; and energy security and resiliency.³⁶⁵

- 220 CRITFC recommends that the Commission direct the Company to create CBIs for the Yakama Nation, which the Company testifies it is committed to doing. CETA requires the Company to work with highly impacted communities, which the Company acknowledges includes sections of the Yakama Nation. Further, CETA specifically names “Indian country” in its definition of highly impacted communities.
- 221 As discussed above, while we do not impose conditions in this Order, as with other conditions requested by other parties, we suggest that the Company would benefit from adopting CRITFC’s recommended condition four as their own in the Company’s work to develop the upcoming CEIP and future filings. Consistent with the requirements under CETA, the Company has committed to develop CBIs that reasonably reflect the Yakama Nation’s *Treaty* rights and the lives of its people, as expressed through their traditions, culture, and needs.

III. FINDINGS OF FACT

- 222 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the Parties and the reasons therefore, the Commission now makes the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:
- 223 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property, and affiliated interests of public service companies, including electric and natural gas companies.
- 224 (2) PacifiCorp is a “public service company,” and an “electrical company,” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. PacifiCorp provides electric utility service to customers in Washington.
- 225 (3) On November 1, 2023, PacifiCorp filed its 2024-2025 Biennial CEIP Update with the Commission in Docket UE-210829.
- 226 (4) PacifiCorp’s Biennial Update is required by WAC 480-109-120(1).

³⁶⁵ RCW 19.405.040(8).

- 227 (5) On March 25, 2024, the Commission issued Order 09 suspending the Biennial Update and setting the matter for adjudication.
- 228 (6) On April 23, 2024, the Commission convened a virtual prehearing conference before Administrative Law Judge Paige Doyle.
- 229 (7) On October 21, 2024, the Commission held an evidentiary hearing in this matter before the Commissioners, with Administrative Law Judge Connor Thompson presiding.
- 230 (8) PacifiCorp's BCEIP revises its previously approved interim targets but does not demonstrate progress towards meeting CETA's targets.
- 231 (9) The record does not support changes to PacifiCorp's Interim Targets.
- 232 (10) PacifiCorp's current resource portfolio and strategy to comply with CETA's requirements supports requiring PacifiCorp to engage in resource procurement.
- 233 (11) ELCC is the best practice for measuring carrying capacity, which feeds into an assessment of how much a resource can generate and, therefore, the capacity and reliability of the system.

IV. CONCLUSIONS OF LAW

- 234 Having discussed above all matters material to this decision, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- 235 (1) The Commission has jurisdiction over the subject matter of, and parties to, this proceeding.
- 236 (2) PacifiCorp is an electric company and a public service company subject to Commission jurisdiction.
- 237 (3) Pursuant to RCW 19.405.060(1)(c), the Commission, after a hearing, must approve an investor-owned utility's CEIP, reject the CEIP, or approve the CEIP subject to conditions. The Commission may require more stringent targets than those proposed by the investor-owned utility.
- 238 (4) The record supports rejecting PacifiCorp's BCEIP because PacifiCorp's changes to interim targets fail to demonstrate progress towards meeting the goals of CETA and are not in the public interest.

- 239 (5) PacifiCorp’s downward revision in the BCEIP to interim targets does not demonstrate progress towards meeting CETA’s targets, and the Company’s past actions do not support PacifiCorp’s assertions that it will be able to achieve CETA compliance through substantial additions of non-emitting resources in 2028 through 2030.
- 240 (6) The BCEIP should be rejected, but PacifiCorp is encouraged to implement many, but not all, of the conditions proposed by Staff and intervenors as discussed in this Order.
- 241 (7) A CEIP must include the specific actions that the Company “will take” over the implementation period.
- 242 (8) A CEIP must provide proposed program details and the proposed timing of its specific actions.
- 243 (9) At this time, the Commission should decline to penalize PacifiCorp for violations of Commission rule – there is not substantial evidence that the public interest would be advanced by a penalty and the subsequent potential costs of litigation.
- 244 (10) The Commission rejects PacifiCorp’s revised targets and requires the Company to submit new Interim Targets for 2026-2029 in its 2025 CEIP.
- 245 (11) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

V. ORDER

246 THE COMMISSION ORDERS:

- 247 (1) PacifiCorp d/b/a Pacific Power & Light Company’s Biennial Clean Energy Implementation Plan filed on November 1, 2023, in this Docket is rejected, and PacifiCorp d/b/a Pacific Power & Light Company is ordered to propose new interim targets in its 2025 Clean Energy Implementation Plan.
- 248 (2) The Commission Secretary is authorized to accept by letter, with copies to all Parties to this proceeding, filings that comply with the requirements of this Order.
- 249 (3) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective May 19, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ANN E. RENDAHL, Commissioner



MILT DOUMIT, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.