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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

PACIFICORP, dba PACIFIC POWER,

Petitioner,

v.

OREGON PUBLIC UTILITY
COMMISSION, an agency of the State of
Oregon,

Respondent.

Case No. 24CV51484
J. Channing Bennett

**SIERRA CLUB AND GREEN ENERGY
INSTITUTE MOTION TO DISMISS**

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INTRODUCTION AND CONFERRAL STATEMENT

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ORCP 33(D) states that a motion for permissive intervention “shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.” Pursuant to ORCP 33(D), Sierra Club and Green Energy Institute (“GEI”) are attaching this proposed pleading to their motion for permissive intervention. Sierra Club and GEI have not conferred with the parties regarding this proposed pleading because the motion to dismiss is not being filed at this time and because motions to dismiss for lack of jurisdiction are exempt from the conferral requirement in UCTR 5.010.

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FACTUAL BACKGROUND

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The relevant factual background is discussed in Sierra Club’s and GEI’s Motion to Intervene, which is incorporated herein by reference.

1 **LEGAL STANDARDS**

2 3.

3 A plaintiff can obtain judicial review of an agency order only if it complies with certain
4 requirements, such as administrative exhaustion and ripeness. “The requirement that a party must
5 have objected before the agency to errors he asserts on judicial review is one facet of the general
6 doctrine that a party must exhaust his administrative remedies.” *Marbet v. Portland Gen. Elec.*
7 *Co.*, 277 Or. 447, 456 (1977). The doctrine of exhaustion of administrative remedies “requires
8 that a party properly raise issues before the administrative agency and that the party timely and
9 adequately address the merits of the dispute before the agency.” *Trujillo v. Pac. Safety Supply*,
10 336 Or. 349, 368 (2004).

11 4.

12 In addition, to obtain judicial review, a plaintiff must both allege and prove that the
13 dispute is justiciable,¹ which includes that the dispute is ripe for judicial resolution. “[R]ipeness”
14 refers to “an aspect of the doctrine of justiciability, specifically, the requirement that there be an
15 actual, as opposed to a hypothetical, injury to the individual invoking the judicial power.” *Beck*
16 *v. City of Portland*, 202 Or. App. 360, 366 (2005). “The controversy must involve present facts
17 as opposed to a dispute which is based on future events of a hypothetical issue.” *Brown v. Or.*
18 *State Bar*, 293 Or. 446, 449 (1982).

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¹ There is a long line of cases concerning whether the justiciability doctrines are derived from the Oregon Constitution or another source. *See Couey v. Atkins*, 357 Or. 460, 519 (2015) (discussing cases). *Couey* held that courts are not required to dismiss non-justiciable cases in “public actions or cases involving matters of public interest,” but that courts retain the discretion to do so. *Id.* at 520.

1 **ARGUMENT**

2 5.

3 PacifiCorp’s (“Company”) Petition for Review (“Petition”) violates two bedrock
4 principles of administrative law: that a party must exhaust its administrative remedies before
5 going to court, and that courts hear only those cases that are ripe for judicial review. Given that
6 PacifiCorp has not satisfied the exhaustion and ripeness requirements, this Court lacks subject
7 matter jurisdiction and should dismiss the Petition in its entirety.

8 6.

9 There are two separate reasons that the Court lacks subject matter jurisdiction over the
10 Petition. First, PacifiCorp failed to exhaust its administrative remedies. The doctrine of
11 administrative exhaustion prohibits a litigant from ambushing an agency with complaints that
12 could have been first addressed to the agency, and requires that the agency be given the
13 opportunity in the first instance to address issues. During the nearly year-and-half-long process at
14 the Oregon Public Utility Commission (“Commission”) in Docket No. LC 82, parties urged the
15 Commission to find that PacifiCorp had not made continual progress in meeting House Bill
16 (“HB”) 2021’s emission-reduction goals and that the Commission should take action to address
17 PacifiCorp’s failure to make continual progress. In Order No. 24-297, the Commission made
18 precisely the factual finding urged by multiple parties and stakeholders and opened a new
19 proceeding (Docket No. UM 2345) to evaluate and potentially require the exact remedial actions
20 that commenters suggested. As the applicant in that Commission proceeding, PacifiCorp was
21 well aware of parties’ positions, and in fact the Company submitted comments responding to
22 parties’ recommendations. However, PacifiCorp never presented to the Commission the issues it
23 now seeks to raise for the first time in its Petition for Review. As a result, PacifiCorp failed to
24 exhaust its administrative remedies and its Petition must be dismissed.

1 7.

2 Second, PacifiCorp's claims are not ripe. PacifiCorp challenges Order No. 24-297 as well
3 as the potential remedial actions the Commission may order in a pending Commission
4 proceeding, Docket No. UM 2345. The Company's claims regarding Order No. 24-297 are not
5 ripe because that order made a factual finding and expressly deferred to a separate proceeding
6 any decision regarding whether to impose remedies as a result of the Commission's factual
7 finding of no continual progress. Unless and until the Commission imposes a remedy that causes
8 harm to PacifiCorp, Order No. 24-297 is not ripe for judicial review.

9 8.

10 Furthermore, even if this Court were to find that PacifiCorp's challenge to Order No. 24-
11 297 is ripe, arguments raised by the Company challenging what the Commission *may* order in
12 Docket No. UM 2345 are not ripe. PacifiCorp invites this Court to interfere with an ongoing
13 agency proceeding by seeking preemptive judicial review of actions the Commission might take
14 in a pending proceeding. The Commission has not issued a final order in UM 2345. The absence
15 of a final order in UM 2345 renders PacifiCorp's challenges to potential actions in UM 2345
16 premature. Thus, all of the claims in the Petition that challenge Order No. 24-297 or potential
17 orders in UM 2345 are not ripe and should be dismissed.

18 **I. ALL OF PACIFICORP'S CLAIMS SHOULD BE DISMISSED BECAUSE**
19 **PACIFICORP FAILED TO EXHAUST ITS ADMINISTRATIVE REMEDIES.**

20 9.

21 The doctrine of administrative exhaustion requires that a petitioner raise issues with an
22 agency before seeking judicial review of the agency's decision. *Marbet*, 277 Or. at 456; *Trujillo*,
23 336 Or. at 368. The doctrine requires both that a petitioner have availed itself of the procedures
24 available at the agency, and that the petitioner raised the specific issues with the agency it raises

1 in its petition for review. The overarching goal of the doctrine is to ensure that, before a petition
2 for review may be filed, “the agency [had] an opportunity to rule on the substance of the
3 dispute.” *Mullenaux v. State, By & Through Or. Dep’t of Revenue*, 293 Or. 536, 541 (1982).

4 10.

5 Here, PacifiCorp’s entire Petition for Review should be dismissed because the Company
6 did not exhaust its administrative remedies prior to filing the Petition. PacifiCorp seeks to raise
7 issues for the first time in court without having first presented those issues to the Commission.
8 PacifiCorp’s Petition for Review raises a laundry list of objections to Order No. 24-297, which
9 the Commission issued in Docket No. LC 82. In its first Claim for Relief, PacifiCorp includes
10 several arguments challenging Order No. 24-297, namely, that:

- 11 ● The Commission made a utility-specific determination of continual progress that is
12 inconsistent with the procedure the Commission had previously announced for
13 determining continual progress, Pet. at ¶ 41;
- 14 ● The Commission failed to undertake a rulemaking to set standards for evaluating
15 continual progress, *id.* at ¶ 44;
- 16 ● The Commission unlawfully initiated a docket to consider PacifiCorp-specific issues
17 rather than initiating a rulemaking or policy statement docket, *id.*; and
- 18 ● Order No. 24-297 violates the Commission’s internal operating procedures and
19 ORS183.310(2)(a), *id.*

20
21
22 In prior sections of the Petition for Review, PacifiCorp includes other bases for challenging
23 Order No. 24-297. *See id.* at ¶¶ 25–38.

24 11.

25 The Petition for Review fails to allege that PacifiCorp raised any of these objections with
26 the Commission in the proceeding, Docket No. LC 82, that culminated in Order No. 24-297. This
27 omission is unsurprising, because PacifiCorp did not raise any of these issues with the
28 Commission. Yet PacifiCorp had multiple opportunities to do so. In Docket No. LC 82,
29 PacifiCorp submitted at least four rounds of comments to the Commission on December 1, 2023,

1 February 14, 2024, February 20, 2024, and July 12, 2024. Decl. of Rose Monahan at ¶ 7. During
2 the course of Docket No. LC 82, PacifiCorp did not raise any of the issues that it has raised in its
3 Petition for Review regarding Order No. 24-297.

4 12.

5 Moreover, PacifiCorp’s own comments indicate that PacifiCorp was aware that several
6 parties had suggested that the Commission make the factual finding and take the steps that the
7 Commission ultimately took in Order No. 24-297. Monahan Decl., Ex. E at 13 (stating that
8 “[v]arious parties” request that the Commission “conclud[e] that PacifiCorp has not
9 demonstrated continual progress; require procurement of utility and small-scale resources ...”).
10 For example, comments filed in LC 82 from the “Joint Advocates” urged the Commission to take
11 the very actions it ultimately adopted in Order No. 24-297, *i.e.*, to make a factual finding that
12 PacifiCorp was not making continual progress and to then open a new docket to consider
13 instructing the Company to take steps necessary to achieve continual progress. Monahan Decl.,
14 Ex. G at 17-23; *see also id.*, Exs. F, H. PacifiCorp filed comments in Docket No. LC 82 that
15 responded to other parties’ comments on the specific issue of whether PacifiCorp was making
16 continual progress and whether the Commission should order PacifiCorp to take any actions if
17 the Commission concluded that PacifiCorp was not making continual progress. *Id.*, Ex. E at 13-
18 15. However, in its response comments, PacifiCorp failed to raise any of the issues it now raises
19 in its Petition for Review. *See id.*²

20 13.

21 In addition to including claims regarding Order No. 24-297, the Petition for Review also
22 includes claims regarding potential actions the Commission may take in a pending docket, UM

² In addition, PacifiCorp did not file a petition for reconsideration of Order No. 24-297. The Commission’s rules allowed PacifiCorp to petition for reconsideration, but PacifiCorp declined to do so.

1 2345. Pet. at ¶¶ 42–43. PacifiCorp has not exhausted its administrative remedies for any claims
2 associated with potential actions the Commission *may* take in UM 2345 because the Commission
3 has not yet issued a final order in UM 2345. The doctrine of administrative exhaustion requires
4 that a would-be petitioner both raise its issues before the agency and that “the agency [have] an
5 opportunity to rule on the substance of the dispute.” *Mullenaux*, 293 Or. at 541. The Commission
6 has not been given an opportunity to rule on the substance of PacifiCorp’s concerns regarding
7 the potential actions the Commission may take in UM 2345, because the Commission has not
8 issued a final order in UM 2345. Therefore, PacifiCorp has not exhausted its administrative
9 remedies for its claims regarding any potential actions the Commission might take in Docket No.
10 UM 2345.

11 14.

12 The proper remedy for a petitioners’ failure to exhaust administrative remedies is to
13 dismiss the petition for review. *See, e.g., Golden Rule Farms, Inc. v. Or. Water Res. Dep’t*, 321
14 Or. App. 43, 49 (2022) (dismissing and refusing to entertain the merits of claims challenging the
15 agency’s original order for a failure to exhaust administrative remedies). The failure to exhaust
16 administrative remedies deprives the court of subject matter jurisdiction. Courts can consider
17 documents outside a petition for review when finding facts necessary to resolve a motion to
18 dismiss for lack of subject matter jurisdiction. ORCP 21(A)(2)(b); *see also Munson v. Valley*
19 *Energy Inv. Fund, U.S., LP*, 264 Or. App. 679, 695 (2014) (“[W]hen considering a motion to
20 dismiss for lack of subject matter jurisdiction, the trial court may decide disputed jurisdictional
21 facts based on evidence submitted by the parties ...”). Therefore, at the motion to dismiss stage,
22 this Court can consider evidence outside the petition for review to determine whether PacifiCorp
23 exhausted its administrative remedies.

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2 In sum, the Court should dismiss the entire Petition for Review because PacifiCorp did
3 not exhaust its administrative remedies at the Commission. The Commission’s rules allowed
4 PacifiCorp to present its issues to the Commission in Docket No. LC 82 through comments,
5 motions, or to petition for reconsideration. PacifiCorp did in fact file comments with the
6 Commission, but failed to mention in its comments any of the issues it now includes in its
7 Petition for Review. As a result, PacifiCorp violated the jurisdictional requirement that plaintiffs
8 first raise issues with an administrative agency before raising those issues in court.

9 **II. PACIFICORP’S CLAIMS ARE NOT RIPE.**

10 **A. The Claims Regarding Order No. 24-297 Are Not Ripe**

12 The Court should dismiss as unripe all claims in PacifiCorp’s Petition regarding
13 Commission Order 24-297 because PacifiCorp is not suffering a concrete or discrete injury
14 resulting from Order 24-297. In Order 24-297, the Commission made a factual finding that the
15 Company has not made continual progress toward meeting the emission-reduction goals in HB
16 2021. As PacifiCorp’s Petition notes, the Commission then took three actions in Order 24-297:
17 (1) initiated a separate docket, UM 2345, to consider potential remedies; (2) instructed
18 PacifiCorp to include an “executable action plan” in its next Clean Energy Plan filing; and (3)
19 instructed PacifiCorp to provide a small-scale resource acquisition strategy by April 2025, in the
20 Company’s 2025 Integrated Resource Plan filing. Pet. at ¶ 23.

22 In its Petition for Review, PacifiCorp does not allege any *present* harm from Order 24-
23 297’s factual finding or three directives. Instead, the Petition repeatedly alleges that PacifiCorp
24 may suffer harm in the *future* if the Commission takes certain actions in a separate, pending

1 docket, No. UM 2345. Specifically, PacifiCorp speculates that in the ongoing Docket No. UM
2 2345, the Commission may order PacifiCorp to issue a request for proposals (“RFP”) to acquire
3 new electricity generating resources. Pet. at ¶ 23 (The Commission ordered that “a new docket
4 [be opened] in which the Commission *may* issue an order that PacifiCorp will issue a Request for
5 Proposal [(“RFP”)] with a certain date and scope, to be determined in the docket”) (emphasis
6 added); *id.* at ¶ 42 (“By *potentially* directing PacifiCorp to issue an RFP (first action item) and
7 file a small-scale resource acquisition strategy (third action item) ...” (emphasis added)).
8 Similarly, PacifiCorp discusses at length the nature and scope of a hypothetical RFP that the
9 Commission might order in its pending docket UM 2345. *Id.* at 37.

10 18.

11 However, in the final Order PacifiCorp seeks to challenge, Order No. 24-297, the
12 Commission explicitly deferred consideration of whether to require PacifiCorp to conduct an
13 RFP:

14 We look forward to an airing of perspectives on whether, in the absence of continual
15 progress, we can and should order a utility to commence a procurement process. We
16 note that, even if we conclude in this new docket that we have the authority to order
17 the company to initiate a procurement process, ordering a utility to actually procure
18 resources is another question ...

19 Ex. A, Order No. 24-297 at 3; *see also* Pet. at ¶ 32. Thus, as the Petition acknowledges at
20 paragraph 32, UM 2345 is ongoing and the Commission has not yet decided whether it will
21 impose any remedy beyond the planning exercises (executable action plan and small-scale
22 renewable resource acquisition strategy) on PacifiCorp as a result of the factual finding in Order
23 No. 24-297.³ The Commission could decide in UM 2345 to require nothing of PacifiCorp after

³ The Commission regularly requires utilities such as PacifiCorp to engage in planning exercises in future integrated resource plans. *See, e.g.*, Order No. 22-178, Or. Pub. Util. Comm’n, Docket No. LC 77 at 7-8, *available at* <https://apps.puc.state.or.us/orders/2022ords/22-178.pdf> (directing PacifiCorp to file a “long-term fueling plan for the Jim Bridger [coal plant]” in the utility’s next integrated resource plan). The

1 making the factual finding in Order 24-297.⁴ Indeed, PacifiCorp admitted that the Commission’s
2 ultimate decision in UM 2345 could moot all of the Company’s claims regarding Order 24-297,
3 precisely because the Commission could decline to issue any remedies at all in UM 2345. *See*
4 Monahan Decl., Ex. K at 2 (noting that “the Commission’s directives in Order No. 24-297 may
5 be ... rendered moot” by the Commission’s conclusions in Docket No. UM 2345).

6 19.

7 PacifiCorp speculates that if the Commission orders additional action, including resource
8 acquisitions, in the pending Docket No. UM 2345, the Company would then suffer harm. Pet. at
9 ¶ 38 (“... the Commission’s Final Order may result in relief that imposes staggering costs on
10 PacifiCorp ...”); *id.* at ¶ 37 (the Commission’s ongoing docket “could have severe consequences
11 for PacifiCorp’s customers”).

12

13

Commission’s authority to do so has never been questioned, as the Commission has broad regulatory authority including the ability to require information from utilities necessary in the exercise of its regulatory oversight. ORS § 756.105 (authorizing the Commission to require from utilities “all information required by the commission” to carry out its regulatory obligations. Accordingly, the Commission did not need to rely on its “continual progress” authority to require these two planning exercises, whereas the opening of Docket No. UM 2345 is explicitly to evaluate remedial measures that the Commission may require as a result of its obligation to ensure that utilities demonstrate continual progress towards HB 2021’s emission reduction requirements. Regardless, neither the executable action plan nor the small-scale renewable resource acquisition strategy require PacifiCorp to actually *implement* those plans. PacifiCorp cannot, and has not, shown harm resulting from these planning exercises.

⁴ To be clear, Sierra Club and GEI believe that the Commission not only has the legal authority to impose remedies in Docket No. UM 2345, but must exercise that authority to fulfill its obligation to ensure continual progress. However, PacifiCorp is also a party to Docket No. UM 2345, and is advancing contrary positions. PacifiCorp’s Initial Br., Or. Pub. Util. Comm’n, Docket No. UM 2345 at 29 (Nov. 18, 2024), *available at* <https://edocs.puc.state.or.us/efdocs/HBC/um2345hbc332959033.pdf> (“The Company requests the Commission conclude it lacks the power to engage in State-directed procurement under HB 2021. To the extent the Commission has any lingering questions regarding the implementation of the law, these issues are more appropriately addressed in future Commission investigations or rulemakings.”). At this point, there is no basis for speculating as to how the Commission will rule, including whether the Commission decides it has legal authority to impose remedies and what remedies it will select.

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20.

PacifiCorp’s allegations of future injuries are contingent on the Commission taking two future actions in UM 2345: first, the Commission would have to determine that it has legal authority to impose specific remedies that PacifiCorp disputes the legal authority to require; and second, the Commission would then have to decide that it is good policy and appropriate to impose such remedies that result in some concrete harm to PacifiCorp. The Commission has not yet taken either of these actions. As the Petition recognizes, the Commission has not taken any final action in Docket UM 2345.

21.

In sum, the Petition alleges only future—not present—harms from Order No. 24-297. Even if the Petition for Review were construed to allege present harms, PacifiCorp cannot prove that Order No. 24-297 causes any present harm. Instead, Order No. 24-297 defers until a later point specific remedies to rectify a failure to demonstrate continual progress while requiring the type of long-term planning that the Commission has routinely required following review of utility resource plans and is necessary to the Commission’s regulatory oversight.

22.

PacifiCorp’s inability to even allege—much less to prove—that it is suffering present harm from Order No. 24-297 renders the claims regarding Order No. 24-297 not ripe for judicial review. The ripeness doctrine precludes a plaintiff from obtaining judicial review of final agency action that has caused no harm, based purely on allegations that an agency might take future actions that might cause future harm. “[R]ipeness” refers to “an aspect of the doctrine of justiciability, specifically, the requirement that there be an actual, as opposed to a hypothetical, injury to the individual invoking the judicial power.” *Hill v. City of Portland*, 296 Or. App. 470,

1 476 (2019) (internal citation omitted). As explained above, the Petition alleges only hypothetical
2 injuries that are contingent on future actions the Commission may or may not take in UM 2345.
3 The present appeal is a textbook example of why the ripeness doctrine exists, as PacifiCorp filed
4 this lawsuit with the admitted goal of using the judicial branch to interfere with an ongoing
5 agency proceeding, Docket No. UM 2345. *See Nat'l Park Hosp. Ass'n v. Dep't of Interior*, 538
6 U.S. 803, 807–08 (2003) (the ripeness doctrine is designed “to protect the agencies from judicial
7 interference until an administrative decision has been formalized and its effects felt in a concrete
8 way by the challenging parties.”) (internal citation omitted).

9 23.

10 PacifiCorp may point to the Commission’s statement in Order No. 24-002 that a
11 Commission finding as to whether a utility is making continual progress would be subject to
12 judicial review. Ex. B, Order No. 24-002 at 1. But that statement alone does not resolve the
13 ripeness question. It is for this Court to determine whether it has subject matter jurisdiction,
14 regardless of whether the Commission has said that a particular order is reviewable. Had the
15 Commission stated in Order No. 24-002 that such determinations would *not* be reviewable, we
16 doubt that PacifiCorp would argue that the Commission’s conclusion is entitled to any deference.

17 24.

18 Indeed, the ripeness doctrine answers the question of *when* a matter is fit for judicial
19 resolution, not whether a matter can ever be resolved by the courts. We do not question that, if
20 the Commission were to order in Docket No. UM 2345 the hypothetical actions about which the
21 Company’s Petition for Review speculates (*e.g.*, order PacifiCorp to issue an RFP and procure
22 resources from that RFP), then PacifiCorp’s claims regarding the factual finding underpinning
23 the Commission’s order to PacifiCorp to conduct an RFP and acquire resources would be ripe.

1 Thus, a finding that PacifiCorp’s Petition is not ripe for review at this time is consistent with the
2 Commission’s statement that factual findings of the sort made in Order No. 24-297 would be
3 reviewable. If the Commission were to issue a final order in Docket No. UM 2345 instructing
4 PacifiCorp to take actions that cause concrete harm to PacifiCorp, the factual finding in Order
5 No. 24-297 would be reviewable. Until then, PacifiCorp cannot obtain judicial review of a
6 factual finding that has not—and may never—cause the Company any harm.

7 25.

8 It is important to consider the context in which Order No. 24-002 was issued. The
9 underlying docket, Docket No. UM 2273, was intended to investigate implementation of HB
10 2021, considering the significant changes to utility regulation that HB 2021 introduced. The
11 Commission was considering, in the abstract, what would occur should a utility fail to
12 demonstrate continual progress in a clean energy plan. Parties in UM 2273 had already raised
13 that, should a utility fail to demonstrate continual progress, then Commission-ordered remedial
14 action would be necessary. Order No. 24-002, then, was issued with the understanding that a
15 Commission determination that a utility had not demonstrated continual progress would be
16 coupled with Commission-directed action. *See* Order No. 24-002 at 29 (“we understand that the
17 purpose of requiring continual progress is to ensure utility action ... [;]” “[w]e interpret HB
18 2021’s direction for us to ‘ensure’ continual progress to give us the authority to require a utility
19 to take actions outside the context of the regulatory determination whether to acknowledge a
20 CEP . . .”). The Commission acknowledged that “*certain* types of direction *could* require” new
21 proceedings, thus implying that other actions could be ordered in the same proceeding and within
22 the same order in which the Commission determines that continual progress was not
23 demonstrated. *Id.* at 30.

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26.

Order No. 24-297 was the first time that the Commission evaluated a utility’s clean energy plan and made a determination on whether continual progress had been shown. Finding that it had not, in large part because the utility had abandoned near-term renewable energy acquisitions needed to reduce emissions, the Commission concluded that ordering the potential necessary remedies—renewable energy acquisitions—required a separate, contested-case proceeding. Because a separate remedial docket, UM 2345, remains pending, PacifiCorp has not suffered any harm from Order No. 24-297. Had the Commission ordered remedial action in Order No. 24-297, then its factual determination that PacifiCorp had not demonstrated continual progress would be ripe for judicial review. But because it did not, Order No. 24-297 is not yet ripe.

27.

The general rule is that courts lack subject matter jurisdiction to hear claims that are not ripe. *Beck*, 202 Or. App. at 365–71. Here, the statute of limitations required PacifiCorp to petition for review of Order No. 24-297 within sixty days of entry of the order, well before the Commission has concluded UM 2345 and thus well before it is possible to know whether the Commission will impose any remedies on PacifiCorp. In this instance, as an alternative to dismissal, the Court could consider staying PacifiCorp’s challenge to Order 24-297 until the Commission issues a final order in Docket No. UM 2345. If the Commission’s final order in Docket No. UM 2345 does not impose any remedies to which PacifiCorp objects or that adversely affect PacifiCorp, then the Petition for Review of Order 24-297 should be dismissed.

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B. The Separate Claims Regarding Potential Actions the Commission May Take in Docket No. UM 2345 Are Not Ripe.

28.

In addition to challenging the Commission’s final Order No. 24-297, the Petition for Review asserts claims regarding potential actions the Commission may take in an ongoing proceeding, Docket No. UM 2345. Pet. at ¶ 42. Specifically, the Petition claims that the Commission lacks authority in the pending Docket No. UM 2345 to order PacifiCorp to issue an RFP and that such an order would be preempted by federal law. *Id.*

29.

Even if the Court were to find that claims regarding the final Order No. 24-297 are ripe for review, the Court should find that PacifiCorp’s claims regarding the Commission’s potential actions in Docket No. UM 2345 are not ripe. Docket No. UM 2345 is an ongoing Commission proceeding, and the Commission has not yet issued a final order in Docket No. UM 2345. Monahan Decl. at ¶ 14.

30.

PacifiCorp is a party to Docket No. UM 2345. Monahan Decl. at ¶ 13. In Docket No. UM 2345, PacifiCorp is raising nearly identical arguments in that proceeding that it makes to this Court regarding the scope of the Commission’s authority and what course of action the Commission should follow. Specifically, PacifiCorp is urging the Commission in Docket No. UM 2345 to not order PacifiCorp to do anything as a result of the factual finding in Order No. 24-297. *Id.*, Ex. J at 29 (arguing that the Commission does not have the authority to order PacifiCorp to acquire specific resources and recommending that the Commission investigate its authority to order any other remedy for PacifiCorp’s failure to demonstrate continual progress in

1 a “future Commission investigations or rulemakings”). It is possible that the Commission will
2 heed the arguments of PacifiCorp and not order any specific actions of PacifiCorp in Docket No.
3 UM 2345.

4 31.

5 Precisely because the Commission has not issued a final order in UM 2345, the Petition
6 alleges only hypothetical injuries from hypothetical actions the Commission might take in UM
7 2345. *See, e.g.*, Pet. at ¶ 17-18. PacifiCorp cannot meet the requirement of “an actual, as opposed
8 to a hypothetical, injury to the individual invoking the judicial power.” *Hill*, 296 Or. App. 470,
9 476 (internal citation omitted). Courts have dismissed lawsuits challenging potential actions that
10 an agency might take in the future, and should dismiss PacifiCorp’s premature attempt to obtain
11 review of actions the Commission might take in Docket No. UM 2345. *See Friends of the*
12 *Columbia Gorge, Inc. v. Columbia River Gorge Comm’n*, 346 Or. 366, 392 (2009) (“The Court
13 of Appeals concluded that, insofar as that argument pertained to a *possible* interpretation of the
14 Act by the Commission, it was not ripe for review. ... We agree ...”) (emphasis in original).

15 32.

16 For these reasons, PacifiCorp’s claims, including the claims in paragraph 42 of its
17 Petition for Review, challenging the Commission’s potential actions in Docket No. UM 2345 are
18 not ripe for judicial review and should be dismissed.

19
20 **CONCLUSION**

21 33.

22 This Petition for Review runs afoul of bedrock principles of administrative law. Rather
23 than presenting its concerns to the Commission in LC 82, PacifiCorp seeks to bypass the
24 Commission and rush straight to court. The doctrine of administrative exhaustion bars

1 PacifiCorp from making an end-run around the Commission, which must have the initial
2 opportunity to pass upon PacifiCorp’s arguments. PacifiCorp also seeks to use this Court to
3 interfere with an ongoing Commission proceeding, Docket No. UM 2345, in which the
4 Commission may well agree with PacifiCorp and not adopt any of the actions that PacifiCorp
5 seeks to preempt through this litigation. The ripeness doctrine is designed to protect agencies
6 from judicial interference in ongoing proceedings such as the Commission’s pending Docket No.
7 UM 2345.

8 34.

9 For these reasons, the Court should find that PacifiCorp failed to exhaust its
10 administrative remedies and that PacifiCorp’s claims are not ripe for review. The Court should
11 therefore conclude that there are two independent reasons it lacks subject matter jurisdiction. The
12 Court should dismiss the Petition in its entirety.

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14 Dated: December 6, 2024

Respectfully submitted,

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/s/ Alex Houston
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*On behalf of the Green Energy Institute at
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/s/ Joshua Smith
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Rose Monahan (*pro hac vice application
forthcoming*)

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/s/ Matthew Gerhart
Matthew Gerhart (*pro hac vice application
forthcoming*)

Sierra Club
1536 Wynkoop Street, Suite 200
Denver, Colorado 80202
matt.gerhart@sierraclub.org
303-454-3346

On behalf of Sierra Club

DECLARATION OF ROSE MONAHAN

I, Rose Monahan, declare as follows:

1. My name is Rose Monahan. I am over 18 years old. I live in Tahoe City, California. The information in this declaration is true and correct to the best of my knowledge, information, and belief and is based on my personal and professional experience.
2. I am a Staff Attorney with Sierra Club.
3. As part of my job, I regularly represent Sierra Club in proceedings at the Oregon Public Utilities Commission (“PUC” or “Commission”).
4. Sierra Club was a party in Docket No. LC 82. I represented Sierra Club in Docket No. LC 82. The Commission issued Order No. 24-297 in Docket No. LC 82.
5. As the attorney representing Sierra Club in Docket No. LC 82, I read the documents filed by the parties in that docket. I am personally familiar with the filings in Docket No. LC 82.
6. The Commission maintains a public website listing the documents filed in each of its dockets. A true and correct copy of the docket sheet for LC 82 is attached as Exhibit A.
7. PacifiCorp filed several documents in Docket No. LC 82, including comments that were filed on December 1, 2023, February 14, 2024, February 20, 2024, and July 12, 2024. True and correct copies of PacifiCorp’s comments are attached to this declaration as Exhibits B, C, D, and E, respectively.
8. Renewable Northwest filed comments in Docket No. LC 82 on June 14, 2024. A true and correct copy of these comments is attached as Exhibit F.

9. The “Joint Advocates,” including Sierra Club and the Green Energy Institute at Lewis & Clark Law School, filed comments in Docket No. LC 82 on June 14, 2024. A true and correct copy of these comments is attached as Exhibit G.
10. Commission Staff filed comments in Docket No. LC 82 on June 14, 2024. A true and correct copy of these comments is attached as Exhibit H.
11. Commission Staff filed a report in Docket No. LC 82 on August 1, 2024. A true and correct copy of this report is attached as Exhibit I.
12. Sierra Club is a party to Docket No. UM 2345. I represent Sierra Club in Docket No. UM 2345.
13. PacifiCorp is a party to Docket No. UM 2345.
14. Docket No. UM 2345 is an open, active docket at the Commission. As of the date that this declaration is being executed, the Commission has not issued a final order in Docket No. UM 2345.
15. As the attorney representing Sierra Club in Docket No. UM 2345, I read the documents filed by the parties in that docket. I am personally familiar with the filings in Docket No. UM 2345.
16. In Docket No. UM 2345, PacifiCorp filed its initial brief on Nov. 13, 2024. A true and correct copy of PacifiCorp’s initial brief in Docket No. UM 2345 is attached as Exhibit J.
17. In Docket No. UM 2345, PacifiCorp filed a Motion to Suspend the Procedural Schedule. A true and correct copy of PacifiCorp’s stay motion is attached as Exhibit K.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 26, 2024



Rose Monahan

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)****Category:** Least Cost Planning**Filed By:** PACIFIC POWER

In the Matter of PACIFICORP, dba PACIFIC POWER, 2023 Integrated Resource Plan. Filed by Matthew McVee

Sent to Electric List.

Filing Date: 5/1/2023**Case** BATMALE, JP 503-551-9926
HERB, KIM 503-428-3057**Law Judge(s):** MAPES, KATIE**ACTIONS:**

Date: 11/25/2024	Action: SERVICE LIST CHANGE
CUB's Notice of Substitution of Counsel, replacing Michael Goetz, with Jennifer Hill-Hart. Filed by Jennifer Hill-Hart.	
Date: 11/21/2024	Action: SERVICE LIST CHANGE
Staff's Request to Change Service List to remove Johanna Riemenschneider and add Sarah S. Rowe; filed by Sarah S. Rowe.	
Date: 11/21/2024	Action: HUDDLE REQUEST
AWEC's request to update Huddle; filed by Nannette M. Moller.	
Date: 11/18/2024	Action: PROTEST/EXCEPTION/OBJECTION
Sierra Club, Green Energy Institute, Mobilizing Climate Action Together, NW Energy Coalition, and Oregon CUB's Opposition to PacifiCorp's Motion to Suspend and Petition to Postpone, filed by Rose Monahan, Alex Houston, Max Greene, Michael P. Goetz, and Jennifer Hill-Hart.	
Date: 11/18/2024	Action: COMMENTS/RESPONSE
CREA's Response to PacifiCorp's Petition for Postponement of Compliance with Order No. 24-297; filed by Gregory M. Adams.	
Date: 11/18/2024	Action: COMMENTS/RESPONSE
Staff's response to PacifiCorp's Motion to Postpone, filed by Sarah Rowe.	
Date: 11/15/2024	Action: PETITION TO INTERVENE
CREA's Petition to Intervene, with contacts of Gregory Adams and Mike McArthur. Filed by Gregory Adams.	
Date: 10/31/2024	Action: LAW JUDGE RULING/MEMORANDA
LC 82, UM 2345 - ALJ Michael Grant and ALJ Katharine Mapes issues Ruling; DISPOSITION: REQUESTS FOR EXPEDITED CONSIDERATION DENIED; SCHEDULE FOR RESPONSES AND REPLIES SET. Copies served on 10/31/24.	
Date: 10/30/2024	Action: APPEAL
PacifiCorp's Petition for Judicial Review, Petition for Judicial Review of Public Utility Commission of Oregon Order No. 24-297 filed with the Marion County Circuit Court on October 28, 2024; filed by Bruce L. Campbell and Jessica Ann Bernardini.	
Case 24CV51484.	
Date: 10/28/2024	Action: MOTION
PacifiCorp's Petition for Postponement of Compliance with Order No. 24-297 [Expedited Consideration Requested], filed by Zachary Rogala.	
Date: 8/30/2024	Action: SERVICE LIST CHANGE
Renewable Northwest's Request to Change Service List to add Max Greene with updated contact information, and to add Katie Chamberlain. Filed by Max Greene.	
Date: 8/28/2024	Action: ORDER
Order No. 24-297, signed by Commissioners Megan W. Decker, Letha Tawney, and Les Perkins; DISPOSITION: NO CONTINUAL PROGRESS FOUND; STAFF TO OPEN NEW DOCKET. Copies served on 8/28/24.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 8/1/2024	Action: HEARING
Notice of Special Public Meeting and Agenda. Copies served on 8/1/24.	
HEARING scheduled 8/8/2024 9:30 AM	
Room: VIA ZOOM	
Reporter: ZOOM RECORDING	
Law Judge: MAPES, KATIE	
Date: 8/1/2024	Action: STAFF REPORT
Staff Report for the August 8, 2024 Special Public Meeting, by JP Batmale and Will Mulhern.	
Highly Confidential to Agency Folder	
Date: 7/26/2024	Action: GPO SIGNATORY PAGE
PAC's Signatory Pages related to General Protective Order No. 23-132 filed by Cole Albee. Qualified person under Paragraph 10 is Cole Albee.	
Date: 7/26/2024	Action: OTHER FILING/PLEADING
PAC's Confidential Exception Report for a New Energy Storage Agreement, filed by Matthew McVee.	
Confidential to Agency folder.	
Date: 7/16/2024	Action: GPO SIGNATORY PAGE
Sanger Law Signatory Withdrawal Letter removing Joni Sliger from signatory page GPO 23-132 filed on 6/26/23.	
Date: 7/12/2024	Action: COMMENTS/RESPONSE
PacifiCorp's Reply Comments, filed by Matthew McVee.	
Date: 6/26/2024	Action: GPO SIGNATORY PAGE
Renewable NW's Signatory Page related to General Protective Order No. 23-132. Person seeking qualification under Paragraph 11: Katie Chamberlain.	
Date: 6/26/2024	Action: HUDDLE REQUEST
Renewable NW's Request To Update Huddle Access, filed by Max Greene.	
Date: 6/14/2024	Action: COMMENTS/RESPONSE
Staff's Comments, filed by JP Batmale.	
Highly Confidential saved to Agecny Folder	
Date: 6/14/2024	Action: COMMENTS/RESPONSE
Multnomah County Office of Sustainability Comments, filed by Silvia Tanner.	
Date: 6/14/2024	Action: COMMENTS/RESPONSE
Joint Advocates Comments, filed by Rose Monahan, Pat DeLaquil, Alex Houston, Fred Heutte, Jennifer Hill-Hart, and Jack Watson.	
Date: 6/14/2024	Action: COMMENTS/RESPONSE
RNW's Comments, filed by Max Greene, Katie Chamberlain, Nick Pappas, Jon Martindill, and James Himelic.	
Date: 6/14/2024	Action: COMMENTS/RESPONSE
OSSIA Comments, filed by Jack Watson.	
Date: 6/14/2024	Action: COMMENTS/RESPONSE
Oregon & Southern Idaho District Council of Laborers, filed by Jeffrey Gritz.	
Date: 6/14/2024	Action: COMMENTS/RESPONSE
City of Portland's Comments, filed by Andria Jacob.	
Date: 5/29/2024	Action: OTHER FILING/PLEADING
PacifiCorp's Presentation for the 5/30/24 Special Public Meeting	
Date: 5/24/2024	Action: HUDDLE REQUEST
NEWSUN's Request for Huddle Access, filed by Marie Barlow.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 5/22/2024	Action: SIGNATORY PAGES
CUB's Signatory Page related to Protective Order No. 23-132, filed by Jennifer Hill-Hart. Person qualified under Paragraph 10: Claire Valentine-Fossum.	
Date: 5/22/2024	Action: SIGNATORY PAGES
CUB's Signatory Pages related to Modified Protective Order No. 23-213. Persons qualified under Paragraph 13 to receive Highly Protected Information: Sarah Wochele and Claire Valentine-Fossum.	
Date: 5/22/2024	Action: HUDDLE REQUEST
CUB's Request for Change to Huddle Access, filed by Jennifer Hill-Hart.	
Date: 5/22/2024	Action: SERVICE LIST CHANGE
CUB's Request to Change the Service List, removing John Garrett, adding Claire Valentine-Fossum. Filed by Sharif Morton.	
Date: 5/14/2024	Action: GPO SIGNATORY PAGE
NEWSUN's Signatory Page related to General Protective Order No. 23-132. Person seeking qualification under Paragraph 11: Carlin MacMillan.	
Date: 5/8/2024	Action: FUNDING ORDER
24-128	Order No. 24-128 signed by Chief Administrative Law Judge Nolan Moser; Disposition: Issue Fund Grant Request Approved and Funds Reallocated. Copies served 5/8/24.
Date: 5/7/2024	Action: MPO SIGNATORY PAGE
AWEC's Signatory Page related to Modified Protective Order No. 23-213 filed by Jesse O. Gorsuch. Qualified person under Paragraph 12 is Nannette M. Moller.	
Date: 5/7/2024	Action: GPO SIGNATORY PAGE
AWEC's Signatory Page related to General Protective Order No. 23-132 filed by Tyler C. Pepple. Qualified person under Paragraph 10 is Nannette Moller.	
Date: 5/2/2024	Action: SERVICE LIST CHANGE
AWEC Request to Update Service Lists by removing Jesse O. Gorsuch and Adding Nannette Moller, filed by Jesse O. Gorsuch.	
Date: 5/2/2024	Action: HUDDLE REQUEST
AWEC's Request to Update Authorized Huddle Users, filed by Jesse Gorsuch.	
Date: 4/29/2024	Action: SERVICE LIST CHANGE
CUB's request to change the service list by removing Michael Goetz and adding Jennifer Hill-Hart, filed by Sharif Morton.	
Date: 4/29/2024	Action: LAW JUDGE CONFERENCE REPORT
ALJ Katharine Mapes issues Conference Memorandum. Copies served on 4/29/24.	
Date: 4/22/2024	Action: HUDDLE REQUEST
Northwest & Intermountain Power Producers Coalition's Huddle Access Request; filed by Dustin Prater.	
Date: 4/16/2024	Action: CONFERENCE
Notice of Scheduling Conference, copies served on 4/16/24.	
CONFERENCE scheduled 4/26/2024 11:00 AM Room: VIA ZOOM Reporter: ZOOM RECORDING Law Judge: MAPES, KATIE	
Date: 4/4/2024	Action: OTHER FILING/PLEADING
PacifiCorp's Update for 2023 IRP Data Files, filed by Matthew McVee.	
Date: 4/1/2024	Action: COMPLIANCE
PacifiCorp's 2023 Integrated Resource Plan Update, filed by Matthew McVee.	
Date: 4/1/2024	Action: COMPLIANCE
PacifiCorp's Oregon Planning Supplement, filed by Matthew McVee.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 3/25/2024	Action: PAYMENT REQUEST
AWEC's Request for Final Payment and Reallocation of Issue Fund Grant, filed by Tyler Pepple.	
Confidential to Agency Folder	
Tags: Intervenor Funding Payment request	
Date: 3/19/2024	Action: ORDER
24-073 Order No. 24-073, signed by Commissioners Megan W. Decker and Letha Tawney; DISPOSITION: Staff's Recommendation Adopted. Copies served on 3/19/24.	
Date: 3/13/2024	Action: OTHER FILING/PLEADING
NEWSUN's Request for Huddle Access, filed by Marie Barlow.	
Date: 3/1/2024	Action: STAFF REPORT
Staff Report for the March 5, 2024 Public Meeting (Item No. RA1), by JP Batmale.	
Date: 2/20/2024	Action: COMMENTS/RESPONSE
PacifiCorp's Reply Comments, filed by Joe Dallas and Zachary Rogala.	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
AWEC's Comments on Staff Report, filed by Corinne O. Olson.	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
Swan Lake North Hydro, LLC and FFP Project 101, LLC Comments on Staff Report	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
PacifiCorp's Comments on Staff Report, filed by Joe Dallas and Zachary Rogala.	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
RNW's Comments, filed by Max Greene, Katie Chamberlain, Nick Pappas, Jon Martindill, and James Himelic.	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
NewSun's Comments, filed by Marie P. Barlow.	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
Columbia River Inter-Tribal Fish Commission's Comments, filed by Christine Golightly.	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
CUB's Comments on Staff Report, filed by Bob Jenks.	
Date: 2/14/2024	Action: COMMENTS/RESPONSE
Energy Advocates's Comments, filed by Rose Monahan, Brett Baylor, Rick Brown, Linda Craig, Pat DeLaquil, Dan Frye, Debby Garman, KB Mercer, Michael Mitton, Rich Peppers, Rand Schenck, Jane Stackhouse, Joe Stenger, Catherine Thomasson, Carra Sahler, Alex Huston, Joshua Basofin, Silvia Tanner, Jack Watson, Alma Pinto, Kelly Campbell, and Nakita Daryanani.	
Date: 2/13/2024	Action: SERVICE LIST CHANGE
NewSun's Request to Change the Service List, removing Richard G. Lorenz and adding Marie Barlow. Filed by Marie Barlow.	
Date: 2/7/2024	Action: STAFF REPORT
Staff Report for the February 20, 2024 Public Meeting, by JP Batmale.	
Date: 2/5/2024	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: PROCEDURAL SCHEDULE MODIFIED. Copies served on 2/5/24.	
Date: 1/30/2024	Action: MOTION
Staff's Motion to Modify the Procedural Schedule [Expedited Consideration Requested], filed by Johanna Riemenschneider.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 1/30/2024	Action: LAW JUDGE RULING/MEMORANDA ALJ Katharine Mapes issues Ruling; DISPOSITION: RESPONSE DEADLINE SHORTENED. Copies served on 1/30/24.
Date: 1/24/2024	Action: COMMENTS/RESPONSE Staff's Round 2 Comments and Recommendations, filed by JP Batmale.
Date: 1/24/2024	Action: SIGNATORY PAGES AWEC's Signatory Page related to Modified Protective Order No. 23-213, filed by Jesse Gorsuch. Person qualified under Paragraph 12: Corrine Olson.
Date: 1/23/2024	Action: OTHER FILING/PLEADING Renewable Energy Coalition's Request for Huddle Access, filed by Dustin Prater.
Date: 1/23/2024	Action: SIGNATORY PAGES CUB's Signatory Page related to General Protective Order no. 23-132, filed by Michael Goetz. Person qualified under Paragraph 10: Sarah Wochele.
Date: 1/3/2024	Action: SERVICE LIST CHANGE FERVO's Request to Change the Service List, removing Laura Singer, adding Ben Serrurier. Filed by Darren Lee.
Date: 1/2/2024	Action: LAW JUDGE RULING/MEMORANDA ALJ Katharine Mapes issues Memorandum. Copies served on 1/2/24.
Date: 12/22/2023	Action: SIGNATORY PAGES CUB's Signatory Page related to General Protective Order No. 23-132, filed by Michael Goetz. Person qualified under Paragraph 10: Ryan Tran.
Date: 12/22/2023	Action: SIGNATORY PAGES CUB's Signatory Page related to Modified Protective Order No. 23-213, filed by Michael Goetz. Person qualified under Paragraph 12: Ryan Tran.
Date: 12/11/2023	Action: HEARING Notice of Commission Workshop and Agenda. Copies served on 12/11/23. HEARING scheduled 12/21/2023 2:30 PM Room: VIA ZOOM Reporter: ZOOM RECORDING Law Judge: MAPES, KATIE
Date: 12/1/2023	Action: COMMENTS/RESPONSE PacifiCorp's Round 1 Response Comments , filed by Matthew McVee.
Date: 11/28/2023	Action: SIGNATORY PAGES Staff's Signatory Pages related to General Protective Order No. 23-132, filed by Johanna Riemenschneider. Persons seeking qualification under Paragraph 11: Wooddynne Dejeanlouis and Robert Fagan.
Date: 11/27/2023	Action: SIGNATORY PAGES Staff's Signatory Pages related to Modified Protective Order No. 23-213. Filed by Johanna M. Riemenschneider. Persons seeking qualification under Paragraph 13: Wooddynne Dejeanlouis and Robert M. Fagan.
Date: 11/21/2023	Action: SIGNATORY PAGES Staff's Signatory Page related to General Protective Order No. 23-132. Filed by Johanna Riemenschneider. Person seeking qualification under Paragraph 11: Lucy Metz.
Date: 11/21/2023	Action: SIGNATORY PAGES Staff's Signatory Pages related to Modified Protective Order No. 23-213. Filed by Johanna M. Riemenschneider. Person seeking qualification under Paragraph 13: Lucy Metz.
Date: 11/21/2023	Action: SERVICE LIST CHANGE Staff's Request to Change the Service List, adding Shelley Kwok. filed by Johanna Riemenschneider.

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 11/17/2023	Action: OTHER FILING/PLEADING
AWEC Amended Request for Partial Payment filed by Tyler Pepple.	
Confidential to Agency folder.	
TAGS: Intervenor Funding Payment Request Amended Request AWEC	
Date: 11/17/2023	Action: ORDER
23-436 Order No. 23-436 signed by Chief Administrative Law Judge Nolan Moser; Disposition: Issue Fund Grant Request Approved. Copies served 11/17/23.	
Date: 11/15/2023	Action: LAW JUDGE CONFERENCE REPORT
ALJ Katharine Mapes issues Conference Report. Copies served on 11/15/23.	
Date: 11/14/2023	Action: SIGNATORY PAGES
NEWSUN's Signatory Pages related to General Protective Order No. 23-132, filed by Richard Lorenz. Person qualified under Paragraph 10: Jason Frank.	
Date: 11/13/2023	Action: CONFERENCE
Notice of Scheduling Conference. Copies served on 11/13/23.	
CONFERENCE scheduled 11/14/2023 2:00 PM Room: VIA ZOOM Reporter: ZOOM RECORDING Law Judge: MAPES, KATIE	
Date: 11/7/2023	Action: OTHER FILING/PLEADING
AWEC's Request for Partial Payment of the Issue Fund Grant. Filed by Tyler Pepple.	
Confidential to Agency Folder.	
Date: 11/1/2023	Action: OTHER FILING/PLEADING
NewSun's Request to Update Huddle Access, filed by Marie P. Barlow	
Date: 10/31/2023	Action: SERVICE LIST CHANGE
NewSun's Request to Change the Service List, removing Marie Barlow, adding Richard Lorenz. Filed by Marie Barlow.	
Date: 10/31/2023	Action: SIGNATORY PAGES
NEWSUN's Signatory Pages related to General Protective Order No. 23-132, filed by Richard Lorenz. Persons qualified under Paragraph 10: Richard Lorenz and Tanya Bettineski.	
Date: 10/25/2023	Action: COMMENTS/RESPONSE
CUB's Round 1 Comments, filed by Michael Goetz, Jennifer Hill-Hart, and Bob Jenks.	
Date: 10/25/2023	Action: COMMENTS/RESPONSE
Community Advocates Cohort Round 1 Comments. Filed by Sadie Atwell, Alec Perrone, Nikita Daryanani, Maria Dolores Torres, Dawn Harfmann, Anahi Segovia Rodriguez, Alma Pinto, Alessandra de la Torre, Perla Salazar, Ana Molina, Salah Miller, Silvia Tanner, and C Nina King.	
Date: 10/25/2023	Action: COMMENTS/RESPONSE
Energy Advocates' Round 1 Comments, filed by Alessandra de la Torre, Alma Pinto, Ana Molina, Anahi Segovia Rodriguez, Caroline Cilek, Jack Watson, Joshua Basofin, Kelly Campbell, Matt King, Nikita Daryanani, Pat DeLaquil, Rose Monahan, and Silvia Tanner.	
Date: 10/25/2023	Action: COMMENTS/RESPONSE
Staff's Round 1 Comments, filed by JP Batmale.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 10/25/2023	Action: COMMENTS/RESPONSE Columbia River Inter-Tribal Fish Commission's Round 1 Comments. Filed by Christine Golightly.
Date: 10/25/2023	Action: COMMENTS/RESPONSE AWEC's Round 1 Comments, filed by Lance Kaufman and Tyler Peple. Confidential to agency folder
Date: 10/25/2023	Action: COMMENTS/RESPONSE Sierra Club's Round 1 Comments, filed by Ros Monahan. Confidential and HC to agency folder
Date: 10/25/2023	Action: COMMENTS/RESPONSE Fervo's Round 1 Comments, filed by Laura Singer.
Date: 10/25/2023	Action: COMMENTS/RESPONSE NewSun Energy's Round 1 Comments, filed by Marie Barlow.
Date: 10/25/2023	Action: COMMENTS/RESPONSE Renewable NW's Round 1 Comments, filed by Max Green, Diane Brandt, Katie Chamberlain, Emily Griffith, Katie Ware, Nick Pappas, Jon Martindill, Ellie Hardwick, and James Himelic.
Date: 10/18/2023	Action: COMMENTS/RESPONSE Swan Lake North Hydro, LLC and FFP Project 101, LLC Round 1 Comments, filed by Michael Rooney.
Date: 10/18/2023	Action: AMENDED (APPLICATION, COMPLAINT, PETITION) PacifiCorp Errata Filing for Clean Energy Plan, filed by Matthew McVee.
Date: 10/17/2023	Action: LAW JUDGE RULING/MEMORANDA ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 10/17/23.
Date: 10/11/2023	Action: LAW JUDGE RULING/MEMORANDA ALJ Katharine Mapes issues Ruling; DISPOSITION: SCHEDULE EXTENDED. Copies served on 10/11/23.
Date: 10/10/2023	Action: SERVICE LIST CHANGE AWEC's Request to Update Service List removing Brent L. Coleman and adding Corinne O. Olson.
Date: 10/10/2023	Action: MOTION Staff's Motion to Modify Procedural Schedule, expedited consideration requested; filed by Johanna M. Riemenschneider.
Date: 10/6/2023	Action: PETITION TO INTERVENE FERVO ENERGY COMPANY's Petition to Intervene, with Laura Singer as Contact. Filed by Laura Singer.
Date: 9/27/2023	Action: SIGNATORY PAGES AWEC's Signatory Page related to General Protective Order 23-132, filed by Jesse Gorsuch. Person seeking qualification under Paragraph 10: Lance Kaufman.
Date: 9/27/2023	Action: SIGNATORY PAGES AWEC's Signatory Page related to Modified Protective Order No. 23-213, filed by Jesse Gorsuch. Person seeking qualification under Paragraph 13: Lance Kaufman.
Date: 9/26/2023	Action: SERVICE LIST CHANGE Swan Lake North Hydro, LLC and FFP Project 101, LLC's Update to Chris Zentz's Contact Information and Request to List Thomas V. Donadio as an Interested Person. Filed by Chris Zentz.
Date: 9/22/2023	Action: MOTION Staff's Motion to Modify Procedural Schedule [Expedited Consideration Requested]. Filed by Johanna Riemenschneider.
Date: 9/22/2023	Action: LAW JUDGE RULING/MEMORANDA ALJ Katharine Mapes issues Ruling; DISPOSITION: TIME FOR COMMENTS EXTENDED. Copies served on 9/22/23.

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 9/20/2023	Action: SIGNATORY PAGES
Sierra Club's Signatory Page related to General Protective Order No. 23-132, filed by Rose Monahan. Person seeking qualification under Paragraph 11: Sergio Javier Duenas Melendez.	
Date: 9/20/2023	Action: SIGNATORY PAGES
Sierra Club's Signatory Page related to Modified Protective Order No. 23-213, filed by Rose Monahan. Person seeking qualification under Paragraph 13 to receive Highly Confidential Information: Sergio Javier Duenas Melendez.	
Date: 8/14/2023	Action: LAW JUDGE RULING/MEMORANDA
Chief ALJ Nolan Moser on behalf of ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 8/14/23.	
Date: 8/4/2023	Action: CANCELLATION/CHANGE
NOTICE OF CANCELLATION AUGUST 10 COMMISSION WORKSHOP. Copies served on 8/4/23.	
Date: 8/1/2023	Action: PETITION TO INTERVENE
Climate Solutions' Petition to Intervene with Joshua Basofin as contact. Filed by Joshua Basofin.	
Date: 7/31/2023	Action: COMMENTS/RESPONSE
PacifiCorp's Reply Comments, filed by Matthew McVee.	
Date: 7/28/2023	Action: OTHER FILING/PLEADING
Pine Gate Renewables LLC's Huddle access request, filed by Dugan Marieb.	
Date: 7/18/2023	Action: SIGNATORY PAGES
PacifiCorp's Signatory Pages related to Modified Protective Order No. 23-213, filed by Cathie Allen. Persons qualified under Paragraph 12 to receive Highly Protected Information: Joseph Dallas, Zachary Rogala, and Carla Scarsella. Persons seeking qualification under Paragraph 13 to receive Highly Protected Information: Cathie Allen, Jennifer Angell, Randy Baker, Thomas Burns, Brandon Capps, Santiago Gutierrez Sandoval, Baltazar Guzman, Daniel MacNeil, Kaley McNay, Matthew McVee, Stephanie Meeks, Carrie Meyer, Susan Rolfe, and Siu Kee Wong.	
Date: 7/11/2023	Action: SIGNATORY PAGES
Pine Gate Renewables' Signatory Pages related to General Protective Order No. 23-132, filed by Dugan Marieb. Person qualified under Paragraph 11:Dugan Marieb.	
Date: 7/10/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 7/10/23.	
Date: 7/7/2023	Action: SIGNATORY PAGES
AWEC's Signatory Page related to General Protective Order No. 23-132, filed by Jesse Gorsuch. Person qualified under Paragraph 11: Deborah Glosser.	
Date: 7/3/2023	Action: OTHER FILING/PLEADING
Renewable NW's Request for Huddle Access. Filed by Ellie Hardwick.	
Date: 6/30/2023	Action: COMMENTS/RESPONSE
Comments of Swan Lake and Goldendale's Comments, filed by Michael Rooney.	
Date: 6/30/2023	Action: COMMENTS/RESPONSE
CUB's Comments, filed by Kate Ayres, Bob Jenks, and Jennifer Hill-Hart.	
Date: 6/30/2023	Action: COMMENTS/RESPONSE
Sierra Club's Comments filed by Rose Monahan.	
Date: 6/30/2023	Action: COMMENTS/RESPONSE
OSSIA's Comments, filed by Jack Watson.	
Date: 6/30/2023	Action: COMMENTS/RESPONSE
Staff's Comments, filed by Rose Anderson.	
Date: 6/30/2023	Action: COMMENTS/RESPONSE
Cascade Policy Institute's comments, filed by John A. Charles Jr.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 6/29/2023	Action: COMMENTS/RESPONSE
Renewable Northwest's Comments, filed by Max Greene, Diane Brandt, and Katie Ware.	
Date: 6/29/2023	Action: SIGNATORY PAGES
Renewable NW's Signatory Pages related to General Protective Order No. 23-132, filed by Irion Sanger. Persons Qualified under Paragraph 10: Irion Sanger, Max Greene, Joni Sliger, Ellie Hardwick, Min Hu, and Dustin Prater. Persons qualified under Paragraph 11: Lance Kaufman, Katie Ware, and Diane Brandt.	
Date: 6/27/2023	Action: SERVICE LIST CHANGE
AWEC's Request to Update Service Lists by removing Corinne O. Olson and adding Tyler C. Pepple; filed by Jesse O. Gorsuch.	
Date: 6/27/2023	Action: SIGNATORY PAGES
Staff's Signatory Page related to General Protective Order No. 23-132, filed by Pamela Rojek. Person qualified thereunder: Elaine Hart.	
Date: 6/27/2023	Action: SIGNATORY PAGES
Staff's Signatory Page related to Modified Protective Order No. 23-213, filed by Pamela Rojek. Person qualified to receive Highly Protected Information under Paragraph 13: Elaine Hart.	
Date: 6/26/2023	Action: OTHER FILING/PLEADING
PacifiCorp's Presentation for 6/27/23 Special Public Meeting	
Date: 6/26/2023	Action: PETITION TO INTERVENE
Pine Gate Renewables, LLC's Petition to Intervene, with Dugan Marieb as contact. Filed by Dugan Marieb.	
Date: 6/26/2023	Action: ORDER
23-219	Order No. 23-219 signed by Chief Administrative Law Judge Nolan Moser; Disposition: Proposed Budget for Issue Fund Grant Approved. Copies served 6/26/23.

TAGS:

Intervenor Funding
Proposed Budget

Date: 6/22/2023	Action: SIGNATORY PAGES
CUB's Signatory Page related to General Protective Order No. 23-132, filed by Michael Goetz. Persons qualified under Paragraph 10: Michael Goetz, Bob Jenks, Jennifer Hill-Hart, Will Gehrke, John Garrett, Kate Ayres.	
Date: 6/22/2023	Action: SIGNATORY PAGES
CUB's Signatory Pages related to Modified Protective Order No. 23-213, filed by Michael Goetz. Persons qualified to receive Highly Protected Information under Paragraph 12: Mike Goetz, Bob Jenks, Jennifer Hill-Hart, Kate Ayres, John Garrett, Will Gehrke, Alyssa Forest, and Sharif Morton.	
Date: 6/21/2023	Action: SIGNATORY PAGES
Sierra Club Signatory Pages related to Modified Protective Order 23-213. Persons qualified to receive Highly Protected Information under Paragraph 12: Rose Monahan and Leah Bahramipour. Persons qualified to receive Highly Protected Information under Paragraph 13: Edward Burgess, Devin Gaby, Alondra Regalado, Maria Roumpani, and Joseph Walderman.	
Date: 6/20/2023	Action: OTHER FILING/PLEADING
Renewable NW's Request for Huddle Access, filed by Max Greene.	
Date: 6/16/2023	Action: SIGNATORY PAGES
AWEC's Signatory Pages related to General Protective Order No. 23-132, filed by Brent Coleman. Persons qualified under Paragraph 10: Brent Coleman, Tyler Pepple, Corinne Olson, Jesse Gorsuch, Anna Congdon, Rainbow Wainright.	
Date: 6/16/2023	Action: SIGNATORY PAGES
AWEC's Signatory Page Related to Modified Protective Order no. 23-213, filed by Brent Coleman. Persons qualified under Paragraph 12: Brent Coleman, Tyler Pepple, and Jesse Gorsuch.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 6/16/2023	Action: OTHER FILING/PLEADING
AWEC's Request for Huddle Access, filed by Jesse Gorsuch.	
Date: 6/15/2023	Action: HEARING
NOTICE OF SPECIAL PUBLIC MEETING AND AGENDA. Copies served on 6/15/23.	
HEARING scheduled 6/27/2023 1:30 PM	
Room: VIA ZOOM	
Reporter: ZOOM RECORDING	
Law Judge: MAPES, KATIE	
Date: 6/15/2023	Action: ORDER
23-213	Order No. 23-213, signed by Katharine Mapes, Administrative Law Judge; DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER GRANTED. Copies served on 6/15/23.
Date: 6/14/2023	Action: AMENDED (APPLICATION, COMPLAINT, PETITION)
PacifiCorp's Errata to the 2023 Clean Energy Plan, filed by Matthew McVee.	
Date: 6/12/2023	Action: COMMENTS/RESPONSE
NEWSUN's Response to PacifiCorp's Motion for Modified Protective Order. Filed by Marie Barlow.	
Date: 6/6/2023	Action: SIGNATORY PAGES
Sierra Club's Signatory Pages to Protective Order 23-132; Person seeking qualification under Paragraph 11: Alondra Regalado. Filed by Leah Bahramipour.	
Date: 6/2/2023	Action: SIGNATORY PAGES
NewSun's Signatory Pages related to General Protective Order No. 23-132. Filed by Marie Barlow. Persons qualified thereunder: Marie Barlow, Max Yoklic, Jacob Stephens, and Leslie Schauer.	
Date: 6/2/2023	Action: OTHER FILING/PLEADING
PacifiCorp's Clean Energy Plan Data Templates, filed by Matthew McVee.	
Date: 5/31/2023	Action: SIGNATORY PAGES
Sierra Club's Signatory Page related to General Protective Order No. 23-132, filed by Rose Monahan. Persons qualified thereunder: Rose Monahan, Leah Bahramipour, Maria Roumpani, Ed Burgess, Devin Gaby, and Joseph Walderman.	
Date: 5/31/2023	Action: AMENDED (APPLICATION, COMPLAINT, PETITION)
PacifiCorp's Amended 2023 Integrated Resource Plan (IRP), filed by Matthew McVee.	
Date: 5/31/2023	Action: AMENDED (APPLICATION, COMPLAINT, PETITION)
PacifiCorp's 2023 Clean Energy Plan, filed by Matthew McVee.	
See ERRATA filed on 6.14.2023.	
Date: 5/31/2023	Action: COMPLIANCE
PacifiCorp's Jim Bridger Plant Long Term Fueling Plan in Compliance with Order No. 23-131.	
Confidential and Highly Confidential Saved to the Agency Folder.	
Date: 5/26/2023	Action: MOTION
PacifiCorp's Revised Motion for Modified Protective Order [Expedited Consideration Requested], filed by Joseph Dallas.	
Date: 5/19/2023	Action: OTHER FILING/PLEADING
DEEP BLUE PACIFIC WIND Huddle Access Request filed by Dustin Prater.	
Access requested for ellie@sanger-law.com; lance@westernecon.com; dustin@sanger-law.com	
Date: 5/17/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: MOTION GRANTED. Copies served on 5/17/23.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 5/16/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issue Ruling; DISPOSITION: SCHEDULE ADOPTED. Copies served on 5/16/23. See 8/4/23 notice cancelling the 8/10/23 workshop.	
Date: 5/16/2023	Action: MOTION
NIPPC's Motion for Extension of Time to File Response to PacifiCorp's Motion for Modified Protective Order [Expedited Consideration Requested]. Filed by Joni Sliger.	
Date: 5/10/2023	Action: MOTION
Staff's 5/10/23 Email by JP Batmale Regarding Schedule.	
Date: 5/10/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 5/10/23.	
Date: 5/5/2023	Action: OTHER FILING/PLEADING
CUB's Request For An Issue Fund Grant & Proposed Budget, filed by Michael P. Goetz.	
Date: 5/3/2023	Action: SERVICE LIST CHANGE
Pine Gates Renewables, LLC's Request to Add Dugan Marieb to the Service List, filed by Dugan Marieb.	
Date: 5/1/2023	Action: NOTICE
PacifiCorp's Notice of Use of General Protective Order. Filed by Matthew McVee.	
Date: 5/1/2023	Action: SIGNATORY PAGES
PacifiCorp's Signatory Pages under Protective Order no. 23-132. Qualified persons thereunder: Cathie Allen, Jennifer Angell, Siu Kee Wong, Baltazar Guzman, Kaley McNay, Susan Rolfe, Carrie Meyer, Santiago Gutierrez, Carla Scarsella, Joe Dallas, Zachary Rogala, Stephanie Meeks, Randy Baker, Brandon Capps, Thomas Burns, Daniel MacNeil, and Matthew McVee. See 5/1/23 Notice.	
Date: 5/1/2023	Action: MOTION
PacifiCorp's Motion for Modified Protective Order. Filed by Joe Dallas.	
Date: 5/1/2023	Action: SUPPLEMENTAL APPLICATION
PacifiCorp's 2023 IRP Supplemental Filing, filed by Matthew McVee. HC received on USB 5/12/23. To agency HC folder.	
Date: 4/27/2023	Action: PETITION TO INTERVENE
Renewable NW's Petition to Intervene, with contacts of Diane Brandt and Max Greene. Filed by Max Greene.	
Date: 4/26/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 4/26/23.	
Date: 4/21/2023	Action: ORDER
Order No. 23-150 signed by Chief Administrative Law Judge Nolan Moser; Disposition: Proposed Budget for Issue Fund Grant Approved. Copies served 4/21/23.	
Date: 4/18/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 4/18/23.	
Date: 4/17/2023	Action: OTHER FILING/PLEADING
AWEC's Proposed Budget and Request for Issue Fund Grant. Filed by Corrine Olson.	
Date: 4/14/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 4/14/23.	
Date: 4/13/2023	Action: PETITION TO INTERVENE
Swan Lake North Hydro, LLC and FFP Project 101, LLC (Projects) Petition to Intervene with contacts of Michael Rooney, Erik Steimle, and Chris Zentz. Filed by Michael Rooney.	

Summary Report**LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)**

Date: 4/12/2023	Action: LAW JUDGE RULING/MEMORANDA
ALJ Katharine Mapes issues Ruling; DISPOSITION: PETITION TO INTERVENE GRANTED FOR LIMITED PURPOSES. Copies served on 4/12/23.	
Date: 4/11/2023	Action: SERVICE LIST CHANGE
PacifiCorp's Request to Change Service List, removing Carla Scarsella and adding Joe Dallas. Filed by Cathie Allen.	
Date: 4/7/2023	Action: PETITION TO INTERVENE
Sierra Club's Petition to Intervene, with contacts of Rose Monahan and Leah Bahramipour. Filed by Rose Monahan.	
Date: 4/7/2023	Action: OTHER FILING/PLEADING
Sierra Club's Request for Huddle Access, filed by Rose Monahan.	
Date: 4/6/2023	Action: ORDER
23-131	Order No. 23-131 signed by Commissioners Letha Tawney and Mark. R. Thompson; Disposition: Administrative Hearings Division's Recommendation Adopted as Modified. Copies served 4/6/23.
Date: 4/3/2023	Action: PETITION TO INTERVENE
AWEC's Petition to Intervene, with contacts of Brent Coleman, Jesse Gorsuch, and Corinne Olson. Filed by Corrine Olson.	
Date: 4/3/2023	Action: OTHER FILING/PLEADING
AWEC's Notice of Intent to Request Issue Fund Grant. Filed by Corinne Olson.	
Date: 3/31/2023	Action: INITIAL (APPLICATION, COMPLAINT, PETITION)
In the Matter of PACIFICORP, dba PACIFIC POWER, 2023 Integrated Resource Plan. Filed by Matthew McVee	
Sent to Electric List.	
Date: 3/30/2023	Action: NOTICE
CUB's Notice of Intervention with contacts of Michael Goetz, John Garnett, and Oregon CUB Dockets. Filed by Michael P. Goetz.	
Date: 3/30/2023	Action: OTHER FILING/PLEADING
CUB's Request for an Issue Fund Grant, filed by Michael Goetz.	
Date: 3/30/2023	Action: OTHER FILING/PLEADING
CUB's Request for Huddle Access, filed by Michael P. Goetz.	
Date: 3/30/2023	Action: PETITION TO INTERVENE
NEWSUN ENERGY LLC's Petition to Intervene with contacts of Jacob H. Stephen, Marie P. Barlow, Leslie Schauer, filed by Marie P. Barlow.	
Date: 3/30/2023	Action: OTHER FILING/PLEADING
NEWSUN ENERGY's Request for Huddle access for Marie P. Barlow and Leslie Schauer. Filed by Marie P. Barlow.	
Date: 3/27/2023	Action: OTHER FILING/PLEADING
AHD Report for the March 28, 2023 Special Public Meeting filed by Katies Mapes. Copies served to LC 82, LC 77, and AR 655 service lists.	
Date: 3/23/2023	Action: COMMENTS/RESPONSE
NEWSUN's Comments in Response to PacifiCorp's Motion for CEP Delay. Filed by Marie P. Barlow.	
Date: 3/23/2023	Action: COMMENTS/RESPONSE
Joint Advocates' Comments on PacifiCorp's Motions for Extension to File Clean Energy Plan and Long-Term Fuel Supply Plan. Filed by Jennifer Hill-Hart (CUB), Rose Monahan (Sierra Club), Lauren McCloy (NWECC), Max Greene (Renewable NW), Carra Sahler (GEI), and Jack Watson (OSSIA).	
Date: 3/21/2023	Action: MOTION
PacifiCorp's Motion for Extension of Time to File Long-term Fuel Plan. Filed by Carla Scarsella.	
Copies served to the Electric List.	

Summary Report

LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)

Date: 3/21/2023 Action: LAW JUDGE RULING/MEMORANDA
Chief ALJ Nolan Moser issues Memorandum. Copies served to LC 82, LC 77, UM 2225, and UM 2273 Service Lists on 3/21/23.

Date: 3/21/2023 Action: HEARING
Notice of Special Public Meeting. Copies served to LC 82, LC 77, UM 2225, and UM 2273 Service Lists on 3/21/23.
HEARING scheduled 3/28/2023 1:30 PM
Room: VIA ZOOM
Reporter: ZOOM RECORDING
Law Judge: MAPES, KATIE

Date: 3/20/2023 Action: MOTION
PacifiCorp's Motion for Extension to File the First Clean Energy Plan [Expedited Consideration Requested]. Filed by Carla Scarsella.
Copies sent to Electric List.

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Summary Report

LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)

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Summary Report

LC 82 PACIFICORP 2023 INTEGRATED RESOURCE PLAN (IRP) AND CLEAN ENERGY PLAN (CEP)

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CHRIS ZENTZ
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1330 CONNECTICUT AVE NW
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December 1, 2023

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

RE: LC 82—PacifiCorp's Round 1 Response Comments

PacifiCorp d/b/a Pacific Power submits for filing its Round 1 Response Comments in the above-referenced docket.

Informal inquiries may be directed to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,



Matthew McVee
Vice President, Regulatory Policy and Operations

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of

PACIFICORP d/b/a PACIFIC POWER

2023 Clean Energy Plan and Integrated
Resource Plan

PACIFICORP ROUND 1
RESPONSE COMMENTS

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I. INTRODUCTION AND SUMMARY

PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) filed its Amended 2023 Integrated Resource Plan (IRP) and 2023 Clean Energy Plan (CEP) with the Public Utility Commission of Oregon (Commission) on May 31, 2023. On June 30, 2023, PacifiCorp received Phase 0 comments on the 2023 IRP and 2023 CEP from Commission Staff (Staff), Renewable Northwest (RNW), the Cascade Policy Institute, the Citizens’ Utility Board of Oregon (CUB), Sierra Club (SC), the Oregon Solar + Storage Industry Association (OSSIA), and Swan Lake North Hydro, LLC and FFP Project 101, LLC (Swan Lake). PacifiCorp submitted reply comments on July 31, 2023.

Thereafter, the Company submitted a substantive errata to the Company’s CEP on October 18, 2023 (Errata), and subsequently received Phase 1 comments from: Staff, RNW, CUB, Community Advocates Cohort (Community Advocates), Energy Advocates, Alliance of Western Energy Consumers (AWEC), SC, Columbia River Inter-Tribal Fish Commission (CRITFC), Swan Lake, Fervo Energy Company (Fervo), and NewSun Energy LLC (NewSun).

The Company continues to appreciate the feedback received through the IRP and CEP development process, and Round 0-1 stakeholder comments, and responds to specific comments below.

II. RESPONSE TO ROUND 1 COMMENTS

Overall, the Company represents that PacifiCorp’s IRP and CEP, either together or individually:

- Involved an unprecedented amount of stakeholder engagement and process improvements compared to previous Oregon planning efforts. PacifiCorp’s first CEP provides a substantial foundation for successive CEPs to build from and identified many opportunities to incorporate feedback where appropriate in future CEPs.
- Do not result in merely an “an allocation exercise” with “no net change in PacifiCorp’s carbon emissions;” nor are they “simply a transfer of wealth from Oregon to non-Oregon jurisdictions in return for greenwashing Oregon energy.”¹ The Company plans to procure over 3,140 megawatts (MWs) of renewable, non-emitting, and storage resources to meet Oregon needs, and *another* 802 MWs of small-scale resources. This is a historic level of resource investment for the next two decades and should temper stakeholder concerns that PacifiCorp’s CEP is largely a paper exercise.
- Comply with House Bill (HB) 2021 and Oregon’s small-scale renewable mandate on a least-cost, least-risk basis. Several stakeholders recommend the Company rely less on certain technologies (like nuclear or non-emitting peakers), or build out more small-scale renewables (SSR), or require Oregon-only IRP or CEP modeling (or system-wide small-scale renewables modeling for that matter). The Company considered many of these alternative scenarios—and appropriately rejected them—because compliance pathways 1 and 2 provide at least two strategies that allow the Company to comply with HB 2021 without requiring back-breaking costs to Oregon customers.

¹ AWEC Round 1 Comments, at 3.

- Provide appropriate certainty on the Company’s strategies to achieve HB 2021’s emissions reductions, without unnecessarily limiting the Company’s compliance strategies based on now-current assumptions and information.
- Take an appropriately measured and incremental approach to investigating CBREs (and to a lesser extent, SSR). Unless and until these resources can provide comparable benefits to more economic renewable or storage resources that are larger than 20 MWs, the Commission’s prudence standards and least-cost and least-risk planning principles require modest procurement strategies.
- Finally, the Company is confident this suspension will not impact our ability to meet emissions reduction targets or procurement of sufficient resources to meet these targets. Any impacts of PacifiCorp’s suspension of the 2022AS RFP have not yet materialized, and the Company continues to proactively identify issues for inclusion in PacifiCorp’s off-year cycle resource planning during the preparation of its 2023 IRP Update. PacifiCorp hopes to share updated findings following the finalization of 2023 IRP Update, scheduled to be published on April 1, 2024.

The sections below provide additional detail on these and other important stakeholder comments, including: PacifiCorp’s responses to stakeholder engagement and community benefit indicator (CBI) concerns; how the CEP is consistent with HB 2021 requirements; how the IRP and CEP modeling processes, assumptions, and resource selections are reasonable; and how the Company’s procurement strategies are properly aligned with PacifiCorp’s planning efforts. The Company appreciates the Commission’s, Staff’s, and stakeholders’ consideration of these responses.

A. PacifiCorp’s stakeholder engagement, development of CBIs, and transparency and process improvements were incremental and appropriate.

The Company represents that its stakeholder engagement, CBIs, and metrics represent an incremental and well-considered approach to the inaugural Clean Energy Plan.

1. Stakeholder Engagement

As discussed below, while the Company can always improve its stakeholder engagement, PacifiCorp represents that its stakeholder engagement meets the letter and the spirit of the requirements of HB 2021. The sections below summarize some of the Company’s efforts to

Monahan Declaration

Exhibit B

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regarding distribution system planning, tribal engagement, environmental justice, participation and influence, and data.

a. Distribution System Planning (DSP)

The Community Advocates have several questions and recommendations regarding the Company’s distribution system planning community engagement strategy and recommend that the CEP include more information regarding attendance, participation, main takeaways from meetings and public workshops, and how the utility is considering points raised.²

PacifiCorp responds that its community engagement strategy has been informed by soliciting survey feedback from a random sample of residential and small business customers within Oregon. Additionally, the survey was made available and accessible in English and Spanish. Furthermore, at least 30 frontline customers were surveyed, which the Company has defined as meeting certain low-income thresholds, language limitations or having an underlying medical condition on file. In addition to querying Distribution System Planning (DSP) topics within the survey, PacifiCorp also outlined the survey methodology for public comment at the Distribution Planning Public Workshop on January 13, 2022.³

The Company surveyed over 4,600 Oregon customers to: better understand and prioritize the benefits associated with cleaner energy and concerns about energy transition; identify challenges facing communities and individuals; measure awareness of Company communications; and measure satisfaction with the Company’s level of outreach and engagement; among other topics. Survey participants included residential and business customers, frontline customers, and stakeholders. The study was conducted using online and

² Community Advocates Round 1 Comments, at 1.

³ The DSP survey predates the formation of the Community Benefits and Impacts Advisory Group (CBIAG), and therefore the CBIAG could not be consulted at that time.

phone surveys in English and in Spanish. The survey was conducted between February 1 and February 28, 2022, with 130 completed phone surveys, 4,497 completed web surveys and 24 interviews conducted with stakeholder organizations.

Although the survey was designed to help inform PacifiCorp's DSP efforts, key findings have also guided the Company's evolving community engagement strategies on several topics, including CEP engagement more specifically. A summary of the survey results was provided to stakeholders in the May 5, 2022, DSP meeting and is publicly available online at: [Pacific Power- DSP 2022 Survey Results - Presentation \(5.5.22\)](#).

According to the survey results, the top challenges facing communities within the Company's service area are affordable housing and the high cost of living. Residential customers' primary challenges include high cost of living, climate change, and healthcare, although noticeable differences were identified in the challenges facing communities across the state. The most important benefits participants noted related to a cleaner energy future are reducing the impact of climate change, preparing for natural disasters, decreasing reliance on fossil fuels, spending less on energy bills, and reducing the environmental impact of the electric system. Those customers located in Portland are more likely to consider the impacts of climate change and environmental issues as highly important. Costs and potential bill increases are the primary concerns with the transition to cleaner energy. The dependability of renewable sources and the potential impact of materials required for clean energy technology also concern more than half of the surveyed participants. These results mirror topics of concern to Staff, stakeholders and PacifiCorp, and are manifest in the IRP and CEP in climate change modeling assumptions, reliability assessment of the evolving resource mix, and least-cost least-risk analysis.

b. Tribal Engagement

Columbia River Inter-Tribal Fish Commission, CRIFTC, comments that PacifiCorp should “include specific plans for tribal engagement that recognize sovereignty of tribal nations and meaningfully incorporate tribal input.”⁴ This could include: initial recognition and acknowledgment of tribal government sovereignty and authority to govern activities occurring within reservation boundaries; meeting tribal elected officials with equivalent and appropriate PacifiCorp leadership; maintaining open and organic lines of communication with affected tribes and their elected officials; respecting appropriate timing of utility-tribal engagement to ensure pre-decisional engagement; and working directly with the Warm Springs and Umatilla Tribes to deliver demand side and fish-friendly resources.⁵ PacifiCorp continues to pursue a substantive and transparent dialogue with its sovereign tribal partners across its six-state service area. To enhance these relationships, the Company has established a full-time tribal affairs representative position to serve as a corporate liaison to help foster meaningful partnerships with indigenous organizations. This position will also serve a key role in communicating PacifiCorp’s unwavering commitment to environmental stewardship when deploying or modifying infrastructure within ceded areas. With the above considerations in mind, PacifiCorp will continue to incorporate tribal input in the pursuit of fair, just, and reasonable rates and the development of a comprehensive CEP.

PacifiCorp has also established a CEP engagement series for Oregon tribal nations. Through these external engagements, PacifiCorp continues to seek tribal nations, Native persons and tribal organization feedback to build an inclusive and accessible process for consultation, collaboration and co-creation. An Oregon CEP, tribal-relations-centered web page has also gone

⁴ CRIFTC Round 1 Comments, at 1.

⁵ *Id.* at 2-4.

live and can be reviewed at: [Tribal Relations \(pacificorp.com\)](https://www.pacificorp.com/tribal-relations). This webpage is specifically designed to complement and support transparency and the access of information under the Oregon CEP. This webpage houses content and updates related to the tribal engagement series which is open to all. PacifiCorp continues to work with tribal representatives to develop CBIs that reflect agreed-upon desirable outcomes, and to identify opportunities for specific projects or program activities that will deliver demand-side resource and other benefits to tribes.

Regarding tribal engagement, Staff requests PacifiCorp discuss its strategy for a tribal CBI (including tribal engagement processes, and timing for next IRP and CEP).⁶ PacifiCorp continues to seek input and co-develop the tribal engagement process with Native persons, tribal nations and tribal organizations, in order to establish more equitable CBI dialogues. Tribal representatives have expressed interest in establishing partnerships in transportation electrification. Co-developed work on programs and projects may foster the development of additional CBIs. Further, PacifiCorp is in the process of organizing a listening tour in which the Company intends to discuss with tribal organizations their objectives and goals related to transportation electrification. RNW similarly recommends PacifiCorp’s community engagement be more meaningfully and thoughtfully focused. For example, “while there are spaces for community input and guidance such as the CBIAG, we recommend that PacifiCorp also hold space for participants to share feedback on the effectiveness of the CBIAG. PacifiCorp agrees with the importance and need to continue growing opportunities for additional community input and guidance through stakeholder engagement and continues to focus on building an inclusive and accessible process of consultation and collaboration. Examples of current methodologies employed to foster input include the public comment period during the CBIAG meetings, direct

⁶ Staff Round 1 Comments, at 31.

outreach by PacifiCorp and subject matter experts, interactive content in engagement spaces to foster and support dialogue and feedback and collaboration with other utilities to surface best practices and a more recent addition of a post engagement participant survey promoted by the third-party facilitator at the close of several of the Company’s engagement spaces.

c. Environmental Justice

CUB notes that environmental justice considerations are a critical component of CEP acknowledgement, and CUB “continues to hear frustrations from energy justice advocates about whether their engagement in the CEP and IRP are being meaningfully considered.”⁷ The Company has previously responded to CUB’s concerns in Phase 0 comments, but CUB expressed concern with how these actions are informing PacifiCorp’s CEP. Instead, CUB recommends the Company describe how it is complying with environmental justice requirements that entails “equal protection from environmental and health hazards and *meaningful public participation in decisions* that affect the environment in which people live, work, learn, practice spirituality and play.”⁸ This would address concerns where advocates wonder whether their respective investments in CEP and IRP processes are meaningful.⁹

Initial CBIAG meetings required an educational component focused on a common understanding of equity values, perspectives, and community needs and viewpoints. To receive input on programs and processes, PacifiCorp has provided information to the CBIAG to foster shared understanding of the electric industry including CEP requirements and regulatory processes.

⁷ CUB Round 1 Comments, at 8.

⁸ *Id.* at 9 (citing ORS 469A.400(4)) (CUB emphasis).

⁹ *Id.*

The Energy Advocates have several suggestions: the CEP should better discuss community engagement,¹⁰ collaborate with energy justice stakeholders,¹¹ evaluate the effectiveness of its efforts,¹² and should have improved readability and better publication of its existence.¹³

PacifiCorp is exploring the formation of a community engagement workgroup in collaboration with Portland General Electric to standardize elements of community engagement. As proposed by Staff, this group would include external stakeholders and Staff, and serve to surface and develop engagement methodologies, approaches for best practices, help to maximize accessibility, and improve participation and the engagement experience.

PacifiCorp has taken steps to meet the parameters of this request, demonstrated by its participation in meetings with environmental justice advocates alongside Portland General Electric and Staff. The Company remains committed to continuing future outreach to environmental justice stakeholders. PacifiCorp will also continue to solicit feedback in good faith to enhance accessibility and readability of our materials amongst frontline community members.

d. Participation and Influence

Staff is concerned that the community engagement strategy and CEP “are weighted in favor of extractive engagements of demographic information rather than participatory decision making that could leverage the expertise and assets of community members, including environmental justice communities, in the Company’s planning decisions.”¹⁴

¹⁰ Energy Advocates Round 1 Comments, at 5-6.

¹¹ *Id.* at 6.

¹² *Id.* at 6-7.

¹³ *Id.* at 7.

¹⁴ Staff Round 1 Comments, at 26.

To improve and incorporate feedback from the Company’s stakeholder engagement, Staff recommends PacifiCorp: (1) update and publish the feedback tracker at timely intervals to support reflective PacifiCorp comments; (2) expand the feedback tracker to describe entity affiliation or attribution, flag whether PacifiCorp incorporated feedback into utility planning or actions, describe why feedback was or was not included, and detail where PacifiCorp engaged with the Community “along the spectrum of engagement;” and (3) provide feedback on the suggested working group aimed at improving and standardizing elements of community engagement going forward.¹⁵

Regarding participation and influence generally, PacifiCorp supports the development of data gathering and interactive engagement, both of which influence decision- making. PacifiCorp is implementing the process of the feedback tracker to have the information available on its webpage as soon as possible following the engagement space from which the feedback was provided to the Company. Currently, the Company identifies the feedback received in the engagement spaces to indicate the source of the input. Additional information regarding each of the engagement spaces’ attendance is listed in the notes posted on each space’s corresponding webpage. The Company considered the idea of an affiliation-based tracker but felt that identifying the engagement space for the feedback is an acceptable level to share the information publicly. PacifiCorp follows a scrupulous internal review process of all stakeholder feedback received and encourages the continued participation of our valued partners in the communities we serve. As addressed above, PacifiCorp is developing a process with environmental justice advocates, Portland General Electric, and Staff to assist with the evaluation on how to improve and standardize elements of community engagement.

¹⁵ Staff Round 1 Comments, at 27.

To foster accountability, Staff recommends PacifiCorp: provide responses from any community or stakeholder surveys that informed the CEP as recommended by Order No. 22-390 (or discuss future plans to do so); and articulate a plan to increase environmental justice priorities and impacts in planning conversations and resource decision-making beyond community based organization recruitment goals (for example, with specific actions). PacifiCorp will share the results of the clean energy benefits survey at the CBIAG meeting in December 2023. To bolster the visibility into this process and provide resources for stakeholders who cannot attend, the Company also plans to publish these materials for the benefit of customer and community stakeholders.

e. Data

Regarding community demographics, Staff recommends PacifiCorp: describe how it intends to use community data to inform CBIs, CBI metrics, CBREs, and resource acquisition or portfolio decision making; and discuss progress identifying and using granular data (in addition to census tract level) that can provide socioeconomic data (and how PacifiCorp intends to use this data to identify how utility actions have benefited and impacted communities).¹⁶

Since filing the CEP on May 31, 2023, PacifiCorp has continued to explore data availability and is considering ways to incorporate data into the CEP. In addition to the American Community Survey data from the United States Census Bureau, the Company is evaluating Federal Emergency Management Agency National Risk Index data, United States Department of Agriculture Economic Research Service data, Economic Department of Energy Low-Income Energy Affordability Data tool, Council of Environmental Quality Climate Economic Justice Screen Tool and Justice40 data. Further, PacifiCorp has recently completed its clean energy

¹⁶ *Id.* at 30.

benefit survey and is in the process of conducting its 2023 residential survey.

At this stage, the Company intends to use demographic data from the 2023 residential survey to monitor progress at achieving each CBI's desired outcome. Other data sources are expected to help PacifiCorp understand the geographic distribution of vulnerable communities in its service territory, with the goal of helping PacifiCorp focus its actions further.

While the Company can always improve its stakeholder engagement, the Company represents that its engagement for its first CEP more than satisfies the requirements of HB 2021.

2. Community Benefit Indicators (CBIs)

NewSun comments that the Commission should decline to acknowledge PacifiCorp's CEP until it provides additional direct benefits to Oregon communities.¹⁷ PacifiCorp's CEP will result in substantial benefits to Oregon communities. To highlight one example, the Company's portfolio optimization processes determined that the "most current cost-effective locations for small-scale renewable (SSR) resources are located in Oregon," and that this outcome "aligns well with Oregon energy policy objectives and allows more non-economic project benefits to accrue to Oregon customers."¹⁸ and points to the Company's SSR procurement strategies, that assume some of the more cost-effective SSR resources may be Oregon based.

The Community Advocates have several comments and recommendations regarding the Company's CBIs: the advocates are discouraged about benefits actually reaching communities who need it the most; the CBI to "Improve Resilience of Vulnerable Communities During Energy Outages" should be broadened to include other strategies besides CBREs, including those that better incorporate stories from members that experience outages, and what resilience means to them; PacifiCorp should explain SAIDI, SAIFI, and CAIDI scores, and what they will

¹⁷ NewSun Round 1 Comments, at 6.

¹⁸ PacifiCorp CEP, at 65.

be used for; PacifiCorp should explain how it will address vulnerability to outages; and comments that the CBI to “Increase Energy from Non-Emitting Resources and Reduce CO2 Emissions to Meet HB 2021 Targets” should not be a CBI as it is already required by HB 2021.¹⁹

In response, PacifiCorp intends to use the CBI and metric framework as a tool to ensure that the utility is appropriately targeting its activities to benefit underserved areas. CBIs are intended to be a holistic representation of all Company activity to increase community benefits—not only those activities added after a certain date or as a result of a certain regulatory action. Baseline measurements for each CBI metric provide a foundation for monitoring the Company’s forward progress. The Company continues to work with stakeholders to refine and expand the CBI framework. Under this process, PacifiCorp recently added two new draft CBIs and is currently reviewing its own programs and working with partners such as Energy Trust of Oregon to identify activities and metrics to drive progress under these CBIs and measure impacts. PacifiCorp is also currently evaluating how to apply its initial resilience analysis to inform programs and activities that will support greater resilience in vulnerable communities, such as a CBRE program. PacifiCorp intends to provide additional information on its planned application of resilience analysis in its next CEP.

Additionally, SAIDI, SAIFI, and CAIDI are electric system reliability metrics used to measure system performance. SAIDI is the System Average Interruption Duration Index, calculated by dividing the total number of outage minutes by the total number of customers within a given period and geographic area. SAIFI is the System Average Interruption Frequency Index, calculated by dividing the total number of outages by the total number of customers within a given period and geographic area. CAIDI is the Customer Average Interruption

¹⁹ Community Advocates Round 1 Comments, at 2.

Duration Index, calculated by dividing the total number of outages by the total number of customers who experienced an outage within a given period and geographic area. SAIDI and SAIFI provide a measurement of the total amount of outage time and number of outages the average customer experiences while CAIDI measures the average length of an outage when a customer experiences a service interruption. Together, these metrics indicate average system performance and the amount of time required to restore an outage if one occurs. PacifiCorp reviews this data including and excluding large interruptions classified as major events to assess both system reliability during day-to-day operations and system resilience during major events such as large winter storms or wildfires.

Next, CRIFTC recommends PacifiCorp amend its CBIs and IRP to meaningfully reflect tribal energy visions.²⁰ Specifically for CBIs, PacifiCorp should: (1) integrate tribal energy metrics (for example, by reducing peak loads; maximizing energy efficiency; strategically siting renewable resources; reducing over-reliance on federal hydroelectric resources; and minimizing transmission and distribution systems); and (2) take specific steps to implement these metrics (for example, by reviewing avoided cost inputs to better incorporate climate change; accelerate process for updating avoided costs for Energy Trust use; not use cost-effectiveness tests at the project level; enhance low-income investments with other energy resource investments; and quantify more non-energy benefits of efficiency; and use a societal test instead of the total resource cost test).²¹

The Energy Advocates have several CBI-related suggestions. As an initial matter, the Energy Advocates suggests PacifiCorp should consider increased CBI granularity.²² Regarding

²⁰ CRIFTC Round 1 Comments, at 4-12.

²¹ *Id.* at 5-9.

²² Energy Advocates Round 1 Comments, at 7-8.

resiliency, PacifiCorp should: discuss services that the Company would provide during power interruptions;²³ look at resiliency more broadly in future CEPs;²⁴ explain increases or decreases in reliability in future CEPs, overlay reliability data with other vulnerability measures, and consider CBIs and metrics related to community resilience and system resilience.²⁵

PacifiCorp responds that it intends to continually refine its approach to resilience in future CEPs. This will include the addition of its initial community and utility resilience analysis in the next CEP with descriptions of the selected resilience metrics and how those are applied. Specific attention is paid to topics of interest in tribal energy metrics to ensure these challenges are fully considered. For analysis of reliability trends, the Company encourages interested stakeholders reference the annual reliability report.²⁶ PacifiCorp currently offers a host of proactive outreach strategies during power interruptions. In conjunction with PacifiCorp's internal communications and customer care teams, the Company provides regular customer updates including estimated time of restoration for affected areas.

The Energy Advocates also comment that: the health and community well-being CBIs should be tied to specific actions to reduce disconnections;²⁷ PacifiCorp should adopt meaningful environmental CBIs beyond simply tracking carbon dioxide (CO2) emissions;²⁸ PacifiCorp's energy equity CBIs should include distributional and intergenerational equity;²⁹ and PacifiCorp's economic impacts CBI should increase community-focused efforts and investments with a focus on environmental justice communities.³⁰ RNW recommends that PacifiCorp provide more detail

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 10.

²⁶ Available here: [PacifiCorp Annual Reliability Report for Calendar Year 2022](#).

²⁷ Energy Advocates Round 1 Comments, at 10-11.

²⁸ *Id.* at 11-12.

²⁹ *Id.* at 12.

³⁰ *Id.* at 12-13

regarding why PacifiCorp selected the seven CBIs and 17 metrics that it selected, and recommends adopting an additional environmental CBI, as greenhouse gas reductions are already required by HB 2021.³¹

PacifiCorp recognizes there is additional work necessary in the development of its CBIs, metrics and actions. Over the coming months, PacifiCorp will be working with stakeholders to develop and formalize its CBIs and the actions it can take to incentivize and influence positive outcomes.

To the point, for its first CEP, PacifiCorp relied largely on its prior experience in completing the Clean Energy Implementation Plan (CEIP) for Washington. Given CEP timeline considerations, and that the CBIs for the CEP must address a variety of topics including resilience, health and community well-being, environmental impacts, energy equity and economic impacts, PacifiCorp prioritized those CBIs/metrics in Oregon that demonstrated a relationship with these same topic areas within the Washington CEIP. Over the coming months, PacifiCorp will undertake a thoughtful approach to better consider, understand and develop additional CBIs and metrics, of which some could be environmental CBIs.

Generally, Staff recommends that CBIs should be reported as metrics rather than goals.³² And prior to PacifiCorp's next IRP or CEP, Staff recommends PacifiCorp should: (1) incorporate one or more interim portfolio CBIs that address local non-GHG emissions from PacifiCorp facilities, regardless of whether those facilities sit within PacifiCorp's service area; (2) adopt one or more interim portfolio CBIs that address community benefits of energy efficiency; and (3) adopt one or more interim CBRE-focused CBIs that directly affect the Company's planned

³¹ RNW Round 1 Comments, at 65-66.

³² Staff Round 1 Comments, at 20.

CBRE actions.³³ Staff also recommends PacifiCorp explain how CBI metrics will “inform how it will share the burden of investment in the Company’s Low-Income Discount (LID) program and other types of direct assistance rates or programs when looking at the customer rate impacts of a robust energy mitigation strategy.”³⁴

PacifiCorp defines CBIs as the desired outcome that utility actions could either incentivize, influence, or cause. Each CBI identifies a desired outcome, while metrics allow for PacifiCorp to monitor progress at achieving these outcomes. PacifiCorp will consider referring to CBIs in future filings as metrics but anticipates this may result in unneeded confusion between the CBIs themselves and their associated metrics.

The actions taken by PacifiCorp will be targeted and influenced by the outcomes (i.e., CBIs) desired by PacifiCorp’s stakeholders. For example, stakeholders have indicated that decreasing the proportion of households experiencing high energy burden is an important outcome for the Clean Energy Plan, Therefore, PacifiCorp will consider how to focus programs so that they can decrease the proportion of households experiencing high energy burden.

3. Transparency and Process Improvements

The Community Advocates comment that the CEP is not written in a way that is geared towards the general public, and recommends that the CEP be drafted to a 6th grade level.³⁵ Similarly, the Community Advocates recommend PacifiCorp use more accessible language in community engagement meetings, and should make targeted actions to translate materials not only to accommodate different languages, but also for clarity and accessibility.³⁶ The Company

³³ *Id.* at 21.

³⁴ *Id.* at 29.

³⁵ Community Advocates Round 1 Comments, at 2.

³⁶ *Id.* at 2-3.

appreciates this feedback, and will endeavor to improve its readability and accessibility of CEP meetings and associated materials to ensure more equitable outcomes for all parties involved.

RNW recommends PacifiCorp publicly disclose additional information from its modeling assumptions, and hold technical workshop series on these assumptions and processes to improve transparency into PacifiCorp's IRP and CEP modeling processes.³⁷ This could include providing a public version of the Company's PLEXOS XML datafile; providing parties with a detailed description of cost assumptions for all proxy resources that are active in the 2023 IRP; and better describe the Company's transmission assumptions and constraints and how each affects selection of proxy resources.³⁸ RNW also recommends PacifiCorp consider reprioritizing work efforts, for example by enhancing "the depth of its reliability studies by narrowing the scope of the analysis."³⁹ As RNW notes: "By reducing the number of portfolios analyzed in the MT Model, PacifiCorp can allocate resources to conduct sensitivity analyses on different cost curve projections and forecasted market prices, which will facilitate informed decision-making when addressing economic risk factors."⁴⁰

Regarding transparency, the requested PLEXOS XML formatted data is third party proprietary intellectual property of Energy Exemplar. Pursuant to the contract terms between PacifiCorp and Energy Exemplar, the Company is prohibited from providing the requested information outside of PacifiCorp unless otherwise ordered by a relevant state or federal authority. However, the Company is exploring alternative data export methodology, and will notify RNW and other 2023 Integrated Resource Plan (IRP) parties if an appropriate alternative method is determined and agreed upon with Energy Exemplar. With regard to providing the

³⁷ RNW Round 1 Comments, at 11-12, 61-63.

³⁸ *Id.* at 62-63.

³⁹ *Id.* at 64.

⁴⁰ *Id.*

same data in another format, this is already accomplished through the public data disk and materials supporting the public input meeting series, available through PacifiCorp’s website.⁴¹

In the 2023 IRP, in response to stakeholder feedback and IRP commitments stemming from the 2021 IRP, PacifiCorp enhanced its reporting to enable a broader range of publicly available workpapers, and to allow for more stakeholders to access confidential workpapers by creating a “highly-confidential” category to capture materials of particular commercial sensitivity. PacifiCorp also leveraged its new RFP price-scoring methodology as a part of its reporting, building upon work done to determine the net value of every resource in each portfolio. The 2023 IRP also makes available workpapers used to translate hourly model output into resource selections for reliability, flexibility and cost effectiveness. As remarked in round zero comments, publicly available workpapers increased by more than three-fold over the 2021 IRP, in the form of model reports from all three PLEXOS models and representing the complete range of portfolio studies. Model input and output data is represented on a vastly more comprehensive scale, and what is not immediately represented can be supplied in the discovery process, as appropriate to the purpose of discovery.

PacifiCorp appreciates suggestions regarding work prioritization and the balance between breadth and depth in conducting its IRP analysis. The Company’s experience has been that additional studies are continually requested, and sometimes required in accordance with commission orders given in past IRPs.⁴² At the same time, the desire for increased analytical depth is continually stressed, with prescribed requirements often dictating the approach.

PacifiCorp’s 2023 IRP was conducted under a careful and balanced consideration of available

⁴¹ [Integrated Resource Plan \(pacificorp.com\)](https://www.pacificorp.com)

⁴² See, e.g., 2023 IRP cases P02-JB3-4 EOL, P09-No WY OTR, P10-Offshore Wind, P20-JB3-4 CCUS, P21-DJ2, CCUS, P22-DJ4 CCUS, P23-RET Coal 30/33, P24-Gas 40-year Life.

resources, requirements, deadlines and stakeholder’s expressed interests. The 2023 IRP greatly expanded access to data, added many requested studies and also introduced tremendous new analytical depth, particularly in the arena of thermal and storage resource option modeling.⁴³

With regard to accessibility of writing style not being geared toward the general public, PacifiCorp is conscientious about framing its communications to strike an appropriate balance between the depth and breadth of subject matter, clarity and usefulness. As the combined CEP and IRP approach 1,000 pages of material, it is the company’s intent that interested members of the public participate in equitable public processes, especially during the development of materials that will find their way into the finished documents. Public meetings, workshops and other stakeholder engagement opportunities lay the groundwork for an informed reading of the filed documents. The IRP also includes chapter summaries, a glossary and numerous references to assist with accessibility of these materials. Lastly the Company also encourages participants to review press releases and brochures when provided, which succinctly describe the tenets of PacifiCorp’s long-term planning objectives in order to keep individuals apprised of notable IRP and CEP developments.

B. The CEP is consistent with HB 2021 requirements and Commission guidance.

This section provides the Company’s responses to stakeholder comments that question whether PacifiCorp’s CEP satisfies HB 2021 requirements. This includes discussions regarding the incremental treatment of the CEP Portfolio, the treatment of incremental costs, how the CEP allocates resources between jurisdictions, several action plan issues, and whether the CEP is “consistent with” a Commission-approved cost allocation methodology.

⁴³ As discussed in the 2023 IRP September 1-2 public input meeting.

1. Incremental Treatment of the CEP Portfolio

Staff recommends PacifiCorp confirm whether compliance with HB 2021 is feasible with the IRP Preferred Portfolio, and whether any additional resources or different resource actions are needed in the Preferred Portfolio to comply with HB 2021.⁴⁴ To the point, PacifiCorp should “make it clear whether the small-scale renewables in the CEP Portfolio are needed solely to meet its Oregon Small-Scale Renewable requirement or whether some portion of them is also needed to ensure that meeting the HB 2021 GHG targets is feasible.”⁴⁵ Relatedly, CUB reiterates its concern that layering PacifiCorp’s CEP on top of the Company’s six-state IRP does not result in least-cost, least-risk, procurement planning that complies with HB 2021.⁴⁶ This concern is driven by the Company’s conversion of coal to natural gas assets, that the CEP does not lead to binding emissions reduction targets, and that this sequential process does not give full credit to the requirements of HB 2021, especially where other PacifiCorp states do not have carbon emissions reduction requirements.⁴⁷ As a result, CUB “fails to understand why it is appropriate to assume that a preferred portfolio that does not reflect any binding carbon reduction is the correct starting point for determining the optimal portfolio in Oregon where significant carbon reduction is mandated.”⁴⁸

In response, PacifiCorp asserts that it is not feasible to comply with HB 2021 with just the IRP preferred portfolio for at least three reasons: an additional two percent of emissions reductions were necessary to meet Oregon’s emissions reductions requirements; the IRP does not include the SSR mandate; and different Oregon resource allocation assumptions are needed

⁴⁴ Staff Round 1 Comments, at 14.

⁴⁵ *Id.*

⁴⁶ CUB Round 1 Comments, at 2-3.

⁴⁷ *Id.*

⁴⁸ *Id.* at 3.

beyond what is included in the 2020 Protocol. Additionally, while energy from small-scale renewable proxy resources potentially offsets a small amount of emitting generation (referring to Table 14 in the CEP report, the inclusion of the small-scale resources offset 1,752 thousand tons of carbon dioxide equivalent (CO₂e) emissions to Oregon over the planning horizon), even with the small-scale resources included in the CEP portfolio the Oregon-allocated emissions exceeded GHG targets in certain years. This means additional steps (relevant here, Pathways 1 and 2), are required to reach ultimate compliance with HB 2021. These additional pathways, as discussed under section 3.b. PacifiCorp Response, below, are not the primary means by which PacifiCorp meets CEP targets. Rather, PacifiCorp's systemwide modeling under its current IRP strategy accomplishes nearly all of the CEP's emissions reduction targets, and the pathways are needed to close the last two-percent gap.

Focusing on the SSR mandate, simply put, small-scale resources are uneconomic and inadequate to achieve compliance with HB 2021. Their required adoption can either be allowed to disrupt the least-cost least-risk optimization of the system or can be layered on incrementally. If allowed to disrupt, there are inevitable resource conflicts with other states, and subsequent adjustments will render a final portfolio with increased costs compared to the incremental approach. Even when layered on incrementally, additional action is still required to achieve compliance. This fact indicates that an incremental treatment was the best analytical approach at the time of filing.⁴⁹ The Company is committed to continually improving its methodologies, however the Company represents that its current incremental approach to the SSR mandate is sound.

⁴⁹ See also, Section B.3. and related footnotes.

For the next IRP, Staff also recommends PacifiCorp constrain its modeling to “ensure that each portfolio can feasibly meet Oregon’s GHG targets while also meeting requirements for other state GHG and clean energy policies.”⁵⁰ PacifiCorp responds that any given portfolio must ultimately meet all requirements, and that given competing interests across the multistate system there is no feasible single-pass modeling solution that guarantees Oregon compliance while simultaneously meeting all other portfolio requirements. Given Oregon’s continued participation in the benefits of PacifiCorp’s multi-jurisdictional structure, the Company anticipates that it must continue to defer to some form of iterative modeling and adjustment design to determine final compliance with every state’s requirements. PacifiCorp would also like to emphasize that the modeling requirements for Oregon are not completely compatible with the interests and requirements of other states with whom Oregon shares the wider system.

Staff also recommends PacifiCorp demonstrate what portion of non-emitting generation “is needed for compliance with HB 2021 GHG targets, what portions are needed for compliance with other state GHG and clean energy policies, and what portion contributes to the remaining system mix.”⁵¹ This should include identifying where incremental actions (beyond re-allocation) would be required to comply with HB 2021.⁵²

PacifiCorp responds that this request is not feasible under current PLEXOS modeling capabilities. Further, emissions tied to individual state jurisdictions have not been incorporated into PLEXOS, as it would require individual resources to be allocated to individual states. While PacifiCorp continues to lead MSP negotiations in conjunction with regional parties, the Company has not reached a definitive conclusion for resource allocations to each state.

⁵⁰ *Id.*

⁵¹ Staff Round 1 Comments, at 15.

⁵² *Id.*

2. Incremental Costs

AWEC comments that, for several reasons, the cost impacts of the CEP are unclear, and as a result it is “likely that Pathway 1 and 2 exceed HB 2021’s incremental cost cap.”⁵³ These include: assumed allocation of emitting resources appear incorrect; the impacts from the Company’s Errata that impacted the costs of Pathways 1 and 2; compliance years 2030 and 2040 appear to indicate annual cost increases well above the six percent cost cap; and that PacifiCorp should present costs on a nominal basis, instead of as levelized costs.⁵⁴

The Company appreciates AWEC’s concerns regarding the potential for PacifiCorp’s future actions to exceed HB 2021’s cost cap, though for several reasons believe it is premature for the Commission to consider this issue.

As a question of law and policy, it is unclear to what extent the Commission should consider cost cap issues when reviewing utility CEPs. While the cost cap generally permits investigation of “forecasted costs” used to comply with HB 2021 (and PacifiCorp’s current CEP includes forecasted HB 2021 proxy compliance costs), the cost cap appears more relevant for actual costs and investments that are typical to ratemaking proceedings.⁵⁵ This narrower interpretation is encouraged by the Company for several reasons (among likely many others), because CEP forecasted HB 2021 compliance costs: (1) do not reflect cumulative rate impacts, which is the standard of decision required by the cost cap statute;⁵⁶ (2) are based on proxy resources, locations, and costs that will necessarily differ from actually procured resources; (3) for PacifiCorp’s initial CEP, are based on multiple compliance strategies that inhibit any

⁵³ AWEC Round 1 Comments, at 5-7.

⁵⁴ *Id.*

⁵⁵ ORS 469A.445(1) (allowing utilities or organizations to request OPUC to “open an investigation” to consider cost cap issues, though focusing primarily on “investments made” and “costs incurred,” and reviewed with similar rate making methodologies, to determine “cumulative rate impact”).

⁵⁶ ORS 469A.445(3) (“The commission shall use the actual or anticipated rate impact of each investment or cost to calculate the cumulative rate impact . . .”).

definitive application of the cost cap at this stage; and (4) are based on market and multi-state resource allocation assumptions that may eventually differ materially from current facts and circumstances.

Under this narrower and more practical interpretation supported by PacifiCorp, existing cost assessments such present value revenue requirement (PVRR) can serve as a guide to relative overall costs, and there are perhaps specific narrow cost cap questions that can be raised in individual CEPs. However, the bulk of these analyses should be reserved for investigations in ratemaking-type proceedings. The Company represents that the circumstances warranting a ratemaking-style cap assessment are not present here, as: (1) AWEC lacks standing to raise this issue because it has not petitioned the Commission for a cost cap investigation as required by ORS 469A.445(1), nor does the cost cap statute provide AWEC with the relief it requests;⁵⁷ and (2) AWEC's assumption that PacifiCorp's 2022 revenue requirement is the reasonable baseline to calculate HB 2021 compliance costs for years 2030-2040 (resulting in a cost cap calculation based on a revenue requirement that is either one or two decades old) is untenable and renders their analyses meaningless.”⁵⁸

To the extent the Commission wants to address these opportunities, PacifiCorp represents that UM 2273 presents the more appropriate approach.

3. The CEP Allocations of Resources are Optimal and Compliant

Specific concerns are raised in comments regarding the appropriateness of PacifiCorp's approach to resource allocations for this first CEP, particularly with regard to the Company's

⁵⁷ Compare ORS 469A.445(4) (allowing for a narrow and time-limited exemption of HB 2021 requirements if the cost cap is exceeded, and silent regarding any Commission powers regarding review of utility CEPs) with AWEC Round 1 Comments, at 2 (requesting the Commission either decline to acknowledge PacifiCorp's CEP, or acknowledge portions and direct PacifiCorp to resolve deficiencies).

⁵⁸ AWEC Round 1 Comments, at 6-7.

two compliance pathways. The CEP compliance pathways offer material emissions reductions that comply with HB 2021 on a least-cost, least-risk basis.

a. Stakeholder Comments

Staff recommends PacifiCorp update Pathways 1 and 2 to account for any benefits associated with reducing the allocation of existing resources to Oregon.⁵⁹ Staff also requests PacifiCorp provide quantitative answers, to the extent possible, to demonstrate: any existing or potential constraints related to allocation that would affect ability to comply with HB 2021; what are the tradeoffs between the pace of GHG reductions and cost impacts to Oregon under different types of allocation strategies; and what are the implications of adopting alternative IRP portfolios on HB 2021 compliance and Oregon-allocated costs and GHG emissions under different types of allocations strategies.⁶⁰

AWEC comments that there are two issues with PacifiCorp’s proposed pathways: first, PacifiCorp can guarantee neither outcome, because Pathway 1 requires resolution with additional PacifiCorp service territories, and Pathway 2 requires customers to participate in voluntary programs; second, PacifiCorp’s proposed compliance paths do not result in any measurable reduction in carbon emissions relative to PacifiCorp’s baseline IRP, but will result in material cost increases for Oregon customers.⁶¹ Relatedly, AWEC notes that PacifiCorp’s allocations have illogical and unlawful results, because AWEC alleges that PacifiCorp has allocated more than 100 percent of the cost of certain non-emitting peaker plants to Oregon under Pathway 1.⁶² Similarly, AWEC comments that it is unclear why PacifiCorp modifies the allocation of all emitting plants equally, “when it may be more cost effective to reduce only the allocation of the

⁵⁹ Staff Round 1 Comments, at 17.

⁶⁰ *Id.*

⁶¹ AWEC Round 1 Comments, at 2-4.

⁶² *Id.* at 7-8.

most costly emitting plants.”⁶³ AWEC then requests PacifiCorp to provide analyses that determines “the most cost-effective allocation scheme for Oregon.”⁶⁴ As a result, AWEC asserts PacifiCorp’s compliance positions are “an allocation exercise” with “no net change in PacifiCorp’s carbon emissions,” and is “simply a transfer of wealth from Oregon to non-Oregon jurisdictions in return for greenwashing Oregon energy.”⁶⁵

The Energy Advocates comment that the proposed compliance pathways have significant hurdles. Regarding Compliance Pathway 1, while re-allocating coal and gas assets is a simple conceptual exercise, PacifiCorp “does not explain in the CEP how this allocation methodology would be accomplished or whether other states within PacifiCorp’s service territory would likely agree to its implementation,” nor does PacifiCorp provide estimated costs of this re-allocation to other states.⁶⁶ Regarding Compliance Pathway 2, the Energy Advocates believe this option is overly optimistic, and PacifiCorp has not provided any details on what incentives would be offered to encourage 100 percent opt-in, and this pathway could raise double-counting issues if PacifiCorp claimed the non-emitting attributes for HB 2021 compliance purposes.⁶⁷ The Energy Advocates seek to underscore the importance of a CEP that complies with HB 2021 “without assuming that current emission levels can simply be reallocated to another state, which ultimately reduces emissions reduction to a paper exercise.”⁶⁸

Similarly, RNW is concerned that neither of PacifiCorp’s pathways “represents a technical or engineering analysis of the portfolio, and neither strategy appears to have any impact on the resource portfolio as a whole,” and if so, it “is unclear what HB 2021 compliance

⁶³ *Id.* at 8.

⁶⁴ *Id.* at 10.

⁶⁵ *Id.* at 3.

⁶⁶ The Energy Advocates Round 1 Comments, at 26.

⁶⁷ *Id.* at 26-27.

⁶⁸ *Id.* at 27.

represents beyond a shifting of emissions and cost accounting between PacifiCorp customer groups with and without emissions policy requirements.”⁶⁹ Instead, RNW recommends PacifiCorp develop a more robust analysis of what resources would be required to reliably serve Oregon customer loads without fossil fuel resources, and not resort to re-allocation exercises,⁷⁰ and reject Pathway 2.⁷¹ This could be accomplished with a production cost model (either a simple spreadsheet tool like that used by the CPUC or more sophisticated modeling approach).⁷² RNW is optimistic that, “whether now or later (after markets are established and operational), interested parties can ensure both robust emission reductions and a strong market that facilitates regional emission reduction at the least cost to utilities and customers.”⁷³

b. PacifiCorp Response

As an initial matter, PacifiCorp would like to frame stakeholder concerns regarding the two example pathways with several points to hopefully provide a more complete perspective on the Company’s CEP.

First, the Energy Advocates observation is correct that Pathway 2 is making a core assumption that there would be an interest in opting into customer enabled programs. That said, the DEQGHG accounting would recognize the non-emitting nature of the resource used to serve this load, and there is no double counting concern as the load and resources are all attributed to Oregon and no other entity can claim the same non-emitting attribute than the customer.

The Company plans to procure over 3,140 MWs of renewable, non-emitting, and storage resources to meet Oregon needs, and *another* 802 MWs of small-scale resources. This is a

⁶⁹ RNW Round 1 Comments, at 9, 43-46.

⁷⁰ *Id.* at 9, 44-46.

⁷¹ *Id.* at 44.

⁷² *Id.* at 45-46.

⁷³ *Id.* at 46.

historic level of resource investment contemplated for the next two decades, and should temper stakeholder concerns that PacifiCorp's CEP is largely a paper exercise. The Company has, for at least the past several IRP cycles, been a front-runner in decarbonization and continues in this trend, as put forth in the executive summary of the 2023 IRP. Because of this several year trend, PacifiCorp's systemwide modeling under its current IRP strategy accomplishes nearly all of HB 2021's emissions reduction targets.

Second, the compliance pathways are necessary to close a small gap in achieving HB 2021 emissions reduction targets compared to what resulted from PacifiCorp's optimally determined 2023 IRP Preferred Portfolio. The 2023 IRP Preferred Portfolio results in significant emissions reductions for its six-state system (i.e., 90 percent reduction from 2005 baseline emissions by 2035), and would achieve Oregon's 80 percent emissions reduction target by 2032, and 90 percent reduction target by 2037. The CEP compliance pathways were only necessary to accelerate the timeline of emissions reduction for each HB 2021 target by two years. Yet as discussed below, even just this two percent additional emissions reduction requires substantial investments if the Company does not consider re-allocating existing Oregon emitting assets. This is most certainly a case where the path to achieving the first 98 percent of the path to success is more straightforward than achieving the last two percent.

Third, PacifiCorp's Oregon load is projected to increase by 60 percent by 2030, and nearly 80 percent by 2040 compared to loads when baseline emissions were established. This growth impacts our compliance strategies, because our analysis indicated it is unduly expensive to meet HB 2021's emissions reductions requirements by simply increasing the amount of non-emitting resources. This load growth also increases PacifiCorp's emissions. Under the existing 2020 Protocol, system resources are allocated to states in proportion to load. Therefore, when

load grows in one state (as is expected for Oregon), the allocation of all system resources, including thermal resources, similarly increases. Pathway 1 assumes a cap on thermal resource allocation but does not make assumptions around specific resource selection.

Fourth, as a result of each of these factors, PacifiCorp cannot cost effectively comply with HB 2021 without re-allocating existing Oregon resources. Yet the Company's allocation protocols are not intended to favor least-cost alternatives for only one state (as is suggested or recommended by several advocates), but rather fairly shares costs and benefits across six states for the mutual benefit of all states. Viewed together, PacifiCorp's anticipated load growth over the CEP planning horizon requires re-allocating existing resources to comply with HB 2021. Yet these protocols can only be addressed with MSP stakeholders, where Commission and Staff leadership and collaboration will be vital.

With these points in mind, the Company will highlight several alternative HB 2021 compliance strategies, suggested or recommended in comments, but which are *not* suitable paths for the Company to pursue to comply with HB 2021. The Company has investigated and discussed the merits of these considerations internally, in public meetings, in the IRP and CEP, and each concluded that these alternative paths are either unsupportable for implementation or unduly expensive compared to Pathway 1 and 2. Hopefully these alternative strategies, which are another way to explain the detailed points made in round zero comments, will effectively highlight the merits of the Company's decision to present the two HB 2021 compliance pathways. These alternative strategies included:

- Pathway 0 – Forever 2020 Protocol. This pathway examined CEP strategies where the 2020 Protocol and relevant allocation assumptions remained in place for the entire compliance period. In this scenario, Oregon would be served by the current natural gas resources until those resources are retired (e.g., Hermiston). Yet it is not possible to comply with HB 2021 under this pathway, because there are no non-emitting solutions (i.e., build more non-emitting resources or turn off emitting resources) that could

remotely satisfy HB 2021's cost cap based on using the PVRR result as a gross indicator as previously described. This approach is also flawed because the 2020 Protocol is set to expire on December 31, 2025. Note, this approach is labeled Pathway 0 (zero) because it is the allocation approach used to determine the extent to which an optimal systemwide portfolio could meet all CEP targets without diverging from current methodology (even recognizing that the current methodology is set to expire).

- Pathway 3 – Oregon-only IRP. This pathway analyzes whether it is reasonably possible to comply with HB 2021 by modeling Oregon load, resources, and requirements distinct from the rest of PacifiCorp's system. This pathway would remove Oregon customers from receiving the benefits of systemwide planning. PacifiCorp considers this both unwise and outside of its authority under any reasonable least-cost least-risk obligation. This approach would require substantial additional Oregon-situs investments in non-emitting dispatchable resources. Similar to Pathway 0, it is not possible to comply with HB 2021 under this pathway because costs would be excessive. This pathway would also require substantial re-allocation of existing Oregon resources under the 2020 Protocol to effectively separate Oregon's resource participation from the rest of the system. Additionally, this modeling exercise introduces a number of challenges, including the division of existing resources that are currently co-allocated, the division of transmission rights, the de-optimization of market access implicit in dividing transmission rights, the changing nature of actual requirements over time, and the loss of systemwide diversity. Most of these challenges can only be overcome by the creation of new assumptions which are likely to be contentious. If these steps are nonetheless taken, resulting flaws in the analysis may render it valueless beyond providing a rough indicator of the magnitude of increased costs. In particular, the artificially smaller or more restrictive system will not dispatch in a manner reflective of system operations.
- Pathway 4 – Small-Scale Systemwide Portfolio. This pathway would incorporate Oregon's 10 percent small-scale mandate into PacifiCorp's systemwide initial portfolio development requirements, either as shared resources, or situs to Oregon. As explained thoroughly in PacifiCorp's round zero reply comments, this pathway will increase costs to other states because it would require those states to purchase more expensive SSR compared to assets larger than 20 MWs. This cost impact is currently unsupported and would also require re-allocating these assets under future protocols. The pathway also results in reliability concerns (larger resources displaced by smaller-scale resources in the modeling would likely have to be re-added, under less optimal conditions, during reliability assessments), cost concerns (similar to Pathway 0, as just increasing the amount of small-scale renewables cannot comply with HB 2021's in a cost-effective manner), and compliance concerns (e.g., PacifiCorp's small-scale mandate quadruples if compliance was applied to PacifiCorp system-load, using a much larger denominator, as opposed to being Oregon-specific). Further, this pathway is impractical as an optimal modeling exercise unless the amount of the 10 percent requirement can be determined in advance. This is because the 10 percent requirement is recursive as described in law, such that every portfolio requires not a set amount small-scale renewable resource, but rather an amount proportional to the energy distribution specific to the portfolio. Given these

issues, the Company concluded and represented that this pathway was unwarranted, and that an incremental approach mitigates identified problems.

Given these alternatives, PacifiCorp maintains that its two compliance pathways are valid, because they provide at least two strategies to achieve HB 2021's emissions reductions requirements that could meet the small remaining compliance gaps, even remotely satisfy the potential cost cap, and not force undue resource allocations or costs onto other states. These strategies preserve the system-wide benefits that Oregon customers receive from PacifiCorp's existing IRP processes and minimize rate impacts to customers consistent with least-cost, least-risk systemwide planning. While PacifiCorp is always open to improving and expanding these analyses and seeks ongoing feedback from stakeholders and guidance from the Oregon Commission, the Company affirms that its initial CEP compliance pathways are appropriate.⁷⁴

That said, PacifiCorp is sensitive to stakeholder concerns that the CEP presents compliance pathways that appear to result in accounting exercises that re-allocate existing Oregon allocated emissions to other states, perhaps leading to less overall emissions reductions on PacifiCorp's total system than what several advocates would prefer. This is an essential point that the Commission will need to consider in this and future CEPs: Is the Commission willing to acknowledge alternative stakeholder CEP compliance pathways that will result in substantial additional costs to Oregon customers, in an attempt to regulate more emissions across PacifiCorp's system that are more appropriately regulated by those respective states, or consider PacifiCorp's strategies that nonetheless comply with HB 2021, while at the same time minimizing costs to Oregon customers to the extent possible?

⁷⁴ After the filing of the CEP, and in consideration of the currently suspended 2022 All-source RFP, PacifiCorp has continued efforts to develop a conceptual approach to achieve a 'unified' preferred portfolio which integrates all state requirements.

Given that PacifiCorp’s CEP and IRP planning already call for 3,140 MW of new standalone wind, solar, and battery, or co-located solar and battery new resources over the next two decades, and that the final gap resolved through allocations is relatively small, PacifiCorp’s position is that the IRP and CEP are very well-aligned. To that end, the Company does not believe the Commission needs to resolve this question of allocations in this CEP cycle, and the Commission should not foreclose any compliance pathways at this early stage. However, PacifiCorp believes this will be a recurring theme in future CEPs and will require final resolution at some point.

4. Action Plan Issues

The Energy Advocates have several comments regarding the Company’s Action Plan. These include: include more specific community engagement actions, including targeted outreach to tribal communities and governments; more assertive action that leads to progress on PacifiCorp’s six CBIs; go beyond defining and establishing goals and metrics for resiliency, and actually increase resiliency; include procurement steps and more comprehensive CBRE analyses; evaluate total-system decarbonation (as opposed to re-allocating resource strategies) to eliminate greenhouse gas emissions and not simply shift emissions to other states; resume the 2022 AS RFP, and complete a new 2023-2024 AS RFP; and procure small-scale resources and provide more detailed transmission project development plans.⁷⁵

With regard to total-system decarbonization, PacifiCorp is explicitly on this path, and describes this path in the 2023 IRP. Per Volume I, Chapter 1 – Executive Summary, page 1, “This IRP provides an update on our progress toward decarbonization and lays out our roadmap for the work still ahead of us.” This decarbonization pathway, in which the Company is fully

⁷⁵ The Energy Advocates Round 1 Comments, at 30-32.

engaged, provides the foundation for the CEP. Decarbonization has been an accelerating effort over each of the past three IRP long-term planning cycles, is based upon least-cost least-risk analysis and predates the existence of the CEP. To the extent that states hold different views regarding the ideal path to decarbonization, and these states express an interest in emphasizing selected aspects of their resource mix going forward, PacifiCorp is committed to providing an optimal path forward for all of its customers. This includes the consideration of allocation options that better respond to the Oregon Commission’s preferences. The 2023 IRP presented its systemwide decarbonization plan at the time of filing, and the CEP presents its first plan for achieving HB 2021 with important options, under fluid conditions, directed towards achieving this goal.

5. The CEP is consistent with a Commission-approved Cost Allocation Methodology

AWEC comments that, because both Pathway 1 and 2 require a reallocation of resources that differs from the Commission-approved 2020 Protocol, that it does not comply with HB 2021’s requirement that CEP’s “must be based on or contained in other information developed consistent with a cost-allocation methodology approved by the commission.”⁷⁶ As a result, AWEC concludes that the Commission should not approve an alternative cost-allocation method in this CEP.⁷⁷ Relatedly, CUB notes that the Company’s proposed compliance pathways reflect a material change in the currently approved 2020 Protocol (largely based on the planned conversion of several coal assets to natural gas).⁷⁸ While CUB “is not arguing that this fundamental change in the compliance pathway is not in the best interest of Oregon customers,”

⁷⁶ AWEC Round 1 Comments, at 4.

⁷⁷ *Id.* at 5.

⁷⁸ CUB Round 1 Comments, at 3-5.

it nonetheless notes this change “has neither been acknowledged nor analyzed as it pertains to Oregon,” and requests PacifiCorp to respond to this concern.⁷⁹

As an initial response, PacifiCorp disagrees, because its CEP is consistent with the current Commission-approved cost-allocation methodology. HB 2021 requires that PacifiCorp’s CEP must “be based on or contained in other information developed consistent with a cost-allocation methodology approved by the Commission.”⁸⁰ The Commission’s most recently approved cost-allocation methodology is the 2020 Protocol,⁸¹ which was initially contemplated to terminate no later than December 31, 2023.⁸² When approving the 2020 Protocol, the Commission declined to address certain issues that would be resolved with future MSP proceedings.⁸³ This was based on the Commission precedent that has noted that “as a quasi-legislative body,” the Commission has “no authority to bind this Commission on such future decisions.”⁸⁴ Accordingly, the CEP is “consistent with” the 2020 Protocol for purposes of compliance with ORS 469A.415(3)(b), because it incorporates the relevant cost-allocation methodologies for the relevant CEP time period.

More materially, PacifiCorp’s CEP is consistent with the intention of HB 2021: It is not possible to comply with HB 2021 under the existing 2020 Protocol. Despite removing coal-fired resources from Oregon’s resource mix by 2030, Oregon’s share of the emissions from natural gas-fired generation within PacifiCorp’s existing fleet (including both existing generators and those pending conversion from coal) were forecasted to exceed the level required for compliance with HB 2021. PacifiCorp’s CEP acknowledges this reality, and instead provides two different

⁷⁹ *Id.* at 5.

⁸⁰ ORS 469A.415(3)(b).

⁸¹ *In re PacifiCorp’s MSP Petition*, Docket No. UM 1050, Order No. 20-024 (Jan. 23, 2020).

⁸² *In re PacifiCorp’s MSP Petition*, Docket No. UM 1050, PAC/100 Lockey Direct Testimony at 11 (Dec. 3, 2019).

⁸³ *Id.* at 9 (“We emphasize that this determination does not bind future Commissions, particularly if circumstances change, or if evidence is later presented that leads to different conclusions.”).

⁸⁴ *Id.* at 4, n. 11.

compliance pathways (including relevant cost-allocation assumptions) that directly implicate the level of emitting resources used to serve Oregon customers and could be considered in future MSP discussions. Respectfully, PacifiCorp represents its CEP not only complies with the law but results in a more helpful and instructive planning document than what would otherwise result if the Commission accepted AWEC's interpretation of ORS 469A.415(3)(b) that would require the use of the 2020 Protocol through the entire CEP planning period.

Moving to CUB's concerns, PacifiCorp wholeheartedly agrees that the Company's CEP compliance pathways embody material cost-allocation assumptions that could impact Oregon rates. The CEP's allocation methods represent the types of considerations that will be critical in ongoing MSP negotiations, while at the same time ensuring there are adequate solutions for MSP discussions to consider (and for future Commissions to adopt), without unnecessarily limiting those discussions by presenting a single compliance pathway in PacifiCorp's inaugural CEP. Yet PacifiCorp disagrees that these compliance pathways were not thoroughly analyzed for CEP purposes; this is explicitly what the CEP portfolio development stages and sensitivities provide,^{85e} and these analyses explicitly recognize the kinds of changes that must find support in MSP negotiations to succeed.

While the Company anticipates more discussions and analysis in future MSP negotiations and OPUC proceedings, the Company believes its CEP portfolio development, sensitivities, and analyses provide the appropriate detail to ensure stakeholders can thoroughly review the Company's current CEP compliance strategies.

⁸⁵ See, generally, *2023 IRP and Clean Energy Plan workpapers* (specifically portfolio outcomes of each examined case, noting that into each distinct case, portfolio comparison and analytics are core model functions).

C. The Company’s 2023 IRP and CEP modeling processes and assumptions were legitimate and improved from previous approaches.

This section provides the Company’s responses to stakeholder comments that allege that the IRP and CEP modeling processes were either incorrect, unacceptable, or could be improved upon. The stakeholder comments are broken into several sections, including: reliability and granularity adjustments; resource adequacy and regional integration; renewable cost assumptions; resiliency; pace of emissions reductions; transmission considerations; alternative portfolio variants and cluster results; carbon assumptions; market assumptions; federal and state incentives; and avoided costs.

1. Reliability and Granularity Adjustments

Sierra Club recommends the Company consider several reliability and granularity adjustments, as PacifiCorp’s manual adjustments to ensure reliability “are quite significant and merit particular attention.”⁸⁶ These include: further clarify its methodology for reliability adjustments, specifically regarding resource additions and modifications to the timeline of optimally selected asset retirements; explain in the next IRP why the long-term model produces significant energy shortfalls in the short-term model, that must be manually addressed; provide opportunity to recommend alternative reliability adjustments to the 2023 Preferred Portfolio, and for PacifiCorp to evaluate those alternatives in the IRP Update; further clarify the Company’s granularity adjustments, especially for coal unit total fuel costs, rather than incremental or marginal fuel costs.⁸⁷

RNW recommends PacifiCorp replace its legacy capacity accreditation method (the capacity factor method) with an effective load carrying capability method (ELCC) or something

⁸⁶ Sierra Club Round 1 Comments, at 14.

⁸⁷ *Id.* at 14-42.

comparable.⁸⁸ This would “not only improve the performance of the models but also assist the company in identifying an optimal level of planning reserves that provides ratepayers with reliable retail electric service,” as PacifiCorp uses a 13 percent planning reserve margin but “hasn’t provided stakeholders with any analysis that supports this value.”⁸⁹ RNW provides additional examples if an ELCC is not feasible or recommended at this time.⁹⁰

In response to concerns regarding additional detail, PacifiCorp represents it has complied with Commission Order 22-178.⁹¹ The 2023 IRP explicitly explained the differences between its models, why there are shortfalls measured in the ST model, why the LT model does not solve the entire problem, how and where the MT and ST models each provide specific additional value, and how each model’s data outcomes are used to improve portfolio development.⁹² In addition, the Company has provided this information in public input meeting series, stakeholder feedback forms, data disks, and data requests.⁹³

Turning to specific stakeholder comments, because both the reliability assessment and granularity adjustments are specific measures to address specific enhancement to achieve superior modeling results, there are no logical alternatives because both procedures are dictated by model math.

⁸⁸ RNW Round 1 Comments, at 10, 47-55.

⁸⁹ *Id.* at 10.

⁹⁰ *Id.* at 51-53.

⁹¹ LC 77, Order 22-178, Recommendations 27, 28.

⁹² PacifiCorp’s 2023 IRP, Chapter 8 –Modeling and Portfolio Evaluation, at 217-224.

⁹³ Inclusive of references to stakeholder feedback forms received from Sierra Club: April 7, 2022 Public Input Meeting pp31, 51 discussing granularity adjustment and reliability assessment; June 10, 2022 Public Input Meeting p58, discussing reliability assessment; October 13, 2022 Public Input Meeting pp41-42, 44 discussing granularity adjustment and reliability assessment; Dec 1-2, 2022 Public Input Meeting p53, 54, 67, including a full analytical plan for reliability assessment; January 12-13 Public Input Meeting, p28 discussing reliability assessment; February 23, 2023 Public Input Meeting, pp 13, 26, discussing reliability assessment; 2023 IRP Volume I, Chapter 1 – Executive Summary; Volume I, Chapter 8 – Modeling and Portfolio Evaluation, pp 217-219, 223, 233. Monahan Declaration

For example, the granularity adjustment is the calculated difference in resource value between the long term (LT) and short term (ST) models, using the LT initial portfolio. Because the portfolios are identical, the differences in resource value are driven by differences in the two models. Chief among the differences, overwhelmingly, is granularity. This difference is applied as an adjustment to the less granular model. Any other approach would be a different type of adjustment, not suited to the measured model differences.

Similarly, regarding the reliability assessment, resource adjustments are made on the basis of measured deficiencies and applying calculated resource values to determine the appropriate action to cover those deficiencies. While a different approach may be envisioned and nuanced considerations can occur, this approach is specific to the goal and again, is an application of model outcomes to improve results, and not the result of arbitrary PacifiCorp tinkering.

Moving on, the claim that PacifiCorp has not presented analysis to support its 13 percent planning reserve margin is untrue. It may be that RNW views the 13 percent planning reserve margin as something other than a minimum “floor” value as presented and explained by the Company in the 2023 IRP.⁹⁴ The 13 percent planning reserve margin is not the final margin required to meet all requirements. It is rather the logical minimum required to guide the LT capacity expansion model to select portfolios appropriate to the model’s degree of granularity.

To the point, with the advent of the PLEXOS model, the Company more accurately evaluates reliability in terms of resource availability to meet requirements in all modeled periods. This method accounts for a planning reserve margin that realistically changes across years, seasons, months and days based on resource availability in any timeframe being examined. This

⁹⁴ 2023 IRP Volume I, Chapter 6 – Load and Resource Balance; 2023 IRP Volume I, Chapter 8 – Modeling and Portfolio Evaluation, at 219-220, 223.

floor is established and known, and assumes PacifiCorp must hold approximately six percent of its resources in reserve to meet contingency reserve requirements and an estimated additional 4.5 percent to 5.5 percent of its resources in reserve, depending upon system conditions at the time of peak load, as regulating margin. This sums to 10.5 percent to 11.5 percent of operating reserves before even considering longer-term uncertainties such as extended outages (transmission or generation) and customer load growth. These figures initially imply a 12 percent margin; however, we know that the PLEXOS LT model exhibits shortfalls in the more granular ST model; we also know that the 13 percent margin has been consistently supported by 2017, 2019 and 2021 IRP planning. These facts establish 13 percent as a reasonable planning reserve margin assumption for capacity expansion.

2. Resource Adequacy and Regional Integration

Staff recommends PacifiCorp explain whether or to what extent the 500 MW of nuclear and 606 MW of non-emitting peakers in the Preferred Portfolio are needed for resource adequacy in 2030 in light of the P06 portfolio composition (if not needed, explain why they are in preferred portfolio).⁹⁵ Similarly, for the next IRP Staff recommends PacifiCorp: update its methodology and data to reflect several years of potential weather conditions on the Company's resource adequacy position and resource capacity contributions; account for the benefits of the WRAP if PacifiCorp plans to participate in the program; and calculate and report the LOLE of the Preferred Portfolio in each year and explain why it chose to plan for that level of reliability. Relatedly, RNW discusses steps PacifiCorp can take in its next IRP to more effectively implement the WRAP into future planning processes, including: how PacifiCorp should analyze and report on its WRAP position in future filings, how the Commission can establish clear

⁹⁵ Staff Round 1 Comments, at 35.

guidelines for filling gaps in PacifiCorp’s WRAP compliance position, and opportunities to leverage insights from WRAP modeling to address gaps in PacifiCorp’s IRP process.⁹⁶

RNW recommends that, to account for weather-related risk factors, PacifiCorp should “conduct Loss-of-Load-Probability (LOLP) studies that incorporate stochastic parameters for critical inputs while addressing weather-correlated risks affecting both supply and demand variables.”⁹⁷ RNW recommends these studies should encompass multiple years of historical weather data and also heightened risks with extreme weather events linked to climate change.⁹⁸ This would allow PacifiCorp to “comprehensively capture variability in all relevant risk factors, including those related to unit availability or derating risks associated with prevailing weather conditions.”⁹⁹

In response, PacifiCorp notes that perceived misalignments between preferred portfolio and P06 variant results are due to intertemporal effects, i.e., the cost-effectiveness of resource timing. Optimization modeling provides a comparison of portfolio-to-portfolio and not individual resources compared to each other in an otherwise locked environment. This means that while no resource changes are indicated immediately upon changing specific resources in a portfolio, there will still be portfolio level impacts to costs and benefits realized through re-dispatch. The non-emitting baseload capability of the Natrium™ demonstration project coupled with its storage benefits make it a suitable candidate in the preferred portfolio.¹⁰⁰ Ultimately, the

⁹⁶ RNW Round 1 Comments, at 11, 57-61.

⁹⁷ *Id.* at 10, 53-55.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Staff Round 1 Comments, at 53.

P06 variant, which studied the impact of removing new technologies, reported significantly higher cost than the preferred portfolio on a risk-adjusted basis.¹⁰¹

PacifiCorp agrees that LOLP studies incorporating stochastic conditions are a necessary tool for identifying risks in supply and demand. The most critical input that did not have stochastic parameters in the 2023 IRP were wind and solar generation. Similarly, for the 2023 IRP PacifiCorp enhanced the modeling of energy efficiency to ensure that heating and cooling measures produced the highest savings on the days in which the load forecast had the highest heating or cooling demand, but was not able to incorporate stochastic effects, e.g. higher than expected savings from cooling measures during an extreme high-temperature event in the summer. PacifiCorp agrees the value of stochastic analysis will be enhanced if it reflects risks that may only be apparent with multiple years of history, or which reflect ongoing evolution in climate-related effects. This is a significant undertaking, and maintaining the correlation between all of the weather-impacted parameters will be complex and a necessary part of producing valid results. PacifiCorp looks forward to advancing its LOLP analysis with feedback from stakeholders during the public input in its next IRP.

PacifiCorp also notes that it is always open to improve and update the existing methodology of how the Company evaluates inclement weather conditions on the existing RA position in subsequent IRPs. Lastly, PacifiCorp is actively evaluating the WRAP program and its potential implementation as early as 2026 but has not determined how it will be incorporated into IRP modeling at this time.

¹⁰¹ See 2023 IRP Volume I, Chapter 9 – Modeling and Portfolio Selection Results (through 2042, the PVRR(d) shows that the portfolio without future technology is \$188 million higher cost than the P-MM portfolio. On a risk-adjusted basis, considering the risk associated with low-probability, high-cost events through stochastic simulations, the portfolio without future technology is \$405 million higher cost than the P-MM portfolio). Monahan Declaration

3. Renewable Cost Assumptions

RNW questions PacifiCorp's cost assumptions for solar, wind, storage, geothermal, non-emitting peakers, hydrogen fuel costs, and nuclear resources. As a result, RNW states that PacifiCorp's modeling assumptions "drive an outcome that is over reliant on emerging technologies, with approximately a fifth of PacifiCorp's capacity needs slated to come from highly uncertain resources by the mid-2030s," and this outcome appears to be driven "in large part by cost assumptions for clean energy resources, particularly solar, wind, and storage, that are far higher than comparable benchmarks in neighboring planning proceedings and is paired with overly optimistic cost assumptions for future technologies, specifically small modular nuclear reactors (SMR) and non-emitting peakers."¹⁰² For example, unlike SMRs, "modeled at \$62.05/MWh, non-emitting peakers are highly costly, with all 100% hydrogen configurations exceeding \$400/MWh," and by contrast "geothermal resources, with total resource costs of \$29.21/MWh for an expansion of Blundell and \$42.069/MWh for a greenfield project were not selected, despite being approximately a tenth of the cost of non-emitting peakers and providing clean, firm energy."¹⁰³

Instead, RNW recommends PacifiCorp develop a new preferred portfolio based on RNW's alternative cost assumptions for each resource, and that the Commission should view PacifiCorp's current preferred portfolio as a sensitivity case that reflects a future where "unlimited development of emerging technologies is viable."¹⁰⁴ Specifically, RNW recommends PacifiCorp: limiting SMR technology to a single 500 MW Sodium reactor in 2030 with potential to expand to a second in 2035, and limiting non-emitting peakers to 250 MW in 2030 and an

¹⁰² RNW Round 1 Comments, at 7-8, 18-42.

¹⁰³ *Id.* at 25.

¹⁰⁴ *Id.* at 8.

additional 250 MW in 2033 and 2036;¹⁰⁵ use best available data for clean energy cost assumptions, as PacifiCorp's are 15-50 percent greater than cost inputs used by Portland General Electric and the CPUC;¹⁰⁶ or otherwise provide additional support for the Company's price assumptions and escalations.¹⁰⁷

Finally, RNW does "not wish to discourage PacifiCorp from exploring emerging technologies, and supports broader efforts to commercialize emerging carbon-free technologies," however RNW "strongly encourages PacifiCorp and the Commission to avoid overreliance on a strategy which puts so many of the eggs of Oregon's energy transition into baskets which are still making their way from lab to market."¹⁰⁸

In response, PacifiCorp notes that the cost of resources referenced by RNW represents the levelized cost of electricity (LCOE). This is an informative data point, bringing together the several disparate fixed and variable cost components for various resources into a single total value. Tax credits, whether production tax credits or investment tax credits, also need to be considered in the LCOE which lowers cost. However, LCOE does not distinguish the time of delivery or a resource's contribution to the reliability of the system as a whole. A non-emitting peaking resource has a lower fixed cost than a nuclear resource and comes with no obligation to generate. A nuclear resource will produce generation in every hour that it is online, whether that generation is needed or not. In many hours, that generation is not needed PacifiCorp's load varies significantly across the year. For example, while the 2023 summer peak load is 10,657 MWs, the total load in 2023 is approximately 58,671 GWh, or an average of 6,698 MWs.¹⁰⁹

¹⁰⁵ *Id.* at 19.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 32.

¹⁰⁸ *Id.* at 19.

¹⁰⁹ 2023 IRP, Volume I: Chapter 6 (Load and Resource Balance), Table 6.11 and Volume II: Appendix A (Load Forecast), Table A.9 (58,671 GWh divided by 8,760 hours yields an average of 6,698 MW). Monahan Declaration

That leaves roughly four gigawatts of resources that may only be used in half of the year, or as little as one hour per year. That four-gigawatt resource requirement also does not include operating reserves, which are held in all hours, but deployed relatively infrequently, and additional resources to meet planning reserve requirements, which may only need to be called upon when loads are higher than expected or resource supply is lower than expected.

PacifiCorp’s portfolio modeling evaluates the mix of load and resources throughout the year, and while a certain amount of base load resource such as nuclear is indicated, future IRPs may be able to identify wind, solar, storage, and peaking resources that in combination are better suited than a baseload resource for a portion of the resource supply.

With regard to geothermal resources, PacifiCorp agrees that they have significant potential, in large part as a result of technological improvements that could allow for viable projects in a broader range of geographic locations. In the 2023 IRP, geothermal resource costs were projected to increase at inflation, while wind, solar, and storage resources were projected to decline or escalate at less than inflation as a result of projected technological advancement.¹¹⁰ Cost declines may also be appropriate for geothermal resources. PacifiCorp would note that it has not seen interconnection requests at the scale of the 200 MW geothermal resource assumed in the supply-side table that would indicate geothermal resources would be ready to move forward in the near term. While geothermal resource potential could limit the locations and size of geothermal resources, this is certainly an area for review in forthcoming IRPs.

The “PacifiCorp 2023 Renewables IRP Report” developed by WSP provides details regarding the cost assumptions for renewables.¹¹¹ The cost forecasts in WSP’s report were

¹¹⁰ 2023 IRP, Volume I: Chapter 7 (Resource Options), Figures 7.3-7.5.

¹¹¹ Available here: https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2023-irp/2023-irp-support-studies/2023_Renewables_IRP_Report.pdf.

developed before PacifiCorp witnessed the impact of recent tighter trade tariffs and inflation on the utility scale market. Upon observing those impacts PacifiCorp adjusted the cost forecasts to reflect what was observed in the market in 2022.

Finally, PacifiCorp appreciates its long-standing partnership with stakeholders across its six-state service territory. In order to incrementally de-carbonize our existing portfolio, the Company evaluated the deployment of a diverse array of technologies in various stages of development. The 2023 IRP mitigates concerns of over-reliance and single-solution strategies through this diversity of options, and also by restricting when new technologies are allowed to be adopted, and by performing counterfactual analysis including studies P05, P06 and alternative acquisition path analysis. In doing so, this strategy ensures that PacifiCorp is aligned in the pursuit of resources that will provide fair, just and reasonable rates for our customers.¹¹²

4. Resiliency

The Energy Advocates have several resiliency suggestions. Specifically, PacifiCorp should: slightly amend the definition of resilience to ensure that it centers communities and discuss services PacifiCorp will provide during service interruptions;¹¹³ ensure that risk analysis frameworks include three factors that focus on community (time and duration of power outages;

¹¹² *In re OPUC IRP Investigation*, Docket No. UM 1056, Order No. 07-002, Appendix A (Jan. 8, 2007), Errata Order No. 07-047 (Feb. 9, 2007) (“All known resources for meeting the utility’s load should be considered, including supply-side options which focus on the generation, purchase and transmission of power – or gas purchases, transportation, and storage – and demand-side options which focus on conservation and demand response.”); Order No. 07-002 at 4 (in approving IRP Guideline 1, the Commission specifically rejected the consideration of all “known” resources to be limited to the consideration of only “*all commercially or near-commercially viable resources*.”) (emphasis added); *Id.* (the Commission stated that it did “not want utilities to limit their consideration to currently available resources, but rather to include all those that are expected to become available. We prefer the IRP be inclusive of all such resources and allow the parties to debate in the planning process whether it is reasonable to rely on a new technology”).

¹¹³ Energy Advocates Round 1 Comments, at 13-14.

resources within communities during outages; and long-term comparisons of microgrids and CBRE projects).¹¹⁴

PacifiCorp intends to continually refine its approach to resilience in future CEPs. This will include the addition of its initial community and utility resilience analysis in the next CEP with descriptions of the selected resilience metrics and how those are applied. The Company expects that the definition of, and approach to, resilience will evolve as we gain experience and receive additional stakeholder input. Initial resilience metrics (as included in the inaugural CEP) are focused on helping to identify communities where resilience efforts can be most beneficial (e.g.: areas with both higher socio-economic vulnerabilities and higher than average outage levels, as measured by SAIFI, SAIDI, and CAIDI). The Company appreciates the continued engagement and dialogue as we continue to improve its resilience program.

Next, Staff recommends that PacifiCorp: (1) provide status updates regarding CEP Table 9; (2) explain how it intends to incorporate community input for future resiliency analyses and planning, wildfire encroachment concerns and CEII as a contributor to increased risk exposure (and incorporate aspects from PacifiCorp’s wildfire protection and mitigation plan as necessary); (3) clarify whether PacifiCorp intends to conduct resiliency analyses and planning in DSP, IRP and or CEP processes, and how this will affect both IRP and CEP portfolios; and (4) clarify whether PacifiCorp uses “resilience” and “reliability” interchangeably, explain why and how it is using reliability metrics to ensure resilience, and describe how reliability metrics to measure resilience impacts, costs, consequences, outcomes, and benefits.¹¹⁵

PacifiCorp appreciates these comments from Staff and will incorporate these changes into its next CEP. PacifiCorp is currently evaluating expanding its initial community and utility

¹¹⁴ *Id.* at 14-15.

¹¹⁵ Staff Round 1 Comments, at 33.

resilience analysis to include additional community input. For detailed information on PacifiCorp’s wildfire mitigation efforts, PacifiCorp encourages interested stakeholders to review its Wildfire Mitigation Plan.¹¹⁶ PacifiCorp is also evaluating how to apply its resilience analysis to DSP and CEP programs and will provide additional information in its upcoming CEP consistent with Staff recommendations. PacifiCorp does not use resilience and reliability interchangeably and will clarify its distinction between these aspects of electric system operations in its upcoming CEP. PacifiCorp is currently developing a preliminary resilience cost-benefit analysis and will include this framework in its upcoming CEP.

5. Pace of Emissions Reductions

The Energy Advocates comment that PacifiCorp’s forecasted pace of emissions reductions should not be relied upon for two reasons: near-term emission reductions are much more valuable than promised emission reductions years down the road; and PacifiCorp’s pause of its all-source RFP will “undoubtedly impact PacifiCorp’s ability to meet its projected greenhouse gas reductions.”¹¹⁷

In response, PacifiCorp notes that the pros and cons of early adoption as compared to just-in-time adoption were vigorously explored by the Company when determining which compliance pathways were the most feasible. The currently projected path forward remains in between these extremes, with resources anticipated for 2026 through 2030. While these resources are partly dependent upon the resource pool available to the 2022 AS RFP, the Company expects that its pace of emissions reductions will remain largely on track, and resources will come online prior to 2030, despite the current delay in the 2022 AS RFP.

¹¹⁶ Available here: https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/wildfire-mitigation/PacifiCorp_2023_Wildfire_Mitigation_Plan_12-29-22.pdf.

¹¹⁷ The Energy Advocates Round 1 Comments, at 29-30.

6. Transmission Considerations

Staff recommends that, in reply comments, PacifiCorp; (1) address how its ambitious transmission plans are coordinated with other regional planning activities, and how the 2022 AS RFP may impact the economics of any planned transmission;¹¹⁸ (2) discuss PacifiCorp's justification for the assumption that 725 MWs of battery storage would be needed if B2H was not constructed;¹¹⁹ (3) discuss PacifiCorp's ability to model Oregon transmission on a more granular scale to inform the best way to build out SSR and other Oregon resources (and indicate whether this analyses can be included in the IRP Update or next IRP).¹²⁰ And for the next IRP, Staff recommends PacifiCorp consider non-wires solutions and Grid Enhancing Technologies prior to considering transmission expansion options.¹²¹

In response, the Company notes that it participates in FERC Order 1000 Regional Planning through the NorthernGrid planning region. When a new transmission project is identified through internal transmission planning efforts, the Company submits that transmission project into the NorthernGrid planning process for evaluation at a regional level. Within each biennial planning cycle, NorthernGrid evaluates the combination of submitted projects to identify whether there may be a regional combination of projects that effectively satisfies the needs of the region. If a transmission project is selected as part of the regional combination into the regional transmission plan, then it is subsequently reevaluated as a baseline project in each successive biennial regional planning cycle until it has reached Committee Project status. This process is outlined in detail in Attachment K of the Company's Open Access Transmission Tariff. Additionally, the Company coordinates transmission plans through the Western

¹¹⁸ *Id.* at 54.

¹¹⁹ *Id.*

¹²⁰ *Id.* at 55.

¹²¹ *Id.* at 54.

Electricity Coordinating Council (WECC) project coordination path rating and progress report process. This process extends coordination beyond the NorthernGrid planning region and notifies WECC members and the broader Western Interconnection of planned projects. The WECC Project coordination path rating and progress report process also outlines the procedures for establishing or modifying path ratings for those projects that affect WECC major paths.

In response to the requested justification of battery storage assumptions, a 725 MW, eight-hour duration battery is added to the portfolio in 2027 as a requirement in Southern Oregon in the absence of B2H. A non-wires analysis performed by BPA, IPC, and PacifiCorp indicated that obtaining 680 MW of central Oregon load service capability in the absence of B2H would require dispatchable generation in Southern Oregon ranging from 725 MW to 1,450 MW to prevent impacts to other existing rated paths. Because the IRP analysis only includes PacifiCorp's transmission rights and forecasted usage, it cannot identify periods in which dispatchable southern Oregon generation would need to be deployed to address flows on regional transmission paths. As such, this battery is held available to increase the reliability of deliveries to Central Oregon loads, so it is not dispatched under the normal system conditions represented in the PLEXOS model. Additionally, this assumption was modeled in the 2021 IRP as a Boardman to Hemingway variant under (P02b-No B2H).

As it relates to the granularity of modeling Oregon transmission, the PLEXOS model allowed SSR anywhere in PacifiCorp system and was not limited to Oregon. In this analysis, potential additional transmission costs were not included, providing SSR an offsetting advantage compared to utility scale projects.

Adding more transmission areas (bubbles) can dramatically increase PLEXOS run times. A 20-MW small-scale resource is on the smaller side for a Utility scale project. BPA provides

transmission rights to connect the load bubble locations in Oregon such that wheeling costs could be incurred when adding a small-scale resource.

A more judicious course of action is not to prejudge SSR but to see what the SSR RFP bids are received before conducting an analysis. Due to these modeling limitations using PLEXOS to model a more detailed transmission is unlikely for the 2023 IRP Update and future IRPs. There are other analytical methods to provide evaluations around SSR. For example, Oregon’s DSP processes may provide more granular information to assist developers in their siting considerations.¹²² Collating this highly site-specific information for inclusion in the IRP is difficult, but PacifiCorp hopes to learn more about the landscape and opportunities in its proposed small-scale RFP, and should be able to incorporate both the results of that RFP and lessons learned in its next IRP. Lastly, the Company appreciates the stakeholder feedback pertaining to non-wires solutions and will consider the inclusion of this topic in the 2025 IRP public input meeting series.

NewSun comments that the Company has not adequately addressed local alternatives to large out-of-state resources, or the Company’s reliance on transmission capacity that have long lead-times.¹²³

In response, NewSun juxtaposes local resources to large out-of-state resources. While this is an understandable differentiation in some regards, this view overlooks larger resources identified over the 20-year planning period in the 2023 IRP which are located in Oregon. A total of 3,140 MW of standalone wind, solar, and battery, or co-located solar and battery was selected in Oregon in the preferred portfolio. These resources can be both “local” and large, in the sense

¹²² See “Oregon UM 2000 Interconnection Data”, located on PacifiCorp’s website at: <http://www.oatioasis.com/ppw/> (in the sidebar, select “Generation Interconnection” and then “Additional Information”).

¹²³ NewSun Round 1 Comments, at 7.

that they are utility scale and developed within the state. As discussed in Chapter 8 of the 2023 IRP, transmission options, costs and construction lead times are developed from the best currently available information, including interconnection and Cluster study results. As identified in these studies, the non-contiguous nature of the PacifiCorp system in Oregon often results in major transmission projects to deliver local Oregon resources to local Oregon loads. An advantage of the cluster study process is that it has the potential to identify collective solutions that can allow groups of resource additions and projects to move forward together in a timelier manner. These cluster study solutions are included as transmission options in the 2023 IRP for both small and large resource additions.

This possibility aside, PacifiCorp directly examined the potential for SSR to serve local loads at a transmission discount in the CEP. PacifiCorp agrees that a chief advantage of SSR is the potential to serve local load with less transmission expense, as these resources are not anticipated to require large transmission projects to meet local load. PacifiCorp's first CEP gives SSR a conservative advantage in assuming no such transmission cost, as the transmission options were not considered required for interconnection. Despite this defrayed cost, SSR were not economic when compared to utility scale resources even in the face of the additional transmission options required to interconnect those larger resources. PacifiCorp anticipates that future analysis will include more refined accounting of both pros and cons to small-scale economics, including transmission considerations for SSR. At this time, it is clear that SSR are uneconomic and required non-endogenous handling to meet Oregon requirements.

CUB reiterates its concern that layering PacifiCorp's CEP on top of the Company's six-state IRP does not result in least-cost, least-risk, procurement planning that complies with HB

2021.¹²⁴ This concern is driven by the Company’s conversion of coal to natural gas assets, that the CEP does not lead to binding emissions reduction targets, and that this sequential process does not give full credit to the requirements of HB 2021, especially where other PacifiCorp states do not have carbon emissions reduction requirements.¹²⁵ As a result, CUB “fails to understand why it is appropriate to assume that a preferred portfolio that does not reflect any binding carbon reduction is the correct starting point for determining the optimal portfolio in Oregon where significant carbon reduction is mandated.”¹²⁶

PacifiCorp would direct attention to discussion above under section B.3., “Pathway 4”, wherein small-scale optimization is discussed. The Company’s round zero reply comments were extensive on this point and expanded on in the above example. Simply put, SSR are uneconomic and inadequate to achieve compliance. Their required adoption can either be allowed to disrupt the least-cost least-risk optimization of the system or can be layered on incrementally. If allowed to disrupt, there are inevitable resource conflicts with other states, and subsequent adjustments will render a final portfolio with increased costs compared to the incremental approach. Even when layered on incrementally, additional action is required to achieve compliance. This fact indicates that an incremental treatment was the best analytical approach at the time of filing. Since the filing of the CEP, PacifiCorp has continued to evaluate methodologies and has envisioned another possible approach that allows for the integration of the systemwide and state-specific portfolios into a “unified” portfolio.¹²⁷ Whether this alternative is competitive with the incremental approach remains to be determined in future analysis. The Company is committed to continual improvement of its methodologies.

¹²⁴ CUB Round 1 Comments, at 2-3.

¹²⁵ *Id.*

¹²⁶ *Id. at 3.*

¹²⁷ This method, while still in development, has been discussed with staff.

7. Alternative Portfolio Variants and Cluster Resources

Sierra Club recommends PacifiCorp complete model runs of several portfolio variants under each of PacifiCorp's price and policy scenarios. These include P01-JB3-4 GC, P04-Huntington RET 28, and P17-Col3-4 RET25. Sierra Club also recommends PacifiCorp complete portfolio variants that force the model to incrementally select additional cluster study resources from Cluster Areas 1, 2, 4, 12, and 14, and reassess variants P18-Cluster East and P19-Cluster West by re-optimizing resource selections, portfolio composition, costs, and risks throughout the LT model.¹²⁸

In response, PacifiCorp evaluates portfolios under five price-policy scenarios with attention to heuristic value and resource availability to name two key factors. As the Company cannot evaluate all studies under all possible conditions, cases are prioritized. At the same time, PacifiCorp has been responsive to stakeholder requests, conducting additional studies as time and resources allow.¹²⁹ Regarding the three cases named as examples, the results are conclusive enough that only the heuristic value of robustness under a less likely future comes into play. P17, for example, was examined only to determine the cost effectiveness of an early retirement of both Colstrip units over the optimally selected approach of retiring one unit and continuing the other. Given that continued operation of a single unit supported renewables and increased relative benefits in the period most critically related to long-term CEP compliance, the value of a high gas price, high CO2 price (HH) analysis is reduced, and not competitive with the potential value of running other studies.

Likewise, the analysis of P18 and P19 was conducted with the understanding that additional resources would likely result in a higher cost present value of revenue requirements

¹²⁸ Sierra Club Round 1 Comments, at 47-52.

¹²⁹ E.g., P10-Offshore Wind, P23-RET Coal 30/33, P24-Gas 40-year Life.

(PVRR) outcome. The value of these studies is to assess the magnitude of that PVRR impact for determining possible least-regret paths to consider for the preferred portfolio. The results of these studies supported the selection of the preferred portfolio without the addition of marginal cluster resources in the east or west and indicated that even further additions must further deteriorate benefits. However, incremental additions are a common feature of portfolio analysis, and future filings are expected to continue with this type of analysis.

8. Carbon Assumptions

CUB comments that the Company should eliminate price-policy scenarios that assume zero carbon costs, and instead should identify the \$/ton cost of carbon costs and current emissions as the minimum carbon cost price-policy scenario.¹³⁰ As a result, CUB notes by “recognizing and allocating these costs to their cause (carbon emissions) in planning, we can incentivize clean energy investments over fossil fuel investments and get to the root cause of our wildfire problem.”¹³¹ Similarly, the Sierra Club recommends the Company increase the medium carbon price policy to reflect recent federal regulations, and incorporate these developments in the 2023 IRP Update.¹³²

Sierra Club and CUB misunderstand the function of the CO2 medium assumption cost. This cost does not represent current legislation, which is already modeled as appropriate methodologies and data become available. The medium CO2 policy assumption is a proxy for future drivers, continuing the already strongly established trend of decarbonization into the future. This proxy CO2 cost is therefore a forecast, representing this trend, and properly based on a survey of currently available forecasts. It is not the role of the proxy cost to drive

¹³⁰ CUB Round 1 Comments, at 7-8.

¹³¹ CUB Round 1 Comments, at 8.

¹³² Sierra Club Round 1 Comments, at 57-58.

decarbonization, rather its role is to represent drivers that can be reasonably forecast. This is why recent legislation has not replaced or eliminated the need for the medium CO2 proxy cost – the Company is forecasting that the decarbonization trend will continue into the future.

Regarding the elimination of the medium gas price, zero CO2 price (MN) price-policy scenario or zero CO2 (LN) price-policy scenarios generally, doing so would eliminate a source of information indicating robustness of portfolios and also indicating what may occur if the expected case CO2 cost forecast is not realized. While the Company's position is that the MM price-policy scenario is the most likely, eliminating alternatives such as the HH or MN scenarios seems precipitous and unnecessary. PacifiCorp considers price-policy scenarios over the course of each IRP, and they are an important subject covered in the public input meeting series.

Staff recommends PacifiCorp: (1) evaluate portfolios P04 and P17 under alternative gas and CO2 price assumptions and report the resulting scoring metrics, and include these portfolios in the CEP evaluation of alternatives to the Preferred Portfolio;¹³³ (2) evaluate whether PacifiCorp's approach for incorporating climate change impacts accurately reflects temperature changes across the Company's Oregon service territory;¹³⁴ and (3) in the next IRP, examine alternative climate modeling approaches that account for more localized effects.¹³⁵

In response, the Company notes that it has applied a targeted analysis approach to P04 - Huntington Retire 2028 and P17 - Colstrip 3-4 Retire 2025 by analyzing under the expected case, medium-gas and medium CO2 price curve. Both studies reported a higher cost than the preferred portfolio. The conclusion learned from the case variant study would not have changed when analyzing under other prices curves. The company also balanced limited time and computer

¹³³ Staff Round 1 Comments, at 37-38.

¹³⁴ *Id.* at 42.

¹³⁵ *Id.*

resources to complete the 2023 IRP. As it pertains to climate change impacts, PacifiCorp has studied the Klamath River near Seiad Valley as the point to measure the overall impact of climate change on its service territory is based on the location's proximity to the company's largest concentration of load. The Company also notes that there is limited variability in temperature expectations between the different Oregon river basins in the study. The Company agrees that accurately reflecting the various climates across the Company's service territory is important. To account for this the Company uses seven different weather stations to reflect this variability. The Company determined the percentile of the seven weather stations' historical temperatures necessary to achieve the predicted average temperature increase on the Klamath River near Seiad Valley.¹³⁶ By applying this percentile to each of the Company's seven weather stations' 20-year history, the Company was able to capture the micro-climate embedded in the historical temperatures around each of the seven weather stations.

Lastly, in relation to alternative climate modeling approaches, PacifiCorp is proactively considering other climate modeling methodologies and intends to incorporate these methods in subsequent IRP's.

9. Market Assumptions

Staff recommends PacifiCorp state "how it anticipates EDAM participation might affect its Oregon-allocated emissions, and if there are any specific market mechanisms that the company is advocating for that would promote GHG reductions on its system to help meet HB 2021 targets."¹³⁷

In response, PacifiCorp notes that the expansion of organized markets in the West is anticipated to promote broader West-wide decarbonization by optimizing resource dispatch to

¹³⁶ See, 2023 IRP Confidential Climate Change Weather, Monthly HDD CDD workpapers.

¹³⁷ *Id.* at 17.

serve load and reducing curtailments of renewable resources. The very existence of these markets will “promote GHG reductions on the PacifiCorp system to help meet HB 2021 targets.”

For example, under the current DEQ accounting approach, PacifiCorp anticipates that it will continue to attribute Oregon's cost-allocated share of EDAM purchases to Oregon and treat them as unspecified. As such, under the current approach, these unspecified purchases would be applied the current unspecified emissions factor (0.428 MT/MWh). However, it is anticipated that as the regional mix gets cleaner, this unspecified emissions factor (roughly consistent with a gas plant) may be revisited. PacifiCorp may advocate for regulation that revisits the calculation of the unspecified emissions factor in the future, or for the organized market design to provide more granular emissions factors. While PacifiCorp may advocate for such regulatory approaches in the future, it is prioritizing the promotion of the expansion of these markets to realize broader west-wide decarbonization.

RNW recommends PacifiCorp analyze procuring resources beyond its service territory, “which could inform interregional transmission needs as well as the value proposition for regional markets which reduce procurement friction for off-system resources.”¹³⁸ For example, “while PacifiCorp’s solar resource is relatively strong, capacity factors and availability during critical hours for resources in Nevada, California south of the Company’s territory, Arizona, and New Mexico may be preferable to (or complementary with) on-system resources.”¹³⁹

RNW is also concerned that PacifiCorp’s volume of front-office transactions are unsubstantiated and present an avoidable risk to ratepayers; instead, RNW recommends the Commission examine these transactions by collaborating with regional planning organizations to develop a regional modeling study that would “assist PacifiCorp in forecasting a prudent volume

¹³⁸ RNW Round 1 Comments, at 8, 20, 39-42.

¹³⁹ *Id.* at 39-40.

of wholesale market transactions to include in its portfolio in order to meet its load obligations.”¹⁴⁰ This could involve working with other regional planning organizations like the WPP, to “conduct a detailed WECC-wide modeling study to quantitatively estimate the timing and volume impacts of tightening regional markets and their ability to serve as reliable capacity and energy resources for utilities.”¹⁴¹

With regard to off-system resources, PacifiCorp has in the past evaluated such resources under specific circumstances. Given the scope of the company’s territory, accessible to some of the best solar and wind opportunities to be found anywhere, IRP may consider specific off-system resources, but it is unrealistic and unnecessary to attempt to distinguish such resources on a proxy basis. The location of off-system resources immediately entails higher costs for access to such projects in the form of additional contractual agreements and related wheeling costs.

PacifiCorp performs WECC-wide modeling as a component of other company analysis and reporting, namely, regional transmission planning cycles.

10. Federal and State Incentives

Swan Lake reiterates that PacifiCorp did not include Inflation Reduction Act tax credits for pumped storage, or any other form of storage resource.¹⁴² Swan Lake requests PacifiCorp (1) provide an updated Table 7.2 that shows Inflation Reduction Act (IRA) tax credits and amounts that were applicable to storage resources (if any), and (2) if PacifiCorp has not analyzed storage resources with IRA tax credits, to provide updated analyses that does.¹⁴³

CUB comments that it would like regular updates on the Company’s efforts to secure government funding to support utility operations, for example including PacifiCorp’s efforts with

¹⁴⁰ *Id.* at 10, 55-57.

¹⁴¹ *Id.* at 57.

¹⁴² Swan Lake Round 1 Comments, at 2.

¹⁴³ *Id.* at 3.

the DOE Grid Resilience Innovation Partnership grants, or PacifiCorp's successful \$150 million award to improve grid infrastructure and wildfire mitigation.¹⁴⁴

Sierra Club recommends PacifiCorp incorporate several opportunities from the IRA. These include financing opportunities from the Energy Infrastructure Reinvestment (EIR) program (which can enable closure of coal plants, replacement of fossil fuel resources with cleaner alternatives, and develop transmission infrastructure), that Sierra Club recommends should be included no later than the IRP Update, and should include a transmission network upgrade cost scenario for Cluster Areas 1, 2, 4, 12, and 14 that are reduced by 30 percent, and a scenario where EIR financing assumes the early retirement and replacement of Jim Bridger Units 3 and 4, Huntington, Hunter, and Wyodak.¹⁴⁵ The Energy Advocates also recommend the Company expand its incorporation of IRA bonus tax credits for certain energy communities (including in Oregon), and update its publicly available data to correctly reflect the incorporation of investment tax credits (ITCs) and production tax credits (PTCs) for storage and stand-alone storage resources.¹⁴⁶

Staff has similar recommendations to CUB and Sierra Club,¹⁴⁷ and also recommends PacifiCorp address what steps it will take to analyze whether the IRA's \$250 Billion EIR program could apply to any of PacifiCorp's existing coal facilities.¹⁴⁸ This includes detailing how PacifiCorp plans to pursue EIR programs and perform Sierra Club's recommended variant analyses of EIR benefits.¹⁴⁹

¹⁴⁴ CUB Round 1 Comments, at 11.

¹⁴⁵ Sierra Club Round 1 Comments, at 5-10.

¹⁴⁶ *Id.* at 11-14.

¹⁴⁷ Staff Round 1 Comments, at 29.

¹⁴⁸ *Id.* at 48.

¹⁴⁹ *Id.* at 50.

In response, PacifiCorp will continue to pursue meaningful opportunities to share government funding updates with stakeholders when appropriate. Currently, the Company does not lead a public forum that is dedicated to the disclosure of grant projects, and instead encourages stakeholders to actively monitor the PacifiCorp press releases page to remain apprised of new funding developments.¹⁵⁰

Pumped hydro ITC credits were included in modeling for the 2023 IRP, which did not result in selection at this time. Any changes regarding this technology are unlikely to impact the action plan window. Also, pumped hydro will be re-assessed with any appropriate input updates in the forthcoming 2023 IRP Update.

PacifiCorp incorporated, at the time of filing, the best of the timely available information regarding IRA legislation, and as previously detailed in its Round Zero replies to comments, continues to examine evolving legislation for use in future analysis where appropriate.¹⁵¹ While the publicly posted supply side table does not show the IRA, ITC or PTC factors, modeling within the PLEXOS database DID account for the above factors as appropriate (not limited to wind, solar, storage, pumped storage and other asset classes). The Company also notes that its treasury department is actively pursuing EIR programs, financing it can qualify for, and applying for grants. The details of EIR will be communicated in the next IRP as they become known. A variant study can be reported once the EIR details are better known.

11. Avoided Costs

Staff recommends PacifiCorp: (1) address the calculation of avoided costs considered additional constraints of HB 2021; (2) discuss whether the Company's analysis considers

¹⁵⁰ Available here: [News releases \(pacificorp.com\)](https://www.pacificorp.com/news-releases)

¹⁵¹ Refer to PacifiCorp's Reply to Comments, filed July 31, 2023, the 2023 IRP and CEP Appropriately Evaluates the Benefits of Federal Legislation, pp 41-42.

avoided capacity costs that vary over the planning horizon (especially regarding the optimal pathway for CEP compliance); (3) address whether forward market prices used for avoided costs reflect the need for the Company to purchase increasing shares of non-emitting market purchases, not simply the least cost market resource; and (4) discuss how avoided planning reserve margin costs are considered in portfolio analyses.¹⁵²

NewSun comments that the Commission should decline to acknowledge PacifiCorp's IRP until PacifiCorp provides updated avoided cost information as required by OAR 860-029-0080(3).¹⁵³

In response, the Company notes that the Commission has approved standard and standard renewable avoided cost methodologies and has not yet addressed how constraints associated with HB 2021 should be incorporated. For example, PacifiCorp has previously raised concerns about standard avoided costs relying upon a natural gas combined cycle combustion turbine in the current rules as this resource will not be compliant with HB 2021 and is not least-cost and least-risk given its absence from the preferred portfolio in the last several IRPs. Additionally, PacifiCorp's IRP portfolio analysis is intended to fit together the disparate capacity, energy, RPS, and greenhouse gas compliance characteristics of a multitude of resources into a portfolio that reliably and cost effectively serves customers in all hours from year to year. The resources in that portfolio are expected to provide a variety of benefits, making the determination of a single "avoided resource" something of a misnomer. PacifiCorp agrees that compliance with HB 2021 is likely to result in additional costs, for both the revised small-scale capacity standard and the greenhouse gas emissions requirements, and that the costs of meeting those requirements may be appropriate to consider when setting avoided costs. However, these examples, and others, are

¹⁵² Staff Round 1 Comments at 61.

¹⁵³ NewSun Round 1 Comments, at 7-8.

more appropriate to address in UM 2000, and not individual utility CEPs. PacifiCorp has engaged in additional discussions with stakeholders in the UM 2000 docket and looks forward to further developments in those proceedings.

With regard to avoided capacity costs over the planning horizon, PacifiCorp agrees that this is an important consideration, and its modeling selects resources with the lowest net cost of capacity, i.e., those with the lowest cost relative to their contribution to reliability, after accounting for a resource's energy and renewable or clean energy compliance benefits. This is not quite the same as the traditional "capacity cost" which is more closely tied to the cost of building new resources, without accounting for their operational benefits. At present, PacifiCorp's standard renewable avoided costs reflect the cost of a renewable wind proxy starting 2026, so prices after that date would not include a forward market component. As discussed above, using a single resource to reflect capacity, energy, and compliance obligations is complicated, so some consideration of forward market obligations may be warranted in 2026 and beyond, but that was outside the scope of the 2023 IRP and CEP. PacifiCorp's portfolio analysis ensures that sufficient resources are included to ensure reliable operation. As discussed in section C.1., above, the analysis includes a minimum planning reserve margin "floor" from the beginning, so it is difficult to identify specific costs associated with meeting the planning reserve margin, which in any event would be unavoidable. In addition, with the increase in variable energy resources, different resources may contribute to meeting planning reserve requirements in different hours of the day and different seasons. Ultimately PacifiCorp has to ensure reliable load service throughout the year, not just during peak hours in the winter or summer.

Finally, with regard to NewSun's concerns about OAR 860-029-0080(3)(a), PacifiCorp's data disks include the assumed market prices for energy in the requisite peak and off-peak

periods, consistent with the Commission’s use of market prices for avoided costs during the resource sufficiency period. Similarly, for part (b), PacifiCorp’s supply side table, provided in Tables 7.1-7.3 in Chapter 7 (Resource Options) contains capacity cost estimates using the traditional metric (cost per kW of installed nameplate capacity). PacifiCorp is open to direction from the Commission to the extent additional information should be made available or it should be provided in a different format.

D. The 2023 IRP and CEP resource selections are properly determined.

As discussed below, the Company’s IRP and CEP: demonstrated resource needs and targets appropriate for HB 2021, developed and modeled energy efficiency and demand response, included diverse supply-side resource options, and accounted for private generation.

1. General

Staff recommends PacifiCorp “amend its CEP with a report of the Oregon-allocated annual GHG emissions, Oregon-allocated annual costs, Oregon-allocated NPVRR, and the CBIs for the best performing Preferred Portfolio Variants listed in Table 9.13 of the IRP.”¹⁵⁴ Staff requests PacifiCorp report this information with the same allocation pathways in the CEP (2020 Protocol, Pathway 1, and Pathway 2), explain any alternative allocation pathways that could be used to comply with HB 2021 or any updates to the Company’s allocation strategies since filing the CEP, and include the information in an updated CEP Data Template.¹⁵⁵

PacifiCorp appreciates Staff’s desire for additional IRP variant case analysis in the CEP. While the variant cases can be placed in a CEP table for a comparison of emissions, costs and CBIs, the resulting math which indicates the inferiority of these cases would remain unchanged. PacifiCorp specifically included in the CEP requested studies for analysis and will consider

¹⁵⁴ Staff Round 1 Comments, at 18.

¹⁵⁵ *Id.*

additional studies in the future. However, if subsequent additional analysis of IRP variants is intended to include the additional compliance steps used for the CEP portfolio, the resource-intensive results likely could not be provided in a useful timeframe and would still be un-useful with regard to systemwide portfolio selection. For all of the reasons established in public meetings, the IRP, the CEP, round zero comments and again in this document, the optimal systemwide solution should be honored for all states, including Oregon, as a participant in the multistate process. The Company would draw attention here to its earlier position that the systemwide preferred portfolio as optimally determined for all states achieves an overwhelming portion of HB 2021 target compliance, and that supply-side incremental adjustments are minimal. However, PacifiCorp continues to welcome input regarding additional CEP sensitivities for future filings.

In addition to the above, Staff recommends PacifiCorp describe:

- How major IRP and CEP near-term action items have been assessed for risk, and which actions have larger risk than others, and possible future events that would likely cause the CEP Portfolio to significantly change;¹⁵⁶
- To what extent does PacifiCorp's ability to meet Oregon's 2030 GHG target rely on emerging technologies like nuclear and non-emitting peakers;¹⁵⁷
- Key milestones or timelines when the Company might consider material changes in strategy (such as coal retirement or coal-to-gas retirements, changes to nuclear plans, joining an RTO, or other alternatives);¹⁵⁸
- What feedback will the Company use to determine whether a change in course is warranted? Will PacifiCorp adjust its strategy based on procurement efforts, or examine additional data, like actual GHG emissions, power costs, load forecasts uncertainties?¹⁵⁹
- How the Company incorporates input from RBMs regarding commercial load forecasts and describe whether this increased load is reasonably expected within the Company's timeframe.¹⁶⁰
- Load forecasts and peak load under aggressive electrification assumptions, including conducting a sensitivity of aggressive electrification scenarios in PLEXOS that includes

¹⁵⁶ *Id.* at 18-19.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 39.

the expected effects of building transportation and electrification on PacifiCorp's peak load.¹⁶¹

- The Company should (1) update the private generation forecast to include IRA tax credits for both solar and battery technologies, and apply that to the Company's load forecast and overall capacity need in the 2023 IRP preferred portfolio; and (2) by the next IRP, study the correlation between Private Generation solar installations and battery technology, and if applicable, use in the next battery technology IRP forecast.¹⁶²

PacifiCorp thanks Staff for the thoughtful suggestions, and responds as follows:

To the first item, the IRP process, and the evolving CEP process as well, perform fundamental evaluations of changes in the status of technology, state and federal law, market conditions, and distinct analysis of key projects and decision points. PacifiCorp is committed to the continual improvement and evolution of these analysis as conditions change. Key studies in the 2023 filings include an examination of B2H, nuclear, offshore wind, small-scale renewables and other critical items. In addition, path analysis specifically addresses risks of significant portfolio change, as detailed in the Company's acquisition path analysis.¹⁶³

Second, despite assumed risks to new technologies, some types of existing peaking resources can already use hydrogen, such as reciprocating engines, and technological advances indicate that burning hydrogen in large-scale frame combustion turbines, as assumed in the 2023 IRP, is likely to be possible. From a fuel supply perspective, existing combustion turbines are also capable of burning biodiesel today. While there is uncertainty in the cost of non-emitting generating capacity and non-emitting fuels, examples of both exist today. The Company anticipates that these types of resources will improve in performance and cost-effectiveness. As discussed in the 2023 IRP, advancement of non-emitting technologies will be critical to the

¹⁶¹ *Id.* at 40.

¹⁶² *Id.* at 45.

¹⁶³ 2023 IRP, Chapter 10 - Action Plan, pp. 363-385.

planned transition of our coal resources in a way that will minimize impacts to our employees and our communities.¹⁶⁴

Additionally, in the 2023 IRP preferred portfolio, non-emitting peakers are forecast to reach an installed nameplate capacity of 1,240 MW by 2036, with no currently foreseen additions through the remaining 20-year planning horizon. This is less than 4 percent of all identified preferred portfolio additions (including DSM selections and storage capacity) by the end of the planning period. This limited presence, combined with the present-day existence of example resources, supports the Company's position that the risks are reasonable, and the long-term plan is appropriately forward-looking.

Achieving Oregon's 2030 GHG target is dependent upon emergent technologies to support the renewables presented in the preferred portfolio. Alternative acquisition path analysis is applicable to these technologies.

Third, key milestones for changes are to be indicated in the evolving outcomes examined primarily through the IRP, CEP and RFP processes. The IRP Update which occurs in even-numbered years, also plays a key role as a checkpoint in between the more expansive IRP filing, ensuring the preferred portfolio and action plan remain on track and responsive to change—

Fourth, in direct relation to the third item, immediately above, these processes include extensive stakeholder feedback, which is incorporated into planning, including public meetings, frequent meetings with regulators, workshops, additional stakeholder feedback via email, data requests and independent evaluators in the RFP process. This feedback informs assumptions, data development, modeling strategies and which cases are run for analysis at each step. Any of

¹⁶⁴ 2023 IRP, Volume I, Chapter 1 – Executive Summary.

these communications may result in a course change or addition to modeling strategy and planning approach.

Fifth, large customers provide information about their anticipated future operations to PacifiCorp's regional business managers (RBMs). Given the size of these individually forecasted customer's loads, and potential swings in load due to operational characteristics, the Company believes that projections for these large customers are better accounted for using an individual customer forecast rather than a regression approach.

This level of analysis is performed by RBMs for a select number of industrial and commercial customers. Individual commercial customer forecasts produced by RBMs are then added to the company's regression based commercial class forecast to generate the overall commercial class forecast. Historical loads for these customers are removed from the regression analysis to ensure that the forecast is not double counting projected loads for these customers.

The expected increase in Oregon commercial loads evident in the 2023 IRP are largely due new large data center projects. The reasonableness of this customer's load projections is based on RBM experience with similar projects, contract status and existing construction status. PacifiCorp reasonably expects the projected load for this customer to materialize within the timeframe put forth in the 2023 IRP.

Sixth, in addition to the base case load forecast, the 2023 IRP evaluates six additional load sensitivities under varying conditions – Low load growth, High load growth, High Private Generation, Low Private Generation, 1-in-20 extreme weather, and 20-year normal weather conditions. Each of these forecast sensitivities reflect the expected amount of building and transportation electrification part of the forecast. PacifiCorp will incorporate an additional load

forecast sensitivity analysis within the 2025 IRP evaluating aggressive electrification assumptions.

Finally, the Company currently accounts for IRA tax credits for both solar and battery technologies as shown in Table 3-9 of the most recent Private Generation Long-Term Resource Assessment used for the 2023 IRP.¹⁶⁵ The results of this study are incorporated into the Company's load forecast and accounted for in determination of future capacity need. Additionally, the Company attempts to model the relationship between solar adoption and battery adoption in each state and will continue to do so in future modeling. Customer battery adoption forecast in the Private Generation study informs resource potential for utility control of batteries in the Conservation Potential Assessment.

2. Hydroelectric and Geothermal resources

CRIFTC comments that the Company should reduce over-reliance on federal hydroelectric resources and address the impacts from these resources to tribal treaty fisheries.¹⁶⁶ PacifiCorp's hydroelectric partnerships with federal entities provides a host of invaluable benefits to the communities it serves. In response, PacifiCorp notes that given the nature of this flexible base-load resource, the Company is able to provide clean, reliable and affordable power to its customers while maintaining our commitment to environmental stewardship with tribal nations across the six states we serve. As always, PacifiCorp appreciates stakeholders' continued participation in its long-term planning objectives and will continue to pursue meaningful solutions to modernize hydroelectric facilities to meet the needs of its diverse stakeholder interests

¹⁶⁵ Available here: https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2023-irp/2023-irp-support-studies/PacifiCorp_Private_Generation_Resource_Assessment.pdf.

¹⁶⁶ CRIFTC Round 1 Comments, at 9-10.

Fervo notes that the 2023 IRP “took an inadequate approach to modeling geothermal resources, and as a result fails to identify new geothermal capacity in any scenario,”¹⁶⁷ and provides various third-party studies and analyses that support its claims regarding the benefits of geothermal resources.

In PacifiCorp’s IRP, there are many factors that make up the selection criteria for supply-side resources other than cost. It is a combination including, but not limited to, location, MW size, cost, risk, performance, net cost to the system and ability for load shift. Additionally, proxy resources not sited at existing interconnection locations require transmission investments to enable interconnection of new resources. In the 2023 IRP, transmission selections which enabled geothermal resources had their new resource interconnection limits filled with less expensive resources (and nuclear resources were not selected at those sites). The PLEXOS model considers all proxy resources in the LT model optimization decision taking into consideration the aforementioned criteria before making its selection.

During the preparation of the Company’s response to a Fervo data request, the Company became aware of an error in the 2023 IRP supply-side tables related to geothermal costs. Specifically, the Company became aware of an error in the base capital dollars per kilowatt (\$/kW) in the geothermal costs for the “Dual Flash Expansion of Blundell Plant” and the “Greenfield Binary Plant. The Company has corrected the error in the supply-side tables and has posted a corrected public / non-confidential work paper to the IRP section of its website.¹⁶⁸ Based on the relevant factors described above and the data correction, there was no indicator for a material change in the selection of geothermal in the 2023 IRP, particularly in the action plan

¹⁶⁷ Fervo Round 1 Comments, at 1.

¹⁶⁸ [Public SSR Database Summary Tab.xlsx \(live.com\)](#)

window. Geothermal will be fully re-assessed with updated inputs in the forthcoming 2023 IRP Update.

Also, the Company has the opportunity to acquire resources in the RFP process from all types of resources and actual project pricing would be used in the selection analysis. This means that all bids would be considered in the 2022 AS RFP (even though temporarily suspended). The Company notes that no geothermal bids were received.

3. Storage Resources

The Energy Advocates recommend PacifiCorp “look beyond storage co-location near generation sites and to identify substations and transmission lines that can use storage to flatten load peaks and avoid congestion and costly transmission and distribution upgrades.”¹⁶⁹

PacifiCorp responds by first emphasizing that the PLEXOS model in its optimization accounted for proxy storage at the generator and load locations in the 2023 IRP. To further clarify, the storage locations added were not specifically tied to the generator. The specific substation and transmission would be identified in the request for proposal process after the 2023 IRP, where resource bids would be analyzed and contracts signed.

Regarding the Company’s modeling of surplus interconnection, Sierra Club requests PacifiCorp allow storage to be paired with not only new renewable resources, but also existing fossil resources. This “hybridizing” of a thermal asset with a storage resource “would increase the flexibility of the asset and provide lower emission reliability services, such as spinning reserve” and likely “reduce operating costs as the storage asset could operate more responsively.”¹⁷⁰

¹⁶⁹ Energy Advocates Round 1 Comments, at 21.

¹⁷⁰ Sierra Club Round 1 Comments, at 57.

PacifiCorp believes it has met the aforementioned interest in its modeling of the 2023 IRP, where storage resource options were available to be selected modeled with potentially any technology or combination of technologies, allowing portfolio optimizations to recognize the best location, size and timing for storage concurrently with considerations of existing technology profiles, and also in tandem with thermal retirement options. Additionally, storage options that were not part of a cluster study were considered unconstrained by transmission requirements, such that any amount could be placed anywhere on the system.

4. EE/DER/DSM

CRIFTC comments that the Company should accelerate grid-interactive demand-side resources.¹⁷¹ This includes demand-response resources that interact with the grid, like buildings, appliances and equipment, and on-site distributed energy resources.¹⁷² This would provide “demand flexibility by adjusting power consumption based on grid conditions, energy prices, and occupant preferences,” and limit the need for overbuild of solar, wind, and storage resources.¹⁷³ PacifiCorp continues to rapidly accelerate the deployment of demand response resources and will proactively evaluate the cost-effectiveness of these program designs and potential opportunities for grid interactive equipment in the future.

CUB comments that PacifiCorp should do more to implement the 2021 Energy Affordability Act. Specifically, CUB recommends PacifiCorp should expand its strategies to reduce energy burdens beyond the Low-Income Discount program; analyze the additive benefits from low-income energy efficiency programs when determining the cost-effectiveness of programs; increase energy efficiency programs across PacifiCorp’s service territory; and work

¹⁷¹ CRIFTC Round 1 Comments, at 10-12.

¹⁷² *Id.* at 10.

¹⁷³ *Id.* at 11.

with the ETO to expand programs to target low-income customers.¹⁷⁴ As a result, PacifiCorp should analyze how it can expand energy efficiency and demand response services.¹⁷⁵

The Energy Advocates recommend PacifiCorp take additional actions and conduct additional analyses to better implement HB 3141, better explain the decrease in demand response options, and explore additional energy efficiency and demand response options.¹⁷⁶

In reply, the Company notes that it is currently working with ETO on expansion of low to moderate income programs, specifically finding ways to incorporate local, state, and federal funds to deliver efficiency to these customers. Furthermore, ETO's latest budget action plan highlights additional expansion of activities targeted at low to moderate income customers as well as future acceleration of energy efficiency. The Company will continue to explore additional actions and options for demand response and energy efficiency resources to support both system needs and implementation of HB 3141. The decrease in demand response options in the 2023 IRP was due to significant overlap of demand responses resources being modeled in the 2021 IRP. In the 2021 IRP, the Company relied on two distinct sources for demand response resource characterization—the 2021 CPA and bids solicited through the 2021 demand response RFP. The demand response resources in each source, while perhaps different in delivery structure, often relied on the same end-uses for capacity. As such, the volume of demand response is overstated in the 2021 IRP. This is the primary reason for the decrease in demand response options. The Company would note that since significant expansion of demand response programs has occurred since the 2021 IRP and the Company will continue to develop and implement a robust portfolio of demand response resources going forward.

¹⁷⁴ CUB Round 1 Comments, at 10-11.

¹⁷⁵ *Id.* at 2.

¹⁷⁶ Energy Advocates Round 1 Comments, at 21-23.

Staff recommends PacifiCorp: (1) optimize energy efficiency in the CEP to inform how increased adoption could help meet HB 2021 requirements in a least cost manner, as well as update the Company's CEP annual acquisition targets in light of the updated analysis;¹⁷⁷ and (2) provide details about HVAC and hot water end use assumptions, and how PacifiCorp is considering the efficiency of electrifying loads in relation to capacity constraints and increased demand.¹⁷⁸

To these points, the Company first notes that on average the model selected 91% of energy efficiency potential between 2023-2030, and there is limited remaining potential identified to meet system needs. The Company models energy efficiency consistent with the Oregon rules and processes, with energy efficiency potential characterized by ETO. The Company evaluates energy efficiency based on the values and conditions that are consistent with Oregon's avoided cost docket for energy efficiency, UM 1893. Energy efficiency selections optimized for CEP requirements currently do not have a mechanism for demonstrating cost-effectiveness beyond what is shown in the preferred portfolio. The Company's energy efficiency selections are based on measures or programs could be shown to be cost-effective consistent with ORS 757.054. The Company's current selections for energy efficiency represent the level of resource that would be considered or shown to be cost-effective under current rules and practices used in docket UM 1893.

Second, PacifiCorp models HVAC and hot water end-uses based on technology saturations were developed using the PacifiCorp residential survey data and CBECS 2019 data for each state, segment, and baseline non-electric space and water heating technology. The Company assumes a modest ramp of electrification over time for these end-uses. The

¹⁷⁷ Staff Round 1 Comments, at 59.

¹⁷⁸ *Id.* at 62.

electrification model relies on the same market profile assumptions that were used in the CPA (Market Size, Segments, Saturation and Usage) to develop a baseline forecast. Total unit counts were then developed for each technology using the baseline saturation of these non-electric technologies and market size in each segment. These unit counts were translated to the technical stock turnover using the lifetime of each baseline technology for existing construction and the customer growth assumptions used in the CPA for new construction opportunities. All electrification measures were modeled as being available at the time of equipment failure (a lost opportunity). The additional load of each electrification measure was characterized using our calibrated consumption data from the CPA. The Company generally assumes that efficient electrified equipment is installed as much of the external funding identified in the Inflation Reduction Act of 2022 for electrification is tailored to efficiency as well.

5. Commercially Available Technology

The Energy Advocates recommend two changes to the Company's strategy for HB 2021 compliance. First, PacifiCorp should provide more weight to more commercially available, clean resources, like offshore wind, advanced geothermal, and iron-air batteries.¹⁷⁹ Second, if these resources do not achieve the required emissions reductions for PacifiCorp (as opposed to relying on nuclear or non-emitting peaking resources), the Company should consider additional resources besides small-scale renewables.¹⁸⁰

Staff recommends PacifiCorp, in the IRP Update, provide a general estimate of transmission upgrade costs for the 1 GW of offshore wind modeled in P10 (and should be similar to proxy resource costs for confidential pumped-hydro storage projects).¹⁸¹ Staff also

¹⁷⁹ Energy Advocates Round 1 Comments, at 27-28.

¹⁸⁰ *Id.* at 28.

¹⁸¹ Staff Round 1 Comments, at 51.

recommends PacifiCorp identify other near-term actions and regional investments that would need to occur for PacifiCorp to consider adding 500 to 1,000 MWs of Oregon offshore wind by 2035 (either through RFPs or bilateral contracts).¹⁸²

The Company responds that commercially available alternatives to future technologies were substantially evaluated, including offshore wind, geothermal and iron-air batteries. As noted above, this evaluation also included alternative acquisition path analysis specific to nuclear and non-emitting peaking resources in variant cases P05 and p06. Offshore wind was specifically evaluated in case P10. SSRs, which are not cost-effective compared to other alternatives, were ultimately selected only to achieve compliance with Oregon SSR requirements. All resource options were “weighted” with best estimates as to the relative cost and performance characteristics. The Company notes that at this time, offshore wind is hampered by transmission requirements, and was not selected even though it was assumed that any portion of the transmission and related resources could be selected, rather than assuming PacifiCorp was responsible for the entire project. Iron-air batteries are hampered by the fact that storage of a 1-to-5 hours duration is of highest value to the system because the overwhelming majority of shortfalls occur with a limited duration. In the 2023 IRP and CEP, this makes the economics of multiple 4-hour batteries superior to longer-term battery storage under all but the most exceptional conditions.

Additionally, the Company’s modeling included the transmission upgrade cost required to enable the 1,000 MW of offshore wind, and also includes the general cost estimate for offshore wind. In the preferred portfolio, approximately one-third of the potential transmission enabling offshore wind was selected, however the model did not select offshore wind as the most

¹⁸² *Id.*

effective use of that transmission. In the P10 counterfactual case, 935 MW of selected on-shore renewables were converted to offshore wind to assess performance and the magnitude of the economic impact. Analysis suggests that given the transmission project required to enable offshore wind, there are more cost-effective uses for this transmission. Given the timing of resource selections in Oregon through 2035, the Company is very interested in evaluating real offshore wind projects as data related to these projects becomes available to the Company through appropriate channels.

6. Coal-Fueled Generation Units and Gas Conversions.

CUB comments that there are implications for decommissioning and cost allocation with the Company's conversion of coal units to natural gas.¹⁸³ Specifically, because of diverging depreciation schedules, load growth, and decommissioning expenses between various states and for different resources, Oregon's share of converted gas assets (and cost-responsibility) could be increased compared to initial share and cost-responsibility of previous coal assets.¹⁸⁴ CUB notes that IRPs may not be the best place to resolve these questions, but would like the Company to address these concerns, even if ultimate resolution occurs within MSP or Oregon rate cases.¹⁸⁵

The Company agrees the IRPs may not be the best place to address resource allocations and recognizes MSP is the forum for these discussions and resolution. CUB's comment shares two concerns. The increase in Oregon megawatt share of converted gas assets is dependent on the methodology on how these resources are allocated to the states which would be expected to be based on creating an MSP proposal. The increase in cost responsibilities for converted gas assets can be mitigated by recognizing Oregon depreciation schedule is different than other states

¹⁸³ CUB Round 1 Comments, at 6-7.

¹⁸⁴ *Id.* at 6

¹⁸⁵ *Id.* at 7.

and Oregon retaining its share of the costs. Both of these concerns should be raised in the MSP process.

The Energy Advocates comment that PacifiCorp’s conversion of certain coal units has not been demonstrated as a least-cost path for Oregon under HB 2021: “Indeed, PacifiCorp has presented no economic analysis to show why it is beneficial for Oregon ratepayers to invest in gas conversions when their ability to utilize these plants would be short-lived.”¹⁸⁶

The Company provided analysis on the Jim Bridger 3 and 4 gas conversion in the 2023 IRP which reported a system benefit and Oregon would receive their allocated portion of the system benefits. Jim Bridger 1 and 2 gas conversion was analyzed in the 2021 IRP which addressed costly emission control equipment that would be required if not converted to gas. The study also reported a system benefit that Oregon would share. Naughton 1 and 2 gas conversion was not considered until the 2023 IRP and provides system reliability benefits that would be lost when the units no longer operate as coal. HB 2021 is addressing emission targets and by including coal converting to gas would be considered prudent to include in Oregon mix of resources as these units would operate at a lower capacity factor but would be able to meet peak load requirements as well as providing system reliability benefits.

Sierra Club recommends that PacifiCorp use the base tier coal pricing from the Company’s 2023 Jim Bridger Long-Term Fuel Supply Plan for the Jim Bridger plant, as well as reevaluate the economic retirement dates of Jim Bridger, Hunter, Huntington, and Wyodak given Sierra Club’s other concerns with PacifiCorp’s modeling (high transmission network upgrade costs, reliability adjustments, SCNR installation, inflated granularity adjustments, and low coal prices for Jim Bridger).¹⁸⁷ Relatedly, Sierra Club recommends PacifiCorp provide a complete

¹⁸⁶ Energy Advocates Round 1 Comments, at 20-21.

¹⁸⁷ Sierra Club Round 1 Comments, at 42-45.

assessment of the availability and cost of firm interstate pipeline capacity that would be necessary to supply the Company's planned coal-to-gas conversions, and this should be completed prior to the IRP Update.¹⁸⁸

PacifiCorp believes the best place to reevaluate the coal economic retirement is part of the 2023 IRP Update filing scheduled for April 1, 2024. This provides an opportunity to refresh the key thermal assumptions with the current data for the evaluation. Sierra Club comment did not consider the coal retirement were determined endogenously in the PLEXOS model, a new feature for the 2023 IRP. The Jim Bridger coal prices in PLEXOS are cash costs and do not include already incurred fixed costs in prior years, which is a better method to evaluate retirement. Lastly, the Company is not able to disclose metrics pertaining to firm interstate pipeline capacity for planned conversions as stipulated within the confidentiality agreements between PacifiCorp and third-party entities.

Staff recommends that PacifiCorp explain: why coal-to-gas conversions became prominent in this plan, but not in the 2021 IRP; how PacifiCorp evaluated risk of regret for coal-to-gas conversions; how it accounted for HB 2021's GHG targets in the gas conversion planning decisions; and under what circumstances would the Company expect to expand or pull back from these plans, or extend the lives of converted gas units?¹⁸⁹ Staff also requests PacifiCorp describe: (1) when it expects reconsideration of selective non-catalytic reduction (SNCR) investments to be concluded (if uncertain, describe point in time when costs from SNCRs outweighs the benefits);¹⁹⁰ in PacifiCorp's IRP Update, include a variant portfolio that optimizes system resource buildout under conditions of continuing Utah coal market disruption and elevated gas

¹⁸⁸ *Id.* at 53-55.

¹⁸⁹ Staff Round 1 Comments, at 47.

¹⁹⁰ *Id.* at 48.

prices through 2030 (and discuss implications for future conversions);¹⁹¹ in reply comments, discuss whether existing minimum take agreements are modeled for PacifiCorp's coal plants (if not, explain why not);¹⁹²

In PacifiCorp's 2019 IRP, a new simple-cycle combustion turbine was selected. This resource would have made use of the existing Naughton interconnection, and land at the site, but would have used little of the existing infrastructure. In contrast, the coal-to-gas conversions in the 2021 IRP and 2023 IRP rely almost entirely on the existing plants, requiring only natural gas piping capped by nozzles or burners within the existing boiler. As a result, the existing steam turbine, power generation, and all other assorted equipment in the existing facility continues to be used. A large part of the gas conversion costs contemplated in the 2023 IRP are associated with natural gas pipeline transport, such that there would be little impact on depreciation and decommissioning, to address CUB's concern. The Ozone Transport Rule was new to the 2023 IRP and also a factor for coal to gas conversions as the rule impacted the operation of the coal units in Utah and Wyoming.

Several stakeholders have identified concerns about future technology. PacifiCorp has also identified concerns about new natural gas-fired technology, as it may be subject to additional regulatory restrictions over a long technical life. The coal-to-gas conversions contemplated in the 2023 IRP represent a moderate, intermediate term bridge that will allow time for future technologies to be available, reliable, and cost-effective. With regard to The Energy Advocate's comments that the benefits of these facilities will be limited to Oregon customers, none of the units contemplated for gas conversion are projected to operate past 2037, which is ahead of the 2040 requirement under HB 2021, and gas conversion is lower cost, particularly in

¹⁹¹ *Id.* at 49.

¹⁹² *Id.* at 49.

combination with the other non-emitting options that make up the preferred portfolio.

PacifiCorp's CEP does contemplate Oregon using MSP negotiations to secure a smaller allocation of emitting resources, such as the gas converted units, so as to minimize costs of meeting the interim targets under HB 2021.

With regard to Sierra Club's comments about coal fuel costs for Jim Bridger, PacifiCorp would highlight that the fixed and variable cost structure assumed in the 2023 IRP reasonably captures the cost of continuing or ceasing coal-fired operation at Jim Bridger 3 and 4. While there are opportunities to optimize coal supply for particular circumstances, they are ill-suited for modeling in the wide-range of cases and conditions contemplated in the IRP, and provide limited incremental benefit. Generally speaking, a more optimized fuel supply for Jim Bridger would identify additional benefits from ongoing operations, i.e., it would not result in retirement and result in changes in the action plan window. Note that in light of the significant impact of the Ozone Transport Rule, for the 2023 IRP PacifiCorp did not model take-or-pay coal supply requirements for any of its coal units. PacifiCorp did incorporate significant fixed costs for coal supply to Jim Bridger units 3 & 4. Those costs cease when Jim Bridger units 3 & 4 stop using coal or retire and did not have any minimum volume requirement.

With regard to Staff's questions about the increased prominence of coal-to-gas conversions in the 2023 IRP, several factors were involved. First, the benefits of gas conversions in the 2021 IRP led to a broader review of those options in the 2023 IRP, for which PacifiCorp worked to identify additional opportunities for gas conversions at each of its plants and made those options available for endogenous selection within the PLEXOS model. Second, the Ozone Transport Rule increased the benefits from gas conversions, as combustion of natural gas produces lower nitrous oxide emissions (a precursor to ozone) than coal. Third, the tax credits

under the IRA significantly reduce the costs of clean resources, including wind, solar, and storage that are prominent in the preferred portfolio. Gas-converted units are well suited to filling in the gaps in these clean resources, as battery storage can respond quickly to changes in variable resources, and gas-converted units only need to be called upon in limited circumstances. Finally, the conversion of Naughton units 1 and 2 is more valuable as a result of the delay in the expected online date for Natrium™ demonstration project relative to the 2021 IRP, which results in at least additional two years of benefits from the conversion, as well as by the assumed extension of the technical life of those units, from 2029 to 2036.

With regard to Staff’s questions about the decision to install SNCR, PacifiCorp’s 2023 IRP reflects the Ozone Transport Rule as originally proposed, which included emissions allowance requirements starting in 2023 and major emissions reductions by 2027. The final rule released shortly before the 2023 IRP was finalized has emissions allowance requirements starting in 2027, with major emissions reductions in 2030. As a result, a decision concerning installation of SNCR for Ozone Transport Rule compliance could be delayed by four years, and the resulting modifications to the plants could be similarly delayed. PacifiCorp would also note that the final rule has been stayed pending litigation, so additional modifications to this timeline are likely. To the extent that any SNCR modifications occur in 2030 or later, such changes would likely be rendered moot as Oregon customers will have ceased taking service from coal-fired facilities prior to that date consistent with HB 1547.

7. Small Scale Renewables

The Energy Advocates urge PacifiCorp to “take a more proactive and supportive position regarding small-scale renewable projects, especially in selected areas of distribution system congestion in concert with substation battery storage systems so as to capture the grid benefits

while also improving reliability and resilience.”¹⁹³ The Energy Advocates also note that the Company’s Oregon-Allocated SSR analysis appears to ignore grid benefits (like decreased GHG emissions) that small-scales could provide, and PacifiCorp’s sensitivity studies are based on incorrect proxy resource assumptions that are too expensive and do not include site-specific grid benefits.¹⁹⁴

The Company responds that the benefits of emissions reduction are directly evaluated for every resource in every model run as a core feature of PLEXOS modeling, and particularly with regard to the MM price-policy expected case assumption. The CEP also conservatively assumes no incremental transmission costs for small-scale renewable in recognition of the potential local benefit of avoiding utility scale transmission which may disrupt local communities. While additional benefits may accrue to SSRs in future analysis, the company’s first CEP gave considerable favor to SSRs in its modeling, which would otherwise be less attractive compared to the cost savings inherent in utility projects which benefit from economy-of-scale. PacifiCorp stands by its assessment of SSR costs and benefits, and at the same time is committed to continual improvement of its evaluations.

Staff recommends that PacifiCorp: (1) identify the system-wide NPVRR impacts of meeting the SSR requirement, and describe the extent to which system-wide cost increases would be needed relative to the Preferred Portfolio to achieve Oregon’s GHG targets (excluding the SSR requirement);¹⁹⁵ (2) re-optimize the Preferred Portfolio and the best performing Preferred Portfolio Variants in Table 9.12 of the IRP (including P04 and P17, at a minimum) to incorporate the SSR requirement,¹⁹⁶ account for costs and performances of SSRs in the IRP to

¹⁹³ Energy Advocates Round 1 Comments, at 24.

¹⁹⁴ *Id.* at 25.

¹⁹⁵ Staff Round 1 Comments, at 17.

¹⁹⁶ *Id.* at 34.

reflect opportunities to meet a portion of this requirement with energy from QFs,¹⁹⁷ and then report out the resulting annual portfolio additions, retirements, and conversions, annual costs, PVRR, risk adjusted PVRR, ENS, and cumulative GHG emissions, and then use these portfolios for additional CEP analysis;¹⁹⁸ (3) identify barriers that SSR’s face in the RPS certification process that could be relieved through changes in statute, rules, or through minimal additional informational resources;¹⁹⁹ and (4) detail how PacifiCorp could improve PURPA processes to facilitate rapid acquisition of new SSRs, in addition to the proposed SSR RFP.²⁰⁰

PacifiCorp is concerned that the current SSR statutes, regulations, and processes could frustrate SSR procurement. Each of these issues could be resolved by statutory solutions as well, however PacifiCorp provides the following regulatory recommendations:

- *The Commission should consider solutions to allow all non-emitting resources to qualify as SSRs by amending or waiving OAR 860-091-0030(1).* ODOE regulations require entities to register with WREGIS prior to seeking RPS certification,²⁰¹ and OPUC regulations require resources to be RPS-certified.²⁰² While Oregon statutes only require the owner or operator of SSR facilities to register their facility with the Western Renewable Energy Generation Information System (WREGIS) if they want to generate renewable energy certificates,²⁰³ ODOE adopted additional regulations that apply this requirement to all entities that “wish to demonstrate compliance . . . with the Oregon RPS.”²⁰⁴ After certifying with WREGIS, facilities must apply to ODOE for RPS-certification.²⁰⁵ This requires an ODOE decision regarding whether the facility satisfies the RPS statutes and ODOE regulations, and relevant here, an “explanation of the relationship between the applicant and the WREGIS account holder.”²⁰⁶ If the facility does not satisfy the RPS requirements, then ODOE will deny the application.²⁰⁷ Once approved by the ODOE, a facility’s RPS-certification does not expire,²⁰⁸

¹⁹⁷ *Id.* at 35.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.* at 46.

²⁰⁰ *Id.*

²⁰¹ OAR 330-160-0020(1)–(3), and OAR 330-160-0035(2).

²⁰² OAR 860-091-0030(1).

²⁰³ ORS 469A.029.

²⁰⁴ OAR 330-160-0020(2).

²⁰⁵ OAR 330-160-0035.

²⁰⁶ OAR 330-160-0035(2).

²⁰⁷ OAR 330-160-0035(3)(b).

²⁰⁸ OAR 330-160-0038.

however facilities have an obligation to provide the ODOE of notice of material changes to the facility.²⁰⁹

Taken together, this requires SSR facility owners to register their resources with WREGIS and apply to ODOE for RPS-certification, prior to the Company having the ability to report the resource to the OPUC as qualifying for the SSR mandate. These conditions precedent limit the resources that can qualify as SSR resources. For example, PacifiCorp has several QF PPAs that could qualify as SSR, but limited authority to require these QFs to become certified as RPS-eligible facilities. These regulations also create transaction risk and require additional developer sophistication, as PacifiCorp believes SSR facility owners will have limited ability to finance their projects when facilities could be denied certification by the ODOE. The Commission should consider allowing all non-emitting resources to qualify as SSRs to count toward the SSR mandate.

- *The Commission should consider creating appropriate incentives for SSR adoption.* Currently, PacifiCorp’s non-renewable rate for standard QFs is higher than the renewable rate. This incentivizes small QFs to elect to receive the higher non-renewable rate and reduces the likelihood they will take steps to qualify as SSR-eligible resources; PacifiCorp has signed three PPAs with QFs who have elected this route in the past six months. The Commission should consider options that eliminate this price arbitrage, either by capping the non-renewable rate at the renewable rate or combining the two price streams. Given the Company’s upcoming SSR RFP, the Commission could consider these solutions in the near term.
- *The Commission should establish a for-profit SSR cost cap.* The Company anticipates that SSR resources will be much more expensive than utility-scale resources, even when generously considering benefits that these resources provide to system reliability or resiliency. Given the Company’s considerable SSR mandate, the Commission should consider establishing an SSR cost-cap for for-profit SSRs, for example, by capping the price paid for SSRs to for-profit entities at the Company’s relevant avoided cost rate. This would ensure developers of QFs are not incentivized to develop SSRs that will be more expensive than assets that result from a competitive solicitation, while at the same time allowing governments or non-profit entities to develop projects that could be more expensive than similarly situated QFs.
- *The Commission should consider opportunities to streamline SSR permitting given FERC’s jurisdiction over certain SSRs.* The FERC has not addressed its jurisdiction over community choice aggregators,²¹⁰ however based on existing net metering (NEM) authorities, the FERC would have jurisdiction over certain SSRs that resemble community choice aggregators.

The FERC has jurisdiction over the “sale of electric energy to any person for resale.”²¹¹ For NEM purposes, the FERC has interpreted this language to conclude that it does not have

²⁰⁹ OAR 330-160-0070.

²¹⁰ See *In re NERA Decl. Pet.*, 172 FERC ¶ 61,042 (2020) (declining to issue declaratory ruling that could have impacted community choice aggregators).

²¹¹ 16 U.S.C. § 824(d).

jurisdiction where “an individual homeowner or farmer (or similar entity such as a business) installs generation and accounts for its dealings with the utility through the practice of netting [net billing].”²¹² However the FERC has jurisdiction when “there is a net sale to a utility, and the individual’s generation is not a QF.”²¹³ In these circumstances the generator would be subject to the Federal Power Act. This aligns with the FERC’s interpretation of similar PURPA authorities.²¹⁴ The FERC has continuously adhered to this conclusion of law since 2001 and re-affirmed this position in 2003²¹⁵ and 2009.²¹⁶

As a result, the Company expects that any SSR that is not a QF or otherwise resembles an NEM, will be required to receive authority from FERC prior to coming online. This would include SSRs that resemble community choice aggregators. The Company believes this additional step with FERC will create additional hurdles for SSRs. The Commission should consider issuing guidance or a declaratory ruling that confirms that state jurisdictional resources do not need to receive market sales authority from FERC.

- *The Commission should establish the SSR as a one-time compliance obligation.* The SSR mandate applies to utilities “by the year 2030.”²¹⁷ The Commission, over utility protest, interpreted this to require an ongoing obligation, not only for year 2030.²¹⁸ As a result, PacifiCorp’s approximate 490 MW SSR mandate in 2030 almost doubles to 802 MWs by 2037.²¹⁹ The Company suggests the Commission reconsider this policy given the Company’s expectation that SSRs will be much more expensive than utility-scale resources.

²¹² *In re MidAmerican Decl. Pet.*, 94 FERC ¶ 61,340, ¶ 62,263 (2001).

²¹³ *Id.*

²¹⁴ *Id.* (“When there is a net sale to a utility, and the individual’s generation is a QF, that net sale must be at an avoided cost rate consistent with PURPA and our regulations implementing PURPA.”).

²¹⁵ *In re SGIA and SGIP Rulemaking*, 106 FERC ¶ 61,220 (“under most circumstances the Commission does not exert jurisdiction over a net energy metering arrangement when the owner of the generator receives a credit against its retail power purchases from the selling utility. Only if the Generating Facility produces more energy than it needs and makes a net sale of energy to a utility over the applicable billing period would the Commission assert jurisdiction.”) (emphasis added); *Id.* fn. 173 (“if there is a net sale of energy to a utility, and the generator is not a QF, the generator’s owner must comply with the requirements of the FPA.”).

²¹⁶ *In re Sun Edison Decl. Pet.*, 129 FERC ¶ 61,116, 61,621 (2009) (“if the entity is either not a QF or is a QF that is not exempted from section 205 of the FPA by section 292.601 of our regulations, a filing under the FPA is necessary to permit the sale.”) (emphases added); *Id.* (“We agree that, where the net metering participant (i.e., the end-use customer that is the purchaser of the solar-generated electric energy from SunEdison) does not, in turn, make a net sale to a utility, the sale of electric energy by SunEdison to the end-use customer is not a sale for resale, and our jurisdiction under the FPA is not implicated. That is, under the holding of *MidAmerican*, where there is no net sale over the applicable billing period to the local load-serving utility, there is no sale; accordingly, where there is no net sale over the applicable billing period to the local load-serving utility by the end-use customer that is the purchaser of SunEdison’s solar-generated electric energy, SunEdison is likewise not making a sale “at wholesale,” i.e., a “sale for resale.” In these circumstances, SunEdison’s sales of electric energy to end-use customers are not subject to the Commission’s jurisdiction under Part II of the FPA.”).

²¹⁷ ORS 469A.210(2)(a).

²¹⁸ AR 622, at 14; OAR 860-091-0040(1).

²¹⁹ CEP Table 12.

PacifiCorp’s CEP analysis filed May 31, 2023 identifies the cost of SSR compliance compared to the system-wide preferred portfolio.²²⁰ This cost differential is key to assessing the cost of compliance with Oregon mandates. Regarding the suggestion to analyze cases P04-Huntington RET28 (Early retirement of Huntington 1 in 2028) and P17-Col3-4 RET25 (Colstrip units 3 and 4 retire end of 2025) with the small-scale resource additions for the CEP, the analysis could not reasonably lead to an actionable portfolio. This is because Oregon will no longer participate in these resources, and to the extent that small-scale resources can replace some of the generation from these facilities, Oregon cannot take a share of this emitting generation – or, if Oregon did take a share, then the small-scale resources would be supplying less energy to Oregon customers and therefore the amount of SSR selected would need to be commensurately larger and more expensive. The decision to analyze P04 and P17 as presented takes into account these considerations.

The Company looks forward to working with stakeholders and the Commission on how best to implement the SSR mandate.

8. CBRE Concerns

Overall, the Energy Advocates comment that PacifiCorp adopt more robust CBRE actions. These include: more details and a sense of urgency to the CBRE Project Pilot;²²¹ identify communities with current resiliency needs to prioritize the CBRE Project Pilot;²²² look beyond PacifiCorp’s existing programs for CBRE inventories and analyses (including net-metering systems and a residential battery storage program);²²³ broaden its analyses of CBREs beyond a

²²⁰ CEP, Table 13 – System-wide PVRR(d) of 2023 IRP Relative to Small-Scale Renewables Portfolio

²²¹ Energy Advocates Round 1 Comments, at 8.

²²² *Id.* at 9.

²²³ *Id.* at 15.

levelized electricity cost comparison;²²⁴ adopt a ten percent adder for CBRE projects to appropriately reflect the full benefits of CBREs;²²⁵ the CBRE sensitivity does not account for various CBRE benefits and likely inflates costs by not accounting for Infrastructure Investment and Jobs Act (IIJA) and IRA incentives;²²⁶ and PacifiCorp’s CEP would be stronger if PacifiCorp took a leading role, rather than relying on existing programs at status-quo levels of funding.²²⁷

The Company shares a sense of urgency as it relates to its CBRE Pilot and is working to develop a set of criteria by which resilience metrics will be used as a tool for prioritization. It should be noted that the initial Potential Study, found within the section on Community-Based Renewable Energy in the Clean Energy Plan, was in fact not limited to existing programs, that the Company signaled in the filing that a broader scope would be taken in the subsequent Potential Study as a better understanding of the CBRE landscape was developed over time, and that a 10% adder was in fact used in the initial filing (See excerpts from OPUC Staff Data Requests below). And while IIJA and IRA incentives were not taken into account in the initial analysis, it is inaccurate to state that this “inflates costs”. The Company continues to refine its CBRE Pilot, has shared progress in its thinking across its multiple stakeholder engagement channels, and will continue to do so leading up to the filing for approval of the Pilot.

Regarding CBRE modeling in the CEP, PacifiCorp provided further details about how CBRE resources were modeled in the IRP Planning environment including the inclusion of a 10% cost reduction for CBRE resources to approximate the 10% “benefit adder” as suggested by Energy Advocates.

²²⁴ *Id.* at 16.

²²⁵ *Id.* at 17.

²²⁶ *Id.* at 18.

²²⁷ *Id.* at 18-20.

As noted by OPUC Staff in their current comments:

For the purposes of scenario analysis in the CEP, PacifiCorp rounded up the potential study's 95 MW to 100 MW and broke up the capacity into five, 20 MW blocks of available CBRE. Four blocks were proxy southern OR solar resources with a capacity of 29.33 percent and variable price of \$87.30/MWh.⁴⁶ One block was hydro with a capacity factor of 45 percent and variable price of \$76.50/MWh.⁴⁷ The Company had to force the model to acquire CBRE resources in the CBRE sensitivity portfolio because the model would not have otherwise selected the resources at the assigned cost.

⁴⁶ See PacifiCorp response to Staff DR 160, Aug. 30, 2023. A ten-percent cost reduction benefit was applied to the proxy solar CBRE based on a Company decision to use such a credit to be consistent with the Northwest Power Act's treatment of energy efficiency.

⁴⁷ See PacifiCorp response to Staff DR 160, Aug. 30, 2023.

OPUC Data Request 160 and PacifiCorp's response dated August 31, 2023 are included below for reference:

OPUC Data Request 160

CBRE - PacifiCorp references an assumed price of \$97/MWh for CBRE energy output. How is that value used in the modeling? Is the model required to purchase each MWh of CBRE energy output at that price?

Response to OPUC Data Request 160

As explained in the Company's response to OPUC Data Request 159, the community based renewable energy (CBRE) resources were forced on in the CBRE sensitivity portfolio, because it was not being selected as part of the least-cost least-risk solution. By "forcing on" the resources, it means they are included in the capacity expansion decision – the resources must be built (determined in the PLEXOS long-term (LT) model). The energy output of all resources, including the CBRE resources, are then determined in the short-term (ST) model where hourly load is met with least-cost

dispatch given operational parameters and constraints. The model is not required to use

Monahan Declaration

Exhibit B

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available energy from the CBRE resources but given that there are no transmission constraints limiting production from small-scale renewable (SSR) resources, it is unlikely that the model curtails any energy from the CBRE resource. Generally, the CBRE resources will produce energy as determined by the shape of the resource and incur some cost per unit of energy.

The composite CBRE resource representing 80 megawatts (MW) capacity of solar, and solar with storage, was modeled with a variable price of \$87.3 per megawatt-hour (\$/MWh). Since compensation of \$97/MWh under the Oregon Community Solar Program (CSP) has enabled some development of this type of resource, that value was used as the assumed costs for PacifiCorp’s 2023 Integrated Resource Plan (IRP). The modeled value reflects a 10 percent credit to account for additional system benefits that resources at this scale might provide, consistent with the 10 percent credit applied to energy efficiency (EE) in Oregon based on the Northwest Power Act. The CBRE resource representing 20 MW capacity of a hydro unit was modeled with a variable price of \$76.5/MWh, and also reflects the 10 percent credit.

Staff recommends that PacifiCorp consider whether additional CBRE capacity is advised, given observed demand for resiliency and growth of distribution-sited resources, and recommends PacifiCorp “study whether a CBRE program could leverage the existing demand and access new markets and opportunities with modest co-funding, such as the Inflation Reduction Act and Portland Clean Energy Fund.”²²⁸ Staff also recommends PacifiCorp describe the estimated cost and growth of planned local transmission and distribution system upgrades to accommodate load growth in Oregon load pockets, and address how these investments could be

²²⁸ Staff Round 1 Comments, at 22-23.

a foundation to stack CBRE projects for only the marginal cost, rather than the entire cost of a new substation and/or feeder.²²⁹

The CBRE landscape in Oregon is very dynamic and full of both opportunity and varied expectations at this time. As such, PacifiCorp expects to learn a great deal from the continued focus on CBRE opportunities, especially the opportunities outlined in “Group B” of the potential study with a focus on an expanded CBRE Pilot. Since filing the CEP in May 2023, PacifiCorp has witnessed significant new activity advancing CBRE Projects. Examples include funding from ODOE C-REP grants, new legislation directing counties to develop resilience plans and significant external funding available to CBRE Projects. Of note, the second round of C-REP grants announced in August included approximately 20 new projects within PacifiCorp’s Oregon service area. In response to this increased activity and funding, PacifiCorp has already shifted its focus for the proposed CBRE Pilot to leverage the demand resulting from C-REP, IRA, Portland Clean Energy Fund and other sources and focus its limited Pilot resources to support “in-flight projects”, helping communities with technical assessments of CBRE opportunities and providing modest levels of grant matching funding. This refined approach recognizes the substantial shift in the environment around CBRE opportunities since the time of filing and will likely provide much greater CBRE potential than the 3.5 MW of Group B potential outlined in the Inaugural CEP. The Company has shared its revised approach to the CBRE Pilot with Stakeholders across its three Engagement Channels during September and October of this year, as well as in additional meetings with stakeholders and partners, and expects to have the CBRE Pilot proposal ready for external input in Q1 of 2024.

²²⁹ *Id.* at 25.

9. Non-Emitting Peaking and Nuclear Resources

The Energy Advocates request a more comprehensive discussion of non-emitting peaking resources, and how PacifiCorp plans to incentivize development of this technology.²³⁰ Staff recommends PacifiCorp discuss how it can identify key events and milestones around the costs and availability of non-emitting peakers to better understand the next IRP's preferred portfolio resource mix and associated Action Plan.²³¹

In response, the Company staged the non-emitting peakers to be available in the PLEXOS model starting in 2030, outside of the action plan window and the current CEP compliance window, understanding there are technology and fueling risks. While there is uncertainty in the cost of non-emitting generating capacity and non-emitting fuels, examples of both exist today. The Company anticipates that these types of resources will improve in performance and cost-effectiveness. As discussed in the 2023 IRP, advancement of non-emitting technologies will be critical to the planned transition of our coal resources in a way that will minimize impacts to our employees and our communities. In the 2023 IRP preferred portfolio, non-emitting peakers are forecast to reach an installed nameplate capacity of 1,240 MW by 2036, with no currently foreseen additions through the remaining 20-year planning horizon. This is less than 4 percent of all identified preferred portfolio additions (including DSM selections and storage capacity) by the end of the planning period. This limited presence, combined with the present-day existence of example resources, supports the Company's position that the risks are reasonable, and the long-term plan is appropriately forward-looking.

²³⁰ Energy Advocates Round 1 Comments, at 21.

²³¹ Staff Round 1 Comments, at 44.

Next, NewSun comments that PacifiCorp should remove nuclear resources from the model and allow existing capacity to serve Oregon’s capacity needs in the near term.²³² This is because nuclear resources are “new and unproven,” and unless PacifiCorp proves the economic and technical feasibility of these resources, PacifiCorp should be required to remove these resources from its portfolio, and instead select resources that are more commercially feasible.²³³ Similarly, Sierra Club “urges PacifiCorp to evaluate future resource mixes that rely on proven and clean technologies,” and not rely on nuclear resources for PacifiCorp’s decarbonization strategies.²³⁴ Similarly, Staff recommends PacifiCorp revise Action Plan Item 1g “to go beyond monitoring to include tracking and reporting annually on key milestones, including TerraPower’s NRC Construction Permit Application, and updating the Natrium commercial online date (COD) as appropriate.”²³⁵

In response, Oregon IRP Guideline 1(a) appears to support PacifiCorp considering Natrium™ demonstration project and other emerging clean energy technologies because the Commission indicated that utility consideration of resources should specifically “not be limited to those commercially viable or nearly commercially viable resources.” IRP Guideline 1(b) also states that “risk and uncertainty must be considered” in developing an IRP and “utilities should identify in their plans any additional sources of risk and uncertainty.” Similarly, IRP Guideline 1(c) provides in part that “the primary goal must be the selection of a portfolio of resources with the best combination of expected costs and associated risks and uncertainties for the utilities and its customers.”²³⁶ Consistent with this guidance, nuclear resources considered in the 2023 IRP

²³² NewSun Round 1 Comments, at 5-6.

²³³ *Id.* at 5-6.

²³⁴ Sierra Club Round 1 Comments, at 58-59.

²³⁵ Staff Round 1 Comments, at 44.

²³⁶ Order No. 07-002, Appendix A; Errata Order No. 07-047, Appendix A.

and CEP have been intentionally limited to years outside of the action plan and CEP planning windows with the understanding that while nuclear is an existing fuel technology and exciting resource, the Natrium™ demonstration project has a long lead time that requires continued evaluation of its potential (through, for example, nuclear variant studies and acquisition path analyses).

While PacifiCorp and TerraPower continue to work together to progress the Natrium facility toward commercial operations by the end of 2030, no commercial agreement has yet been reached. As a result, PacifiCorp cannot provide meaningful tracking and reporting on TerraPower's NRC Construction Permit Application. PacifiCorp remains open to providing annual updates once a commercial agreement has been executed and PacifiCorp begins seeking regulatory approvals relating to the Natrium facility.

E. The Company's procurement strategies are sound.

NewSun comments that PacifiCorp's obligation to comply with HB 2021's emissions reductions, and to make continual progress towards those targets, should not be excused by the suspension of the 2022 AS RFP.²³⁷ As a result, NewSun requests the Commission require PacifiCorp to outline its path to compliance and how it plans to make continual progress to reduce emissions.²³⁸

Staff recommends PacifiCorp: (1) provide an update on the 2022 AS RFP suspension and current resource acquisition plans; (2) discuss impact of pausing the RFP on PacifiCorp's near-term resource targets (and also update Table 9.31 to reflect this shift in resources by type and year); (3) submit a revised Action Plan under Category No. 2 that reflects the 2022 AS RFP

²³⁷ NewSun Round 1 Comments, at 4-5.

²³⁸ *Id.* at 5.

suspension; (4) discuss the impacts and anticipated delay to other RFPs on market purchases, and executing upgrades and/or contracts from cluster study requests (and update load resource balance tables 6.11 and 6.12 along with Figure 6.4 through 6.7, and Figure 9.60); (5) discuss near term actions to issue the SSR RFP by QF 2023 (or RFI if helpful); and (6) discuss impact on annual system emissions (and provide updated Figure 1.12 that details PacifiCorp’s CO2E emissions reduction trajectory).²³⁹

RNW comments that PacifiCorp’s suspension of the 2022AS RFP “raises serious questions about the validity of the company’s 2023 IRP and CEP,” and recommends the Company either resume the RFP as soon as possible, or for the Commission to direct PacifiCorp to do so.²⁴⁰

In reply, the Company anticipates no delay in the process and issuance of the SSR RFP. Also, the 2023 IRP Update will address the RFP status change in its analysis with regard to potential impacts on the preferred portfolio. This will include an updated assessment of the 2023 IRP action plan, avoiding the duplicative nature of reworking the filed IRP at the same time.

Pertaining to the 2022 AS RFP, PacifiCorp has no revised plan or substantive updates available at this time and is actively working to incorporate a number of updated assumptions as part of portfolio development for its 2023 IRP Update, anticipated to be filed April 1, 2024. The result will be comprehensive changes to the portfolio, and not just specific line items that could be modified in a few figures in the filed 2023 IRP. In parallel with the modeling updates, the Company has engaged in a bilateral effort to procure commercially viable battery technology by June 1, 2026 to ensure that such near-term opportunities remain available. The completion of the

²³⁹ Staff Round 1 Comments, at 64.

²⁴⁰ RNW Round 1 Comments, at 5-6.

2023 IRP Update should provide clearer direction on any resource needs spanning the timeframe of the 2022AS RFP and indicate the appropriate next steps.

III. CONCLUSION

PacifiCorp appreciates the opportunity to respond to stakeholder comments and looks forward to continuing the discussion on these important issues.

Respectfully submitted this 1st day of December, 2023.



Matthew McVee
Vice President, Regulatory Policy & Operations
PacifiCorp

February 14, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

RE: LC 82—PacifiCorp’s Comments on Staff Report

PacifiCorp d/b/a Pacific Power submits for filing its Comments on the Staff Report in the above-referenced docket.

Please direct any questions to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,

/s/ Zachary Rogala
Zachary Rogala
Attorney for PacifiCorp

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
LC 82**

In the Matter of
PACIFICORP, dba PACIFIC POWER
2023 Integrated Resource Plan

PacifiCorp’s Comments on Staff Report

I. INTRODUCTION

On February 7, 2023, Oregon Public Utility Commission (Commission) Staff filed its Report and Final Recommendation (Report) on PacifiCorp d/b/a PacifiCorp Power’s 2023 Integrated Resource Plan (IRP) and 2023 Clean Energy Plan (CEP). Staff recommends the Commission partially acknowledge the IRP; decline to acknowledge the CEP; require the Company to revise and resubmit aspects of the IRP and CEP and engage in additional acknowledgement processes; and consider additional requirements or guidance for the Company’s upcoming small-scale renewable request for proposals (SSR RFP).

The Company respectfully requests the Commission reject several Staff recommendations, and instead either fully or partially acknowledge the 2023 IRP and CEP, and if the Commission has any concerns with the 2023 IRP Update, recommend the Company workshop these issues in the ongoing 2025 IRP and CEP stakeholder engagement processes.

II. ARGUMENT

After two years of stakeholder discussions and internal planning efforts, PacifiCorp submitted its 2023 IRP and CEP for the Commission’s review in May of 2023. Consistent with Commission requirements and guidance, these documents reflect least-cost, least-risk strategies that are based on then-available information. Because resource procurement planning is a

dynamic process, these strategies will always become stale due to evolving facts or market conditions that will inevitably occur after these planning documents are filed.

Yet Staff recommends not acknowledging portions of PacifiCorp’s 2021-2023 planning efforts. This recommendation is not based on a perceived or actual conflict with Commission IRP or CEP regulations or guidance. Rather, Staff relies on the proposition that because of post-submission changed circumstances—like the suspension of the 2022 All-Source RFP (2022AS RFP) and stay of the U.S. Environmental Protection Agency’s Ozone Transport Rule—that approval would not be in the public interest,¹ and that these events justify material revisions and additional acknowledgment processes for the 2023 IRP Update and CEP.² To that end, Staff’s Report includes thirteen recommendations that support partial acknowledgment of the IRP, and revision and resubmission of the CEP; over fifty expectations for the IRP Update, 2025 IRP, and CEP; and approximately a half-dozen requirements and recommendations for the SSR RFP.

The Company is committed to continue working with stakeholders and Staff to improve the IRP, CEP, and SSR RFP processes. Yet several of Staff’s recommendations are unreasonable, unduly burdensome, would establish unworkable precedent, and call into question what value the Commission’s multi-year resource IRP and CEP planning processes provide. This is

¹ See, e.g., Attachment A to Staff Report at 12; 53 (“Despite the good work and hard effort of PacifiCorp staff, the decisions to both suspend the 2022 AS RFP and push all necessary revisions of LC 82 analysis to the IRP Update mean Staff and stakeholders lack the shared analytic understanding for making many of the needed acknowledgement recommendations required of this IRP/CEP.”); *Id.* at 14 (“CEP acknowledgement hinges upon a finding that the CEP is, “in the public interest and consistent with the clean energy targets...” of HB 2021. The recent order in UM 2273 provides an excellent overview of the public interest factors for valuating a CEP. As noted above, given the Company’s unwillingness to revise its analysis, Staff recommends not acknowledging the CEP.”).

² See, e.g., *Id.* at 3 (“Because PacifiCorp will not voluntarily make changes to this IRP/CEP, some of the most important issues before us lack a shared analytic foundation from which an acknowledgement determination can be made.”).

especially the case where, after two decades of IRP guidance and almost two years of HB 2021 investigations, Staff does not rely on a single Commission IRP regulation or guidance from UM 2225 to support its recommendations. Further, some of Staff’s recommendations are well beyond the scope of LC 82. This includes the specific requirements for the Company’s SSR RFP, a document that has not been submitted for stakeholder or Commission review in this proceeding.

PacifiCorp urges the Commission to reject Staff recommendations that would require any further revisions, resubmissions, or subsequent acknowledgment processes, and instead acknowledge the 2023 IRP and CEP—either fully or partially—as initially filed. This would avoid the additional unnecessary and taxing processes suggested by Staff. And if the Commission has any concerns with either document, it should direct the Company to collaborate with stakeholders and address material changes to the 2023 IRP and CEP (including those highlighted by Staff) in the current 2025 IRP and CEP planning processes.

A. The Commission should acknowledge the 2023 IRP and CEP as originally submitted.

Among others, Staff recommends the Commission: (1) not acknowledge IRP action plan elements 2b and 2c, the preferred portfolio, or the long-term plan; (2) direct PacifiCorp to seek acknowledgement of a revised Preferred Portfolio and Action Plan in the planned 2023 IRP Update; (3) not acknowledge the CEP and direct PacifiCorp to revise and resubmit with its 2023 IRP Update; (4) not acknowledge Action Plan items 1h and 2a; (5) fix analytical errors in the Company’s granularity adjustments; (6) update the action plan to incorporate additional information regarding Sodium and non-emitting peaking resources since May

2023; and (7) address additional SSR RFP requirements.³ Each of these recommendations are intended to allow the Commission and Stakeholders to revisit the 2023 IRP and CEP based on new events and circumstances, or consider issues outside the scope of the docket.

The Commission should reject Staff’s recommendations, and acknowledge both documents as originally filed.

First, Staff’s post hoc review processes are contrary to the intent of the Commission’s IRP and CEP authorities, which support acknowledgement based on the information and conditions that were known and reasonable at the time of submission. Changed circumstances, including market fluctuations and changing regulatory requirements, are *always* expected after the submission of an IRP and CEP. This reality is incorporated in IRP or CEP modeling, which “freezes” planning assumptions and methodologies at a certain point to accommodate the extensive time that is needed for modeling and computing processes, post-modeling analysis, public outreach, and subsequent drafting periods.

After these years-long processes, the Company presents its final work product for the Commission’s review to determine if the IRP and CEP warrants acknowledgment based on then-relevant assumptions and information. For example: Were the Company’s price curves and load forecasts reasonable? Did the modeling adequately reflect pertinent federal, state, and local policies? How did the Company address stakeholder feedback gleaned from prior planning cycles? Were the Company’s procurement strategies appropriate at the time of submission? Has the Company reasonably demonstrated a continual reduction in greenhouse gas emissions? This is a deliberate process that evaluates developments over a two to three-year interval since the previous plans were submitted. This is not an ongoing, real-time

³ See, e.g., Report, Appendix A, 55-56.

assessment of the Company’s twenty-year planning efforts, because there are distinct beginning and end periods to IRP and CEP review cycles. Only the information available up to the point of each document’s submission is relevant.

Nevertheless, Staff argues that post-submission changes in circumstances renders the 2023 IRP “moot” and “obsolete,” which should prevent acknowledgment.⁴ This argument is based on the flawed premise that an IRP and CEP should be judged not as a *snapshot* of the reasonableness at the time of filing, but rather as a continuous *time-lapse* of resource planning, with post-submission changes in external circumstances constituting a basis for non-acknowledgment. Respectfully, if post-submission changes in circumstances can negate the Company’s and stakeholder’s extensive multi-year efforts, it casts doubt on the fundamental purpose of mandated resource planning processes.

The Commission’s historic approach reflects a more pragmatic approach, where the Commission typically requires the Company to incorporate post-submission changes in circumstances in specific analyses or discussion in the *next* planning cycle.⁵ This contrasts with Staff’s current recommendation, which supports extensive remodeling of the CEP in the *current* cycle. In line with the Commission’s historic approach, the Company has already commenced public input meetings for the 2025 IRP and CEP, drafts of both documents are anticipated to be filed in under a year, with final drafts filed by March 31, 2025. This timeline will incorporate the specific changes that have occurred since the 2023 IRP and CEP were filed, including those identified by Staff.

⁴ Report at 3-4.

⁵ See e.g., LC 77, Order No. 22-178 (the Commission directed PacifiCorp to fully assess the potential for gas conversion, use of hydrogen, biofuel, or other lower-carbon fuels, or alternative coal stockpiles or supply methods for Jim Bridger 3 and 4 in its next IRP cycle).

Second, Staff’s recommendation would establish unreasonable precedent, because it would result in a perpetual IRP or CEP acknowledgment process. For example, the Company submitted its 2023 IRP and CEP on May 31, 2023, and it has already taken 8 months and three rounds of comments to reach this stage. Despite these substantial efforts, Staff would compel the Company to resubmit its IRP or CEP, and the Commission and stakeholders to re-start the acknowledgment processes. Given that the energy sector is experiencing some of the greatest rates of change in the past century, Staff’s recommendation would support continual IRP and CEP acknowledgment processes to accommodate ever-changing circumstances—all for proceedings that the Commission thought would require less than six months to conclude.⁶

That is Sisyphean. It is unreasonable, not only because it is needlessly drawn-out and administratively taxing, but also because the 2025 IRP and CEP are due in just over one year, which could result in concurrent review of two distinct IRPs and CEPs. Indeed, Staff does not propose a specific timeline for its proposed additional processes, except that it “plans to work quickly to review the CEP once it is filed.”⁷ Should the Commission adopt this recommendation, and delay the timeline for issuing acknowledgement orders for the 2023 planning documents, there may not be sufficient time to incorporate any Commission directives in the forthcoming 2025 IRP and CEP.

Third, while Staff has several reasonable suggestions, many are excessively onerous and beyond the scope of this docket.⁸ Consider just one category: Staff’s requirements for the

⁶ See UM 1056, Order No. 07-002, at 10-11 (“The IRP process has become more complex, with more analysis of risk and uncertainty in resource acquisition strategies. In light of this fact, and the process needed to allow an opportunity to fully review and comment on an IRP, we retain the proposed six-month review period.”).

⁷ Staff Report at 8.

⁸ Appendix A below provides PacifiCorp’s general responses to Staff’s thirteen recommendations.

upcoming SSR RFP. Understanding that the Commission’s competitive bidding requirements do not apply to the SSR RFP,⁹ PacifiCorp tailored the SSR RFP to accommodate both sophisticated and novice bidders by streamlining and simplifying the SSR RFP and its contracting process. Nonetheless, the Company and Staff wanted to provide an opportunity for stakeholders to review and comment on the SSR RFP prior to release. That occurred outside LC 82, in a variety of informal discussions that culminated in a pre-issuance bidder workshop held on January 24, 2024. And while Staff participated in some of these discussions (though not all), Staff included several specific requirements and recommendations on the SSR RFP in this proceeding.

These requests are not proper for Commission review, as the Company has not submitted the SSR RFP for investigation in this docket. Because of that fact, it would violate Company and Stakeholder due process rights to consider these recommendations, as no party has been given notice that this was an issue for consideration in LC 82, nor the opportunity to be heard.

Yet on the merits, Staff’s recommendations are even more problematic. Some are prohibited by Commission regulations.¹⁰ Others seek to transform the current fast-track RFP process into a full-blown RFP subject to the Commission’s competitive-bidding

⁹ See, e.g., OAR 860-089-0100(1) (applying to resources larger than 80 megawatts).

¹⁰ Compare Report, Attachment C at 2 (stating that ODOE RPS certification is “optional” and WREGIS requirements are not required); with OAR 860-091-0030(1) (requiring that SSR projects “must be an Oregon RPS-approved generator,” which requires resources to secure WREGIS generation unit IDs) and AR 622, Order No. 21-464, at 12 (the Commission confirmed “we require the small-scale generators be certified as RPS-eligible by the Oregon Department of Energy (ODOE),” and the Commission continued: “To have a clear and straightforward verification process for project eligibility, projects should be on ODOE’s publicly available list of RPS-approved facilities.”).

requirements,¹¹ while others seek to apply community benefit indicator (CBI) metrics from the current CEP to the SSR RFP, while at the same time recommending the Commission decline to acknowledge the CEP that includes those same and similar CBIs.¹² Others still seek to allow energy storage projects to qualify, allow contracts to be individually negotiated and structurally modified, reduce the minimum size requirement down to 25 kW, and include additional scoring parameters and metrics.

These requests would defeat the purpose of the SSR RFP, which the Company has fast-tracked to procure as many 3-20 MW resources as possible to begin to meet the Company's SSR mandate. If accepted by the Commission, the Company will be forced to consider alternative procurement strategies, including shelving the SSR RFP for more reasonable options.

Fourth, IRP or CEP acknowledgment should not be confused with prudence review, nor a substitute for resource procurement or rate-making decisions. IRPs and CEPs *inform* the Company's procurement strategies, they do not *control* those strategies. This is why these documents are subject to acknowledgment rather than pre-approval of specific resources or procurement actions. Rigid adherence to plans without the ability to accommodate new developments can lead to procurement decisions that may not align with the best interests of the customers. That is why the prudence of procurement decisions are typically evaluated within

¹¹ See, e.g., Report, Attachment C at 4 (requiring PacifiCorp to allow for contract red-lines, based on the Commission's decision on Portland General Electric's 2023 All-Source Request for Proposals—an RFP subject to the Commission's competitive bidding requirements, unlike the SSR RFP which is not); *Id.* (requiring PacifiCorp to include more information on the scope of PacifiCorp's voluntarily hired Independent Examiner based on the Commission's decision on PacifiCorp's 2022 AS RFP—again, an RFP subject to the Commission's competitive bidding requirements, unlike the SSR RFP which is not).

¹² *Compare* Report, Attachment C at 3 (requiring additional CBI metrics from LC 82), *with Id.* at 2 (recommending rejection of CEP, which includes CBIs, until after resubmission and subsequent acknowledgment process).

rate cases, and not in planning documents that are filed several years before resources have been acquired. Insisting on additional process in response to post-submission events that impact the Company's procurement efforts misses the mark on the purpose of utility planning processes and the Commission's acknowledgment standard of decision.

Fifth, Staff's recommendation conflicts with Commission regulations. Electric utilities retain the discretion to request acknowledgment of an IRP Update.¹³ Because the Company does not plan to seek acknowledgment of the IRP Update (a power that the Commission vested with the Company and not with Commission Staff), and because Commission Staff has not requested a waiver of Commission regulations to require PacifiCorp to do so, the Commission should decline Staff's request.

This regulation reflects the Commission policy that it is not appropriate to mandate an electric utility to seek acknowledgment of an IRP Update. This is because the IRP Update serves a distinctly different purpose than a comprehensive IRP. The IRP Update is an "informational filing" that serves as a mid-process evaluation of the 2023 IRP's performance;¹⁴ it incorporates changes in key assumptions like demand and pricing, describes actions the Company has taken to implement the action plan, and additional considerations based on the unique aspects of the current IRP cycle.¹⁵ Thus, the scope of IRP Updates is intentionally narrow, and does not substantially overhaul the Company's methodologies, embedded reports, foundational assumptions of the original IRP, or involve the comprehensive stakeholder efforts that inform a typical IRP.

¹³ OAR 860-027-0400 ("The energy utility *may* request acknowledgment of changes, identified in its update, to the IRP action plan.") (emphasis added).

¹⁴ OAR 860-027-0400(8).

¹⁵ OAR 860-027-0400(8)(a)-(c).

Consequently, the IRP Update is an extension of the original IRP, not a redo or a replacement that requires a distinct acknowledgment procedure. The Company understands the concerns raised by Staff and stakeholders regarding impacts from the 2023 IRP Update. Nonetheless, Commission regulations confirm that these impacts are the exact reason for IRP Updates—to provide the Commission with a mid-cycle review of the Company’s preferred portfolio and action plan.¹⁶ In line with Commission regulations, the 2023 IRP Update will highlight significant changes since the submission of the 2023 IRP, and will identify any necessary adjustments for the forthcoming IRP. Meanwhile, the ongoing 2025 IRP and CEP stakeholder engagement processes will incorporate these insights accordingly.

Sixth, Staff’s recommendation to revise and refile the CEP by April 1, 2024 is unrealistic. The Company represents that it is not possible to meet an April 1, 2024, compliance deadline. And while the Company appreciates that Staff recommends an additional four to eight weeks to incorporate any changes to the CEP if the Company cannot file by April 1, 2024,¹⁷ even assuming a narrow CEP update (much narrower than Staff’s overall CEP recommendations), it will require four to six months to incorporate impacts from the 2023 IRP Update on the Company’s CEP compliance strategies.

To illustrate this point, Staff suggests that the Company’s CEP compliance pathways should be updated and revised to account for post-submission changes in circumstances.¹⁸ To do so, it is necessary to reexamine the Oregon-allocated CEP analysis that underpins it.¹⁹

¹⁶ OAR 860-027-0400(9) (requiring utilities to file IRP updates as soon as there are “significant deviation[s]” from the previous IRP, but importantly, subject to the processes of -0400(8) which only allows for acknowledgment if the Company requests).

¹⁷ Report, at 8.

¹⁸ Report, Attachment A at 1.

¹⁹ PacifiCorp 2023 CEP, page 65.

Even ignoring the sensitivity studies used to validate and inform final strategies, this analysis hinges on the Company's Small-Scale Renewable Portfolio Development.²⁰ This would require an updated preferred portfolio to determine the volume of small-scale contributions that would result from Staff's identified post-submission changed circumstances.²¹ Further, the 2023 IRP Update will not revise CEP compliance pathways that depend on multi-state protocol allocations. Yet as outlined in the Company's Round 1 reply comments, compliance with HB 2021 requires consideration of the Company's allocation of existing and new resources.²² Revising these pathways involves several months of work, including collaborative efforts necessary to advance the CEP's pathways recommendations in the multistate allocation processes, and based on these developments, the 2025 IRP and CEP may need to consider additional compliance pathways that were initially dismissed in the 2023 CEP.

These analyses and discussions would monopolize the time of the Company's IRP and MSP teams, with updates to data, modifications to models, execution of Plexos simulations, assimilation and analysis of results, preparation of new data disk, publication of revised documents, and subsequent MSP negotiations and discussions. This would be more than just distracting and burdensome—the efforts would be redundant because the Company will address these post-submission changes in the forthcoming 2025 IRP and CEP, a process that is already focused on revising and improving the Company's planning efforts.

IRP and CEP action plans require the flexibility to adapt to unforeseen changes that may arise after submission. This approach is practical, and aligns with the Commission

²⁰ *Id.* at 63.

²¹ *Id.* at 56.

²² PacifiCorp's Round 1 Reply Comments, page 31 ("Yet these protocols can only be addressed with MSP stakeholders, where Commission and Staff leadership and collaboration will be vital.").

guidance which accepts the fact that analytical precision is neither expected nor necessary for utility planning documents.²³ Moreover, the Company will address the post-submission changes in Staff’s Report in the upcoming 2025 IRP and CEP cycle. In light of this, PacifiCorp respectfully requests the Commission deny any further updates, revisions, or acknowledgment procedures related to the Company’s IRP and CEP, and acknowledge the 2023 IRP and CEP as submitted.

B. Alternatively, the Commission should partially acknowledge the 2023 IRP and CEP and direct the Company to address post-submission changes in its next planning cycle.

If the Commission agrees that suspension of the 2022AS RFP or stay of the OTR are relevant to the 2023 IRP and CEP, instead of requiring additional process, the Commission should simply partially acknowledge the 2023 IRP and 2023 CEP as filed.²⁴ Similar to past acknowledgement orders, the Commission could direct the Company to specifically address these post-submission changes in circumstances in the forthcoming 2025 IRP and CEP.²⁵ While partial IRP and CEP acknowledgement is not preferred, the Company notes that many of its recent IRP filings have only been partially acknowledged.²⁶ PacifiCorp is aware of the

²³ LC 78, Order No. 23-004 at 2 (“The IRP process is intended to be iterative. Where weakness in the analysis or issues are identified, stakeholder participation can help identify alternatives and improvements to the action plan or analysis in the next IRP. Utilities should respond proactively to the concerns of stakeholders and consider alternatives. Ultimately, an acknowledged plan will become a working document for use by the utility, the Commission, and other interested parties in Commission proceedings.”); UM 2279, Order No. 24-002 at 30 (“Planning is, by its nature, indicative and strategic, not determinative or certain, and HB 2021 places its continual progress requirements firmly within the planning context. As CEPs and IRPs are planning exercises, evaluating continual progress will similarly be directional, with the ability to look at actual performance in the next round of IRPs, CEPs, and updates and use that information to adjust forward direction and, ultimately, to inform rate case and compliance decisions.”).

²⁴ While Staff suggests an additional process for the 2023 IRP Update and advocates for a resubmitted CEP, they also recommend partial acknowledgment of the IRP. Report at 1.

²⁵ See e.g., LC 77, Order No 22-178 at Appendix B (directing the Company to preform various analyses in its next IRP cycle).

²⁶ *Id.* at 1 (“We acknowledge all but one set of the actions items in PacifiCorp’s IRP. . . .”).

regulatory risks with partial acknowledgment, and this result would be notably preferable to a second 2023 IRP and CEP resubmission and acknowledgment process.

For instance, the Commission could acknowledge the generally uncontested IRP components listed in Table 1 of Staff's Report, which includes eleven action plan items and the Company's load forecast,²⁷ and Staff's other recommendations within Attachment A to Staff's Report that do not require additional revisions, resubmissions, or acknowledgement processes.²⁸ Conversely, the Commission could agree with Staff and not acknowledge PacifiCorp's nine action plan items, the preferred portfolio, and the long-term IRP strategy identified in Table 1. Either option would avoid additional process, and any remaining concerns pertaining to post-submission changes in circumstances can be addressed in future planning proceedings.

Similarly, regarding the CEP the Commission could acknowledge Chapters II-V (regarding community engagement, CBIs, resiliency, and community-based renewable energy (CBRE)), not acknowledge Chapters VI-VIII (regarding resource planning, greenhouse gas emissions, and CEP action plan), and direct PacifiCorp to work with Staff and Stakeholders on any additional concerns from Staff's recommendation in the lead up to the 2025 CEP.

There comes a point in time when Commission acknowledgment processes need to end, and the Company and stakeholders can focus on the next planning cycle. It has been eight months since the IRP and CEP were filed (including three rounds of comments), and eleven months since the draft IRP submission. An additional acknowledgment proceeding could conceivably extend another 5-10 months. This would overlap with the 2025 IRP and CEP

²⁷ Staff Report at 5.

²⁸ Attachment A provides additional detail on PacifiCorp's response to Staff's specific recommendations.

engagement processes, which will necessarily evaluate how the suspension of the 2022 AS RFP or stay of the OTR should be considered in the 2025 IRP and CEP.

Given the current circumstances—where Staff’s recommendation is not based on any actual or perceived conflict with Commission IRP or CEP regulations or guidance—PacifiCorp believes that stakeholder efforts would be more effectively directed in partial acknowledgment of the current IRP and CEP, rather than prolonging these proceedings any further.

C. If the Commission has lingering concerns, it can investigate issues from the 2023 IRP Update in the current 2025 IRP and CEP stakeholder processes, or schedule additional workshops if necessary.

The Company believes that the current 2025 IRP and CEP public input meetings will provide sufficient opportunities for stakeholder investigation of the 2023 IRP Update. In particular, the 2022 AS RFP yielded extensive insights regarding new generating assets, especially renewable and battery storage options, within PacifiCorp’s service area across six states, along with the prevailing market rates for wind, solar, and battery storage. This valuable information has been integrated into the 2023 IRP Update, and over the course of the next year, the Company will use this information in collaboration with stakeholders to create its 2025 IRP and CEP.

However, should it find it necessary, the Commission could order additional workshops to address Staff’s concerns with the 2023 IRP Update. This could serve as a reasonable middle-ground that responds to Staff’s issues, while avoiding subsequent acknowledgment processes. Nonetheless, any such workshop should be future-oriented, narrowly focused, time-constrained, and concentrate specifically on how the provisions of the 2023 IRP Update could influence the upcoming 2025 IRP and CEP.

Whatever approach the Commission takes, it should salvage efforts from the current acknowledgment process, and avoid a broad update of the 2023 CEP. This is underscored by the fact that Staff's recommendations are not based on any actual or perceived conflict with the Commission's IRP or CEP regulations or guidance, but rather on the general proposition that post-submission events *require* the Commission to conclude that the plans are not in the public interest under ORS 469A.420(2).

Respectfully, while the Commission's public interest powers are broad, that statute cannot bear the weight that Staff places upon it. Especially when the recommendation would reject the Company's multi-year IRP and CEP planning efforts, and require material additional processes.

III. CONCLUSION

The Commission should acknowledge, either in full or in part, PacifiCorp's 2023 IRP and CEP as originally submitted, and address any remaining issues in the ongoing 2025 CEP and IRP stakeholder processes.

Respectfully submitted February 14, 2024,

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IV. APPENDIX A: Summary of Responses to Staff Recommendations 1-13

Staff Rec. No.	Staff Recommendation	PacifiCorp Response
1	Do not acknowledge the IRP action plan elements 2b and 2c, the IRP’s preferred portfolio, or the IRP’s long-term plan.	<p>Disagree - Staff’s recommendation is based on the flawed premise that an IRP and CEP should be judged not on its reasonableness at the time of filing, but rather as if it were a continuously updated snapshot of resource planning, with post-submission changes in external circumstances constituting a basis for additional processes and non-acknowledgment. The Commission should recognize that these documents, while perhaps not valid into perpetuity, were considered reasonable given the circumstances at the time of their submission. This approach respects the inherent constraints of IRP or CEP projections, which rely on set planning assumptions and methodologies, or a “freeze,” to facilitate the lengthy process of modeling, computing, and detailed post-modeling analysis, all following an extensive period of public engagement.</p> <p>The Company asserts that changes in external circumstances after submission do not justify non-acknowledgment or additional processes. Staff concerns about post-submission changes in external circumstances will be addressed in the 2025 IRP and CEP and through associated public engagement. In the alternative, the Commission should partially acknowledge the 2023 IRP and CEP as submitted, or schedule a workshop to investigate additional issues in the 2025 IRP and CEP.</p>
2	Direct PacifiCorp to seek acknowledgement of a revised Preferred Portfolio and Action Plan in the planned April 2024 IRP Update	<p>Disagree - See PacifiCorp’s response to Staff Recommendation 1. Furthermore, Staff’s recommended additional process will further exhaust the limited resources of the Commission, stakeholders, and the Company, diverting attention from the development of the 2025 IRP and CEP to an additional, onerous, and unnecessary acknowledgment process for the 2023 IRP Update. As explained in Section 2A of the brief, the IRP Update serves a fundamentally different purpose than the IRP itself, and the Company is not requesting acknowledgement of the IRP Update as contemplated in OAR 860-027-0440. Staff concerns about post-submission changes in external circumstances will be addressed in the 2025 IRP and CEP and through associated public engagement. In the</p>

		alternative, the Commission should partially acknowledge the 2023 IRP and CEP as submitted, or schedule a workshop to investigate additional issues in the 2025 IRP and CEP.
3	Do not acknowledge the LC 82 CEP and direct PacifiCorp to revise and resubmit the CEP with its April 2024 IRP Update.	Disagree - See PacifiCorp’s response to Staff Recommendation 1. Furthermore, Staff’s recommended additional process will further exhaust the limited resources of the Commission, stakeholders, and the Company, diverting attention from the development of the 2025 IRP and CEP to an additional, onerous, and unnecessary acknowledgment process for a resubmitted CEP. This is in addition to the minimum 4-6 months it would take to incorporate results from the 2023 IRP Update into the 2023 CEP. Staff’s concerns about post-submission changes in external circumstances will be addressed in the 2025 IRP and CEP and through associated public engagement. In the alternative, the Commission should partially acknowledge the 2023 IRP and CEP as submitted, or schedule a workshop to investigate additional issues in the 2025 IRP and CEP.
4	Do not acknowledge Action Plan items 1h and 2a.	Disagree - See PacifiCorp’s response to Staff Recommendation 1.
5	Direct PacifiCorp to develop proposals for the use of CBIs in scoring in the SSR RFP, in the design of the CBRE pilot, and in scoring for the next all-source RFP	Disagree - Staff’s recommendations are outside the scope of the 2023 IRP and CEP, prohibited by Commission regulations, unreasonable, or otherwise seek to apply the Commission’s competitive bidding requirements to an RFP that is not subject to those regulations.
6	Direct PacifiCorp to provide baseline metrics prior to filing its next IRP/CEP Update. If PacifiCorp cannot complete this effort by this timeline, PacifiCorp should provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable.	Disagree - PacifiCorp developed baseline metrics to understand the current state within its service regions to assess the progress of CBIs in the Oregon 2023 Clean Energy Plan filing. PacifiCorp has identified six CBIs and 14 proposed metrics for the Company’s Clean Energy Plan. PacifiCorp noted these other metrics in the CEP filing: <ul style="list-style-type: none"> • ENS reliability metrics for the portfolios analyzed in the CEP. • Oregon-allocated CO₂ emissions and Emissions Reductions, for its CEP • Metric for percent renewables/non-emitting resource mix. • Deterministic cost and stochastic risk metrics for each portfolio related to PVRR and PVRR(d)

		PacifiCorp considers its CBIs and metrics as interim, meaning they will adapt over time. The continued development and refinement of PacifiCorp’s CBIs will leverage continued stakeholder engagement and input. Resiliency metrics are also under development. Stakeholder input will be critical to formalizing the CBIs and metrics.
7	Direct PacifiCorp to proceed with the CBRE Grant Pilot, contingent on the Company seeking feedback from the CBIAG in Q1 2024.	Agree - PacifiCorp will proceed with the CBRE Grant Pilot, contingent on the Company seeking feedback from the Community Benefits and Impacts Advisory Group (CBIAG) in Q1 2024.
8	Direct PacifiCorp to work collaboratively with Staff, stakeholders, peer utilities, and the CBIAGs in a dedicated working group to develop clear, actionable improvements to community and stakeholder engagement in subsequent IRP/CEPs by December 31, 2024. If PacifiCorp cannot complete this effort by this timeline, PacifiCorp should provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable, inclusive of the perspectives of peer utilities and the utilities’ CBIAGs.	Agree - PacifiCorp currently works collaboratively with staff, stakeholders, peer utilities, and the CBIAGs in a dedicated working group and plans to continue to do so. The dedicated working group will develop clear, actionable improvements to community and stakeholder engagement in subsequent IRP/CEPs by December 31, 2024. If PacifiCorp cannot complete this effort by this timeline, PacifiCorp will provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable, inclusive of the perspectives of peer utilities and the utilities’ CBIAGs.
9	The SSR RFP incorporates into project selection criteria appropriate elements of the current Resiliency Analysis Framework and the CBRE Pilot be designed to promote resiliency related factors	Disagree - See PacifiCorp’s response to Staff Recommendation 5.

10	Direct PacifiCorp to fix any confirmed analytical errors in the calculation or application of granularity adjustments.	Disagree - See PacifiCorp's response to Staff Recommendation 1.
11	Direct PacifiCorp to update Action Plan Item 1g to reflect actual events since the IRP/CEP was filed in May 2023	Disagree - See PacifiCorp's response to Staff Recommendation 1.
12	Acknowledge Action Item 4a to acquire cost-effective energy efficiency and demand response resources.	Agree - The Company agrees with Staff's recommendation to acknowledge action items 4a to acquire cost-effective energy efficiency and demand response resources.
13	Acknowledge updated avoided costs from the 2023 IRP planning and direct PacifiCorp to work with Staff and Stakeholders to update avoided costs for use in UM 1893 considering HB 2021 constraints.	Agree - The Company supports the use of the most recent data available whenever possible and will provide energy efficiency avoided cost input data in UM 1893 as directed. The Company would note that incorporating 2023 IRP and CEP results into energy efficiency avoided cost inputs is not straightforward and will work with Staff and Stakeholders to reflect HB 2021 constraints.

February 20, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

RE: LC 82—PacifiCorp's Reply Comments

PacifiCorp d/b/a Pacific Power submits to the Public Utility Commission of Oregon for filing its Reply Comments in the above-referenced docket.

Informal inquiries may be directed to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,



Matthew McVee
Vice President, Regulatory Policy and Operations

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
LC 82**

In the Matter of
PACIFICORP, dba PACIFIC POWER
2023 Integrated Resource Plan

PacifiCorp’s Reply Comments

INTRODUCTION

PacifiCorp d/b/a PacifiCorp Power submits this reply to the seven public comments received on PacifiCorp’s 2023 Integrated Resource Plan (IRP) and 2023 Clean Energy Plan (CEP), to help organize the various party positions and inform the Commission’s deliberations. After considering the issues, the Commission should acknowledge, either in full or in part, PacifiCorp’s 2023 IRP and CEP as originally submitted, and address any remaining issues in the ongoing 2025 CEP and IRP stakeholder processes.

Respectfully submitted February 20, 2024,

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Appendix A – Summary of PacifiCorp Responses and Replies to Staff’s Initial and Subsequent Public Comments

Staff Recommendations				
No.	Staff Recommendation (February 7, 2024)	PacifiCorp Response (February 14, 2024)	Additional Party Comments (February 14, 2024)	PacifiCorp Reply (February 20, 2024)
1	Do not acknowledge the IRP action plan elements 2b and 2c, the IRP’s preferred portfolio, or the IRP’s long-term plan.	Disagree - Staff’s recommendation is based on the flawed premise that an IRP and CEP should be judged not on its reasonableness at the time of filing but rather as if it were a continuously updated snapshot of resource planning, with post-submission changes in external circumstances constituting a basis for additional processes and non-acknowledgment. The Commission should recognize that these documents, while perhaps not valid into perpetuity, were considered reasonable given the circumstances at the time of their submission. This approach respects the inherent constraints of IRP or CEP projections, which rely on set planning assumptions and methodologies, or a “freeze,” to facilitate the lengthy process of modeling, computing, and detailed post-modeling analysis, all following an extensive period of public engagement. The Company asserts that changes in external circumstances after submission do not	Various parties support Staff’s initial recommendation.	Disagree. PacifiCorp restates its initial response.

		justify non-acknowledgment or additional processes. Staff concerns about post-submission changes in external circumstances will be addressed in the 2025 IRP and CEP and through associated public engagement. In the alternative, the Commission should partially acknowledge the 2023 IRP and CEP as submitted, or schedule a workshop to investigate additional issues in the 2025 IRP and CEP.		
2	Direct PacifiCorp to seek acknowledgement of a revised Preferred Portfolio and Action Plan in the planned April 2024 IRP Update.	Disagree - See PacifiCorp’s response to Staff Recommendation 1. Furthermore, Staff’s recommended additional process will further exhaust the limited resources of the Commission, stakeholders, and the Company, diverting attention from the development of the 2025 IRP and CEP to an additional, onerous, and unnecessary acknowledgment process for the 2023 IRP Update. As explained in Section 2A of the brief, the IRP Update serves a fundamentally different purpose than the IRP itself, and the Company is not requesting acknowledgement of the IRP Update as contemplated in OAR 860-027-0440. Staff concerns about post-submission changes in external circumstances will be addressed in the 2025 IRP and CEP and through associated public engagement. In the	Various parties support Staff’s initial recommendation.	Disagree. PacifiCorp restates its initial response.

		alternative, the Commission should partially acknowledge the 2023 IRP and CEP as submitted, or schedule a workshop to investigate additional issues in the 2025 IRP and CEP.		
3	Do not acknowledge the LC 82 CEP and direct PacifiCorp to revise and resubmit the CEP with its April 2024 IRP Update.	Disagree - See PacifiCorp’s response to Staff Recommendation 1. Furthermore, Staff’s recommended additional process will further exhaust the limited resources of the Commission, stakeholders, and the Company, diverting attention from the development of the 2025 IRP and CEP to an additional, onerous, and unnecessary acknowledgment process for a resubmitted CEP. This is in addition to the minimum 4-6 months it would take to incorporate results from the 2023 IRP Update into the 2023 CEP. Staff’s concerns about post-submission changes in external circumstances will be addressed in the 2025 IRP and CEP and through associated public engagement. In the alternative, the Commission should partially acknowledge the 2023 IRP and CEP as submitted, or schedule a workshop to investigate additional issues in the 2025 IRP and CEP.	Various parties support Staff’s initial recommendation.	Disagree. PacifiCorp restates its initial response.

4	Do not acknowledge Action Plan items 1h and 2a.	Disagree - See PacifiCorp’s response to Staff Recommendation 1.	Various parties support Staff’s initial recommendation.	Disagree. PacifiCorp restates its initial response.
5	Direct PacifiCorp to develop proposals for the use of CBIs in scoring in the SSR RFP, in the design of the CBRE pilot, and in scoring for the next all-source RFP.	Disagree - Staff’s recommendations are outside the scope of the 2023 IRP and CEP, prohibited by Commission regulations, unreasonable, or otherwise seek to apply the Commission’s competitive bidding requirements to an RFP that is not subject to those regulations.	Adopt Recommendation 5 and direct PacifiCorp to develop proposals for the use of CBIs in future procurements and in the Community Based Renewable Energy Pilot. (Energy Advocates)	Disagree. PacifiCorp restates its initial response. While CBIs may be an important component of evaluating CBRE projects and supporting potential socialization of costs, the company has not finalized the CBRE framework for the pilot program. Thus is it hard to know how CBIs might or might not be useful. Incorporating CBI’s into the scoring of the SSR RFP, along with Staff’s other suggestions, would make the RFP administratively burdensome and could not be effectively completed given the current state of Commission guidance.
6	Direct PacifiCorp to provide baseline metrics prior to filing its next IRP/CEP Update. If	Disagree - PacifiCorp developed baseline metrics to understand the current state within its service regions to assess the progress of CBIs in the Oregon 2023 Clean Energy Plan filing.	Adopt Recommendation 6 and direct the Company to provide baseline metrics or a detailed status update prior to its next	Disagree. PacifiCorp restates its initial response.

	<p>PacifiCorp cannot complete this effort by this timeline, PacifiCorp should provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable.</p>	<p>PacifiCorp has identified six CBIs and 14 proposed metrics for the Company’s Clean Energy Plan.</p> <p>PacifiCorp noted these other metrics in the CEP filing:</p> <ul style="list-style-type: none"> • ENS reliability metrics for the portfolios analyzed in the CEP. • Oregon-allocated CO₂ emissions and Emissions Reductions, for its CEP. • Metric for percent renewables/non-emitting resource mix. • Deterministic cost and stochastic risk metrics for each portfolio related to PVRR and PVRR(d). <p>PacifiCorp considers its CBIs and metrics as interim, meaning they will adapt over time. The continued development and refinement of PacifiCorp’s CBIs will leverage continued stakeholder engagement and input. Resiliency metrics are also under development. Stakeholder input will be critical to formalizing the CBIs and metrics.</p>	<p>IRP/CEP Update. (Energy Advocates)</p>	
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7	Direct PacifiCorp to proceed with the CBRE Grant Pilot, contingent on the Company seeking feedback from the CBIAG in Q1 2024.	Agree - PacifiCorp will proceed with the CBRE Grant Pilot, contingent on the Company seeking feedback from the Community Benefits and Impacts Advisory Group (CBIAG) in Q1 2024.	Adopt Recommendation 7 amended as follows: “Direct PacifiCorp to proceed with the CBRE Grant Pilot, contingent on the Company seeking feedback from the CBIAG <i>and from energy justice advocates in Q1 2024.</i> ” (Energy Advocates)	Disagree. PacifiCorp restates its initial response and will seek additional stakeholder feedback before finalizing the CBRE pilot.
8	Direct PacifiCorp to work collaboratively with Staff, stakeholders, peer utilities, and the CBIAGs in a dedicated working group to develop clear, actionable improvements to community and stakeholder engagement in subsequent IRP/CEPs by December 31, 2024. If PacifiCorp cannot complete this effort by this timeline, PacifiCorp should provide a detailed status update and explanation of how it will ensure that	Agree - PacifiCorp currently works collaboratively with staff, stakeholders, peer utilities, and the CBIAGs in a dedicated working group and plans to continue to do so. The dedicated working group will develop clear, actionable improvements to community and stakeholder engagement in subsequent IRP/CEPs by December 31, 2024. If PacifiCorp cannot complete this effort by this timeline, PacifiCorp will provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable, inclusive of the perspectives of peer utilities and the utilities’ CBIAGs.	Adopt Recommendation 8 with the following amendment: “ <i>If PacifiCorp cannot complete this effort by this timeline, PacifiCorp should provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable, inclusive of the perspectives of peer utilities, energy justice advocates, and the utilities’ CBIAGs.</i> ” (The Energy Advocates). Strongly supports staff recommendation 8 that expects PacifiCorp to improve Tribal and community collaboration in future IRPs/CEPs. In doing so PacifiCorp should follow several additional principles: early and frequent communication; appropriate representation; understanding	Partially Agree. PacifiCorp is committed to continued improvement in Tribal and community collaboration in future IRPs/CEPs.

	remaining issues are resolved as soon as practicable, inclusive of the perspectives of peer utilities and the utilities' CBIAGs.		of and respect for Tribal processes; consensus-seeking approach; utility transparency and accountability. (CRITFC)	
9	The SSR RFP incorporates into project selection criteria appropriate elements of the current Resiliency Analysis Framework and the CBRE Pilot be designed to promote resiliency related factors.	Disagree - See PacifiCorp's response to Staff Recommendation 5.	No additional requests.	Disagree. PacifiCorp restates its initial response.
10	Direct PacifiCorp to fix any confirmed analytical errors in the calculation or application of granularity adjustments.	Disagree - See PacifiCorp's response to Staff Recommendation 1.	Direct PacifiCorp to fix any confirmed analytical errors in the calculation or application of granularity adjustments. <i>PacifiCorp is ordered, in the 2023 IRP Update and in future IRPs, to produce accurate and complete workpapers detailing granularity adjustments made to specific resources. Additionally, in the 2023 IRP Update, any net revenues used to calculate the</i>	Disagree. PacifiCorp restates its initial response, and notes that it is committed to working with stakeholders to improve its modeling processes in future IRP and CEP cycles.

			<p><i>granularity adjustment should be calculated based on the re-source's total fuel costs, since this reflects the full economic cost borne by PacifiCorp customers. Starting in the 2025 IRP, PacifiCorp must fully describe its granularity adjustment methodology within its IRP filing.</i> (The Energy Advocates)</p> <p>Supports Staff's recommendation 10, which addresses need to correct calculations, confirmed analytical errors, or implementation of PLEXOS granularity adjustments. Supports LOLP analysis in PLEXOS LT proposed buildout. (Renewable Northwest)</p> <p>Address IRA storage project tax credits. (Swan Lake/Goldendale)</p>	
11	Direct PacifiCorp to update Action Plan Item 1g to reflect actual events since the IRP/CEP was filed in May 2023.	Disagree - See PacifiCorp's response to Staff Recommendation 1.	Various parties support Staff's initial recommendation.	Disagree. PacifiCorp restates its initial response.

12	Acknowledge Action Item 4a to acquire cost-effective energy efficiency and demand response resources.	Agree - The Company agrees with Staff's recommendation to acknowledge action items 4a to acquire cost-effective energy efficiency and demand response resources.	Various parties support Staff's initial recommendation.	Agree. PacifiCorp restates its initial response.
13	Acknowledge updated avoided costs from the 2023 IRP planning and direct PacifiCorp to work with Staff and Stakeholders to update avoided costs for use in UM 1893 considering HB 2021 constraints.	Agree - The Company supports the use of the most recent data available whenever possible and will provide energy efficiency avoided cost input data in UM 1893 as directed. The Company would note that incorporating 2023 IRP and CEP results into energy efficiency avoided cost inputs is not straight forward and will work with Staff and Stakeholders to reflect HB 2021 constraints.	PURPA resources should be prioritized if PacifiCorp cannot move forward with aggressive procurement needs. (NewSun)	Disagree. There has not been discussion of prioritizing the procurement of PURPA resources to-date, yet PacifiCorp believe these types of topics are better in Docket UM 2000. The Company would request that, in the event the Commission partially acknowledges the 2023 IRP, it specifically address the required update to PURPA avoided costs under OAR 860-029-0085(1).
Staff Expectations				
General Staff Expectation (February 7, 2024)	PacifiCorp Response (February 14, 2024)	Additional Party Comments (February 14, 2024)	PacifiCorp Reply (February 20, 2024)	

General CBI Expectations	N/A	Elevate Staff’s CBI expectations as requirements for 2023 IRP and CEP update/revision. (The Energy Advocates).	Disagree. PacifiCorp restates its initial response to Staff Recommendation 1.
CBRE Activities Expectation	N/A	<p>Report regularly to the CBIAG <i>and energy justice advocates</i> on development including concrete and proactive activities PacifiCorp takes to reduce barriers, accelerate deployment, and expand CBRE potential. (The Energy Advocates)</p> <p>Engage the CBIAG <i>and energy justice advocates</i> on potential program designs that can scale quickly to meet community and system needs. (The Energy Advocates)</p>	Disagree. PacifiCorp is unclear why a separate and redundant stakeholder engagement process would be required, when the CBIAG is already defined by statute, and why energy justice advocates could not continue to participate in these existing processes.
Community Engagement Expectations	N/A	<p>Staff expects PacifiCorp’s CBIAG, <i>energy-justice-advocate outreach</i>, and CBI activities to better capture and document Environmental Justice community priorities. (The Energy Advocates)</p> <p>Staff encourages PacifiCorp to report on its Tribal engagement</p>	Disagree. PacifiCorp is unclear why a separate and redundant stakeholder engagement process would be required, when the CBIAG is already defined by statute, and why energy justice advocates could not continue to

		strategy by December 31 of each year to the CBIAG <i>and energy justice advocates</i> . (The Energy Advocates)	participate in these existing processes.
Resiliency Expectation	N/A	At a CBIAG meeting before the next CEP and prior to any CBRE Grant Pilot project selection, <i>and at a Clean Energy Plan Engagement Series or other venue where PacifiCorp seeks participation of energy justice advocates</i> , provide details for how a completed Resiliency Analysis Framework will be used to impact project selection. (The Energy Advocates)	Disagree. PacifiCorp is unclear why a separate and redundant stakeholder engagement process would be required, when the CBIAG is already defined by statute, and why energy justice advocates could not continue to participate in these existing processes.
Federal Incentives Expectations	N/A	PacifiCorp provides brief update at every IRP public input meeting, CEP Engagement Series meeting, and every CBIAG meeting leading up to the 2025 IRP that details the Company's activities to apply for federal incentives and detailing any funding secured. (The Energy Advocates)	Disagree. While the Company can provide general status updates on its efforts to secure federal funding in the appropriate venue, it is unreasonable to require this for every IRP, CEP, and CBIAG meeting leading up to the 2025 IRP, because those are planning activities, and not procurement efforts.

Coal-to-Gas Conversion Expectation	N/A	PacifiCorp should provide analysis around risk of regret for coal to gas conversions in its 2023 IRP Update. <i>This analysis should include realistic expectations on current pipeline capacity and the costs necessary to upgrade or build new pipelines to accommodate planned gas conversions. Regarding PacifiCorp’s plan to convert gas units to operate on hydrogen, the 2023 IRP Update should include analysis detailing when gas conversions or new gas can be converted to hydrogen, at what cost, and whether available pipelines can accommodate pure hydrogen or hydrogen blending.</i> (The Energy Advocates)	Disagree. PacifiCorp restates its initial response to Staff Recommendation 1.
Jim Bridger Coal Strategy Expectation	N/A	<i>In the 2023 IRP Update, PacifiCorp should: Utilize coal prices for Jim Bridger that are reflective of actual costs from the 2023 Long-Term Fuel Supply contract Plan.</i> (The Energy Advocates)	Disagree. PacifiCorp restates its initial response to Staff Recommendation 1.
Reliability Expectations		Supports Staff’s expectation that the Company change its capacity	Partially Agree. For the 2025 IRP, PacifiCorp is

		valuation to an ELCC or ELCC-adjacent methodology that has weather-correlated stochastic modeling. (Renewable Northwest)	planning to significantly enhance its modeling of weather-correlated variables and to consider ELCC-based capacity estimates from the Western Resource Adequacy Program (WRAP).
Candidate Resource Cost	N/A	<p>As part of the 2023 IRP Update and future IRP processes, PacifiCorp should update its renewable cost assumptions based on more the most recently available information. <i>Renewable cost assumptions should not include cost escalators that are not clearly supported by third party data, such as cost data from the National Renewable Energy Laboratory (“NREL”) Annual Technology Baseline (“ATB”) forecast.</i> (The Energy Advocates)</p> <p>Recommends elevating this expectation to a recommendation, which would require the 2023 IRP Update and future IRP processes to use the latest NREL ATB dataset. With specific recommendations for Natrium and</p>	<p>Partially Agree. PacifiCorp supports the use of third-party cost estimates where reasonable and intends to utilize National Renewable Energy Laboratory (“NREL”) Annual Technology Baseline (“ATB”) forecasts more widely in its 2025 IRP, but not in the 2023 IRP Update.</p> <p>Recent extraordinary inflation, manufacturing, and tariff issues resulted in significant cost increases, such that the NREL ATB forecast at the time the 2023 IRP was developed was significantly lower than pricing offered to PacifiCorp during its negotiations as part of its 2020 All-Source Request For Proposals. This was discussed in PacifiCorp’s October 13, 2022 public input meeting.</p>

		non-emitting peakers. (Renewable Northwest)	While PacifiCorp supports lower-cost renewable resources for customers, it is inappropriate to set unachievable expectations for project cost, particularly in the action plan window.
Additional Recommendations			
Party Comments (February 14, 2024)	PacifiCorp Response (February 20, 2024)		
Recreate CEP Figure 11 for (a) coal and (b) Oregon allocated GHG emissions comparing past IRP forecasts to actuals. This includes the charts from page 39 of Staff Comments. (CUB)	Disagree. The 2023 IRP is the first IRP that included consideration for Oregon-specific GHG outcomes and HB 2021 goals. Actual GHG emissions are reported to the OR DEQ who collect and publish the emissions data, which is third-party verified and made available to the public here: https://www.oregon.gov/deq/ghgp/Pages/GHG-Emissions.aspx .		
Provide a sensitivity that calculates Oregon-allocated GHG emissions under the assumption of no carbon prices operationalized in dispatch. This sensitivity should still be based on the Preferred Portfolio, which considers a carbon price in investment decisions. (CUB)	Agree. This can be included in the 2025 IRP/CEP.		
Propose a PacifiCorp specific carbon price that layers atop the medium carbon price the	Disagree. There is no basis in Oregon statutes or Commission regulations to support this proposal, and no correlation between planning and wildfire costs, without		

<p>Company’s annual cost from wildfires as described by CUB. (CUB)</p>	<p>considering a range of additional impacts from non-utility operations including transportation, manufacturing, and other societal activities.</p>
<p>In the next IRP, PacifiCorp should demonstrate that simultaneous compliance with all state-level policies is feasible with the Preferred Portfolio and with the Preferred Portfolio variants tested in the IRP. (CUB)</p>	<p>Partially agree. While PacifiCorp is investigating approaches to demonstrate simultaneous compliance with relevant state policies in the IRP Preferred Portfolio for future IRPs, those efforts cannot be guaranteed.</p>
<p>To improve an understanding of tradeoffs in the IRP Update and/or as part of the revised CEP, the Company should report Oregon-allocated costs and GHG emissions for the top performing IRP portfolios (inclusive of Oregon’s SSR requirement) under various allocation pathways. (CUB)</p>	<p>Partially agree. In PacifiCorp’s 2023 CEP, the Company already reported the Oregon-allocated costs and GHG emissions for all portfolios developed for Oregon that included the Oregon SSR requirement. PacifiCorp will continue to do so for future CEP filings. To the extent that PacifiCorp extends its IRP and CEP modeling approach to include the SSR requirement in more portfolios, those portfolio results could also be reported for Oregon-specific outcomes.</p>
<p>Direct PacifiCorp’s to include a GHG accounting chapter in future CEPs that: summarizes how covered electricity generation is identified because RECs are not retired on behalf of customers; there are no delivery or use claims; and explain how we report to emissions to DEQ. (The Energy Advocates)</p>	<p>Disagree. The OPUC clarified that RECs do not need to be retired to demonstrate compliance with HB 2021, as “the statute is rooted in emission reductions under DEQ’s emission tracking framework” (Commission Order No. 24-002, resolution for Issue I(a)(1)). Consistent with this conclusion, PacifiCorp must report annual Oregon greenhouse gas emissions in compliance with the Oregon DEQ’s greenhouse gas reporting rules. And as directed by the OPUC, PacifiCorp forecasts emissions in its CEP associated with serving Oregon customers for each year, based on IRP portfolios and DEQ-approved emissions factors. PacifiCorp’s CEP includes discussion of the DEQ’s approved methodology. Additional information can be found on the DEQ website: https://www.oregon.gov/deq/ghgp/Pages/GHG-Reporting.aspx#18e6fc88-58e6-4fc7-b440-b84d6979c6b4.</p>

<p>PacifiCorp’s IRP and CEP are “not technically and economically feasible” based on suspension of the 2022AS RFP. (NewSun)</p>	<p>Disagree. PacifiCorp restates its initial response to Staff Recommendation 1. It is unclear how post-submission changes in planning assumptions, like suspension of the 2022AS RFP, are relevant for documents that were filed prior to these events.</p>
<p>PacifiCorp’s CEP has not demonstrated continual progress, because of suspension of 2022AS RFP. (NewSun)</p>	<p>Disagree. PacifiCorp restates its initial response to Staff Recommendation 1. It is unclear how post-submission changes in planning assumptions, like suspension of the 2022AS RFP, are relevant for documents that were filed prior to these events.</p>
<p>No RFI necessary for long-lead time resources, instead require PacifiCorp to issue an RFP, possibly jointly, with PGE. (Swan Lake/Goldendale)</p>	<p>Disagree. Long-lead time resources are already included as proxy resources in the IRP for selection in the preferred portfolio. Additionally, long-lead time resources are eligible to participate in the All-Source RFP process.</p>

July 12, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

RE: LC 82—PacifiCorp's Reply Comments

PacifiCorp d/b/a Pacific Power submits to the Public Utility Commission of Oregon for filing its Reply Comments in the above-referenced docket.

Informal inquiries may be directed to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,



Matthew McVee
Vice President, Regulatory Policy and Operations

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of

PACIFICORP d/b/a PACIFIC POWER

2023 Clean Energy Plan and Integrated
Resource Plan

PACIFICORP
REPLY COMMENTS

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I. INTRODUCTION

On March 19, 2024, the Public Utility Commission of Oregon (Commission) issued Order No. 24-073, partially acknowledging and denying PacifiCorp’s 2023 Integrated Resource Plan (IRP) and 2023 Clean Energy Plan (CEP). In doing so, the Commission declined to require PacifiCorp seek acknowledgment of the 2023 IRP Update, or require the company to revise and

resubmit its 2023 CEP.¹ However, the Commission stated it would assess whether PacifiCorp had demonstrated continual progress towards meeting certain HB 2021 targets in subsequent IRP/CEP filings.²

PacifiCorp submitted its 2023 IRP Update on April 1, 2024. Consistent with Order No. 24-073 and OAR 860-027-0440(11), PacifiCorp did not request acknowledgment of the filing. Rather, the 2023 IRP Update served as an informational filing and a checkpoint on the direction of the 2023 IRP preferred portfolio, and contains a limited set of modeling updates from the 2023 IRP. These modeling updates are currently being discussed in the 2025 IRP public input series that began in January 2024, with consideration for incorporation into the 2025 IRP.³

PacifiCorp also separately submitted an Oregon CEP Supplement on April 1, 2024, to demonstrate continual progress with HB 2021. The CEP Supplement incorporated the underlying analyses provided in the 2023 IRP Update. In particular, the 2023 CEP Supplement demonstrated that PacifiCorp's actual greenhouse gas emissions have declined year-over-year from 2019-2023—from 9,042,557 metric tons of carbon dioxide equivalent (MTCO_{2e}) in 2019 to 7,902,638 MTCO_{2e} in 2022—and that its planned trajectory for carbon dioxide-equivalent (CO_{2e}) emissions continues to decline throughout the relevant planning period. To demonstrate forecasted paths toward meeting the HB 2021 emission targets over the planning period, PacifiCorp presented different strategies, or levers, for Commission and stakeholder

¹ Order No. 24-073 (Appendix B at 3).

² *Id.* at 9 (“We recognize that we committed in our order in Docket No. UM 2273 to consider, alongside IRP and CEP review processes, whether utilities have demonstrated continual progress. We are not doing so here simply because we expect, in a matter of weeks, to have a more realistic view of PacifiCorp’s status with the IRP/CEP Update that are to be filed in April 2024. We will assess continual progress in connection with our review of the update.”).

³ All interested parties are encouraged to attend, and for those unable to do so, recordings of the 2025 IRP public input series are available on PacifiCorp’s website. Additionally, PacifiCorp provides a stakeholder feedback process, allowing parties to provide input so the company can review, identify, and respond to specific recommendations. Additional information can be found here: <https://www.pacificorp.com/energy/integrated-resource-plan/public-input-process.html>

consideration. These levers represent the likely multiple, non-exclusive actions that could be pursued to achieve compliance. PacifiCorp stressed that the company, the Commission, and stakeholders will continue to thoughtfully consider these levers and determine the appropriate balance and allocation of risk and costs in the upcoming decades as HB 2021’s 2030, 2035, and 2040 deadlines get closer.⁴

On June 14, 2024, PacifiCorp received written comments from Commission staff (Staff), the Multnomah County Office of Sustainability (Multnomah County), Renewable Northwest (RNW), the Oregon Solar + Storage Industry Association (OSSIA), Oregon and Southern Idaho District Council of Laborers (Laborers), the City of Portland (Portland), and the Joint Advocates, which include the Citizens’ Utility Board of Oregon, Sierra Club, Mobilizing Climate Action Together, Green Energy Institute, Northwest Energy Coalition, and OSSIA.

Many of these comments pertain to the 2023 IRP Update. PacifiCorp appreciates the feedback and looks forward to continuing to work with interested parties on these issues, among others, in the current 2025 IRP and CEP planning processes. That said, as Staff observed in its comments, “PacifiCorp is not seeking acknowledgement of any changes in the IRP or action items and the 2025 IRP/CEP has an active public input process,” and as a result Staff’s comments were narrower than comments for a traditional IRP or CEP.⁵

Consistent with Staff’s view, and the scope of this proceeding articulated by the Commission in Order No. 24-073, PacifiCorp does not respond to every comment submitted by stakeholders. Instead, PacifiCorp’s comments focus on the demonstration of continual progress

⁴ Oregon Supplement, at 3.

⁵ Staff, at 3 (“With regards to the 2025 IRP/CEP, Staff’s comments are focused on providing limited input into and analysis of the IRP Update and Oregon Supplement. As such, the breadth of these comments will be more narrow than traditional IRP/CEP comments. Topics such as load forecast methodology, levels of energy efficiency, and progress on important CEP issues like Community Benefit Indicators (CBIs) and Community Based Renewable Energy will not be covered in these comments. Any staff observations provided here that may impact the 2025 IRP/CEP will also be posted in the Company’s public input process.”).

made within the CEP Supplement, and certain other important modeling assumptions and outcomes in the IRP Update.

II. STANDARD OF DECISION

HB 2021 requires PacifiCorp to reduce greenhouse gas emissions 80 percent below 2010-2012 baseline level by 2030, 90 percent by 2035, and 100 percent by 2040.⁶ To ensure utilities are taking steps to achieve these goals, the law requires utility CEPs to demonstrate “continual progress within the planning period” towards meeting HB 2021’s clean energy targets, including demonstration of “a projected reduction of annual greenhouse gas emissions.”⁷ The law also requires the Commission to ensure that utilities demonstrate “continual progress,” and are “taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”⁸

The Commission has recently provided guidance on these requirements. In Order No. 24-002, the Commission noted that its “existing CEP and IRP review processes are appropriate for making regular determinations that utilities are achieving continual progress at an appropriate pace.”⁹ Importantly, the Commission declined to firmly define continual progress, nor require utilities “to pursue a linear trajectory of expected emissions reductions” or “solely or even primarily” measure progress on year-over-year emissions reductions reported to DEQ.¹⁰ This is because firm definitions of continual progress “would prevent us from giving meaning to the full phrases in HB 2021 section 4(6), which require us to understand tradeoffs around practicability, emissions reductions, and costs.”¹¹ Because “CEPs and IRPs are planning exercises, evaluating

⁶ ORS 469A.410.

⁷ ORS 469A.415(4)(e).

⁸ ORS 469A.415(6).

⁹ Order No. 24-002, 25-26 (Jan. 5, 2024).

¹⁰ *Id.* at 28.

¹¹ *Id.*

continual progress will similarly be directional, with the ability to look at actual performance in the next round of IRPs, CEPs, and updates and use that information to adjust forward direction and, ultimately, to inform rate case and compliance decisions.”¹²

III. CONTINUAL PROGRESS

PacifiCorp has made important progress to comply with HB 2021. This includes: (1) a 12.6 percent reduction in actual CO₂e from 2019 through 2022 (the most current year where emissions data has been verified); (2) over 1,900 MWs in new renewable resources that have already come online or that will come online between 2024 and 2026, and 400 MWs of battery storage, all resulting from the 2020 all-source request for proposals (2020AS RFP); (3) 440 MWs of additional battery storage capacity contracted via bi-lateral negotiations that will come on-line by summer 2026 with an additional 80 MWs of battery storage resources in final stages of contract approvals that will also come online by summer 2026; (4) sustained efforts to further analyze and implement the company’s CEP levers; (5) broad and robust stakeholder engagement and further development of community benefit indicators (CBIs) moving toward the 2025 IRP and CEP; and (6) introducing a unified six-state preferred portfolio that incorporates state-specific energy policies.

This progress has occurred, and will continue to occur, despite the facts that: external circumstances have materially changed since the development of the 2023 IRP—most impactful, the stay of Ozone Transport Rule (OTR); PacifiCorp had limited time to implement the additional guidance provided from its 2023 CEP, as the CEP Supplement was submitted approximately two weeks after the Commission issued Order No. 24-002;¹³ and as PacifiCorp presented at the May 30, 2024 special public meeting, wildfire risk and reliability requires that

¹² *Id.* at 20.

¹³ *Compare* Oregon CEP Supplement (Apr. 1, 2024), *with* Order No. 24-073 (Mar. 19, 2024).

PacifiCorp manage its cash on a day-to-day basis, which constrains capital for new transmission and new resources.

Consideration of these changed circumstances, capital constraints, and the limited time to submit the CEP Supplement, are essential to give “meaning to the full phrases in HB 2021 section 4(6), which require us to understand tradeoffs around practicability, emissions reductions, and costs.”¹⁴ From PacifiCorp’s perspective, these factors support a determination that the company has made continual progress.

PacifiCorp’s comments herein reflect this standard, and generally adhere to Staff’s three primary considerations regarding continual progress, including: (1) actual emission reductions; (2) resource planning (including CEP levers); and (3) implementation of the action plan.¹⁵ PacifiCorp generally agrees with Staff’s analytical approach to assessing continual progress as consistent with prior Commission guidance. PacifiCorp also (4) responds to parties that request the Commission take additional action to ensure that the company is making adequate progress to achieve HB 2021’s goals, and (5) responds to parties regarding several CBI-related issues.

The Commission has the appropriate information to conclude that PacifiCorp has made continual progress, and that no further Commission action is necessary at this time. To the extent the Commission has concerns with any of PacifiCorp’s HB 2021-related strategies, the company would appreciate any guidance the Commission can offer, which can be incorporated, as appropriate, in the 2025 IRP and CEP.

¹⁴ Order No. 24-002, 28 (Jan. 5, 2024).

¹⁵ Staff, at 20.

A. Actual Emissions Reductions

Staff discusses PacifiCorp's emissions trajectory, and represents that despite the company's first attempt at a unified preferred portfolio, the company will not achieve HB 2021's emissions reductions requirements.¹⁶ Staff intends to analyze various emissions constraints in the 2025 IRP public input process.¹⁷ Similarly, the Joint Advocates are concerned that PacifiCorp's CEP Supplement demonstrates we are moving further away from compliance,¹⁸ and Portland, Multnomah County, RNW, and OSSIA represent that PacifiCorp's emissions trajectory lack adequate clarity on how the company can comply with HB 2021's requirements.¹⁹

PacifiCorp restates that its actual emissions reductions to date provide a strong foundation to continue to achieve HB 2021's emissions reductions: PacifiCorp's emissions have reduced from 9,042,557 MTCO₂e in 2019, to 7,902,638 MTCO₂e in 2022.²⁰ This is a 12.6 percent reduction in actual CO₂e from 2019 through 2022. While actual emissions reductions should not be the sole measure of continual progress (because emissions can fluctuate significantly year-to-year due to weather and load patterns), these are material emissions reductions and should factor into the Commission's decision-making.

And as discussed in the next sections, even though the CEP Supplement does not achieve the same level of greenhouse gas emissions reductions across the planning horizon compared to the 2023 CEP, the CEP Supplement discusses multiple compliance actions, or levers, that PacifiCorp could pursue to make up these additional emissions reductions. These levers represent the likely multiple, non-exclusive, actions that could be pursued to achieve compliance.

¹⁶ Staff at 17.

¹⁷ Staff, at 18.

¹⁸ Joint Advocates, at 2-5, 8-9.

¹⁹ Portland, at 1-2; Multnomah at 2-3; RNW at 6, 7, and 13; OSSIA at 1.

²⁰ Oregon CEP Supplement, at 5-6.

Additionally, PacifiCorp’s significant volumes of already-procured resources from the 2020AS RFP, as well as additional battery resources that have been procured in the past few months that will also come online by summer 2026, will continue to build on this demonstrated trend in emissions reductions while maintaining reliability.

B. Resource Planning and CEP Levers

Various parties express concerns with PacifiCorp’s resource planning and related CEP compliance levers. These include: that PacifiCorp’s levers represent merely potential pathways, and that PacifiCorp needs to choose a specific CEP compliance strategy;²¹ that PacifiCorp inappropriately considers re-allocation strategies;²² PacifiCorp does not consider cost implications to other states;²³ or these strategies lack adequate specificity.²⁴ Staff notes that Oregon’s energy policies “will require frank discussions as soon as possible,”²⁵ yet these discussions are not adequately provided for in the CEP Supplement.²⁶ Staff also comments that it finds “five of the six CEP compliance levers to be credible elements to any future emissions reduction plan,” and “could form the basis of actions that meaningfully move PacifiCorp towards compliance.”²⁷ Staff also emphasizes that “it is committed to working with PacifiCorp and stakeholders to develop solutions by the time of the 2025 IRP.”²⁸

PacifiCorp appreciates these constructive concerns and notes that due to the changed circumstances explained in the IRP Update, the CEP Supplement necessarily lays out various forecasted levers towards HB 2021 compliance—as opposed to any single compliance pathway.

²¹ RNW at 6; Staff at 23.

²² Multnomah County, at 2-3; Portland, at 2; Joint Advocates at 17.

²³ Joint Advocates at 16; Staff at 23.

²⁴ Staff at 24.

²⁵ Staff, at 19.

²⁶ *Id.* at 20.

²⁷ Staff, at 24.

²⁸ Staff, at 2.

PacifiCorp provides additional context regarding some of these HB 2021 compliance levers in the responses below.

First, regarding CEP levers that are directly related to the Oregon Department of Environmental Quality’s (DEQ) emissions compliance calculation (including the treatment of qualifying facilities (QFs), and refinement of the fixed emissions factor for unspecified market purchases), PacifiCorp notes that it is actively discussing both of these topics with the DEQ. Regarding the unspecified emissions rate lever, PacifiCorp is also engaged on this topic in other venues. The fixed unspecified emissions rate, meant to represent a Western regional mix, is a regulatory paradigm that is mirrored in other Western states, and affects all regulated entities that purchase unspecified energy from organized markets. Exploratory work regarding refinement or granularization of the unspecified emissions factor is already underway in the California Independent System Operator’s (CAISO) Extended Day-Ahead Market (EDAM) greenhouse gas coordination working group,²⁹ and in air regulator proceedings in other states.³⁰ PacifiCorp hopes to share results from all of these efforts, among others, in the 2025 CEP.

Second, regarding stakeholder suggestions that PacifiCorp should choose a specific CEP compliance strategy: a single strategy is unlikely to represent the most cost-effective solution, and several of the CEP levers are inherently linked. A single strategy would place HB 2021 at risk if key elements of the strategy were negatively affected by events outside of PacifiCorp’s control, such as the recently enacted tariffs on lithium-ion battery imports. Having multiple strategies reduces the risk of such events impacting HB 2021 compliance. Furthermore, acting

²⁹ *E.g.*, California ISO Comments on Greenhouse Gas Coordination Working Group - 5/29, at <https://stakeholdercenter.caiso.com/Comments/AllComments/c2ef5c6f-84a3-4eb1-ale3-87d5fdd03a96#org-44bceb1d-5b30-4bd1-ba58-462544ff6adf>

³⁰ *E.g.*, Washington Department of Ecology Electricity Markets Rulemaking (WSR 24-14-057) at <https://apps.ecology.wa.gov/publications/SummaryPages/2414052.html>

on any strategy is likely to require numerous decisions—procurement of an array of long-term resources, ongoing market purchases, or modifications to the dispatch of the existing natural gas fleet.

This means that the most cost-effective HB 2021 solution is likely to involve many types of actions, and the optimal mix of actions is likely to evolve over time as compliance requirements increase moving toward 2040, and as the mix of resources serving Oregon customers evolves. While new resources are likely to be a key aspect of compliance, the level of need and the associated cost will be impacted by the evolving rules related to, among others, qualifying facilities, wholesale markets, and by the allocation and dispatch of Oregon’s share of the natural gas fleet, as well as by the specifics of the resource opportunities that arise through RFPs and other procurement efforts.

These HB 2021 levers were meant to stimulate discussion on various compliance strategies that could inform PacifiCorp’s approach to comply with HB 2021. Venues like docket LC 82, current and subsequent stakeholder engagement venues, and CEPs provide the appropriate opportunity to vet these levers. By necessity, these strategies are less detailed than what would be found in a typical IRP/CEP action plan because PacifiCorp is hesitant to commit to any combination of strategies—let alone a single strategy—prematurely without adequate Commission and stakeholder support. That is especially the case here, when PacifiCorp had well under one month to evaluate additional CEP strategies after the Commission’s order on the 2023 CEP, and consequently, no appreciable time to engage with interested stakeholders.

Third, regarding cost-allocation methodologies and cost impacts on other states, PacifiCorp notes that these are different aspects of the same set of issues that have been central

to the ongoing negotiations as part of the Multi-State Process (MSP).³¹ The currently approved cost-allocation methodology, the 2020 Inter-Jurisdictional Allocation Protocol (2020 Protocol), allows for situs-assigned resources, with several examples existing in PacifiCorp’s current portfolio, but for the first time in the 2023 IRP Update, the company demonstrated an integrated portfolio (“Venn diagram”) approach that can allocate all resources among the jurisdictions in which they are cost-effective, thus accommodating an array of sometimes contradictory compliance requirements among the different jurisdictions. This concept is not new. IRP planning typically includes portfolios developed without state compliance requirements and portfolios with them.

What *is* new is the ability to see a complete portfolio built according to Oregon’s compliance requirements and separate portfolios built according to other state’s compliance requirements. This more clearly delineates which resources are cost-effective for Oregon, but not for other states, and allows for acquisition of situs resources for Oregon within the existing cost-allocation framework, without requiring complex negotiations. By demonstrating that significant renewable resource additions are not presently cost-effective for some of PacifiCorp’s other jurisdictions, the 2023 IRP Update provides greater opportunity for procurement for Oregon’s requirements. The 2023 IRP Update did not attempt to provide a comprehensive CEP compliance update, in part because of the ongoing questions related to regulations and allocations, including issues described above along with the HB 2021 cost cap, which is currently being addressed in docket UM 2273. Resources which are not cost effective for PacifiCorp’s other jurisdictions are more likely to result in incremental costs in accordance with

³¹ On July 9th, 2024, PacifiCorp informed the MSP Framework Issues Work Group (FIWG) that the Company determined it was unlikely that a post-interim period method agreement will be reached through this process before the end of the Interim Period.

the HB 2021 cost cap, so a conclusive determination will remain difficult until those details are sorted out.

PacifiCorp looks forward to continued collaboration with Staff and stakeholders and is committed to continue advancing its analyses pertaining to costs, benefits, emission reduction, and risks associated with the levers in the 2025 CEP. PacifiCorp appreciates any guidance on these compliance levers that the Commission can provide during this proceeding.

C. Implementation of the Action Plan

With regard to implementation of the action plan, PacifiCorp recently completed its 2020AS RFP towards the end of 2022, which resulted in the procurement of over 1,900 MWs installed capacity of renewable generation, and 400 MWs of battery storage, with various commercial operation dates in the 2024 to 2026 timeframe. With regard to the 2023 IRP Update, the updated plan demonstrates that with limited procurement of battery resources in the near-term there is material benefit to customers. The 2023 IRP Update preferred portfolio is reflective of the rapidly changing planning environment that has occurred since the development of the 2023 IRP, including the stay of the OTR, that is necessary for consideration in a least cost/risk utility plan. Consistent with the 2023 IRP Update preferred portfolio, PacifiCorp is engaged in bi-lateral negotiations with developers to procure battery storage resources. In particular, PacifiCorp has procured 440 MWs of additional battery storage capacity contracted via bi-lateral negotiations that will come on-line by summer 2026 with an additional 80 MWs of battery storage resources in final stages of contract approvals that will also come online by summer 2026. With that said, PacifiCorp will not enter into any agreement for a resource unless it is in the best interest of customers.

Battery resources can provide benefits to Oregon customers by capturing renewable energy that may otherwise be lost to curtailment, reducing reliance on emitting resources and unspecified market purchases (e.g., unnecessary on-peak block purchases to cover a handful of “needle peak” hours in the evening), offsetting reliability challenges as traditionally dispatchable resources decrease as a share of Oregon’s resource mix, and providing dispatchable capacity that is a necessary precursor to integrate additional intermittent renewable energy. All of these benefits can further aid in HB 2021 compliance, particularly by allowing the future storage and dispatch of renewable energy. PacifiCorp will continue to assess further near-term resource procurement for additional assets in the next 2025 IRP.

D. Additional Commission Action

Various parties, including the Joint Advocates, Portland, Laborers, OSSIA, and RNW request the Commission initiate a docket to consider additional actions to address PacifiCorp’s perceived lack of continual progress.³² These additional actions include, among others: concluding that PacifiCorp has not demonstrated continual progress; require procurement of utility and small-scale resources; determine what percentage of Oregon-allocated resources will be sited in Oregon, what percent of resources are required to meet HB 2021’s contractor labor standards, and analysis of various employment practices and impacts.

As discussed above, PacifiCorp has demonstrated adequate continual progress, and that no additional Commission action is necessary at this time. However, PacifiCorp provides additional responses to the extent the Commission has concerns with any of the company’s procurement efforts.

³² *E.g.*, Joint Comments, at 17-22; Portland Comments, at 1, Laborers, at 3, Multnomah County, at 1; OSSIA at 1; RNW at 1, 8, 18-19.

As a general matter, PacifiCorp it is not appropriate for the Commission to require procurement of specific utility- or small-scale resources. This allows the company to retain the discretion and flexibility to procure resources that are in the best interests of customers. There are also unforeseen implications of having the Commission itself directing resource procurement decisions for a utility. That said, to the extent that the Commission deems it appropriate for PacifiCorp to procure higher-cost resources for HB 2021 compliance, consistent with the company's position in docket UM 2273 regarding HB 2021's cost cap, the Commission should identify a maximum cost per ton of emissions reductions.³³ This HB 2021 compliance adder would allow PacifiCorp to procure more expensive, potentially riskier resources, than what traditional least cost/risk utility planning principles would otherwise support, while at the same time avoiding prematurely triggering HB 2021's cost cap.

As a practical matter, the value of this HB 2021 compliance adder would vary over time, for instance, in response to the more stringent requirements in 2040 compared with 2030, and also between each successive long-term planning document as a result of changing input assumptions and procurements. If the Commission decided to pursue this strategy, PacifiCorp would update the compliance adder in IRP/CEP planning documents. This would allow adequate review by the Commission and stakeholders to determine the appropriate value of incremental emissions reduction costs.

³³ *In re Commission HB 2021 Investigation*, Docket No. UM 2273, PacifiCorp Initial Brief, at 2 (May 23, 2024) (“To the extent a CEP or economic analyses projects that costs will exceed the cost cap, the Commission could acknowledge an action plan item identifying the maximum incremental cost per ton of emissions reductions in a given year, along with limits on the total cost or emissions reductions through time. These values could then be used in procurement processes, including requests for proposals, energy efficiency and demand response cost-effectiveness tests, and qualifying facility pricing, and would effectively transform the cost cap into a spending cap: Utilities could spend up to that incremental cost per ton of emissions reductions, even if the specific resources procured were not the least-cost, least-risk resources. This may simplify later determinations of incremental costs for specific resource commitments, while also providing utilities with appropriate sideboards when procuring slightly more expensive resources that nonetheless contribute to reduced emissions.”).

There are other alternative procurement strategies that the Commission could provide guidance on. For example, PacifiCorp has traditionally relied on its medium natural gas, medium greenhouse gas (MM) price-policy scenario as the expected price-policy outcome in past planning cycles, yet that may not be the case for future planning cycles given developments in the planning environment. To facilitate more rapid procurement of HB 2021 resources, the Commission could direct PacifiCorp to use this MM scenario for Oregon resource procurement efforts, while the evaluation of these compliance strategies is underway in the 2025 IRP and CEP. This would transform the medium greenhouse gas price into a proxy incremental emissions reduction cost for Oregon and could be used to identify and procure resources to support HB 2021 compliance.

PacifiCorp stresses, however, that if the Commission decides to provide guidance on either of these two strategies, that the Commission decline to require further process when doing so. Instead, the Commission should simply provide guidance on either or both procurement strategies for PacifiCorp to consider in the 2025 IRP/CEP. This would avoid the need for further drawn-out processes in docket LC 82 and would focus the Commission and stakeholder efforts on the current 2025 IRP/CEP engagement venues.

E. Community Benefit Indicators

Staff raises concern that the CEP Supplement does not address recommendations regarding CBIs in small-scale RFPs or the Community-Based Renewable Energy (CBRE) Pilot. Further, the Joint Advocates recommend that the company address recommendations five through eight of Order No. 24-073.

First, PacifiCorp would note that although not specifically highlighted in its CEP Supplement, the company has been actively making progress with regard to CBIs and metrics.

For example, since filing the CEP on May 31, 2023, PacifiCorp has adopted two additional CBIs. Due to stakeholder input regarding the importance of energy efficiency programs, PacifiCorp adopted two additional CBIs in October 2023. These two additional CBIs are 1) Increase Efficiency of Housing and Small Businesses in Disadvantaged Areas and 2) Reduced Barriers for Disadvantaged Communities for Company Program Participation.³⁴

Specific to Recommendation 5 from Order No. 24-073, PacifiCorp has begun the process of incorporating equity-based scoring approaches to evaluate RFPs. For example, the 2022AS RFP considered equity issues as a non-price score. Specifically, Appendix P of the 2022AS RFP solicited and considered bidder input regarding a project's equity impacts.³⁵

Regarding Recommendation 6 from Order No. 24-073, PacifiCorp's 2023 CEP does provide baseline metrics for four of the five CBIs developed by PacifiCorp. For its 2023 CEP, as recommended by Order No. 22-390, PacifiCorp was able to produce baseline metrics for Resilience, Health and Community Well-being, Environmental Impacts and Energy Equity CBIs. PacifiCorp intends to report baseline metrics for its Economic Impact CBI within its 2025 CEP filing.

Specific to Recommendation 7, PacifiCorp is proceeding with its CBRE Pilot. The company has been actively seeking stakeholder feedback on how this Pilot should be implemented. This includes a presentation to the Clean Energy Planning Engagement Series for Tribal Nations meeting held on February 23, 2024. It also includes a presentation to the Community Benefits and Indicators Advisory Group held on March 21, 2024, and again on April

³⁴ For additional information please see:

https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/cbiag/CBIAG_Meeting_October_2023_Slides.pdf.

³⁵ For additional information, please see presentation materials from the October 20, 2022 PacifiCorp 2022 All-Source Request for Proposal Bidder Conference available at on PacifiCorp website at https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/suppliers/rfps/pacificorps-2022-all-source-request-for-proposals/2022AS_RFP_Second_Bidder_Conference_10-20-2022.pdf.

18, 2024. A meeting with the Clean Energy Plan Engagement Group was held on June 21, 2024. Additionally, two meetings were held with Energy/Environmental Justice Groups: one on April 14, 2024, and another on April 25, 2024. PacifiCorp presented the proposed CBRE Pilot in a meeting with OPUC Staff on March 21, 2024. In all cases, stakeholder feedback was requested, collected and is being incorporated into what will be the filing for approval of a CBRE Pilot.

Regarding Recommendation 8, PacifiCorp continues to work collaboratively with stakeholders and interested parties to develop clear, actionable improvements to community and stakeholder engagement. PacifiCorp has structured presentation series for its Community Benefits and Impact Advisory Group, the Clean Energy Plan Engagement Series and the Oregon Tribal Nations Engagement Series. These structured engagements generally occur on a monthly or bimonthly cadence.³⁶

IV. 2023 IRP UPDATE AND CEP SUPPLEMENT

As Staff has observed in its comments, “PacifiCorp is not seeking acknowledgement of any changes in the IRP or action items and the 2025 IRP/CEP has an active public input process.”³⁷ PacifiCorp greatly appreciates the comments submitted for consideration for the 2025 IRP and encourages all stakeholders to participate in its public input series. Similar to Staff’s comments, the breadth of the reply comments provided by PacifiCorp will be narrower in scope than a traditional IRP.³⁸ Accordingly, PacifiCorp does not attempt to respond to every comment pertaining to the 2023 IRP Update.

PacifiCorp completes a full IRP every two years (odd-numbered years) and an update to the full IRP in the off-years (even-numbered years). Each IRP is developed through an open and

³⁶ For additional information, please see documentation of PacifiCorp’s stakeholder engagement at: <https://www.pacificorp.com/energy/oregon-clean-energy-plan.html>.

³⁷ Staff, at 3.

³⁸ Staff, at 3.

public process, with input from an active and diverse group of stakeholders. Due to the lead time required to run and analyze model output, assumptions and inputs need to be locked down at a reasonable point in each IRP cycle and represent the latest available information to the company at the time of development. Given a continuously evolving political and regulatory environment, each full IRP or IRP update is an important opportunity to reassess the costs, benefits and risk of PacifiCorp's long-term plan. Each IRP represents the least-cost, least-risk plan at a point in time (*i.e.*, a snapshot in time), subject to a range of unknowns and evolving factors. Thus, while each IRP can act as a road map, it does not dictate nor constrain resource procurement.

PacifiCorp acknowledges that its 2023 IRP Update deviates from the 2023 IRP. IRPs and IRP Updates incorporate the latest known information in a rapidly changing policy and regulatory environment. That is exactly why PacifiCorp conducts an update in every off-year and a full IRP every two years. The IRP Update included information as recent as could be accommodated at the time of locking down assumptions, as will the next IRP cycle.

Accordingly, these the departures from the 2023 IRP are not based on parochial PacifiCorp interests. Rather each reflects PacifiCorp's current planning environment when the company was developing the update. And typical of all planning cycles, many of these assumptions now require revisiting, as indicated by potential impacts from newly enacted federal regulations. Implications from these changed assumptions, among others, will be reflected in the next planning cycle—here the 2025 IRP and CEP.

As constructively noted by Staff, PacifiCorp did incorporate certain stakeholder feedback from the 2023 IRP when developing the 2023 IRP Update: “PacifiCorp staff’s rapid incorporation of some stakeholder feedback and updated assumptions into the IRP Update, especially in light of changes to policies and market dynamics, is notable in terms of the amount

of effort required.”³⁹ PacifiCorp acknowledges concerns raised below, and where appropriate, agrees to incorporate stakeholder comments into the next planning cycle.

A. PacifiCorp’s modeling and resource assumptions are reasonable

A number of parties raise concerns about PacifiCorp’s assumptions related to a wide range of resources and technologies, including carbon capture, utilization, and sequestration (CCUS), nuclear, natural gas, coal, and non-emitting peaking options.

As in the 2023 IRP, a significant portion of the resource capacity in the 2023 IRP Update preferred portfolio consists of dispatchable baseload or peaking technologies. Parties are correct that significant risks and uncertainty exist for all of these technologies that are not captured in the IRP analysis, but this can only be assessed in a limited qualitative manner in a planning document like an IRP. PacifiCorp suggests that the most important takeaway from the preferred portfolio is the scope of the need for dispatchable and peaking technologies, and not specific technology outcomes. A number of technologies or fuels could fulfill similar roles in PacifiCorp’s future resource mix, and the company intends to use all-source requests for proposals such that those roles can be fulfilled with any generating technology or fuel sources.

This technology-agnostic perspective is incorporated in the Inflation Reduction Act of 2022, which offers the option for either production tax credits or investment tax credits for any non-emitting generating technology. PacifiCorp also recognizes that a significant gap exists between planning and procurement for dispatchable baseload and peaking resources, as relatively few bids have been submitted for such resources in recent years. Bridging that gap may be critical for system reliability and to achieve Oregon’s environmental compliance requirements and ensuring that near-term and intermediate-term planning remains in line with what is

³⁹ Staff, at 19.

achievable is also necessary. PacifiCorp looks forward to working with parties to identify appropriate cost, performance, and quantity inputs for the 2025 IRP as well as ways to more clearly demonstrate the need for the capability these resources provide, so as to encourage development of cost-effective options that will be offered in future RFPs.

With these initial remarks, PacifiCorp responds to several specific modeling and resource comments below.

1. In general, PacifiCorp’s modeling efforts are reasonable and correct

In the 2025 IRP public engagement processes, Staff seeks better explanations on various topics, including: continued improvement of portfolio integration; reducing reliability and granularity adjustments; updated battery assumptions; layering in coal resource fuel costs in initial steps; providing workpapers that demonstrate portfolio integration and optimization of state policies; and improve on its unified portfolio modeling.⁴⁰

The Joint Advocates comment that the 2023 IRP Update modeling was skewed by not allowing selection of new renewables prior to 2027 regardless of economics,⁴¹ and have several concerns with PacifiCorp’s granularity adjustments.⁴² RNW comments that PacifiCorp’s LT plan needs substantial improvements, that RNW’s previous modeling recommendations have not been implemented, and that PacifiCorp’s renewable pricing assumptions remain too high.⁴³ RNW notes that PacifiCorp’s modeling errors, among others, could increase emissions by 33 percent.⁴⁴

PacifiCorp looks forward to working with parties to update all of its input assumptions, modeling techniques, and reporting for the 2025 IRP, and agrees that there are significant

⁴⁰ Staff, at 6, 18-19.

⁴¹ Joint Advocates, at 1, 7, 13.

⁴² Joint Advocates, at 28.

⁴³ RNW, at 8, 16-18.

⁴⁴ RNW, at 14.

opportunities across all of these aspects of the planning process. With regard to input assumptions, several parties have noted concerns about cost inputs, for example RNW suggests renewable pricing is too high. Other Oregon stakeholders have suggested that renewable pricing in the 2023 IRP was too low.⁴⁵ In recent RFPs, PacifiCorp has received offers spanning a wide range of prices, which reflect both site-specific aspects that would likely be applicable to any resource developed at a particular site (weather patterns, interconnection requirements, and property requirements), as well as developer-specific aspects that have little to do with a particular resource or site (risk appetite, access to capital, access to equipment). The cost assumptions for renewable resources is an average of actual bids from the most recent request for proposal through the year 2029 and then transitions to the National Renewable Energy Laboratory price curve. The single wind and solar resource cost by state modeled in the IRP cannot possibly encompass all of these aspects of resource development, and that is before taking into consideration technological advancement and supply-chain issues that also play a role over time. A key takeaway for the 2025 IRP may be to embrace that uncertainty. Past IRPs have included low, medium, and high natural gas prices, yet energy from new wind and solar additions dwarfs that from existing and new natural gas-fired resources, and thus may warrant greater consideration of a range of outcomes. More wind and solar additions are likely to be economic if their cost is lower, and this is likely to result in secondary impacts on storage, baseload, and peaking resource selection. Higher wind and solar costs are likely to have impacts in the other direction. While PacifiCorp has always considered the trade-offs of incremental resource additions in actual procurement, for example, only contracting with the highest scoring

⁴⁵ Docket No. UM 1729 (PacifiCorp's Avoided Cost Update): QF Trade Associations' Comments in at 6-15. OSSIA's Comments at 1-2.

offers identified through an RFP, the magnitude of the changes in PacifiCorp's resource mix across the IRP horizon warrants further consideration of the range of possible outcomes.

While this is generally pertinent to all of PacifiCorp's retail jurisdictions, it is particularly pertinent to Oregon, where a significant expansion of clean and renewable resources is necessary for compliance with HB 2021 and to replace emitting resources that it is required to exit. With respect to modeling techniques, PacifiCorp appreciates stakeholder's concerns but would highlight the progress in its 2023 IRP Update, which incorporated two significant enhancements relative to the 2023 IRP, both of which PacifiCorp intends to refine further as part of the 2025 IRP. First, the iterative granularity and reliability adjustment process used in the 2023 IRP Update enabled the model to identify more cost-effective portfolio solutions, rather than relying on resource adjustments identified by PacifiCorp on the basis of reported results. Even if the model selects that same resource as the company would have, it can also adjust other resource selections to capture interactions that are not as readily identifiable, adding renewable resources along with storage, or shifting resources to other locations to avoid transmission congestion. Second, for the first time the 2023 IRP Update included development of three independent portfolios to reflect the compliance requirements specific to Oregon, Washington, and its other retail jurisdictions, and then produced an integrated portfolio which maintained the compliance results while accounting for the allocation or participation of different jurisdictions. Much work remains to be done in this area, both as a modeling technique and as a practical matter in actual procurement and system dispatch, but it is an indication that disparate compliance requirements can be accommodated.

Finally, with respect to reporting, PacifiCorp acknowledges stakeholder frustration with the presentation, organization, and sheer volume of the information. As an example, the existing

supply-side table in the IRP document is not equipped to encompass the vagaries of the expanded tax credits under the Inflation Reduction Act of 2022 and the forecasted cost de-escalation rates of wind, solar, and storage technologies, let alone the potential range of renewable resource costs contemplated above. There is necessarily a balance between data accessibility and detail for the IRP document itself, but much of the public data input assumptions for the 2025 IRP is being made available in advance of the draft IRP in the context of the public input meeting series, and often includes additional detail for discussion comparable to what is routinely provided on the IRP public data disk.⁴⁶ Making sure that data input assumptions are accessible and detailed will be critical to ensuring that stakeholders have an opportunity to provide meaningful feedback that can enhance the portfolio modeling for the 2025 IRP that PacifiCorp will undertake this fall.

2. PacifiCorp is not over-reliant on market purchases, and its actions are consistent with long-term planning objectives

Staff questions the 2023 IRP Update’s reliance on market purchases.⁴⁷ The Joint Advocates have similar concerns and note that this further exposes PacifiCorp to increased resource adequacy risk.⁴⁸

First, PacifiCorp would note that increased market purchase volumes do not inherently represent an increase to resource adequacy risk. PacifiCorp’s transmission system directly connects to utilities who serve the majority of the load in the WECC, and indirectly through the Western Energy Imbalance Market (WEIM) to even more load serving entities. Substitution of cost-effective “market” supply among these utilities is the foundation of the billions of dollars in

⁴⁶ 2023 IRP Data Disk (public workpapers), dated 5/31/2023, available at: https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2023-irp/2023-irp-support-studies/2023_IRP_May_31_Data_Disk_Public.zip

⁴⁷ Staff, at 11-14, 20.

⁴⁸ Joint Advocates, at 20.

cost savings in the WEIM since it was founded in 2014. While reliance on market supply can create risks if no backups or alternatives are available, significant volumes of market purchase opportunities exist in the forward markets at favorable prices during all or part of most days in any given year.

Second, even where the 2023 IRP Update preferred portfolio relies upon market purchases for capacity and reliable service to customers, the risk varies widely among different market products. PacifiCorp routinely acquires hydro slice products for the upcoming calendar year and contacts independent power producers to discuss bilateral opportunities. Once procured, the risk associated with such products is comparable to other generating assets, all of which experience periodic unplanned outages. Forward market products continue to be traded for future months and calendar quarters, and do not exhibit the same level of volatility that occurs with daily market products. The IRP cannot differentiate between these products, and while it allows for hourly optimized transactions, this should not be interpreted as a commitment or a recommendation, as PacifiCorp's hedging policy requires that most of any significant resource shortfall be procured in advance.

Finally, the market purchase amounts identified in the 2023 IRP Update preferred portfolio should not be interpreted as a commitment to short-term products rather than long-term opportunities. This point is related to the Joint Advocates comment about allowing selection of new renewables prior to 2027.⁴⁹ Subject to maintaining its credit requirements, PacifiCorp is not opposed to long-term resource opportunities, including ones that can come online prior to 2027, and is actively negotiating for such resources at this time. While that is underway, PacifiCorp's

⁴⁹ Joint Advocates, at 1, 7, 13.

supply of and demand for resources in the near term is highly sensitive and not yet suitable for inclusion in a public plan.

3. The portfolio appropriately allows for the possibility of CCUS resources, subject to additional evaluation and analysis

As an initial matter, PacifiCorp disagrees with the Joint Advocates' assertion that the 2023 IRP Update selected specific CCUS resources in the preferred portfolio. Rather, the portfolio allows for the possibility of CCUS resources at certain coal facilities, though only after further evaluation of the economic and technical aspects of these resources. This is consistent with PacifiCorp's Final Plan filed in docket 20000-660-EA-24 (Record No. 17536), which is not proposing a CCUS standard at this time, and instead is asking for additional time to conduct a front-end engineering design (FEED) study to determine whether these resources could be least-risk, least-cost resources.

This is a reasonable and incremental step because of recent changes to federal tax credits that are now available for CCUS projects. The Inflation Reduction Act of 2022 increased the credit amount for carbon capture and storage projects to \$85 per metric ton in 2026 and extended the construction window to January 1, 2033. The credit rises at inflation, and like the production tax credit (PTC), the revenue requirement benefit is higher than the stated value, as PacifiCorp's "income" associated with tax credits is not taxed. After accounting for inflation, the revenue requirement gross-up, capture efficiency and parasitic loads, the Section 45Q tax credit for the Jim Bridger CCUS units in the 2023 IRP Update equates to approximately \$150 per megawatt-hour (\$/MWh) in 2030. By comparison, for new generating resources in Wyoming that qualify for the energy community bonus the PTC value is approximately \$44/MWh (\$33/MWh before the revenue requirement gross-up). In addition to being significantly higher, the Section 45Q tax credit lasts 12 years, as opposed to ten years for the PTC.

Contrary to the Joint Advocates' representations, it would be unreasonable to not further investigate these resources, when it appears that federal tax credits can offset the entire cost of the CCUS equipment. These economics will depend on the FEED studies discussed above, which will then inform future IRP planning cycles. PacifiCorp's 2023 IRP Update reflects this reasonable step forward and makes it clear that any decision related to CCUS will be made at a future date based on better data. PacifiCorp further notes that the IRP is not a ratemaking exercise, and given Oregon's requirement to exit from coal-fired resources by the end of 2029, the costs and benefits of major investments in coal-fired facilities like CCUS are unlikely to apply to Oregon customers. This renders the specific outcomes of CCUS moot, and the PacifiCorp continues to evaluate the appropriate timing for the potential installation of CCUS in the 2025 IRP.

4. Inclusion of coal generation in the preferred portfolio

Other parties critique PacifiCorp's inclusion of coal in the preferred portfolio due to the impact to the company's emissions. PacifiCorp responds that the current trajectory for emissions and projected coal operations are the result of changes in the planning environment. Coal resources continue to play an evolving role in a compliant least-cost least-risk portfolio, providing a dispatchable source of generation and valuable support for more renewables. Over the course of the 20-year IRP planning period, coal emissions decline in tandem with increased renewables. Coal resources, along with natural gas, nuclear, hydrogen and other dispatchable resource options, support increased renewables, allowing PacifiCorp to maintain reliability, especially in the hours of peak demand, even as the power grid changes across the region. This reflects an accurate representation of the value of coal to the system as trends continue to play

out on the way to a decarbonized future. Coal remains in the preferred portfolio because it is a component of least-cost least-risk planning.

PacifiCorp also reiterates that it has and will continue to plan for compliance with all policies, and specifically where HB 2021 requires that coal is out of rates for Oregon customers by the end of 2029. Coal resources with lives beyond this date are not considered as part of the Oregon-allocated portfolio and are not a factor in the CEP.

B. The 2023 IRP Update appropriately incorporates impacts from then-known federal litigation, legislation and regulations

1. PacifiCorp appropriately declined to consider federal regulations that had yet to be adopted

As an initial matter, several comments noted that recent federal regulations will likely impact PacifiCorp's modeling efforts, including EPA's updated effluent limitation guidelines, Rule 111(d), wastewater limits rule, and an updated Mercury and Air Toxics Standard;⁵⁰ and relevant impacts to selective non-catalytic reduction or selective catalytic reduction technologies.⁵¹ The Joint Advocates go so far as to conclude that PacifiCorp ignored federal regulations limiting pollution from PacifiCorp's coal facilities.⁵²

PacifiCorp agrees with the Joint Advocates that these regulations are relevant for planning purposes; but disagrees that they were relevant to the 2023 IRP Update that was filed prior to the federal government enacting these regulations, as in the case of EPA's 111(d) rule. It would not have been possible to incorporate the impact of these regulations, when PacifiCorp did not have knowledge of what the final rules would include, or when they would be issued.

⁵⁰ Joint Advocates, at 11-12.

⁵¹ Joint Advocates, at 6.

⁵² Joint Advocates, at 1.

Consistent with Staff’s recommendations, PacifiCorp will review and consider any impacts from these new requirements in the 2025 IRP/CEP planning cycle.⁵³

2. PacifiCorp appropriately incorporated developments from litigation surrounding the Ozone Transport Rule

Joint Advocates and RNW criticize PacifiCorp’s assumptions regarding the OTR,⁵⁴ Staff is concerned with PacifiCorp’s significant departure from the 2023 IRP,⁵⁵ and several parties claim that the company’s OTR assumptions were incorrect, and seem to imply that PacifiCorp should assume that Utah will have to comply with the federal implementation plan (FIP).

The Commission should disregard these comments. Under the OTR, if a state implementation plan (SIP) is not accepted by the EPA, a state must comply with the FIP. However, at the time PacifiCorp was creating the 2023 IRP Update, the 10th Circuit Court of Appeals (10th Circuit) had partially stayed the EPA’s denial of Wyoming’s SIP,⁵⁶ and fully stayed Utah’s SIP.⁵⁷ In *Utah*, the 10th Circuit indicated that the applicants were likely to succeed on the merits,⁵⁸ and after consolidation with a similar Oklahoma lawsuit, recently transferred the consolidated cases to the D.C. Circuit Court of Appeals for further resolution on the merits.⁵⁹ More recently, in *Ohio v. EPA* the United States Supreme Court similarly stayed additional OTR requirements pending further resolution on the merits of the issues by the D.C. Circuit Court of Appeals.⁶⁰

⁵³ Staff, at 15 (discussing that 111d implications, among others, should be addressed in 2025 IRP).

⁵⁴ Joint Advocates, at 9-12; RNW at 11-12.

⁵⁵ Staff, at 15 (“Staff observes that greatly varying a six-state utility’s long-term portfolio and large-scale investments within a single IRP adds an unwelcome level of uncertainty to the planning process.”)

⁵⁶ *Wyoming v. EPA*, 78 F.4th 1171 (10th Cir. Aug. 15, 2023).

⁵⁷ *Utah v. EPA*, No. 23-9509 (10th Cir. Jul. 27, 2023).

⁵⁸ *Utah v. EPA*, Case No 23-9509 Order (10th Cir. Jul. 25, 2023).

⁵⁹ *Oklahoma, et al., v. EPA*, 93 F.4th 1262 (10th Cir. 2024).

⁶⁰ *Ohio v. EPA*, 603 U.S. ____ (2024).

Given that both the 10th Circuit and the United States Supreme Court have indicated that challenges against the implementation of the FIP are likely to be successful on the merits, PacifiCorp's assumptions related to the OTR were reasonable at the time, and due to the ongoing litigation stays with *Ohio* and *Oklahoma*, remain justified.

3. PacifiCorp incorporated federal financing opportunities where appropriate

The Joint Advocates discuss several concerns with PacifiCorp's incorporation of Inflation Reduction Act and Energy Infrastructure Reinvestment financing opportunities.⁶¹

PacifiCorp appreciates the Joint Advocates' continued advocacy on this issue, though consistent with the company's representations in all other proceedings where the concern has been raised, this issue is better addressed when evaluating specific resources in the relevant procurement processes.⁶² This is because the federal financing opportunities that the Joint Advocates mention require a competitive bid process and are necessarily limited in nature. PacifiCorp cannot reasonably incorporate these financing opportunities into its modeling constraints because the company cannot plan its preferred portfolio around the potential to receive federal funds. In particular, the IRP is an exercise of modeling *proxy resources* that does not particularly attempt to speculate on the type of financing (and applicable rates) any individual developer may apply for, and potentially receive, that may inform their bid in a future competitive solicitation.

To use an analogy, you do not purchase a house above your budget, hoping that the Federal funds rate will drop in the future to allow you to refinance and lower your mortgage expense; you buy the house you can afford at the time, based on then-relevant economics.

⁶¹ Joint Advocates, at 28-30.

⁶² *E.g., In re PacifiCorp's 2023 IRP*, Docket No. 23-035-10, PacifiCorp Reply Comments at 29 (Jan 31, 2024; UT PSC).

Similarly here, it would be imprudent to plan PacifiCorp’s system on the *possibility* that certain projects will proactively apply for and receive certain financing at a certain rate, and then subsequently choose to use such financing to lower their bid price in a future competitive solicitation. If resources are selected in subsequent procurement processes that actually receive federal financing that lowers their bid price, that will further support the feasibility of procuring those resources. This is a more practical approach than assuming that all proxy resources will apply and qualify for certain financing and pass any savings to customers in their bid price. The Company commits to working with stakeholders in the current 2025 stakeholder engagement process to determine appropriate solutions, which could include targeted sensitivity analysis.

C. PacifiCorp continues to procure resources where supported by least-cost, least-risk planning principles

Finally, several parties raise concerns about the pace of PacifiCorp’s renewable generating resource procurement in reference to IRP action plans and critique the termination of the 2022AS RFP.

As an initial matter, it is important to understand that the IRP involves the modeling of *proxy* resources and an action plan which acts as an important guide for the procurement. However, actual resource procurement depends on what is actually available in the market and assessments of actual economics of proposed projects based on actual costs—rather than the proxy costs and proxy information included in an IRP.

Turning to the merits, there were a number of factors that contributed to the decision to suspend the 2022AS RFP, including: as discussed above, material litigation surrounding the implementation of the OTR for Utah and Wyoming; ongoing rulemaking by the EPA regarding greenhouse gas emissions; evolving extreme weather risks affecting operational and resource requirements; and wildfire risk and liability.

The litigation surrounding OTR in Utah and Wyoming alone supported suspending the 2022AS RFP. By staying the OTR in part for these states, and for certain units, removed limits on energy production from natural gas and coal-fueled resources in the summer that were assumed in the 2023 IRP. This reduced the need for additional resources. Yet beyond these developments, the EPA's greenhouse gas emissions regulation includes unit-specific requirements that vary significantly from the greenhouse gas pricing used to represent potential greenhouse gas emissions constraints in the 2023 IRP, so it is unclear how that would affect the need for resources. The final greenhouse gas rule does not require compliance actions until 2030 or later, so there will be time to comprehensively assess these requirements in the 2025 IRP. Similarly, PacifiCorp is expanding its assessment of extreme weather risks for the 2025 IRP. Finally, wildfire risk and liability may limit PacifiCorp's ability to procure new transmission and resources by impacting capital and credit metrics, such that limited procurement of battery resources in the near-term will bolster reliability while providing flexible capacity that can help integrate more renewable resources in the future.

In light of all of these factors, and the modeling results of the 2023 IRP Update discussed above, it was appropriate to focus on resources that provide significant near-term reliability benefits while working to incorporate the evolving framework of requirements and constraints to support future resource decisions.

Yet it bears repeating that PacifiCorp continues to add significant volumes of new energy and capacity resources to its system despite the cancellation of the 2022AS RFP. PacifiCorp reiterates that it has recently concluded its 2020AS RFP that resulted in the procurement of over 1900 MWs of non-emitting renewable resources, and 400 MWs of battery storage resources. These resources will achieve commercial operation in the 2024 to 2026 timeframe. PacifiCorp

has also procured 440 MWs of additional battery storage capacity contracted via bi-lateral negotiations that will come on-line by summer 2026 with an additional 80 MWs of battery storage resources in final stages of contract approvals that will also come online by summer 2026. These resource additions will ensure the continued reliable and resilient operation of the company's system while additional procurement steps are developed and proposed in the 2025 IRP/CEP.

V. CONCLUSION

PacifiCorp appreciates the opportunity to respond to the various concerns raised in this proceeding, and requests the Commission conclude PacifiCorp has demonstrated adequate continual progress, and take no further action in this proceeding.

Respectfully submitted this 12th day of July, 2024.



Matthew McVee
Vice President, Regulatory Policy & Operations
PacifiCorp

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of

PACIFICORP, dba PACIFIC POWER

2023 Integrated Resource Plan and
Clean Energy Plan.

RENEWABLE NORTHWEST’S
COMMENTS on 2023 IRP UPDATE

June 14, 2024

I. Introduction

Renewable Northwest (“RNW”) appreciates the opportunity to comment on PacifiCorp’s 2023 Integrated Resource Plan (“IRP”) Update (“IRP Update” or “Update”). Consistent with the Oregon Public Utility Commission’s (“Commission”) direction in Order No. 24-073, we focus these comments in substantial part on PacifiCorp’s obligation to demonstrate -- and the Commission’s obligation to ensure -- continual progress toward achieving the mandatory greenhouse gas (“GHG”) emission-reduction targets enacted as a part of Oregon’s House Bill 2021 (2021) (“HB 2021”).¹ We conclude that the IRP Update and concurrently filed Oregon Planning Supplement (“Supplement”) fall well short of demonstrating continual progress.

Our comments also discuss a number of erroneous inputs and assumptions that result in the failure of PacifiCorp’s IRP Update to comply with HB 2021. While we understand that the Commission’s review of the Update is likely to focus on continual progress, we wish through this additional analysis to underscore that improvements to the company’s plan would likely bring the company closer, if not all the way, to compliance.

However, the shortcomings of the IRP Update and Supplement put the company and the Commission in an awkward position -- the company has an obligation to reduce Oregon-allocated emissions 80% by 2030, and meeting that obligation will require near-term procurement, but procurement decisions are usually driven by acknowledged utility plans. To resolve this situation, we encourage the Commission first to determine that the company has not demonstrated continual progress, and second to open additional proceedings to determine the specifics of a remedy -- certainly to include procurement of new clean resources -- on an

¹ *See, e.g.*, Order No. 24-073 at 9-10 (“We will assess continual progress in connection with our review of the update. If we do not find that PacifiCorp has demonstrated “continual progress [toward the HB 2021 targets] and [that it] is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers,” we will consider in a holistic manner whether we need to take actions to fulfill our responsibility to ensure this progress.”).

expedited basis sufficient to put the company back on track to meet its obligations under Oregon law, and to meet the moment in terms of mitigating climate change.

II. Comments

1. Legal Background on Continual Progress

HB 2021’s centerpiece is the requirement that “[a] retail electricity provider shall reduce greenhouse gas emissions ... by the following targets: (a) By 2030, 80 percent below baseline emissions level ... (b) By 2035, 90 percent below baseline emissions level ... (c) By 2040, and for every subsequent year, 100 percent below baseline emissions level.”²

The law goes on to require that “[a]n electric company shall develop a clean energy plan for meeting the clean energy targets set forth in ORS 469A.410.”³ A clean energy plan, in turn, “must ... [d]emonstrate the electric company is making continual progress within the planning period towards meeting the clean energy targets set forth in ORS 469A.410.”⁴

HB 2021 then establishes a mandate directed at the Commission rather than the utility: “[t]he commission shall ensure that an electric company demonstrates continual progress as described in subsection (4)(e) of this section.”⁵ The Commission must also ensure that the utility “is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions.”⁶

The Commission has further discussed and defined the continual progress obligation across multiple dockets⁷ and orders.⁸ Many of those orders relate to questions of trajectory (does “continual progress” require a linear reduction in GHG emissions?) and process (in what type of proceeding should the Commission consider continual progress?). RNW does not address those questions here. Instead, we recommend that the Commission focus on the statutory requirement that continual progress must be “towards meeting the clean energy targets set forth in ORS 469A.410.”⁹

The Commission explained what this statutory construct means most clearly in Order No. 24-002: “we understand that the purpose of requiring continual progress is **to ensure utility**

² Oregon House Bill 2021, Section 3(1) (2021), codified at ORS 469A.410(1).

³ Section 4(1), codified at ORS 469A.415(1).

⁴ Section 4(4)(e), codified at ORS 469A.415(4)(e).

⁵ Section 4(6), codified at ORS 469A.415(6).

⁶ *Id.*

⁷ In particular, UM 2225, AR 655, UM 2273, and LC 80.

⁸ *See, e.g.*, Order No. 22-206 (UM 2225), Order No. 22-390 (UM 2225), Order No. 22-477 (UM 2225), Order No. 23-060 (UM 2225), Order No. 23-061 (UM 2225), Order No. 23-198 (AR 655), Order No. 23-059 (UM 2273), Order No. 23-194 (UM 2273), Order No. 24-002 (UM 2273), Order No. 24-096 (LC 80), Order No. 24-097 (LC 80), and Order No. 24-112 (UM 2273).

⁹ Section 4(4)(e), codified at ORS 469A.415(4)(e).

action during the years before compliance with the relevant target is required, and that a lack of continual progress may not be capable of remedy solely at the time of that eventual compliance determination.”¹⁰ That is to say, the main inquiry of a continual progress determination is whether a utility is on a trajectory to achieve its targets. That trajectory could be front-loaded, back-loaded, linear, or lumpy, but it must ultimately lead to achievement of the targets in order for a utility to have demonstrated continual progress. Otherwise, Order 24-002 states:

If we determine, in an IRP/CEP docket, that the continual progress required by HB 2021 has not been demonstrated, we may also initiate additional proceedings. We interpret HB 2021’s direction for us to “ensure” continual progress to give us the authority to require a utility to take actions outside the context of the regulatory determination whether to acknowledge a CEP (i.e., to procure additional resources or make necessary infrastructure investments).¹¹

In that order, the Commission went on to reference in a footnote comments from the NW Energy Coalition quoted in a previous Commission order, Order No. 23-060, similarly focused on achieving the targets: “As NWECA pointed out in Docket No. UM 2225, if a utility appears to be falling behind on progress to the targets, we should be in a position to ‘proactively provide additional requirements to a utility to help ensure that targets are actually met.’”¹²

Later, the Commission applied the guidance set forth in Order No. 24-002 to Portland General Electric’s (“PGE”) Clean Energy Plan, determining that PGE had demonstrated continual progress.¹³ The Commission indicated that, while questions about PGE’s GHG modeling led to a “lack of confidence in the longer term analysis” of the company’s likely emissions, PGE’s near-term actions -- including large-scale procurement of demand-side and clean-energy resources -- were “consistent with achievement of emission reduction objectives at a reasonable cost to customers.”¹⁴ Ultimately, the Commission concluded “that PGE was undertaking all practicable actions in the near term” toward achieving HB 2021’s mandatory emission-reduction targets.¹⁵

This framework leads to two relevant questions the Commission must consider with respect to PacifiCorp’s 2023 IRP Update: Has the company demonstrated that it is on a trajectory to meet its 2030 emission-reduction target? And is the company “taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions.”¹⁶

¹⁰ Order No. 24-002 at 29 (emphasis added).

¹¹ *Id.*

¹² *Id.* at 29 n.81 (citing Order No. 23-061 at 6).

¹³ Order No. 24-097.

¹⁴ *Id.* at 3.

¹⁵ *Id.*

¹⁶ *Id.*

2. The 2023 IRP Update Fails To Demonstrate Continual Progress

The answer to those two questions is a straightforward no. One need not delve into the technical details of the company's modeling to reach this conclusion. Rather, the company's IRP Update and Oregon Planning Supplement on their face indicate that the company is *not* on a trajectory to meet its 2030 emission-reduction target and is *not* "undertaking all practicable actions in the near term."

The IRP Update discusses GHG emissions beginning on page 97:

By 2030, average annual CO₂e emissions in the 2023 IRP Update preferred portfolio are reduced by 63% against the year 2005 baseline versus a reduction of 78% against the baseline in the 2023 IRP preferred portfolio. By the end of the planning horizon, system CO₂e emissions are projected to fall from 35.1 million metric tons in 2023 to 9.3 million tons in 2042 -- a reduction of 73.5%.¹⁷

That excerpt, as well as the company's Figure 6.16 (reproduced below as Figure 1), indicates that the IRP Update retreats significantly from the more aggressive GHG reductions originally identified in the 2023 IRP. But it does not directly address the company's GHG position *vis a vis* HB 2021, which looks at a different baseline and focuses on Oregon-attributed emissions. The IRP Update discusses HB 2021 compliance on page 76 ("Oregon Integration") and page 99 ("Oregon and Washington Emissions Compliance"), neither of which directly addresses a strategy for actual compliance with HB 2021 -- rather, the takeaway from the IRP Update's narrative is perhaps best summed up by the note that the new plan "places upward pressure on the magnitude and cost of activity that will be required for both Oregon and Washington compliance."¹⁸

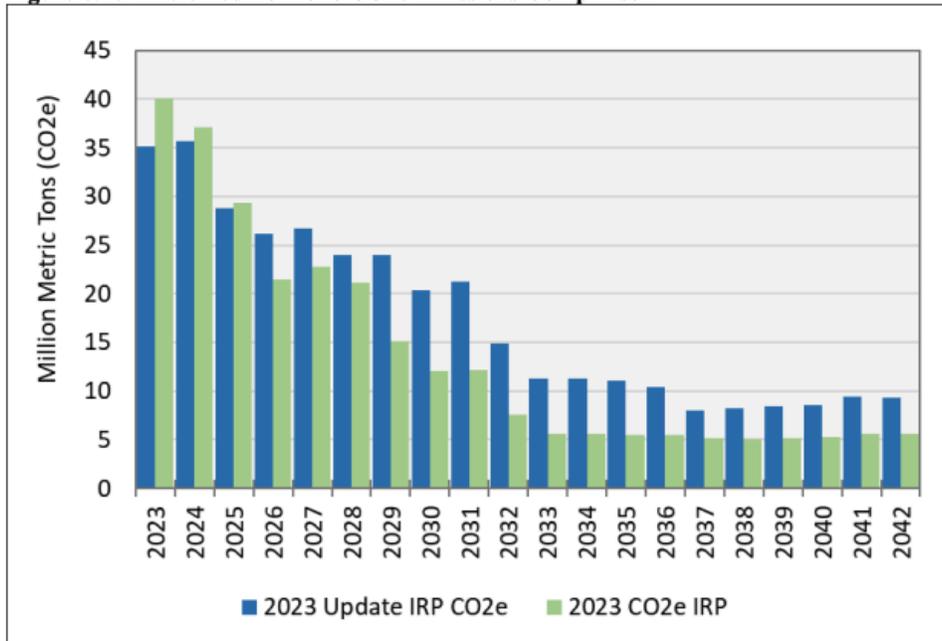
//

¹⁷ IRP Update at 15 & 97.

¹⁸ IRP Update at 99.

Figure 1 - PacifiCorp GHG Emissions (2023 IRP versus 2023 IRP Update)

Figure 6.16 –Preferred Portfolio CO2e Emissions Comparison*



Perhaps, then, PacifiCorp’s Oregon Planning Supplement provides more confidence that the company is on track to meet its mandates under HB 2021?

Not so. PacifiCorp’s Figure 2 (reproduced here as Figure 2) in the Supplement paints the picture most clearly:

Figure 2 - PacifiCorp Oregon-Allocated GHG Emission Reductions

Figure 2—2023 IRP Update, 2023 IRP, and HB 2021 Emissions Reductions

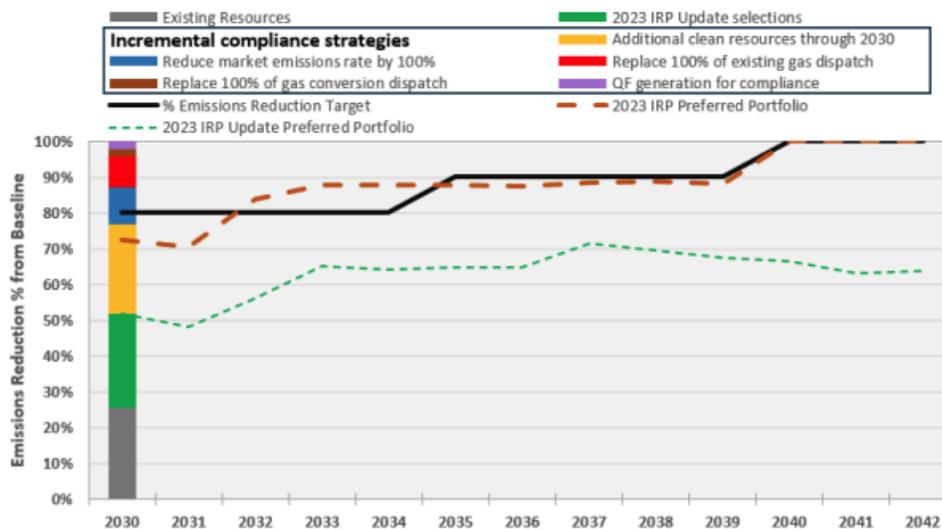


Figure 2 demonstrates a few things: First, the 2023 IRP (represented by the brown dashed line) did not completely dovetail with PacifiCorp’s HB 2021 obligations but reflected a fair effort. Second, the IRP Update does not even come close to achieving the company’s Oregon requirements. And third, the company has no clear strategy to close the gap.

For the purpose of these comments, we will focus on the second point. That the IRP Update does not demonstrate a trajectory toward meeting HB 2021’s GHG reduction obligations is clear from the green dashed line, which represents the emissions reductions expected from the IRP Update’s resource strategy. In 2030, when the law requires PacifiCorp to reduce GHG emissions by 80%, the company’s plan produces an approximate 50% reduction, for a delta of about 30%. In 2035, when the law requires a 90% reduction, the plan produces an approximate 65% reduction, for a delta of about 25%. In 2040, when the law requires a 100% reduction, the plan produces an approximate 65% reduction, for a delta of about 35%. The plan never across the entire 20-year planning horizon comes close to achieving the company’s 2030 obligation of an 80% reduction -- an obligation that is now five and a half years away. This approach is self-evidently not reflective of continual progress “towards meeting the clean energy targets set forth in ORS 469A.410,” given that the earliest and most achievable target is never actually achieved.¹⁹

The Oregon Planning Supplement presents a menu of options that the company indicates could help it to close the 25%-35% gap between its plan and its legal obligation. But those options are presented in vague terms without even indicative cost figures -- they do not represent a plan nor are they sufficient to demonstrate continual progress. Rather, they are perhaps best described as a plan to plan. Page 18 of the Supplement, for example, says “PacifiCorp will continue to examine a range of strategies” and “will consider a combination of ... various levers”; the next page says “PacifiCorp anticipates pursuing multiple compliance strategies” which it plans to discuss “in the upcoming 2025 CEP and future planning processes.” A plan to discuss compliance strategies in a future plan is not a plan at all. And again, this approach falls woefully short of a demonstration of continual progress.

Similarly, the IRP Update demonstrates on its face that PacifiCorp is not “taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions”²⁰ or “undertaking all practicable actions in the near term” toward achieving HB 2021’s mandatory emission-reduction targets.²¹ Rather, the company has canceled actions that would have helped it to achieve its obligation and has retreated from a more aggressive compliance strategy that -- as is discussed in more detail in a later section of these comments -- was based on better and more realistic planning assumptions.

¹⁹ HB 2021 Section 4(4)(e), codified at ORS 469A.415(4)(e).

²⁰ *Id.*

²¹ *Id.*

Rather than focusing on practicable near-term actions, the IRP Update explicitly embraces delay. In officially announcing that the company’s 2022 All-Source Request for proposals “will be terminated,” the Update says “there is a material benefit to scaling down and delaying resource acquisition until after 2030.”²² Note that 2030, again, is the year that the company first has a discrete, binding emission-reduction mandate under Oregon law. The Oregon Planning Supplement repeats this theme of “delay”: “The 2023 IRP Update preferred portfolio ... demonstrates that significant system benefits in scaling down and delaying these resource acquisitions that were originally identified in the 2023 IRP”²³ and “the 2023 IRP Update ... has led to reduced and delayed needs for the procurement of additional non-emitting resources.”²⁴

As briefly noted above, the IRP Update indicates that any actual decisions about potential procurement in the lead-up to 2030 will come in the 2025 plan -- not the current plan that is required to demonstrate continual progress. The Update says that “[t]he 2025 IRP will inform the next steps for incremental resource acquisition”²⁵ and that an approach to Washington and Oregon compliance will “be discussed with regulators and stakeholders and subsequently refined for the 2025 IRP.”²⁶ The Update revises the 2023 IRP Action Plan to eliminate a previously contemplated 2024 All-Source Request for Proposals, replacing that procurement with the following plan to plan:

Based on the resource procurement need identified in this IRP Update, it is likely that the 2025 IRP will include an action item to procure incremental resources to serve customers over the long term. Nonetheless, a new resource procurement action item will be established after development of the 2025 IRP.²⁷

The Oregon Planning Supplement says explicitly that continual progress “includes significant system and Oregon-specific resource needs” and that “[t]he 2025 IRP and CEP will discuss PacifiCorp’s plans to procure these resources.”²⁸ Even for the resources already identified in the IRP Update, which does not demonstrate compliance with HB 2021, the company indicates that “[t]he upcoming 2025 IRP and CEP will inform PacifiCorp’s next steps for procuring these resources including all-source and small-scale procurement strategies.”²⁹

A plan that *never* achieves the 80% GHG reduction that PacifiCorp is required to achieve by 2030 and that includes an explicit strategy to delay not only procurement but also the bare-minimum planning that would give rise to procurement, once again, self-evidently fails to

²² IRP Update at 14.

²³ Supplement at 3 (*sic*).

²⁴ Supplement at 6.

²⁵ IRP Update at 14.

²⁶ IRP Update at 76.

²⁷ IRP Update at 118-19.

²⁸ Supplement at 2-3.

²⁹ Supplement at 5.

“demonstrate[] continual progress as described in subsection (4)(e) of this section” and does not reflect “actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”³⁰ The Commission therefore has a statutory obligation to remedy the company’s failure to uphold its obligations under HB 2021.³¹

3. Erroneous Inputs and Assumptions Drive the Results of the 2023 IRP Update

Before turning to that remedy, these comments will discuss elements of PacifiCorp’s planning that have produced a plan that fails to comply with HB 2021. Analytical errors in PacifiCorp’s 2023 IRP Update have led the company to backslide considerably. These erroneous inputs and assumptions have resulted in drastically reduced procurement of clean, renewable energy sources, increased reliance on unproven future technologies, and increased risk of regulatory violations.

a. Unsupported renewable resource cost escalators push PacifiCorp away from clean, renewable energy resources

PacifiCorp assumes renewable resource costs significantly higher than what can be found in any comparable data source. In RNW’s Round 1 Comments for the 2023 IRP,³² we demonstrated that PacifiCorp’s cost assumptions for wind, solar, and battery technologies are 15-50% higher than cost assumptions for PGE and the California Public Utilities Commission (“CPUC”) through the early 2030s. Since then, PacifiCorp has defended its cost assumptions, claiming that they are adjusted based on what the company observed in the market in 2022, and that its cost assumptions include direct costs not captured in other sources.³³ These claims are insufficient. First, PacifiCorp’s costs are higher than all sources, even those that include construction financing costs such as NREL ATB³⁴ and CPUC.³⁵ Lazard’s recently released Levelized Cost of Energy+³⁶ reports total capital costs 32% lower than PacifiCorp for Solar PV and 25% lower for both land-based and offshore wind. Lazard’s capital cost estimates include direct costs such as construction financing charges, and their 2024 release is based on even more recent data than PacifiCorp’s 2022 market observations. There are no publicly available resources that support PacifiCorp’s renewable cost assumptions, and until PacifiCorp provides more information to support its assumptions, there is no way to conclude that they are based in reality.

³⁰ HB 2021 Section 4(6), codified at ORS 469A.415(6).

³¹ *Id.*

³² Round 1 Comments of Renewable Northwest at 31-39 (Oct. 25, 2023).

³³ PacifiCorp response to RNW stakeholder feedback form (SFF 7), May 23, 2024.

³⁴ [Data | Electricity | 2023 | ATB | NREL](#)

³⁵ [2022-2023 IRP Cycle Events and Materials \(ca.gov\)](#)

³⁶ [Levelized Cost of Energy+ | Lazard](#)

b. Optimistic assumptions about the viability of unproven future technology leads PacifiCorp to risky planning decisions

While PacifiCorp's erroneous renewable cost assumptions lead to an under-reliance on renewable energy in the IRP Update, the company simultaneously over-relies on rapid adoption of future technology that has yet to be demonstrated at scale.

In RNW's Round 1 Comments, submitted in October 2023, we identified significant risk in PacifiCorp's assumption that the 500 MW Sodium small modular reactor ("SMR") would be available by 2030.³⁷ While recent headlines include a groundbreaking ceremony, it is not clear that any progress has been made in resolving key regulatory and commercial hurdles to achieve this optimistic timeline. In the 2023 IRP, PacifiCorp's Action Item 1g included finalizing commercial agreements with TerraPower by the end of 2023. However, as of May 2, 2024, no agreement had been reached.³⁸

RNW remains concerned with PacifiCorp's assumptions about the availability and viability of green hydrogen as a fuel source for non-emitting peakers. While green hydrogen may become a widely available and affordable fuel for the power sector by 2030, it is not clear how this will happen without significant infrastructure investment and planning from utilities, which PacifiCorp has yet to demonstrate. In their response to OPUC Data Request 277, PacifiCorp states that the company has not attempted to identify a source for hydrogen for its non-emitting peakers, and assumes that hydrogen fuel costs will be equivalent to forecasted hydrogen production cost. This approach fails to account for multiple additional costs and planning considerations that could endanger the economic viability of using hydrogen as a clean fuel source.

The scale of green hydrogen demanded by PacifiCorp's planned non-emitting peakers highlights this risk. Based on the data disk values for Figure 1.2 of the 2023 IRP Update,³⁹ PacifiCorp plans to construct a single 303 MW non-emitting peaker called "Hunter" in Utah by 2030. Based on Table 5.2 of the IRP Update⁴⁰ (reproduced below as Figure 3), we assume that this is an SCCT Frame "J" X1 at 100% H₂ Concentration. If PacifiCorp plans to produce its own hydrogen on-site, then they would select one of the options with "onsite production and liquefied storage", which carries a base capital cost of over \$7000 per kW. However, since they have not identified a source,⁴¹ we can assume that PacifiCorp has selected one of the "pipeline" options. Using PacifiCorp's assumed heat rate of 9481 Btu/KWh and capacity factor of 33%, such a unit would

³⁷ Round 1 Comments at 21-22.

³⁸ PacifiCorp's May 2, 2024 Public Input Meeting.

³⁹ Sheet: "Portfolio Data", File: "(P)_Fig 1.2 - 2023 IRP Update PP (All Resources).xlsb", Folder: "CH1 - Executive Summary".

⁴⁰ IRP Update at 59-65.

⁴¹ See PacifiCorp response to OPUC Data Request 277.

require approximately 125 metric tons of H2 per day to operate. Assuming electrolyzer efficiency of 83%, the highest currently achieved, this implies 6000 MWh of zero-emission electricity and up to 1 million gallons of water consumed each day to run electrolyzers. To mitigate this risk, PacifiCorp should consider planning to construct sufficient renewable energy resources in order to supply this projected electrolyzer load. Using an assumed 30% capacity factor for solar in Utah, PacifiCorp could produce an average of 6000 MWh each day with approximately 750 MW of new solar. This further assumes the production and storage infrastructure is sufficient to balance hourly and seasonal intermittence in production.

Figure 3 - Non-Emitting Peaker Options Selected in 2023 IRP Update

Table 5.2 - 2023 IRP Update Supply Side Resources (2022\$)

Information Presented is Illustrative

Description		Resource Characteristics				Costs				Operating Characteristics		
Fuel	Resource	Elevation (AFSL)	Net Capacity (MW)	Commercial Operation Year	Design Life (yrs)	Base Capital (\$/KW)	Demolition Cost (\$/KW)	Var O&M (\$/MWh)	Fixed O&M (\$/KW-yr)	Average Full Load Heat Rate (HHV Btu/KWh)/Efficiency	EFOR (%)	POR (%)
Natural Gas	SCCT Frame 7" XI, 100H2 - onsite hydrogen production and liquified storage	5050	303	2035	40	\$ 7,869	\$ 37.42	\$ 2.72	\$ 84.10	9493	5.6	7.2
Natural Gas	SCCT Frame 7" XI, 100H2 - pipeline Utah North	5050	303	2035	40	\$ 1,109	\$ 37.42	\$ 2.72	\$ 16.83	9493	5.6	7.2
Natural Gas	SCCT Frame 7" XI, 100H2, BF - onsite hydrogen production and liquified storage	5050	303	2035	40	\$ 7,041	\$ 37.42	\$ 2.72	\$ 79.29	9493	5.6	7.2
Natural Gas	SCCT Frame 7" XI, 100H2, BF - pipeline Dave Johnston	5050	303	2035	40	\$ 1,109	\$ 37.42	\$ 2.72	\$ 16.83	9493	5.6	7.2
Natural Gas	SCCT Frame 7" XI, 100H2, BF - pipeline Hunter	5050	303	2035	40	\$ 1,109	\$ 37.42	\$ 2.72	\$ 16.83	9493	5.6	7.2

An additional risk of planning for large-scale hydrogen deployment is the global warming potential of hydrogen itself. Hydrogen is the smallest molecule in existence, and can degrade steel containers, and so can leak readily from all parts of the supply and utilization chain⁴². When released into the atmosphere, hydrogen has an indirect global warming effect by extending the lifespan of methane in the atmosphere. Over a 20-year period, it has 40 times the global warming potential of CO2⁴³. Assuming a leakage rate of 5%, the proposed hydrogen-fueled resource could emit over 100,000 MT of CO2e annually. RNW is not aware of any leakage planning or emission accounting in the 2023 PacifiCorp IRP or IRP update. Proactive engagement with leakage concerns will be essential for green hydrogen to meet its envisioned decarbonization potential.

One other future technology that deserves brief mention -- because it has a relatively limited effect on Oregon-allocated emissions -- is carbon capture, utilization, and storage (“CCUS”). The IRP Update assumes CCUS will be installed on Jim Bridger units 3 and 4 in 2028, resulting in two years of theoretical power with significantly lower atmospheric GHG emissions available to Oregon customers. However, both PacifiCorp and its parent company, Berkshire Hathaway Energy, have indicated that this timeline is unrealistic. At PacifiCorp’s May 2, 2024 public input meeting, PacifiCorp admitted that “there is a physical impossibility for us to get this [carbon capture at Bridger 3 and 4] implemented prior to 2030.”⁴⁴ On August 8, 2023 -- nearly 8 months prior to the release of the IRP Update -- Berkshire Hathaway Energy submitted comments on EPA draft rules stating that “carbon capture and sequestration cannot be deployed by January 1,

⁴² [HydrogenLeakageRegulations_CGEP_Commentary_063022.pdf \(columbia.edu\)](#).

⁴³ [A multi-model assessment of the Global Warming Potential of hydrogen | Communications Earth & Environment \(nature.com\)](#).

⁴⁴ May 2, 2024 Public Input Meeting, starting at 1:11:47, available at <https://www.youtube.com/watch?v=erK-UTswaIM>.

2030.”⁴⁵ PacifiCorp’s reliance on carbon capture technology, and other emerging technologies, may be acceptable when it reflects realistic assumptions. But when PacifiCorp admits that its suggested use of the technology is based on a “physical impossibility,” the company’s IRP Update becomes less credible.

c. PacifiCorp’s removal of the OTR constraint from the IRP Update does not reflect the regulatory landscape

The State of Utah, PacifiCorp, and several other entities sued the Environmental Protection Agency (“EPA”) over its disapproval of Utah’s implementation plan for the Ozone Transport Rule (“OTR”). The OTR aims to reduce ground level ozone pollution in downwind states through more stringent requirements on power plants and industrial facilities.⁴⁶ PacifiCorp’s lawsuit resulted in a stay of OTR implementation in Utah. The company then removed the OTR constraint from its modeling in the IRP Update, despite the absence of a final court decision and the forthcoming adoption of EPA rules that would further curb power plant emissions. The result is that PacifiCorp’s IRP Update does not accurately reflect the regulatory landscape at the federal level. It is also worth emphasizing that PacifiCorp itself sued the EPA to get the stay that it is now using to justify the changes to its resource plan. We expand upon both of these arguments below.

1. OTR litigation is ongoing and the EPA has issued a suite of new rules aimed at curbing pollution from power plants

In PacifiCorp’s 2023 IRP Update, the company explains that the stay of EPA’s disapproval of Utah’s OTR plan was a main driver behind the drastic changes between the originally filed plan and the update filed April 1, 2024. PacifiCorp’s IRP Update now allows its Utah coal fleet to operate with fewer restrictions solely because the Court of Appeals for the Tenth Circuit issued a stay. However, the case is still in litigation and has been transferred to the D.C. Circuit, where it is entirely possible that the court will side with the EPA.

Moreover, the EPA has issued a suite of new rules aimed at reducing pollution from fossil fuel-fired power plants. Among them, the Greenhouse Gas Standards and Guidelines for Fossil Fuel-Fired Power Plants (“GHG Rule”), is likely to have similar impacts to PacifiCorp’s system as the OTR, according to PacifiCorp’s Senior Vice President for Resource Planning, Procurement and Optimization, Rick Link.⁴⁷ The GHG Rule “would ensure that all coal-fired plants that plan

⁴⁵ Comments of Berkshire Hathway Energy in Docket ID No. EPA-HQ-OAR-2023-0072 <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0072-0630>.

⁴⁶ U.S. EPA, Good Neighbor Plan for 2015 Ozone NAAQS, <https://www.epa.gov/Cross-State-Air-Pollution/good-neighbor-plan-2015-ozone-naaqs>.

⁴⁷ OPUC Special Public Meeting, starting at 51:00, available at https://oregonpuc.granicus.com/player/clip/1332?view_id=2&redirect=true.

to run in the long-term and all new baseload gas-fired plants control 90 percent of their carbon pollution.”⁴⁸ The EPA published a draft rule on May 8, 2023, and PacifiCorp’s parent company, Berkshire Hathaway Energy, submitted comments on the draft rule on August 8, 2023.⁴⁹ While developing the IRP Update, PacifiCorp certainly knew the direction the EPA was heading and the impacts that would likely have on the company’s system. With OTR litigation ongoing and more federal regulations to curb pollution on the horizon, PacifiCorp’s decision to remove the OTR constraint from modeling in the IRP Update was not prudent and does not reflect the regulatory landscape.

2. The stay of OTR implementation in Utah is a direct result of PacifiCorp’s actions

During the OPUC Special Public Meeting on May 30, 2024, PacifiCorp responded to a question about how to deal with volatility in federal regulations and how to plan under that level of uncertainty. Mr. Link stated: “I believe there were a lot of complaints filed even before it [EPA’s GHG Rule] was published in the federal register. Twenty-three states and other entities are already lining up to challenge the rule. That just tells me we’re in an environment where there is going to be some uncertainty on the federal side that we’re going to have to grapple with as we work through our state specific plans. High level, those types of policies, OTR, GHG Rule, they do tend to ... make the state programs that much easier to meet.”⁵⁰ Arguably, PacifiCorp itself is responsible for creating the volatility we now see in its resource plan; the company’s decision to challenge EPA’s disapproval of Utah’s OTR plan resulted in the stay that has fundamentally altered PacifiCorp’s IRP.⁵¹ If federal regulations like the OTR make it easier for PacifiCorp to meet its state clean energy requirements, the company’s actions are certainly at odds with that reality and provide additional evidence that PacifiCorp may not intend to meet Oregon’s requirements.

PacifiCorp now appears inclined to sue the EPA over the GHG Rule. At the Utah Legislature’s Public Utilities, Energy and Technology Interim Committee hearing, Utah Representative Shipp asked PacifiCorp: “How do we deal with this [EPA GHG Rule] in the near future?” James Owen, VP for Environmental and Energy Resources with PacifiCorp replied:

⁴⁸ U.S. EPA, Greenhouse Gas Standards and Guidelines for Fossil Fuel-Fired Power Plants <https://www.epa.gov/stationary-sources-air-pollution/greenhouse-gas-standards-and-guidelines-fossil-fuel-fired-power>.

⁴⁹ Comments of Berkshire Hathaway Energy in Docket ID No. EPA-HQ-OAR-2023-0072 <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0072-0630>.

⁵⁰ OPUC Special Public Meeting, May 30, 2024, starting at 51:00, *available at* https://oregonpuc.granicus.com/player/clip/1332?view_id=2&redirect=true.

⁵¹ *See State of Utah et al. v. EPA*, Case #: 23-9509, Document #: 010110895101 (<https://attorneygeneral.utah.gov/wp-content/uploads/2023/07/10th-Stay-Order.pdf>).

Sure, the immediate response is to challenge it legally. We have had successful challenges of EPA rules in the past, the most recent successful one was the Ozone Transport Rule. When we fought that rule back, our primary argument was reliability. We explained *ad nauseam* that if you were to force all of these reliable resources to close in the timeframe the rule required, that we wouldn't be able to maintain that reliability. So, that was successful. But that litigation and that fight for the Ozone Transport Rule is still ongoing, so it's probably a never ending regurgitation effort for us. So, in the most immediate term, to try to get the [EPA GHG] rule stayed, that's the key part. And then longer term, it's to have reasonable rules promulgated, an administration and an EPA that will promulgate rules that actually make sense for our customers and make sense for the industry and make sense for reliability.⁵²

These remarks make clear that PacifiCorp is choosing to challenge the very regulations that would make portfolio optimization across a six-state footprint far easier and help the company reach Oregon's clean energy targets.

d. Bleak Results

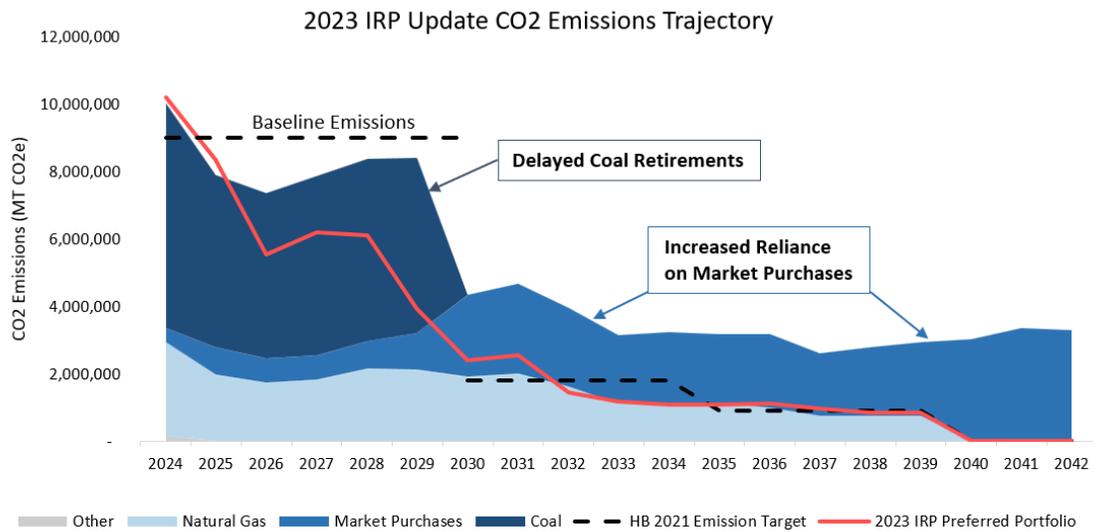
The erroneous inputs and assumptions in PacifiCorp's IRP have resulted in an emissions trajectory backslide that is incompatible with HB 2021 targets. Excessively high renewable cost assumptions have led the company to reduce procurement of clean renewables in favor of extending the life of emitting units, new investments in emitting units, and long-term reliance on market purchases. In addition, their assumption that the 10th Circuit's OTR stay will hold indefinitely has prolonged the operational life of coal resources. In Figure 4, we present the impacts of these two assumptions.⁵³

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⁵² Utah State Legislature: Public Utilities, Energy, and Technology Interim Committee, May 15, 2024, starting at 1:22:00, available at <https://le.utah.gov/av/committeeArchive.jsp?mtgID=19438>.

⁵³ From Attachment OPUC 251-1, we assume market purchases have a carbon intensity of 0.428 MT CO₂e per MW.

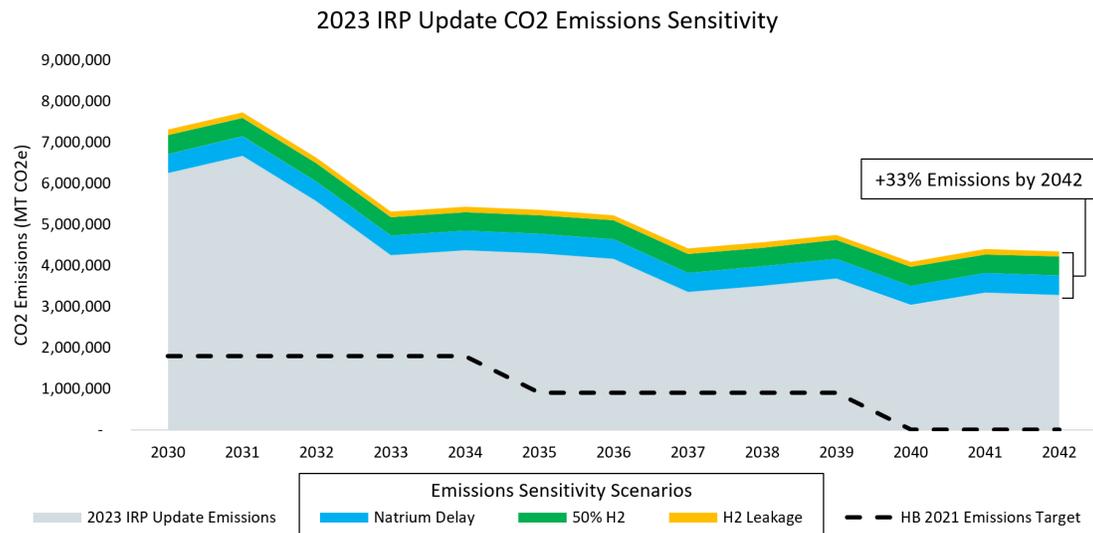
Figure 4 - Drivers of increased emission trajectory in 2023 IRP Update



PacifiCorp’s preferred portfolio in the 2023 IRP Update fails to meet HB 2021 targets by a wide margin. However, by relying on unproven future technology and failing to account for leakage potential, PacifiCorp risks emissions even higher than what they have presented. We consider three different emission sensitivities:

1. “Natrium Delay”: An indefinite delay to the completion of a 500 MW Natrium SMR.
2. “50% H2”: Due to infeasibility of operating a plant at 100% H2, the planned non-emitting peaker runs on a blend of 50% H2 and 50% natural gas.
3. “H2 Leakage”: Due to lack of planning to mitigate H2 leakage, 5% of hydrogen is released into the atmosphere.

Figure 5 - Emissions Sensitivity of Future Technology Assumptions in 2023 IRP Update



Taken together, these three scenarios could increase 2042 emissions by as much as 33%, and push PacifiCorp even further from the emissions targets they are required to meet.

e. PacifiCorp does not provide adequate justification for the cancellation of the 2022 All-Source RFP

As is discussed above, PacifiCorp suspended its 2022 RFP on September 29, 2023 and announced the RFP's termination on April 1, 2024, alongside the filing of the company's IRP Update. Within the Update, PacifiCorp also noted that it does not plan to issue the 2024 AS-RFP for resources that would have reached commercial operation by the end of 2028, as originally planned in the 2023 IRP (Action Item 2b). The company explained that any new resource procurement plans would be developed after the 2025 IRP. Effectively, PacifiCorp does not plan to acquire new resources through RFPs before the 2030 HB 2021 target.

PacifiCorp attributed the cancelation of the RFP to “(1) The stay of EPA's disapproval of Utah's state ozone plan; (2) Ongoing rulemaking by the EPA regarding greenhouse gas emissions, with impacts on our system to be determined; (3) Wildfire risk and associated liability across our six-state service area and throughout the West; and (4) Evolving extreme weather risks that necessitate further decision-making regarding PacifiCorp's operational and resource requirements.”⁵⁴

RNW has already commented on the first two reasons, but reiterates that: (1) a stay is not a compelling reason to remove the OTR constraint from planning as it is not a final decision; and (2) PacifiCorp was well aware of the direction EPA was headed as it promulgated new rules to reduce pollution and protect public health. It is unfathomable that PacifiCorp would not have understood as it developed the IRP Update that EPA's new greenhouse gas emissions rules would further restrict its fossil fuel resources.

As for the third driver, wildfire risk and liability is mentioned just once in the IRP Update, though it is becoming increasingly clear that changes to PacifiCorp's resource procurement strategy are being driven by this risk. In the May 30th OPUC Special Public Meeting, PacifiCorp spoke openly about wildfire risk and liability, explaining that the company is cash-flow constrained and that further credit-rating downgrades could limit its ability to borrow funds. As a result, PacifiCorp stated that it is scrutinizing its capital expenditures and is unlikely to build new resources for the next few years. However, the company's Chief Financial Officer noted that “our likely path is going to be power purchase agreements, as those contracts don't require us to fund the construction of the facility and therefore they don't have as much of an impact on our credit metrics.”⁵⁵

⁵⁴ IRP Update at 67.

⁵⁵ OPUC Special Public Meeting, May 30, 2024, starting at 1:33:00, *available at* https://oregonpuc.granicus.com/player/clip/1332?view_id=2&redirect=true.

RNW appreciates the challenge that wildfire risk and liability poses to PacifiCorp and its customers. However, some of PacifiCorp’s recent actions appear at odds with what the company has publicly stated. First, if PacifiCorp is more likely to pursue power purchase agreements (“PPAs”) in light of its financial position, the company could have selected PPAs through its RFP process rather than canceling the RFP altogether. Second, PacifiCorp recently announced that it acquired the development rights to a 300 MW wind and solar-plus-storage project in Idaho. NewsData reported that the “Arco project emerged from the company's 2022 request for proposals as a benchmark self-build project.”⁵⁶ If that statement is correct, it undermines PacifiCorp’s statements about lacking the capital to pursue self builds. Last, PacifiCorp expressed concern with its ability to access capital, but the company appeared to have had no trouble raising \$3.8 billion in debt financing in January 2024, even after a jury found the company liable for damages related to 2020 wildfires and after the company received credit downgrades.⁵⁷

Much like wildfire risk, PacifiCorp’s fourth reason for canceling the RFP -- extreme weather risk -- is a direct consequence of climate change. Suffice to say, it is extremely counterintuitive for PacifiCorp to drastically reduce and delay investment in cost effective, renewable resources as the effects of climate change bear down on its system and customers.

f. Looking Ahead to the 2025 Plans

RNW would first like to note that PacifiCorp has implemented certain modeling improvements in its 2023 IRP Update. Specifically, PacifiCorp has advanced its methodology by integrating state-specific policy objectives directly into the systemwide optimized buildout, rather than layering these regional requirements incrementally after the initial optimization of the company-wide portfolio. This adjustment allows for identifying opportunities where procurement decisions driven by state-specific needs can also cost-effectively benefit all of PacifiCorp’s customers, while shielding customers in other states from any uneconomic costs associated with regional clean energy requirements. Additionally, we appreciate PacifiCorp’s effort to incorporate granularity adjustments (“GA”) and reliability adjustments (“RA”) directly into the LT Plan engine, rather than manually selecting resources to address the shortfalls identified in the initial buildout results from PLEXOS LT.

⁵⁶ NewsData, “PacifiCorp Acquires 300 MW Wind and Solar Project in Idaho,” March 1, 2024, https://www.newsdata.com/clearing_up/briefs/pacificorp-acquires-300-mw-wind-and-solar-project-in-idaho/article/ac5f97ca-d7f1-11ee-a70c-7bb46a67cd2f.html; NIPCC DR #8.

⁵⁷ S&P, “PacifiCorp Downgraded To ‘BBB+’, Outlook Revised To Negative; Berkshire Hathaway Energy Co. Outlook Also Negative,” June 20, 2023; Financial Post, “Berkshire Utility Sells \$3.8 Billion Bond to Pay Wildfire Claims,” January 3, 2024, <https://financialpost.com/pmnbusiness/pmnbusiness-berkshire-utility-sells-blue-chip-bonds-to-pay-wildfire-claims>.

However, PacifiCorp’s continued reliance on GAs and RAs highlights RNW’s overarching concerns with its modeling methodology, as the current utilization of PLEXOS LT raises several critical issues regarding the accuracy and reliability of the portfolio buildout results. While RNW recognizes the necessity of reduced form chronology and other simplifying assumptions in PLEXOS LT due to computational tractability restrictions, it is essential to acknowledge that the PLEXOS software offers the user multiple options to mitigate the attendant impacts of these simplifications on model accuracy. RNW believes that PacifiCorp has not sufficiently demonstrated to outside stakeholders how it has explored all the options PLEXOS makes available to users when configuring an LT model run.

PacifiCorp continues to rely on an overly-simplified chronological setup in PLEXOS LT, which consists of only seven time blocks per month. As a result, the model's ability to accurately calculate the full benefits of renewable and storage technologies is severely compromised. PacifiCorp’s poorly configured LT Plan, coupled with the absence of a planning reserve margin (“PRM”) study and an effective load carrying capability (“ELCC”) accreditation study, is the underlying driver of the company's need to extensively rely on GAs and RAs to produce a reliable and cost-effective portfolio.

As a brief reminder, PRM and ELCC studies involve probabilistic loss-of-load probability (“LOLP”) modeling across multiple weather conditions for a given study year to determine the proper amount of required reserves to satisfy a specified reliability target (e.g., 0.1 LOLE) and the firm capacity benefits of renewables (e.g., solar and wind) and energy-limited resources (e.g., energy storage). Notably, both of these studies are now generally classified as industry standard.⁵⁸ RNW has offered multiple suggestions to PacifiCorp related to its LT Plan setup, as highlighted in our Round 1 comments and comments on Staff’s report during the 2023 IRP proceeding, but these recommendations have yet to be meaningfully addressed by the company.⁵⁹

RNW believes that PacifiCorp can greatly improve its PLEXOS LT Plan setup by leveraging the outputs from soundly-conducted PRM and ELCC studies alongside the suggested modeling enhancements provided by RNW. If implemented, these improvements will not only result in a more efficient modeling process (i.e., reducing the number of iterations required for convergence) but also improve the accuracy of the company’s modeling exercises.

Finally, it is imperative to address these shortcomings promptly to prevent the continuation of this flawed methodology in the company's 2025 IRP. Despite multiple recommendations from stakeholders, including RNW, to fundamentally improve the LT Plan setup, PacifiCorp has yet to engage in meaningful dialogue or disclose their model configuration, hindering collaborative

⁵⁸ Lawrence Berkeley National Lab (LBNL). A Guide for Improved Resource Adequacy Assessments in Evolving Power Systems: Institutional and Technical Dimensions. June 2023.

⁵⁹ See generally Round 1 Comments of Renewable Northwest (Oct. 25, 2023) and Renewable Northwest’s Comments on Staff’s Report (Feb. 14, 2024).

efforts to refine their planning process. Implementing these improvements up front would significantly enhance the overall efficiency and accuracy of the portfolio buildout plans and ensure that PacifiCorp's future IRPs are based on a more reliable and economically sound methodology.

4. Additional Procurement Is Necessary To Meet the company's 2030 GHG-Reduction Mandate

Having explored the modeling underlying PacifiCorp's IRP Update in some depth, we return to the crux of our comments: the company has not demonstrated continual progress, it is not on track to achieve its obligations under Oregon law, and time is running out to course-correct. PacifiCorp must procure clean resources as soon as possible if it is to comply with HB 2021.

A little context: at an April 5, 2021 legislative hearing on HB 2021, PacifiCorp's representative Scott Bolton testified that the law, as "a 100% clean energy standard, will absolutely require even more renewable investment than what our current resource planning shows today."⁶⁰ At that time, the company was concurrently performing resource modeling, and their June 2021 preliminary results (which did not incorporate HB 2021) signaled the possible selection of hundreds of megawatts of new renewable resources through the mid-to-late 2020s.⁶¹ The 2021 IRP filed later that year (which still did not incorporate HB 2021) ended up selecting even more renewable resources in the mid-to-late 2020s.⁶² The 2023 IRP (which was filed alongside a Clean Energy Plan that addressed HB 2021) continued the trend of expanding a relatively aggressive clean-energy procurement approach in the mid-to-late 2020s -- but still fell short of the company's 2030 GHG-reduction obligation under HB 2021.⁶³ Now the 2023 IRP Update (which does not incorporate HB 2021) has deferred clean resource procurement into the 2030s. This cuts against common expectations of what HB 2021 would mean and it represents a regression -- the opposite of continual progress.

The Commission has shared these common expectations and has progressively indicated through a series of orders that it has an obligation to ensure utilities are taking active steps toward

⁶⁰ House Committee On Energy and Environment 04/05/2021 at 27:22, *available at* <https://olis.oregonlegislature.gov/liz/mediaplayer/?clientID=4879615486&eventID=202104107>.

⁶¹ PacifiCorp 2021 IRP Public-Input Meeting at Slide 21 (June 25, 2021), *available at* https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/PacifiCorps_2021_IRP_PIM_June_25_2021.pdf.

⁶² PacifiCorp 2021 IRP at 307, Table 9.17, *available at* <https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2021-irp/Volume%20I%20-%209.15.2021%20Final.pdf>.

⁶³ PacifiCorp 2023 IRP at 311, Table 9.20, *available at* https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2023-irp/2023_IRP_Volume_I.pdf; for a discussion of the interaction between the 2023 IRP and HB 2021's mandatory GHG-reduction targets, see PacifiCorp's 2023 Clean Energy Plan at Chapter VII, beginning on page 71, *available at* https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificpower/about/2023_Oregon_Clean_Energy_Plan_October.pdf.

achieving HB 2021’s GHG-reduction mandates. As discussed above in the Legal Background section of these comments, the Commission explained the concept of continual progress in Order No. 24-002: “we understand that the purpose of requiring continual progress is **to ensure utility action during the years before compliance with the relevant target is required**, and that a lack of continual progress may not be capable of remedy solely at the time of that eventual compliance determination.”⁶⁴ The Commission went on to explain its obligation to ensure continual progress:

If we determine, in an IRP/CEP docket, that the continual progress required by HB 2021 has not been demonstrated, we may also initiate additional proceedings. We interpret HB 2021’s direction for us to “ensure” continual progress to give us the authority to require a utility to take actions outside the context of the regulatory determination whether to acknowledge a CEP (i.e., to procure additional resources or make necessary infrastructure investments).⁶⁵

What the Commission identified as a possible outcome in Order No. 24-002 is exactly what this situation calls for. The Commission has not only the authority, but also the obligation, to require PacifiCorp to take actions beyond those identified in the IRP Update -- specifically, “to procure additional resources.”⁶⁶

It may take a contested case to determine the correct scope of such a requirement, but RNW recommends that any such contested case proceed on an expedited basis. As noted above, 2030 is five and a half years away, and PacifiCorp is currently projecting a roughly 50% emissions reduction, well short of its statutory mandate. Given the current procurement environment, the 2025 IRP will be too late to ensure that the company is in a position to achieve its 2030 obligation.

III. Conclusion

Renewable Northwest appreciates the Commission’s attention to these comments. For the reasons set forth above, we respectfully request that the Commission first determine that PacifiCorp has not demonstrated continual progress towards achieving HB 2021’s mandatory emission-reduction targets, and second open an expedited proceeding to determine an appropriate remedy, including procurement of new clean resources sufficient to put the company back on track.

⁶⁴ Order No. 24-002 at 29 (emphasis added).

⁶⁵ *Id.*

⁶⁶ *See* Order No. 24-002 at 29.

Respectfully submitted this 14th day of June, 2024,

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of

PACIFICORP d/b/a PACIFIC POWER,

2023 Integrated Resource Plan

Joint Advocates Comments on PacifiCorp
2023 Integrated Resource Plan Update and
Clean Energy Plan Supplement

**JOINT ADVOCATES COMMENTS ON PACIFICORP 2023 INTEGRATED
RESOURCE PLAN UPDATE AND CLEAN ENERGY PLAN SUPPLEMENT**

JUNE 14, 2024

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 82

In the Matter of

PACIFICORP d/b/a PACIFIC POWER,

2023 Integrated Resource Plan

Joint Advocates Comments on PacifiCorp
2023 Integrated Resource Plan Update and
Clean Energy Plan Supplement

**JOINT ADVOCATES COMMENTS ON PACIFICORP 2023 INTEGRATED
RESOURCE PLAN UPDATE AND CLEAN ENERGY PLAN SUPPLEMENT**

I. INTRODUCTION

Sierra Club, Mobilizing Climate Action Together, Green Energy Institute at Lewis and Clark Law School, Northwest Energy Coalition, Oregon Citizens’ Utility Board, and Oregon Solar + Storage Industries Association (collectively, “Joint Advocates”) thank the Oregon Public Utility Commission (“Commission”) for the opportunity to provide comment on PacifiCorp’s (“Company”) 2023 Integrated Resource Plan (“IRP”) Update and Clean Energy Plan (“CEP”) Supplement. As these comments will demonstrate, the Update and Supplement mark a dramatic change from the 2023 IRP and CEP, putting PacifiCorp significantly off-course from meeting its House Bill (“HB”) 2021 emission reduction targets and thereby jeopardizing Oregon’s ability to meet its climate objectives. Rather than invest in clean, low-cost resources, as originally forecasted in the 2023 IRP, PacifiCorp has abandoned such plans and instead proposes long-term reliance on its fossil fleet, including coal units that analyses from as early as 2018, conducted by both PacifiCorp and on behalf of Sierra Club,¹ demonstrate are not economic for customers. These surprising changes are largely a result of unsupported modeling constraints that not only prohibited PLEXOS from selecting new, currently uncommitted resources until 2027 but also allowed PLEXOS to ignore federal regulations limiting pollution from PacifiCorp’s coal facilities.

¹ Lulia Gheorghiu, *PacifiCorp Shows 60% of its Coal Units are Uneconomic*, Util. Dive (Dec. 5, 2018), available at <https://www.utilitydive.com/news/pacifcorp-shows-60-of-its-coal-units-are-uneconomic/543566/>; Jeff Burks et al., *PacifiCorp Coal Unit Valuation Study*, Energy Strategies (June 20, 2018), available at <https://www.sierraclub.org/sites/default/files/PacifiCorp-Coal-Valuation-Study.pdf>.

PacifiCorp’s 2023 IRP Update and CEP Supplement are informational filings because the utility has chosen not to seek acknowledgment. Given the significant and permanent changes that PacifiCorp has introduced, we question whether an Update was the appropriate filing to have been made, as PacifiCorp is not merely providing a status update on the implementation of the 2023 IRP but instead is charting an entirely new resource strategy. We are concerned that PacifiCorp’s decision not to seek acknowledgment is an attempt to limit not only stakeholder engagement at this critical juncture but also Commission oversight. We urge the Commission to critically evaluate the 2023 IRP Update and CEP Supplement and provide clear and explicit instruction to the Company, as is required by HB 2021.

These comments address the following topics:

1. PacifiCorp’s failure to demonstrate “continual progress” towards meeting HB 2021’s emission reduction targets;
2. Necessary Commission action in order to “ensure” that PacifiCorp is able to demonstrate “continual progress” in the future;
3. Significant shortcomings in the 2023 IRP Update that should be corrected in the 2025 IRP;
4. PacifiCorp’s failure to comply with Commission direction regarding its CEP Supplement; and
5. A summary of recommendations.

II. PACIFICORP’S 2023 IRP UPDATE AND CEP SUPPLEMENT DEMONSTRATE THAT RECENT COMPANY DECISION MAKING IS MOVING THE COMPANY *FURTHER AWAY* FROM ACHIEVING HB 2021’S EMISSION REDUCTION REQUIREMENTS, NOT MAKING THE LEGALLY REQUIRED “CONTINUAL PROGRESS”

The 2023 IRP Update and CEP Supplement showcase a utility that is stalling compliance with HB 2021, once again delaying a transition from its fossil fleet to clean energy and the associated emission reductions to “sometime in the future.” As compared to the 2023 IRP and CEP, the Update and Supplement slash clean energy procurements in favor of continued reliance on fossil fuels, in turn eliminating significant, promised emission reductions and setting PacifiCorp on a path to exceed HB 2021’s emission reduction targets in 2030, 2035, and 2040. The abandonment of the clean energy transition ignores the years-worth of data showing that PacifiCorp’s coal fleet is uneconomic and harming ratepayers. PacifiCorp’s purported justifications for continuing to rely on high-cost, volatile, and polluting resources that are contributing to the climate crisis and, in particular, severe wildfires across the West, crumble

upon even cursory inspection. Acknowledging that the plan falls well short of HB 2021 requirements, the Company proposes “levers” to increase clean energy in Oregon, but these levers are largely paper emission reductions that will be difficult, if not impossible, to implement. In sum, the 2023 IRP Update and CEP Supplement fail to “demonstrate [that PacifiCorp] is making continual progress within the planning period towards meeting the clean energy targets set forth in section 3 of [HB 2021]... .”²

A. PacifiCorp’s 2023 IRP Update and CEP Supplement Significantly Increase Continued Reliance on Fossil Fuels and Slash Clean Energy Procurements Compared to the 2023 IRP

HB 2021 sets straight-forward emission reduction targets: 80% reduction from baseline by 2030, 90% reduction by 2035, and 100% reduction by 2040.³ These reduction targets were not pulled out of thin air; they are scientifically backed and align with the best climate science that show meeting the Paris Agreement’s target of keeping global warming to 2 degrees Celsius requires reducing electric power sector greenhouse gas emissions by approximately 80% by 2030. Indeed, after rejoining the Paris Agreement in 2021, the United States set a “nationally determined contribution” to reduce net greenhouse gas emissions 50-52% by 2030, including a goal to reach 100% carbon pollution-free electricity by 2035.⁴

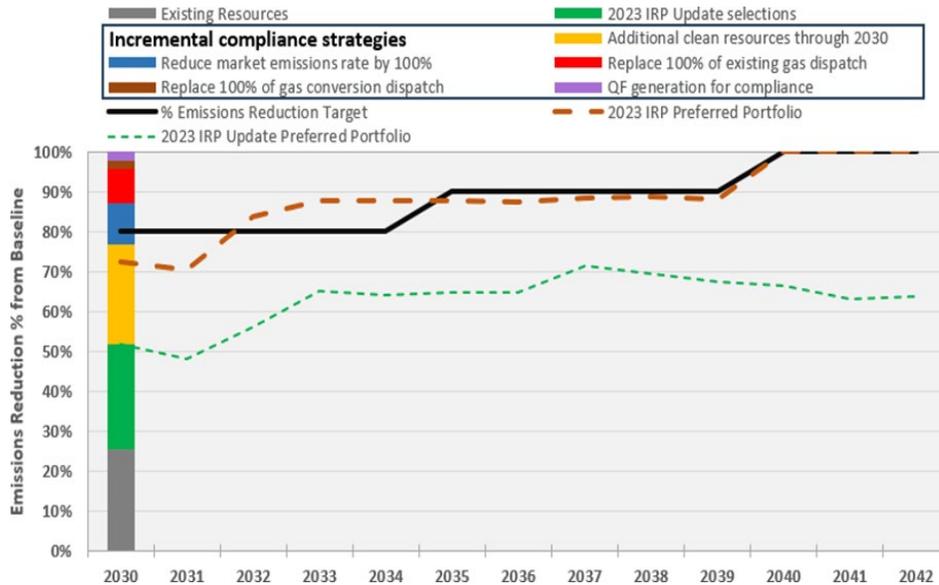
PacifiCorp’s 2023 IRP Update and CEP Supplement put forward a plan that, admittedly, will not achieve these targets within the planning horizon (by 2042), if ever.

² HB 2021, 2021 Leg., 81st Sess. § 4(4)(e) (Or. 2021) [hereinafter “HB 2021”].

³ HB 2021 § 3(1)(a)-(c).

⁴ The U.S. of Am., *Nationally Determined Contribution* at 1, 3 (Apr. 21, 2021), available at <https://unfccc.int/sites/default/files/NDC/2022-06/United%20States%20NDC%20April%2021%202021%20Final.pdf>.

Figure 1: Reproduction of Figure 2 in the CEP Supplement



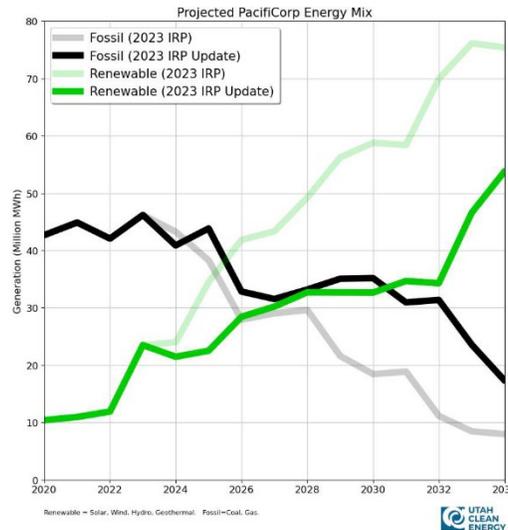
As demonstrated by Figure 2 in the CEP (reproduced above), PacifiCorp projects reducing its greenhouse gas emissions just 50% below baseline by 2030. At its peak, PacifiCorp forecasts reducing emissions by just over 70% in 2037, before allowing emissions to increase again through 2042, with emission reductions hovering above 60% below baseline in that final year of the planning period. The 2023 IRP Update and CEP Supplement definitively show a utility far off-track from meeting HB 2021’s requirements. The projected emission reductions are so far off HB 2021’s mandate that it cannot reasonably be said that the plan demonstrates continual progress “*towards meeting the clean energy targets*”⁵ because the plan does not contemplate meeting the required targets.

Order No. 24-002 indicated that the Commission would consider “forward-looking actions” and whether the utility’s plans identified future actions necessary to meet HB 2021 requirements. Comparing the stark difference between the 2023 IRP and the 2023 IRP Update, PacifiCorp has, in fact, *abandoned* previous plans to reduce emissions. Whereas PacifiCorp’s plans under the 2023 IRP included significant clean energy procurements that would reduce the Company’s reliance on fossil fuels, the 2023 IRP Update reverses course, slashing previous clean energy procurement forecasts in favor of continued reliance on fossil fuels. In the 2023 IRP, PacifiCorp’s resource projections would have resulted in renewables generation (solar,

⁵ HB 2021 § 4(4).

wind, hydro, and geothermal) surpassing fossil generation (coal and gas) in 2025. Under the 2023 IRP Update, that tipping point has been pushed back to 2032.

Figure 2: PacifiCorp's Projected Energy Mix⁶



This is not surprising because PacifiCorp’s solar and storage additions plummeted between the 2023 IRP and 2023 IRP Update, with solar decreasing by 68% and storage decreasing by 79%.⁷ And while cumulative wind additions did not decrease between the 2023 IRP and 2023 IRP Update, procurement was significantly delayed. As in prior planning exercises, PacifiCorp assumes that steady, yearly procurement can be replaced with sudden, dramatic increases at specific time intervals, without analyzing the risks of this strategy including fluctuations in pricing, supply chain issues that may make large procurements infeasible, or increased competition for new clean energy.

⁶ Figures 2 through 8 were produced by Logan Mitchell, PhD, Climate Scientist and Energy Analyst for Utah Clean Energy. The associated workpapers are provided as Exhibit 1.

⁷ *Id.*

Figure 3: Solar Procurements in the 2023 IRP Update Compared to the 2023 IRP

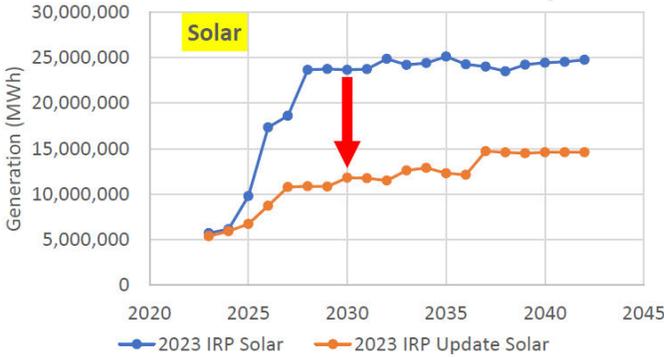


Figure 4: Storage Procurements in the 2023 IRP Update Compared to the 2023 IRP

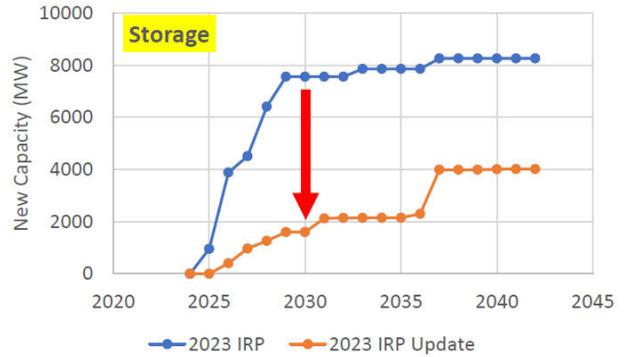
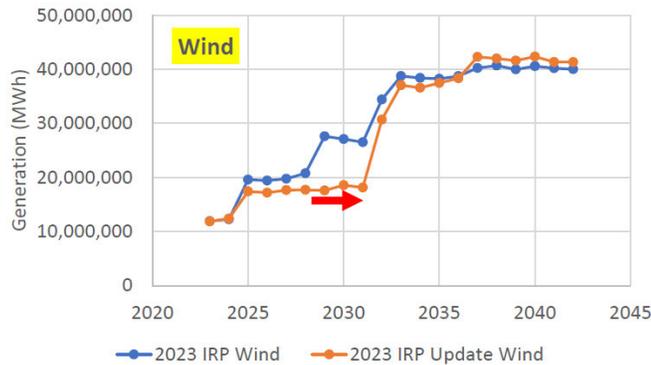


Figure 5: Wind Procurements in the 2023 IRP Update Compared to the 2023 IRP



Conversely, coal generation significantly increased by nearly six times between the 2023 IRP and 2023 IRP Update. This coal generation is assumed to operate without any additional pollution controls like selective non-catalytic reduction (“SNCR”) or selective catalytic reduction (“SCR”), despite federal regulations that are likely to require these and potentially other pollution controls (discussed in Section II(B)(1)).

Figure 6: Coal Generation in the 2023 IRP Update Compared to the 2023 IRP



These results are not intuitive given the favorable economics of clean energy compared to the high and volatile costs associated with fossil fuel generation. PacifiCorp largely attributes these resource changes to its decision to remove modeling constraints pertaining to the U.S. Environmental Protection Agency’s (“EPA”) Good Neighbor Plan (Ozone Transport Rule), which is discussed in depth below. However, PacifiCorp also included other modeling constraints that foreclosed the possibility of near-term clean energy acquisition. Specifically, “[i]n PacifiCorp’s 2023 [IRP] Update preferred portfolio, the earliest uncommitted resource additions are allowed in 2027.”⁸ In other words, the PLEXOS model was unable to select new generating resources (that had not already been committed to) until at least 2027, regardless of the economics. This would have greatly skewed the modeling and, along with the many additional errors described below, calls into question the validity of preferred portfolio. It also stands in contrast to Portland General Electric (“PGE”). In finding that PGE had demonstrated continual progress, the Commission noted, in part, that PGE “was undertaking all practicable actions in the near term and *was not artificially limiting any particular resource as compared to others.*”⁹

The cumulative effect of these resource changes is that PacifiCorp’s 2023 IRP Update projects massively higher CO₂ emissions throughout the planning period: an increase of 114 million metric tons of CO₂ by 2050, or a 39% increase compared to the 2023 IRP.¹⁰

⁸ PacifiCorp Response to Sierra Club Data Request 52 (emphasis added), provided in Exhibit 2.

⁹ *Portland Gen. Elec. Co. 2023 Integrated Res. Plan and Clean Energy Plan*, Or. Pub. Util. Comm’n, Docket No. LC 80, Order No. 24-097 at 3 (Apr. 18, 2024) (emphasis added).

¹⁰ Ex. 1.

Figure 7: Emission Reductions Projected in the 2023 IRP Update Compared to the 2023 IRP

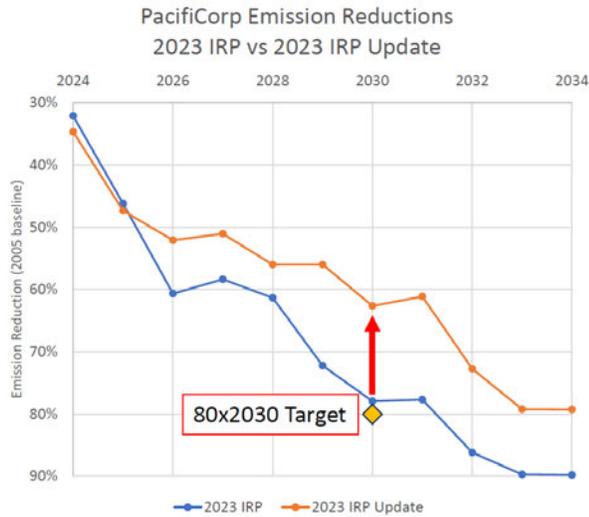
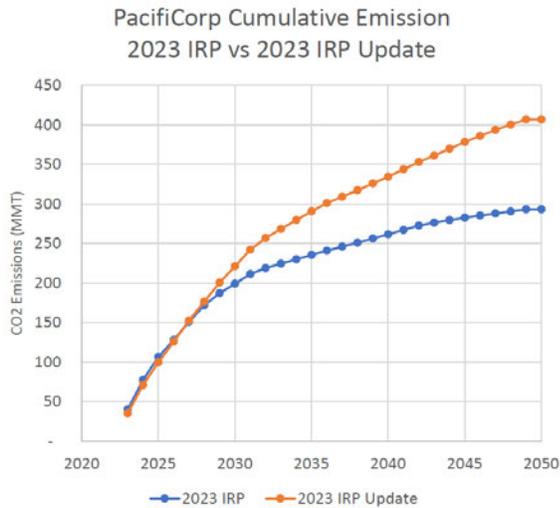


Figure 8: Cumulative Emissions Projected in the 2023 IRP Update Compared to the 2023 IRP



Nevertheless, PacifiCorp asks this Commission to find that it has demonstrated continual progress, relying exclusively on past emission reductions. While laudable, these emission reductions were not driven by HB 2021 compliance because HB 2021 either had yet to exist or PacifiCorp had not yet factored the law into its planning processes. Not only are the past emission reductions insufficient to meet HB 2021’s mandates (as demonstrated by Figure 2), but they also represent a “business as usual” approach. HB 2021 decidedly intended to quicken utility emission reductions. As a result, HB 2021 requires utilities to ensure that planning leads to

deeper and faster emission reductions, not to continue normal planning and report out associated greenhouse gas emissions.

B. PacifiCorp’s Abandonment of Its 2023 IRP Forecasted Clean Energy Procurement Is Unsupported

PacifiCorp largely alleges that two factors support its continued reliance on fossil fuels: (1) the temporary stay of the Good Neighbor Plan and (2) its wildfire risk and liabilities. Neither of these provide reasonable justification for abandoning low cost, clean energy procurement that would not only help PacifiCorp achieve its HB 2021 requirements but also address its resource adequacy concerns.

1. The Temporary Stay of the Good Neighbor Plan in Utah Does Not Justify PacifiCorp’s Decision to Ignore Federal Regulations in Its Resource Planning

PacifiCorp’s removal of the Good Neighbor Plan (Ozone Transport Rule) from the 2023 IRP Update, despite no final decision on the legality of that regulation or its applicability to Utah, was one of the primary reasons that PacifiCorp’s 2023 IRP Update so dramatically changes course from the 2023 IRP. PacifiCorp’s sole justification for removing the Good Neighbor Plan’s requirements from the model’s constraints was that the United States Court of Appeals for the Tenth Circuit issued a stay of the rule in Utah. A stay is not a final ruling, and it is not reasonable to rely on an interim decision to such a degree. Not only has a final decision yet to be issued, but the case has also been transferred from the Court of Appeals for the Tenth Circuit to the Court of Appeals for the D.C. Circuit, meaning that the court that initially entered the stay will not make a final determination. Prudent planning requires evaluating a range of potential outcomes. Instead, PacifiCorp assumes that a single outcome—no implementation of the Good Neighbor Plan in Utah—is certain to occur. This speculation, if wrong, comes at the expense of PacifiCorp’s ratepayers, as the Company has abandoned near-term resource acquisitions that would have put it in a position to maintain reliable and affordable electric service if Hunter and Huntington’s operations must be curtailed in order to comply with the Good Neighbor Plan.

Moreover, removal of the Good Neighbor Plan ignores the broader regulatory environment in which PacifiCorp is operating. Since the 2023 IRP Update was filed on April 1, 2024, EPA finalized four new regulations that are likely to impose significant costs on PacifiCorp’s coal fleet. While these rules were not finalized until after the Update was filed, the

final rules do not significantly deviate from the draft rules that have been available for months. Accordingly, PacifiCorp could have considered these rules in the 2023 IRP Update and should be well prepared to incorporate these rules into its 2025 IRP. Instead, PacifiCorp unreasonably assumed that environmental regulations would remain static throughout the planning horizon.

These rules are briefly explained below; however, our organizations emphasize that the importance here is not in the rules' specifics but the general trajectory of environmental regulation on coal-burning facilities. In addition to the Good Neighbor Plan, EPA's new regulations are likely to drive PLEXOS modeling in exactly the opposite direction as the 2023 IRP Update: back to selecting coal unit retirements over expensive pollution control installations and replacing those coal units with low cost, clean energy resources.

Ignoring current federal environmental regulations in the 2023 IRP Update, even as new regulations were under consideration and subsequently finalized, underscores why PacifiCorp's decision to abandon any new resource procurement until after the 2025 IRP is very likely to harm ratepayers and sets the Company on a path of being "precisely wrong" rather than "roughly right." If the 2025 IRP forecasts, once again, a need for new resources to replace aging fossil fuels subject to increasingly stringent environmental regulations, PacifiCorp will not be able to procure new resources until several years down the line, even if it restarts currently suspended Request for Proposals ("RFPs") that it could have already acquired or been in the process of acquiring new resources based on the 2021 and 2023 IRPs. Indeed, PacifiCorp representative Rick Link indicated at the May 30, 2024 Special Public Meeting that resources procured following the 2025 IRP would be expected to be online between 2027 and 2029. This means that customers will be locked into paying for higher cost resources than they otherwise would have had PacifiCorp acquired new resources between the 2021 and 2025 IRPs, as it originally intended. Ultimately, whether the Company is entitled to recover the costs of relying on higher cost resources when it could have taken action now to prepare for their replacement will be decided in a future rate case. However, the Commission should put PacifiCorp on notice that its approach to resource planning and decision making could set the Company up for a disallowance.

The EPA regulations that are likely to impact the 2025 IRP include, at a minimum, the following:

a. Clean Air Act, Section 111(d)

On May 9, 2024, Clean Air Act, Section 111(d) regulations setting emission limits for carbon dioxide were finalized in the Federal Register.¹¹ Under the regulation, carbon dioxide emission limitations are tied to a coal plant’s retirement date, as shown below.

Clean Air Act 111(d) Rules for Existing Coal (Steam Generators)		
Requirements by Retirement Date Categories		
Prior to 2032	2032-2039	2039 or later
No obligation, but federally enforceable retirement required	Co-firing 40% (by heat input) natural gas with emission limitation of a 16% reduction in emission rate (lb CO ₂ /MWh gross basis) by January 1, 2030	Carbon Capture and Sequestration (“CCS”) with 90% capture of CO ₂ (88.4% reduction in emission rate lb/MWh gross) by January 1, 2032

Notably, for coal units that plan to continue burning coal past 2039, EPA’s regulation requires carbon capture and sequestration (“CCS”), not carbon capture, utilization and storage (“CCUS”). As a result, even if carbon capture technology is installed on Jim Bridger Units 3 and 4, the captured carbon could not be sold for utilization under the 111(d) regulation. If PacifiCorp maintains current retirement dates for its coal fleet, Huntington will be required to co-fire 40% with natural gas by January 1, 2030 and Dave Johnston, Hunter, Jim Bridger, and Wyodak will all have to install CCS with a 90% capture rate by 2032. In the 2025 IRP, the PLEXOS model should compare the costs of these expensive upgrades to retirement and replacement with other resources.

b. Clean Water Act, Effluent Limitation Guidelines

EPA’s updated effluent limitation guidelines (“ELG”) for steam generators strengthened discharge limits for flue gas desulfurization wastewater, bottom ash transport water, combustion residual leachate, and legacy wastewaters.¹² Electric generating units (“EGUs”) that permanently cease combustion of coal by December 31, 2034 are not required to meet the 2024 limitations

¹¹ 89 Fed. Reg. 39798 (May 9, 2024).

¹² 89 Fed. Reg. 40198 (May 9, 2024).

but may continue to meet the less stringent 2020 rule. EPA identified in its rule which EGUs it estimated would likely need to make new investments to comply with the 2024 ELG rule, specifically identifying:¹³

- Jim Bridger
- Hunter
- Huntington
- Dave Johnston
- Wyodak

c. Resource Conservation and Recovery Act (“RCRA”), Coal Ash Regulations

EPA finalized changes to its coal combustion and residuals (“CCR”) regulations, closing a loophole that exempted “legacy” CCR surface impoundments from regulation.¹⁴ The Huntington coal plant in Utah as well as the Naughton and Wyodak plants in Wyoming will have new compliance obligations under the updated CCR regulations.

d. Mercury and Air Toxics Standard (“MATS”)

EPA strengthened its 2012 MATS regulation, further limiting the emission of hazardous air pollutants from coal-fired power plants by reducing the emission standards for filterable particulate matter to 0.010 lb/MMBtu.¹⁵ The final rule specifically notes that only one coal plant—Colstrip, in which PacifiCorp holds an ownership stake—is projected to require installation of the costliest particulate matter control technology (fabric filter) to meet this limit. According to Talen Energy, the cost of compliance could be more than \$600 million.¹⁶

2. PacifiCorp Has Not Demonstrated That Eliminating Nearly All Resource Procurements Due to Cash Flow Constraints Is Either Necessary or in the Best Interest of Ratepayers

Apart from removing the Good Neighbor Plan modeling constraints, PacifiCorp has indicated that it cannot move forward with the resource procurements forecasted in the 2023 IRP because its wildfire risk and liabilities have limited its cash flow. As a result, PacifiCorp claims that it does not have the capital necessary to build new energy resources. It has been consistently unclear, however, how this factor played into the 2023 IRP Update’s modeling. In response to

¹³ *Id.* at 40240-41.

¹⁴ 89 Fed. Reg. 38950 (May 8, 2024).

¹⁵ 89 Fed. Reg. 38508 (May 7, 2024).

¹⁶ Tom Lutey, *New Fed. Pollution Laws Present Challenges for Colstrip*, Billings Gazette (Apr. 25, 2024), available at https://billingsgazette.com/news/state-regional/government-politics/colstrip-epa-maps-mercury-montana-coal/article_f3e4620e-030e-11ef-a632-b3f3098ff3de.html.

discovery, PacifiCorp asserted that its wildfire liabilities were not factored into its IRP modeling at all.¹⁷ Yet, PacifiCorp has made statements, including at the May 30, 2024 Special Public Meeting, indicating that this has been a major consideration for the Company and its resource decision making¹⁸ and could even be driving its resource decision making.¹⁹ Additionally, and as noted above, PacifiCorp confirmed that it included a modeling constraint that prohibited new resource additions until at least 2027,²⁰ which may have been used as a proxy for its preference to avoid spending capital on new resources in the near term due to its wildfire liabilities. This type of undisclosed modeling constraint is highly inappropriate, as it skews the preferred portfolio's resource mix in a way that favors continued operation of PacifiCorp's fossil fleet and is based on a decision to avoid capital spending that has not been adequately justified, especially in light of the significant impact that decision has on PacifiCorp's ability to comply with Oregon state law.

Our organizations do not dispute that PacifiCorp is facing significant wildfire liabilities. However, the Company has not demonstrated that significantly delaying nearly all resource procurements that are needed for both reliability and emission reductions is in the best interest of its customers, rather than merely its shareholders. Importantly, this is a corporate strategy, one of many that could have been selected in the face of increasing wildfire risk. As Staff noted in their comments on PacifiCorp's 2023 IRP Update and CEP Supplement, "resource decisions are being made[.]" including plans to increase coal operations.²¹ The Commission must view this strategy, which undeniably harms reliability and emission reduction progress, with a critical eye. For the reasons explained below, PacifiCorp has failed to demonstrate that its decision to abandon near-term resource procurements is the least cost, least risk strategy for customers.

¹⁷ PacifiCorp Response to Sierra Club Data Request 48, provided in Exhibit 2. Sierra Club Data Request 48 asked PacifiCorp to explain whether and how the 2023 IRP Update considered PacifiCorp's wildfire liabilities. PacifiCorp responded, "[t]he Company's modeling for the 2023 Integrated Resource Plan (IRP) Update does not include financial or operational impacts associated with wildfire liabilities."

¹⁸ Special Pub. Meeting LC 82 PacifiCorp IRP Update and CEP Supplement Presentation (May 30, 2024), available at <https://www.oregon.gov/puc/news-events/pages/default.aspx> starting at approximately 1:48 (PacifiCorp representative Rick Link stating that wildfire risk and liability has become a constraint on the Company's resource planning).

¹⁹ *Id.* starting at approximately 1:47 (PacifiCorp representative Rick Link stating that the "strategy that [they] have come up with" is to serve load with near-term battery procurement and market purchases as opposed to procuring new solar and wind and that "that's what we do see in this plan.").

²⁰ PacifiCorp Response to Sierra Club Data Request 52, provided in Exhibit 2.

²¹ Staff Comments on PacifiCorp's 2023 IRP Update and CEP Supplement at 20.

To begin, while PacifiCorp alleges that it *may not* be able to access capital from the market, the Company has not provided any evidence that it *has not* been able to access debt.²² In April 2024, PacifiCorp reported to the Wyoming Public Service Commission that it had secured over \$3.8 billion in debt financing,²³ over double its total revenue requirement.²⁴ Notably, this financing was secured after the *James v. PacifiCorp* verdict and PacifiCorp’s credit downgrading,²⁵ providing the best evidence that PacifiCorp is still able to secure significant levels of debt financing, even given its wildfire liabilities. While the Company continues to face wildfire lawsuits, the Company also secured legislative changes in Utah that significantly benefit PacifiCorp at the expense of ratepayers, which Berkshire Hathaway Chief Executive Officer (“CEO”) Warren Buffet is describing as the “gold standard” for Berkshire’s interests²⁶ precisely because it prioritizes shareholder profits above all else. Both of these factors indicate that PacifiCorp is and will be able to access debt markets in order to raise capital.

Second, and as further discussed in Section IV(E), PacifiCorp has yet to incorporate the availability of U.S. Department of Energy financing through the Energy Infrastructure Reinvestment (“EIR”) program into its resource planning, meaning that PacifiCorp is very likely over-estimating the cost of procuring new, Company-owned resources. As a result, it’s unlikely that PacifiCorp has been able to accurately assess whether its financial standing permits acquisition of new energy resources. Notably, PacifiCorp has incorporated the Internal Revenue Code Section 45Q tax credits, increased under the Inflation Reduction Act (“IRA”), to evaluate CCUS and has determined it *does* have the financial resources to pursue that technology but has

²² See, e.g., *PacifiCorp Advice No. 23-018 Modifications to Rule 4*, Or. Pub. Util. Comm’n, Docket No. UE 428, PacifiCorp’s Reply Br. and Request for Oral Arg. at 18-19 (explaining that while PacifiCorp’s credit downgrade *could* impact its ability to raise capital, “PacifiCorp’s 2024 offering was successful...”).

²³ Wyo. Pub. Serv. Comm’n Open Meeting (Apr. 4, 2024), available at <https://psc.wyo.gov/calendar/audio-recordings> PacifiCorp Chief Executive Officer Cindy Crane’s statements starting at approximately 16:30.

²⁴ See *PacifiCorp Request for a Gen. Rate Revision*, Or. Pub. Util. Comm’n, Docket No. UE 433, PacifiCorp’s Exec. Summary at 3 (Feb. 14, 2024) (seeking an approximately \$1.23 billion non-net power cost revenue requirement); *PacifiCorp 2025 Transition Adjustment Mechanism*, Or. Pub. Util. Comm’n, Docket No. UE 434, Ex. PAC/301 at Ridenour/1 (identifying a “Functionalized Net Power Cost Revenue Requirement- (Target)” of approximately \$585 million).

²⁵ S&P Global, *Rsch. Update: PacifiCorp Downgraded to ‘BBB+’, Outlook Revised to Negative; Berkshire Hathaway Energy Co. Outlook Also Negative* (June 20, 2023), available at <https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/sourceId/12769293> (S&P Global downgrading PacifiCorp’s credit rating in June 2023).

²⁶ Berkshire’s 2024 Annual Shareholder Meeting, CNBC Television (May 4, 2024), available at <https://www.youtube.com/watch?v=j3qiDOL5V4M&t=2134s> starting at approximately 46:30.

avoided incorporating IRA programs like the EIR that could have similar impacts for clean energy resources.

Third, even if Company-owned resources are out of reach, Ms. Koblaha, Chief Financial Officer for PacifiCorp, explained at the May 30, 2024 Special Public Meeting that power purchase agreements (“PPAs”) would not threaten PacifiCorp’s financial viability. These PPAs could have been secured through now-canceled RFPs, yet PacifiCorp was unable to provide a compelling justification for why it has abandoned both PPAs and utility-owned resource acquisitions.

Finally, this Commission is not tasked with protecting PacifiCorp from bankruptcy. In general, “[a] regulated utility has no constitutional right to a profit, and a company that is unable to survive without charging exploitative rates has no entitlement to such rates.”²⁷ Utility regulation is intended to mimic the outcomes of a competitive market, and bankruptcy may be the appropriate outcome for a business in a competitive market that has failed to properly manage its risks. Utilities have previously gone into bankruptcy without an interruption in service, including Pacific Gas & Electric Company, which went into bankruptcy precisely because of wildfire liabilities. Bankruptcy can provide benefits as well, including allowing businesses to shed liabilities and acquire new financing. The financial health of regulated utilities is certainly a factor that this Commission can take into consideration when discharging its duties “to protect [] customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates.”²⁸ We highlight this issue, however, because the utility’s financial health is not the *only* factor that should be taken into consideration. Indeed, as CUB previously noted in this same docket,²⁹ HB 2021 means that the Commission’s traditional least cost, least risk framework has been altered; along with these principles, the Commission must ensure that a utility demonstrates and achieves continual progress in reducing its greenhouse gas emissions. This priority must be on par with

²⁷ *Jersey Cent. Power & Light Co. v. Fed. Energy Regul. Comm'n*, 258 U.S. App. D.C. 189, 201 (1987) (citing *Fed. Power Comm'n v. Nat. Gas Pipeline Co. of Am.*, 315 U.S. 575, 590 (1942) and *Mkt. St. Ry. Co. v. R.R. Comm'n*, 324 U.S. 548 (1945) (discussing excluding property from rate base that is not currently used and useful even when the utility “pleads acute financial distress”).

²⁸ ORS 756.040(1).

²⁹ Or. Citizens’ Util. Bd. Round 1 Comments on PacifiCorp’s Integrated Res. Plan and Clean Energy Plan at 2-3 (Oct. 25, 2023) [hereinafter “CUB Round 1 Comments”] (“However, with the advent of HB 2021, Oregon no longer operates . . . in the traditional least-cost least-risk planning framework. Reducing emissions must not only be considered—it is mandatory, binding law in the state of Oregon.”).

other traditional priorities of utility regulation, including financial health of a utility, reliability, and reasonable rates.

Again, while our organizations recognize that PacifiCorp does face wildfire risk and liabilities, PacifiCorp’s knee-jerk decision to abandon near-term resource procurements due to these liabilities has yet to be justified, including demonstrating why some resources—notably resources that would reduce the Company’s dependence on rising and volatile fossil fuel prices—cannot be acquired through an RFP.

C. PacifiCorp’s Proposed “Levers” to Achieve Oregon’s Emission Reduction Targets May Not Be Feasible and Require Much Greater Analysis

Replacing PacifiCorp’s fossil fleet with clean, low-cost energy resources is the surest path to meeting HB 2021’s emission reduction targets. As PacifiCorp’s 2023 IRP Update largely abandons that plan, the Company instead puts forward a number of “levers” that could be used to achieve HB 2021’s requirements in other ways. These include proposals ranging from allocating 100% of near-term renewable resources and storage in 2027-2028 to Oregon (up from the current expectation of 25% allocation) to eliminating coal-to-gas conversion allocations to Oregon, among others.

Some of these strategies may be necessary and deserve further exploration, particularly gas allocations to Oregon that are likely infeasible under HB 2021. Unless PacifiCorp significantly reduces gas on its entire system, most, if not all, of those resources will need to be eventually removed from Oregon’s rates in order to comply with HB 2021. As is apparent, these types of strategies will impact resource allocations to other states. For instance, if 100% of near-term renewable resources are allocated to Oregon, then 0% of near-term renewable resources are allocated to any other state. Even states without climate targets like Utah, Wyoming, and Idaho may be economically harmed by losing out on access to low-cost resources. These states, then, would need to agree to the allocation methodology, likely through PacifiCorp’s Multi-State Process (“MSP”) negotiations. Yet, PacifiCorp’s 2023 IRP Update, like the 2023 IRP, does not analyze how the proposed Oregon “levers” could impact other states and the likelihood that these states would agree to the new resource allocations. Nor does the Update attempt to assess costs to Oregon in order to come to an agreement with other states on new resource allocations. For example, PacifiCorp suggests that one allocation methodology to reduce Oregon’s emissions could be that emitting resources would be allocated to Oregon “to only be dispatched in

emergency situations.”³⁰ This would presumably require other states to maintain and operate emitting resources that could be called upon by Oregon in only limited situations. These states would likely require cost allocations between the states to recognize the benefit that they are providing for Oregon. In other words, states like Utah and Wyoming would want to be paid for the resource adequacy they are providing to the system. The 2023 IRP Update and CEP Supplement make no attempt to quantify those costs.

Our organizations recognize the difficulty of assessing these types of questions through an IRP and CEP. Cost and resource allocations are negotiated through the MSP process and then presented to PacifiCorp’s regulators for approval.³¹ It may not be possible to model with any level of certainty the likely costs and benefits of PacifiCorp’s “levers” until an MSP agreement is completed. Yet, the MSP timeline may not align with HB 2021, and to the extent that PacifiCorp’s HB 2021 compliance rests on resource allocations determined through the MSP, PacifiCorp could risk non-compliance with Oregon law if it waits on a new MSP agreement. This underscores the impracticality of seeking to meet HB 2021’s emission reduction requirements through allocation methodologies that require buy-in from many different parties.

Finally, even if these thorny questions can be resolved, some, if not all, of these allocation proposals would result in paper emission reductions, shifting emissions from Oregon’s books to states without emission reduction requirements. HB 2021 was not intended to simply move emissions out of state but to drive real-world emission reductions.

III. THE COMMISSION MUST ENSURE CONTINUAL PROGRESS BY ORDERING PACIFICORP TO MOVE FORWARD WITH CLEAN RESOURCE PROCUREMENT

When a utility fails to demonstrate continual progress, the Commission is obligated to direct action necessary to ensure continual progress is made. The evidence here demonstrates that PacifiCorp has failed to achieve continual progress precisely because the Company has abandoned near-term clean resource procurement. As a result, it is necessary for the Commission to open a contested case proceeding wherein the Commission can order the necessary procurements and other appropriate remedies.

³⁰ PacifiCorp Or. Clean Energy Planning Supplement at 16 (Apr. 1, 2024) [hereinafter “CEP Supplement”].

³¹ As CUB raised in its Round 1 comments, we also emphasize again here that the “MSP is not a transparent process” for either the Commission or stakeholders that do not have the capacity or resources to participate in its confidential negotiation sessions. CUB Round 1 Comments at 5.

A. HB 2021 Requires That the Commission “Ensure” That Utilities Achieve Continual Progress

HB 2021 requires that utilities such as PacifiCorp submit Clean Energy Plans that “[d]emonstrate the electric company is making continual progress within the planning period towards meeting the clean energy targets” set forth within the Act.³² For its part, the Commission must “ensure that an electric company demonstrates continual progress . . . and is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”³³ As the Commission has previously acknowledged, in order to “ensure” that a utility to achieving continual progress, the Commission may “require a utility to take actions outside the context of the regulatory determination whether to acknowledge a CEP. . . .”³⁴ “[P]roactively provid[ing] additional requirements to a utility to help ensure that targets are actually met,”³⁵ is necessary because “the purpose of requiring continual progress is to ensure utility action during the years before compliance with the relevant target is required[.]”³⁶ By the time that the Commission determines compliance with the 2030, 2035, and 2040 emission reduction targets, “a lack of continual progress may not be capable of remedy[.]”³⁷

The Commission is required to determine whether a utility has demonstrated continual progress in each CEP and, if not, take the necessary actions to ensure continual progress. This means that the Commission is legally required to determine whether PacifiCorp demonstrated continual progress through its 2023 CEP and may not delay this determination until the next CEP filing. While the Commission has not yet issued rules or definitively identified the scope of factors that will be taken into consideration when determining whether a utility has demonstrated continual progress, Order 24-002 provides guideposts that can be applied here as well as built upon based on the Commission’s review of the CEP filing. In Order 24-002, the Commission indicated that it would consider several factors including, “costs, risks, and forecasted emissions reductions trajectories. . . .to determine whether utility actions within the planning period are

³² ORS 469A.415(4)(e).

³³ *Id.* at 469A.415(6).

³⁴ *Investigation into HB 2021 Implementation Issues*, Or. Pub. Util. Comm’n, Docket No. UM 2273, Order No. 24-002 at 29-30 [hereinafter “Order No. 24-002”].

³⁵ *Id.* at 29, n.81.

³⁶ *Id.* at 29.

³⁷ *Id.*

sufficient to constitute continual progress toward meeting the [GHG reduction] targets”³⁸ as well as “forward-looking actions” and “whether utilities are carrying out the actions in their plans (or justifying modifications to those plans).”³⁹

B. The 2023 IRP Update Does Not Demonstrate Continual Progress Because PacifiCorp Abandoned Prior Plans to Procure New Clean Energy, Risking Non-Compliance with HB 2021 and Threatening Reliability

As discussed above, PacifiCorp’s 2023 IRP Update shows a utility far off from meeting its HB 2021 emission reduction targets. PacifiCorp’s current plans are to slash clean energy procurements and continue its reliance on fossil fuels well into the future—the opposite of what HB 2021 requires. Indeed, PacifiCorp does not project meeting HB 2021’s requirements in 2030, 2035, 2040, or, apparently, ever. To avoid this outcome, PacifiCorp proposes various “levers” that face significant implementation hurdles and, regardless, would likely be little more than “paper emission reductions.”

The primary reason for PacifiCorp’s failure to demonstrate continual progress is that PacifiCorp has unreasonably abandoned plans to acquire new clean energy sources. As PacifiCorp explained at the May 30, 2024 Special Public Meeting, “additional clean energy resources by 2030” would move PacifiCorp’s emission reductions from roughly 50% below baseline by 2030 to just under 80%, significantly closer to the 2030 target. Other research on achieving a 100% clean grid by 2040 comes to the same conclusion: near-term clean energy procurements are imperative. For instance, in 2023, GridLab completed a study identifying technological pathways to achieving a 100% clean power system in the 2035-2040 timeframe, as Oregon requires. Using the Public Service Company of New Mexico (“PNM”) as a case study, GridLab found that all of their portfolios “included large amounts of solar, wind and battery storage based on least-cost planning principles” and that “[b]uilding these resources urgently and consistently is the most important step towards a clean portfolio.”⁴⁰ The study found that accelerating the deployment of wind, solar, and battery storage resources will be “crucial” to achieving a 100% clean energy system by 2035-2040 and that, for PNM, “total annual capacity builds of wind, solar, and battery storage would have to increase by 130-250%, from approximately 100 MW per year seen from 2013-2022 up to 130-250 MW per year through

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Priya Sreedharan et al., *The Moonshot 100% Clean Elec. Study*, GridLab at 2 (Aug. 2023), available at <https://gridlab.org/Moonshot-study/>.

2035.”⁴¹ While this study did not evaluate PacifiCorp’s system, its findings are broadly applicable, namely that achieving a clean energy system requires significant, prolonged acquisition of clean energy resources—not a “just in time” approach.

Many parties raised concerns through the 2023 IRP process that PacifiCorp’s suspension of the 2022 All-Source RFP would ultimately harm ratepayers and put HB 2021 compliance in jeopardy. By canceling both the 2022 All-Source RFP as well as the anticipated RFP following the 2023 IRP, PacifiCorp has effectively delayed new clean energy procurements until, at the earliest, 2027—just three years ahead of the first HB 2021 deadline. Despite Oregon policy and law recognizing the urgency of the climate crisis and the need to transition to clean energy resources in order to reduce greenhouse gas emissions as quickly as possible, PacifiCorp is choosing to squander at least six years—the 2020 all source RFP was the last completed procurement—under the faulty assumption that the energy transition can happen “later.” It is difficult to overstate the risk that this strategy places on ratepayers.

Not only does failing to acquire new clean energy resources put HB 2021 compliance at risk, but it also presents a reliability risk for customers. In place of significant clean energy procurements through the 2022 all source RFP and the anticipated 2024 all source RFP, the 2023 IRP Update instead increases reliance on market purchases, along with some battery procurements outside the RFP process. As Commissioner Tawney pointed out during the May 30, 2024 Special Public Meeting, increased reliance on market purchases increases the overall risk profile of the 2023 IRP Update. This is especially true as several utilities, including PacifiCorp, signed a “participant letter” to the Western Resource Adequacy Program (“WRAP”) in April 2024 seeking a one-year delay in binding obligations given “significant new headwinds in addressing resource adequacy challenges.”⁴² This letter provides confirmation that many western utilities, presumably including PacifiCorp, are in need of new resources. Yet, PacifiCorp’s increased reliance on market purchases in the 2023 IRP, now without the addition of resources from the 2022 and 2024 all source RFPs, further exposes PacifiCorp to increased resource adequacy risk.

⁴¹ *Id.* at 13-14.

⁴² Members of Res. Adequacy Participant Comm., *Letter to W. Stakeholders* at 1 (Apr. 22, 2024), available at https://www.westernpowerpool.org/private-media/documents/WRAP_RAPC_Participant_Letter_4_22_24_final.pdf.

C. To “Ensure” Continual Progress, the Commission Must Open a Contested Case Proceeding, Wherein the Commission May Consider Whether to Direct PacifiCorp to Acquire Both Utility-Scale and Small-Scale Clean Energy Resources as Well as Other Remedies

In order to ensure that PacifiCorp demonstrates continual progress—as the Commission must do—the Commission must do more than acknowledge or not acknowledge the utility’s plans.⁴³ When the utility has gone off track—as PacifiCorp has so clearly done—the Commission must step in and use its expertise and authority to course correct. Given that PacifiCorp’s 2023 IRP Update and CEP Supplement clearly failed to demonstrate that it is achieving continual progress, the next step is for the Commission to initiate, or direct Commission Staff (“Staff”) to initiate, a contested case proceeding whereby the Commission can consider and ultimately order specific remedies.

As the overwhelming evidence in this proceeding indicates that PacifiCorp’s failure to demonstrate continual progress is directly tied to its abandonment of near-term clean energy procurement, we recommend that the contested case proceeding specifically address whether the Commission should direct the Company to move forward with both utility-scale and small-scale clean resource procurements, in what quantities, and how the costs of such procurements should be allocated to Oregon. We believe that ultimately the Commission will need to require near-term procurements because PacifiCorp’s current intention is to delay any further RFPs (either utility-scale or small-scale) until sometime after the 2025 IRP.⁴⁴ As discussed above, this will squander several years of potential progress towards reducing the Company’s reliance on fossil fuels and its ability to reduce emissions and only reinforce Company behavior where the Company delays needed action to reduce emissions.

While we recommend that the Commission establish a clear scope for the contested case that would allow it to be considered and resolved in a reasonably quick timeframe (discussed below), the contested case need not be limited to a single remedy, *e.g.*, ordering near-term clean resource procurements. Intervening parties could also raise other potential remedies for the Commission’s consideration, including recommended financial penalties for PacifiCorp’s failure

⁴³ See Order No. 24-002 at 29-30 (finding that HB 2021’s direction that the Commission “ensure” continual progress provides the Commission with authority to require specific utility actions, which stand “in contrast to a fundamental premise of the PUC’s [public utility commission] IRP acknowledgment decisions—that IRP decision do not direct a utility to take or not take specific actions, except as it relates to analysis required in future plans or regulatory filings.”).

⁴⁴ CEP Supplement at 5.

to demonstrate continual progress, changes to existing programs that could facilitate the more rapid interconnection of clean resources, goals or standards for the deployment of distributed resources, among others.

When initiating the contested case, we recommend that the Commission pose specific questions to intervening parties to address in testimony, including remedies that the Commission may be interested in considering in order to focus the proceeding and ensure a timely resolution. Time is of the essence for meeting HB 2021's requirements, yet PacifiCorp has already wasted several years where progress could have been made. We recommend that the Commission direct the initiation of a new contested case at its August 8, 2024 Special Public Meeting and that a procedural schedule be simultaneously established. The Commission could ensure full contested case procedures—including discovery, testimony, a hearing, final briefing, and a Commission order—within approximately six months. For instance, once the docket is initiated, Company and intervenor simultaneous opening testimony could be due within two months, Company and intervenor simultaneous reply testimony six weeks later, a hearing three weeks after reply testimony, simultaneous opening briefs a month following the hearing, simultaneous reply briefs a month following opening briefs, and a final order one month following close of the record. We highly recommend that the contested case be initiated before the end of this year. The remedies that the Commission requires should address PacifiCorp's failure to demonstrate continual progress in the 2023 IRP and CEP and thus should be ideally implemented as close in possible in time to when the actions would have been carried out if they had been properly included in that year's IRP/CEP.

A new, quickly moving proceeding to affirmatively address PacifiCorp's failure to demonstrate continual progress is necessary in order to give meaning to HB 2021's continual progress requirement. While our organizations recognize that IRP planning is on-going and it may be tempting for the Commission to direct corrections in the 2025 IRP in the hopes that the 2025 IRP will chart a new resource strategy, the 2025 IRP will not address PacifiCorp's failure to demonstrate continual progress in the 2023 IRP. HB 2021 decidedly requires that the Commission do *more* than provide guidance to utilities on future IRPs. Instead, the Commission must take affirmative steps to ensure HB 2021 compliance and the only way to fulfill this statutory obligation is to direct utility actions, even as continuous IRP planning is ongoing.

IV. THE 2023 IRP UPDATE CHANGES CERTAIN ASSUMPTIONS AND CONTINUES OTHERS THAT FAVOR CONTINUED OPERATION OF FOSSIL FUELS, WHILE IGNORING OPPORTUNITIES FOR CLEAN ENERGY DEPLOYMENT

In addition to the issues noted above, the 2023 IRP Update makes several other significant changes from the 2023 IRP which appear to favor continued coal and gas operations at the expense of clean energy procurements. These include (1) PacifiCorp’s decision to allow the PLEXOS model to select gas units that would operate for 30 years, rather than 10, with the assumption that these units could be converted to burn hydrogen in the future; and (2) PacifiCorp’s decision to include carbon capture, utilization and sequestration technology in the preferred portfolio, with installation by 2028. Neither of these changes are factually supported and neither align with Oregon’s climate policy objectives. Simultaneously, PacifiCorp continued certain assumptions that may disfavor clean energy, including favoring nuclear energy and “non-emitting peakers” without providing any additional information on these resources viability and expanding its use of “granularity adjustments.” Conversely, PacifiCorp failed to make changes that would more accurately assess the costs and benefits of increasing clean energy procurement, namely through incorporation of the U.S. Department of Energy’s Energy Infrastructure Reinvestment loan program. If these issues, along with those addressed above, were corrected, the 2023 IRP Update would likely have forecasted clean energy procurements more closely aligned with the 2023 IRP as being in the best interest of customers.

A. PacifiCorp’s Assumption That Gas Units Can Be Converted to Operate on Hydrogen Is Unsupported

As opposed to the 2023 IRP, which limited new gas units to a 10-year useful life, the 2023 IRP Update allowed for the addition of new gas units with a 30-year useful life, which PacifiCorp assumes would be capable of operating with 100% hydrogen fuel.⁴⁵ Certain peaking resources, added in 2030 and 2037, were assumed to operate using 100% hydrogen throughout their lives, whereas gas units added in 2029 and 2038-2041 were assumed to operate on gas and were not forecasted to convert to hydrogen within the planning horizon.⁴⁶

PacifiCorp’s assumption that peaking units operating on 100% hydrogen fuel will be available by 2030 places significant risk on PacifiCorp’s customers. Hydrogen plants are still largely in development and there is no currently operating plant primarily relying on green

⁴⁵ PacifiCorp 2023 Integrated Res. Plan Update at 7 (Apr. 1, 2024) [hereinafter “2023 IRP Update”].

⁴⁶ PacifiCorp Response to Sierra Club Data Request 50, provided in Exhibit 2.

hydrogen as its fuel source. While there are near-term projects on the horizon, the majority (if not all) of these assume lower hydrogen blending levels, typically no more than 30%.⁴⁷ Moreover, the 2023 IRP Update does not appear to address any of the concerns raised by stakeholders in the 2023 IRP, yet increases PacifiCorp’s reliance on hydrogen. For instance, Renewable Northwest raised numerous, important questions about the viability of PacifiCorp’s hydrogen plans, ranging from the availability of hydrogen production, transportation, and storage infrastructure to realized hydrogen capital and fuel costs.⁴⁸ The 2023 IRP Update does not attempt to meaningfully grapple with these issues, once again pushing them off to a later date. For instance, in response to a Staff data request inquiring into the “source and cost of the hydrogen that will be supplied to the 224 MW 100% hydrogen resource added to the IRP Update’s preferred portfolio in 2030[.]” PacifiCorp stated that it “has not attempted to identify a specific source of hydrogen for the referenced resource” and that “hydrogen costs modeled in [the Update] are equal to the cost of natural gas plus associated greenhouse gas (GHG) costs through 2039... .”⁴⁹

B. The 2023 IRP Update Includes Unachievable Timeframes for Installing Carbon Capture, Utilization and Storage at Jim Bridger

One of the more dramatic changes from the 2023 IRP to the 2023 IRP Update was PacifiCorp’s about-face on the viability of CCUS at Jim Bridger. In the 2023 IRP, PacifiCorp maintained that CCUS was too speculative a technology to justify inclusion in the preferred portfolio,⁵⁰ but the 2023 IRP Update includes installation by 2028—just four years away. And yet, since the Update was filed, PacifiCorp acknowledged during a 2025 IRP stakeholder meeting that installing CCUS at Jim Bridger Units 3 and 4 by 2028 is impossible.⁵¹ This is unsurprising, given that the Update also seems to contradict PacifiCorp’s Final Plan filed in Wyoming Public Service Commission Docket No. 20000-660-EA-24, just one day before the

⁴⁷ Clean Energy Group, *Hydrogen Projects in the U.S.*, available at <https://www.cleangroup.org/initiatives/hydrogen/projects-in-the-us/> (last visited June 13, 2024).

⁴⁸ Round 1 Comments of Renewable Nw. at 22-25 (Oct. 25, 2023).

⁴⁹ PacifiCorp Response to Or. Pub. Util. Comm’n Data Request 277, provided in Exhibit 2.

⁵⁰ PacifiCorp 2023 Integrated Res. Plan (Amended Final) at 296-297 (May 31, 2023) [hereinafter “2023 IRP”].

⁵¹ 2025 IRP Pub. Input Meeting #3 (May 6, 2024), available at <https://www.youtube.com/watch?v=erK-UTswaIM> with conversation starting at approximately 1:09:36 and specific quote at 1:12:05. Indeed, on May 15, 2024, James Owen, Vice President of Environmental Fuels and Mining at PacifiCorp, testified to the Utah Legislature’s Public Utilities, Energy and Technology (“PUET”) Interim Committee that PacifiCorp has done extensive research on carbon capture and has found that it would be “impossible to achieve,” and that it would cost around \$1 billion per unit. Pub. Utils., Energy, and Tech. Interim Comm., Utah State Legis. (May 15, 2024), available at <https://le.utah.gov/av/committeeArchive.jsp?mtgID=19438> with conversation starting at approximately 1:15:40.

IRP Update was filed. There, PacifiCorp recommended that “the Commission decline to require a specific low-carbon portfolio standard at this time, as Rocky Mountain Power continues to evaluate CCUS for its technical and economic feasibility... .”⁵² The Final Plan explained that it received one proposal from its RFP process for CCUS at Jim Bridger, which came from Enchant Energy (“Enchant”). Notably, PacifiCorp CEO Cindy Crane was the former CEO at Enchant and continues to maintain professional ties, currently serving as Enchant’s Executive Board Chair.⁵³

Enchant’s proposal indicated that the first step towards CCUS at Jim Bridger would be a front-end engineering and design (“FEED”) study, “which would provide the initial engineering, schedule, and cost estimate.”⁵⁴ PacifiCorp has stated that it is still “working to procure partners to conduct” a FEED study.⁵⁵ And in response to when the FEED study would need to be completed in order to install CCUS on Jim Bridger by 2028, the Company simply stated that it “is currently pursuing a FEED study that will further inform costs and project timelines of an amine-based carbon capture project at Jim Bridger Unit 3 and Jim Bridger Unit 4. The Company will re-evaluate the economic and technical viability along with potential developmental timelines of the project after the conclusion of the FEED study.”⁵⁶ In other words, PacifiCorp has no current timeline for when CCUS could be installed at either unit.

The inclusion in a final, preferred portfolio of a near-term resource that PacifiCorp has no ability to bring to fruition within the timeframe it has itself proposed is striking.

C. The 2023 IRP Update Continues to Include the Near-Term Additions of Nuclear and Non-Emitting Peaker Resources, Despite Very Limited Cost and Technical Information Supporting Their Viability

As in the 2023 IRP, PacifiCorp has chosen to include in its preferred portfolio both nuclear resources and “non-emitting peakers,” with both coming online in 2030. As discussed below, neither resource has the necessary cost or technical data available that would indicate that these resources will be commercially viable in the near term. While our organizations support PacifiCorp’s evaluation of new and evolving technologies, inclusion of these resources in the

⁵² *In re Appl. of Rocky Mountain Power for Auth. to Establish Final Low-Carbon Energy Portfolio Standards*, Wyo. Pub. Serv. Comm’n, Docket No. 20000-660-EA-24, Record No. 17536, Final Plan at 2 (Mar. 29, 2024) [hereinafter “PacifiCorp Final Plan”].

⁵³ Jason Plautz & Carlos Anchondo, *PacifiCorp Weighs Hiring CCS Co. with Ties to its CEO*, E&E News (June 10, 2024), available at <https://www.eenews.net/articles/pacifcorp-weighs-hiring-ccs-company-with-ties-to-its-ceo/>.

⁵⁴ PacifiCorp Final Plan at 8-9.

⁵⁵ PacifiCorp’s Response to Sierra Club Data Request 45, provided in Exhibit 2.

⁵⁶ *Id.*

preferred portfolio ultimately comes at the expense of acquiring available resources right now. PacifiCorp’s optimistic outlook on nuclear and non-emitting peakers also stands in contrast to PacifiCorp’s pessimistic outlook on other emerging technologies, like long duration batteries and advanced geothermal, that have shown greater commercial promise.

1. Years after first introducing the proposed Natrium plant, no new cost information is available.

PacifiCorp is again incorporating the unproven Natrium small modular reactor demonstration project in the 2023 IRP Update without fully acknowledging its costs and risks, even though cost and time overruns with nuclear generating units tend to be the rule rather than the exception. The only recent nuclear facility in the United States, Vogtle Units 3 and 4, had an initial cost projection of \$14 billion in 2009 with a planned in-service date of 2016. Unit 3 began commercial operations on July 31, 2023 and Unit 4 entered commercial operation on April 29, 2024: 14 and 15 years behind schedule, respectively. The total costs were \$34 billion: nearly 2.5 times the original cost projection.

PacifiCorp hand waves the cost increase concerns away by relying on an agreement with the developer, TerraPower, that no cost increase will be passed along to PacifiCorp. This agreement was supposed to be in place by the end of 2023, but does not exist and no update has been given as to when it will become actually binding. At the 2025 IRP Public Input Meeting (“PIM”) on May 2, 2024, PacifiCorp acknowledged for the first time that this agreement was not an actual contractual relationship. Tom Burns, Vice President of Resource Planning and Acquisitions, described it as an “unwritten agreement...” and confirmed that “there is no contract in place.”⁵⁷ The fact that no progress has been made on this front indicates that cost increase liability is still an ongoing concern between TerraPower and PacifiCorp, and thus should be a concern to the Commission. By allowing unrealistic cost and timing for Natrium to be modeled in its current fashion, PacifiCorp is delaying planning and procurement for actual technologies that should be being procured now, which will lead to higher costs and less reliable service.

2. The actual resource or resources assumed to constitute “non-emitting peakers” are still not identified.

The 2023 IRP Update continues to rely on non-emitting peakers without a full operational and cost breakdown of whatever actual technologies are being considered. At the

⁵⁷ 2025 IRP Pub. Input Meeting #3 (May 2, 2024), available at <https://www.youtube.com/watch?v=erK-UTswaIM> with conversation starting at approximately 1:21:47 and specific quote at 1:23:28.

May 2, 2024 PIM, PacifiCorp stated that multiple, commercially available technologies are being considered. Yet, later in the same meeting, Daniel MacNeil, PacifiCorp’s Commercial Analytics Adviser, seemed to backtrack on the idea that any specific resources are under consideration. Specifically, Mr. MacNeil stated: “If anybody can get me cheap rocks that you can leave on the ground and are clean, give us a call...there was discussion earlier about what is a non-emitting peaking resource. I would love those rocks...we could run our steam plants...forever potentially...we’re still working through what that might mean...Is it a combustion turbine? Is it a steam turbine technology with some other fuel? What is the fuel? A lot of big questions...we’ll be exploring it.”⁵⁸ Whatever technologies are under consideration, if they do not share identical fuel costs, operation and maintenance (“O&M”) costs, and operational characteristics, then it is not reasonable to lump these technologies in together for planning purposes. Even if these technologies share these attributes, specifically identifying these technologies and providing data as to why they should be planned for in this matter is a necessity.

D. PacifiCorp’s Extensive Use of “Granularity Adjustments” in Order to Achieve a Reliable Portfolio Raise Questions as to the Veracity of Its Modeling

In the 2023 IRP, PacifiCorp made certain “granularity adjustments” to the fixed cost of certain resources in order to achieve a “reliable portfolio.” Specifically, PacifiCorp determined that the full economic value of certain resources, particularly a resource’s flexibility (e.g., the ability of a battery to quickly ramp its output up or down) and its ability to dispatch at specific times, was not fully captured in the long-term (“LT”) model. However, the full economic value could be better captured in the short-term (“ST”) model, which has a more granular view of the portfolio. As a result, PacifiCorp took resource values determined in the ST model and inputted those values into the LT model in order to steer the initial resource selection process towards a more reliable initial LT portfolio.

On their face, granularity adjustments are not inherently wrong, as they can better capture the value of resources, such as long duration batteries, that is not fully seen in the LT model, with its view of average conditions across large blocks of hours. In the 2023 IRP, parties, including Staff and Sierra Club, raised concerns with the granularity adjustments to the extent the adjustments made were not necessarily intuitive and full data appeared to be missing. For

⁵⁸ *Id.* with quote starting at approximately 2:15:26.

instance, large granularity adjustments were made to certain coal units to increase their value, even though coal units are generally inflexible generating resources and the granularity adjustment for these units exceeded the adjustments made for other resources that likely would have more flexibility, including gas units.⁵⁹

In the 2023 IRP Update, PacifiCorp appears to have expanded the use of granularity adjustments. Not only are changes made to the fixed cost of certain resources but also PacifiCorp is adjusting the load profile in the LT model after initial iterations of the portfolio through the ST model.⁶⁰ As PacifiCorp describes, “[t]his process can be continual, and results evolve over multiple phases.”⁶¹ There is no inherent end to the process. Instead, “[t]he process is considered complete once portfolios are reliable and the present value revenue requirement (PVRR) of reliable portfolios reports changes within a small range.”⁶² Again, while granularity adjustments may be necessary in order to ensure a reliable portfolio, this process inserts significant discretion into an otherwise impartial modeling exercise. It is also concerning that despite transitioning to PLEXOS, a significantly more sophisticated modeling platform than those used in the past, PacifiCorp is still required to make these out-of-model adjustments in order for the model to “work.” We recommend that PacifiCorp increase transparency on its granularity adjustments, including by discussing these adjustments in stakeholder public input meetings, providing full data and workpapers supporting any granularity adjustments made, and clearly identifying in the 2025 IRP where these workpapers can be found.

E. The 2023 IRP Update Failed to Incorporate the Energy Infrastructure Reinvestment Program, Losing Valuable Time to Analyze and Act upon This Financing Opportunity

As PacifiCorp modified its IRP modeling to favor fossil fuels, it also declined to implement stakeholder recommendations that would more accurately price and assess clean energy resources, including the availability of EIR financing

As Sierra Club pointed out throughout PacifiCorp’s 2023 IRP—including throughout the stakeholder input process and through formal comments to this and other Commissions—the EIR loan program, made available under the Inflation Reduction Act, has the potential to

⁵⁹ See Sierra Club’s Round 1 Comments on PacifiCorp’s 2023 Integrated Resource Plan at 37-42 for a discussion of granularity adjustments.

⁶⁰ 2023 IRP Update at 73.

⁶¹ *Id.*

⁶² *Id.*

meaningfully impact the Company’s resource decision making by significantly reducing the costs of infrastructure investments and resource procurements. The EIR program authorizes the DOE to guarantee up to \$250 billion in loans for projects that either (1) retool, repower, repurpose, or replace energy infrastructure that has ceased operations, or (2) enable operating energy infrastructure to avoid, reduce, utilize, or sequester air pollutants or anthropogenic emissions of greenhouse gasses. Because these loans would be guaranteed by the federal government, they would come with much lower interest rates than traditional financing. Representatives from DOE’s Loan Programs Office, which administers EIR financing, indicated that interest rates are available at the current U.S. Department of the Treasury rate +3/8th (0.375) percent + risk-based charge. This calculation typically lowers a utility’s costs of capital by between 100 and 140 basis points.

As described in Sierra Club’s comments on PacifiCorp’s 2023 IRP, EIR financing would reduce the costs of retiring and replacing Jim Bridger Units 3 and 4, Wyodak, Hunter, and Huntington by collectively approximately \$1.6 billion. The EIR could also be used for new transmission or transmission upgrades when those additions or upgrades are used to facilitate greater penetration of clean energy onto the grid. Sierra Club’s expert analysis estimated that transmission costs could be reduced by upwards of \$13 billion.

To put these figures into perspective, when comparing the preferred portfolio to the variant cases that PacifiCorp studied in the 2023 IRP Update, the biggest PVRR increase compared to the preferred portfolio was \$4.1 billion,⁶³ substantially less than the potential cost savings from utilizing the EIR. Similarly, in the 2023 IRP, where PacifiCorp compared many more variant portfolios, the highest differential from the preferred portfolio (“P-MM”) was approximately \$3.1 billion.⁶⁴ This means that EIR financing could fundamentally change the mix of resources selected for a final portfolio. However, EIR financing is capped at \$250 billion, is available on a first-come, first-serve basis, and is only available until September 2026—all of which mean that time is of the essence to not only model its potential benefits but also pursue financing.

Although this Commission has directed PacifiCorp to evaluate EIR financing in the 2025 IRP, we continue to have concerns that PacifiCorp will seek to avoid compliance with this clear

⁶³ 2023 IRP Update at 106 (comparing Utah Stay Ozone Transport Rule Variant to the updated preferred portfolio).

⁶⁴ 2023 IRP at 268, Tbl. 9.14.

directive, because the Company has insisted that savings available from the EIR should be evaluated during an RFP process and not an IRP.⁶⁵ This argument is fundamentally flawed. As a threshold matter, incorporating the EIR is simply a matter of accurately pricing resources in the IRP. Inaccurate prices result in suboptimal resource selections.⁶⁶ In order to properly evaluate how EIR cost savings would influence the selection of resources for a final portfolio, the EIR should be incorporated into the PLEXOS LT model, which is the capacity expansion model where resource acquisitions and retirements are determined. This is necessary because if the Company waits to evaluate EIR financing until an RFP, it may capture cost savings for a particular resource but not understand how those cost savings would or should have influenced other resource decisions. For instance, if transmission costs were appropriately priced in the IRP assuming the availability of EIR financing, then the IRP model may select more transmission upgrades, more resources to utilize that transmission, or some other resource change than it did without assuming the benefits of the EIR. By waiting to evaluate the EIR at the RFP stage, PacifiCorp will have lost the opportunity to include in the RFP resources that would have been selected if the IRP model had incorporated EIR financing. PacifiCorp's claims that it cannot make cost adjustments in its IRP to account for the EIR are simply unpersuasive, and its refusal to incorporate the EIR results in a portfolio that cannot be deemed least cost or least risk.

V. THE CEP SUPPLEMENT DOES NOT CONTAIN STAFF'S RECOMMENDATIONS REGARDING COMMUNITY BENEFIT INDICATOR SCORES IN SMALL-SCALE RFPs OR THE CBRE PILOT

In Order No. 24-073, the Commission adopted four CEP, community-oriented recommendations from Staff:

Staff Recommendation 5. Direct PacifiCorp to develop proposals for the use of Community Benefits Indicators (“CBIs”) in scoring in the small-scale renewable (“SSR”) RFP, in the design of the Community Based Renewable Energy (“CBRE”) pilot, and in scoring for the next all-source RFP.

Staff Recommendation 6. Direct PacifiCorp to provide baseline metrics prior to filing its next IRP/CEP Update. If PacifiCorp cannot complete this effort by this timeline,

⁶⁵ See, e.g., *PacifiCorp's 2023 Integrated Res. Plan*, Utah Pub. Serv. Comm'n, Docket No. 23-035-10, PacifiCorp's Reply Comments at 29 (Jan. 31, 2024).

⁶⁶ PacifiCorp also objected that the EIR could not be incorporated into its IRP because the IRP uses proxy resources and not all resources would be eligible for EIR financing. This is not an insurmountable hurdle. The Company could assume, for instance, that only a percentage of proxy resources are eligible for the EIR, rather than opt to instead entirely ignore the EIR, effectively “throwing the baby out with the bathwater.”

PacifiCorp should provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable.

Staff Recommendation 7. Direct PacifiCorp to proceed with the CBRE Grant Pilot, contingent on the Company seeking feedback from the Community Benefits and Impacts Advisory Group (“CBIAG”) in Q1 2024.

Staff Recommendation 8. Direct PacifiCorp to work collaboratively with Staff, stakeholders, peer utilities, and the CBIAGs in a dedicated working group to develop clear, actionable improvements to community and stakeholder engagement in subsequent IRP/CEPs by December 31, 2024. If PacifiCorp cannot complete this effort by this timeline, PacifiCorp should provide a detailed status update and explanation of how it will ensure that remaining issues are resolved as soon as practicable, inclusive of the perspectives of peer utilities and the utilities’ CBIAGs.

Furthermore, the Commission provided that beyond these four recommendations, to the extent that the CEP’s community-based activities or strategies have changed since it was filed in May 2023, the Company should provide new information in the revised CEP filing.

These four recommendations were aligned with Order No. 24-002, where the Commission explained that while it is not yet certain how direct benefits to Oregon communities may impact its decisions in the area of utility resource strategy or procurement, it was persuaded that gathering additional information examining the direct benefits to Oregonians was a necessary first step.

PacifiCorp’s IRP Update and CEP Supplement do not address Staff’s community-oriented recommendations, nor do they appear to discuss community benefits or community benefit indicators at all. These omissions are consistent with the apparent lack of a strategy for HB 2021 compliance that these comments highlight, and reinforce concerns that stakeholders have raised about whether PacifiCorp recognizes the role and importance of community benefits in HB 2021 compliance.

Despite the clear direction in Recommendation 5, the CEP Supplement does not discuss CBIs with respect to scoring the SSR RFP, the design of the CBRE pilot, or scoring the next All-Source RFP. PacifiCorp has canceled the SSR RFP and the All-Source RFP. Nevertheless, PacifiCorp should have taken advantage of the IRP/CEP Update to begin a discussion on how to use CBIs in the procurement processes that it will presumably undertake in the future, and at least addressed Staff’s Recommendation in relation to the CBRE pilot.

Similarly, while Recommendation 6 directs PacifiCorp to provide baseline metrics prior to filing the IRP/CEP Update, neither the CEP Supplement nor the IRP Update include or discuss baseline metrics. Recommendation 6 also gives PacifiCorp the option to provide a detailed status update and explanation if it could not complete this effort prior to filing the IRP Update. We are not aware of such an update or explanation.

Recommendation 7 directed PacifiCorp to proceed with the CBRE Grant Pilot, and our understanding is that the Company has been working on Pilot design. Still, PacifiCorp omits any discussion of the CBRE Pilot in its CEP Supplement. As for Recommendation 8, we are hopeful that the Company will follow this direction, but we are concerned that time is running out since the Company now has just over six months to convene the working group and to develop improvements to its community and stakeholder engagement.

Finally, the 2023 IRP Update and CEP Supplement appear to ignore Staff’s Expectation that the Company “[i]nclude at least 92 MW of CBRE in the preferred portfolio, depending on the current pipeline of existing programs.”⁶⁷ In fact, we did not see any discussion of Staff’s Expectation or of the Company’s plans with regards to CBREs.

While our organizations recognize that PacifiCorp is working to incorporate HB 2021’s equity mandates into its resource planning, we are concerned that not enough attention has been given to meeting the equity mandates. At this time, we recommend that the Commission reaffirm its expectation that PacifiCorp fulfill Staff’s Recommendations and Expectations from the 2023 IRP. However, in the future, the Commission may wish to consider penalties if the Company does not meet these Recommendations and Expectations.

VI. SUMMARY OF RECOMMENDATIONS AND CONCLUSION

For the reasons explained above, PacifiCorp’s 2023 IRP Update and CEP Supplement contain significant flaws that ultimately produced a fossil-fuel-heavy portfolio grossly out of step with Oregon’s climate policies, particularly HB 2021. The Commission must take affirmative action to redirect PacifiCorp and ensure its long-term resource planning aligns with the needs and expectations of Oregon ratepayers. We urge the Commission to immediately open a proceeding in which the Commission can order resource procurements necessary to reduce

⁶⁷ *PacifiCorp 2023 Integrated Res. Plan and Clean Energy Plan*, Or. Pub. Util. Comm’n, Docket No. LC 82, Order 24-073, App. A at 28 (Mar. 19, 2024).

emissions, while maintaining reliable and low cost service. Specifically, the Commission should enter an order in this proceeding with the following provisions:

1. A finding that PacifiCorp has failed to demonstrate that it is making continual progress towards achieving the emission reduction targets contained in HB 2021;
2. A directive to Staff to initiate a new contested case proceeding in which the Commission will consider resource procurements necessary to ensure that PacifiCorp does demonstrate continual progress;
3. Direction for the 2025 IRP that PacifiCorp must:
 - a. Incorporate into its PLEXOS modeling all finalized state and federal regulations impacting the costs of energy resources and that these regulations must be incorporated unless there is a final order overturning or rescinding the regulations;
 - b. Ensure that the Company's preferred portfolio only includes those resources that PacifiCorp is reasonably certain will be available within the forecast period;
 - c. Provide complete and clearly marked workpapers identifying granularity adjustments made to load and resource fixed costs;
 - d. Incorporate the availability of EIR financing into its PLEXOS modeling during the capacity expansion phase (i.e., the LT model);
4. Regarding Staff's community-focused Recommendations and Expectations for the CEP, reaffirm an expectation that PacifiCorp meet these Recommendations and Expectations by the 2025 IRP/CEP.

Respectfully submitted,

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**JOINT ADVOCATES COMMENTS ON PACIFICORP 2023 INTEGRATED
RESOURCE PLAN UPDATE AND CLEAN ENERGY PLAN SUPPLEMENT**

**EXHIBIT 1
WORKPAPERS FOR FIGURES 2 THROUGH 8**

Generation Categories (MWh)	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042
Coal	253309	252350	1832755	16807363	17882088	17921720	1686593	129839	1270961	10396925	8053907	8173193	737319	6853198	5216865	530900	53029	3026	37516	10767
Existing Gas/Gas Conversion	155869	1933257	1322119	1731261	15307069	17150186	16707022	15230590	1550357	1233551	878810	9009900	895680	7977059	621281	6225906	6396259	751817	782922	7888879
Hydro	386869	362325	6891	69370	67696	253362	368203	699	7339	67388	23623	163135	312078	353201	39025	30757	20750	08232	375399	5677807
Wind	11860360	12392068	1711990	1718371	1766928	17702902	1760283	1856062	181071	3070832	37052891	3658282	3759551	3831282	228929	2000038	166869	23781	1358717	1327605
Solar	539736	590530	6731020	8730806	1078070	10875901	10830750	11810967	1175763	1150199	1266632	1280161	1229008	1212975	1227029	1387979	150335	1605305	1601568	1600203
Other (Renewable)	366	399	31505	3183	32527	33981	311677	311677	311661	297900	276110	30897	311616	311290	305	305	305	305	305	305
Other (Non-Emitting)	-	-	-	-	-	-	-	366356	3779083	329109	3182515	3228102	318081	3088308	3095996	3092200	315578	32362	2791990	2365593
Other (Non-Renewable)	1551660	106727	60058	5977	13811	136	207887	1826719	2065536	1250373	91767	932900	917357	865088	82938	1055	1586	173053	522021	87793
Demand Response	565100	556809	527655	53026	610826	691563	570625	571907	57505	55856	625511	517191	528391	53608	551866	586908	651335	562889	55009	57770
Energy Efficiency	557188	1091593	1658293	2270051	295376	3668251	6675227	860310	6829725	7627539	806128	9168159	9911615	10672089	1136197	11975838	1265185	13292356	13899916	13899916
Market	8523	18582	701981	63607	6238201	628410	763103	729288	82748	60606	6122317	619881	6669	748536	656949	6869	7292887	7301728	8390777	8286668
Total	70402246	72467456	71466168	7188281	76584293	79803211	81252929	8327469	85237555	87825199	89448618	90276166	91177225	91915346	94854933	95804810	96711635	97425908	98712851	100281746

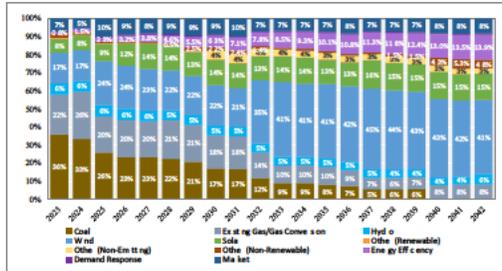
Generation Categories (MWh)	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042
Coal	36%	33%	26%	23%	23%	22%	21%	17%	17%	12%	9%	8%	8%	7%	5%	6%	6%	6%	6%	6%
Existing Gas/Gas Conversion	22%	26%	20%	20%	20%	21%	21%	18%	18%	1%	10%	10%	10%	9%	7%	6%	7%	8%	8%	8%
Hydro	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%	6%
Wind	17%	17%	2%	2%	23%	22%	22%	22%	21%	35%	1%	1%	1%	2%	5%	5%	3%	3%	2%	3%
Solar	8%	8%	9%	12%	1%	1%	13%	1%	1%	13%	1%	1%	1%	13%	16%	17%	16%	15%	15%	15%
Other (Renewable)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Other (Non-Emitting)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	3%	3%	3%	3%	3%	3%
Other (Non-Renewable)	2%	1%	1%	1%	1%	1%	3%	2%	2%	1%	1%	1%	1%	1%	1%	2%	2%	2%	2%	2%
Demand Response	1%	1%	2%	3%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Energy Efficiency	1%	1%	2%	3%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Market	7%	5%	10%	9%	8%	9%	9%	9%	10%	7%	7%	7%	7%	8%	7%	7%	7%	7%	8%	8%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Dispatchable resources (% of the system) 7% 73% 63% 60% 59% 59% 59% 57% 57% 57% 36% 36% 35% 33% 28% 29% 30% 29% 30% 29% 30%

13029	128190	850569	63651	59398	78713	852677	67559	761355	1106	1919	21595	21597	179012	19801	-	-	-	-	-	-
1303	135755	96119	756388	6619	1055709	95599	822299	895681	7543	231831	23755	239832	105711	181039	-	-	-	-	-	-
770022	72295	51081	399621	333	701801	616022	89516	526256	2053	100069	116526	72061	3230	-	-	-	-	-	-	-
78851	2830	67221	6918	76937	692312	59708	238111	297891	315131	1071	128988	8705	6292	-	-	-	-	-	-	-

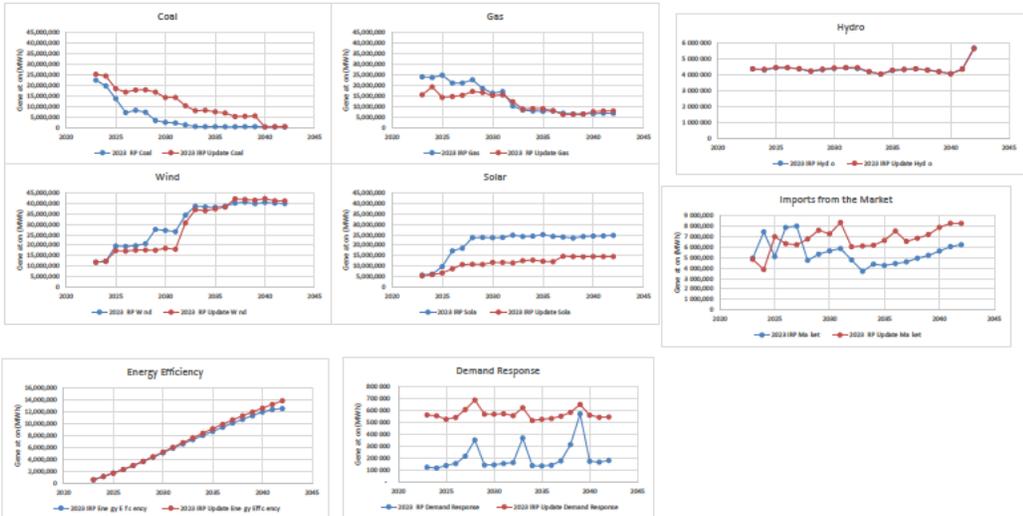
Runs on Coal

Coal Generation	3958610	115137	95050	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
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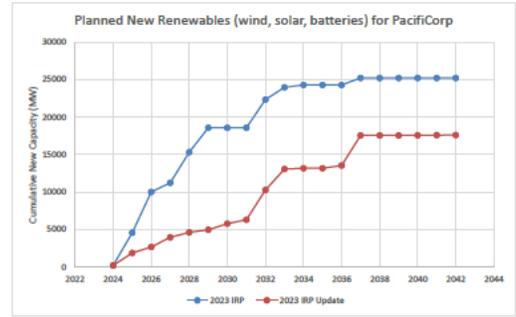


2023 IRP Generation Category (MW)	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042
2023 IRP Coal	22	18	15	13	11	9	7	5	3	2	1	1	1	1	1	1	1	1	1	1
2023 IRP Gas	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
2023 IRP Hydro	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38
2023 IRP Wind	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913	11,913
2023 IRP Solar	5,729	9,789	17,337	25,885	34,433	42,981	51,529	60,077	68,625	77,173	85,721	94,269	102,817	111,365	119,913	128,461	137,009	145,557	154,105	162,653
2023 IRP Other (Renewable)	799	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8
2023 IRP Other (Non-Renewable)	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159
2023 IRP Demand Response	122	115	115	115	115	115	115	115	115	115	115	115	115	115	115	115	115	115	115	115
2023 IRP Energy Efficiency	5	3,132	1,095	1,667	2,239	2,811	3,383	3,955	4,527	5,099	5,671	6,243	6,815	7,387	7,959	8,531	9,103	9,675	10,247	10,819
2023 IRP Market	87,961	7,777	3,502	3	7,806	8,629	9,452	10,275	11,098	11,921	12,744	13,567	14,390	15,213	16,036	16,859	17,682	18,505	19,328	20,151
Total	76,583	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187	76,187

2023 IRP Update Generation Category (MW)	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042
2023 IRP Update Coal	25	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2023 IRP Update Gas	15	8	49	19	32	119	173	261	350	439	528	617	706	795	884	973	1,062	1,151	1,240	1,329
2023 IRP Update Hydro	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38
2023 IRP Update Wind	11,860	360	12,992	16,088	19,184	22,280	25,376	28,472	31,568	34,664	37,760	40,856	43,952	47,048	50,144	53,240	56,336	59,432	62,528	65,624
2023 IRP Update Solar	5,397	38	59	130	210	290	370	450	530	610	690	770	850	930	1,010	1,090	1,170	1,250	1,330	1,410
2023 IRP Update Other (Renewable)	3	6	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
2023 IRP Update Other (Non-Renewable)	153	660	1,027	1,394	1,761	2,128	2,495	2,862	3,229	3,596	3,963	4,330	4,697	5,064	5,431	5,798	6,165	6,532	6,899	7,266
2023 IRP Update Demand Response	563	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
2023 IRP Update Energy Efficiency	577	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
2023 IRP Update Market	8	5	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Total	70,482	246	72,467	85,148	97,829	110,510	123,191	135,872	148,553	161,234	173,915	186,596	199,277	211,958	224,639	237,320	250,001	262,682	275,363	288,044



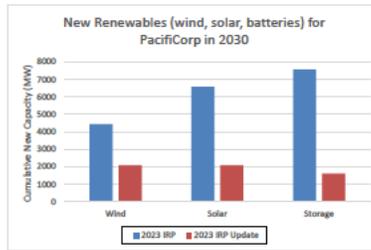
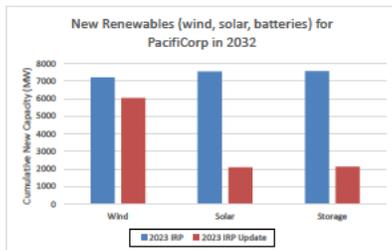
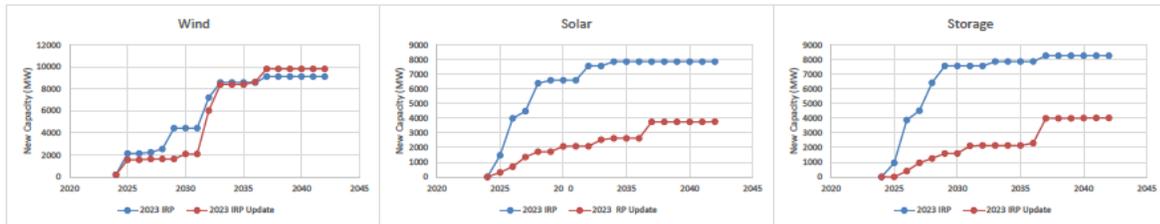
	2023 IRP Preferred Portfolio				2023 IRP Update (4/1/24)				Difference			
	Wind	Solar	Storage	Renewables	Wind	Solar	Storage	Renewables	Wind	Solar	Storage	Renewables
2024	194	0	0	194	194	0	0	194	0	0	0	0
2025	1937	1469	954	4360	1361	300	0	1661	-576	-1169	-954	-2699
2026	0	2524	2929	5453	0	398	400	798	0	-2126	-2529	-4655
2027	100	483	628	1211	79	654	565	1298	-21	171	-63	87
2028	300	1907	1900	4107	0	363	297	660	-300	-1544	-1603	-3447
2029	1900	200	1149	3249	0	0	337	337	-1900	-200	-812	-2912
2030	0	0	0	0	443	369	0	812	443	369	0	812
2031	0	0	0	0	5	5	521	531	5	5	521	531
2032	2783	972	0	3755	3952	0	21	3973	1169	-972	21	218
2033	1359	0	300	1659	2354	449	0	2803	995	449	-300	1144
2034	0	300	0	300	0	93	3	96	0	-207	3	-204
2035	0	0	0	0	0	0	0	0	0	0	0	0
2036	0	0	0	0	228	0	152	380	228	0	152	380
2037	540	0	400	940	1202	1119	1694	4015	662	1119	1294	3075
2038	0	0	0	0	0	0	0	0	0	0	0	0
2039	0	0	0	0	0	0	0	0	0	0	0	0
2040	0	0	0	0	0	0	17	17	0	0	17	17
2041	0	0	0	0	0	0	9	9	0	0	9	9
2042	0	0	0	0	0	14	0	14	0	14	0	14
SUM:	9113	7855	8260	25228	9818	3764	4016	17598	705	-4091	-4244	-7630



	2023 IRP				2023 IRP Update				Difference			
	Wind	Solar	Storage	Renewables	Wind	Solar	Storage	Renewables	Wind	Solar	Storage	Renewables
2024	194	0	0	194	194	0	0	194	0	0	0	0
2025	2131	1469	954	4554	1555	300	0	1855	-576	-1169	-954	-2699
2026	2131	3993	3883	10007	1555	698	400	2653	-576	-3295	-3483	-7354
2027	2231	4476	4511	11218	1634	1352	965	3951	-597	-3124	-3546	-7267
2028	2531	6383	6411	15325	1634	1715	1262	4611	-897	-4668	-5149	-10714
2029	4431	6583	7560	18574	1634	1715	1599	4948	-2797	-4868	-5961	-13626
2030	4431	6583	7560	18574	2077	2084	1599	5760	-2354	-4499	-5961	-12814
2031	4431	6583	7560	18574	2082	2089	2120	6291	-2349	-4494	-5440	-12283
2032	7214	7555	7560	22329	6034	2089	2141	10264	-1180	-5466	-5419	-12065
2033	8573	7555	7860	23988	8388	2538	2141	13067	-185	-5017	-5719	-10921
2034	8573	7855	7860	24288	8388	2631	2144	13163	-185	-5224	-5716	-11125
2035	8573	7855	7860	24288	8388	2631	2144	13163	-185	-5224	-5716	-11125
2036	8573	7855	7860	24288	8616	2631	2296	13543	43	-5224	-5564	-10745
2037	9113	7855	8260	25228	9818	3750	3990	17558	705	-4105	-4270	-7670
2038	9113	7855	8260	25228	9818	3750	3990	17558	705	-4105	-4270	-7670
2039	9113	7855	8260	25228	9818	3750	3990	17558	705	-4105	-4270	-7670
2040	9113	7855	8260	25228	9818	3750	4007	17575	705	-4105	-4253	-7653
2041	9113	7855	8260	25228	9818	3750	4016	17584	705	-4105	-4244	-7644
2042	9113	7855	8260	25228	9818	3764	4016	17598	705	-4091	-4244	-7630

Clean Energy Deployment between 2023 IRP & 2023 IRP Update (%)

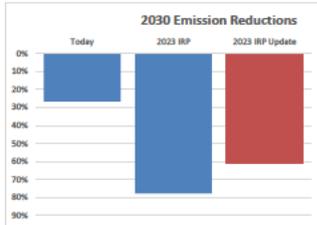
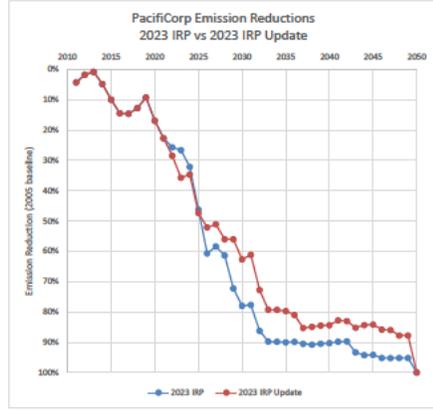
	Wind	Solar	Storage	Renewables
2024				
2025	-27%	-80%	-100%	-59%
2026	-27%	-83%	-90%	-73%
2027	-27%	-70%	-79%	-65%
2028	-35%	-73%	-80%	-70%
2029	-63%	-74%	-79%	-73%
2030	-53%	-68%	-79%	-69%
2031	-53%	-68%	-72%	-66%
2032	-16%	-72%	-72%	-54%
2033	-2%	-66%	-73%	-46%
2034	-2%	-67%	-73%	-46%
2035	-2%	-67%	-73%	-46%
2036	1%	-67%	-71%	-46%
2037	8%	-52%	-52%	-30%
2038	8%	-52%	-52%	-30%
2039	8%	-52%	-52%	-30%
2040	8%	-52%	-51%	-30%
2041	8%	-52%	-51%	-30%
2042	8%	-52%	-51%	-30%



Metric To Metric To Metric: Tons Actuals to 2022

Year	Baseline	2023 IRP	2023 IRP Update	2023 IRP	2023 IRP Update			
2011	54.60	52.30	4.21%	95.79%	2011	52.3	4.21%	95.79%
2012	54.60	53.68	1.68%	98.32%	2012	53.7	1.68%	98.32%
2013	54.60	54.19	0.75%	99.25%	2013	54.2	0.75%	99.25%
2014	54.60	52.00	4.76%	95.24%	2014	52.0	4.76%	95.24%
2015	54.60	49.19	9.80%	90.10%	2015	49.2	9.80%	90.10%
2016	54.60	46.74	14.39%	85.61%	2016	46.7	14.39%	85.61%
2017	54.60	46.65	14.56%	85.44%	2017	46.6	14.56%	85.44%
2018	54.60	47.65	12.72%	87.28%	2018	47.7	12.72%	87.28%
2019	54.60	49.57	9.22%	90.78%	2019	49.6	9.22%	90.78%
2020	54.60	45.39	16.87%	83.13%	2020	45.4	16.87%	83.13%
2021	54.60	42.24	22.64%	77.36%	2021	42.2	22.64%	77.36%
2022	54.60	40.61	25.62%	74.38%	2022	39.1	28.41%	71.59%
2023	54.60	40.0938	26.56%	73.44%	2023	35.1	35.67%	64.33%
2024	54.60	37.0563	32.13%	67.87%	2024	35.7	34.67%	65.33%
2025	54.60	29.3604	46.22%	53.78%	2025	28.7	47.37%	52.63%
2026	54.60	21.4716	60.67%	39.33%	2026	26.2	52.09%	47.91%
2027	54.60	22.7240	58.38%	41.62%	2027	26.7	51.06%	48.94%
2028	54.60	21.1084	61.34%	38.66%	2028	24.0	56.02%	43.98%
2029	54.60	15.1527	72.25%	37.75%	2029	24.0	56.00%	44.00%
2030	54.60	12.0242	77.98%	32.04%	2030	20.4	63.65%	37.33%
2031	54.60	12.1717	77.71%	32.20%	2031	21.2	61.15%	38.85%
2032	54.60	7.5316	86.21%	13.79%	2032	14.9	72.76%	27.24%
2033	54.60	5.6033	89.74%	10.26%	2033	11.3	79.24%	20.76%
2034	54.60	5.5506	89.83%	10.17%	2034	11.3	79.39%	20.71%
2035	54.60	5.4341	90.05%	9.95%	2035	11.1	79.71%	20.29%
2036	54.60	5.5344	89.86%	10.14%	2036	10.4	81.00%	19.00%
2037	54.60	5.1815	90.51%	9.49%	2037	8.0	85.29%	14.71%
2038	54.60	5.0243	90.80%	9.20%	2038	8.2	84.89%	15.11%
2039	54.60	5.1879	90.50%	9.50%	2039	8.5	84.49%	15.51%
2040	54.60	5.3005	90.29%	9.71%	2040	8.5	84.38%	15.62%
2041	54.60	5.5558	89.82%	10.18%	2041	9.4	82.75%	17.25%
2042	54.60	5.6245	89.70%	10.30%	2042	9.3	83.02%	16.98%
2043	54.60	3.6239	93.36%	6.64%	2043	8.1	85.20%	14.80%
2044	54.60	3.1494	94.23%	5.77%	2044	8.6	84.32%	15.68%
2045	54.60	3.1867	94.16%	5.84%	2045	8.6	84.17%	15.83%
2046	54.60	2.6280	95.19%	4.81%	2046	7.7	85.82%	14.18%
2047	54.60	2.6013	95.24%	4.76%	2047	7.7	85.95%	14.05%
2048	54.60	2.6164	95.21%	4.79%	2048	6.7	87.77%	12.23%
2049	54.60	2.6199	95.20%	4.80%	2049	6.7	87.78%	12.22%
2050	54.60	-	100.00%	0.00%	2050	-	100.00%	0.00%
2051	54.60							
2052	54.60							
2053	54.60							
2054	54.60							
2055	54.60							
2056	54.60							
2057	54.60							
2058	54.60							

Year	2023 IRP	2023 IRP Update	Difference
2023	40	35	(5)
2024	77	71	(6)
2025	107	100	(7)
2026	128	126	(2)
2027	151	152	2
2028	172	176	5
2029	187	200	13
2030	199	221	22
2031	211	242	31
2032	219	257	38
2033	224	268	44
2034	230	280	50
2035	235	291	55
2036	241	301	60
2037	246	309	63
2038	251	317	66
2039	256	326	70
2040	262	334	73
2041	267	344	77
2042	273	353	80
2043	276	361	85
2044	279	370	90
2045	283	378	96
2046	285	386	101
2047	288	394	106
2048	291	400	110
2049	293	407	114
2050	293	407	114



Today	2023 IRP	2023 IRP Update
26.56%	77.71%	61.15%

**JOINT ADVOCATES COMMENTS ON PACIFICORP 2023 INTEGRATED
RESOURCE PLAN UPDATE AND CLEAN ENERGY PLAN SUPPLEMENT**

**EXHIBIT 2
PUBLIC DATA REQUEST RESPONSES**

Sierra Club Data Request 45

In PacifiCorp's Final Plan filed In the Matter of the Application of Rocky Mountain Power to Establish Low-Carbon Energy Portfolio Standards before the Wyoming Public Service Commission (Record No. 17536), the Company proposed a pre-front-end engineering and design ("pre-FEED" study) for an amine-based carbon capture retrofit at Jim Bridger Units 3 and 4. The Company further explained that a FEED study is required as a "first step" in pursuing CCUS at Jim Bridger and would require 12-18 months to complete. PacifiCorp's 2023 IRP Update includes installing CCUS at Jim Bridger by 2028.

- (a) Please provide an update on the status of the pre-FEED study.
- (b) Please identify when the pre-FEED study would need to be completed in order to be "on schedule" for installation of CCUS at Jim Bridger 3 and 4 by 2028.

Response to Sierra Club Data Request 45

Referencing PacifiCorp's Final Plan filed in Wyoming Docket 20000-660-EA-24 (Application to Establish Low-Carbon Energy Portfolio Standards) on March 29, 2024, the Company responds as follows:

The Company requested Wyoming Public Service Commission (WPSC) approval of its Final Plan which included conducting additional technical and economic analyses for an Allam Fetvedt Cycle Project at either the Dave Johnston or Wyodak facilities by conducting a pre-front-end engineering and design (pre-FEED) study in conjunction with SK and 8 Rivers and conducting additional technical and economic analyses by conducting a front-end engineering and design (FEED) study at the Jim Bridger facility. With the foregoing clarifications on the two projects, the Company responds as follows for the Jim Bridger FEED study:

- (a) The Company is working to procure partners to conduct the FEED study.
- (b) The Company is currently pursuing a FEED study that will further inform costs and project timelines of an amine-based carbon capture project at Jim Bridger Unit 3 and Jim Bridger Unit 4. The Company will re-evaluate the economic and technical viability along with potential developmental timelines of the project after the conclusion of the FEED study.

LC 82 / PacifiCorp
May 7, 2024
Sierra Club Data Request 48

Sierra Club Data Request 48

Please explain whether and how the 2023 IRP Update considered PacifiCorp's wildfire liabilities.

Response to Sierra Club Data Request 48

The Company's modeling for the 2023 Integrated Resource Plan (IRP) Update does not include financial or operational impacts associated with wildfire liabilities.

Despite PacifiCorp's diligent efforts, certain information protected from disclosure by the attorney-client privilege or other applicable privileges or law may have been included in its responses to these data requests. PacifiCorp did not intend to waive any applicable privileges or rights by the inadvertent disclosure of protected information, and PacifiCorp reserves its right to request the return or destruction of any privileged or protected materials that may have been inadvertently disclosed. Please inform PacifiCorp immediately if you become aware of any inadvertently disclosed information.

Sierra Club Data Request 50

Page 7 of the 2023 IRP Update states “[a] key change since the filing of the 2023 IRP is the addition of peaking capacity in the form of natural gas resources capable of operating with 100% hydrogen fuel.”

- (a) Please identify in which year new natural gas resources in the 2023 IRP Update are assumed to convert to operating with 100% hydrogen fuel.
- (b) For the year(s) identified in response to subpart (a), please explain how PacifiCorp determined that said year or years were reasonable, including any research or sources relied upon.
- (c) Please explain whether all new natural gas proxy resources were cost-allocated to Oregon in the 2023 IRP Update.

Response to Sierra Club Data Request 50

- (a) The non-emitting peaking resources added in 2030 and 2037 are assumed to operate using 100 percent hydrogen fuel throughout their lives. The natural gas peaking resources, added in 2029 and 2038-2041, are not assumed to convert to 100 percent hydrogen fuel within the planning horizon. The capability to operate with 100 percent hydrogen fuel addresses risks otherwise associated with procuring resources that are not capable of non-emitting operation.
- (b) Not applicable.
- (c) No new natural gas proxy resources were assumed to be allocated to Oregon in PacifiCorp’s 2023 IRP Update. For details, please refer the confidential work papers supporting the 2023 IRP Update, specifically confidential folder “Chapters, Appendicies, and Input Assumptions”, confidential file “CH6 - Portfolio Development CONF_Table 6.1 Fig 6.4 Allocation Unified56000_Sys52430_OR53854_WA56005_2024 03 12.xlsx”.

Sierra Club Data Request 52

Please refer to slide 12 of PacifiCorp’s Presentation for the 5/30/24 Special Public Meeting, which states “[w]ildfire risk and liability requires PacifiCorp to manage its cash on a day-to-day basis, and with limited capital, money needed for new transmission and new resources is constrained, which can adversely impact reliability over time”.

- (a) Please explain whether the modeling for the 2023 IRP Update contained any constraint, such as placing a limit on annual investment levels, using a higher cost of capital for borrowing, or some other constraint, to represent in the modeling PacifiCorp’s need to manage its cash on a day-to-day basis.

Response to Sierra Club Data Request 52

In PacifiCorp’s 2023 Integrated Resource Plan (IRP) Update preferred portfolio, the earliest uncommitted resource additions are allowed in 2027. The Company did not impose constraints in the 2023 IRP Update to reflect limitations on investment levels or to reflect the need to manage cash.

OPUC Data Request 277

Hydrogen - Please describe and provide any research completed by PacifiCorp into the source and cost of the hydrogen that will be supplied to the 224 MW 100% hydrogen resource added to the IRP Update's preferred portfolio in 2030. If PacifiCorp used any reports or studies, please provide them via a link or as an attachment to the data response.

Response to OPUC Data Request 277

PacifiCorp has not attempted to identify a specific source of hydrogen for the referenced resource. The hydrogen costs modeled in PacifiCorp's 2023 Integrated Resource Plan (IRP) Update are equal to the cost of natural gas plus associated greenhouse gas (GHG) costs through 2039 as the value of the clean hydrogen production tax credit (PTC), under section 45V of the Internal Revenue Service (IRS) tax code, is projected to reduce the production cost of hydrogen below the cost of natural gas (including emission costs), such that demand for hydrogen may drive up its price until it is equivalent to natural gas. In 2040-2044, hydrogen prices transition back to a level that represents the hydrogen production cost, including electrolyzers and new renewable resources. The hydrogen production cost forecast is provided by the third party consultant that produces the Company's quarterly market price curves and IRP price-policy scenarios, Siemens. Please refer to Confidential Attachment OPUC 277 which provides details on the referenced hydrogen costs. Note: Confidential Attachment OPUC 277 includes third-party proprietary information which is provided with the permission of the third-party and subject to the confidentiality protections applicable to this proceeding.

Confidential information is designated as Protected Information under Order No. 23-132 and may only be disclosed to qualified persons as defined in that order.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

Docket No. LC 82

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2023 Integrated Resource Plan.

Staff Comments

Introduction

On March 19, 2024, the Commission issued Order No. 24-073, which adopted Staff’s recommendations to acknowledge in part and not acknowledge in part PacifiCorp’s 2023 Integrated Resource Plan (IRP). It also adopted 21 Staff Recommendations for PacifiCorp’s 2025 IRP.¹ The order did not acknowledge the Company’s 2023 Clean Energy Plan (CEP) and stated it would assess continual progress, as required by HB 2021, in connection with its review of the IRP and CEP Update.²

On April 1, 2024, PacifiCorp (PAC or PacifiCorp) filed its 2023 IRP and Clean Energy Plan Update. The Company notes in the Oregon Planning Supplement that it is “not requesting acknowledgement of this Clean Energy Plan (CEP) Supplement, nor does the Company believe that additional actions or proceedings are necessary at this time.”³

This IRP update reflects the impact of significant events that occurred since the 2023 IRP was filed in May 2023. These include a stay of the EPA’s Ozone Transport Rule (OTR) - which increased the availability of coal generation in Wyoming and Utah – and a finding of liability in the 2020 wildfires. Based on these and other issues, the Company cancelled the 2022 AS RFP and other plans to acquire new resources over the next few years. The 2022 AS RFP would have brought nearly 2 GW of new, non-emitting generation online by 2027.⁴ The change to resources found in the IRP Update’s preferred portfolio differs greatly from what was initially presented in the 2023 IRP.

In the May 30, 2024, Special Public Meeting, PacifiCorp presented its 2023 IRP Update and CEP to the Commission. In this presentation, the Company asserted that wildfire risk and liability has forced the Company to manage cash on a day-to-day basis and greatly limited the capital available for investment in new resources.⁵ While utility financial operations fall outside of the scope of the resource planning process, this situation imposes a constraint on the IRP, CEP, and near-term activities. Staff appreciates the Company’s transparency in assessing the financial and regulatory risks it is facing. Regardless, the Commission must still ensure a demonstration of continual progress toward HB 2021’s targets set out in ORS 469A.410 and that PacifiCorp is taking action as soon as practicable to reduce emissions at reasonable costs. These comments represent Staff’s initial findings. Additionally, Staff emphasizes that it is committed to working with PacifiCorp and stakeholders to develop solutions by the time of the 2025 IRP.

Purpose of IRP Update and CEP Supplement Process

The overall purpose of this update process, as stated at the April 26, 2024 scheduling conference, is as follows:⁶

- 1) Review the IRP Update and CEP Supplement and provide input for 2025 IRP.

¹ *In the Matter of PacifiCorp 2023 Integrated Resource Plan*, Docket No. LC 82, Order No. 24-073, Page 1 (March 19, 2024).

² LC 82, Order No. 24-073, Page 9.

³ LC 82, PacifiCorp’s Oregon Planning Supplement, April 1, 2024, Page 1.

⁴ *In the Matter of PacifiCorp 2022 All-Source Request for Proposal*, Docket No. UM 2193, Independent Evaluator’s Assessment of Final Draft 2022AS RFP, March 11, 2022, Page 1.

⁵ LC 82, PacifiCorp’s Presentation for the 5/30/24 Special Public Meeting, May 29, 2024, Page 12.

⁶ LC 82, ALJ Katie Mapes Conference Memorandum, April 29, 2024, Page 1.

- 2) Allow the Commission to make a determination of Continual Progress.

With regards to the 2025 IRP/CEP, Staff's comments are focused on providing limited input into and analysis of the IRP Update and CEP Supplement. As such, the breadth of these comments will be more narrow than traditional IRP/CEP comments. Topics such as load forecast methodology, levels of energy efficiency, and progress on important CEP issues like Community Benefit Indicators (CBIs) and Community Based Renewable Energy will not be covered in these comments. Any staff observations provided here that may impact the 2025 IRP/CEP will also be posted in the Company's public input process.

PacifiCorp will have the opportunity to respond to Staff and stakeholders in reply comments due on July 12, 2024. Staff's memos to the special public meeting will be posted on August 1, 2024. One memo will cover any final recommendations on the LC 82 IRP Update and CEP Supplement. This memo may not be necessary, given that PacifiCorp is not seeking acknowledgement of any changes in the IRP or action items and the 2025 IRP/CEP has an active public input process. The other memo will seek to encapsulate Staff, stakeholders, and the Company's positions on determining continual progress. This memo may contain recommendations from Staff for Commissioners' consideration at the Special Public Meeting on August 8, 2024.

I. Analysis of IRP Update and CEP Supplement

Staff's analysis of the 2023 IRP Update and CEP supplement focuses on the changes to PacifiCorp's resource strategy and the assumptions leading to those changes. Staff commends PacifiCorp for the advancements it has made in its modeling approach in the 2023 IRP Update in such a short time. Regardless, Staff finds that the preferred portfolio exposes the Company to risks that have not been fully accounted for or analyzed in the IRP Update.

IRP Update: Preferred Portfolio

PacifiCorp's 2023 IRP Update includes a preferred portfolio that features much lower amounts of renewable generation and storage. PacifiCorp states that some renewable resources have been offset by gas and coal due to a stay of the Ozone Transport Rule (OTR) regulation and the inclusion of gas peaking resources with longer depreciable lives.⁷ The figure below shows the IRP Update's decrease in renewable generation is almost fully offset by **[BEGIN HIGHLY CONFIDENTIAL]** 


⁷ LC 82, PacifiCorp's 2023 IRP Update, April 1, 2024, Page 80.

[REDACTED]

[REDACTED]

[END HIGHLY CONFIDENTIAL]⁸

A comparison of coal generation in the IRP versus the IRP Update shows that Hunter and Huntington plants, affected by OTR in the IRP, [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL]⁹

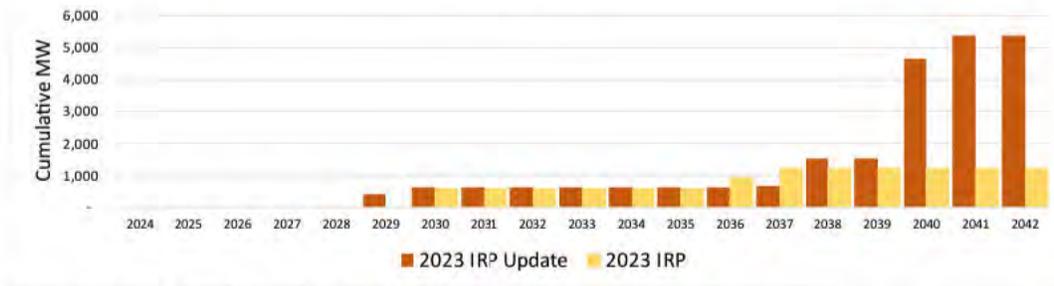
The 500 MW increase in front office transaction (FOT) availability to meet capacity needs in the 2023 IRP Update and reduced market prices through 2030 may also play a role in explaining the

[REDACTED]

shift away from renewables in the portfolio. ¹⁰ Staff provides a deeper analysis of PacifiCorp’s approach to market purchases in the Supply-Side Resources section of these comments.

The new gas peakers selected in the 2023 IRP Update also appear to contribute toward the decrease in solar, storage, and wind in the IRP Update. Figure 3 shows new peaking resources selected in the IRP Update (inclusive of the 224 MW non-emitting peaker added in 2029). About 620 MW of peaking resources are added by 2030.

Figure 3. Peaking Resources in the 2023 IRP Update



Source: Figure 1.7 from the IRP Update

There does not appear to be a large difference in new peaking units between the IRP and the IRP Update until 2038, when the IRP Update includes thousands of MW of peakers that were not included in the IRP. It is possible that the addition of these emitting peakers in 2038 has caused the model to meet less demand with solar, storage, and wind.

This addition of so much capacity – 4,000 MW – lumped at the end of the IRP time horizon appears to be a somewhat remarkable resource modeling outcome. Further, the relative increase in **[BEGIN HIGHLY CONFIDENTIAL]** **[END HIGHLY CONFIDENTIAL]**,¹¹ the addition of a large volume of gas generation toward the end of IRP, and the rapid near-term increases in market purchases appear to combine in the model to decrease near-term renewables procurement or contracting.

IRP Update: Modeling Improvements

Based on the Company’s 2023 IRP Update, PacifiCorp has shown willingness to revise its methodology for some aspects of the IRP based on stakeholder and Commission feedback. There are still some other areas identified for improvement that the Company has yet to address in the IRP Update that should be considered for the 2025 IRP.

PacifiCorp did improve the transparency and objectivity of the modeling process. The Company’s expanded explanation of its modeling process and calculation around granularity and reliability adjustments¹² improves stakeholder understanding of portfolio development. In addition, the new methodology for developing reliability adjustments enables the model to choose an economically optimal solution and increases model objectivity relative to the Company’s previous approach.

¹⁰ LC 82, *Ibid*, Page 52.

¹²LC 82, *Ibid*, pages 70–73.

Going into the 2025 IRP, Staff will submit public comments seeking to have PacifiCorp better explain, improve, or adjust for the following:

- Continued transparency and interactive improvements in the portfolio integration step to combine state policy portfolios with the system portfolio.
- Reporting the steps taken to reduce the magnitude of the reliability and granularity adjustments due to portfolio integration.
- Improve temporal granularity in the capacity expansion modeling to avoid the large number of modeling adjustments that incorporate sequential commitment and dispatch.
- Update temporal configuration of battery charging and discharging along with the seasonally variability of renewables at the beginning of the modeling process to better capture their dynamics and possible combinations in capacity expansion analysis.
- Layer in the fixed fuel costs at Jim Bridger and other coal plants within the PLEXOS model upfront rather than through post-processing workbooks.
- Provide workpapers showing how system portfolio resources are modified to support state policy decisions, as the Portfolio Optimization & Integration of state policy appears to be a new source of subjective judgement for resource selection.

IRP Update: Supply-Side Resources

As stated previously, the IRP Update's preferred portfolio represents a wholesale shift in the types of resources used to meet forecasted demand. Staff is concerned about the underlying assumptions in these resource choices and the attendant risks they create. The sections below summarize Staff's analysis of various choices in supply-side resources and will also be submitted as public comments for the 2025 IRP.

Natural Gas (Existing, New, and Peakers)

Gas-fired resources were not allowed for selection in the 2021 IRP.¹³ In the 2023 IRP they were re-introduced with a 10-year lifetime to reflect regulatory risk (but none were selected in the preferred portfolio.)¹⁴ In the 2023 IRP Update, the lifetime of gas-fired resources was extended from 10 to 40 years, improving their economic value to the model by reducing their levelized cost. The changes to the expected lifespan of gas peakers stems from the assumption they are capable of being converted to burn 100 percent hydrogen fuel in the future.¹⁵ The Company states that manufacturers have confirmed this is a supportable assumption but does not provide any additional analysis on the feasibility of hydrogen conversion.

While the possibility of fuel flexibility supports a longer plant lifetime in an era of reduced emissions, the IRP Update does not appear to include any of the costs to convert the plant to burn hydrogen and to supply the necessary hydrogen fuel. As such, modeling over 4,000 MW of new gas capacity beginning in 2038 does not appropriately reflect the risks involved with this conversion. This allows the selection of over 3 times more gas capacity than what was previously selected in the 2023 IRP.

¹³ *In the Matter of PacifiCorp's 2021 Integrated Resource Plan*, Docket No. LC 77, Page 164 (September 1, 2021).

¹⁴ LC 82, PacifiCorp's 2023 IRP, May 31, 2023, Page 311.

¹⁵ LC 82, PacifiCorp's 2023 IRP Update, April 1, 2024, Page 56.

Coal Plant Economics

The table below tracks coal retirement dates from the 2021 IRP to the 2023 IRP Update. Cells highlighted in grey represent years where a retirement date changes.

Table 1. Coal plant retirement dates by IRP vintage

Coal Unit	Nameplate Capacity (MW)	2019 IRP	2021 IRP	2023 IRP	2023 IRP Update
JB 1,2 gas conversion	713	N/A	2024	2024	2024
JB 1,2 retirement	713	2037	2037	2037	2037
JB 3,4 CCUS	713	N/A	N/A	N/A	2028
JB 3,4 retirement	713	2037	2037	2037	2039
Naughton 1,2 gas conversion	357	N/A	N/A	2026	2026
Naughton 1,2	357	2025	2025	2036	2036
Craig 1	82	2025	2025	2025	2025
Craig 2	79	2026	2028	2028	2028
Colstrip 3 ¹⁶	74	2027	2025	2029	2029
Colstrip 4	74	2027	2025	2029	2029
DJ 1,2	205	2027	2027	2028	2028
DJ 3	220	2027	2027	2027	2027
DJ 4	330	2027	2027	2039	2039
Hayden 2	33	2030	2027	2027	2027
Hayden 1	44	2030	2028	2028	2028
Huntington 1,2 SNCR	909	N/A	N/A	2026	N/A
Huntington 1-2	909	2036	2036	2032	2036
Wyodak	268	2039	2039	2039	2039
Hunter 1-3	1158	2042	2042	2031-2032	2042

Hunter, Huntington, and Jim Bridger 3 & 4 retirement dates have moved later in the 2023 IRP Update while other retirement dates did not change.

PacifiCorp has developed better fuel price forecasts for the Hunter and Huntington plants. The Company appears to incorporate the impact of disruptions to the Utah coal market and unfavorable coal mining conditions. Using the Preferred Portfolio outputs from the 2023 IRP and IRP Update, a comparison of PacifiCorp’s fuel cost assumptions for its coal fleet can be made.

[Begin Highly Confidential]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[End Highly Confidential]¹⁷

In the 2023 IRP, PacifiCorp added the fixed costs for coal supply at Jim Bridger in post-processing rather than modeling them within PLEXOS.¹⁸ As a result, PLEXOS saw only the variable portion of the coal cost for decision-making.

Fuel costs influence unit economics, so it is important for PacifiCorp to represent them correctly within PLEXOS so that the model can determine economic retirement and/or conversion dates. In the IRP Update, it appears that PacifiCorp relies on the same approach of modeling certain Jim Bridger Costs in post-processing rather than within PLEXOS.

The fixed cost assumptions for the coal fleet between the 2023 IRP and the IRP Update using PLEXOS ST are also worth noting.

[Begin Highly Confidential]

[Redacted]

¹⁸ PacifiCorp Response to Staff DR No. 228.

[REDACTED]

[REDACTED]

[REDACTED]

[End

Highly Confidential]¹⁹

Coal with Carbon Capture, Utilization, and Sequestration (CCUS)

The Company proposes in the IRP Update to build Carbon Capture Utilization and Storage (CCUS) facilities at Jim Bridger 3 and 4, which would be installed as early as 2028. While Oregon is not allocated coal resources after 2030, Oregon will receive electricity from these coal units until 2030.

Despite PacifiCorp’s recent press release announcing a signed memorandum of understanding (MOU),¹¹ the planned timeframe to develop this facility appears optimistic. A recent publication found that the most likely minimum amount of time required to bring a CCUS project from development to operation is over 5 years.¹² In the 2025 IRP, PacifiCorp will need to explain how it will place into service such new and novel technology before 2029. Notably, operational delays meaningfully alter the economics of the asset by reducing the ITC benefits the facility can capture. Delays in CCUS installation at Bridger 3 and 4 would also negatively impact the economics of the units by increasing the emissions costs. PacifiCorp ran a portfolio variant in its 2023 IRP update that did not include CCUS at these facilities. In this scenario, emissions costs are \$654 million higher in 2028 and \$614 million higher in 2029 when Bridger units 3 and 4 run without CCUS

[REDACTED]

technology. These increased emissions costs contribute to the net cost increase \$918 million dollars across 2028 and 2029 in the non-CCUS variant scenario.

Taken together, the choice to install CCUS, rather than retire and replace these resources, poses financial risks. At a minimum, in the 2025 IRP, PAC should provide a sensitivity that shows the impact of CCUS delays on the lifetime cost/benefit of the Bridger 3 and 4 units.

Non-emitting 100% Hydrogen Peakers

PacifiCorp's preferred portfolio includes 224 MW of non-emitting peaking capacity allocated entirely to Oregon in 2029. An additional 59 MW from a different facility is allocated to Oregon in 2037. PacifiCorp states these capacity resources are "natural gas resources capable of operating with 100% hydrogen fuel"¹ and clarified through the discovery process that these resources are assumed to operate using 100 percent hydrogen fuel throughout their lives.²⁰

Staff supports utilities pursuing resource options that are known but not yet commercially viable, as directed by the Commission in Order No. 07-002. Further, Staff appreciates PacifiCorp pursuing non-emitting resources that align with Oregon's emissions reduction policies and provide firm, dispatchable electricity. However, staff finds the 2023 IRP update lacks well-supported research so as to provide assurance that the non-emitting peaking resources **and** the necessary supply of green hydrogen will be available in less than five years.

For example, the 224 MW non-emitting peaking resource in PacifiCorp's preferred portfolio is a combustion turbine fueled by pipeline-delivered 100 percent clean hydrogen. Where will this fuel come from? The supply and delivery of clean hydrogen is just assumed.²¹ The 2025 IRP will need to thoroughly consider the production and distribution networks necessary to deliver clean hydrogen to non-emitting peaker plants that are fully allocated to Oregon.

Staff reiterates that it is receptive to PacifiCorp using clean hydrogen resources to meet energy and capacity needs. Staff does not believe PacifiCorp has presented a feasible strategy for incorporating clean hydrogen into its resource portfolio by 2030, but Staff is interested in engaging with PacifiCorp to further develop more accurate hydrogen modeling assumptions for the 2025 IRP.

Natrium

PacifiCorp's 2023 IRP Update includes fewer advanced nuclear resources than the 2023 IRP, with only the 2030 Natrium project being selected in the preferred portfolio. The Company states in the IRP update that it is continually updating advanced nuclear resource cost estimates as they become available. Staff appreciates PacifiCorp's willingness to make these updates.

Staff reiterates its recommendation in the March 5, 2024, Public Meeting Staff report that the 2025 IRP/CEP include updated Natrium assumptions to reflect actual events.¹³ The 2025 IRP will be filed 5 years before the currently projected COD of the Natrium project. This is a very short time for the construction and operation of an advanced, first-of-its kind nuclear project. Staff re-emphasizes that PacifiCorp should provide updated assumptions for the project in the 2025 IRP/CEP based on actual events and project milestones.

²⁰ PacifiCorp response to Sierra Club DR No. 50.

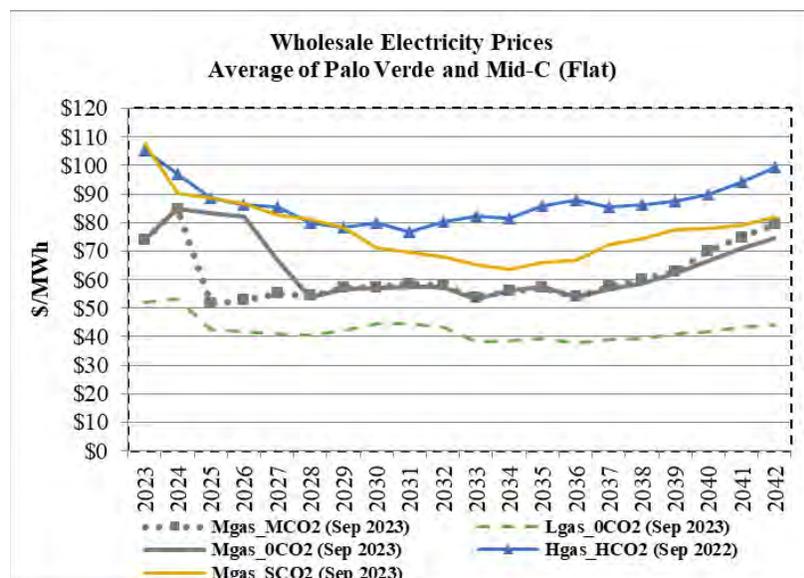
²¹ Further, it would be important clarify with DEQ, before drafting the 2025 IRP, the parameters around which hydrogen is considered a non-emitting fuel.

IRP Update: Market Purchases

PacifiCorp’s IRP Update includes a large increase in projected market purchases from the 2023 IRP. PAC states that in the absence of the OTR, these market purchases can cost-effectively replace some of the incremental renewable resources previously selected in the preferred portfolio for the 2023 IRP.²² Staff is greatly concerned about this shift in planning strategy given the negative driver market purchases have played in PacifiCorp’s current rate cases. In short, the IRP update leaves meaningful risks relatively unexplored.

Figure 5.1 of the 2023 IRP update shows the Company’s estimated wholesale electricity prices for the planning horizon. Staff has copied this figure below.²³

Figure 7 – PacifiCorp’s Wholesale Electricity Prices (Figure 5.1 of 2023 IRP)



PAC uses an average of prices at the Mid-Columbia and Palo Verde hubs under its medium-gas, medium-CO2 price-policy scenario to project wholesale electricity prices. As the figure shows, PAC projects a drop in the wholesale electricity price under this scenario in 2025. The price then remains below \$60/MWh through 2038.

PAC is increasing its reliance on market purchases to cover summer and winter peaks.²⁴ Cumulatively, between 2024 and 2042 PacifiCorp is selecting 4,971 more average MW during summer peaks (June – September) than what was selected in the 2023 IRP.²⁵ Coincidentally, the \$/MWh costs associated with these market purchases decreased in the 2023 IRP Update, likely leading to this increased selection of market purchases during peak summer months.

²² LC 82, PacifiCorp’s 2023 IRP Update, April 1, 2024, Page 11.

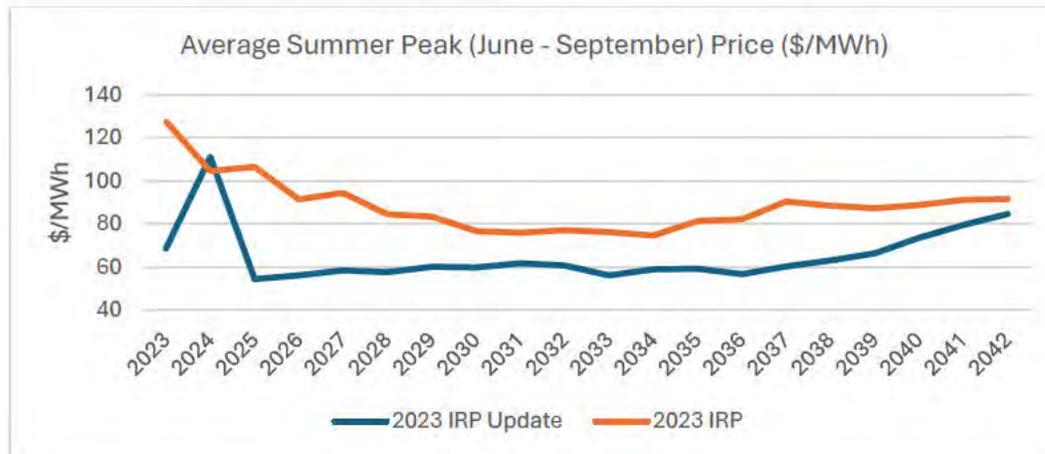
²³ LC 82, *Ibid.* Page 53.

²⁴ LC 82, *Ibid.* Page 11.

²⁵ Staff calculations based on PAC 2023 IRP Update workbook “(P) Figure 1.13-1.14 23IRPU Preferred Portfolio Market Purchases 03202024.xlsx”

Using data from the IRP Update workbooks, staff plotted the average \$/MWh price for the months of June – September in the 2023 IRP and 2023 IRP Update in Figure 8 below. It is instructive in understanding how and/or why PLEXOS may be relying so much more on market purchases in the IRP Update.

Figure 8 – Average Summer Peak (June – September) Price



As the figure shows, starting in 2025, PacifiCorp’s 2023 IRP update assumes a much lower wholesale electricity price during peak summer months than the 2023 IRP. The exact change in forecasted prices between 2025 and 2030 is captured in the table below.

Table 2 – Summer Peak Average Price for Market Purchases (\$/MWH)

Summer Peak Average Price for Market Purchases (\$/MWH)								
Year		2025	2026	2027	2028	2029	2030	Average
2023 IRP	\$	106.58	\$ 91.54	\$ 94.44	\$ 84.52	\$ 83.57	\$ 76.77	\$ 89.57
2023 IRP Update	\$	54.47	\$ 56.20	\$ 58.57	\$ 57.65	\$ 60.14	\$ 59.83	\$ 57.81
Price Reduction		49%	39%	38%	32%	28%	22%	35%

Staff believes this drop is due in part to PAC’s assumptions surrounding the stay of the OTR. This removes limitations on operating thermal resources during the summer periods. If correct, this means PAC is anticipating more affordable, **but** higher-emitting, wholesale electricity during the summer months from increased thermal generation across the West in the IRP.

Notably these numbers stand in contrast to the net power costs found in the 2025 Transition Adjustment Mechanism (TAM) in UE 434.²⁶

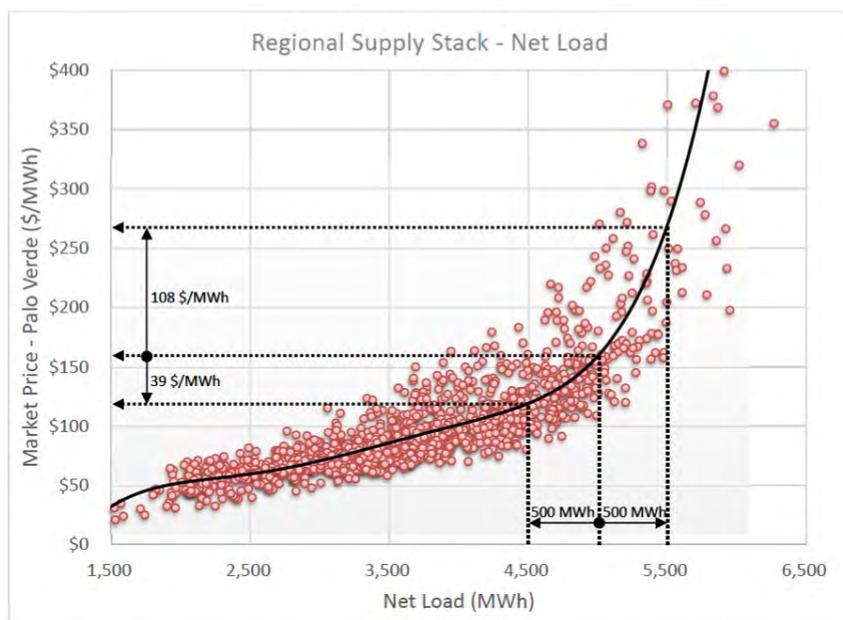
²⁶ UE 434, 2025 Transition Adjustment Mechanism, February 14, 2024, Mitchell Testimony, non-confidential, public work papers, MitchellTestSupp_OFPC_Comparison.xlsx.

Table 3 – 2025 TAM Net Power Costs

Category	\$/MWH
2025 Forecasted Mid-Columbia HLH	\$101.92
2025 Forecasted Mid-Columbia LLH	\$70.75
2025 Forecasted Mid-Columbia FLAT	\$88.23

UE 434 further captures Staff’s concerns about the IRP Update’s low projected summer peak prices. The chart below demonstrates the asymmetric risk to wholesale market prices in one market during periods of high demand relative to periods of low demand.²⁷

Figure 9 – Palo Verde Market Price v. Net Load (from UE 434)



In short, PacifiCorp discuss how absorbing asymmetric upside risk during periods of peak demand is driving up NPC in UE 434, yet is planning to rely heavily on the market for the next several years in the IRP Update. The 2025 IRP will need to address this.

One driver to this increased price risk according to PacifiCorp testimony are the declines in electricity available in wholesale markets. In filing UE 434 PAC stated the following:²⁸

The volume of transactions in regional wholesale markets has been steadily declining in recent years, which supports a lower market cap. This decline is evident by examining data from the Intercontinental Exchange (ICE), which is the primary platform used to trade energy on a day-ahead basis in the western interconnection. Data from ICE at the Mid-

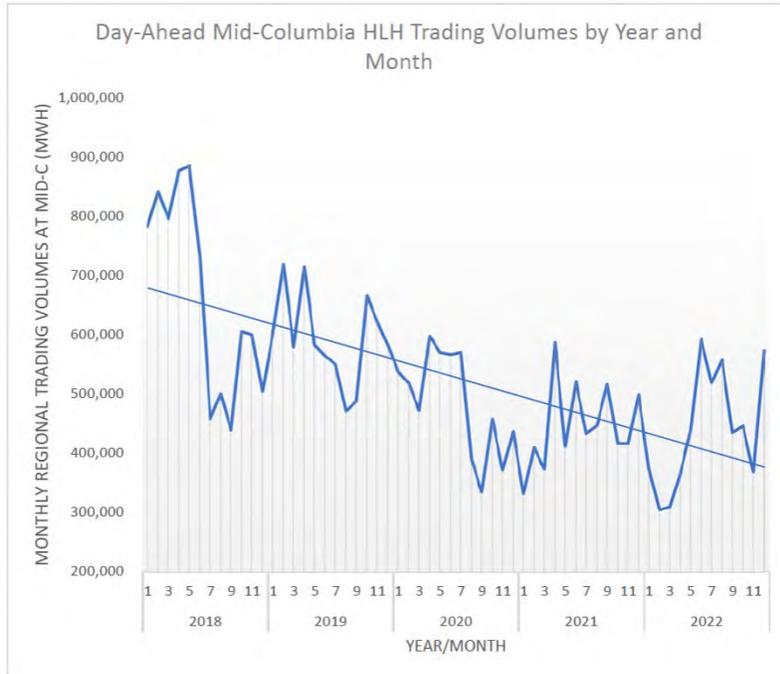
²⁷ UE 434, Redacted Exhibit Accompanying Direct Testimony of Ramon J. Mitchell 2020 Benchmark Report, February 2024, Page 3.

²⁸ UE 434, Redacted, Exhibit Accompanying Direct Testimony of Ramon J. Mitchell DA/RT and Market Caps, February 2024, Page 59.

Columbia trading hub over the HLH show that trading volumes have been consistently trending downwards over the past five years, from 2018 to 2022.

In the same filing, PacifiCorp shared the following figure outlining these declines in market volume:

Figure 10 – Day-Ahead Mid-Columbia HLH Trading Volumes by Year and Month (from UE 434)



PAC goes on to state that these sales declines are due to region-wide reductions in excess supply, increased regulation reserves, and the EIM.²⁹ Staff anticipates that each of these factors will continue to be relevant throughout the next five to ten years of the IRP’s planning horizon given the western state’s drive to decarbonize and regionalize.

Finally, it is worth noting that Oregon will have an energy shortfall in 2030 of just over 3,500 GWh. Until a compliance pathway is identified, PacifiCorp will meet this energy need through market purchases, which carries price volatility risks discussed and a rate of emissions greater than natural gas.³⁰

IRP Update: Regulatory Whiplash

In late April 2024, the U.S. Environmental Protection Agency finalized new regulations for existing coal-fired and new gas-fired power plants under section 111 of the Clean Air Act. New and reconstructed gas-fired power plants are covered under section 111(b), while existing sources are covered under 111(d). PacifiCorp’s existing coal plants will be most impacted by these final rules, and the Company has not yet modeled the implications of 111(d) on its Preferred Portfolio.

²⁹ UE 434, Non-Confidential, Redacted, Exhibit Accompanying Direct Testimony of Ramon J. Mitchell DA/RT and Market Caps, February 2024, Page 41.

³⁰ LC 82 CEP Supplement, April 1, 2024, page 13, Table 3.

Existing coal plants are categorized into three different subcategories based on the plants' planned retirement dates.³¹ Based on these final regulations, seven of PacifiCorp's existing coal plants will not be in compliance as modeled in the IRP Update. Table 4 summarizes the implications at these plants. Five of the seven plants would likely need to install CCS in order to operate until the retirement dates stated in the IRP Update. The remaining two plants are proposed to retire before 2039, and could comply by co-firing with natural gas. If Hunter 1 retires in 2031 as the 2023 IRP found to be optimal, the plant would not be subject to any compliance costs for 111(d). Under the IRP Update, the plant would need to install CCS to comply.

Table 4. Coal plant 111(d) compliance requirements

Coal Unit	2023 IRP Retirement Year (12/31/___)	2023 IRP Update Retirement Year (12/31/___)	111 Compliance Pathway
Dave Johnston 4	2039	2039	Emissions rate limit based on 90% CCS by 2032
Hunter 1	2031	2042	Emissions rate limit based on 90% CCS by 2032
Hunter 2	2032	2042	Emissions rate limit based on 90% CCS by 2032
Hunter 3	2032	2042	Emissions rate limit based on 90% CCS by 2032
Huntington 1	2032	2036	Emissions rate limit based on co-firing with natural gas at 40% by 2030
Huntington 2	2032	2036	Emissions rate limit based on co-firing with natural gas at 40% by 2030
Wyodak	2039	2039	Emissions rate limit based on 90% CCS by 2032

In the 2025 IRP, PacifiCorp should incorporate the requirements of the finalized 111 rules into PLEXOS. PacifiCorp's model needs to be able to optimize the retirement dates and environmental control costs to develop least-cost portfolios that are compliant with Oregon's policy.

Finally, Staff notes that the trajectory of emissions regulation across the West and even across the USA is clearly toward tighter regulation. Staff observes that greatly varying a six-state utility's long-term portfolio and large-scale investments within a single IRP adds an unwelcome level of uncertainty to the planning process. This reversion back to coal is especially troubling given the known coal supply and fuel cost issues for several of PacifiCorp's facilities, which are a driver of increased power costs in other, recently filed dockets.

IRP Update: Procurement

Beyond seeking to acquire approximately 755 MW of standalone battery energy storage systems (BESS) in the very near-term³² PacifiCorp has stated that there is a material benefit to scaling back and delaying resource acquisitions until after 2030.³³ The Company may unveil systemwide and Oregon-specific resource procurement strategies in the 2025 IRP but has not committed to any

³¹ U.S. Environmental Protection Agency. "Fact Sheet: Carbon Pollution Standards for Fossil Fuel-Fired Power Plants Final Rule." <https://www.epa.gov/system/files/documents/2024-04/cps-111-fact-sheet-state-plans-2024.pdf>.

³² LC 82, PacifiCorp's Presentation for the May 30, 2024, Special Public Meeting, May 29, 2024, Page 12.

³³ *In the Matter of PacifiCorp's Application for Approval of 2022 All Source RFP*, Docket No. UM 2193, Notice of Cancellation, (April 4, 2024).

associated action yet.³⁴ Finally, PacifiCorp shared at the May 30, 2024, Special Public Meeting that it believes its financial position does not allow it to acquire any new resources for ownership and it may have a reduced ability to enter into new contracts.³⁵

The uncertainty around future resource additions also stands in contrast to PacifiCorp needs. Per the CEP, the Company will need 2 GW of non-emitting resource by 2030 to meet Oregon’s energy, capacity, and compliance needs.³⁶

The CEP suggests an Oregon MSP allocation of all of the IRP Update’s proposed new, non-emitting resource procurements,³⁷ nearly achieving the 80% reduction target by 2030.³⁸ The CEP included no discussion of the additional costs or timing of this strategy.

But with that said, PacifiCorp is not stopping all resource procurement and decision-making. In addition to new bilateral contracts for nearly 800 MW of BESS, PacifiCorp is also planning to lean heavily on the market for energy and capacity. The chart below attempts to characterize total annual market purchase across the past few IRPs.

Figure 11 – Market Purchase Projections across IRPs



However, other resource options existed at the time that the Company chose to pursue this IRP Update’s strategy of increased reliance on coal power, higher market purchases, and bilateral storage contracts. Most notably, the 2022 AS RFP Initial Short List (ISL) contained benchmark

³⁴ LC 82, PacifiCorp’s 2023 IRP Update, April 1, 2024, Page 119.

³⁵ LC 82, PacifiCorp’s Presentation for the May 30, 2024, Special Public Meeting, May 29, 2024, Page 12.

³⁶ LC 82, PacifiCorp’s Oregon Planning Supplement, April 1, 2024, Page 3.

³⁷ LC 82, *Ibid*, Page 14.

³⁸ LC 82, *Ibid*, Page 15. Required actions for Oregon embodied in this strategy include: 100 percent allocation of Natrium; 100 percent allocation of 224 MW hydrogen-peaker in 2029; allocating most if not all of 5.7 GW of existing wind and solar; increasing system-wide market purchase to 7,000 GWh by 2026.

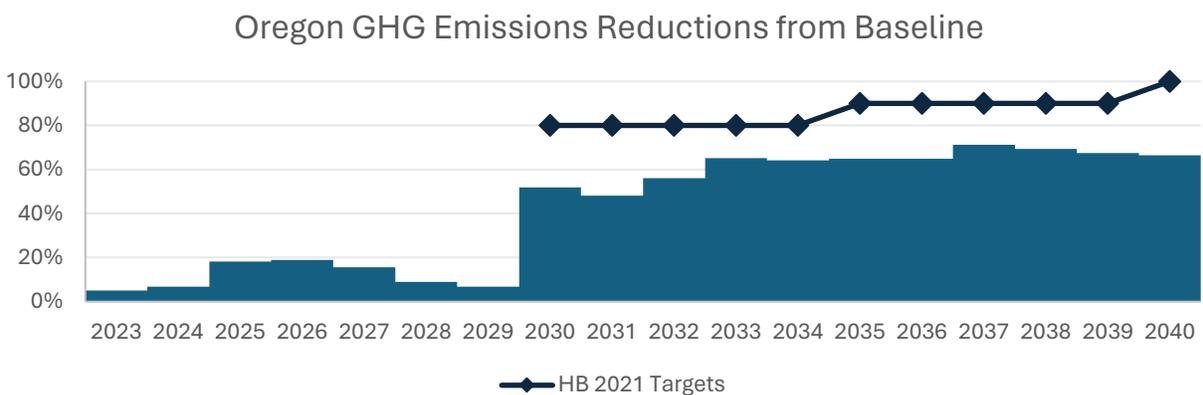
projects and power purchase agreements (PPAs).³⁹ Per the RFP requirements, a project’s commercial operation date (COD) needed to be December 31, 2026, to qualify.

Based on this IRP Update and CEP Supplement, the OPUC’s direction to ensure progress while balancing tradeoffs runs up against twin challenges of an accelerated timeframe for GHG reductions and, based on the presented analysis, an immense scope of need. By April 2025 – or sooner – it may be necessary to shift aspects of the Oregon planning dialogue toward the utilization of actionable market data, along with the use of the more recent costs driving Oregon power costs, to assess the investments necessary over the next five years, especially given the potentially limited access to capital.

IRP Update & CEP Supplement: Emissions

The IRP Update’s Preferred Portfolio will not achieve Oregon’s clean energy targets.⁴⁰ The calculations suggest that without additional action, the Preferred Portfolio would achieve a 52 percent reduction in GHG emissions by 2030, 65 percent by 2035, and 66 percent by 2040. This is despite the Company’s attempt to incorporate Oregon policy constraints into the Preferred Portfolio design using the “Integrated Portfolio Strategy.”

Figure 12 – Oregon GHG Emissions Reductions from Baseline



In the CEP, PacifiCorp presents potential “levers” for further reducing GHG emissions above system-wide level emissions to meet Oregon’s HB 2021 targets. The CEP shares simple calculations to estimate the potential impacts of a combination of these levers on Oregon’s GHG emissions. Staff provides analysis of these levers below.

Staff is concerned that PacifiCorp’s proposed approach to incorporating Oregon state policies into the development of the Preferred Portfolio does not result in a portfolio that meets Oregon’s GHG targets. Staff conducted discovery on this topic and was not able to specifically identify the modeling flaw or flaws that have led to the outcome. Staff plans to explore through the 2025 IRP public input process the following modeling issues: modeling GHG emission constraints within the preferred portfolio; clarity around any differences between resource allocations in its Oregon GHG

³⁹ Staff is currently waiting for DR response permitting the use of highly confidential information from 2022 AS RFP’s final short list.

⁴⁰ PacifiCorp response to Staff DR No. 251.

reduction policy scenario and calculations for the preferred portfolio; and the extent to which the preferred portfolio relies on non-economic dispatch to meet HB 2021 targets.

Staff understands that it can be difficult to develop constraints for portfolio optimization runs that accurately reflect GHG accounting methodologies, preserve realistic dispatch, and account for the flexibility associated with resource allocation. Staff commends PacifiCorp for attempting to do this with the Integrated Portfolio Strategy, but believes the Company has so far fallen short. Staff urges the Company to continue to work toward a Preferred Portfolio that meets all state level policies and presents the following principles to inform further changes to PacifiCorp's methodology. Staff will make suggestions in the 2025 IRP/CEP process to develop an integrated state-policy compliant portfolio, but Staff hypothesizes that it may be more straightforward to develop policy-compliant portfolios in a manner that respects each policy requirement and its associated accounting rules in an iterative fashion than to attempt to capture those rules directly in the LT run (or set of LT runs).

CEP Supplement: Compliance Levers

As stated previously, the CEP Supplement identifies six emission reduction levers it could pursue in any varied number of combinations as part of the 2025 IRP/CEP action plan. The levers are:

- New Resource **Additions**
- Energy Efficiency **Additions**
- **Dispatch/Allocation** of Coal-to-Gas Conversion Resources
- **Dispatch/Allocation** of Existing Natural Gas Resources
- Treatment of Qualifying Facilities in **Emission Calculations**
- Attribution of Emissions to Market Purchases in **Emission Calculations**

Staff provides the following comments on PacifiCorp's proposed levers with the aim of informing the development of the 2025 IRP.

New Resource Additions

There are two ways to "add" resources to Oregon's energy mix. The first is through allocation of existing resource within the MSP protocol. In conducting analysis related to allocation, Staff urges PacifiCorp in the future to:

- Test multiple allocation strategies that are feasible within the context of MSP and for which the Company is willing to advocate.
- Ensure that each allocation strategy supports simultaneous compliance with all state-level policies to which PacifiCorp is subject.
- Be transparent about allocation assumptions and their implications, including the timing of any crucial allocation decisions to support policy compliance.
- Recognize the benefits of resources allocated to Oregon to the overall portfolio and reflect those cost savings in Oregon-allocated cost estimates.

The second method to add new resources is to acquire or contract for them. Staff finds that any Oregon compliance strategy in the 2025 IRP/CEP that relies on acquiring or contracting for new resources will need to be implemented *as soon as practicable*. Despite PacifiCorp's financial situation, decisions and scarce capital resource are being deployed now for bilateral contracts and to increase market purchases. It is an open question as to the extent to which the tradeoffs

associated with these actions are fully understood, especially given the ISL information from the 2022 AS RFP. PacifiCorp has a history of conducting RFPs concurrent with an IRP. Maybe such an approach should be considered in 2025.

Adding energy efficiency

Staff encourages PacifiCorp to consider additional energy efficiency within Oregon to contribute to achieving the HB 2021 GHG targets, support Oregon communities, and reduce the need for generation, transmission, and distribution investments. Staff urges PacifiCorp to adopt at least one Community Benefit Indicator (CBI) that reflects community benefits associated with energy efficiency and to ensure that energy efficiency selection in Oregon in the 2025 IRP/CEP recognizes the value of avoided transmission upgrades.

Adjusting dispatch strategies for emitting resources

Staff does not discourage PacifiCorp from considering operational strategies for emitting resources to reduce Oregon-allocated GHG emissions. However, in implementing this strategy Staff suggest PacifiCorp should:

- Discuss how it intends to operationalize changes, rather than just treating them as modeling assumptions.
- Compare the total systemwide GHG emissions under the alternative operational strategy to the total systemwide GHG emissions under a business-as-usual or economic dispatch operational strategy.

Staff emphasizes the importance of realistic dispatch in IRPs and CEPs. Compliance strategies that assume dispatch which PacifiCorp does not plan to or cannot realistically implement is not helpful, especially given the timing of the HB 2021 targets.

The Two Changes to the ODOE Emissions Calculations

Staff finds that adjusting the emissions methodology for qualifying facilities may be a worthwhile strategy to pursue. Staff encourages the Company to dialogue with DEQ over the coming months to see if such a change is possible.

However, Staff finds it unreasonable to advocate for declining emissions from unspecified market purchases. First, clean energy policies generally drive load serving entities to increase their claims of clean energy. The second reason relates to the dynamics of CAISO's markets. The EIM and EDAM rely on a price for carbon as a signal to determine where to allocate non-emitting resources. States with an energy policy that includes a carbon price are allocated non-emitting resources first. Oregon energy policy lacks a carbon price. Staff finds that the GHG emissions rate of unspecified market purchases has a higher probability to stay the same **or** even increase over time rather than decrease.

IRP Update and CEP Supplement: Conclusion

Staff appreciates the effort involved in this IRP Update and the candid insights provided at the May 30 Special Public Meeting. PacifiCorp staff's rapid incorporation of some stakeholder feedback and updated assumptions into the IRP Update, especially in light of changes to policies and market dynamics, is notable in terms of the amount of effort required.

The Commission has been clear regarding its holistic treatment of HB 2021 compliance. Oregon's ambitious energy policy goals will require frank discussions as soon as possible about issue

prioritization and tradeoffs to balance costs, risks, and benefits. To the extent PacifiCorp has limited “head room” to make investments or contract for resources, it becomes even more critical to understand how any and all scarce resources are being deployed on a least-cost, least-risk basis.

Yet, resource decisions are being made. Consider that PacifiCorp:

- Seeks to deploy nearly 800 MW of battery storage by 2026, via bilateral contracts, to address a near-term capacity shortfall. It is not known how these resources will be treated by DEQ in emissions accounting. Further, the extent to which other PPA options, with capacity *and also* emission reductions, could have been pursued but were not appears to be an open question.
- Plans to increase the power from coal rather than acquiring new resources, despite known coal supply issues driving power costs higher.
- Plans to increase its reliance on gas-fired peakers based on an unsupported assumption that they will convert to run on 100 percent hydrogen fuel.
- Plans to rely on market purchases at very high volumes and at peak times, despite power markets that it characterizes in other dockets as thinning and growing more volatile.

In the aggregate these choices seem to push uncertain levels of costs and compliance risks into the future for Oregon ratepayers, while forestalling other actions. It is worth repeating: the revised system resource mix leaves Oregon with a baseline of ~52 percent emissions reduction by 2030. It also forecasts an Oregon energy shortfall of 3,500 GWh that, for now, will be filled by unspecified market purchases. As a result of these planning choices, along with the cancellation of the 2022 AS RFP, Oregon will need to add and/or allocate via MSP approximately 2 GW of existing and new, non-emitting resources over the next five years to have a shot of meeting HB 2021’s targets by 2030.

II. Continual Progress

This section provides Staff’s initial assessment of the extent to which the April 2024 IRP Update and CEP Supplement allow the Commission to find the Company has demonstrated continual progress.

As discussed previously, PacifiCorp experienced large changes in the middle of the 2023 IRP and CEP acknowledgement process. These changes rendered the IRP’s long-term plans, many aspects of the IRP action plan, and the proposed CEP compliance pathways moot. The Commission invited PacifiCorp to use the April 2024 IRP Update and a refiled CEP as the forum to demonstrate continual progress toward HB 2021’s targets.⁴¹ Specifically, PacifiCorp was asked to share the Company’s revised set of planning activities and near-term actions to achieve compliance. The Commission envisioned that the deferred assessment of continual progress from the originally filed IRP/CEP would be completed in connection with the review of the IRP Update and CEP Supplement.⁴²

⁴¹ LC 82, Order No. 24-073, Page 9.

⁴² *Ibid.*

Staff Understanding of Continual Progress

HB 2021 requires that the Clean Energy Plan “[d]emonstrate the electric company is making continual progress within the planning period towards meeting the [HB 2021] clean energy targets”⁴³ and states that “[t]he commission shall ensure that an electric company demonstrates continual progress... and is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”⁴⁴

Under ORS 469A.410(1), PacifiCorp must reduce greenhouse gas emissions to meet these clean energy targets:

- (a) By 2030, 80 percent below baseline emissions level.
- (b) By 2035, 90 percent below baseline emissions level.
- (c) By 2040, and for every subsequent year, 100 percent below baseline emissions level.

In Order No. 24-002, the Commission made clear that a demonstration of continual progress does not “require utilities to pursue a linear trajectory of expected emissions reductions” or to show that “emissions have declined year-over-year based on actual emissions reported to DEQ.”⁴⁵ Rather than adopt a prescriptive measure of continual progress, the Commission decided to “lean on the robust weighing of costs, risks, and forecasted emissions reductions trajectories that will occur in the IRP/CEP planning process to determine whether utility actions within the planning period are sufficient to constitute continual progress toward meeting the targets.”⁴⁶ Furthermore, the Commission stated that continual progress determinations will also consider both “forward-looking actions identified in the planning process” and “whether utilities are carrying out the actions in their plans.”⁴⁷

In Order No. 24-097, the Commission weighed whether PGE’s IRP action plan items, including the acquisition of energy efficiency, demand response, non-emitting generation, and capacity resources, were “consistent with achievement of emission reduction objectives at a reasonable cost to customers”⁴⁸ and “whether there were other opportunities to accelerate actions in the near term at reasonable cost.”⁴⁹ The Commission decided that PGE’s near term action plan constituted continual progress based on these considerations.

The Commission’s recent orders have also explained that any determination of continual progress requires an understanding of the tradeoffs around practicability, emissions reductions, and costs. As such, an analysis of continual progress depends on the data and perspectives developed through the planning process connecting any determination of continual progress to the IRP & CEP processes.

⁴³ HB 2021 Section 4(4) codified at ORS 469A.415(4)(e).

⁴⁴ HB 2021 Section 4(6) codified at ORS 469A.415(6).

⁴⁵ Order No. 24-002, Page 28.

⁴⁶ *Ibid*, Page 29.

⁴⁷ *Ibid*, Page 29.

⁴⁸ Order No. 24-097, Page 3.

⁴⁹ *Ibid*, Page 3.

The 2024 IRP Update / CEP Supplement and HB 2021 Compliance

The Company’s case for continual progress relies on (a) the current trajectory of Oregon-allocated emissions reductions and (b) six levers of potential actions the Company could choose to take in the future to reduce emissions. Again, PacifiCorp has not demonstrated how the Preferred Portfolio is expected to achieve Oregon’s clean energy targets. Notably, this is a change from the original 2023 IRP/CEP which had enough non-emitting resources allocated to Oregon to meet HB 2021 GHG targets.

With regards to the current trajectory of declining Oregon-allocated emissions as a demonstration of progress toward the Company’s GHG targets, Staff appreciates this progress.

Table 5 – PAC’s reported Oregon-Allocated Emissions (2019 – 2022)

Year	Oregon-Allocated Emissions (MTCO ₂ e) ⁵⁰
2019	9,042,557
2020	8,448,143
2021	8,275,696
2022	7,902,638

However, the declining trend seen in historical Oregon-allocated emissions are not sufficient for three reasons:

- As stated previously, trends in emissions do not necessarily signal compliance.
- The actions behind the recent emission reductions occurred prior to LC 82.
- The trend in emissions reductions, while laudable, in and of themselves will be inadequate to achieve HB 2021 compliance.

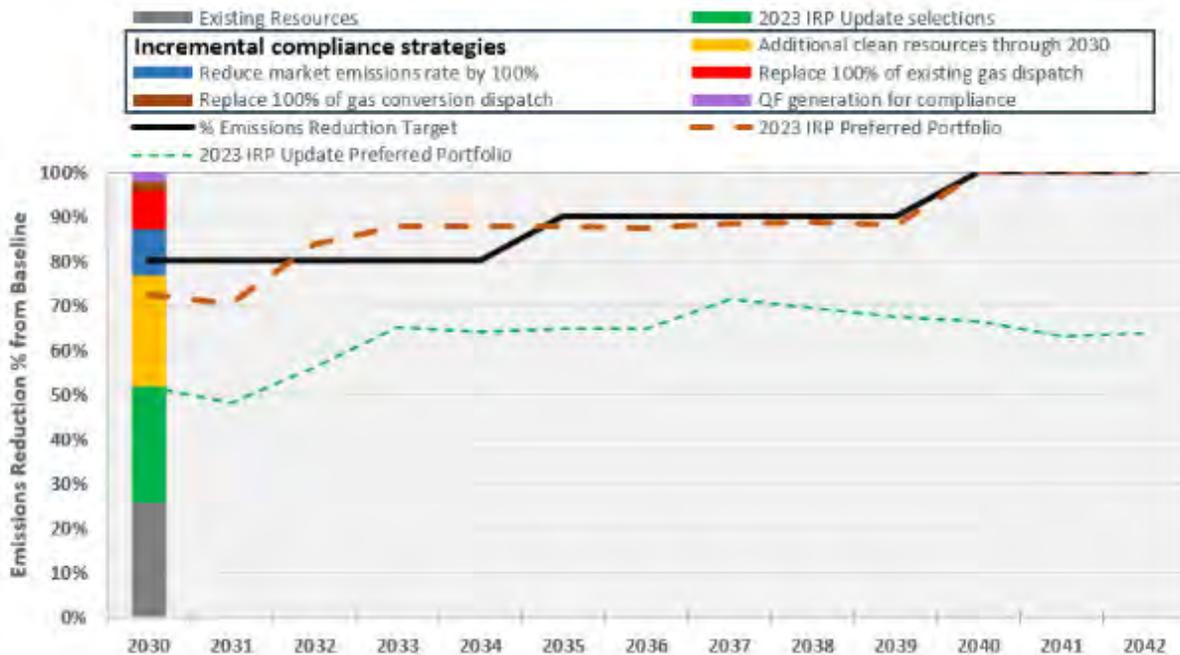
PacifiCorp itself notes that the current trajectory of emissions reductions – based on planned actions – will fall well short of Oregon’s HG 2021 targets. (See figure 13 below.)

With regards to the CEP supplement’s proposed compliance levers, the Company includes the following figure in its CEP to show the GHG reductions that could be achieved if all levers were used:⁵¹

⁵⁰ Million Tonnes of Carbon Dioxide Equivalent.

⁵¹ LC 82, PacifiCorp’s Oregon Planning Supplement, April 1, 2024, Page 6.

Figure 13 – PAC’s HB 2021 Compliance Levers and Emissions Projections (Figure 2 in CEP Update)



While the figure does not provide insight into emissions reductions before 2030, it does show that PacifiCorp’s analysis indicates it could reduce emissions by 100 percent from baseline by 2030 by deploying all levers. However, PacifiCorp does not commit to any of these activities. The Company notes that the 2025 IRP will be the forum by which the most cost-effective approach to compliance will be determined. As such, it does not appear the Company has identified actual actions toward achieving compliance with the clean energy targets when the IRP Update and CEP Supplement are taken together holistically. This is to say nothing of the potential costs, which are not known.

Staff’s Position on Continual Progress

The April 2024 CEP Supplement provides limited new information on plans or near-term actions from which to determine the extent to which continual progress can be demonstrated.

Staff recognizes the declining Oregon-allocated emissions from the Company but notes continual progress is not contingent on whether “emissions have declined year-over-year based on actual emissions reported to DEQ.”⁵² Rather, the Company must act to make continual progress toward meeting its clean energy targets, the first of which requires a reduction by 2030 to 80 percent of the baseline emission level. Current progress in reducing emissions seems to be based on decisions prior to the changes introduced during the LC 82 IRP and IRP Update and other market exigencies (e.g., replacing coal power with gas due to coal supply issues) and thus provides no assurance, in and of itself, that emissions will be further reduced.

With regard to future emissions reductions, PacifiCorp projects that by 2029, the Company will only have reduced GHG emissions by 6.7 percent relative to the baseline, without further action. According to PacifiCorp’s projections, Oregon-allocated emissions will need to fall by 6.6 million MTCO₂e *in a single year* to meet the 2030 target. Without very near-term action, it is unknown how

⁵² UM 2273, Order No. 24-002, January 5, 2024, Page 28.

this just-in-time strategy constitutes taking action as soon as practicable to meet the clean energy targets.

On a positive note, Staff finds five of the six CEP compliance levers to be credible elements to any future emissions reduction plan. With far more detail around a coordinated set of planning activities **and** near-term actions to achieve compliance, these levers could form the basis of actions that meaningfully move PacifiCorp toward compliance.

Continual Progress: Conclusion

Staff finds it challenging to establish the extent to which the Company has demonstrated continual progress without more details around near-term actions. While the levers presented by the Company are a step in the direction of “forward-looking actions identified in the planning process” they lack specificity – especially when compared to the pathways found in the originally filed CEP – nor does PacifiCorp’s plan contain a robust weighing of the tradeoffs around costs, benefits, emissions reductions, and risks.

In its reply comments, Staff encourages PacifiCorp to more clearly state how its planned actions are consistent with the actions necessary to achieve required emissions reductions at a reasonable cost to consumers and how actions planned for and carried out by the Company are consistent with continual progress toward these targets.

Staff looks forward to other stakeholder’s comments and PacifiCorp’s reply comments in July. Staff will submit a memo with recommendations on August 1, 2024, one week prior to the Special Public meeting.

This concludes Staff comments.

Dated this 14th day of June, 2024, at Salem, Oregon.

/s/ JP Batmale

JP Batmale
Administrator
Energy Resources & Planning Division
Oregon Public Utility Commission

CERTIFICATE OF SERVICE

LC 82

I certify that this day I served the foregoing document upon all the following parties or attorneys of parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid or by electronic mail pursuant to OAR 860-001-0180 (which may include a link to a secure shared file service).

Dated this 14th day of June, 2024 at Salem, Oregon



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Whether the Commission should direct PGE to take any additional actions prior to filing its next IRP or IRP Update or CEP.

Applicable Law

The IRP Guidelines found in Order Nos. 07-002 (corrected by 07-047) and 08-339 clarify the procedural steps and substantive analysis required of Oregon’s regulated utilities before the Commission considers acknowledgement of a utility’s resource plan.¹ These orders are incorporated in OAR 860-027-0400(2), which requires any IRP to satisfy their requirements.

The utility’s IRP should satisfy the IRP Guidelines and Commission rules for its determination of future long-term resource needs, its analysis of the expected costs and associated risks of the alternatives reviewed to meet its future resource needs, and its near-term Action Plan to achieve the IRP goal of selecting the “portfolio of resources with the best combination of expected costs and associated risks and uncertainties for the utility and its customers.”² This is often referred to as the “least cost/least risk portfolio.”

The Commission reviews the utility’s plan for adherence to the procedural and substantive IRP Guidelines and generally acknowledges the overall plan if it is reasonably based on the information available at the time.³ However, the Commission explains: “We may also decline to acknowledge specific action items if we question whether the utility’s proposed resource decision presents the least cost and risk option for its customers.”⁴ The Commission may also provide direction on additional analysis or actions for the next IRP or IRP Update.⁵

In 2021, the legislature passed Oregon House Bill (HB) 2021, codified as ORS 469A.400 to 469A.475, which requires the state’s large investor-owned electric utilities (IOUs) and electricity service suppliers (ESSs) to decarbonize their retail electricity sales with consideration for direct benefits to local communities.

¹ Order Nos. 07-002 and 07-047. Additional refinements to the process have been adopted: See Order No. 08-339 (IRP Guideline 8 was later refined to specify how utilities should treat carbon dioxide (CO₂) risk in their IRP analysis); Order No. 12-013 (guideline added directing utilities to evaluate their need and supply of flexible capacity in IRP filings).

² Order No. 07-002 at 1-2.

³ *Id.* at 1.

⁴ *Id.*

⁵ OAR 860-027-0400(7), (10).

ORS 469A.415 requires large electric IOUs to, “develop a clean energy plan for meeting the clean energy targets set forth in ORS 469A.410 concurrent with the development of each integrated resource plan,” and file the plan with the Commission and Oregon Department of Environmental Quality (DEQ).

ORS 469A.420 outlines the requirements and considerations for the Commission to acknowledge the CEP “...if the commission finds the plan to be in the public interest and consistent with the clean energy targets....”

In addition, ORS 469A.415(6) requires the Commission to ensure that the utilities demonstrate continual progress within the CEP planning period toward meeting the clean energy targets and are taking actions as soon as practicable to reduce emissions at reasonable cost to retail electricity consumers.

Additional requirements for the filing, review, and update of IRPs and CEPs are provided in OAR 860-027-0400.

Analysis

Background

PacifiCorp submitted its 2023 IRP and CEP Update on April 1, 2024. This update followed a Commission decision on March 19, 2024, to acknowledge in part, and not acknowledge in part, PacifiCorp’s 2023 IRP. The Commission did not acknowledge the Company’s preferred portfolio or CEP and instead invited the Company “to present an IRP Update with revised actions that can serve as the foundation for a refiled CEP, which we will consider for acknowledgement and as a demonstration of continual progress.”

The IRP Update and CEP Supplement reflects the impact of significant events that have occurred since the 2023 IRP was filed in May 2023. These events include a stay of the EPA’s Ozone Transport Rule (OTR)—which increased the availability of coal generation in Wyoming and Utah—and a finding of liability in the 2020 wildfires. Based on these and other issues, the Company’s cancelled the 2022 AS RFP and other plans to acquire new resources over the next few years. The 2022 AS RFP would have brought nearly two GW of new, non-emitting generation online by 2027.⁶ The change to resources found in this IRP Update’s preferred portfolio differs greatly from what was initially presented in the 2023 IRP.

⁶ *In the Matter of PacifiCorp 2022 All-Source Request for Proposal*, Docket No. UM 2193, Independent Evaluator’s Assessment of Final Draft 2022AS RFP, March 11, 2022, p. 1.

Additionally, in the 2023 IRP Update, the Company states it is not seeking acknowledgement of any actions from the Commission. With regards to the accompanying CEP Supplement PacifiCorp does not believe additional actions or proceedings are necessary at this time.⁷ To this end, the Company states that the information presented in its CEP Supplement and the description of actions taken both before and after the passage of HB 2021 demonstrate continual progress. Staff's memo treats the IRP Update and CEP Supplement somewhat separately. We first tackle issues around the CEP Supplement and then provide observations on the IRP Update.

CEP Supplement **Overview**

PacifiCorp was asked to use the April 2024 IRP Update to refile the accompanying CEP so as to demonstrate continual progress on the actions that will meet HB 2021's targets.⁸ Specifically, the Company was asked to share a revised set of planning activities and near-term actions to demonstrate compliance. Thus, the April 2024 IRP Update and the accompanying CEP Supplement formed the basis for a deferred assessment of continual progress, in place of the originally filed IRP/CEP.⁹

PacifiCorp's filed CEP Supplement presented six, newly proposed levers that could close the Company's forecasted emissions gap.¹⁰ The CEP Supplement did not provide a coordinated strategy around how to deploy these six levers in any sort of combination nor did it provide an understanding of the cost and risk tradeoffs of deploying them.

Staff's response comments described how PacifiCorp fell short. The IRP Update and CEP Supplement revealed an increased emissions trajectory and effectively promised a more comprehensive emission reduction plan in the 2025 IRP/CEP filing using some combination of the identified six compliance levers.

The sections below discuss the following related to PacifiCorp's HB 2021 compliance:

- The demonstration of continual progress and associated recommendations.
- Progress on Small Scale Renewable (SSR) requirement and associated recommendations.
- Other associated issues.

⁷ LC 82, Oregon Planning Supplement, April 1, 2024, p. 1.

⁸ LC 82, Order No. 24-073, p. 9.

⁹ *Id.*

¹⁰ See LC 82 CEP Supplement from April 1, 2024 or Staff's Comments from June 12, 2024 for a full description of the six proposed levers.

CEP Supplement: Continual Progress
Overview

In comments on PacifiCorp's recently filed IRP/CEP update, Staff found it challenging to establish the extent to which the Company had demonstrated continual progress on the actions that will result in the forecasted emission reductions to meet HB 2021's targets. This assessment was based on the lack of substantive details around potential near-term actions and the lack of an actual plan using the proposed levers that contained a robust weighing of the tradeoffs around costs, benefits, emissions reductions, and risks. Stakeholders agreed with Staff's assessment with several calling upon the Commission to open a proceeding that would require PacifiCorp to acquire new, non-emitting resources.

In response, PacifiCorp's Reply Comments reiterated the Company's position that it has demonstrated continual progress. PacifiCorp provided six pieces of evidence to support its position:

- 1) Year-over-year emissions reductions from 2019 to 2022.
- 2) The ongoing installation of new projects from the 2020 AS RFP (1,900 MW of renewables and 400 MW of storage).
- 3) Approximately 440 MW of bilateral contracts for energy storage.
- 4) Efforts to analyze and implement the CEP supplement's levers.
- 5) Further development of CBIs for the 2025 IRP CEP.
- 6) Introduction of a six-state preferred portfolio.

Based on this, the Company argued that the Commission had enough information to make a determination of continual progress and no further action was necessary.¹¹ To this end, PacifiCorp pushed against stakeholder calls for the Commission to open a proceeding that would force the Company to acquire resources. PacifiCorp argue that it is not appropriate for the Commission to do so¹² and that if the Commission were to embark on this path it should first identify a maximum cost per ton of emissions reduction to be used as a type of compliance adder in its 2025 IRP/CEP planning and any procurement efforts.¹³

With regards to a revised CEP that discussed how PacifiCorp would fill the forecasted gap from the IRP Update's revised preferred portfolio, PacifiCorp stated that the Company did not provide a comprehensive CEP compliance update for several reasons including

¹¹ *Ibid.* p. 6.

¹² *Ibid.* p. 14.

¹³ *Ibid.*

uncertainty around “regulations and allocations” along with uncertainty about the HB 2021 cost cap.¹⁴

Additionally, the Company said that a single compliance strategy would be difficult, due to the numerous decisions necessary to for an overall strategy, “...the most cost-effective HB 2021 solution is likely to involve many types of actions, and the optimal mix of actions is likely to evolve over time as compliance requirements increase moving toward 2040, and as the mix of resources serving Oregon customers evolves.”¹⁵

Staff Position on Continual Progress

In general, Staff supports the six activities cited above by PacifiCorp, along with the Company’s ongoing DSM acquisition activities. However, Staff firmly believes these activities and accomplishments do not demonstrate continual progress toward the 2030 emissions reduction targets.

The 2023 IRP Update’s greatly adjusted preferred portfolio, with the improved modeling, still leaves Oregon at ~52 percent emissions reduction by 2030 rather than the law’s 80 percent target. This emissions gap amounts to an approximately 12,000 GWH energy shortfall, or approximately two to four GW of new nameplate capacity need, depending on how the calculation is done.

While Staff and stakeholders all expressed appreciation of PacifiCorp’s recent emissions decrease and the installation of new, non-emitting resources from the 2020 AS RFP, it was noted that they were already baked into the mix. To this end, the observed emission reductions and new resources installed are due to planning prior to HB 2021 and further are not complemented by a strategy and forward-looking actions to close the forecasted emissions gap.

In terms of the breadth of the deficit PacifiCorp is facing with regard to non-emitting resources it is worth putting in perspective the timing and scope of PacifiCorp’s most recent large scale resource acquisitions:

Table 1 – Recent PacifiCorp RFP Dockets

RFP Docket	Year Launched	Targeted COD of Selected Projects	MW of Resources
UM 2059	2020	2024 or 2025	1,792 MW of Wind 495 MW of Solar

¹⁴ LC 82, PacifiCorp Reply Comments, July 12, 2024, p. 11.

¹⁵ *Ibid.* p. 10.

			1,211 of Solar + Storage 200 MW of Storage ¹⁶
UM 2193	2022	2027 or earlier; 2028 for Long-Lead Time resources.	Up to... 1,345 MW of Wind & Solar collocated with 600 MW of storage ¹⁷

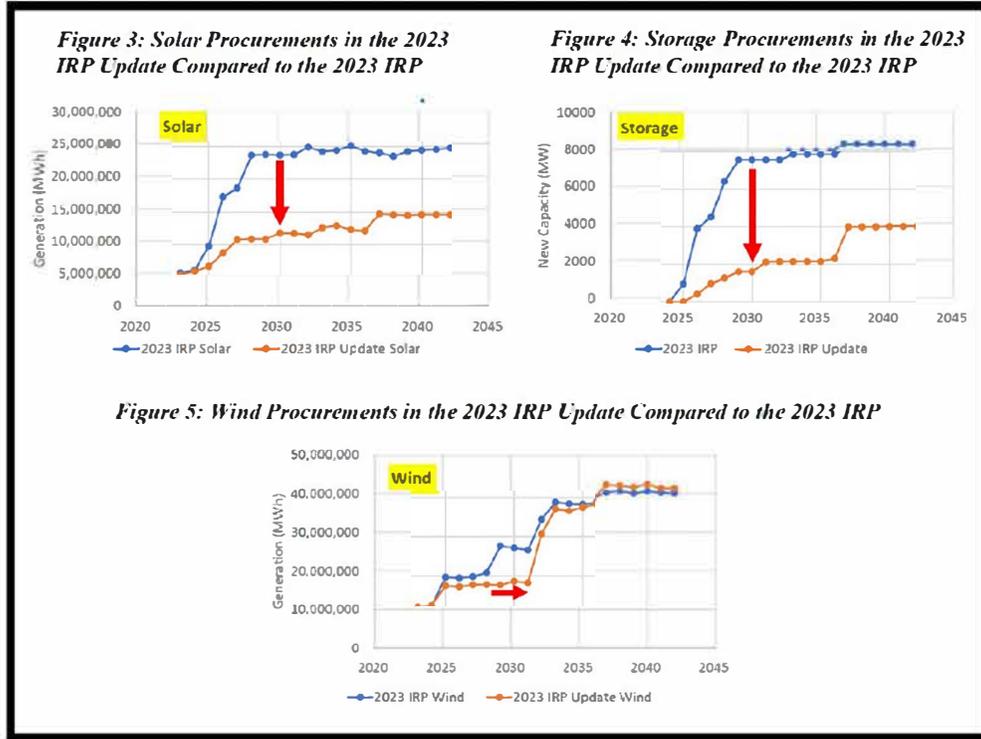
While some actions are being taken by the Company now (e.g., bilateral contract negotiations for storage; discussions with DEQ on allowing QF power to count towards HB 2021 compliance), Staff and stakeholders have little insight into their scope, how they are coordinated with each other, their emission reduction impact, or these actions' relative costs and risks. It is instructive to see the scope of the changes by PacifiCorp between the 2023 IRP and 2023 IRP Update. These group of charts from the Joint Advocates visually captures the breadth of the changes.¹⁸

¹⁶ LC 82, PacifiCorp 2023 IRP, May 31, 2023, p. 251.

¹⁷ UM 2193, PacifiCorp 2022 All-Source RFP, January 14, 2022, p. 2. This RFP was eventually cancelled and no resources acquired to meet the resource need.

¹⁸ LC 82, Joint Advocates Comments on PacifiCorp's 2023 Integrated Resource Plan Update And Clean Energy Plan Supplement, June 14, 2024, page 6.

Figure 1 – Projected procurement changes between the 2023 IRP and 2023 IRP Update



As stated by Staff and other stakeholders, the Company effectively has no Clean Energy Plan in place to reduce emissions beyond “business as usual,” a looming non-emitting resource hole to fill in five years, no commitment to either launch a large-scale procurement to address the impending shortfall, and no description of how it plans to convince six states to adopt a reallocation of existing and proposed new resources to Oregon to meet HB 2021. Further, the Commission and stakeholders must wait until April 2025 to receive a new CEP which, like the 2023 CEP and CEP Supplement in 2024, may only contain options to consider.

In its previous comments Staff noted that PacifiCorp is planning to allocate financial resources, despite being capital constrained due to the wildfire litigation. Specifically, PacifiCorp:

- Seeks to deploy nearly 800 MW of battery storage by 2026, via bilateral contracts, to address a near-term capacity shortfall (now down to between 440 to

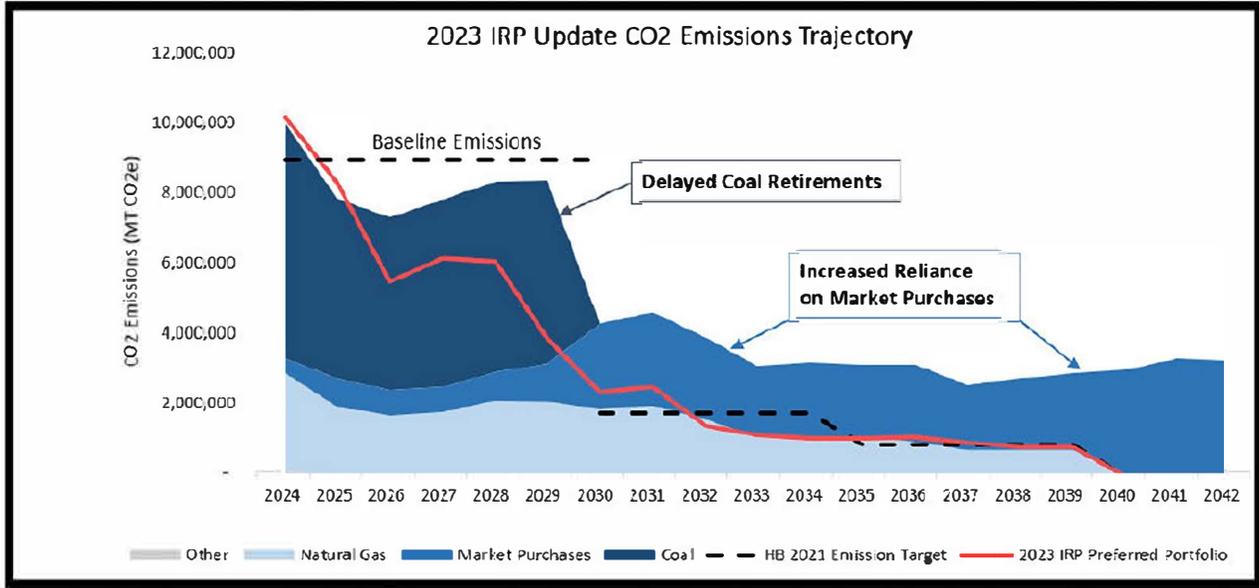
520 MW).¹⁹ It is not known how these resources will be treated by DEQ in emissions accounting.

- Plans to rely more on coal, despite known coal supply issues driving power costs higher and increasing system-wide emissions.
- Plans to increase its reliance on gas-fired peakers based on an assumption that they can and will convert to run on 100 percent hydrogen fuel, which remains highly uncertain.
- Plans to rely on market purchases at very high volumes and at peak times, despite power markets that it characterizes in other dockets as thinning and growing more expensive and volatile.

All of these require an expenditure of funds in the future, much like an RFP for new non-emitting resources. Beyond the back and forth regarding the underlying economics, there are emission impacts. RNW captures the emissions outcomes of PACs proposed actions in the graph below:

¹⁹ LC 82, PacifiCorp Reply Comments, July 12, 2024, p. 5.

Figure 2 – 2023 IRP Update CO2 Emissions Trajectory

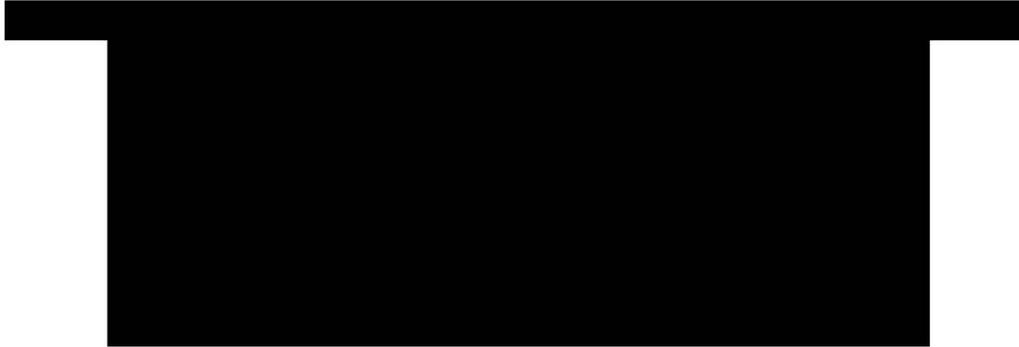


As a counterfactual, Staff would assert PacifiCorp had other resource options available to it in 2023 and 2024 when it chose to pursue its current de facto strategy of increased reliance on coal power, higher levels of market purchases, and bilateral storage contracts. The 2022 AS RFP Initial Shortlist contained [BEGIN HIGHLY CONFIDENTIAL]

[REDACTED]

[REDACTED]

²⁰ UM 1729, OR Standard QF AC Study_2023 07 27 (Solar and Storage), Spreadsheet tab “Table 7 to 8 Comparison”, Cell AL32.



[REDACTED]
[REDACTED]
END HIGHLY CONFIDENTIAL]

Table 3 – Forecasted Mid-C market prices

Category	\$/MWH
[REDACTED] [REDACTED]	[REDACTED] [END HIGHLY CONFIDENTIAL].
2025 Forecasted Mid-Columbia HLH	\$101.92
2025 Forecasted Mid-Columbia LLH	\$70.75
2025 Forecasted Mid-Columbia FLAT	\$88.23

[REDACTED]
[REDACTED] **END HIGHLY CONFIDENTIAL]** Yet, the

company chose to take resource actions that increase reliance on market purchases, bilaterally contract for storage at unknown prices, build more gas plants, increase reliance on coal plants and speculative CCUS technology all while falling short of emission reduction targets.

Staff Recommendations on Continual Progress

The Commission has stated that “the purpose of requiring continual progress is to ensure utility action *during the years before* compliance with the relevant target is

required, and that a lack of continual progress may not be capable of remedy solely at the time of that eventual compliance determination.”²¹ With the first target for HB 2021 only five years away, PacifiCorp’s current forecast emissions shortfall, and its lack of a plan assessing the tradeoffs to a combination of coordinated actions to address this shortfall until at least April 2025, Staff recommends the Commission find that PacifiCorp is not demonstrating continual progress on the actions needed for meeting HB 2021’s targets as it does not appear the PacifiCorp is taking actions, “... as soon as practicable to facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”²²

Since the passage of HB 2021, the Commission has arrived at an interpretation of continual progress that “lean[s] on the robust weighing of costs, risks, and forecasted emissions reductions trajectories that will occur in the IRP/CEP planning process to determine whether utility actions within the planning period are sufficient to constitute continual progress toward meeting the targets.”²³ A determination of continual progress also considers both “forward-looking actions identified in the planning process” and “whether utilities are carrying out the actions in their plans.”²⁴

The Commission’s determination of continual progress in PGE’s first IRP/CEP (LC 80) is instructive. In Order No. 24-097, the Commission weighed two overarching elements of PGE’s IRP action plan with regards to determining continual progress. First, were the items “consistent with achievement of emission reduction objectives at a reasonable cost to customers.”²⁵ And second, “whether there were other opportunities to accelerate actions in the near term at reasonable cost.”²⁶

Staff finds it of vital importance to order PacifiCorp to engage in two actions to remedy the lack of continual progress.

First recommendation: Order PacifiCorp to include an executable CEP-focused action plan in the 2025 CEP, that builds on the 2025 IRP action plan. This CEP action plan would represent the culmination of cost, benefit, and emission reduction analyses and tradeoffs discussion found in the 2025 CEP. Staff believes the Commission and stakeholders need to see and evaluate an executable action plan that details the cost, benefits, and tradeoffs of an actual set of activities to be taken before 2030 to position

²¹ UM 2273, Order No. 24-002, January 5, 2024, at page. 29.

²² HB 2021 Section 4(6) codified at ORS 469A.415(6).

²³ *Ibid*, at page 29.

²⁴ *Ibid*, at page 29.

²⁵ LC 80, Portland General Electric IRP, Order No. 24-097, April 18, 2024, page 3.

²⁶ *Ibid*.

PacifiCorp to meet HB 2021's goals. PUC Staff are happy to coordinate meetings and workshops with PacifiCorp and interested stakeholders on this topic between now and April 2025.

Staff has limited concerns about potential overlap or duplication of action plan items between the 2025 IRP and 2025 CEP. Utah has ordered activities to be undertaken that ensure PacifiCorp's process leading up to the release of the 2025 Draft IRP—January 2025—is transparent and allows for meaningful public consultation.²⁷ This will give Oregon stakeholders a better foothold into the 2025 IRP's preferred portfolio, the 2025 IRP action plan, and the time to necessary to provide input into a 2025 CEP action plan.

Second recommendation: Require PacifiCorp to immediately begin the process of issuing an RFP for non-emitting resources with Commercial Operation Dates (COD) prior to 2030 with the goal of launching this RFP commensurate with the April 2025 IRP/CEP and that results in actionable Final Short List by the end of 2026 or sooner. Issuing an RFP in 2025 will raise awareness of market options and position the Company to potentially acquire or contract for non-emitting resources alongside the April 2025 IRP/CEP.

As demonstrated in PacifiCorp's two previous RFP Dockets—UM 2059 and UM 2193—PacifiCorp has a demonstrated history of developing and executing an RFP in and around an active IRP. To this end, a cursory review by Staff finds that many of the elements of PacifiCorp's 2022 AS RFP are still usable. Much like Idaho Power is doing in UM 2317, PacifiCorp could re-use much of its previous RFP to quickly develop and launch an RFP in 2025. Much like past RFPs across all three utilities, PacifiCorp has the option to seek waivers to specific Competitive Bidding Rules that may expedite any RFP process.

Additionally, Staff believes it is critical for the RFP process to result in an analyzed and potentially actionable Final Short List (FSL). This FSL provides information that can function like the bid data from the 2022 AS RFP by giving **BEGIN HIGHLY**

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CONFIDENTIAL. As such, RFP short list data can provide a counterfactual against which Staff can compare PacifiCorp's resource decisions. Second, FSL data from an RFP provides greater optionality to the Commission in the future should more comprehensive action be necessary to ensure PacifiCorp achieve compliance.

²⁷ Utah Public Service Commission, Docket No. 23-035-10 Order, July 11, 2024.

Staff believes both of its recommendations to be practical and implementable. A CEP with an executable action plan reflecting what is envisioned in ORS 469A.415(4) and (5). Additionally, the launching of an RFP process by April 2025, positions PacifiCorp, the Commission, and stakeholders to understand the cost, risks, and tradeoffs between resource strategies in the 2025 IRP/CEP. As noted above, PacifiCorp has a long and successful history of developing and/or conducting RFPs concurrent with other IRP activities.

Small Scale Renewables (SSR)

HB 2021 requires PacifiCorp to have 10 percent of the Company's aggregate electrical capacity come from SSRs by 2030.²⁸ SSR energy projects are defined as 20 MW or less in size and statute- or ODOE-approved generation technology.²⁹ PacifiCorp's revised estimate of additional SSR resources requirement for 2030 is 369 MW.³⁰ While SSRs will contribute toward emission reductions for Oregon, Staff finds that the 2030 SSR requirement falls outside of the law's continual progress paradigm. PacifiCorp previously attempted to launch an SSR RFP; going so far as to hold a bidders conference on January 24, 2024, and proposing the RFP issuance in March 29, 2024. In Staff's February 20, 2024 LC 82 acknowledgement memo, Staff discussed concerns with PacifiCorp's approach to a proposed SSR RFP. These concerns resulted in recommendations around the use of Community Benefits Indicators in scoring and project selection criteria that includes appropriate elements of the current Resiliency Analysis Framework. Additionally, Staff had hoped to discuss the SSR acquisition strategy at the March 5, 2024 acknowledgement meeting. However, PacifiCorp had indefinitely paused its SSR RFP, and no discussion was had.

In the IRP Update PacifiCorp's modeling improvements resulted in a preferred portfolio that better reflected the cost and benefits of Oregon's SSR requirement. While Staff appreciates the improved modeling, the actual activities planned to acquire the 369 MW of SSRs in just five years remains unknown. The Company has only stated that it wants to complete additional stakeholder outreach on the topic and also to wait for the 2025 IRP/CEP to inform any next steps on acquiring these resources over.³¹

The SSR size limitation means PacifiCorp will need **at least** 19 new projects to be identified, developed, and energized by 2030. PacifiCorp's 2020 All-Source RFP provides a useful comparison as to timing and process required to secure this number of resources. The 2020 AS RFP was launched in February 2020, presented a Final

²⁸ ORS 49A.210(2)

²⁹ ORS 469A.210(2)(a) and ORS 469A.025

³⁰ LC 82, PacifiCorp's 2023 Integrated Resource Plan Update, April 1, 2024, p. 78.

³¹ *Ibid.* p. 14

Short List (FSL) for acknowledgement in June 2021, and required projects to come online no later than December 31, 2024, later extended to 2025. This RFP's FSL selected 19 bids, with all but one already having obtained their respective interconnection agreements prior to submitting a bid.³²

At this time it is unknown if a pool of 19 or more potential SSR projects exists that can be online by 2030, especially the extent to which they may or may not already have signed interconnection agreements. Staff has learned through the Cluster Study process **and** through the Oregon Community Solar Program (CSP) that for any sized projects, the securing a new interconnection agreement and energizing a project in PacifiCorp territory in less than five years appears difficult in 2024

Given what Staff understands generally about project development timelines through multiple RFPs and first-hand observations of the interconnection timeline for smaller scale, renewable projects in PacifiCorp territory, it does not believe that PAC is currently positioned to interconnect and integrate over 300 MW of smaller-sized projects in less than four years. PacifiCorp must begin to take efforts as soon as practicable to identify the approach, hurdles, costs, benefits, and tradeoffs to meeting HB 2021's SSR requirement by 2030 and beyond.

While not required for continual progress, understanding PacifiCorp strategy and timeline for meeting the 2030 SSR mandate is important, given the large need, the short amount of time remaining, and the potential tradeoffs with other HB 2021 activities.

Staff recommends that the 2025 IRP/CEP include an SSR acquisition strategy. This should include details around resource procurement pathways, address recommendations and concerns raised in Staff's February 20, 2024 memo, and provide insights into how PacifiCorp will improve its interconnection process, building on—but not waiting for—the interconnection reform work being done in UM 2111. This strategy must include a timeline with milestones forecasting procurement actions and interconnection improvements so as to assess PacifiCorp progress over time and to assess how it interacts with other HB 2021 efforts, notably emission reductions, CBIs, and impacts ratepayers. Inclusion of an SSR Strategy in the 2025 IRP/CEP will also allow Staff and stakeholders a chance to digest and comment upon PacifiCorp's approach and avoid the confusion that occurred during the previous attempt to launch an SSR RFP.

Other HB 2021 Issues

³² UM 2059, PacifiCorp 2020 AS RFP, Independent Evaluator Closing Report Workshop Presentation, June 17, 2021, p. 7.

The Oregon & Southern Idaho District Council of Laborers (“LIUNA”) submitted comments requesting additional information from PacifiCorp regarding HB 2021’s Responsible Contractor Labor Standards. LIUNA recommended the Commission require PacifiCorp to provide information on what percentage of projects will be subject to the Responsible Contractor Labor Standards and how the Company is considering employment impacts and CBI objectives in its IRP Update.³³

Staff notes that the first issue will be taken up in any RFP process the Company undergoes to procure resources following the completion of an IRP. Regarding Oregon-allocated resources, which are not sited in Oregon but deliver electricity to Oregon customers, in UM 2193 the Commission ordered PAC to work with Staff to revise RFP language to allow bidders for out-of-state projects to complete the Oregon attestation on labor practices form on a voluntary basis. Staff would work with the Company in any future RFPs to include similar language.

Staff believes LIUNA’s requests regarding employment considerations of the IRP Update and progress on CBI objectives should be taken up as part of PacifiCorp’s CBIAG. Staff encourages the Company to work with LIUNA and other stakeholders to ensure there are opportunities for input and feedback on the Company’s approach to meeting labor-related CBIs in its RFP process.

CEP Recommendation Summary

Continual Progress Recommendations

As noted in previous comments and above, given the complexity of overcoming a forecasted a 12,000 to 18,000 GWH shortfall in non-emitting resources in five years and the fact that PacifiCorp has presented no analysis of a comprehensive strategy with near-term actions to address this looming shortfall, Staff recommends that steps be taken now to either position PacifiCorp to take meaningful resource actions as soon as the end of 2025 or, at the very least, provide the analysis necessary for Staff and stakeholders to discuss in future rate cases resource decisions made by PacifiCorp leading up to 2030. As such Staff recommends:

1. The 2025 CEP must include an executable action plan. This CEP action plan would represent the culmination of cost, benefit, and emission reduction analyses and tradeoffs discussions found in the 2025 CEP.

³³ LC 82, Oregon & Southern Idaho District Council of Laborers Comments, June 14, 2024, p. 2.

2. PacifiCorp immediately request to open a new RFP docket with the goal of launching an RFP commensurate with the April 2025 IRP/CEP and that results in actionable Final Short List.

SSR Recommendation

Given the need for ~369 MW of new SSR resources in just five years, Staff recommends:

1. The 2025 IRP/CEP include an SSR acquisition strategy. This should include details around resource procurement pathways and an explanation of how PacifiCorp will improve its interconnection process. This strategy must include a timeline with milestones forecasting procurement actions and interconnection process improvements. This will allow the Commission and stakeholders to assess the complementary nature and possible tradeoffs between meeting HB 2021's emission reduction targets and capacity mandate.

IRP Update **Overview**

PacifiCorp's 2023 IRP Update presents a very different resource mix strategy, resulting in a much higher overall emissions trajectory, than the 2023 IRP. Staff appreciates the modeling improvements reflecting the direction from 24-073, most notably an integrated preferred portfolio that better reflected policy directives across PacifiCorp's six states.

Regarding the actual analysis found in the IRP Update, PacifiCorp noted that the changes in strategy were due to external events (e.g., stay of the OTR; wildfire litigation). Though PacifiCorp is not seeking acknowledgement of the IRP Update, Staff found the analysis and resulting drastic redirection in the IRP Update's near-term resource strategy alarming enough with regards to reliability, cost risks to customers, and achievable emission reduction targets that final comments were warranted.

To summarize, Staff finds that the analysis and strategy in PacifiCorp's IRP Update takes on higher risk and promotes more uncertain actions, including overexposure to the market, expecting that emerging technologies will be available by 2030, and relying on coal and CCUS technologies. At the same time, the Company appears to be undervaluing the role of near-term incremental investment in commercially available non-emitting resources, while failing to analyze or pursue cost containment actions, like the low-cost financing through the US Department of Energy's Loan Program Office's EIR program.

To elucidate the rationale for the position above, Staff offers observations on the following key topics from this IRP Update that should hopefully impact the 2025 IRP/CEP:

- Market Purchases
- Supply Side Resources
- Renewable Costs
- Regulatory Risk

Again, Staff does not recommend further Commission action at this time on these issues. Between Order No. 24-073, these comments, and PacifiCorp's IRP public input process many of these issues should be covered.

Market Purchases

In the IRP Update PacifiCorp continued to increase its reliance on market purchases. The Company's reply comments did clarify that the preferred portfolio's market purchases represent multiple types of market products with varying levels of risk.³⁴ The Company further asserts that the IRP cannot differentiate between these products. Staff appreciates the additional detail; however, this does not address Staff's two primary concerns. First, PacifiCorp's market purchases have multiplied in the near-term. For example, summer market purchases for 2025 through 2027 have grown from 500 MW to 3,325 between the 2021 IRP and 2023 IRP update.

If PacifiCorp anticipates significantly more hydro capacity or a large increase in bilateral contracts, it should specify this in the IRP and provide justification for this projected increase. In absence of this, Staff is left to assume that the increase in unspecified market purchases will be made up primarily of additional forward market purchases. There are two pieces of evidence in the IRP Update supporting Staff's assumption.

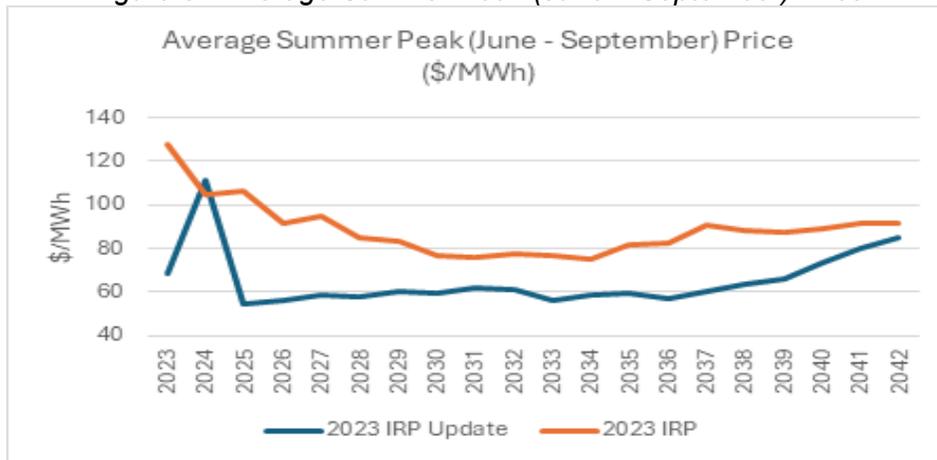
First, PacifiCorp increased its Front Office Transaction (FOT) limit in the 2023 IRP update to account for 500 MW of additional capacity from the Wyoming market.³⁵ The Company states that it updated modeling assumptions to account for potential market purchases from this increased transmission capacity.

Second, PacifiCorp's average summer peak market price decreased in the 2023 IRP Update compared to the 2023 IRP. Figure 1 below demonstrates this decrease.

³⁴ LC 82, PacifiCorp's Reply Comments, July 12, 2024, pp. 23 – 24.

³⁵ LC 82, PacifiCorp's 2023 Integrated Resource Plan Update, April 1, 2024, p. 11.

Figure 3 - Average Summer Peak (June – September) Price



This decrease correlates with an increase in market purchases during peak summer periods, as shown in Figure 2 below, replicated from the 2023 IRP Update.

Figure 4 – Summer Market Purchases (Figure 1.13 of the 2023 IRP Update)



This indicates to Staff that the model is selecting more market purchases due to lower projected forward market prices, indicating the increase in unspecified market purchases is not due to increase bilateral contracts or hydro slice products.

As Staff outlined in its comments, regional energy markets in the west are tightening, especially during periods of peak demand. This creates tremendous price risk for

ratepayers if the Company intends to rely on these market transactions to cover shortfalls during peak periods. The alternative to increasing market purchases would be to explore procurement of non-emitting resources.

Supply-Side Resources

Staff is concerned about the reasonableness of the assumptions PacifiCorp has made around a number of non-traditional, supply-side resources. While Staff appreciates the Company modeling non-emitting resource options that can support necessary GHG emissions reductions, it is concerned that the Company's assumptions underlying the selection of these resources creates significant risk that the Company has not appropriately represented in the RFP. Staff believes this leads to the preferred portfolio relying too heavily on unproven technologies.

Several stakeholders raised similar concerns. In its comments, RNW notes "Optimistic assumptions about the viability of unproven future technology leads PacifiCorp to risky planning decisions." RNW goes on to specifically note concerns with the timing of the Natrium project, the non-emitting peaker assumptions, the availability of green hydrogen, and the feasibility of CCUS in the near-term.³⁶ The Joint Advocates also take issue with many of these same assumptions, noting that these changes from the 2023 IRP "appear to favor continued coal and gas operations at the expense of clean energy procurements."³⁷

While the Company's Reply Comments cite the installation of technology procured through its 2020 AS RFP as evidence of progress toward HB 2021, Staff notes the Final Shortlist for this RFP was acknowledged only two months after HB 2021 took effect.^{38,39} This means that PacifiCorp has not conducted an RFP process since HB 2021 became law.

In the 2025 IRP, PacifiCorp needs to better vet these assumptions with stakeholders. Additionally, the Company should run more studies that reflect impacts to the portfolio if these resources do not materialize. While the Company modeled variant studies that do not include CCUS and nuclear, it does not include variants in which hydrogen non-emitting peakers are not cost-effective or are slow to develop. Further, it does not

³⁶ LC 82, RNW's Comments, June 14, 2024, pp. 9 – 11.

³⁷ LC 82, Joint Advocates Comments, June 14, 2024, p. 23.

³⁸ UM 2059, Order No 21-437, November 24, 2021, page 1.

³⁹ See OPUC HB 2021 Implementation Activities, <https://www.oregon.gov/puc/utilities/pages/hb2021-implementation-activities.aspx>.

model any scenarios in which the necessary hydrogen market does not develop as PacifiCorp is expecting.

Non-Emitting Peakers

The Company's preferred portfolio includes 224 MW of non-emitting peaking capacity allocated entirely to Oregon in 2030.⁴⁰ PacifiCorp indicated through the discovery process that this resource is assumed to operate using 100 percent hydrogen fuel.⁴¹ As noted in Staff's comments,⁴² and as raised in several stakeholder comments, PacifiCorp has not adequately modeled the risks and full costs associated with hydrogen as a fuel resource. The Company appears to assume the necessary supply of clean hydrogen will be available to operate this resource by 2028 and does not appear to fully account for the infrastructure or energy required to produce and store a significant quantity of hydrogen. Further, the Company's decision to extend the life of natural gas peaking plants from 10 to 40 years on the assumption they will be capable of operating with 100 percent hydrogen fuel is questionable.⁴³ In the 2025 IRP, PacifiCorp should engage stakeholders to refine its cost assumptions around hydrogen peaking plants. It should also clarify where it is modeling the costs associated with conversion of natural gas plants to 100 percent hydrogen fuel and specify how it is modeling the supply and storage requirements of these resources.

Carbon Capture Utilization and Storage (CCUS)

The Company's preferred portfolio includes CCUS additions to Jim Bridger 3 and 4, which would be installed as early as 2028.⁴⁴ Staff raised in its comments concerns with the feasibility of this timing. Several stakeholders also raised concerns with the inclusion of this technology in the 2023 IRP Update. The Joint Advocates noted that in the 2023 IRP "PacifiCorp maintained that CCUS was too speculative a technology to justify inclusion in the preferred portfolio."⁴⁵ Further, both RNW and the Joint Advocates point out that PacifiCorp itself indicated at the May 2, 2024 public input meeting for the 2025 IRP that "there is a physical impossibility for us to get this [carbon capture at Bridger 3 and 4] implemented prior to 2030."^{46,47} PacifiCorp responded to these concerns in its reply comments, noting that the preferred portfolio does not include CCUS, but allows the option for certain coal facilities to select CCUS resources after further evaluation

⁴⁰ LC 82, PacifiCorp's 2023 Integrated Resource Plan Update, April 1, 2024, p. 78.

⁴¹ LC 82, PacifiCorp's response to Sierra Club DR No. 50.

⁴² LC 82, Staff's Comments, June 14, 2024, p. 10.

⁴³ LC 82, PacifiCorp's 2023 Integrated Resource Plan Update, April 1, 2024, p. 7.

⁴⁴ *Id.* p. 104.

⁴⁵ LC 82, Joint Advocates Comments, June 14, 2024, p. 24.

⁴⁶ LC 82, RNW's Comments, June 14, 2024, p. 10.

⁴⁷ LC 82, Joint Advocates Comments, June 14, 2024, p. 24.

through a front-end engineering design (FEED) study.⁴⁸ It further notes that the 45Q tax credits included in the inflation reduction act change the economics of CCUS for the Company.

Staff is confused by PacifiCorp's response given page 104 of the IRP Update directly states "The preferred portfolio selected Jim Bridger 3 and 4 to be converted to CCUS in 2028."⁴⁹ Staff agrees with RNW and the Joint Advocates that this timeline is infeasible and is further concerned that PacifiCorp is not transparently stating its approach to CCUS in the 2023 IRP Update. While the Company asserts Oregon's requirement to exit from coal-fired resources by the end of 2029 "renders the specific outcomes of CCUS moot" for Oregon ratepayers, Staff disagrees.⁵⁰ PacifiCorp needs more renewable resources in its system to meet Oregon's HB 2021 goals. If costs for these resources are shared across its service territory, they are less costly for Oregon ratepayers. By operating a system that selects coal-fired generation over increased renewable procurement, the Company is choosing a portfolio that will ultimately be more expensive for Oregon.

Natrium

Staff and stakeholders continue to raise concerns that potential delays to the Natrium project will have major implications for the preferred portfolio. In the 2023 IRP Update, PacifiCorp did not provide any updates on the status of the project.

Staff re-emphasizes the importance of having the Company's IRP reflect real events related to the progress of the Natrium project and that the assumptions are updated to reflect any changing real-world conditions. For example, the recently filed Construction Permit Application with the Nuclear Regulatory Commission indicates review of the application will be completed in January of 2025.⁵¹ Does this align with the proposed timeline for Natrium to meet a 2030 COD? Are there any outcomes from this audit that could affect the projected timeline? This is the type of information Staff expects PacifiCorp to communicate about this project in the 2025 IRP.

⁴⁸ LC 82, PacifiCorp Reply Comments, July 12, 2024, p. 25.

⁴⁹ LC 82, PacifiCorp's 2023 Integrated Resource Plan Update, April 1, 2024, p. 104.

⁵⁰ LC 82, PacifiCorp Reply Comments, July 12, 2024, p. 26.

⁵¹ See US SFR Owner, LLC – Plan for A General Audit of the Kemmerer Unit 1 Construction Permit Application (EPID No. L-2024-CPS-0000), Page 1, <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML24187A117>.

Renewable Costs

In its comments, RNW expressed concern that the renewable resource costs used by PacifiCorp in the 2023 IRP are too high relative to other market sources. In response, PacifiCorp stated the cost assumptions it used for renewable resources are “an average of actual bids from the most recent request for proposal through the year 2029 and then transitions to the NREL price curve.”⁵² However, PacifiCorp has provided limited transparency into the bid prices used to develop these costs or revealed the methodology used to calculate prices from these bids. This type of analysis is foundational to IRP process and PacifiCorp should be more forthcoming in sharing this information with Staff and stakeholders as part of the IRP development process. While Staff has access to the Initial Shortlist of the cancelled 2022 AS RFP, this information is not available to stakeholders who are not covered by the modified protective order, and Staff has not received any workpapers demonstrating how PacifiCorp used this information to generate its renewable cost projections. These cost projections are fundamental to the IRP review process and should be made available to Staff and stakeholders so adequate analysis can be conducted.

In the 2025 IRP, PacifiCorp should share with Staff and stakeholders workpapers that support its renewable energy price projections. If these workpapers contain confidential information, they should be shared under the modified protective order.

Energy Infrastructure Reinvestment (EIR) Financing

The Joint Advocates raised concerns around PacifiCorp’s failure to model potential EIR financing in the 2023 IRP Update. In its comments, the Joint Advocates state “PacifiCorp has yet to incorporate the availability of U.S. Department of Energy financing through the Energy Infrastructure reinvestment (‘EIR’) program into its resource planning, meaning that PacifiCorp is very likely over-estimating the cost of procuring new, Company-owned resources.”⁵³ Staff agrees with the Joint Advocates that PacifiCorp could have modeled this funding opportunity in its IRP Update, at the very least as a sensitivity to show the economic impact on a set of resources from a Cluster Study.⁵⁴

Staff does not agree with the PacifiCorp reply comments’ logic around the treatment of EIR funding opportunities in the IRP.⁵⁵ While Staff understands EIR loan opportunities require a competitive application process Staff and stakeholders have expressed a

⁵² LC 82, PacifiCorp’s Reply Comments, July 12, 2024, p. 21.

⁵³ LC 82 Joint Advocates Comments, June 14, 2024, p. 14.

⁵⁴ LC 82, Sierra Club’s Round 1 Comments, October 25, 2023, p. 52.

⁵⁵ LC 82, PacifiCorp Reply Comments, July 12, 2024, p. 29.

willingness to work with PacifiCorp to develop acceptable approaches to model the likelihood and portfolio impact of a resource receiving an EIR loan. Additionally, it could adopt the Joint Advocates suggested approach and assume only a percentage of proxy resources are eligible for EIR.⁵⁶

Based on the statements from the May 30, 2024 Special Public Meeting, PacifiCorp may not be in a financial position to acquire certain resources for ownership. However, as Staff noted in our previous comments, PacifiCorp continues to: access debt markets;⁵⁷ make plans to invest soon in speculative CCUS technology based entirely on performance-based, tax-benefits;⁵⁸ and enter into bilateral contracts for storage, with a COD of 2026, at unknown prices.⁵⁹

Yet PacifiCorp did constrain the model in the IRP Update from selecting new resources until after 2027.⁶⁰ In short, PacifiCorp's 2025 IRP modeling should not constrain the timing acquisition of some resources over others. It should also transparently describe if or how financing constraints are reflected in the model and allow PLEXOS to evaluate resources on a comparable basis, including with and without federal tax benefits or loan guarantees. In the 2025 IRP, Staff expects PacifiCorp to incorporate EIR loan opportunities, as directed in Order No.24-073.⁶¹

Regulatory Risk

Many stakeholders raised concerns with PacifiCorp's approach to GHG emissions regulation, noting the Company continues to oppose federal emissions regulations and underestimate the potential for new federal regulations to impact the Company's fossil fuel resources in both the near- and medium-term.⁶²

RNW noted in its opening comments that "PacifiCorp is choosing to challenge the very regulations that would make portfolio optimization across a six-state footprint far

⁵⁶ LC 82, Joint Advocated Comments, June 14, 2024, p. 30.

⁵⁷ Specifically \$3.8 Billion in debt financing in April 2024 following the James v. PacifiCorp verdict. See LC 82, Joint Advocated Comments, June 14, 2024, page 17.

⁵⁸ LC 82, PacifiCorp Reply Comments, July 12, 2024, page 25.

⁵⁹ LC 82, PacifiCorp Reply Comments, July 12, 2024, page 32.

⁶⁰ LC 82, PacifiCorp Reply Comments, July 12, 2024, page 25.

⁶¹ LC 82, Order No. 24-073, Appendix B, p. 7,

⁶² See State of Utah et al. V. EPA, Case #:23-9509: <https://attorneygeneral.utah.gov/wp-content/uploads/2023/07/10th-Stay-Order.pdf>.

easier.”⁶³ While the Joint Advocates stated, “PacifiCorp unreasonably assumed that environmental regulations would remain static throughout the planning horizon.”⁶⁴

PacifiCorp’s quick response in October 2023, to the stay of the US EPA’s OTR regulations, appears to have only forestalled for a short time—at what may be greater costs and risks—a continued push from the federal government toward a cleaner resource mix. As the Joint Advocates stated:

*If the 2025 IRP forecasts, once again, a need for new resources to replace aging fossil fuels subject to increasingly stringent environmental regulations, PacifiCorp will not be able to procure new resources until several years down the line, even if it restarts currently suspended [RFP] that it could have already acquired or been in the process of acquiring new resources based on the 2021 and 2023 IRPs.*⁶⁵

IRP Conclusion

The 2023 IRP Update was an insightful trial run by the Company as it sought to incorporate improvements from Order No. 24-073 into its modeling. Staff appreciates the improvements made, particularly the model improvements that make progress toward selection of a portfolio that demonstrates simultaneous compliance with state-level policies. Staff is concerned that these improvements did not inform the development of a realistic set of achievable near-term action items. Nor did these improvements present analysis which compared long-term planning questions and dependencies that compared the tradeoffs between near-term actions and uncertainties around emerging technology. Specifically, Staff is concerned that the analysis and resulting strategy in the 2023 IRP Update rely too heavily on speculative supply-side resource options and market purchases, without adequately capturing the risks to customers associated with these selections.

Staff also appreciates the work by stakeholders to raise key issues identified in the IRP Update. In particular, Staff appreciates Stakeholders’ detailed analysis of federal emissions regulations including Section 111(d) and analysis of the risks created by PacifiCorp’s expanded reliance on fossil fuel resources.

Staff is eager to see the Company incorporate the feedback Staff and Stakeholders have provided through the 2023 IRP Update into its 2025 IRP process. Staff reiterates that PAC meet the recommendations and expectations from Order No. 24-073,

⁶³ LC 82, RNW’s Comments, June 14, 2024, p. 12.

⁶⁴ LC 82, Joint Advocates comments, June 14, 2024, p. 10.

⁶⁵ LC 82, Joint Advocates Comments, June 14, 2024, p. 10

especially those related to modeling of proxy resource, reducing granularity adjustments, and incorporating federal emissions regulations and financing opportunities.

Staff does not recommend any additional Commission actions related to the IRP Update given Order No. 24-073 already directs the Company to address many of the issues raised by Staff and Stakeholders. Staff has also been actively participating in the Company's 2025 IRP public input process and will continue submitting feedback to the Company through this process.

Conclusion

With regards to the 2023 CEP Supplement, Staff finds that PacifiCorp has not demonstrated continual progress toward meeting the goals of HB 2021. Staff recommends that the Commission order two things. First, order PacifiCorp to include in its 2025 CEP an executable, CEP action plan, that builds on the 2025 IRP action plan. This CEP action plan should be developed with Staff and stakeholders and include the specific information related to SSRs noted above. Second, order PacifiCorp to request that a RFP docket be opened for the purpose issuing an RFP for resources with a COD before 2030. The RFP should be launched commensurate with the April 2025 IRP/CEP and results in actionable Final Short List before the end of 2026.

With regards to PacifiCorp's progress on small-scale renewables (SSRs), while this capacity requirement falls outside HB 2021's demonstration of continual progress, Staff is concerned about PacifiCorp's ability to identify, contract, and interconnect ~369 MW of SSRs in just five years. Staff is also concerned about the lack of visibility into the complementary nature and potential conflicts with HB 2021 activities designed to reduce emissions. Accordingly, Staff recommends that the Commission order PacifiCorp to include in the 2025 IRP/CEP an SSR acquisition strategy that includes timelines.

Finally, Staff found that instructive lessons were learned in the IRP Update, especially from PacifiCorp's attempt to implement direction from Order No. 24-073. Staff finds that the Commission's April 2024 order—along with the ongoing dialogue in PacifiCorp's 2025 IRP public input meetings—covers the necessary improvements for the 2025 IRP and positions the Company well to avoid Staff's perception of shortcomings in this IRP Update. This includes improving the model to reduce granularity and reliability adjustments, improving the transparency of renewable cost projections and incorporating EIR funding into the model, and refining assumptions around speculative supply-side technologies and market purchases.

PROPOSED COMMISSION MOTION:

Determine that PacifiCorp has not demonstrated continual progress on emission reductions. As remedies, PacifiCorp must include an executable action plan in the 2025 CEP and immediately request to open a new RFP docket for the purpose of issuing an RFP no later than April 2025. In addition, PacifiCorp must also include in the April 2025 IRP/CEP a small-scale renewable resource acquisition strategy that includes timelines.

LC 82 IRP CEP Update

November 13, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

Re: UM 2345—PacifiCorp's Initial Brief

PacifiCorp d/b/a Pacific Power encloses for filing its Initial Brief in the above referenced proceeding.

Informal inquiries may be directed to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,



Matthew McVee
Vice President, Regulatory Policy and Operations

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2345

In the Matter of

PACIFICORP, d/b/a PACIFIC POWER

Continual Progress Towards House Bill
2021

PACIFICORP
INITIAL BRIEF

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PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) respectfully submits this initial brief in response to the Public Utility Commission of Oregon’s (Commission) October 1, 2024 Ruling in this proceeding.

I. INTRODUCTION

For well over a century, the Commission has regulated utility rates and services. It has not engaged in State-directed procurement, an activity that has been reserved for the management of privately owned businesses. House Bill (HB) 2021 reflects this tradition and vests the Commission with its familiar powers of acknowledging—or not—utility resource plans (here, Clean Energy Plans (CEP)).

This conclusion of law is confirmed by the text, context, and legislative history of HB 2021, as well as several canons of statutory construction. It would be imaginative indeed to read HB 2021’s mandate that the Commission “shall ensure” continual progress towards reducing emissions in a utility planning document, as instead “the power to direct utility resource procurement” to reduce emissions.

PacifiCorp represents that HB 2021 does not provide the Commission with this extralegislative power, and requests the Commission issue a final decision to that effect and close this proceeding without further process. Otherwise, this issue will upend utility procurement across the West. Developers are already using this issue as a wedge in other states—if Oregon can require PacifiCorp to procure clean energy resources, why not Washington?¹

¹ *In re PacifiCorp’s 2023 CEIP Update*, Docket UE-210829, RNW-NWEC Initial Brief, ¶ 51, n. 91 (Nov. 12, 2024) (“In Order No. 24-297 discussed above, the Oregon Commission indicated that a Commission-ordered RFP may be the correct remedy for PacifiCorp’s failure to demonstrate continual progress and directed the opening of a new docket to ‘adjudicate our legal authority to order PacifiCorp to issue an RFP, establish a date certain by which PacifiCorp must issue an RFP to market, and address the volume and nature of resources PacifiCorp seeks in the RFP.’”); *Id.* ¶ 4 (“For all of these reasons, Renewable Northwest and NW Energy

The Commission must unring this bell. PacifiCorp’s arguments follow.

II. THE COMMISSION LACKS THE POWER TO ENGAGE IN STATE-DIRECTED PROCUREMENT.

Determining what HB 2021 requires is a question of statutory interpretation, and the Commission’s role is “simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions of particulars such construction is, if possible, to be adopted as will give effect to all.”²

Oregon applies a three-part analysis when engaging in this analysis.³ The Commission should: (1) examine the “text and context of the statute” to determine its meaning; (2) “only if” the legislature’s intent is not clear from the text and context, the Commission should “then move to the second level, which is to consider legislative history”; and (3) if still unclear, the Commission “may resort to general maxims of statutory construction to aid in resolving the remaining uncertainty.”⁴

On each analysis, the Commission lacks the power to engage in State-directed procurement.

A. The text and context of HB 2021 confirm that the Commission lacks the power to engage in State-directed procurement.

While ORS 469A.415(6) is reasonably ambiguous regarding whether the Commission has the power to engage in State-directed procurement, the context of HB 2021 and additional Commission authorities confirm that the legislature has not provided the

Coalition (“RNW-NWEC”) respectfully request that the Commission . . . in furtherance of attaining these goals, it use its existing and broad discretion to order PacifiCorp to release an all-source request for proposals (“RFP”) to the market at the time of its 2025 IRP filing next spring, ideally following an accelerated schedule to allow for additional procurement ahead of CETA’s 2030 mandate.”)

² ORS 174.010.

³ *State v. Gaines*, 346 Or. 160, 164, 206 P.3d 1042 (2009).

⁴ *Id.*

Commission the power to do so.

i. ORS 469A.415(6) is reasonably ambiguous regarding whether the Commission can order PacifiCorp to procure resources.

ORS 469A.415(6) is reasonably ambiguous regarding what powers the Commission has to ensure continual progress.

The Commission “shall ensure” that PacifiCorp “demonstrates continual progress as described in subsection (4)(e) of this section and is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”⁵ PacifiCorp’s CEP must demonstrate it “is making continual progress within the planning period towards meeting the clean energy targets set forth in ORS 469A.410, including demonstrating a projected reduction of annual greenhouse gas emissions.”⁶

Oregon has interpreted “shall,” as an “obligation or a command.”⁷ “Ensure” is a transitive verb, defined as “to make sure, certain, or safe.”⁸ Together, the Commission is obligated or commanded to make certain or make sure that PacifiCorp and its CEPs are “making continual progress” towards complying with HB 2021’s greenhouse gas emissions reductions.

When reviewing only ORS 469A.415(6), it is unclear what these statutory terms require. The Commission must “obligate” or “command” something if PacifiCorp is not “making continual progress” in planning to reduce its emissions reductions. Yet the law is silent regarding what actions the Commission should take to command continual progress. The central question is whether the phrase “shall ensure” grants the Commission additional

⁵ ORS 469A.415(6).

⁶ ORS 469A.415(4)(e).

⁷ *In re Nolin Hills Wind Power Project*, 372 Or. 194, 213, 547 P.3d 804, 815 (2024).

⁸ “Ensure.” Merriam-Webster.com Dictionary, Merriam-Webster (available here: <https://www.merriam-webster.com/dictionary/ensure>)

regulatory powers beyond those delegated by the Legislature: In other words, does this open-ended delegation in ORS 469A.415(6) allow the Commission to engage in State-directed procurement as supported by several parties in LC 82?

The additional statutory provisions of HB 2021 prove that the Commission must reject that invitation.

ii. ORS 469A.415 confirms that only utilities can propose acquisition strategies.

The Commission cannot omit what was inserted in ORS 469A.415,⁹ which confirms that HB 2021 leaves procurement decisions to the utility.

“An electric company,” and not the Commission, “shall develop a clean energy plan” for complying with HB 2021.¹⁰ The law refers to CEPs in nineteen separate instances, with detailed instructions for what a CEP must include,¹¹ and how both the Department of Environmental Quality (DEQ) and the Commission should evaluate CEPs to determine compliance with the law’s emissions reduction requirements.¹²

Relevant here, CEPs must include specific actions, “including acquisition of nonemitting resources, energy efficiency measures and acquisition and use of demand response resources,” that are, fundamentally, “set by the electric company.”¹³ Further, CEP “actions and investments,” again as developed by PacifiCorp and not ordered by the Commission, “may include the development or acquisition of clean energy resources, acquisition of energy efficiency and demand response, including an acquisition required by ORS 757.054, development of new transmission and other supporting infrastructure,

⁹ ORS 174.010.

¹⁰ ORS 469A.415(1)

¹¹ ORS 469A.415(3)-(5).

¹² ORS 469A.420.

¹³ ORS 469A.415(4)(b).

retirement of existing generating facilities, changes in system operation and any other necessary action.”¹⁴

Together the Legislature directed utilities—not the Commission—to propose plans to comply with HB 2021. And in at least two separate instances, the Legislature concluded that it was up to PacifiCorp to propose specific actions regarding “acquisition of nonemitting generation resources”¹⁵ and the “development or acquisition of clean energy resources.”¹⁶

The Commission cannot omit this language, which supports the conclusion that only utilities can propose specific procurement efforts to comply with the law.

iii. ORS 469A.420 confirms that ensuring continual progress is limited to Commission acknowledgment.

The Commission cannot omit what was inserted in ORS 469A.420,¹⁷ which confirms that the Commission’s role in reviewing CEPs is limited to acknowledgement.

When reviewing utility-created CEPs, the Legislature limited the Commission to its familiar role of acknowledging, or not, utility plans. After considering various factors, the Commission “shall acknowledge” a utility’s CEP.¹⁸ This mirrors the Legislature’s similar command regarding utility integrated resource plans (IRPs) that include plans and costs for complying with Oregon’s renewable portfolio standard,¹⁹ as well as costs from long-term financial commitments subject to Oregon’s greenhouse gas emissions standard.²⁰ Noticeably

¹⁴ ORS 469A.415(5).

¹⁵ ORS 469A.415(4)(b).

¹⁶ ORS 469A.415(5).

¹⁷ ORS 174.010.

¹⁸ ORS 469A.420(2).

¹⁹ ORS 469A.075(3) (“The commission shall review a plan for meeting the requirements of the renewable portfolio standard and take appropriate action as part of the procedure for acknowledgment of an electric company’s integrated resource plan.”).

²⁰ ORS 757.536(1)(a) (“The Public Utility Commission may not acknowledge in an integrated resource plan, or allow in customer rates, the costs of a long-term financial commitment by an electric company or by an electricity service supplier unless the baseload electricity proposed to be acquired under the commitment is produced by a generating facility that complies with the greenhouse gas emissions standard established under ORS 757.524.”).

absent in HB 2021 are any references to, or mentions of, concurrent Commission powers when reviewing utility-created CEPs.

The Commission’s acknowledgement standards are well-worn.²¹ Acknowledgement means the Commission “would either acknowledge the plan or return it to the utility with comments.”²² “With some refinements,” the Commission continues, “this approach to utility planning has been used since 1989.”²³ IRP proceedings were never intended to result in substantive requirements: “The Commission does not intend to usurp the role of utility decisionmaker. Utility management will retain full responsibility for making decisions and for accepting the consequences of the decisions. Thus, the utilities will retain their autonomy while having the benefit of the information and opinion contributed by the public and the Commission.”²⁴ And as recently as PacifiCorp’s last IRP, the Commission took pains to reiterate: “We take seriously our role in informing PacifiCorp’s direction, but also reinforce that we do not control PacifiCorp’s resource decisions and that any risks associated with

²¹ *E.g.*, *In re PacifiCorp’s 2021 IRP*, Docket No. LC 77, Order No. 22-178 (“In reviewing an IRP, we examine the resource activities in the Action Plan and determine, given the information available at the time, whether to acknowledge them based on the reasonableness of those actions. Our decision to acknowledge or not acknowledge an action item does not constitute ratemaking. The question of whether a specific investment made by a utility in its planning process was prudent will be independently examined in a subsequent rate proceeding. Acknowledgment, or non-acknowledgment, of an IRP is a relevant but not exclusive consideration in our subsequent examination of whether the utility’s resource investment is prudent and should be recovered from customers.”).

²² *In re Commission IRP Investigations*, UM 1056, Order No. 07-002 at 1 (Jan. 8, 2007) (internal citations removed).

²³ *Id.*

²⁴ *In Regards to Least-cost Planning for Resource Acquisitions*, Docket No. UM 180, Order No. 89-507 at 6, 10 (Apr. 20, 1989) (“The establishment of Least-Cost Planning in Oregon is not intended to alter the basic roles of the Commission and the utility in the regulatory process. The Commission does not intend to usurp the role of utility decisionmaker. Utility management will retain full responsibility for making decisions and for accepting the consequences of the decisions. Thus, the utilities will retain their autonomy while having the benefit of the information and opinion contributed by the public and the Commission. . . . Plans submitted by utilities will be reviewed by the Commission for adherence to the principles enunciated in this order and any supplemental orders. If further work on a plan is needed, the Commission will return it to the utility with comments. This process should eventually lead to acknowledgment of the plan. Acknowledgment of a plan means only that the plan seems reasonable to the Commission at the time the acknowledgment is given.”).

carrying out even acknowledged actions rest with the company.”²⁵

These standards are reflected in Commission regulations,²⁶ internal operating guidelines,²⁷ and HB 2021 policies regarding continual progress.²⁸

Because IRP and CEP acknowledgment does not result in substantive requirements, and because ORS 469A.420 incorporates this familiar standard, it follows that ORS 469A.420 does not imply new substantive powers like directing utilities to procure resources.

Applied here, the Commission “shall ensure” continual progress through acknowledgement of PacifiCorp’s CEP. If a CEP does not meet the standards incorporated throughout HB 2021, then the Company has not demonstrated continual progress, and consistent with OAR 860-027-0400(9) already codified on this issue, it is the Commission’s duty to not acknowledge that CEP and require the Company to “revise and resubmit all or certain elements of the CEP.” This acknowledgment decision, or lack thereof, would then inform future rate proceedings.

The Commission cannot omit this language, which supports the conclusion that the Commission’s role is limited to acknowledgement of CEPs.

iv. State-directed procurement would be unconstitutional.

In a vacuum, it is at least plausible that ORS 469A.415(6)’s obligation that the Commission “shall ensure” continual progress allows for the Commission to conclude it has

²⁵ Order 22-178, at 2.

²⁶ OAR 860-027-0400(9) (allowing for the Commission to acknowledge a CEP, acknowledge a CEP with conditions, or not acknowledge a CEP and require a utility to revise and resubmit all or certain elements of the CEP.).

²⁷ *In re Commission Internal Operating Guidelines*, Order No. 20-386, Appendix A at 25 (“Commission acknowledgement of an IRP means only that the Commission finds that the utility’s proposed actions are reasonable at the time acknowledgment and does not constitute ratemaking.”); *Id.* (the Commission “does not finally determine the individual rights, duties, or privileges of any party during the IRP process . . .”).

²⁸ *E.g.*, Order No. 24-002 at 1, 9 (“our existing CEP and IRP review processes are appropriate for making regular determinations that utilities are achieving continual progress” and “we will use IRP/CEP review processes and their timelines to assess whether utilities are making ‘continual progress’”).

the power to engage in State-directed procurement.

Yet that is not how legislative delegation operates.

Oregon’s Constitution prevents the Legislature from enacting any law that “shall be made to depend upon any authority, except as provided in this Constitution.”²⁹ Oregon has interpreted this provision to hold that the Legislature cannot “confer upon any person, officer, agency or tribunal the power to determine what the law shall be.”³⁰ This is because the “power to make and declare laws is vested exclusively in the Oregon Legislative Assembly, subject only to the initiative and referendum powers reserved to the people.”³¹

While the Legislature can delegate this lawmaking function to agencies, the enactment must be “complete when it leaves the legislative halls.”³² It must contain “a full expression of legislative policy and sufficient procedural safeguards to protect against arbitrary application.”³³

A conclusion that “shall ensure” in HB 2021 allows for State-directed procurement would provide neither.

Start with the requirement for a full expression of legislative policy. It would be reasonable to conclude, and PacifiCorp does not contest, that HB 2021 establishes binding emissions reductions requirements,³⁴ and that utility-created CEPs are the mechanisms to evaluate a utility’s plan to meet these requirements. These are fully expressed legislative policies that have been constitutionally delegated under *Ford Motor*.

²⁹ Or. Const. Art. I, § 21.

³⁰ *Miller v. Ford Motor Company*, 363 Or. 105, 116, 419 P.3d 392 (2018) (citing *Van Winkle v. Fred Meyer, Inc.*, 151 Or. 455, 462, 49 P.2d 1140 (1935)).

³¹ *Id.*

³² *City of Damascus v. Brown*, 337 P.3d 1019, 1033 (Or. App. 2014) (citing *State v. Self*, 706 P.2d 975 (Or. App. 1985)).

³³ *Id.*

³⁴ Though subject to the law’s reliability and cost cap provisions in ORS 469A.440 and .445.

The question presented in UM 2345 is slightly different: What role should the Commission play in this scheme? Specifically, is there an express delegation of legislative policy or standard regarding State-directed procurement to ensure continual progress? Said from the other direction, are there any policies or standards in the law that provide guidance for what actions the Commission should take (other than acknowledgement as discussed in ORS 469A.420)?

Clearly not in the text of HB 2021. This leaves the Commission with only the inference that HB 2021 provides the Commission with the power to do so. Yet inferences regarding delegations of legislative power do not withstand constitutional scrutiny. If they could, then what would stop the Commission from pursuing other remedial schemes? Would the Commission have the power to close emitting resources over utility protest, or require the sale of emitting resources to third-parties, or into wholesale markets? These additional remedies would seem to better align with the purpose of HB 2021 which is focused on reducing emissions, and not increasing clean energy generation like what would result from State-directed procurement.

It is not that the Commission should consider these alternatives. It is that if the Commission infers it has the power to engage in State-directed procurement, without any express delegation of standard or policy to do so, then the Legislature would have delegated its “power to make law” to the Commission in violation of Oregon’s separation of powers.³⁵ If there was ever an unconstitutional delegation of legislative power, that should be it.

Next consider adequate procedural safeguards to protect against arbitrary application

³⁵ *Van Winkle*, 151 Or. at 461; *City of Damascus*, 266 Or. at 441.

of the law.³⁶ In contrast with PacifiCorp’s 2023 CEP proceeding, which included multiple rounds of public comment and workshops spanning almost an entire year, the Commission provided only a single round of public comment on PacifiCorp’s CEP Supplement, and one opportunity for PacifiCorp to respond. This comment period concluded with a Staff Report on PacifiCorp’s filing (issued August 1, 2024), and a Commission decision based on that Staff Report less than three business days later (during an August 8, 2024, public meeting). The Staff Report was the first mention of the possibility of State-directed procurement due to a perceived failure to demonstrate continual progress.

Yet PacifiCorp was not afforded the opportunity to submit alternative evidence, cross-examine Commission Staff on its Staff Report, nor brief any of the Company’s factual, legal, and policy concerns with the Staff Report, including any financial implications that could result from these recommendations, including harm to PacifiCorp’s credit profile, balance sheet, cash flow, load obligations, and reliability requirements, all of which could significantly impact PacifiCorp’s customers. The Commission only provided the Company with a limited opportunity to offer public comment during the Commission’s August 8 deliberations on the Staff Report—again only three business days after the Staff Report was issued.

The point is not that the Commission should have provided these opportunities (it should have), or that it should defer making a decision on this issue to a contested case (which it was correct to do); the point is that HB 2021, as discussed above, was built around the Commission’s acknowledgment processes which do not result in substantive

³⁶ *City of Damascus*, 266 Or.App at 441 (“Later delegation cases shifted focus away from objective legislative standards and emphasized “that any delegation be accompanied by procedural safeguards to protect against (“arbitrariness”) (quoting *Corvallis Lodge v. Oregon Liquor Control Commission*, 67 Or.App. 15, 677 P.2d 76 (1984)).

requirements. A conclusion that HB 2021 allows for State-directed procurement would require adequate procedural protections to ensure adequate due process of law. Yet HB 2021 is silent on any of these protections.

Respectfully, PacifiCorp represents it would violate the Oregon Constitution’s separation of powers if the Commission determined that a single verb phrase from ORS 469A.415(6) (“shall ensure”) provided the power to direct investor-owned utilities to procure resources to demonstrate continual progress.³⁷ This would also just so happen to fall outside the scope of authority delegated to the Commission.³⁸

This is not a novel conclusion. It simply aligns with longstanding Oregon precedent that holds that the Commission’s powers as an economic regulator do not extend to management of utilities—like directing utilities to issue requests for proposals (RFPs) and procure resources. “If the commission is empowered to prescribe the terms of contracts and the practices of utilities and thus substitute its judgment as to what is reasonable for that of the management, it is empowered to undertake the management of all utilities subject to its jurisdiction. It has been repeatedly held, however, that the commission does not have such power.”³⁹ Rather, “In the absence of express statutory authority it has generally been held that a commission’s control over contracts between affiliated corporations is limited to disallowance of excessive payments for the purpose of fixing rates.”⁴⁰

The Commission agrees. Its role “is not to manage the utility, but to consider the

³⁷ Or. Const. Art. I, § 21.

³⁸ *E.g.*, *Penn v. Oregon Bd. of Parole*, 365 Or. 607, 638, 451 P.3d 589, 607 (2019) (finding agency action exceeded its statutory authority); *Planned Parenthood Ass’n, Inc. v. Oregon Dep’t of Hum. Res.*, 297 Or. 562, 574, 687 P.2d 785, 792 (1984) (same).

³⁹ *Pac. Tel. & Tel. Co. v. Flagg*, 189 Or. 370, 396, 220 P.2d 522, 533 (1950).

⁴⁰ *Id.*

utility's management and its effect on rates.”⁴¹

PacifiCorp submits that (a) directing a private investor-owned utility to issue an RFP; (b) reviewing which bids the utility should procure from that RFP; and (c) procuring resources from those efforts are each managerial function. If correct, this would violate this bright line that has always limited the Commission's role to that of economic regulation and would further support the unconstitutionality of the Commission's action.

v. The Commission cannot backfill any lingering ambiguities with the power to engage in State-directed procurement.

HB 2021 was the result of a months-long collaboration between the leading utilities and utility advocates in the State. It is a comprehensive bill that was meant to complement the Commission's and DEQ's existing statutory authorities and practices; it includes no less than one dozen citations to additional Oregon authorities.⁴²

Yet despite this intentional folding-in of existing Commission and DEQ authorities, there are no references to Oregon statutes that would be impacted by the Commission directing utilities to procure HB 2021-compliant resources.

This contrast is important. Why would the law materially revise Oregon labor standards,⁴³ standards that specifically apply to the construction of large-scale renewable energy generation projects,⁴⁴ yet say nothing about how the Commission has the power to direct utilities to procure these same projects? Why would the law take the time to create a

⁴¹ *City of Portland v. PGE*, Docket No. UM 1262, Order No. 06-636 (Nov. 17, 2006) (citing *Flagg*, 189 Or. at 396).

⁴² *E.g.*, ORS 469A.400(1)(a) (citing ORS 468A.280); ORS 469A.400(1)(c) (citing ORS 757.649); ORS 469A.400(3) (citing ORS 757.600); ORS 469A.100(6) (citing ORS 468A.210); ORS 469A.100(8) (citing ORS 757.600); ORS 469A.405(3) (citing ORS 469.300 and ORS 358.905); ORS 469A.410 (citing ORS 468A.280); ORS 469A.415(5) (citing ORS 757.054); ORS 469A.420(1)(b) (citing ORS 468A.280); ORS 469A.435(3) (citing ORS 468A.280); ORS 469A.435(4)(a) (citing ORS 469A.052); ORS 469A.440(1) (citing ORS 756.515).

⁴³ HB 2021, §§ 26-27

⁴⁴ HB 2021, § 26(1)(c)-(d).

separate grant program for community renewable energy projects,⁴⁵ to in part offset the costs of planning and developing community renewable energy projects,⁴⁶ including performance agreements for these projects,⁴⁷ yet not provide even cursory requirements for State-directed procurement? Why would the law amend Oregon’s small-scale renewable energy procurement standard,⁴⁸ an actual procurement mandate,⁴⁹ yet remain silent regarding any details on an assumed power to require utilities to procure resources?

This contrast is even more apparent when reviewing other Commission statutes that would be impacted by State-directed procurement. The Legislature has created a comprehensive statutory scheme that regulates how PacifiCorp should issue securities to fund operations, with almost 20 distinct statutes.⁵⁰ When discussing affiliated transactions and certain transactions between utilities, the Legislature detailed how utilities should engage in these types of transactions.⁵¹ When creating the opportunity for community solar procurement, the Legislature detailed its policy preferences for these resources,⁵² and outlined how community solar procurement should proceed.⁵³ When discussing renewable natural gas procurement, the Legislature thought it appropriate to detail how it expected these procurements should proceed.⁵⁴

If HB 2021 was meant to provide the Commission with the power to direct utilities to enter into renewable energy transactions, which would require some degree of contracting,

⁴⁵ HB 2021, §§ 29-32.

⁴⁶ HB 2021, § 30(1)(a).

⁴⁷ HB 2021, § 31.

⁴⁸ HB 2021, § 37.

⁴⁹ *E.g.*, ORS 469A.210(2).

⁵⁰ ORS 757.400 through 757.467.

⁵¹ ORS 757.480 through 757.516.

⁵² ORS 757.357(2)(d)

⁵³ ORS 757.357(3)-(11).

⁵⁴ ORS 757.390 through 398.

financing, and procurement processes, why would it omit any reference to these long-standing and reasonably related statutes, much less provide any detail around State-directed procurement that it has otherwise provided for these similar concerns?

Finally, long-standing Commission statutes, that similarly direct the Commission to “ensure” or “shall ensure” specific actions, confirm the Commission lacks the power to require utilities to procure resources. The Oregon Legislature has tasked the Commission with “ensuring” specific utility actions in well over two dozen statutes. For example: the Commission is required to establish costs of capital that are sufficient “to ensure confidence in the financial strength of the utility;”⁵⁵ alternative forms of regulation must “ensure that the plan operates in the interests of utility customers and the public generally . . .”⁵⁶; the Commission shall adopt ratemaking mechanisms “that ensure the recovery of all prudently incurred costs” regarding procurement of renewable natural gas;⁵⁷ the Commission may adopt rules “to ensure” that obligations and costs with net metering apply to all power suppliers within a given service territory;⁵⁸ the Commission is required to adopt just and reasonable rates that “shall ensure” recovery of the full costs for pole attachments;⁵⁹ the Commission “shall ensure” that direct access programs satisfy several conditions,⁶⁰ and that utilities offer direct access programs to the extent permitted under federal law;⁶¹ the Commission “shall ensure” that its policies to eliminate barriers to competitive retail markets do not interfere with other utility obligations, like greenhouse gas reductions under HB

⁵⁵ ORS 756.040(1)(a).

⁵⁶ ORS 757.210(2)(b).

⁵⁷ ORS 757.396(2).

⁵⁸ ORS 757.300(7).

⁵⁹ ORS 757.282(1).

⁶⁰ ORS 757.607.

⁶¹ ORS 757.637.

2021;⁶² and the Commission shall “reasonably ensure” that the “costs, risks, and benefits” of certain cost-of-service rate options are reflected in each rate option.⁶³

This language is not new to the Commission. If the Commission has had the broadest power to “ensure” or “shall ensure” specific utility actions all along, it should follow that the Commission would have at least considered State-directed procurement in the past. Yet that has not occurred.

The Commission’s regulatory powers are plenary.⁶⁴ As often observed in other jurisdictions, this is because the regulation of utilities “is one of the most important of the functions traditionally associated with the police power of the states.”⁶⁵ Indeed, the right of a State to regulate a public utility “may well include, so far as the due process test is concerned, power to impose all of the restrictions which a legislature may have a rational basis for adopting.”⁶⁶

Yet it is one thing to discuss these powers in the abstract. It is another to conclude that these general powers, in contrast with the two short sentences in ORS 469A.415(4)(e) and (6), somehow provide the Commission with the power to engage in State-directed procurement.

The Commission’s powers “are limited to those conferred by statute, either expressly or by necessary implication,”⁶⁷ and the Commission cannot otherwise insert what was omitted.⁶⁸ This silence speaks, and the Commission should decline to read into the statute

⁶² ORS 757.646(4).

⁶³ ORS 757.603(4)(a).

⁶⁴ *E.g.*, ORS 756.040(2) (“The Commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.”).

⁶⁵ *Arkansas Electric Coop. Corp. v. Arkansas Pub. Serv. Comm’n*, 461 U.S. 375, 377 (1983).

⁶⁶ *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 639 (1943) (quotation omitted).

⁶⁷ *Tom Lee, Inc., v Pac.Tel. & Teleg. Co.*, 154 Or. 272, 279, 59 P.2d 683 (1936).

⁶⁸ ORS 174.010.

that it has the power to direct PacifiCorp to procure resources.

B. Legislative history is silent regarding State-directed procurement.

Even assuming that the text and context of HB 2021 is ambiguous,⁶⁹ to PacifiCorp’s knowledge there is no legislative history, nor instances from the Stakeholder discussions leading up to the passage of HB 2021, that support a conclusion that the Legislature intended for the language “shall ensure” to allow for State-directed procurement.

The Commission confirmed the opposite. In comments to the House Committee on Energy and Environment on HB-2021-1, the Commission noted that utilities would continue to procure resources “under existing PUC processes.”⁷⁰ This means that CEPs would be “included in or closely linked to the IRP Process,” which “assesses resource needs over the next 20 years and includes an Action Plan of least cost, least risk investments over the next 4 years,” and delays may be required so that “utilities”—not the Commission—“can identify additional near-term investments” to comply with HB 2021.⁷¹

The Commission noted that its role would follow traditional acknowledgment processes: “Acknowledgement of the plans will occur within 6 months of filing, followed by a resource procurement process and any other investment activities acknowledged,” and that for utilities, “this typically involves an RFP that follows the PUC’s competitive bidding rules.”⁷² Further: “PUC acknowledgement of the IRP Action Plan requires a demonstration

⁶⁹ *Gaines*, 346 Or. at 164 (the Commission should examine legislative history “only if” the legislative intent is not clear from the text or context of the law).

⁷⁰ House Committee on Energy and Environment Comments, OPUC Comments on HB 2021-1 Implementation, at 1 (Mar. 26, 2021) (“Utility procurement under existing PUC processes would generally continue (and accelerate) under HB 2021-1 without delay, given the fact that the utilities are currently seeking to acquire least-cost carbon-free renewable resources.”) (available here: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/CommitteeMeetingDocument/236918>).

⁷¹ *Id.* at 3 (“Clean Energy Plans will be included in or closely linked to the IRP process. The IRP process assesses resource needs over the next 20 years and includes an Action Plan of least cost, least risk investments over the next 4 years. Delays to the next IRP cycle may be required so that utilities can identify additional near-term investments needed to meet the targets in HB 2021-1.”).

⁷² *Id.* at 2-3.

that the actions are a least-cost, least-risk strategy to serve customers in the public interest. *The utilities may seek to procure resources in advance of need and have done so to take advantage of economic activities.* Although accelerated procurement is not prohibited, the utility bears the burden to justify the early action.”⁷³

The Legislature agreed. While the Commission is the “regulator of new clean energy requirements” and must “ensure ongoing compliance,”⁷⁴ the Commission can do so by ensuring that CEPs “are submitted to the PUC and sync with existing integrated resource plan (IRP) filings by the utilities every 2 years,” and the Commission “acknowledges the clean energy plan if it meets GHG reductions, reliability, resiliency of the system, costs, technical feasibility, and other factors.”⁷⁵ This aligns with the Legislative Staff’s analysis of what HB 2021 would require, which is silent regarding any discussion of Commission-directed procurement.⁷⁶

Renewable Northwest agreed. “While planning can mean different things at different agencies, at the PUC planning directly flows through to utility resource procurement and ultimately to utility rate recovery. Specifically, for investor-owned utilities (“IOUs”), HB 2021-1 would link implementation of the emission targets to a utility’s integrated resource plan (“IRP”) process.”⁷⁷ Renewable Northwest continued: “In other words, when an IOU concludes in its IRP that it should buy new renewables, and the PUC acknowledges that IRP,

⁷³ *Id.* at 3 (original Commission emphasis).

⁷⁴ “House Bill 2021A: 100% Clean Energy Section-By-Section Bill Summary,” at 1 (May 12, 2021) (available here: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/CommitteeMeetingDocument/242406>).

⁷⁵ *Id.*

⁷⁶ *E.g.* HB 2021 A and B Staff Measure Summaries (available here: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureAnalysisDocument/59931>; <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureAnalysisDocument/61706>).

⁷⁷ House Committee on Energy and Environment Comments, Renewable Northwest Conditional Support for HB 2021, at 1 (Mar. 23, 2021) (available here: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/19840>).

then it is easier for the IOU to recover the cost of those new renewables in customer rates.”⁷⁸

This is not news to those involved with the passage of HB 2021. The discussion around enactment was not focused on somehow vesting the Commission with the power to direct utilities to procure resources. Instead, one of the primary legislative debates focused on whether HB 2021 should be *strengthened* to create stronger procurement mandates (which the Legislature ultimately declined to do). Yet this debate was not focused on State-directed procurement; it was focused on expanding Oregon’s renewable portfolio standard. For example, the developer community initially opposed HB 2021 as an emissions-reduction standard, in part because they sought greater procurement mandates.⁷⁹ The Legislature rejected this request for a stronger procurement mandate, and ultimately settled on an emissions-reduction standard.

Yet regardless which approach the Legislature would ultimately take, from the Commission’s perspective, HB 2021 would “not significantly impact current utility procurement activities under existing process due to the fact that renewable resources are

⁷⁸ *Id.*; see also House Committee on Energy and Environment Comments, Renewable Northwest Support for HB 2021, at n. 2. (Apr. 7, 2021) (“When discussing how it “will elaborate on how Oregon resources are well-positioned to win” HB 2021-procurement decisions, Renewable Northwest noted that “inclusion of a resource in an IRP preferred portfolio does not guarantee procurement; it is, however, an indication that the resource appears well positioned to be a least-cost, least-risk resource for the company based on all available information.”) (available here:

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/24294>).

⁷⁹ House Committee on Energy and Environment Comments, NIPPC Comments, at 4 (Mar. 22, 2021) (“Finally, I note that a key part of any clean energy bill has to be a clear procurement signal to investors and developers of new clean energy. Perhaps the emissions standards proposed here would lead to prompt procurement by load-serving entities of new clean energy. But an alternative bill with a procurement compliance requirement, such as an increase of the existing renewable portfolio standard and expansion to cover all non-emitting technology, could accomplish this goal as well.”) (available here:

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/19538>); House Committee on Energy and Environment Comments, NewSun at 2 (Mar. 23, 2021) (when discussing how procurement under an emissions standard in HB 2021 would lead to delays due to “The normal OPUC workings: Rules-then-IRPs-then-RFPs-then-PPAs-then-Construction.”) (available here: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/19846>).

least cost options that would help meet either emission reduction or enhanced RPS targets.”⁸⁰

While Oregon only examines legislative history “for what it’s worth,”⁸¹ it should mean something that neither the Legislature, Commission, Renewable Northwest, Northwest and Intermountain Power Producers Coalition (NIPPC), nor NewSun Energy LLC (NewSun) discuss State-directed procurement during the passage of HB 2021. Especially when each confirmed that procurement would follow a demonstration of need in an IRP, followed by Commission acknowledgement, and utility procurement under the Commission’s competitive bidding requirements.

NewSun’s remarks to the Legislature said it best. Procurement under HB 2021 would follow “normal OPUC workings: Rules-*then*-IRPs-*then*-RFPs-*then*-PPAs-*then*-Construction.”⁸²

C. Several maxims of statutory construction support the conclusion that the Commission lacks the power to engage in State-directed procurement.

While maxims of statutory construction can generally be wielded to support or oppose any interpretation of a text,⁸³ at least two support the conclusion that the Commission lacks the power to engage in State-directed procurement.

i. The Commission should avoid absurd results.

The Commission should avoid “absurd results” when interpreting genuinely

⁸⁰ House Committee on Energy and Environment Comments, OPUC Comments on HB 2021-1 Implementation, at 6 (Mar. 26, 2021) (discussing whether an emissions reduction or increase to Oregon’s renewable portfolio standards would impact procurement).

⁸¹ *Portfolio Recovery Associates, LLC v. Sanders*, 366 Or. 355, at 364, 462. 263 (2020) (citing *Gaines*, 346 Or. at 171).

⁸² House Committee on Energy and Environment Comments, NewSun at 2 (Mar. 23, 2021) (original emphasis).

⁸³ Karl N. Llewellyn, “Remarks on the Theory of Appellate Decision and the Rules or Canons about how Statutes are to be Construed,” 3 *Vanderbilt Law Review* 395 (1950) (“When it comes to presenting a proposed construction in court, there is an accepted conventional vocabulary. As in argument over points of case-law, the accepted convention still, unhappily requires discussion as if only one single correct meaning could exist. Hence there are two opposing canons on almost every point.”) (available here: <https://scholarship.law.vanderbilt.edu/vlr/vol3/iss3/24>).

ambiguous statutory terms.⁸⁴ The question here should be framed as: If the Commission can read in the ability to require utilities to procure clean energy resources under HB 2021, what exactly can the Commission not do?

As the Commission’s decision in docket UM 2273 confirms, HB 2021 is not a clean energy standard,⁸⁵ it is an emissions reduction standard.⁸⁶ The Commission confirmed this in its comments to the legislature when considering what form HB 2021 should take: “An emissions-based approach may result in near-term investment in renewables given the utilities’ current resource strategies, but is not designed to drive investment in a specific resource type within a specific timeframe.”⁸⁷ Instead, “an emissions-based policy will drive utilities [to] consider a range of near-term investments, including demand response, energy efficiency, and non-emitting capacity resources such as storage technology or optimally-sited renewables.”⁸⁸

If the law and the Commission’s prior comments confirm that HB 2021 does not require PacifiCorp to procure clean energy—and instead just reduce emissions—why would the Commission revert course and now conclude that the law provides the opposite? If there were any residual powers provided by HB 2021,⁸⁹ wouldn’t a more reasonable interpretation vest the Commission with the power to direct PacifiCorp to reduce emissions through the curtailment or accelerated depreciation of emitting resources allocated to serve Oregon retail customers? Yet that is not the action that the Commission is currently contemplating.

⁸⁴ *Folkers v. Lincoln County School Dist.*, 135 P.3d 373 (2006); *Fleetwood Homes of Oregon v. Vanwechel*, 993 P.2d 171, 173 (Or. App. 1999).

⁸⁵ *In re Commission HB 2021 Investigation*, Docket No. UM 2273, Order No. 24-002 (Jan. 5, 2024).

⁸⁶ *E.g.*, ORS 469A.410 (requiring 80, 90, and 1000 percent reductions in emissions from baseline percentages).

⁸⁷ House Committee on Energy and Environment Comments, OPUC Comments on HB 2021-1 Implementation, at 5 (Mar. 26, 2021).

⁸⁸ *Id.*

⁸⁹ Which PacifiCorp believes the Commission lacks given the language in ORS 469A.420 that limits the Commission’s role to acknowledgement of utility CEPs.

A conclusion that HB 2021 permits State-directed procurement would be absurd given the law is focused on reducing emissions, not increasing clean energy generation.⁹⁰

ii. Neither Oregon—nor any other utility commission PacifiCorp is aware of—have engaged in State-directed procurement.

It would be an unprecedented act for this Commission to direct PacifiCorp, or any utility, to issue an RFP or order the procurement of resources.

While Oregon has not adopted clear statement rules outside the criminal justice context,⁹¹ it should consider doing so for an issue of this magnitude. The Legislature “does not . . . hide elephants in mouseholes.”⁹² And without a clear statement in HB 2021 regarding State-directed procurement, indeed any statement regarding procurement, the Commission should conclude that the law does not allow for State-directed procurement. To do otherwise would “bring about an enormous and transformative expansion in [the Commission’s] regulatory authority without clear [statutory] authorization.”⁹³ The Legislature “could not have intended to delegate a decision of such economic and political significance to an agency in so cryptic a fashion.”⁹⁴

This is an important issue that should be left for Oregon’s legislative assembly to resolve.

III. THE COMMISSION SHOULD RESERVE FURTHER REVIEW OF ITS POWERS UNDER HB 2021 FOR FUTURE INVESTIGATIONS OR RULEMAKING PROCEEDINGS.

Consistent with the Company’s discussion above, the Commission’s role regarding

⁹⁰ *Folkers*, 135 P.3d at 377.

⁹¹ *E.g., Soderstrom v. Premo*, 274 Or.App. 624, 360 P.3d 1272 (2015).

⁹² *Whitman v. American Trucking Associations*, 531 U.S. 457, 468 (2001).

⁹³ *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 325 (2014).

⁹⁴ *FDA v. Brown & Williamson Tobacco*, 529 U.S. 120, 161 (2000).

ensuring continual progress is confined to acknowledgment, or not, of utility CEPs.⁹⁵ This power does not include the ability to engage in State-directed procurement. Any additional investigations regarding the Commission’s authority to implement HB 2021 in the event of utility inaction should occur in a Commission investigation or rulemaking proceeding.

IV. THERE ARE PROFOUND IMPLICATIONS THAT WOULD RESULT FROM STATE-DIRECTED PROCUREMENT.

State-directed procurement would fundamentally rewrite the Commission’s century-long role as economic regulator. Consider the consequences that would result from this decision.

Start with impacts to the Commission and PacifiCorp’s traditional responsibilities.

Would the Commission now be a manager of utility operations, and no longer an economic regulator? As the Commission has long held, its role “is not to manage the utility, but to consider the utility’s management and its effect on rates.”⁹⁶ Yet directing procurement would appear to fall squarely within the managerial role of the utility. Every treatise on economic regulation has cautioned against legislative bodies providing, or utility commissions assuming, that the State has or should be provided this power.⁹⁷ The

⁹⁵ ORS 469A.420(2) (“The Public Utility Commission shall acknowledge the clean energy plan if the commission finds the plan to be in the public interest and consistent with the clean energy targets set forth in ORS 469A.410.”).

⁹⁶ *Portland v. PGE*, Docket UM 1262, Order No. 06-636 (Nov. 17, 2006) (citing *Pac. Tel. & Tel. Co. v. Flagg*, 189 Or. 370, 396, 220 P.2d 522, 533 (1950)).

⁹⁷ *E.g.*, Regulation and its Reform, Stephen G. Breyer, at 185 (1984) (“Classical regulation ought to be looked upon as a weapon of last resort. The problems accompanying classical regulation would seem sufficiently serious to warrant adopting a least restrictive alternative approach to regulation. Such an approach would view regulation through a procompetitive lens. It would urge reliance upon an unregulated market in the absence of a significant market defect. Then, when the harm produced by the unregulated market is serious, it would suggest first examining incentive-based intervention, such as taxes or marketable rights, or disclosure regulation, bargaining, or other less restrictive forms of intervention before turning to classical regulation itself. It would urge the adoption of classical regulatory methods only where less restrictive methods will not work.”); Lee Loevinger, “Regulation and Competition as Alternatives,” 11 *The Antitrust Bulletin* 101, 125 (1966) (“The difficulty is that no regulatory agency can acquire or utilize effectively the range of data which influence a competitive market. Consequently, the ability of regulation to substitute for competition has an inherent limitation which cannot be wholly overcome by any improvement in the regulatory structure or process.”).

Commission should not disregard this long-standing division of labor due to the unintended consequences that could result.

Consider one example. Would State-directed procurement remove the Commission’s ability to engage in fulsome prudence evaluations of resources that PacifiCorp procured from any RFP? The Commission’s prudence standard reviews utility investments “from the point in time of the utility’s actions and reach our decision without the advantage of hindsight.”⁹⁸ The Commission employs a reasonableness test when doing so.⁹⁹ Yet if the Commission’s reasonableness test asks “whether the utility exercised the standard of care which a reasonable person would be expected to exercise under the same circumstances encountered by utility management at the time the decision had to be made,”¹⁰⁰ yet here the Commission stood in PacifiCorp’s managerial shoes when it directed PacifiCorp to issue an RFP to procure resources, there would have to be some impact. As further discussed below, PacifiCorp stresses that State-directed procurement would require preapproval of all costs and expenditures incurred from these efforts. Customer groups have already raised this point on similar issues before the Washington Commission.¹⁰¹

There are also liability implications for PacifiCorp from State-directed procurement. Would PacifiCorp’s procurement efforts be protected by the State’s sovereign immunity? Oregon has held that not only are the state and its agencies protected by sovereign immunity,

⁹⁸ *In re PacifiCorp’s 2020 Rate Case*, UE 374, Order No. 20-473, at 69 (Dec. 18, 2020).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *In re PacifiCorp’s CEIP Update*, Docket No. UE-210829, AWEC Post-Hearing Brief, ¶ 21 (Nov. 12, 2024) (“Legal authority aside, [State-directed procurement] is not consistent with sound regulatory policy. Utilities are compensated for the risk associated with providing service through the rate of return authorized by the Commission. When a commission steps in the shoes of the utility, it disrupts the balance of risk allocated between ratepayers and shareholders. *Further, if the Commission directs a specific action and the outcomes proves to disadvantage customers, a prudence disallowance is effectively precluded because the utility is acting in accordance with Commission direction.*”) (available here: <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1301&year=2021&docketNumber=210829>).

so are “instrumentalities” of the state.¹⁰² An instrumentality of the state “performs a function traditionally performed by the state,” the state “generally outlines the powers and duties of its instrumentalities, either via statutory enactment or some other method,” and instrumentalities are “subject, at least in part, to the control of the state in some way.”¹⁰³ If the Commission has always held plenary authority of utility rates and services,¹⁰⁴ and now that power under HB 2021 would extend to resource procurement, what would be left of PacifiCorp’s private affairs that would no longer be subject to state control? As an instrumentality of the State, PacifiCorp’s procurement efforts could only be subject to liability to the limited extent permitted by the Constitution and Oregon Tort Claims Act.

This is not hyperbole. Last year Texas held exactly that: the Electric Reliability Council of Texas (ERCOT) is entitled to sovereign immunity as an “arm of the State,” and could not be sued for damages caused by ERCOT in response to Winter Storm Uri.¹⁰⁵ While a traditional investor-owned utility could never claim these protections, removing the Company’s ability to plan to serve its customers through resource procurement, and instead have that function controlled by a state agency (in addition to the Commission’s other regulatory powers), is a different question.

There are also liability implications for the Commission itself. Would the Commission be exposing itself to derivative lawsuits? Consider the following scenario. PacifiCorp has recently had its credit downgraded by two credit ratings agencies.¹⁰⁶

¹⁰² *Clarke v. OHSU*, 175 P.4d 418, 426 (2007) (emphasis added).

¹⁰³ *Id.* at 427 (2007).

¹⁰⁴ *E.g.*, ORS 756.040(2) (“The Commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.”).

¹⁰⁵ *CPS v. ERCOT*, 671 S.W.3d 605, 623-629 (2023).

¹⁰⁶ *E.g.*, “*PacifiCorp Downgraded to BBB+, Outlook Revised to Negative; Berkshire Hathaway Energy Co. Outlook Also Negative*,” S&P Global Ratings (June 20, 2023) (available here: [https://www.spglobal.com/ratings/en/press-releases/2023/06/20/pacifi-corp-downgraded-to-bbb-plus-outlook-revised-to-negative-berkshire-hathaway-energy-co-outlook-also-negative](#)).

PacifiCorp has material cash outlays due to ongoing litigation expenses, which has limited the Company's liquidity.¹⁰⁷ As a result of this proceeding, assume the Commission directs PacifiCorp to procure resources to reduce greenhouse gas emissions, and this procurement results in further credit downgrades or liquidity or solvency concerns. Would PacifiCorp's shareholders have standing to bring a derivative lawsuit against the Commission, who would appear to be acting as an officer or director, ostensibly or otherwise, of the corporation?

There are too many unintended consequences that could result from State-directed procurement. Given that no commission has done so (at least not to PacifiCorp's knowledge), and the long-standing practice against interfering with the management of investor-owned utilities, the Commission should be cautious in how it proceeds.

If the Commission nonetheless decides to require PacifiCorp to procure resources to comply with HB 2021, PacifiCorp believes there are at least five issues that the Commission must address.

First, while it appears the Commission is not considering procurement that could result in costs to other states, the Commission needs to confirm that any State-directed procurement is limited to Oregon-situs resources. For Due Process and Commerce Clause reasons, the Commission cannot direct PacifiCorp to seek recovery of any of these investments from wholesale or retail customers located outside the State of Oregon.

Second, the Commission must preapprove cost recovery of all resources that it directs PacifiCorp to procure (including all necessary distribution and transmission network

<https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3009376>); "Moody's Rating Action: Moody's downgrades PacifiCorp to Baa1, outlook stable" (Nov. 21, 2023) (available here: https://www.moodys.com/research/Moodys-downgrades-PacifiCorp-to-Baa1-outlook-stable--PR_482643?cy=centraleur&lang=en).

¹⁰⁷ E.g., Berkshire Hathaway Energy Company 2023 Form 10-K, at 77-78 (Dec. 31, 2023) (available here: <https://bit.ly/3wyWQw6>).

upgrades required for these resources). This includes typical costs and expenditures of these resources, but also financing costs.

Starting with costs and expenditures, the Company would be subject to material disallowance risk if the Commission does not preapprove cost recovery of these purchases. For example, PacifiCorp's current long-term resource plans (the 2023 IRP Update and CEP Supplement), do not support the need for, nor call for the issuance of an RFP to procure, HB 2021-compliant resources at this time. While this may change with the 2025 IRP and CEP, it is not currently the case. If PacifiCorp procured these resources without a demonstrated need to do so, customer groups could reasonably argue that the Company was imprudent for moving forward with these purchases and seek to disallow these investments in future rate proceedings. The Commission's decision in this case must ensure that result cannot happen.

Moving to financing costs, because of the scale of resources needed to reduce PacifiCorp's greenhouse gas emissions, PacifiCorp would issue securities to finance these expenditures. Because the Commission lacks the power to direct PacifiCorp's financing methods,¹⁰⁸ nor the ability to influence the cost of these activities, PacifiCorp would have to secure financing at then-available rates. This would impact PacifiCorp's already weakened financial condition. Because PacifiCorp does not have an Oregon-specific credit profile, it would impact the Company's borrowing costs in each state where it operates. The Company would need to be made whole for any impacts caused by these Oregon-specific financing activities, including the increased costs to finance expenditures that would otherwise not be allocated to Oregon.

Third, the Commission must exclude all net power costs that would result from these

¹⁰⁸ *E.g.*, ORS 757.400 through 757.467 (discussing the Commission's authority to approve certain PacifiCorp security issuances).

resources from PacifiCorp’s net power cost proceedings. State-directed procurement that results in new generation resources will impact PacifiCorp’s net power costs. Yet Oregon has performance incentives that are based on the assumption that the Company has sole managerial responsibility for how it procures resources and operates its system to reasonably maximize net power costs for its customers.¹⁰⁹ To the extent State-directed procurement increases net power costs, for example due to variability in the assumed or actual capacity factors of these resources that requires PacifiCorp to offset this lowered generation with other resources or market purchases, these costs must be specifically excluded from PacifiCorp’s net power cost proceedings.

Following directly from above, *fourth*, the Commission should establish a mechanism to track the costs incurred from State-directed procurement and monitor the impact that these resources have on PacifiCorp’s operations. HB 2021 does not require compliance at any cost, or under all scenarios. There are short-term exemptions from compliance with HB 2021’s emissions reductions based on unplanned emissions, excessive costs, impacts to system reliability, or if compliance would compromise the power quality or integrity of the system.¹¹⁰ These requirements could be triggered in any number of scenarios, but relevant here, they can only be triggered after a review of PacifiCorp’s then-current emissions, actual or forecast costs, or system reliability, power quality, or integrity. A deferred accounting order or similar mechanism needs to be established to determine if any of these exemptions would be triggered by State-directed procurement.

Fifth, depending on the scope of any Commission decision, there could be a number

¹⁰⁹ *E.g., In re PacifiCorp’s 2012 Rate Case and Request for a PCAM*, Docket No. UE 246, Order No. 12-493, at 13 (“the PCAM should provide an incentive to the utility to manage its costs effectively.”).

¹¹⁰ ORS 469A.435 through .445.

of unintended consequences or implementation concerns that arise. For example, while it is likely that a decision in this proceeding that requires PacifiCorp to procure resources could require the waiver of various Commission competitive bidding regulations, it is unclear exactly what would be required at this time. If the Commission proceeds down this path, the Company respectfully requests additional opportunities to inform the Commission on the most appropriate path forward.

V. CONCLUSION

The Company requests the Commission conclude it lacks the power to engage in State-directed procurement under HB 2021. To the extent the Commission has any lingering questions regarding the implementation of the law, these issues are more appropriately addressed in future Commission investigations or rulemakings.

Respectfully submitted November 13, 2024,

/s/ Zachary Rogala

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October 28, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

**Re: UM 2345—PacifiCorp Continual Progress towards HB 2021 Compliance—
PacifiCorp’s Motion to Suspend the Procedural Schedule (*Expedited Consideration Requested*)**

PacifiCorp d/b/a Pacific Power (PacifiCorp) submits for filing its Motion to Suspend the Procedural Schedule (*Expedited Consideration Requested*) in the above referenced docket.

Informal inquiries may be directed to Cathie Allen, Manager, Regulatory Affairs, at (503) 813-5934.

Sincerely,



Matthew McVee
Vice President, Regulatory Policy and Operations

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2345

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Continual Progress towards HB 2021
Compliance.

PACIFICORP’S MOTION TO SUSPEND
THE PROCEDURAL SCHEDULE

(Expedited Consideration Requested)

In accordance with OAR 860-001-0420, PacifiCorp dba Pacific Power (PacifiCorp) respectfully requests that the Public Utility Commission of Oregon (Commission) issue an order suspending the procedural schedule in this docket. Because the Initial Concurrent Brief is due November 13, 2024, PacifiCorp requests expedited treatment of this motion in accordance with OAR 860-001-0420(6).

On October 28, 2024, PacifiCorp filed a Petition for Judicial Review with the Marion County Circuit Court, seeking judicial review of Order No. 24-297 entered in Docket No. LC 82 (Petition). Thus, PacifiCorp requests that the procedural schedule in this docket is suspended until the Court issues an opinion on the Petition.

PacifiCorp’s request for a suspension is reasonable for several reasons. First, this docket was initiated to address questions regarding the Commission’s authority that flowed from the Commission’s directives in Order No. 24-297. It is therefore reasonable for the Commission to suspend the procedural schedule in this docket while the Court addresses the issues raised in the Petition. The Petition raises issues that are directly related to the matters at issue in this docket. Should the Court remand Order No. 24-297 to the Commission, the matters at issue in this docket may be moot. Given the gravity and scope of the questions presented in the Petition and in this docket, a suspension of the procedural schedule is

warranted until the threshold questions regarding the Commission’s authority to order the relief mandated in Order No. 24-297 are resolved.

Second, suspending the procedural schedule in this docket will conserve administrative resources given that the Court may find the Commission exceeded its authority in Order No. 24-297. Because the Commission’s directives in Order No. 24-297 may be altered significantly, if not rendered moot depending on the outcome of PacifiCorp’s Petition, the Commission may find it will need to rescope the issues in this docket following the Court’s opinion. A suspension of the procedural schedule in this docket will prevent the expenditure of time and resources addressing an order that the Court may determine is beyond the Commission’s power to award.

Third, postponing compliance will not delay PacifiCorp’s preparation and issuance of the 2025 Integrated Resource Plan (IRP), and if justified, a Request for Proposal (RFP) based on the results of the 2025 IRP. Thus, even if the Commission grants this postponement, PacifiCorp will continue to work towards issuance of an RFP in 2025.

PacifiCorp has contacted the parties to this docket. As of the time of filing, no party supports the motion, and multiple parties, including Commission Staff, the Oregon Citizens’ Utility Board, Northwest & Intermountain Power Producers Coalition, Renewable Northwest, NW Energy Coalition, Sierra Club, Green Energy Institute, and Mobilizing Climate Action, each oppose the motion.

PacifiCorp respectfully requests the Commission’s expedited consideration of this petition, and requests resolution within 30 days. If the Commission denies PacifiCorp’s petition, PacifiCorp will seek a stay with the Court.

Respectfully submitted this 28th day of October, 2024.



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PacifiCorp Attorney

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF MARION

PACIFICORP, dba PACIFIC POWER,

Petitioner,

v.

OREGON PUBLIC UTILITY
COMMISSION, an agency of the State of
Oregon,

Respondent.

Case No. 24CV51484

J. Channing Bennett

MOTION TO DISMISS

3
4 **CERTIFICATE OF SERVICE**
5

6 I certify that on the 6th day of December, 2024, I served the foregoing MOTION TO DISMISS,
7 on the parties to this proceeding, 24-CV-51484, via electronic mail, addressed to the following:
8
9

10 *PacifiCorp*

11
12 Bruce L. Campbell
13 Jessica Ann Bernardini
14 jessica.bernardini@millernash.com
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16

17 *Oregon Public Utility Commission*

18
19 Nicholas Mancuso
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21

22
23 Dated: December 6, 2024
24

Respectfully submitted,

25 /s/ Leah Bahramipour

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