

**Exh. ASR-1T
Docket UE-220376
Witness: Andrew Rector**

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

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

Respondent.

DOCKET UE-220376

TESTIMONY OF

ANDREW RECTOR

**ON BEHALF OF STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

*Incorporation of Social Cost of Greenhouse Gases into PacifiCorp's
2021 Clean Energy Implementation Plan*

October 21, 2022

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- Exh. ASR-16 PacifiCorp 2021 Integrated Resource Plan Interim IRP, April 1, 2021
- Exh. ASR-17 PacifiCorp 2021 Resource Planning Revised Work Plan (April 1, 2021)
- Exh. ASR-18 Docket UE-200420, Order 02, Requiring Compliance with Integrated Resource Plan Statutes and Rules (with Attachment)
- Exh. ASR-19 Docket UE-210223, PacifiCorp 2022 Clean Energy Implementation Modeling Work Plan

Exh. ASR-20 Docket UE-210829, Commission Staff Comments Regarding PacifiCorp's Final
Clean Energy Implementation Plan

1 **I. INTRODUCTION**

2

3 **Q. Please state your name and address.**

4 A. My name is Andrew S. Rector, and my business address is 621 Woodland Square Loop
5 SE, Lacey, Washington, 98503. My business mailing address is P.O. Box 47250,
6 Olympia, Washington, 98504-7250. My business email address is
7 Andrew.rector@utc.wa.gov.

8

9 **Q. By whom are you employed and in what capacity?**

10 A. I am employed by the Washington Utilities and Transportation Commission
11 (Commission) as a Regulatory Analyst in the Conservation and Energy Planning (CEP)
12 Section of the Regulatory Services Division.

13

14 **Q. How long have you been employed by the Commission?**

15 A. I have been employed by the Commission since April 2018.

16

17 **Q. Please state your qualifications to provide testimony in this proceeding**

18 A. I have a Master’s degree in Public Affairs, with emphases in sustainability and policy
19 analysis, from Indiana University. I completed the Public Utilities Reports Guide’s
20 “Principles of Public Utilities Operations and Management” in October 2018 and
21 attended New Mexico State University’s rate case basics workshop in May 2019, among
22 other workshops, trainings, and conferences.

23

1 As a Regulatory Analyst, I am responsible for the development of Staff recommendations
2 concerning tariff filings, conservation plans, integrated resource plans (IRPs), and clean
3 energy implementation plans (CEIPs) by regulated companies for presentation to the
4 Commission at open public meetings and adjudications. I have served as Commission
5 Staff's IRP/CEIP lead analyst for PacifiCorp since January 2022.

6
7 **Q. Have you testified previously before the Commission?**

8 A. Yes. I submitted testimony in October 2020 in Docket UE-200115, "Application for an
9 Order Authorizing the Sale of All of Puget Sound Energy's Interests in Colstrip Unit 4
10 and Certain of Puget Sound Energy's Interests in the Colstrip Transmission System." I
11 also submitted testimony in July 2022 in Dockets UE-220066/UG-220067/UG-210918,
12 Puget Sound Energy's 2022 general rate case and "Petition for Order that Authorizes the
13 Accounting Treatment of the Share of Costs Associated with the Tacoma LNG Facility."

14
15 **Q. What is the purpose of your testimony in this proceeding?**

16 A. The purpose of my testimony is to describe the legal requirements of how the social cost
17 of greenhouse gases (SCGHG) should have been modeled in PacifiCorp's CEIP, describe
18 the history of PacifiCorp's non-compliance with these requirements, and outline the steps
19 the Company should take to come into compliance.

20
21 **Q. Have you prepared any exhibits in support of your testimony?**

22 A. Yes. I have prepared Exhibits ASR-2 through ASR-20.

- 1 • Exh. ASR-2 is PacifiCorp’s Petition for Exemption from WAC 480-100-605 in
2 Docket UE-210829
- 3 • Exh. ASR-3 is Commission Staff’s Response to PacifiCorp’s Petition for Exemption
4 in Docket UE-210829
- 5 • Exh. ASR-4 is PacifiCorp’s Petition for Exemption from WAC 480-100-640(1), and
6 Motion to Amend General Order 601, paragraph 25, in Docket UE-210223
- 7 • Exh. ASR-5 is Order 01 in Docket UE-210223
- 8 • Exh. ASR-6 is Order 01 in Docket UE-210829
- 9 • Exh. ASR-7 is PacifiCorp’s draft CEIP, submitted Nov. 1, 2021
- 10 • Exh. ASR-8 is Commission Staff’s informal comments on PacifiCorp’s draft CEIP,
11 dated Dec. 10, 2021
- 12 • Exh. ASR-9 is PacifiCorp’s final CEIP, originally filed Dec. 30, 2021, with errata
13 filed April 19, 2022
- 14 • Exh. ASR-10 is volume one of PacifiCorp’s final IRP, filed Sept. 1, 2021
- 15 • Exh. ASR-11 is PacifiCorp’s responses to select UTC Staff data requests in this
16 docket
- 17 • Exh. ASR-12 is Attachment 7-1 to PacifiCorp’s Response to UTC Staff Data Request
18 No. 7 in this docket
- 19 • Exh. ASR-13 is a feedback form submitted by Commission Staff in PacifiCorp’s
20 2021 IRP, dated Dec. 11, 2020
- 21 • Exh. ASR-14 is PacifiCorp’s Motion for Exemption from WAC 480-100-625(3) in
22 Docket UE-200420
- 23 • Exh. ASR-15 is Order 01 in Docket UE-200420

- 1 • Exh. ASR-16 is PacifiCorp’s interim IRP, filed April 1, 2021, in Docket UE-200420
- 2 • Exh. ASR-17 is PacifiCorp’s revised IRP workplan, filed April 1, 2021, in Docket
- 3 UE-200420
- 4 • Exh. ASR-18 is Order 02 in Docket UE-200420
- 5 • Exh. ASR-19 is PacifiCorp’s 2022 CEIP modeling workplan, filed August 16, 2021,
- 6 in Docket UE-210223
- 7 • Exh. ASR-20 is Staff’s formal comments on PacifiCorp’s final CEIP, filed May 6,
- 8 2022, in Docket UE-210829

9

10 **II. RECOMMENDATION AND SUMMARY**

11

12 **Q. What is your recommendation?**

13 A. I recommend that PacifiCorp be required to refile its CEIP using the P02-SCGHG

14 portfolio as the basis of its CEIP preferred portfolio. I further recommend that the

15 Commission penalize the Company an amount that is just and reasonable under the

16 circumstances, considering a maximum penalty of \$1.93 million for its violations of law,

17 rule, and Commission order.

18

19 **Q. What should PacifiCorp include as part of the refiled CEIP?**

20 A. The Company should refile its CEIP using the P02-SCGHG portfolio as the basis of the

21 CEIP preferred portfolio and include a thorough, detailed explanation of how this

22 portfolio applied only a SCGHG cost adder to every Washington allocated resource that

23 was included in the portfolio. The refiled CEIP should include accompanying workpapers

1 that illustrate the inputs and outputs that went into the portfolio, along with a step-by-step
2 roadmap as part of the detailed explanation.

3
4 **Q. Please summarize your testimony.**

5 A. I begin by discussing the SCGHG’s treatment in law, rule, and order. I then discuss
6 PacifiCorp’s history of non-compliance with law, rule, and order, and follow that with a
7 description of how the Company should have treated the SCGHG in its modeling. I
8 conclude by outlining the penalties that should be assessed to the Company for its non-
9 compliance.

10
11 **III. DISCUSSION**

12
13 **A. SCGHG Treatment in Law, Rule, and Order**

14
15 **Q. What does the law say about how utilities should model the SCGHG?**

16 A. An electric utility must consider the SCGHG “when developing integrated resource plans
17 and clean energy action plans.”¹ The law states that the utility “must incorporate the
18 social cost of greenhouse gas emissions as a cost adder when: evaluating and selecting
19 conservation policies, programs and targets; [d]eveloping integrated resource plans and
20 clean energy actions plans; and [e]valuating and selecting intermediate term and long-

¹ RCW 19.280.030(3)(a).

1 term resources options.”² This subsection of RCW 19.280 was added by the Clean
2 Energy Transformation Act (CETA).³

3
4 **Q. What does Commission rule say about the SCGHG?**

5 A. The rules promulgated by the Commission in response to CETA address the SCGHG in
6 two ways. First, both WAC 480-100-620(11)(j) and -(12)(i) require a utility to
7 “incorporate the social cost of greenhouse gas emissions as a cost adder as specified in
8 RCW 19.280.030(3).” WAC 480-100-620(11) and (12) pertain to the IRP portfolio
9 analysis and preferred portfolio, and the clean energy action plan (CEAP). In both statute
10 and commission rule, the IRP and CEAP are inputs that the CEIP must respectively be
11 “consistent with” and “informed by”.⁴ IRP rules and statute require including the
12 SCGHG cost adder in the IRP preferred portfolio, and the IRP/CEAP are necessary
13 inputs to the CEIP.⁵ Therefore, there was no need for the Commission to specify in rule
14 that the CEIP preferred portfolio must also incorporate a SCGHG cost adder.⁶

15 Second, under WAC 480-100-605, the definition for “alternative lowest
16 reasonable cost and reasonably available portfolio” requires utilities to include the
17 SCGHG “in the resource acquisition decision in accordance with RCW
18 19.280.030(3)(a).” This portfolio is the alternative or “baseline” portfolio used in the

² *Id.* Emphasis added. Subsections omitted.

³ ESSB 5116; Laws of 2019, ch. 288, § 14.

⁴ See RCW 19.405.060(1)(b)(i)-(iii); WAC 480-100-640(1); WAC 480-100-640(6)(d).

⁵ See *In the Matter of Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act*, Dockets UE-191023 & UE-190698 (consolidated), General Order 601, p. 17, ¶ 37 (“How the utility chooses to model the SCGHG emissions in its preferred portfolio in the IRP will inform its CEAP and ultimately its CEIP. The utility must provide a description in its CEIP of how the SCGHG emissions are modelled and incorporated in its preferred portfolio.”) (Dec. 28, 2020) (CETA Rulemaking Order).

⁶ See CETA Rulemaking Order at 46-48, ¶¶ 128-129, 131-132.

1 calculation of incremental cost.⁷ As the citation to statute in WAC 480-100-605 makes
2 clear, the SCGHG cost adder requirement for the baseline portfolio and the CEIP
3 preferred portfolio are identical.

4
5 **Q. Did the Commission address the SCGHG in its CETA rulemaking?**

6 A. Yes, the final rulemaking order addresses the SCGHG in two places. It addresses WAC
7 480-100-620's requirements first.⁸ The Commission declined to require a specific
8 SCGHG modeling approach at the time but stated its expectation that the utilities consult
9 with their advisory groups on this issue.⁹ The Commission also clearly stated that each
10 utility needed to provide at least one portfolio that treated the SCGHG cost adder as a
11 planning or fixed adder, and at least one portfolio that incorporated the SCGHG in
12 dispatch costs.¹⁰

13 The Commission then turned its attention to the use of the SCGHG in the CEIP
14 for the purposes of calculating the incremental cost of compliance.¹¹ The Commission
15 required utilities to include the SCGHG in their "baseline portfolio" for calculating the
16 incremental costs of the CEIP.¹² Here the Commission clarified its interpretation that the
17 use of the SCGHG in resource planning and selection¹³ also applies to the utilities'
18 CEIPs. Specifically, the Commission stated that utilities must apply the SCGHG cost
19 adder when selecting the CEIP portfolio of resources.¹⁴

⁷ WAC 480-100-660(1).

⁸ CETA Rulemaking Order at 16, ¶¶ 35- 18, ¶ 39.

⁹ *Id.* at 17, ¶ 38.

¹⁰ *Id.*

¹¹ WAC 480-100-660; CETA Rulemaking Order at 46, ¶¶ 127- 47, ¶ 129.

¹² CETA Rulemaking Order at 46, ¶ 128.

¹³ RCW 19.280.030(3).

¹⁴ CETA Rulemaking Order, pp. 46-48, ¶¶ 128-129, 131-132.

1 **B. The Petition for Exemption from WAC 480-100-605**

2
3 **Q. Why did PacifiCorp seek an exemption from rule in this docket?**

4 A. According to the Company’s petition (filed as Exh. ASR-2), PacifiCorp intended to use
5 its IRP preferred portfolio, which it labeled “P02-MM-CETA,” as the CEIP preferred
6 portfolio.¹⁵ However, based on the Commission’s rule language, the alternative lowest
7 reasonable cost portfolio (otherwise known as the “baseline” portfolio) was required to
8 include the SCGHG “in the resource acquisition decision”. This presented an issue
9 because, according to the Company, P02-MM-CETA “was developed using a mid-gas,
10 mid-carbon cost price curve”¹⁶ and “did not include an SCGHG dispatch adder “in the
11 resource acquisition decision””.¹⁷ PacifiCorp explained the problem as follows: “If the
12 rules were applied strictly as written, this would require PacifiCorp to compare a CETA
13 Portfolio developed without a SCGHG (P02-MM-CETA), to an Alternative Portfolio
14 developed with the SCGHG (P02-CETA).”¹⁸

15 To summarize, according to the Company, the “CETA portfolio” PacifiCorp was
16 seeking to use as the preferred portfolio in the CEIP, P02-MM-CETA, did not include the
17 SCGHG cost adder. This would have created a mismatch if this portfolio was used to
18 calculate incremental cost, since in the baseline portfolio the SCGHG cost adder was

¹⁵ Rector, Exh. ASR-2; *PacifiCorp’s Petition for Exemption of WAC 480-100-605*, Docket UE-210829, p. 3, ¶¶ 6-8 (Nov. 1, 2021) (Petition).

¹⁶ *Id.*

¹⁷ *Id.* In footnote 1 of the petition, the Company argued that RCW 19.280.030(3)(a) “does not state that the SCGHG must be used when developing the preferred portfolio. PacifiCorp claims its 2021 IRP meets the requirements of RCW19.280.030(a) because it contains nine distinct portfolios that considered SCGHG.” This is incorrect. RCW 19.280.030(3)(a)(i) and (iii) require the Company to incorporate the SCGHG cost adder when “[e]valuating and selecting conservation policies, programs, and targets” and when “[e]valuating and selecting intermediate term and long-term resource options”. Both activities are occurring in a CEIP’s selection of a preferred portfolio.

¹⁸ *Id.* at 3, ¶ 7. Emphasis added.

1 required by rule. Interestingly, the Company went on to state in its petition that it had
2 “considered adding a SCGHG cost to the CETA Portfolio, which would be called “P02-
3 MM-CETA-SCGHG.””¹⁹

4
5 **Q. What was Staff’s response to the petition?**

6 A. Staff’s response is filed as Exh. ASR-3. Staff recommended that the Commission deny
7 the petition.²⁰ Staff argued that the Commission had, nearly a year earlier, adopted rules
8 that made it clear that the SCGHG must be incorporated in four places (the IRP preferred
9 portfolio, the IRP alternative lowest reasonable cost portfolio [LRCP], the CEIP preferred
10 portfolio, and the CEIP alternative LRCP), and that granting PacifiCorp’s request would
11 require changing the Commission’s statutory interpretation less than a year after adopting
12 it.²¹ Staff also pointed out that the mismatch noted by the Company could be resolved by
13 simply following the rules requiring that both the preferred portfolio and the alternative
14 (baseline) portfolio account for the SCGHG.²² Lastly, Staff argued that the request for
15 exemption came exceptionally late in the 2021 CEIP process,²³ which PacifiCorp had
16 already petitioned and received Commission approval to delay by three months.²⁴ This
17 petition and the corresponding order are filed as Exhs. ASR-4 and ASR-5.

¹⁹ *Id.* at 4, ¶ 8.

²⁰ Rector, Exh. ASR-3; Docket UE-210829, “Response to PacifiCorp’s Petition for Exemption on Behalf of Commission Staff” (filed Dec. 6, 2021) (Staff Response to Petition).

²¹ *Id.* at 5-6, ¶ 8.

²² *Id.* at 6, ¶ 9.

²³ *Id.* at 6, ¶ 12.

²⁴ See Rector, Exh. ASR-4; *In re Petition for an Exemption from the Filing Deadline Established by WAC 480-100-640(1) and for Continuance of a Filing Deadline Established by Commission Order*, Docket UE-210223, Order 01, p.7, ¶ 29 (July 9, 2021).

1 In summary, Staff opposed PacifiCorp’s SCGHG exemption petition on the
2 grounds that the Company could have avoided this modeling predicament by following
3 requirements that Staff had communicated on a regular basis for nearly a year.²⁵
4

5 **Q. How did the Commission rule on the petition?**

6 A. As shown in Exh. ASR-6, the Commission denied PacifiCorp’s SCGHG petition.²⁶ In
7 doing so, the Commission explicitly declined to revisit its decision in General Order R-
8 601, and reiterated its comments in paragraph 131 of the General Order around its
9 interpretation of RCW 19.280.030(3).²⁷ Finally and most importantly for the current
10 docket, the Commission required PacifiCorp to “include in its final CEIP both an
11 Alternative LRCP and a preferred portfolio that incorporates the SCGHG as required by
12 WAC 480-100-605 and RCW 19.280.030(3)(a).”²⁸
13

14 **C. The Draft CEIP**

16 **Q. Was the SCGHG incorporated appropriately into the Company’s draft CEIP
17 preferred portfolio?**

18 A. No, Staff does not believe that it was. The draft CEIP (filed as Exh. ASR-7), like the
19 2021 IRP, selects P02-MM-CETA as its preferred portfolio.²⁹ PacifiCorp clearly states in
20 its draft that the P02-MM portfolio “was not developed to use SCGHG “in the resource

²⁵ Staff Response to Petition at 8-9, ¶ 12-13.

²⁶ Rector, Exh. ASR-6; Docket UE-210829, Order 01 (Petition Order).

²⁷ *Id.* at 3, ¶ 10.

²⁸ *Id.* at 3-4, ¶ 11. Emphasis added.

²⁹ Rector, Exh. ASR-7; Docket UE-210829, “PacifiCorp DRAFT Clean Energy Implementation Plan”, at 10 (filed Nov. 11, 2021) (Draft CEIP).

1 acquisition decision.”³⁰ The draft goes on to identify P02-MM-CETA as the portfolio
2 that “most nearly” meets CETA objectives.³¹ In describing how the SCGHG cost adder
3 was accounted for in the P02-SCGHG portfolio, the draft states of the medium and high
4 carbon price scenarios: “Both scenarios apply a carbon dioxide price as a tax beginning
5 2025.”³² On the other hand, in the SCGHG price scenario, “SCGHG emissions are
6 assumed to start in 2021.”³³ The draft concludes the section by stating that P02-SCGHG
7 was “informative” in the development of the preferred portfolio and that “the only
8 significant resource differences under the SCGHG that would be allocated to Washington
9 customers were impacts on DSM [demands-side management] resources.”³⁴

10
11 **Q. What was Staff’s feedback to PacifiCorp on its SCGHG modeling in the draft**
12 **CEIP?**

13 A. Staff provided informal comments on the draft CEIP on December 10, 2021,³⁵ those
14 comments are filed as Exh. ASR-8. Staff advised the Company that “a plain reading of
15 the law requires “an electric utility [to] incorporate the SCGHGs as a cost adder when
16 evaluating and selecting...resource options.”³⁶ (emphasis original) Staff’s comments also
17 “strongly recommend[ed]” that the Company re-run both its 2021 IRP preferred portfolio
18 and its alternative lowest reasonable cost and reasonably available portfolio in a way that

³⁰ *Id.* at 66.

³¹ *Id.* at 67 (“Specifically, because of the relatively small magnitude of change necessary to achieve CETA compliance, the most cost-effective portfolio nearly meets CETA objectives in 2025, 2030 and 2040 is identified as P02-MM-CETA.”).

³² *Id.* at 68.

³³ *Id.*

³⁴ *Id.*

³⁵ Rector, Exh. ASR-8; “Staff Informal Draft Comments on PacifiCorp’s Draft Clean Energy Implementation Plan” (Staff Draft Comments).

³⁶ *Id.* at 2.

1 “appropriately incorporate[s] the SCGHGs as a cost adder ahead of the Company filing
2 its final CEIP by January 1, 2022.”³⁷

3
4 **D. The Final CEIP**

5
6 **Q. Is the final CEIP clear about whether or not the Company incorporated the
7 SCGHG into its preferred portfolio?**

8 A. No. The language in the CEIP (Exh. ASR-9) indicates that the Company incorporated the
9 SCGHG in a minimal way. Very early in the CEIP document, PacifiCorp notes that the
10 interim targets for the CEIP “are based on PacifiCorp’s 2021 IRP preferred portfolio”,³⁸
11 which, as discussed above, is the portfolio using a medium carbon price. (The IRP is filed
12 in this docket as Exh. ASR-10.) This statement plainly establishes that the IRP preferred
13 portfolio’s treatment of the SCGHG – which the Company admitted in its petition did not
14 include the SCGHG “in the resource acquisition decision”³⁹ – forms the basis of the CEIP
15 preferred portfolio.

16 Later in the document, the Company admits that “energy efficiency for the state
17 of Washington was optimally selected based on the P02-SCGHG portfolio”,⁴⁰ which
18 seems to indicate that the SCGHG was used to determine the amount of cost-effective
19 energy efficiency that was available in PacifiCorp’s Washington territory. That message
20 is reiterated a few pages later, but the text also notes that the “SCGHG was considered in

³⁷ *Id.*

³⁸ Rector, Exh. ASR-9; Docket UE-210829, “PacifiCorp Clean Energy Implementation Plan” at 9 (April 19, 2022, errata) (2021 PacifiCorp Final CEIP).

³⁹ Petition at 3, ¶ 6.

⁴⁰ 2021 PacifiCorp Final CEIP at 89 (“Subsequently, in the 2021 IRP, energy efficiency for the state of Washington was optimally selected based on the P02-SCGHG portfolio, and approaches maximum energy efficiency among available programs.”).

1 the totality of portfolios examined throughout the IRP process.”⁴¹ That messaging
2 muddies the waters on what PacifiCorp actually did in its SCGHG modeling for the CEIP
3 preferred portfolio. The final CEIP does not state that the CEIP preferred portfolio itself
4 incorporated a SCGHG cost adder to every resource included in the portfolio, only that it
5 was “considered in the totality of portfolios” in the IRP.
6

7 **Q. Is the CEIP preferred portfolio in PacifiCorp’s final CEIP filing the same one that**
8 **PacifiCorp said in its petition for exemption was “a CETA Portfolio developed**
9 **without a SCGHG”?**

10 A. Yes. The IRP preferred portfolio that the Company described as “developed without a
11 SCGHG” in its petition for exemption is labeled P02-MM-CETA. This is the same
12 portfolio included in the final CEIP as the CEIP preferred portfolio.
13

14 **Q. Could it be that PacifiCorp made changes to the P02-MM-CETA portfolio between**
15 **the draft and final CEIP?**

16 A. No, according to the Company the CEIP preferred portfolio did not change between the
17 Draft CEIP and the final.⁴² This is difficult for Staff to verify independently. Prior to
18 filing the complaint, Staff met with the Company specifically to discuss whether and how
19 the final CEIP incorporated the SCGHG cost adder but was not convinced by the
20 information provided at the meeting. A frustration with PacifiCorp’s CEIP

⁴¹ 2021 PacifiCorp Final CEIP at 93 (“The preferred portfolio of resources was evaluated with the SCGHG dispatch adder included as a factor in energy efficiency selections and SCGHG was considered in the totality of portfolios examined throughout the IRP process.”).

⁴² Rector, Exh. ASR-11 at 17 (“Of note, the draft CEIP incorporated the SCGHG in the preferred portfolio exactly how the Company eventually incorporated the adder in its final CEIP.”).

1 documentation that Staff believes is worth mentioning are the disjointed, and often
2 confusing, in-text references to multiple modeling portfolios that may or may not have
3 bearing on whether the Company incorporated the SCGHG into its Washington resource
4 selection, beyond energy efficiency. In addition to the P02-SCGHG portfolio previously
5 mentioned, PacifiCorp references the P02-MM-CETA-SC portfolio as the Company’s
6 “CEIP portfolio run with SCGHG cost assumptions.”⁴³ However, it is Staff’s
7 understanding that PacifiCorp never provided relevant workpapers in either its IRP or
8 CEIP dockets detailing the P02-MM-CETA-SC portfolio.⁴⁴ That leads Staff to wonder
9 whether PacifiCorp’s P02-MM-CETA-SC and P02-SCGHG portfolios are effectively
10 equivalent. Staff having to ask this question at this juncture suggests the modeling
11 nomenclature PacifiCorp has employed to date is, at best, difficult to decipher.

12
13 **Q. Did PacifiCorp submit workpapers in the CEIP docket?**

14 A. Yes.

15
16 **Q. Did those workpapers clarify the use of the SCGHG?**

17 A. No. The workpapers do little to clarify how the SCGHG got modeled in the CEIP
18 preferred portfolio. The workpapers largely consist of Excel files containing pivot tables
19 and hard-coded data that make it very difficult to infer whether, where, and how the
20 SCGHG might have been used in the preferred portfolio. There are indications that some

⁴³ 2021 PacifiCorp Final CEIP at 94.

⁴⁴ Among the workpapers filed by PacifiCorp, Staff finds only a few references to the P02-MM-CETA-SC portfolio. One titled “210829-PAC-WP-Cost Summary Compare P02-MM-CETA-SC less P02-MM-SC 12-31-21 (C)” appears to compare the costs of the P02-MM-CETA-SC and P02-MM-SC portfolios but does not explicitly demonstrate what resources are in either portfolio. Two other files appear to pertain to a portfolio referred to as “P02-MMGR-CETA-SC”, but it is unclear to Staff whether that portfolio is the same as “P02-MM-CETA-SC”.

1 level of carbon pricing has been included in the model,⁴⁵ but without formulas or any
2 other clear indication, it remains impossible to determine exactly what price that might
3 have been.

4 Staff notes PacifiCorp's workpapers as filed in the Company CEIP docket likely
5 violate the Commission's rules around data disclosure and ease of accessibility.⁴⁶

6 However, currently Staff believes such criticisms are more germane to Staff's
7 investigation of PacifiCorp's CEIP (UE-210829), which remains separate from this
8 complaint.

9
10 **Q. Considering all the information provided by PacifiCorp within the final CEIP filing,**
11 **was Staff able to determine that the CEIP preferred portfolio met the SCGHG**
12 **requirements in statute and rule?**

13 A. No. The requirement outlined in statute is that a SCGHG *must* be incorporated as a cost
14 adder when selecting resources. Incorporating the SCGHG cost adder for only one type
15 of resource within a portfolio, such as energy efficiency, is clearly insufficient. While the
16 adoption order allowed different approaches to incorporating the SCGHG cost adder,
17 none of them allowed a preferred portfolio that applied the cost adder to some but not all
18 resources included in the portfolio.⁴⁷

19 Therefore, Staff's review of the Company's final CEIP, especially considering
20 Order 01, required Staff to assess whether all the resources chosen for Company's CEIP
21 preferred portfolio had been evaluated and selected using the SCGHG as a cost adder.

⁴⁵ See, for instance, the workpaper titled "210829-PAC-WP-P02-MM Initial WA Resource Alloc 12-31-21 (C)", the tab labeled "P02-MM Generator Costs", column O.

⁴⁶ See WAC 480-100-640(3)(b) and (6)(f)(iii).

⁴⁷ See CETA Rulemaking Order at 17, ¶ 37- 18, ¶ 39.

1 The statements in the main body of the CEIP indicate that the SCGHG was used in
2 certain price-policy scenarios,⁴⁸ that the SCGHG was “considered in the totality of
3 portfolios examined throughout the IRP process”⁴⁹, and that some portfolios in the IRP
4 were “developed assuming an SCGHG dispatch adder and an SCGHG-impacted market
5 environment.”⁵⁰ Nowhere does the final CEIP state in clear, unambiguous language that the
6 final *CEIP preferred portfolio* meets the requirements of RCW 19.280.030(3)(a) or Order 01
7 (UE-210829). It does not state anywhere that every resource included in the CEIP preferred
8 portfolio was evaluated and selected using the SCGHG as a cost adder. And beyond the
9 concluding statement that the SCGHG was incorporated as a dispatch adder, the final CEIP
10 contains no further description of the process that would allow Staff (or any other party) to
11 verify that the statutory SCGHG requirements were indeed met.

12 When Staff considered this together with the statements that the Company had
13 made in its petition for exemption about P02-MM-CETA, the portfolio in the IRP that
14 became the CEIP preferred portfolio, the only logical conclusion appeared to be that the
15 SCGHG had not been properly included.

16
17 **Q. Did PacifiCorp address in the final CEIP filing how the CEIP was compliant with**
18 **Commission Order 01, or any changes it had made to the CEIP preferred portfolio**
19 **to ensure compliance?**

20 A. No, there was no reference to Order 01 or any changes the Company made to the CEIP
21 preferred portfolio to comply with Order 01 in the final CEIP. While doing so was not

⁴⁸ 2021 PacifiCorp Final CEIP at 12; 95.

⁴⁹ *Id.* at 93.

⁵⁰ *Id.* at 93-94.

1 required by Order 01, an explanation in the final CEIP could have demonstrated to the
2 Commission that the final CEIP was compliant with the Commission's order.

3
4 **Q. Has PacifiCorp provided any additional details about its modeling of the SCGHG?**

5 A. Yes, the Company has provided responses to data requests submitted by Staff and other
6 parties to this docket that attempt to clarify its methodologies. PacifiCorp's responses
7 during discovery have been at least somewhat helpful. Select data request responses are
8 filed as Exh. ASR-11.

9
10 **Q. What do the Company's responses to Staff's data requests say about how**
11 **PacifiCorp included the SCGHG in its CEIP preferred portfolio as a dispatch**
12 **adder?**

13 A. On the whole, Staff found the responses to be somewhat helpful, but in places they
14 contradict the Company's prior statements. Based on Exh. ASR-11, it is clear that
15 PacifiCorp included the SCGHG in some but not all the portfolios that it modeled to
16 obtain its final preferred portfolio. For example, the Company states that the SCGHG
17 dispatch adder was "applied as an input in the PLEXOS model to all emitters in the
18 SCGHG price-policy cases."⁵¹ The Company also states that it "ran many SCGHG and
19 non SCGHG portfolios", making plain that not all scenarios applied the SCGHG.⁵² The
20 Company appears to argue in the alternative that its CEIP preferred portfolio is SCGHG
21 compliant either under the "dispatch adder" method, or that it is compliant under the

⁵¹ Rector, Exh. ASR-11 at 1. Emphasis added.

⁵² *Id.* at 2.

1 “other analytical approach” mentioned in paragraph 39 of the adoption order.⁵³ Finally,
2 the responses allude to the SCGHG being included as a dispatch adder in “nine portfolios
3 that simulates [sic] dispatch conditions that are not expected to occur”.⁵⁴ However, the
4 data request responses also state that both P02-MM and P02-SCGHG portfolios used a
5 medium carbon price, not SCGHG, in implementation.⁵⁵

6
7 **Q. Based on the information submitted by PacifiCorp, does Staff conclude that the**
8 **Company incorporated the SCGHG into its CEIP for certain resources?**

9 A. Yes. As noted in the complaint, the CEIP mentions the use of the SCGHG when
10 determining cost-effective energy efficiency potential.⁵⁶ Further, the data request
11 responses demonstrate that the Company incorporated the SCGHG into its modeling
12 methodology in at least *some* of the portfolios it analyzed when the Company claims that
13 its “preferred portfolio was created on the basis of the “P02-MM” and the “P02-SCGHG-

⁵³ *Id.* at 6; 14 (“The preferred portfolio was created on the basis of the “PO2-MM” and the “PO2-SCGHG-MM” studies. The Company’s position is that this clearly meets the requirements of the Clean Energy Transformation Act (CETA), and is in fact either encouraged or required based on General Order R-601 paragraph 39, under the option to include “a comprehensive accounting of the difference in greenhouse gas emissions and the SCGHG emissions between resource alternatives””) see also *Id.* at 10 (response to DR 3(a): “In addition to the explicit modeling of an SCGHG dispatch adder, the Company pursued its approach based on General Order R-601, paragraph 39 that allows the Company to use “another analytical approach that includes a comprehensive accounting of the difference in greenhouse gas emissions and the SCGHG emissions between resource alternatives.”).

⁵⁴ *Id.* at 5.

⁵⁵ *Id.* (“Instead, the Company’s base greenhouse gas (GHG) assumption, resulting in a medium carbon price, was used to determine the most cost-effective implementation of resources selected in both the P02-MM and P0-SCGHG cases across the Company’s six-state service territory.” Response to DR 2(a): “All Washington resources included in the preferred portfolio were economic in both portfolios and were selected in both portfolios, although they were implemented differently.”).

⁵⁶ 2021 PacifiCorp Final CEIP at 89.

1 MM” studies.”⁵⁷ As described in Staff’s complaint,⁵⁸ “MM” represents a scenario with a
2 medium natural gas price and a medium carbon price. A medium carbon price and the
3 SCGHG are not equal.
4

5 **Q. What impact did incorporating the SCGHG into the Company’s modeling in this**
6 **partial way have on the CEIP preferred portfolio?**

7 A. Exh. ASR-12 is a supporting file that PacifiCorp filed along with its responses to Staff
8 data requests in this docket. It presents a comparison of the resources that are included in
9 two different portfolios: the “P02-SCGHG” portfolio, created using the SCGHG as the
10 carbon price; and the preferred portfolio, “P02-MM-CETA”, created using a medium
11 carbon price. While the nomenclature used to identify each resource is difficult to
12 decipher, what this exhibit demonstrates is the difference between the portfolios. All the
13 resources are the same in each, with a few exceptions:

- 14 • Resources that are included in the “MM” portfolio but not the “SCGHG” portfolio
15 include:
 - 16 ○ A proposed solar and storage plant to be built at the current site of the Hunter
17 coal-fired power plant in Utah

⁵⁷ Rector, Exh. ASR-11 at 14; *see also*, 2021 PacifiCorp Final CEIP at 96, n. 93 (“The Washington resources and actions selected in P02-SCGHG and P02-MM (the top performing portfolio in the 2021 IRP) are largely congruent. In the action plan window, 2022-2025, the only significant resource differences under the SCGHG that would be allocated to Washington customers were impacts on DSM resources. For the purposes of the incremental cost calculation, this means that they generally represent what the company would have done for Washington but for CETA. However, other resource selections in P02-SCGHG are not consistent with what PacifiCorp’s actions would have been, but for CETA, with P02-MM serving as a more accurate estimate of a likely future in a non-CETA world. Accordingly, this incremental cost calculation provides some insight into how customers may be affected by CETA, assuming that SCGHG is included as a cost, but does not represent actual likely systemwide non-CETA planning.”).

⁵⁸ Docket UE-220376, “Complaint and Notice of Prehearing Conference” at 4, ¶ 13 (June 6, 2022) (Staff Complaint).

- 1 ○ A proposed solar, wind, and storage plant to be built near Yakima
- 2 ● Resources that are included in the “SCGHG” portfolio but not the “MM” portfolio
- 3 include:
- 4 ○ Two proposed non-emitting peaking facilities
- 5 ○ A proposed wind plant

6

7 **Q. How did the approach taken by PacifiCorp deviate from statute, rule, and order?**

8 A. Statute, rule, and order do not contemplate the blending of portfolios that do and do not
9 incorporate the SCGHG as a cost adder in the final CEIP preferred portfolio. RCW
10 19.280.030(3)(a) explicitly states that an electric utility “must incorporate the social cost
11 of greenhouse gas emissions as a cost adder when...[d]eveloping integrated resource
12 plans and clean energy action plans; and [e]valuating and selecting intermediate term and
13 long-term resource options.”⁵⁹ Staff does not interpret this language as allowing room for
14 evaluating Washington-allocated resources under anything other than the SCGHG, in
15 either a final CEIP preferred portfolio or the baseline portfolio used in the incremental
16 cost calculation. Nor did the Commission interpret it that way when it wrote in General
17 Order R-601:

18 While the phrase ‘selecting and evaluating’ in RCW 19.280.030(a)(i) and
19 (iii) could be read to mean selection only within the IRP and not in actual
20 investment decisions, RCW 19.280.030(a)(ii), which states that the
21 SCGHG should be included when developing IRPs and CEIPs, contradicts
22 that interpretation. Given that context, if subsections -.030(a)(i) and (iii)
23 were in fact merely intended as planning requirements, not required for
24 actual investing decisions, then subsection -.030(a)(ii) is redundant. We
25 decline to so construe the statute.⁶⁰

⁵⁹ Subsections omitted.

⁶⁰ CETA Rulemaking Order at 47, ¶ 131. The order’s citation leaves out “(3)” in the citations referenced throughout, but the context leaves no doubt that each reference in the quote above is to a part of the statute under RCW 19.280.030(3).

1 Again, while RCW 19.280 pertains to electric utility integrated resource planning, as
2 Staff has established, PacifiCorp's IRP preferred portfolio formed the basis for the CEIP
3 preferred portfolio.
4

5 **Q. What approach does Staff recommend instead?**

6 A. For the purposes of resolving this complaint, Staff recommends a modeling approach
7 whereby PacifiCorp uses *only* the SCGHG, and not the medium carbon price or any other
8 carbon price, as its carbon price for Washington-allocated resources in *each and every*
9 portfolio used as the basis for the CEIP preferred portfolio. That is the treatment that
10 most closely matches with the letter and the spirit of statute, rule, and order. Staff
11 stresses, however, that this treatment should only apply to Washington-allocated
12 resources, not resources that are allocated to any of the other five states in the Company's
13 service territory but not allocated to Washington.

14 This recommendation is not an endorsement of P02-SCGHG as the best method
15 of incorporating the SCGHG cost adder and would not set precedent for future CEIPs.
16 Staff's concern in the current docket is to ensure compliance with law, which as the
17 adoption order notes, can be accomplished in a variety of ways. Future proceedings may
18 address what is optimal, but in this proceeding the question at issue is compliance.
19

20 **Q. What impact does Staff contend its recommended approach would have on the final**
21 **CEIP preferred portfolio?**

1 A. Staff concedes that it is difficult to determine with certainty whether the CEIP preferred
2 portfolio might change given its treatment.⁶¹ Staff is concerned in this instance with
3 ensuring that PacifiCorp’s process meets the letter and spirit of the direction given by the
4 Legislature and the Commission, rather than affecting a specific outcome. This is even
5 more important considering that this CEIP is PacifiCorp’s first and should lay the
6 groundwork for those that come after it.

7
8 **Q. Would Staff’s recommended approach for PacifiCorp to re-file its Washington
9 CEIP portfolio impact the Company’s resource planning in its other five states?**

10 A. No. The CEIP only needs to address a portfolio of Washington state allocated resources.
11 Any impact on resource planning in other states would be an indirect result of CETA
12 itself and not a result of the refiling. In other words, refiling the CEIP with P02-SCGHG
13 as the CEIP preferred portfolio would not force the Company to apply an SCGHG cost
14 adder to resources not allocated to Washington ratepayers. While Staff is aware that
15 modeling and planning for a multijurisdictional system presents unique challenges, these
16 challenges do not excuse PacifiCorp from its compliance obligations.

17
18 **Q. Throughout the IRP and CEIP public input processes, did Staff advise PacifiCorp
19 that it believed the Company’s approach was incorrect?**

20 A. Yes. The treatment of the SCGHG was a topic of frequent discussion during biweekly
21 conversations between Commission Staff and PacifiCorp staff. These regular
22 communications originated during the Company’s 2021 IRP development process.

⁶¹ According to the Company, “resources and actions selected in P02-SCGHG and P02-MM (the top performing portfolio in the 2021 IRP) are largely congruent”. 2021 PacifiCorp Final CEIP at 96, n.93.

1 During these biweekly calls, Staff repeatedly took issue with PacifiCorp’s position that
2 the SCGHG price-policy assumptions made as part of its portfolio generation were
3 “consistent” with Washington CETA planning requirements.⁶² Formal correspondence by
4 Staff to PacifiCorp, “strongly encouraging” the Company to adopt a SCGHG modeling
5 methodology aligned with Washington requirements dates to PacifiCorp’s 2021 IRP
6 public interest meeting #6, held in early December 2020. This correspondence is filed as
7 Exh. ASR-13.

8 Additionally, as described above, Staff’s informal comments on the draft CEIP
9 clearly stated Staff’s recommendation that PacifiCorp re-run its 2021 IRP preferred
10 portfolio to “appropriately incorporate the SCGHGs as a cost adder” because doing so
11 “could result in resource differences during the 2022-2025 CEIP compliance period”
12 beyond some additional energy efficiency resources in Washington.⁶³

13
14 **Q. Have the Company’s explanations of how it modeled the SCGHG been clear**
15 **throughout the CEIP process?**

16 A. Not at all. Even after reviewing the CEIP, the workpapers, and the data request responses,
17 PacifiCorp’s methodology is still not completely clear. Staff acknowledges that this is a
18 complex issue to communicate but believes that it is incumbent upon PacifiCorp to find a
19 way to communicate it better.

20

⁶² See Rector, Exh. ASR-10; Docket UE-200420, “2021 Integrated Resource Plan Update” at 245, Table 8.9,
(Different price-policy scenarios analyzed in the 2021 IRP) (Sept. 1, 2021) (PacifiCorp 2021 Final IRP).

⁶³ Staff Draft Comments at 2.

1 **Q. Did PacifiCorp’s refusal to file its underlying PLEXOS portfolio model in this**
2 **docket or the IRP docket exacerbate the opaqueness of how the Company applied**
3 **the SCGHG during the CEIP process?**

4 A. Yes. Staff notes that PacifiCorp’s refusal to file its native PLEXOS portfolio models,
5 even confidentially, with the Commission diverges from actions taken by PacifiCorp’s
6 peer Washington electric IOUs.⁶⁴ This is an instance where Staff strongly believes Avista
7 and Puget Sound Energy (PSE) complied with the Commission’s IRP and CEIP CETA
8 adoption order, whereas PacifiCorp did not.⁶⁵ The native portfolio models are separate
9 and distinct from simplified spreadsheet workpaper representations, and are crucial for
10 Staff and other interested parties to decipher how a utility took the actions it did, or
11 proposed to take certain actions, and to determine independently whether those actions
12 are in the public interest and represent the lowest reasonable cost option.⁶⁶

13
14 **Q. Is PacifiCorp an outlier in terms of filing its underlying PLEXOS models?**

15 A. Yes. Staff points out that PSE formally filed its CEIP portfolio models in the native
16 AURORA software format confidentially with the Commission. Staff notes that Energy
17 Exemplar, the PLEXOS commercial software vendor, is also the commercial software
18 vendor for AURORA and that similar proprietary disclosure considerations apply to both
19 the AURORA and PLEXOS software platforms. Staff respectfully assumes if PSE was
20 able to confidentially file its CEIP AURORA models, PacifiCorp should have been able
21 to do the same with its PLEXOS models.

⁶⁴ Avista Corporation filed its PRiSM portfolio models publicly in Docket UE-210628. PSE filed its AURORA portfolio models confidentially in Docket UE-210795.

⁶⁵ CETA Rulemaking Order at 61, ¶ 179.

⁶⁶ *Id.* at 60, ¶ 173.

1 **Q. Would PacifiCorp’s underlying PLEXOS portfolio model likely show a material**
2 **difference between the Company using the SCGHG cost adder versus a medium**
3 **carbon price, as the Company did in its IRP and CEIP portfolio modeling?**

4 A. Likely yes, but this requires further investigation. As noted in Staff’s May 6, 2022,
5 comments (filed as Exh. ASR-20),⁶⁷ PacifiCorp provided Staff an informal copy of its
6 2021 IRP preferred portfolio shortly after the Company filed its 2021 IRP in September
7 2021. Staff’s interrogation of PacifiCorp’s 2021 IRP PLEXOS model, which the
8 Company used to derive its CEIP preferred portfolio, suggests PacifiCorp incorporating
9 the SCGHGs as applied to its entire six-state system to comply with CETA would likely
10 impart a significant portfolio cost increase.⁶⁸

11 Figure 8.4 of PacifiCorp’s final IRP⁶⁹ is a graphical depiction of how much lower
12 the medium carbon price would be when compared to the Commission’s SCGHG cost
13 curve⁷⁰ over the course of the 2021 IRP’s time horizon (2020-2040). This price disparity
14 is even more stark when focused on the 2022-2025 CEIP implementation period as
15 PacifiCorp’s preferred portfolio modeling does not even assume a non-zero carbon price
16 until 2025. Staff believes that correctly applying the SCGHG cost adder could result in
17 resource selection differences during the 2022-2025 CEIP compliance period beyond just
18 Washington demand-side management (DSM) selections as the Company maintains.⁷¹

⁶⁷ Rector, Exh. ASR-20; Docket UE-210829, “Commission Staff Comments Regarding PacifiCorp’s Final Clean Energy Implementation Plan Submitted in Compliance with Chapter 19.405 RCW and WACs 480-100-640 through -665 <and Under Consolidated Dockets UE-191023 and UE-190698, Order R-601>” at 8 (filed May 6, 2022).

⁶⁸ PacifiCorp 2021 Final IRP at 291, Table 9.15. Staff reiterates its position here that compliance only requires that the SCGHG cost adder is applied to Washington state allocated resources.

⁶⁹ *Id.* at 227.

⁷⁰ [Social Cost of Carbon](https://www.utc.wa.gov/regulated-industries/utilities/energy/conservation-and-renewable-energy-overview/clean-energy-transformation-act/social-cost-carbon), Washington Utilities and Transportation Commission, accessed from: <https://www.utc.wa.gov/regulated-industries/utilities/energy/conservation-and-renewable-energy-overview/clean-energy-transformation-act/social-cost-carbon>.

⁷¹ 2021 PacifiCorp Final CEIP at 96, n.93.

1 **Q. Is transparency and access to the underlying PLEXOS portfolio important to show**
2 **what PacifiCorp did in its IRP and CEIP portfolio modeling?**

3 A. Yes. Therefore, Staff advocates that PacifiCorp should formally refile its CEIP and
4 include a thorough, detailed explanation of how this portfolio applied only a SCGHG cost
5 adder to every Washington allocated resource that was included in the portfolio. The
6 refiled CEIP should include accompanying workpapers that illustrate the inputs and
7 outputs that went into the portfolio, timing of those inputs, along with a step-by-step
8 roadmap as part of the detailed explanation.

9

10 **E. Penalties**

11

12 **Q. What penalty amount is Staff seeking?**

13 A. Staff asks the Commission to penalize PacifiCorp an amount it finds just and reasonable
14 given the circumstances. The maximum penalty is \$1.93 million. In the complaint, Staff
15 alleges five violations, each of which is penalizable by \$1,000 fines for each day that the
16 violation persists, from the date that the final CEIP was filed (December 30, 2021). That
17 equates to \$5,000 each day between December 30, 2021, and January 19, 2023 (the date
18 of the hearing in this case), a total of 386 days.

19

20 **Q. What should the Commission consider when determining a just and reasonable**
21 **penalty?**

1 A. Staff relies on the Commission’s enforcement policy statement to determine reasonable
2 penalties in this case.⁷² The policy statement lists eleven factors that the Commission will
3 consider when enforcing a penalty.⁷³ As enumerated below, Staff believes that almost all
4 those eleven factors apply in this instance:

- 5 • *How serious or harmful the violation is to the public:* The violations are potentially
6 very serious. Not only could improperly accounting for the SCGHG result in different
7 resource selections, potentially altering PacifiCorp’s transition to clean energy, but it
8 also creates an incorrect calculation of projected incremental costs, which the
9 Commission relies upon when evaluating whether to approve a CEIP. The Company
10 claims that the resource selection between P02-SCGHG and P02-MM-CETA are the
11 same for Washington-allocated resources. Even if this is true, Staff views the SCGHG
12 requirements as an important process requirement that is central to the state’s goal of
13 addressing climate change and creating more equitable outcomes.
- 14 • *Whether the violation is intentional:* PacifiCorp was aware of the issue, as
15 demonstrated by its petition for exemption. Once the petition was denied, the
16 Company failed to adjust its approach to take that denial into account. Therefore,
17 Staff concludes that the violations are intentional.
- 18 • *Whether the company self-reported the violation:* PacifiCorp did not self-report its
19 violations.
- 20 • *Whether the company was cooperative and responsive:* PacifiCorp has met with Staff
21 and other parties to this case but has not taken any action to date to correct the

⁷² Docket A-120061, “Enforcement Policy of the Washington Utilities and Transportation Commission” (January 7, 2013) (Enforcement Policy).

⁷³ Enforcement Policy at 7, ¶ 15.

1 violations. PacifiCorp did reach out to Staff prior to the prehearing conference in this
2 case to attempt to resolve this matter early, however, consistent with WAC 480-07-
3 700(5)-(6) and the Commission’s guidance provided in the 2021 Cascade GRC Order,
4 Staff did not wish to engage in settlement negotiations until at least petitions to
5 intervene were filed.⁷⁴

- 6 • *Whether the company promptly corrected the violations and remedied the impacts:*

7 The Company has not corrected the violations or remedied the impacts in any way.

8 Staff notes that at any time before or after the complaint was filed the Company could
9 have refiled the CEIP with a new CEIP preferred portfolio. Doing this, if the
10 Commission concluded that the refiled portfolio was compliant, would have stopped
11 the daily accumulation of penalties. Keep in mind that when the petition for
12 exemption was filed in November of 2021, PacifiCorp had a portfolio that it believed
13 would be SCGHG compliant: P02-MM-CETA-SCGHG.⁷⁵

- 14 • *The number of violations:* The number of violations (five) in this instance is
15 significant given that they accumulate daily.

- 16 • *The number of customers affected:* According to the CEIP, PacifiCorp has 137
17 thousand customers in Washington,⁷⁶ all of whom are potentially affected by the
18 failure to incorporate the SCGHG into the CEIP.

⁷⁴ See *Wash. Utils. and Transp. Comm’n v. Cascade Natural Gas Corporation*, Docket UG-210755, Order 09, 22, ¶ 70 (Aug. 23, 2022) (Cascade 2021 GRC Order).

⁷⁵ Petition at 4, ¶ 8 (“As an alternative, PacifiCorp considered adding a SCGHG cost to the CETA Portfolio, which would be called “P02-MM-CETA-SCGHG.” This portfolio could be compared to an Alternative Portfolio developed with the SCGHG (P02-SCGHG), without creating results like negative incremental costs.”).

⁷⁶ 2021 PacifiCorp Final CEIP at 8.

1 • *The likelihood of recurrence:* The comments made in the IRP, CEIP, and petition
2 indicate that, without significant penalties, PacifiCorp would be likely to repeat the
3 same violations in future CEIPs.

4 • *The company’s past performance regarding compliance, violations, and penalties:*
5 Even in this IRP/CEIP, PacifiCorp has been given significant leniency in meeting the
6 deadlines laid out in WAC. The Company requested an exemption (Exh. ASR-14)
7 from WAC 480-100-625(3) to file its full draft IRP three months late, after originally
8 filing a draft IRP that it admitted did not include a preferred portfolio or supporting
9 analysis.⁷⁷ The Commission granted this petition (Exh. ASR-15),⁷⁸ but when it came
10 time for PacifiCorp to file its final IRP by April 1, 2021,⁷⁹ it only filed an “interim
11 filing” along with an updated workplan (Exhs. ASR-16 and 17).⁸⁰ The Commission
12 found that filing “incomplete”⁸¹ and ordered the Company to file its final IRP by
13 September 1, 2021 (Exh. ASR-18).⁸² PacifiCorp then filed a motion to amend
14 General Order R-601 and a petition for exemption from WAC 480-100-640(1) (Exh.
15 ASR-4), both so that it could file its draft and final CEIPs months later than required.
16 These requests were again granted (Exh. ASR-5) with the notable caveat that the
17 Commission required PacifiCorp to file a detailed IRP-to-CEIP modeling workplan
18 no later than August 15, 2021.⁸³ The intent of such a workplan was to help PacifiCorp

⁷⁷ Rector, Exh. ASR-14; Docket UE-200420, “Motion for Exemption from WAC 480-100-625(3)”, at 1 (Jan. 25, 2021).

⁷⁸ Rector, Exh. ASR-15; Docket UE-200420, Order 01.

⁷⁹ CETA Rulemaking Order at 9, ¶ 23.

⁸⁰ Rector, Exhs. 16 & 17; Docket UE-200420, “Attachment A: PacifiCorp 2021 Integrated Resource Plan April 1 Interim Filing” and “Attachment B: PacifiCorp Updated 2021 IRP Work Plan” (April 1, 2021).

⁸¹ Rector, Exh. ASR-18; Docket UE-200420, Order 02, p. 5, ¶ 23.

⁸² *Id.*, at 5, ¶ 24.

⁸³ See Rector, Exh. ASR-5; *In re Petition for an Exemption from the Filing Deadline Established by WAC 480-100-640(1) and for Continuance of a Filing Deadline Established by Commission Order*, Docket UE-210223, Order 01, 7, ¶ 29 (July 9, 2021).

1 consider and try to overcome the unique modeling constraints the Company faced, as
2 a six-state electricity utility, in transitioning its system-wide resource planning to
3 comply with Washington-specific CETA requirements. The detailed workplan is filed
4 as Exh. ASR-19. Staff contends this deliverable could have helped PacifiCorp
5 proactively address the SCGHG cost adder issue. Unfortunately, in Staff's view, what
6 the Company filed fell short of that expectation.⁸⁴ The Commission has given
7 PacifiCorp a great deal of latitude in this IRP/CEIP cycle, but along with that latitude
8 should come a commitment from PacifiCorp to meet its legal requirements. The
9 Company has failed to do so in this instance.

- 10 • *The company's existing compliance program*: This is not applicable in this case.
- 11 • *The size of the company*: PacifiCorp is a large, multi-state company, and has the
12 resources to perform the required modeling correctly the first time.

13
14 **Q. Are there any considerations that would mitigate this penalty?**

15 A. The enforcement policy statement states that the Commission will consider three factors
16 in determining if mitigation is appropriate: whether the facts that the Commission
17 considered were incorrect or do not support the penalty; whether any mitigating factors
18 exist that the Commission did not consider; and whether the company can demonstrate
19 that other circumstances exist that would argue for a lesser penalty.⁸⁵ However, none of
20 these situations apply because they are only applicable when the Commission issues a

⁸⁴ See Rector, Exh. ASR-19; Docket UE-210223, CEIP modeling workplan (filed Aug. 16, 2021).

⁸⁵ Enforcement Policy at 10, ¶ 19.

1 penalty administratively,⁸⁶ which is not what Staff is asking the Commission to do in this
2 docket.

3

4 **Q. Does Staff recommend a penalty of \$1.93 million?**

5 A. Staff leaves the ultimate penalty amount to the Commission's discretion. The preceding
6 discussion provides context for the Commission as it determines whether to assess a
7 penalty and, if so, in what amount.

8

9 **Q. Does this conclude your testimony?**

10 A. Yes.

⁸⁶ *Id.*