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VIA ELECTRONIC FILING

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: Docket UE-191023—PacifiCorp's Comments on the Draft Rules Implementing the Clean Energy Transformation Act and Responses to Questions in May 5, 2020 Notice

The Washington and Utilities Commission (Commission) issued a Notice of Opportunity to Submit Written Comments on its draft rules implementing the Clean Energy Transformation Act (CETA) on May 5, 2020. In this notice, the Commission requested responses to specific questions about the draft rules. PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp) respectfully submits its responses to the Commission's specific questions and comments on the draft rules.

GENERAL COMMENTS ON CETA IMPLEMENTATION AND THE DRAFT RULES

PacifiCorp appreciates the Commission's work in preparing draft rules implementing certain sections of CETA and the opportunity to provide comments and responses to the Commission's specific questions. The Commission's goals in implementing CETA are established in the statute itself—the Commission "must prioritize the maximization of family wage job creation, seek to ensure that all customers are benefiting from the transition to a clean energy economy, and provide safeguards to ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers."[1]

With these goals in mind, PacifiCorp has the following general comments on the draft rules:

- **The Commission should ensure that the rules meet the goals of CETA without exceeding statutory requirements.** The Commission should remain within the bounds of its delegated legislative authority.

- **The rules should reflect the statutory requirement that the CETA targets be met at the lowest reasonable cost, *considering risk.***

- **The rules should clearly delineate implementation of RCW 19.405.030 from implementation of RCW 19.405.040 and 19.405.050.**

[1] RCW 19.405.010(2).

- **The rules should not create compliance obligations before the first compliance period beginning in 2030 or after 2044.** Draft WAC 480-100-665 requires utilities to file a compliance report beginning in 2026 for the period 2022 through 2026, and sections (1)(a) and (b) require the utility to demonstrate compliance with specific and interim targets. But there are no compliance requirements in CETA during this period. While CETA requires utilities to propose specific and interim targets for the period before 2030, there is no compliance requirement until January 1, 2030. At a minimum, these requirements should be clarified or removed to be consistent with the statute. Also, because the targets must be met and compliance achieved by December 31, 2044, any continuing compliance obligations beyond this point are superfluous.

- **Reporting requirements and associated processes mandated under these rules should be streamlined.** PacifiCorp is concerned with the extensive level of reporting and associated processes (*i.e.*, prescriptive requirements for public input and filing timelines for draft reports) required by the draft rules, particularly because many of the reporting obligations may be duplicative, overlapping and burdensome.

- **The rules should be flexible.** CETA implementation is a new process, and the Commission should avoid overly prescriptive rules and preserve the ability for utilities and stakeholders to pursue the best outcomes for customers by allowing for some flexibility in compliance proposals.

- **The Commission should closely collaborate with the Washington Department of Commerce (Commerce) regarding rules implementing CETA.** Under CETA, both the Commission and Commerce are responsible for implementing certain aspects of the law—including setting compliance targets and requirements, as well as reporting obligations. Both agencies are currently engaged in rulemaking processes to fulfill these responsibilities. Coordination across state agencies is important not only to avoid inconsistent reporting and compliance obligations, but also to ensure that CETA is equitably applied to both investor-owned utilities and consumer-owned utilities.

PACIFICORP'S RESPONSES TO THE COMMISSION'S QUESTIONS

1. **As stated in the Issues Discussion, draft WAC 480-100-600, Definitions, is a set of definitions that will apply to both the IRP and CEIP rules as first proposed in the IRP rulemaking, Docket UE-190698. We are interested in hearing responses to the draft's use of the term "resource" throughout these draft rules, in particular, if its use is consistent with your understanding of the term and is appropriate for these rules.**

   a. **"Lowest reasonable cost." Does the use of the term "resource" in this definition limit the types of costs that are included in an assessment of "lowest reasonable cost"?**

No. The definition in the proposed rule is consistent with the definition in RCW 19.280.020(11) and makes it clear that the determination of "lowest reasonable cost" includes consideration of

many types of costs. Notably, the list of the types of costs that can be considered is not inclusive, instead beginning with "at a minimum, this analysis must consider…." It is also appropriate for the definition of "lowest reasonable cost" in the CETA context to be consistent with the integrated resource planning context.

It is important to note CETA requires utilities to meet the targets at the lowest reasonable cost, considering risk." The Commission should ensure that its rules appropriately reflect this balancing of costs and risk. When accounting for risk, it is possible for the lowest cost option to be inferior to another reasonably low-cost option. In fact, in PacifiCorp's 2017 and 2019 Integrated Resource Plans (IRPs), consideration of risk led the company to select a preferred portfolio that had comparable, albeit slightly higher costs, than other resource portfolios.

b. "Resource need." Is it appropriate to include "delivery system infrastructure needs" in the definition of "resource need"?

No. "Delivery system infrastructure needs" is too broad and vague to include in the definition of "resource need." This term could be interpreted to include distribution-level infrastructure that is not appropriately included in the definition of resource need. It is, however, important and appropriate to consider transmission system infrastructure needs as part of the CETA or integrated resource planning processes.

c. "Integrated resource plan." Is it appropriate to include "delivery system infrastructure needs" in the definition of "integrated resource plan"?

No. "Delivery system infrastructure needs" is too broad and vague to include in the definition of "integrated resource plan." This term could be interpreted to include distribution-level infrastructure that is not appropriately included in integrated resource planning. It is, however, important and appropriate to consider transmission system infrastructure needs as part of the CETA or integrated resource planning processes.

d. Do changes to the integrated resource planning statute, RCW 19.280, especially the additions of RCW 19.280.100 (Distributed energy resources planning) and RCW 19.280.030(2)(e) affect the definition of "resource"? Does the term "resource" refer to more than just energy and capacity resources for meeting (or reducing) customer demand for electricity?

Yes, the term resource refers to more than just energy and capacity resources in the context of meeting customer demand for electricity.

2. The purpose of CETA is to transition the electric industry to 100 percent clean energy by 2045. To achieve this policy, each utility must fundamentally transform its investments and operations. In draft WAC 480-100-650, Clean energy standard, the discussion draft states that "planning and investment activities undertaken by the utility must be consistent with the clean energy standards [Chapter 19.405 RCW]." While RCW 19.405 refers to the percentage of retail sales served by nonemitting and renewable resources as

the "standard," the draft rule describes a clean energy standard that incorporates the additional requirements found in the statute. Is this term useful in clarifying the rule? If not, please recommend an approach for including the additional requirements from the statute.

A distinction should be made between the clean energy standard that each utility must meet under CETA and the requirements governing how the utility meets those standards. Redefining by rule the clean energy standard established in statute could cause unnecessary confusion. It is also important to distinguish between RCW 19.405.030, which requires eliminating the costs and benefits of coal-fired resources from customer rates, from RCW 19.405.040 and 19.405.050, which set forth long-term procurement requirements and goals set as a percentage of retail sales of electricity. These different statutory provisions have very different goals and implementation methods and should be distinguished in the rule. The rule should also clarify that the targets must be met at the lowest reasonable cost, *considering risk*. The following revisions to the rule are therefore recommended:

WAC 480-10-650 Clean Energy Standards

(1) **Under RCW 19.405.030, e**~~E~~ach utility must eliminate coal-fired resources from its allocation of electricity by December 31, 2025.
(2) **To meet the clean energy standards set forth in RCW 19.405.040 and 19.405.050, e**~~E~~ach utility must:
(a) ~~Eliminate coal-fired resources from its allocation of electricity by December 31, 2025;~~
~~(b)~~ Ensure all sales of electricity to Washington retail electric customers are greenhouse gas neutral by January 1, 2030; and
(**b**~~c~~) Ensure that nonemitting electric generation and electricity from renewable resources supplies one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045**.**~~:~~
(~~c~~**2**) **In achieving the clean energy standards, each utility:**
(a) Must maintain and protect the safety, reliable operation and balancing of the electric system at the lowest reasonable cost, considering risk, and ensure that all customers are benefiting from the transition to clean energy through:
(~~d~~**i**) The equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities;
(**ii**~~e~~) Long-term and short-term public health and environmental benefits and reduction of costs and risks; and
(**iii**~~f~~) Energy security and resiliency; and
(b)
~~(g) Make progress toward and meet the standards in this subsection: (i) while maintaining and protecting the safety, reliable operation, and balancing of the electric system; and (ii) at the lowest reasonable cost.~~
~~(2) Adaptively manage portfolio of activities. Each utility must continuously review and update as appropriate its planning and investment activities to adapt to changing market conditions and developing technologies. Each utility must~~

~~research emerging technologies and assess the potential of such technologies for implementation in its service territory, including assessment and development of new and pilot programs.~~

PacifiCorp recommends deleting the last paragraph of the rule above because it goes beyond the requirements in CETA and would be unduly burdensome. The reporting and planning responsibilities under CETA, together with existing requirements such as the Clean Energy Action Plan, IRP, biennial conservation planning, and other planning and reporting obligations, create nearly continuous planning and reporting obligations for utilities. These obligations have the potential to be highly redundant, burdensome, and ultimately unnecessary. Furthermore, prudent utility actions require reviewing and updating planning assumptions when making investment decisions.

3. **The proposed rules make a distinction between determining whether the planning and investment activities undertaken by the utility are in compliance with the clean energy standards of CETA and approving the specific actions the utility undertakes to comply with the clean energy standards. In draft WAC 480-100-650, the discussion draft requires that all planning and investment activities undertaken by the utility must be consistent with the clean energy standards.**

   a. **Should the commission determine whether all the activities, rather than the planning and investment activities, undertaken by the utility are consistent with the clean energy standards?**

No. The commission should determine whether specific actions taken by a utility to comply with CETA requirements are consistent with clean energy standards, but this should not be extended to include all actions taken by a utility.

   b. **Does the draft rule need to more clearly delineate the review of activities as being separate from the approval of the specific actions?**

Yes, more clarity on the delineation of the review of activities as being separate from the approval of specific actions would be helpful.

4. **RCW 19.405.060 requires a utility to file a CEIP by January 1, 2022. However, Staff is proposing a timeline that requires utilities to file CEIPs in advance of January 1. Draft WAC 480-100-655 requires utilities to file a CEIP by October 1, 2021, and draft WAC 480-100-670(4) requires the utility to provide a draft of the CEIP to its advisory group two months before filing it with the Commission. The purpose of Staff's proposed timeline is to align the CEIP with the existing process established for reviewing utility biennial conservation plans, as required by the EIA. As indicated in the Issue Discussion section, Staff's intent is to reduce the number of utility filings so that the CEIP can satisfy both the EIA and CEIP conservation target setting requirements. Staff also believes that approving the CEIP earlier will give the utility more certainty of its requirements and better enable utility planning. Please respond to the merits of this proposed timeline.**

PacifiCorp recommends retaining the legislatively outlined filing date for the first CEIP, which is January 1, 2022. This timeline would allow sufficient review of the utility IRP filings, and would provide opportunities for a robust public process as part of the CEIP. In addition, providing a draft of the CEIP to its advisory group two months before filing is problematic.

Under the rules as currently drafted, there are four additional reports or plans required—the CEIP, the annual progress report, the compliance report, and the public participation plan. Rather than create expedited timelines and draft requirements, the CETA implementation rules should "simplify compliance and avoid duplicative processes," consistent with legislative intent.[2]

PacifiCorp appreciates Staff's attempts to align timelines and reduce the number of filings, but an accelerated CEIP would place additional pressure on the IRP timeline and could prevent or severely constrain procurement activities, such as issuance of a request for proposals, from occurring between the date of IRP acknowledgment and the CEIP draft due date of August 1.

In addition, a draft CEIP containing conservation targets developed in accordance with WAC Chapter 480-109 due on August 1 would materially shorten the current conservation target development schedule. The draft biennial conservation plan and target, which are currently due October 1, would be due two months earlier (August 1). The final conservation plan and target, which are currently due on November 1, would now be due October 1. Conservation target development requires use of the latest information, including conservation potential assessments and the IRP, and it may not be possible to simply start the process earlier to meet this alternate schedule.

PacifiCorp also has concerns regarding the draft rules governing public participation in the CETA planning and reporting processes. The rules should establish goals for public participation in the CETA processes, but should retain flexibility in how those goals are achieved. PacifiCorp has spent many years building a robust public input process for its IRP that includes a wide variety of stakeholders and is open to anyone who wants to participate. This public input process would work equally well in the CETA context.

Technical advisory groups are not part of PacifiCorp's existing public process, and due to the company's multistate operations, a well curated distribution list has been the best approach to reaching all interested stakeholders. The company plans to do outreach and add to its existing stakeholder distribution list to meet the equity advisory group requirement detailed in section 2. But PacifiCorp requests the flexibility to continue using its established public input process, tailored to CETA requirements, for its CETA public input process rather than the advisory group approach detailed in the draft rule.

Under PacifiCorp's current process for public input, stakeholders submit feedback forms when they have specific requests for changes or additions, or when they want to make written comments. In addition to summarizing the public process in every resource plan, PacifiCorp makes all

[2] RCW 19.405.100(1).

stakeholder feedback forms and responses available on its website, offering a high level of transparency and information sharing. The requirements in the draft rules requiring a utility to demonstrate how it considered the public input and discuss the reasons for not incorporating public input add a considerable administrative burden to the existing process without a clear benefit.

PacifiCorp is committed to making presentation materials available to stakeholders before public meetings and requests that the proposed timeline in subsection 3 be changed to three days in advance rather than five. The company sends meeting notices via email to the stakeholder distribution list and also posts them on the resource planning section of PacifiCorp's website. The draft rules suggest in Section 1(a) that this practice should expand to include any Commission meeting related to a utility's CEIP. As the Commission already publicly notices meetings, this practice would add a redundant administrative burden for the utility.

5. RCW 19.405.060(1)(b)(iii) refers to "demonstrating progress toward" meeting the clean energy standards and interim targets.

a. Is it clear from the draft rules that such a demonstration within a four-year compliance period would encompass compliance with the various components of the statute?

The rules are clear in this regard; however, PacifiCorp disagrees with the interpretation of RCW 19.405.060(1)(b)(iii). The statute requires that a CEIP include specific actions that demonstrate progress toward meeting the statute's clean energy standards (RCW 19.405.040(1) and 19.405.050(1)) and interim targets towards meeting those standards. The statute does not expand the demonstration of progress to all aspects of CETA, and neither should the Commission. In addition, the statute does not create specific compliance targets that must be met in any given compliance period. Instead, the statute sets overarching goals that must be reached by 2030 and 2045. A utility's compliance plan should demonstrate how it intends to meet those goals and set interim targets, but there should be flexibility so that each utility can develop plans based on that utility's unique requirements and circumstance.

Draft WAC 480-100-665 requires utilities to file compliance reports beginning in 2026 and sections (1)(a) and (b) requires the utility to demonstrate compliance with specific and interim targets. At a minimum, these requirements should be removed to be consistent with the statute because the statute does not actually require compliance until 2030. The earliest that utilities should be required to file a compliance report showing that the requirements of RCW 19.405.040(1) is a reasonable period of time after the January 1, 2030 deadline for meeting the requirement that "all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030." Subsequent reports should be required after each four-year compliance period. PacifiCorp understands that the Commission and stakeholders may want information regarding utility progress before 2030 and is willing to work with Staff and stakeholders on establishing a framework for doing so.

b. Is it clear from the draft rules that some components of the statute (e.g., RCW 19.405.030 and RCW 19.405.040(8)) would be evaluated relative to the four-year compliance period rather than relative to 2030 or 2045?

Yes, the rule is clear. PacifiCorp disagrees, however, that the expansion of the statutory requirements in the draft rule is appropriate.

For RCW 19.405.030, the target in the goal is December 31, 2025, and the goal is related to the removal of coal-fired generation resources from customer rates. Compliance with RCW 19.405.030 should be demonstrated in an appropriate rate-setting proceeding, not through the CETA planning and reporting processes. Please see PacifiCorp's response to question 7.

6. Interim targets

a. Draft WAC 480-100-655(2)(b) requires utilities to propose interim targets for meeting the 2045 standard under RCW 19.405.050. Noting that RCW 19.405.060(1)(a)(ii) requires utilities to propose interim targets for meeting the standard under RCW 19.405.040 but not .050, is it appropriate for the Commission to establish interim targets for making progress toward meeting the standard in .050?

No comment.

b. Draft WAC 480-100-665(1)(b) requires utilities to meet their interim targets. However, RCW 19.405.090 does not establish penalties for interim targets. Is it appropriate for the commission to enforce compliance with the interim targets through its own authority?

No. CETA requires utilities to propose interim targets to show progress towards meeting the statutory goals, but does not require strict compliance with interim targets nor does it impose penalties for non-compliance. The Commission should not create compliance obligations that do not exist in the statute, particularly requirements that would subject the utilities to penalties not authorized in the statute. The Commission should assume that the legislature was intentional in establishing compliance obligations beginning January 1, 2030, and to establish penalties for failure to comply with RCW 19.405.030(1) and RCW 19.405.040(1) to the extent enunciated in the statute only. The Commission should assume that the legislature was intentional in explicitly establishing penalties for some sections of the statute and not others.

7. Chapter 19.405 RCW requires the utility to demonstrate its compliance with RCW 19.405.040(1) and 050(1) using a combination of nonemitting and renewable resources. Because there are additional requirements in the statute, draft WAC 480-100-665 requires the utility to report more than just its nonemitting and renewable resources. Is the reporting under draft WAC 480-100-665 necessary and appropriate?

As discussed above, PacifiCorp disagrees that the Commission should establish compliance reporting requirements that impose compliance requirements that are not in CETA. In addition,

PacifiCorp recommends deleting the requirement to file annual clean energy progress reports. There is no requirement in CETA to file such annual progress reports, and given the many existing reporting and planning requirements, as well as the additional reports and plans required in these draft rules, there is ample opportunity for the Commission and stakeholders to review a utility's actions to implement CETA.

Furthermore, the Commission should not require a demonstration of compliance with RCW 19.405.030(1) as part of an annual progress report nor should the Commission mandate a specific mechanism (in this case, e-tag data) for demonstrating compliance. Compliance with RCW 19.405.030 should be reviewed as part of a rate-setting proceeding to determine cost recovery of resources and fuel costs.

If the Commission continues to impose a stand-alone reporting requirement to demonstrate compliance with RCW 19.405.030(1), the current rule does not accurately reflect the statutory requirements. The statute does not require that a utility demonstrate that it does not use any coal-fired resource "to serve retail electric customer load" as stated in the rule. Instead, the statute requires that the utility "eliminate coal-fired resources from its allocation of electricity."[3] Allocation of electricity is defined as "*for the purposes of setting electricity rates,* the costs and benefits associated with the resources used to provide electricity to an electric utility retail electricity consumers that are located in this state."[4] This means that the demonstration of compliance with RCW 19.405.030 is limited to demonstrating that the costs and benefits of coal-fired resources are not included in Washington customer's rates. E-tag data is irrelevant to this demonstration. In any event, while e-tags may be useful in some cases and for some utilities, they do not represent actual generation sources or delivery to load. The primary purpose of e-tags is to ensure the quantity of imports and exports between balancing authority areas (which often span multiple states) are supported by the transmission system and to provide a metric against which system reliability can be maintained hour-to hour. For PacifiCorp, e-tags do not in any way form a basis for identifying which resources are in rates nor do they reflect specific resources delivered to Washington load.

8. RCW 19.405.040(1)(a)(ii) establishes multiyear compliance periods between 2030 and 2045. RCW 19.405.060(1)(a)(ii) requires the utility to propose interim targets during the years prior to 2030 and between 2030 and 2045. Draft WAC 480-100-655(2), uses the term "implementation period" to avoid confusion with the compliance periods in the statute. It also requires a series of interim targets for 2022 to 2030 and 2030 to 2045. Does the draft rule clearly demonstrate that intent? Is this approach appropriate?

If the term "implementation period" is designed to avoid confusion with the compliance periods identified in the statute, PacifiCorp recommends making "implementation period" a defined term to ensure clarity.

[3] RCW 19.405.030(1)(a).
[4] RCW 19.405.020(1).

9. In draft WAC 480-100-665, Reporting and compliance, the discussion draft implies that the utility must demonstrate that the utility has met both its interim and specific targets while also demonstrating that it is making progress towards meeting its clean energy standards, as described in draft WAC 480-100-650. It is possible that a utility could demonstrate that it will likely meet the clean energy standards, or is meeting the clean energy standards, but may not meet a specific target. Should the Commission always issue a penalty to a utility for failing to meet a specific target or should it take into consideration the utility's achievement for the clean energy standard, interim target, and other specific targets?

No, the Commission should not penalize utilities for failing to meet interim or specific targets (please see further discussion above). CETA sets targets for 2030 and 2045; its does not create interim targets based on a percentage of retail sales of electricity in the four-year compliance periods, and neither should this Commission. The lowest reasonable cost path, considering risk, may not include a gradual increase in percentage over the course of the compliance period, and the Commission should not mandate that interim targets be based on a percent of retail sales. Under CETA, the utilities propose appropriate specific and interim targets for this Commission's consideration and approval.

It is also important to distinguish between the goals under RCW 19.405.040 and 19.405.050, which specifies procurement quantity requirements based on a percentage of retail sales, and RCW 19.405.030, which addressed the inclusion of the costs and benefits of coal in retail rates. These are very different metrics, set based on different policy objectives, and implementation of these very different goals will necessarily be different.

10. RCW 19.280.030(3) specifies when an electric utility must consider the social cost of greenhouse gas emissions when developing integrated resource plans and clean energy action plans. Draft WAC 480-100-675(1)(a) proposes rules that would require utilities, when calculating the incremental cost of compliance, to include in their alternative lowest reasonable cost and reasonably available portfolio the social cost of greenhouse gas emissions, or SCGHG, in the resource acquisition decision. Please comment on (1) whether the inclusion of the SCGHG is required by statute, (2) if not, whether it is still appropriate for the rules to require the SCGHG in the alternative lowest reasonable cost and reasonably available portfolio, and (3) how inclusion of the SCGHG affects the calculation of the incremental cost of compliance.

(1) No, the "inclusion" of SCGHG is not required by statute. The statute requires *consideration* of SCGHG, which differs from inclusion.

(2) It is appropriate for the rules to require consideration of SCGHG, but the rules should not be overly prescriptive or require inclusion of SCGHG in the alternative lowest reasonable cost and reasonably available portfolio.

(3) The inclusion of SCGHG in the incremental cost calculation is likely to reduce the efficacy of that calculation as a measure of cost impact to customers. The SCGHG is not explicitly included

in customer rates and so is not relevant to a calculation of direct customer rate impact. When incorporated into the planning process, the SCGHG is effective in driving a specific direction with respect to resource mix. However, the incremental costs should then be based on the portfolio of resources selected and should not reflect the SCGHG.

11. Draft WAC 480-100-675(4), reported actual incremental costs requires the presentation of capital and expense accounts to be reported by Federal Energy Regulatory Commission (FERC) account. For the purpose of reporting electric retail revenues, should the Commission require utilities to use a standard list of FERC accounts as part of the incremental cost calculation?

a. If yes, please use the table provided below for discussion purposes to indicate if there are any FERC accounts listed that should not be included? Conversely, are there any FERC accounts that are not listed that should be included? Please include comment on the rationale to either include or exclude a particular FERC account.

b. If no, please provide the challenges encountered by a standard FERC account listing.

While PacifiCorp does not object to the Commission requiring a standard list of FERC accounts to be used as part of the incremental cost calculation, additional clarity is needed regarding the requirement to report "actual" incremental costs. WAC 480-100-650(7) requires each CEIP to forecast incremental cost, which will occur at the time the utility requests Commission approval of the CEIP. However, in WAC 480-100-665, "actual" incremental costs must be reported. It is unclear how actual incremental costs will be calculated four years after the approval of the incremental cost forecast. PacifiCorp requests a workshop to discuss the methodology for forecasting and conducting a true up of CETA incremental costs, and specifically to discuss the appropriate "base case" to be used when calculating which actual costs should be allocated to CETA.

Regarding the FERC accounts, reporting based on FERC account would be consistent with how costs and revenues are reported to the Commission in utility ratemaking filings. If a standard list of FERC accounts is used, it should be comprehensive to allow for reporting of all costs and revenues. Suggested additions to the Commission's FERC account list are shown in bold below.

Specifically, PacifiCorp recommends including FERC accounts that record revenue as an offset to the utility's revenue requirement, such as "FERC 453 – Sales of Water and Water Power" or "FERC 454 Rent from Electric Property." These accounts would help to provide an accurate and comprehensive reporting of the utility's costs and revenues and would provide an accurate determination of incremental costs under CETA.

FERC Account name	**FERC account number**
Residential Sales	440
Commercial and industrial sales	442
Public street and highway lighting	444
Other sales to public authorities	445
Sales to railroads and railways	446
Interdepartmental sales	448

Sales for resale	447
Provision for Rate Refunds	**449.1**
Forfeited Discounts	**450**
Miscellaneous Service Revenues	**451**
Sales of Water and Water Power	**453**
Rent from Electric Property	**454**
Interdepartmental Rents	**455**
Other electric revenues	456
Revenues from transmission of electricity of others	456.1
Regional transmission service revenues	457.1
Miscellaneous revenues	457.2

PACIFICORP'S COMMENTS ON THE COMMISSION'S DRAFT RULES

PacifiCorp respectfully submits the following additional specific comments on the Commission's draft rules implementing CETA.

WAC 480-100-600 Purpose.

The draft rule should include the statute's directive to meet Washington's goal of meeting the clean energy standards in a manner that "does not impair the reliability of the electricity system or impose unreasonable costs on utility customers."[5] PacifiCorp also recommends the following clarifying edit:

> These rules should be interpreted to ensure that planning and investment activities undertaken by a utility ~~must be~~ **are** consistent with the clean energy standards.

WAC 480-100-6XX Definitions

The definitions in the draft rules are generally consistent with CETA. It is unclear, however, why certain definitions from CETA are repeated word-for-word in the draft rules while other terms that are used in the draft rules and defined in statute are not included in the list of definitions, such as "coal-fired resource" and "allocation of energy," which are both important in achieving the requirements of RCW 19.405.030. PacifiCorp recommends incorporating by reference the definitions in CETA and limiting the definitions provided in the draft rule to terms that are not defined in CETA.

PacifiCorp recommends that the definition of integrated resource plan or IRP remain consistent with RCW 19.280 and not add any undefined or vague terms. PacifiCorp therefore recommends the following revision to the proposed definition:

> "Integrated Resource Plan" or "IRP" means an analysis describing the mix of conservation and efficiency, generation, distributed energy resources, and delivery

[5] RCW 19.405.010(2).

> system infrastructure that will met current and future resource needs and the requirements of chapters 19.280~~ and 19.405 RCW at the lowest reasonable cost to the utility and its customers and is clean, affordable, reliable, and equitably distributed~~.

WAC 480-100-650 Clean Energy Standards

Please see PacifiCorp's response to Commission question 2 above.

WAC 480-100-655 CEIP

CEIP Filing Requirements (Section 1)

PacifiCorp requests clarification regarding the development and proposal of interim targets. WAC 480-100-655(2) currently reads:

> [W]ith each CEIP, each utility must propose a series of interim targets that demonstrate reasonable progress toward meeting the clean energy standards.
> (a) Each interim target must cover an implementation period no longer than four years, with the first period beginning in 2022.
> (b) Each utility must propose interim targets in the form of the percent of retail sales of electricity supplied by nonemitting and renewable resources prior to 2030 and from 2030 through 2045.

Clarification regarding the targets that must be included with a CEIP filing would be helpful. If a full forecast—in four-year increments—through 2045 must be submitted with each CEIP, PacifiCorp requests rule language that identifies that any compliance period greater than four years in the future is not subject to the "specific targets" requirements. If each CEIP filing is only meant to forecast the upcoming four-year compliance period, PacifiCorp recommends removing the words "a series of" from WAC 480-100-655(1).

PacifiCorp appreciates the ability to include storage in the renewable energy target when those resources will be charged using renewable energy. However, it is unclear how to count energy from a renewable resource when it is charging the storage resource, separate from counting a storage resource that has already been charged with renewable energy when releasing the energy. It may ultimately be recommended to generate renewable energy credits (RECs) that are specific to storage release; however, PacifiCorp is not aware of instances where RECs are generated from storage. In addition, PacifiCorp requests the consideration of benefits associated with co-located storage that is not charged using renewable resources and the incentives created by only allowing storage charged using renewable resources to "count" toward CETA compliance. Co-located storage is potentially limited in its ability to provide integration because it is not possible to charge the battery at all times. Stand-alone storage may ultimately be a cost-effective and useful component of achieving a reliable and decarbonized electric grid and the Commission should not create penalties or disincentives for stand-alone storage, particularly when such penalty is not explicit in CETA. PacifiCorp recommends that, given the above complexities associated with

storage, the Commission should not consider storage in this CEIP rulemaking but rather set this issue for consideration in a future or separate rulemaking.

Specific Action (Section 4)

PacifiCorp assumes there is a distinction between the specific actions a utility will take over an implementation period identified in the Clean Energy Action Plan (CEAP) and in the CEIP. In the case of the CEAP, action items would be more granular, outlining steps necessary to meet the retirement and resource acquisition plans designed in the CEIP. In the CEIP, a bigger picture view is taken to note actions the utility will take to meet the clean energy standards, such as specific retirement and resource acquisition timing, and not the in-between steps to retire or acquire specific resources.

WAC 480-100-655(4)(f) should be revised to read "…lowest reasonable cost, considering risk; this demonstration…." PacifiCorp recommends making similar revisions throughout the rules when "lowest reasonable cost" is discussed. This is consistent with the statute.[6]

CEIP Actions/Resources (Section 5)

PacifiCorp recommends modifications to the proposed langue to recognize the specific location of resources may not be known at the time the CEIP is filed, which would make it difficult to identify "…whether the resource will be located in highly impacted communities or serve vulnerable populations in part or in whole." PacifiCorp's resource projections do not have the level of location specificity to meet this requirement, but it becomes available during the actual procurement process. Location specificity and the identification of impacts on highly impacted communities and vulnerable populations would be more appropriately considered during and RFP or other resource acquisition process.

WAC 480-100-660 Process for Review of CEIP and Updates

The rules governing the approval process outlined in subsection 2 should be revised to explicitly link the Commission's approval and modification authority to the CETA provisions governing that authority. This could be achieved by adding "to the extent permitted by RCW 19.405.060(1)(c)" to the ends of subsection 2 and 2(a).

WAC 480-100-665 Reporting and Compliance

PacifiCorp is generally concerned with the extensive level of reporting included in the draft rules. In many instances, the draft rules require the demonstration of compliance where there are no explicit compliance requirements and where information included in a compliance or progress

[6] *See, e.g.,* RCW 19.405.040(6)(a) ("In making new investments, an electric utility must, to the maximum extent feasible: (i) Achieve targets at the lowest reasonable cost, considering risk…."). RCW 19.405.060(1)(c)(ii) ("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 . . . (ii) Planning to meet the standards at the lowest reasonable cost, considering risk…").

report is likely to be reported elsewhere. PacifiCorp requests that the Commission endeavor to reduce the administrative burden embodied in these rules both by eliminating unnecessary or duplicative requirements and seeking to incorporate some compliance elements into existing Commission processes.

In addition to its comments in response to the Commission's specific questions, PacifiCorp notes that the requirement to report on "its adaptive management required in WAC 480-100-650(2)" in subsection 13 be revised as appropriate based on the recommended deletion of subsection 2 of 480-100-650.

WAC 480-100-670 Public Participation in a CEIP

As discussed further below, PacifiCorp is limited in its ability to provide its model and associated files. PacifiCorp requests clarity on the types of "data inputs and files" that must be provided to stakeholder in native file format. PacifiCorp also requests clarity on the definition of "stakeholders" as used in this context and requests that it be limited, at a minimum, to official parties in the CEIP docket.

WAC 480-100-675 Reporting and Compliance (Including incremental cost of compliance)

PacifiCorp supports the flexibility that is written in to WAC 480-100-675(1) regarding the calculation methodology of incremental cost, which states: "A utility may include in its documentation those expenditures and investments that are not reflected in portfolio optimization if it demonstrates that the investment or expenditure could not reasonably have been reflected in the portfolio optimization model." This flexibility is necessary as the CEIP compliance portfolio may include elements that are difficult to forecast, such as the impact of renewable generation, which is variable in nature, on the wholesale expenses and sales associated with power costs.

Accordingly, PacifiCorp recommends a language change in 480-100-675(b) to clarify that any effect of CEIP compliance on wholesale power expenses or revenues is a forecast only and may be subject to true up. Further, PacifiCorp supports the language as written in WAC 480-100-675(3)(a) which specifies that "all investments and expenditures that the utility intends to make during the period in order to comply…" are included in projected incremental cost.

PacifiCorp is concerned about the calculation of "actual" incremental cost in subsection 4, as stated in PacifiCorp's response to question 11 in the "PacifiCorp responses to Commission questions" section of this document. Subsection 4(b) and (d) require demonstrations that are only required under the statute if a utility is claiming that it has met its compliance obligations because it has hit the applicable cost cap.[7] These requirements are not generally applicable, and the Commission should not make them generally applicable.

In section 1(d) of WAC 480-100-675, a utility is required to provide a copy of its model: "If the portfolios provided for compliance are the result of a model, the utility must provide a fully linked

[7] RCW 19.405.060(3)(a).

and electronically functional copy of that model as part of its workpapers." Because PacifiCorp does not own or control the software and is subject to the terms and conditions of its software license, PacifiCorp cannot provide access to the model. Additional licenses would need to be acquired from the third-party vendor at considerable cost.

WAC 480-100-680 Enforcement

The Commission should ensure that its rules governing enforcement do not create penalties for requirements that are outside of CETA (for example, penalties for failure to meet interim targets; please see discussion above in response to the Commission question on this issue). The Commission should also ensure that any penalty authority is limited to identifiable legal requirements that can be appropriately measured. It is inappropriate to impose penalties for vague or undefined legal requirements. For example, draft WAC 480-100-680(3)(g) deems failure to meet any provision of CETA that is not subject to the administrative penalty under RCW 19.405.090(1) an "ongoing" violation of the statute, until certain actions are taken. The rule cites RCW 19.405.040(8) as an example a provision of CETA that is not subject to the administrative penalty. That provision states:

> In complying with this section, an electric utility must, consistent with the requirement of RCW 19.280.030 and 19.405.140, ensure that all customers are benefitting 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 environmental benefits and reduction of costs; and risks and energy security and resiliency.

These are laudable goals, but at this time, it is unclear how compliance with these goals will be determined or demonstrated. A fundamental principle of law is that a person cannot be punished for violating the law when the requirements of the law are unclear or overly subjective. Without clear and established definitions of the terms used in the statutes, such as "equitable distribution," "benefits," "burdens", it is inappropriate to establish penalties for non-compliance.

CONCLUSION

PacifiCorp appreciates the Commission's work in preparing the draft CETA implementation rules and the opportunity to comment. As the Commission proceeds through the rulemaking process, PacifiCorp urges the Commission to ensure that the rules:

- Are consistent with CETA and other relevant statutes
- Maintain flexibility to allow utilities, the Commission and stakeholders to improve the compliance and implementation process as it proceeds
- Do not create burdensome, unnecessary and duplicative reporting or compliance obligations

Sincerely,

_____/s/____
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