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Kathy Hunter  
Acting Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

**RE: Docket A-230217—PacifiCorp’s Initial Comments on Procedural Justice**

On September 29, 2023, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Opportunity to File Written Comments (Notice) in Docket No. A-230217. This docket pertains to the development of a policy statement concerning the application of equity and justice in the processes and decisions of the Commission and regulated companies. Specifically, the policy statement will examine the four tenets of energy justice, which include: (1) procedural justice; (2) distributional justice; (3) recognition justice; and (4) restorative justice. The Notice highlighted the Commission’s interest in comments related to the first tenet, procedural justice, which “emphasizes inclusive decision-making processes and strives to ensure that proceedings are fair, equitable, and inclusive for participants, acknowledging that historically, marginalized and vulnerable populations have been excluded from decision-making processes.”

In response to the Notice filed in docket A-230217 requesting comments on the following two questions — “What Procedural Justice considerations would you like to see discussed?” and “Which element(s) of Procedural Justice is most important to you?” — PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or the Company) provides the comments outlined below:

*A. Introduction*

PacifiCorp appreciates the Commission’s efforts in organizing this workshop to guide regulated utilities and interested parties on how to implement and adhere to the evolving equity requirements in Washington. PacifiCorp would like to propose the following considerations for discussion during the procedural justice portion of the policy docket:

1. Investigating methods to utilize existing processes to enhance procedural justice, and also identifying new processes to further promote procedural justice;
2. Determining the weight that companies should assign to public feedback received from outreach initiatives, and how such feedback should be quantified, in comparison to other ratemaking principles, such as least cost/risk planning;

3. Discussing the type of evidence that companies need to generate, retain, and produce to demonstrate compliance with procedural justice requirements; and
4. Considering the timing of equity-based modifications to operations resulting from public outreach, i.e., whether to wait for a Multi-Year Rate Plan (MYRP) or implement as soon as practical.
5. An examination of the existing Commission processes to inform customers and set policy.

PacifiCorp puts forth these five considerations as important, but also recognizes the validity of the considerations provided by other utilities and interested parties. In particular, the Company acknowledges the importance of Avista Corporation's comments on consolidating efforts across agencies, determining the appropriate level of engagement, developing common standard for transparency of data, and the responsibility of all parties to educate customers. Below, PacifiCorp will delve deeper into these five considerations in the subsequent subsections:

*B. Leveraging Existing Processes to Promote Procedural Justice*

In general, procedural justice emphasizes the importance of decision-making processes to ensure inclusive participation, particularly from marginalized and vulnerable populations. As procedural justice is primarily concerned with processes, PacifiCorp proposes a two-step examination for the Commission. Firstly, PacifiCorp proposes that the Commission examine how companies and stakeholders can utilize *existing processes* to further enhance procedural justice. Secondly, PacifiCorp proposes that the Commission identify what *additional processes* should be implemented by companies and parties to further advance procedural justice.

It is important to note, that PacifiCorp currently seeks input from the public, interested parties, advisory groups, and utilizes the results of its Customer Benefit Indicators (CBIs) in its planning activities and many operational decisions in Washington. PacifiCorp values and views public input as critical its planning and operational decisions. Below is a non-exhaustive list of *existing* outreach venues and activities that PacifiCorp participates in and operates and that can be leveraged to further promote procedural justice:

1. **Equity Advisory Group (EAG):** The EAG was assembled in 2021 to help inform and advise the Company on the issues most important to the communities that PacifiCorp serves in Washington. The EAG comprises nine representatives from highly impacted communities and vulnerable populations within the Company's Washington service area, including Yakima, Yakama Nation, and Walla Walla. These members have expertise on equity-related topics, such as the health of vulnerable populations and programs for low-income customers. The EAG meets regularly and provides significant input on the Company's Customer Benefit Indicators (CBIs), metrics included in the Clean Energy Implementation Plan (CEIP), and how the Company plans and operates within its Washington service area. For instance, the EAG was generally supportive of PacifiCorp's multi-family rate proposal within its currently filed multi-year rate plan. This proposal

seeks to lower the basic charge for customers residing in multi-family dwellings, whom are more likely to have lower household incomes.

- 2. Low-Income Advisory Group:** PacifiCorp’s low-income advisory group was established over twenty years ago. PacifiCorp’s low-income advisory group meets regularly to discuss issues related to energy burden, as well as advise the company on programs designed to increase limited-income customers’ ability to pay their monthly bills through energy assistance, efficiency measures, and bill discounts. Members of the Low-Income Advisory Group include: Commission Staff, The Energy Project, Public Counsel, NW Energy Coalition, PacifiCorp and the three local Community Action Agencies that administer Low-Income Bill Assistance Program (Schedule 17) (Blue Mountain Action Council in Walla Walla, Northwest Community Action Center in Toppenish, and Opportunities Industrialization Center in Yakima). Consultation with the Low-Income Advisory Group has recently lead to the following modifications to the Company’s low-income bill assistance program: (1) increasing the maximum income threshold for the program consistent with RCW 19.405.020(25); (2) modifying the discount from a “per kWh above 600 kWh” to a “percentage discount of the net bill,” with the discount level based on household size and income; and (3) eliminating the annual enrollment cap.
- 3. Demand Side Management (DSM) Advisory Group:** PacifiCorp uses its DSM Advisory Group to meet the requirements of WAC 480-109-110. The DSM Advisory Group was initially created under the June 16, 2000, Comprehensive Stipulation in docket UE-991832, which the Commission approved in the August 9, 2000, Third Supplemental Order in that docket, and its Integrated Resource Plan (IRP) public input process created under Washington Administrative Code (WAC) 480-100-238. The DSM Advisory Group meets at least four times per year to discuss topics are focused on energy efficiency (also known as conservation) and include but are not limited to the Energy Independence Act (EIA or I-937) biennial target setting process, including program design and plans, adaptive management, budgets, and communication strategies to achieve the Commission-approved biennial target, cost recovery through the system benefit charge, cost effectiveness. Regulatory filings related to conservation must be provided to the DSM Advisory Group at least 30 days ahead of filing. Members are asked to provide written comments on conservation filings within 1-2 weeks so their review can be incorporated into the final filed documents. Members include Commission Staff, The Energy Project, Public Counsel, NW Energy Coalition, and PacifiCorp. Representatives from Northwest Power and Conservation Council, Northwest Energy Efficiency Council, PacifiCorp customers, Puget Sound Energy, Avista, and the Northwest Energy Efficiency Alliance have attended selected meetings in the past. In consultation with the DSM Advisory Group, PacifiCorp has agreed to track Highly Impacted Communities and participating whose primary language in not English, among other groups, for low-income weatherization, the Home Energy Savings program, and the Wattsmart Business program to help ensure equitable distribution of benefits:
- 4. Customer Benefit Indicator(s):** WAC 480-100-605 defines CBIs as “an attribute, either quantitative or qualitative, of resources or related distribution investments associated with

customer benefits described in RCW 19.405.040(8).” These CBIs ultimately inform the Company’s resource procurement and CEIP compliance strategies to ensure that the benefits from Washington’s energy transition do not disproportionately burden, and also positively impact, the Company’s customers. PacifiCorp describes CBIs as the specific outcomes that customers seek. Because electricity is an essential service, these customer-driven outcomes can be broad and cover several categories. Relevant to the topic of procedural justice, PacifiCorp developed its CBIs through an iterative process that leveraged the input of external stakeholders and internal subject matter experts.<sup>1</sup> This process included several steps, and after the Company incorporated feedback from stakeholders, resulted in the Company’s final list of CBIs. The Company engaged with its EAG and other stakeholders to identify vulnerable populations and develop CBIs to track impacts to those groups. The parties to the CEIP docket recently reached a stipulation which included the Company’s core proposals and provided for additional tracking of and engagement with vulnerable populations.<sup>2</sup>

5. **CEIP Public Participation Plan (PPP):** PacifiCorp has developed a robust public participation plan that serves as a framework for engaging and incorporating public input throughout the development of its CEIP. PacifiCorp aims to actively involve and consider the public in shaping its plans for a renewable energy future in Washington. In particular, the PPP is built upon the following four pillars: (1) Engaging members of the public with appropriate outreach, methods, timing, and language considerations; (2) Addressing barriers to participation; (3) Making data accessible and available to members of the public and CEIP stakeholders; and (4) Incorporating learnings from existing advisory groups. Additionally, PacifiCorp addresses barriers to participation, makes data accessible to the public and CEIP stakeholders, and incorporates insights from existing advisory groups. PacifiCorp recognizes the importance of advancing equity and inclusivity in its planning processes, and its proactive engagement ensures that the CEIP reflects diverse perspectives and benefits from community engagement.
6. **Utility Actions in the CEIP:** Based on the robust public participation included in the development of the CEIP and results of the CBIs, certain utility actions are identified within the CEIP, focusing on the named communities that were identified within the Company’s Washington service area. Such actions on various aspects of the Company’s operations, such as demand-side management, energy efficiency. For example one utility action taken in 2022 and continuing in 2023 for the residential energy efficiency program included, among other things, the direct installation of LED lighting for multi-family homes with a focus on Named Communities.
7. **IRP Public Input Meetings:** PacifiCorp actively seeks and incorporates public input throughout the development of its IRPs. The Company follows an open, transparent, and inclusive approach by engaging with various stakeholders, including state utility commission staff, state agencies, customer and industry advocacy groups, project

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<sup>1</sup> In order to provide better understanding of the CBIs and their development for the record in this proceeding, please reference the testimony of Kenneth Lee Elder from Docket No. UE-210829.

<sup>2</sup> Docket No. UE-210829, Full Multi-Party Settlement Agreement (Sept. 22, 2023).

developers, and other interested parties. PacifiCorp hosts a series of public input meetings and directly invites the public and its advisory groups to participate and influence the Company's resource planning decisions. This proactive engagement ensures that a diverse range of perspectives are considered in shaping the IRP and helps create a more robust and inclusive planning process. The Company maintains its commitment to a transparent and substantive dialogue with stakeholders with the understanding that sensitivities, market volatility and uncertain project timelines or confidentiality concerns are why specific information cannot be disclosed publicly. PacifiCorp responds to public comments received and posts these responses on its website.<sup>3</sup> PacifiCorp makes a concerted effort to ensure that over its two-year planning cycle, all suggestions and comments are addressed in the appropriate venue, including an explanation as to why a suggestion has been considered but not incorporated. This occurs in the posted stakeholder feedback forms, expanded meeting agendas, responsive meetings and workshops, and the incorporation of additional sensitivities and analysis in the IRP.

- 8. Equity Questionnaires in Request for Proposals:** In compliance with the procurement rules in Washington, PacifiCorp began incorporating an equity questionnaire in its 2022 All Source Request for Proposals. This equity questionnaire was reviewed and vetted by Commission Staff. The equity questionnaire is a method to obtain information from developers to further ensure that equity informs procurement decisions.
- 9. Residential Energy Usage Survey:** Surveys are another method that can be used to obtain public input and feedback. For instance, PacifiCorp is developing a voluntary residential customer survey to distribute to its residential customers within its Washington service area. This survey aims to track the progress of its first CEIP to help ensure that the benefits of the transition to clean energy are broadly shared and equitably distributed amongst all customers, with a specific focus on named communities.
- 10. Energy Burden Assessment (EBA):** Conducting studies are another method to receive input from our customers and recommendations to improve our various programs. For instance, PacifiCorp hired Empower Dataworks to prepare a 2022 Energy Burden Assessment (EBA) for the Company's residential customers in Washington. Empower Dataworks highlighted that the "[Low-Income Bill Assistance] program design is very good at targeting benefits to higher burden customers" and overall, "program administration/overhead is very efficient relative to other programs in the state." High-level takeaways also noted "good coordination between PacifiCorp and the local agencies on culturally appropriate marketing and program design." Finally, the study identified a series of recommendations for continued improvement. PacifiCorp partners with three agencies to administer and deliver the program: Blue Mountain Action Council (BMAC) serves Columbia, Garfield, and Walla Walla counties, Opportunities Industrialization Center of Washington (OIC) serves Upper Yakima County, and Yakima Valley Farm Workers Clinic dba Northwest Community Action Center (NCAC) serves Lower Yakima County.

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<sup>3</sup> <https://www.pacificorp.com/energy/integrated-resource-plan/comments.html>

- 11. Community Calendar:** Posting all community events in an accessible place for advisory groups can also aid in obtaining input. PacifiCorp has developed a Community Calendar to for local community events happening in Washington and is shared quarterly with the Washington EAG.<sup>4</sup>
- 12. Bi-Lingual Outreach:** Actively reaching out to engage with bilingual communities can enhance the feedback received from customers who have traditionally been overlooked. PacifiCorp has outlined its efforts to connect with its bilingual customers in its present multi-year rate.<sup>5</sup> As an illustrative example, PacifiCorp has created and presented fourteen informative sessions at fruit packing facilities, reaching around 780 agricultural workers. These presentations were designed to educate, with a focus on initiatives and measures aimed at reducing energy costs and encouraging more involvement and benefits for the participants and their families. PacifiCorp also distributed 850 information materials on energy conservation, bill support, and weatherproofing information.
- 13. Energy Resource Center:** Providing information in a user-friendly format can also aid in fostering public input. For instance, the Company created an Energy Resource Center on its website ([PacificPower.net/Resources](http://PacificPower.net/Resources)) where customers can go online to learn more about energy-savings rebates and watch videos pertaining to energy efficiency, renewable energy, electric vehicles, energy assistance, and time of use rates. The idea behind building the Energy Resource Center came from the EAG to provide a better user-friendly experience where customers can find all the information they need.

### C. *Weight and Quantification of Public Input Received*

Second, the Company would like to explore the *weight* it should assign to the feedback gathered from its outreach initiatives in comparison with other traditional ratemaking principles like least cost/risk planning. Hypothetically, suppose through the Company's outreach efforts, some members of the public support a diversion of a planned transmission line in a way that is not economically beneficial or least cost/risk. In this situation:

- How should the Company quantify and balance the public input received in comparison to the incremental cost and associated rate impact to customers, including highly impacted communities?
- How should the Company weight and quantify the public input in support versus that in opposition to the diversion?
- In what circumstance would the Commission consider these incremental costs to be prudently incurred?
- Could the Company seek preapproval from the Commission for such incremental costs?
- For multi-state utilities, how would incremental costs be identified to avoid cost-shifting to customers in other states?

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<sup>4</sup> [https://www.pacificcorp.com/content/dam/pcorp/documents/en/pacificcorp/energy/ceip/FINAL\\_EAG\\_Meeting\\_October\\_2023\\_Slides.pdf](https://www.pacificcorp.com/content/dam/pcorp/documents/en/pacificcorp/energy/ceip/FINAL_EAG_Meeting_October_2023_Slides.pdf)

<sup>5</sup> *WUTC v. PacifiCorp*, UE-230172, Exh. CMM-2T at 12-16 (October 2023).

- How should the Company balance the consideration of equity in the context of federal regulatory obligations, which hold relevance to interstate transmission planning?
- More generally, should the companies assign a different weight to public input received for Washington-specific programs such as energy efficiency, demand-side management, and transportation electrification, local distribution planning, and situs allocated resources in comparison to multi-state transmission and capital planning?
- Furthermore, would the Commission expect companies to incur such incremental costs on capital only physically located in Washington or throughout other states located in its system?

Procedural equity is a critical component to incorporate into utility decision-making, but can raise complex issues unique to different aspects of utility operations and different utilities are not all similarly situated. A thorough and thoughtful discussion is necessary before utilities can more robustly incorporate equity into its capital planning processes, which have historically been focused on least cost/risk planning. The Company further emphasizes that implementing equity in capital planning as a requirement in a rate case proceeding, prior to developing such policy and receiving any guidance in this proceeding can be problematic, as parties may disagree as to the most equitable approach compared to the least cost/risk decision. Without guidance from the Commission, the Company risks disallowance for planning its capital in a manner that isn't focused on minimizing cost/risk.

#### *D. Evidence to Demonstration Compliance with the Procedural Justice Requirement*

Third, PacifiCorp would like to explore what *evidence* companies must create, retain, and produce in order to demonstrate that it complied with the procedural justice requirement. Capital planning is a longer-term process, with the IRP encompasses an assessment of resource needs with a focus on the first 10 years of a 20-year planning period, and an action plan for steps to be taken over the next two-four years. Transmission planning involves both stakeholder engagement and regional coordination. Future initiatives to integrate equity into capital planning that result from this proceeding will be more evident in subsequent rate-case proceedings and multi-year rate plans. Requiring companies to provide such evidence retroactively on capital that has been decided on prior to the establishment of the equity requirement has due process concerns, since historically capital planning has been focused on least cost/risk planning.

Additionally, it is important to consider the impact on individuals participating in a utility's outreach programs. Robust outreach should not result in participants essentially becoming witnesses to support a filing. For example, some members of PacifiCorp's EAG have expressed their preference for not having their meetings recorded or transcripts published, and the Company has respected their wishes by honoring their request. Furthermore, other meetings with customers, interested parties, advisory groups, and internal Company meetings are not typically recorded or transcribed. Given this dynamic, the Company would like the discussion to consider evidence, beyond written testimony from the utility, that would support compliance with any procedural

equity goals or mandates. This becomes particularly pertinent as parties may aim to request adjustments to specific costs in a rate proceeding based on an alleged failure of companies to provide adequate evidence in relation to the requirement of procedural justice.

*E. Timing of Implementation of Equitable Modification to Utility Operations*

Fourth, PacifiCorp would like to explore the *timing* of equitable modifications to companies' operations (as opposed to capital planning activities) that result from public outreach. Actions related to energy efficiency, transportation electrification, demand-side management, and marketing, many of which were vetted by various advisory groups, are implemented outside a general rate case or consideration of a multi-year rate plan. The Company strongly believes that procedural justice considerations are not limited to general rate cases and modifications to its operation should be implemented as soon as practicable, without waiting to propose such efforts to support a broader rate chase. PacifiCorp urges caution to avoid narrow consideration of utility efforts, when considering procedural equity.

*F. Examination of Commission Regulatory Processes*

Lastly, the Company respectfully requests that the Commission consider its regulatory processes from a procedural justice lens as part of this proceeding. Parties and the public rely heavily on the Commission's communications to be able to meaningfully participate in Commission-led processes, and a fresh look at these processes may be helpful in ensuring there are no unintentional barriers for participants. One area that may benefit from input is the Commission's website and how accessible it is for people who are unfamiliar with the Commission's processes to find what they are looking for.

In addition, the Company believes that introducing new utility requirements or guidance is best addressed in a policy proceeding, and not through a rate case proceeding of an individual utility. This is due to the limited number of participants involved in a rate case as compared to a generic proceeding. For example, PacifiCorp was not a party that intervened in the recent rate case proceedings of Cascade Natural Gas, Puget Sound Energy, and Avista Corporation. Therefore, the Company could not contribute any input to the Commission decisions in those cases. Moreover, from a cost recovery perspective, companies can better plan for additional expenditures to implement new policies when these policies are developed during an investigation or rulemaking process. PacifiCorp wholeheartedly endorses the collaborative approach being employed in this proceeding, and believes that such an approach is significantly more effective than establishing important policy through adversarial adjudications in individual companies' rate cases.

*G. Conclusion*

PacifiCorp appreciates the Commission's consideration of these written comments and is eager to work collaboratively with the Commission, Commission Staff, and other interested parties on the significant topic of equity in this proceeding. Ensuring equitable rates and operations in Washington will necessitate a collective effort among the Commission, Commission Staff, Washington-regulated utilities, interested parties, and the public.



Washington Utilities and Transportation Commission

November 28, 2023

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PacifiCorp respectfully requests that all data requests regarding this matter be addressed to:

By e-mail (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)

Please direct informal questions to Ariel Son, Regulatory Affairs Manager, at (503) 813-5410.

Sincerely,

        /s/        

Matthew McVee

Vice President, Regulation Policy and Operation

PacifiCorp

825 NE Multnomah Street, Suite 2000

Portland, OR 97232

(503) 813-5585

[Matthew.Mcvee@PacifiCorp.com](mailto:Matthew.Mcvee@PacifiCorp.com)

Enclosure