Agenda Date: March 22, 2024
Item Number: D3

Docket: UE-210829
Company: PacifiCorp d/b/a Pacific Power & Light Company

Staff: Jaclynn Simmons, Regulatory Analyst
Paul Barrager, Regulatory Analyst

Recommendation

Staff recommends that the Commission either:

- Issue an order in Docket UE-210829 approving PacifiCorp's Biennial Clean Energy Implementation Plan Update, filed on November 1, 2023, subject to conditions in Attachment A, or
- Initiate an adjudication of PacifiCorp's Biennial Clean Energy Implementation Plan Update in Docket UE-210829.

Staff's preference is the first option.

Background

On December 20, 2021, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) its initial 2021 Clean Energy Implementation Plan (CEIP) in Docket UE-210829 and then filed a revised CEIP on March 13, 2023. The initial adjudicated 2021 CEIP resulted in a joint settlement agreement with 50 conditions, on October 25, 2023.[1] The Company was required by Order 06 in Docket UE-220376 to file a revised CEIP with the social cost of greenhouse gasses (SCGHG) included as part of the Company's preferred portfolio.[2]

On November 1, 2023, PacifiCorp filed its 2024-2025 Biennial Clean Energy Implementation Plan Update (Biennial Update or Plan) in Docket UE-210829. The Biennial Update is required by the Clean Energy Transformation Act (CETA).[3]

Commission staff (Staff) filed response comments on the Biennial Update on January 11, 2024.[4] The comments detail Staff's review of PacifiCorp's interim targets in the 2024-2025 biennium, changes to allocation methodology (i.e., each states share of the resources), thermal resource retirement projections, recent enactment of federal legislation, and an additional focus on

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[1] *In re PacifiCorp's 2021 Clean Energy Implementation Plan*, UE-210829, Order 06 Final Order Approving and Adopting Settlement Agreement; Approving CEIP Subject to Conditions (October 25, 2023).
[2] *In re Staff's Complaint against PacifiCorp for violations related to its Clean Energy Implementation Plan,* UE-220376, Order 06 Granting Motion to Withdraw, at 2 (February 10, 2023).
[3] RCW 19.285.040(1); WAC 480-109-120(1).
[4] *See* Docket UE-210829.

PacifiCorp's Public Participation Plan (PPP).[5] In particular, within the comments, Staff noted the drastic change in PacifiCorp's interim targets, as summarized in Tables 1 and 2 below.

Discussion

For Staff to recommend that the Commission approve this Biennial Update with the significant changes to the interim targets as shown in Table 1 and 2, Staff asserts that, in addition to the 50 conditions finalized in October 2023, there should be additional conditions to ensure the Company is on track to achieve the state's clean energy transformation standards and targets.

Table 1 – PacifiCorp's 2022-2025 Interim Targets

2021 CEIP Revised on 3/13/2023[6]	2022	2023	2024	2025	Total
Retail Electric Sales	4,051,128	4,076,594	4,091,630	4,069,088	16,288,439
Projected Renewable and Nonemitting Energy	1,262,111	1,251,114	1,637,433	2,450,430	6,601,088
Net Retail Sales	2,789,017	2,825,480	2,454,196	1,618,658	9,687,352
Target Percentage	**31%**	**31%**	**40%**	**60%**	41%
Interim Compliance Target	**1,262,111**	**1,251,114**	**1,637,433**	**2,450,430**	**6,601,088**

Table 2 – PacifiCorp's 2022-2025 Interim Target Update

Biennial CEIP Update 11/1/2023[7]	2022	2023	2024	2025	Total
Retail Electric Sales	4,051,128	4,128,704	4,141,064	4,106,333	16,427,229
Projected Renewable and Nonemitting Energy	1,262,111	1,081,277	1,028,236	1,367,667	4,739,291
Net Retail Sales	2,789,017	3,047,474	3,112,871	2,738,719	11,688,081
Target Percentage	**31%**	**26%**	**25%**	**33%**	29%
Interim Compliance Target	**1,262,111**	**1,081,277**	**1,028,236**	**1,367,667**	**4,739,291**

[5] *In re PacifiCorp's Clean Energy Implementation Plan 2023 Public Participation Plan*, UE-210305, Clean Energy Implementation Plan 2023 Public Participation Plan - Requirements References (May 15, 2023).
[6] *In re PacifiCorp's 2021 Clean Energy Implementation Plan,* UE-210829, Revised 2021 Final Clean Energy Implementation Plan, at 12 (March 13, 2023).
[7] *In re PacifiCorp's Biennial Clean Energy Implementation Plan Update,* UE-210829, PacifiCorp CEIP Biennial Report, at 18-19 (Nov. 1, 2023).

Changes in Interim Targets

As shown in Tables 1 and 2 above, the Company's interim renewable targets, expressed as the percentage of retail electric sales estimated to be served by renewable and nonemitting energy, decreased by 16.1 percent in 2023, 37.5 percent in 2024, and 45 percent in 2025, for a total average decrease of 29.3 percent.

The Company's discussed key reasons for the interim target reduction which include, but are not limited to, allocation methodology, thermal assets, resource acquisitions, federal legislation, and load growth.

Staff acknowledges the specifically identified underlying issues that led to PacifiCorp proposing lowering its targets and recognizes that the Company's projections indicate they could surpass CETA standards[8] in future compliance periods.[9] However, Staff remains concerned that approving lower targets now will jeopardize the Company's ability to meet CETA's standards in the future. Thus, Staff believes several conditions need to be in place to ensure PacifiCorp achieves its targets and, more importantly, is on a trajectory to achieve compliance with CETA.

The 2021 CEIP relied on the assumption that a new multi-jurisdictional allocation methodology would be approved across all six states of PacifiCorp's operating range. As such, PacifiCorp relied on an unapproved methodology in the creation of its 2021 CEIP. As no agreement was reached on this proposed new multi-jurisdictional methodology, this Biennial Update reverted to the approved methodology, which changed the company's renewable energy credit (REC) practices.

Staff also recognizes that in the 2023 Integrated Resource Plan (IRP) progress report, the dates by which key thermal assets are planned to be out of Washington rates has changed.[10] Specifically, high energy costs have resulted in the continued utilization of the Jim Bridger and Colstrip plants for Washington customers. Additionally, both Chehalis and Hermiston plants will continue serving Washington customers past 2024. The Company asserts that both Hermiston and Chehalis will be allocated to Washington ratepayers according to the Washington Interjurisdictional Allocation Methodology (WIJAM)[11] until 2036 and 2043 respectively. Compounding these effects are rising fuel costs due to the retirement of Jim Bridger Units 3 and 4.

Staff has several other specific areas of concern with the Biennial Update. The suspension of the 2022 all-source Request for Proposals (RFP) may delay the Company's progress and endanger future CETA compliance. Currently, Staff is unaware of a firm timeline for the resumption of the all-source RFP. Delays bringing assets online and difficulty procuring CETA qualifying

[8] RCW 19.285.040.
[9] *In re PacifiCorp's Biennial Clean Energy Implementation Plan Update,* UE-210829, PAC CEIP Biennial Report, at 33 (Nov. 1, 2023).
[10] *In re PacifiCorp's 2023 Integrated Resource Plan Progress Report,* UE-200420, at 148-149, (May 31, 2023).
[11] *In re PacifiCorp's 2019 General Rate Case Filing,* UE-190124, Final Order, (December 14, 2020).

resources have the potential to threaten the Company's ability to achieve its targets. Also, Staff believes that the Company has not fully considered in detail the cost savings available through federal legislation such as the Inflation Reduction Act (IRA) and Infrastructure Investments and Jobs Act (IIJA). Staff believes CETA compliance requires more holistically incorporating these savings and funding opportunities (e.g., low rate decarbonization loans).

PacifiCorp made some updates to its PPP within the Biennial Update; however, it lacks a forward looking strategy and instead focuses on past outreach strategies. Staff would like to see a more robust PPP that provides consideration of Advisory group feedback going forward into the next planning period.

Consultations

On January 25, 2024, Staff initiated and scheduled the first meeting with the Company and interested parties (Parties) on a set of potential, proposed conditions for Staff to be comfortable recommending approval of the Biennial Update. During this meeting, the Parties agreed on a 30-day schedule between February 1, and February 29, 2024, and started working on proposed conditions. The following parties participated in early discussions: Alliance of Western Energy Consumers (AWEC), Northwest Energy Coalition (NWEC) (joined by Sierra Club and Renewable Northwest), and Public Counsel.

Staff did not receive the Company's revisions until February 14, 2024, as the Company requested additional time. Once received, Staff determined that further negotiations would not be fruitful as terms were excluded that Staff believes would ensure that CETA mandated targets are achieved.

On March 1, 2024, Staff met with interested parties to share and discuss the following conditions, including what Staff incorporated from interested parties redlines and suggestions. Staff worked with the parties and incorporated changes into the conditions presented in Attachment A.

On March 7, 2024, Staff met with the Company. The Company reviewed the Conditions redlines one by one, as outlined below.

Summary of Conditions

The conditions focus on the areas identified by PacifiCorp as the primary drivers for changes to interim targets, along with other measures that Staff believes could help the Company achieve adequate interim targets and fulfill CETA obligations. The conditions are included in Attachment A. Below, Staff summarize each condition and the rationale for the condition.

- Condition 1, Request for Proposal: WAC 480-107 discusses requirements for various utility solicitations and procurements, including provisions governing competitive solicitations, all-source RFPs, targeted RFPs, independent evaluators, and system emergencies. Staff notes the Commission will consider the information the utility obtained through its acquisition efforts when the Commission evaluates the performance of the utility in rate and other proceedings.[12] As such, Staff recommends that the Company restart the All-Source Request for Proposals (AS RFP) or provide a letter explaining why they cannot and how they will still meet their targets. This condition is a combination of recommendations from all interested parties, the Company, and Staff. Staff believes that interested parties had no disagreements with this condition and fully support it.

As outlined in RCW 80.28.130, Staff believes the Commission can order a utility to improve, change, add on to, and extend plant "to secure adequate service or facilities" to supply energy.[13] Further, a utility must issue an all-source RFP if the IRP demonstrates that the utility has a resource need within four years. The Company's *resource need*, as identified in its IRP, CEAP, and CEIP, and as further defined by WAC 480-100-605 and CETA, is a driver for acquisition and *compliance with state or federal requirements*. Therefore, Staff believes it is implied that it can also order the restart of an RFP process to facilitate the process of meeting *resource needs* and obtaining resources. Staff emphasizes that the condition does not require the Company to select a resource; rather, to simply resume the process or submit a letter explaining why the Company did not continue the process, as outlined in electric companies purchases of resources rules.

- Condition 2, Allocation Methodology: This condition requires the Company to only use an approved allocation methodology in all planning dockets. Staff believes that, if the Company wants to use a different methodology, it will need to be approved first through a general rate case or another proceeding. To be clear, this condition does not require the Company to only use the method that is approved as of this filing. If they use an unapproved methodology, the condition reads that, the Commission will assess a penalty of $5,000 per day until corrected. Staff included the language that could be approved in a general rate case or another appropriate Commission proceeding, as proposed by the Company.

  Staff believes the risks of using an unapproved methodology outweigh the risks of such potential limitations.

- Condition 3 IRA and IIJA funding into planning documents: This condition was raised by Staff and interested parties to ensure that CETA standards are met at the lowest reasonable cost.[14] Staff underscores the need to incorporate more funding opportunities. PacifiCorp must incorporate funding opportunities from the IRA and IIJA and, at minimum, run a sensitivity with favorable financial terms. This condition was recommended by interested parties, and Staff made a few adjustments.

  Staff believes the Company's concern is that these Energy Infrastructure Reinvestment, or EIR, loans are competitive, and that this type of procurement effort is different from system-wide planning, and the condition is out of the scope of the Biennial Update. In

[12] WAC 480-107-001(2).
[13] RCW 80.28.130.
[14] WAC 480-100-640 (6)(f) and (i); RCW 19.405.050 (6)(a)(i).

further discussions, the Company did express to Staff that running a sensitivity could be possible. The Biennial Update, Order 08 in Docket UE-210795, states that interim targets are not merely numerical targets but must reflect a more transparent analysis of how the Company will make reasonable progress towards CETA's clean energy transformation standards.[15] Since Staff views that the Company's interim targets are changing dramatically, the whole portfolio would need to be reassessed, and that is why Staff consider the condition to be within the scope of this Biennial Update.

- Condition 4, Reliability Modeling: Staff believes this condition would help reduce the number of manual adjustments needed to be made in the IRP and have a more modern approach to reliability modeling. This condition was initially recommended by interested parties. The Company indicated to Staff that this is also beyond the scope of the Biennial Update. Staff reiterates the above comment for condition 3, and Staff is not recommending using one method, but rather use the best method that requires fewer manual inputs. We believe the Company needs to explain in more detail why and how it complies with law with respect to its reliability modeling.[16]

- Condition 5, Transparency: This condition holds the Company responsible for providing an index for each workpaper that also shows the function of each workpaper in planning documents. This will make it easier to understand changes being made and find the support documents associated with each change. This condition was solely written by Staff, though through discussions, we believe interested parties generally support it.

  Staff believes PacifiCorp is generally agreeable to this this condition, considering that the Company is making efforts to increase transparency in its energy planning documents.

- Condition 6 & 7, Minimum Designations & Program Design: Staff notes, these two conditions work together. The Company will work with its advisory groups to designate 15 percent of energy benefits of its Distributed Energy Resources (DER) programs for Named Communities. These additional conditions are very similar to a peer utility, Puget Sound Energy, and their CEIP settlement.[17] This condition takes into consideration interested parties' comments and the Company's feedback.

  The Company expressed concerns about specifying a high percentage energy benefit, funding, implementing such a condition in their highly low-income territory, and how DERs are defined. Staff clarifies that DER is defined in statute.[18] Additionally, Staff believes that the minimum designation and program design is merely the beginning of a conversation intended to guarantee that the Company fully complies with Washington's

[15] *Re in Puget Sound Energy's 2021 Clean Energy Implementation Plan,* UE-210795, Final Order 06 subject to conditions, at 10 ¶ 52, (June 6, 2023).
[16] RCW 19.405.030 & RCW 19.405.050.
[17] *In re Puget Sound Energy's 2021 Clean Energy Implementation Plan,* UE-210795, Final Order 06 subject to conditions, at 24, (June 6, 2023).
[18] RCW 19.405.020(13).

CETA equity standards.[19] The Company has the support of Staff, and we believe PacifiCorp should also maintain situational awareness by reviewing the progress of other Companies in complying with CETA equity standards. Further, the Company will also have the support of interested parties and can work with its advisory group(s).

- Condition 8, Public Participation Plan: This addresses issues found in the Company's Public Participation Plan (PPP), as detailed in Staff comments.

- Condition 9, Penalty for noncompliance: This condition will hold PacifiCorp accountable for meeting CETA standards in their next compliance period. This condition was specifically recommended by Staff.

  Staff believes that the Company may interpret this as a potential "compliance at all costs" approach, or potentially inconsistent with the law, according to PacifiCorp discussions.[20] For example, there may be concerns that if the Company agrees to a certain interim target now, for the 2026-2029 compliance period, and an extreme unknown event(s) occurs, PacifiCorp may need to select resources at any cost or pay the penalty. Staff believes that there are contingencies for unexpected circumstances in RCW 19.405.090(3)(ii).[21] Further, Staff's intention for the penalty is to provide <u>as much guarantee as possible</u> that the Company is <u>making efforts and actionable progress towards meeting its interim targets</u> by the end of the next compliance period.

<u>Comments from Interested Parties</u>

Interested parties filed comments on January 11, 2024. Joint comments filed by NWEC, Sierra Club, and Renewable Northwest [22] identified a large reduction in interim targets, and they proposed conditions. Largely, parties noted near term targets were being reduced in favor of deeper long-term savings tied to risky and speculative technologies. Further, they noted concerns about PacifiCorp's proposed procurement plans and reliability modeling criteria.

Public Counsel filed comments expressing appreciation of PacifiCorp's updated customer benefit indicators (CBI) metrics and multicultural outreach efforts.[23] Public Counsel also recommends that PacifiCorp be required to provide a schedule and status update to their AS RFP by March 31, 2024.

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[19] RCW 19.405.060(c)(3).
[20] RCW 19.405.090(1).
[21] RCW 19.405.090(3)(ii).
[22] *Re in PacifiCorp's Biennial Clean Energy Implementation Plan Update,* UE-210829, Comments, on behalf of NW Energy Coalition, Sierra Club, and Renewable Northwest, Jan. 11, 2024.
[23] *Re in PacifiCorp's Biennial Clean Energy Implementation Plan Update,* UE-210829, Comments, on behalf of Public Council, Jan. 11, 2024.

Staff notes, the Company, and interested parties, made efforts to better understand each other's positions early in the BCEIP review process. Unfortunately, Staff determined that resolution through party negotiations was no longer feasible.

Conclusion

Staff recommends that the Commission either:

- Issue an order in Docket UE-210829 approving PacifiCorp's Biennial Clean Energy Implementation Plan Update, filed on November 1, 2023, subject to the conditions in Attachment A, or

- Initiate an adjudication of PacifiCorp's Biennial Clean Energy Implementation Plan Update in Docket UE-210829.

Staff's preference is the first option.

Attachment A – Docket UE-210829

PacifiCorp 2024-2025 Biennial Clean Energy Implementation Plan

List of Conditions

1. Resource Acquisition: On September 29, 2023, the Company notified the Commission of a pause to its 2022 All Source Request for Proposal (2022 AS RFP). All-source RFPs may allow bids from different types of resources that may fill all or part of the characteristics or attributes of the resource need. To reach Clean Energy Transformation Act (CETA) target of 80 percent clean energy by 2030, the Company has two options. The first option is that it restart its 2022 AS RFP no later than April 1, 2024. If it chooses to not restart the AS RFP by that date, the Company must file a letter in this docket explaining; 1) why restarting the 2022 AS RFP on April 1, 2024, was infeasible, 2) when PacifiCorp anticipates restarting an AS RFP, 3) what needs PacifiCorp originally anticipated fulfilling through the AS RFP, 4) how those needs will otherwise be met, and at what cost, and 5) an analysis of how the decision to forgo resource acquisitions through the 2022 AS RFP will impact forecasted operational lives of current resources, Greenhouse Gas (GHG) reductions, and other requirements under CETA. If the Company does restart the 2022 AS RFP on April 1, 2024, but does not end up selecting a resource after restart, it must document the justification for this decision, including: 1) what needs PacifiCorp originally anticipated fulfilling through the AS RFP, 2) how those needs will otherwise be met, and at what cost, and 3) an analysis of how the decision to forgo resource acquisitions through the 2022 AS RFP will impact forecasted operational lives of current resources, GHG reductions and other requirements under CETA. DUE DATE: Restart or file letter by April 1, 2024.

2. Allocation Methodology: PacifiCorp is required to use the most recently approved allocation methodology in all of its planning documents. If the Company wants to introduce a new allocation methodology, the proposed new methodology must be reviewed and approved in a general rate case docket or another appropriate Commission proceeding. If the Company fails to comply and uses an unapproved methodology in any forthcoming planning document, a penalty of $5,000 will be assessed per day of noncompliance, until remedied. Each day out of compliance will serve as a separate and distinct violation. Time for noncompliance is measured based on when a document is filed with the Commission in any docket. Due date: for all future filings after the order is issued.

3. IRA and IIJA Modeling: PacifiCorp must incorporate the Inflation Reduction Act (IRA) and Infrastructure Investment and Jobs Act (IIJA) into its modeling in the upcoming planning filings (including the 2025 IRP and 2025 CEIP), by at minimum: running a sensitivity where the Company assigns favorable financial terms consistent with Energy Infrastructure Reinvestment (EIR) loans to protentional qualifying resources. DUE DATE: no later than the filing of the 2025 Draft IRP, with the changes also reflected in the 2025 CEIP.

4. Reliability Modeling: PacifiCorp will identify and explain an appropriate resource adequacy requirement and measurement metrics consistent with RCW 19.405.030 through 19.405.050. To reduce manual adjustments to the reliability modeling framework, PacifiCorp will adopt a modern capacity accreditation methodology, which could include: (1) transitioning to the Effective Load Carrying Capability (ELCC) method or something functionally equivalent, and (2) improving the time dynamic aspects of its firm capacity calculations; or (3) any additional incremental improvements to the Company's current methods and metrics explaining why and how the Company's undertaking these steps fulfills the RCWs above. DUE DATE: The Company will make these modeling improvements no later than the filing of the draft 2025 IRP, with the changes also reflected in the 2025 CEIP.

5. Transparency: The Company will provide a workpaper index connecting the filing title of each workpaper with its function in the Biennial Update, IRP, and all other future CEIP filings. To the degree that the future Biennial Updates or future CEIP filings rely on workpapers in another docket (i.e., IRP or RFP), the Company will provide, at minimum, links to the public version of such workpapers in the index. DUE DATE: Compliance filing on July 2024.

6. Minimum Designations: PacifiCorp in its 2027 Biennial CEIP Update is to work with its Advisory Groups to designate for Named Communities a minimum of 15 percent (to start) of the energy benefits of its Demand Response (DR), Distributed Energy Resources (DER) and Energy Efficiency (EE) programs, and any future programs, with the benefits measured across each portion of resources. PacifiCorp will develop a targeted approach to identify the customers and communities with the deepest need within the broader category of Named Communities in consultation with interested persons and advisory groups. DUE DATE: By the 2027 Biennial CEIP Update, PacifiCorp will designate a minimum of 15 percent of energy benefits that will flow to Named Communities with the deepest need.

7. Program Design: To implement the 15 percent energy benefit minimum designations for Named Communities discussed above in Condition 6, PacifiCorp will develop mechanisms for intentionally serving customers in Named Communities in each of its individual DR, DER, and EE programs, including carve-outs for program costs (including outreach/education) and minimum participation thresholds. PacifiCorp will also modify its program design for solar and storage DER/DR programs to better ensure benefits flow to Named Communities, including by developing targeting for Named Communities beyond using income as the sole criterion for program eligibility; offering higher incentives for low-income customers and Named Communities; ensuring benefits flow to tenants in affordable multifamily housing; and targeting storage programs. Cost recovery associated with this condition will be determined in an appropriate Commission proceeding. DUE DATE: 2027 Biennial CEIP Update.

8. Public Participation Plan (PPP) Condition: PacifiCorp will provide an updated PPP that addresses the suggested actions section regarding the PPP in Staff's Comments. DUE

DATE: PacifiCorp will file an updated PPP with its July 2024 clean energy progress report. In the July 2024 clean energy progress report, PacifiCorp will reflect the actions taken to implement the updated PPP.

9. Penalty for noncompliance: If PacifiCorp fails to meet the interim targets approved in the 2026-2029 CEIP, it will pay $10,000 per violation, per each day the Company remains out of compliance. Each day out of compliance will serve as a separate and distinct violation. Per WAC 480-100-650(2)(c), the Commission determines whether the Company has met the approved interim targets during the clean energy compliance report.

   In its 2026-2029 CEIP, PacifiCorp will propose interim targets that average at least 50 percent over the 4-year compliance period, with an interim target of 62 percent or higher for 2029. This condition does not impact whether the Commission determines compliance based on an average of the interim targets over the compliance period or if each annual interim target is evaluated separately. Each interested party may argue in favor of their preference regarding how the Commission should determine compliance with the interim targets in future proceedings.