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Oregon Public Utility Commission
201 High St. SE, Suite 100
Salem, OR 97301-3398

**Re: Docket LC 80: Columbia River Inter-Tribal Fish Commission's Round 2
Comments on Portland General Electric's Clean Energy Plan and Integrated
Resource Plan**

The Columbia River Inter-Tribal Fish Commission (CRITFC) appreciates the opportunity to provide comments on the Public Utility Commission of Oregon (Commission) Staff's Final Comments and Draft Recommendations for Portland General Electric's (PGE) 2023 Integrated Resource Plan (IRP) and Clean Energy Plan (CEP). CRITFC commends Staff for their thorough analysis in these Final Comments and agrees with their recommendations overall. While PGE has made a good-faith first effort to comply with HB 2021's novel planning requirements, it must improve the assumptions and methodologies guiding its long-term plans before this CEP/IRP should be acknowledged.

CRITFC is a leading technical assistance agency for natural resources management in the Pacific Northwest, and is a political subdivision of the Nez Perce Tribe, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, and Confederated Tribes and Bands of the Yakama Nation (hereafter, Member Tribes). We write to lend a tribal perspective in these discussions and to initiate further dialogue with the Commission, Staff, and PGE about how to move forward with implementing HB 2021 in a way that aligns with the vision, rights, and authorities of our Member Tribes.¹

CRITFC and the Member Tribes envision a future where the Columbia Basin electric power system supports healthy and harvestable fish and wildlife populations, protects tribal treaty and cultural resources, and provides clean, reliable, and affordable electricity. The Northwest is at a critical crossroads, facing challenges to the health of the planet and the future of iconic fish and wildlife. These challenges are especially important to tribal resources that have sustained tribal people since time immemorial. The Member Tribes recommend a path that leads to affordable, carbon-free energy that harmonizes with the ecosystem. This future will prioritize energy efficiency, renewable resources, new storage technologies, reductions in peak loads, and other strategies that are compatible with the needs of fish and wildlife. These measures should reduce the

¹ These ideas are set out in our *2022 Energy Vision* document, which we have attached in our first comment of this proceeding and are also available at www.critfc.org/energy-vision/. These comments should be read as a whole with the tribes' *Vision* document.

impacts of renewable resource projects and transmission lines on tribal resources and save consumers money.

I. The Commission should require PGE to adequately value energy efficiency in this IRP in order to properly forecast its impact on future demand, long-term community benefits, and greenhouse gas reductions.

CRITFC strongly supports Staff's recommendations that the Commission should only acknowledge PGE's action plan when it determines that the utility has fully prioritized energy efficiency. As Staff recommends, PGE should develop all 53 aMW of cost-effective efficiency resources identified in this IRP and amend its portfolio to reflect these investments.² Then, PGE should engage collaboratively with Staff, the Energy Trust of Oregon (Energy Trust), tribal governments, and stakeholders to develop new methodologies that fully value energy efficiency's benefits, and more accurately calculate its future avoided costs.³ We point you to CRITFC's reply brief in UM 2273 calling for a major overhaul of these critical methodologies.

Expectations set today become greenhouse gas reductions and community benefits of tomorrow. They mark an important initial step in the long-term pathway to implement HB 2021. CRITFC's support for Staff's recommendation is grounded in its belief that energy efficiency investment in tribal communities fall far short of need and fail to realize the potential to significantly improve both portfolio performance and the lives of those that live in these communities. It is critical, as Staff's recommendation infers, that under-inclusive performance goals not be allowed to permeate into future program forecasts.

Efficiency investments are among the lowest-cost resources to meet future energy needs, while saving crucial electricity during peak load periods.⁴ As a result, efficiency – combined with demand reduction and distributed resources (DR) – is one of the most important means for protecting fish, wildlife, and tribal treaty fisheries in the context of the energy system. With appropriate deployment, efficiency investments can achieve twin goals of improving social equity and addressing major grid inefficiencies due to lack of resource deployment in low income residential and commercial sectors.

The ecological and social externalities of new generation and transmission development can, and should, be calculated and reflected in the true value of efficiency. Likewise, as a matter of public policy, equitable energy efficiency investments targeted at low-income customers promise greater reliability and safety for communities. As risks and

² Draft Recommendations 1 and 4, at 9, 14.

³ Draft Recommendations 2, at 8-9.

⁴ See Frick, et al. *Peak Demand Impacts from Electricity Efficiency Programs*, Electricity Markets and Policy (November, 2011), <https://emp.lbl.gov/publications/peak-demand-impacts-electricity>.

impacts from the climate crisis, including extreme weather events like heat domes and ice storms and localized grid failure, continue to escalate in frequency and intensity, energy efficiency improvements provide a broad range of public benefits, both quantifiable and currently non-quantified. The non-quantified benefits, such as greenhouse gas reductions, are perhaps even more important than those that have been traditionally quantified. Finally, methodology improvements should account for the expected benefits of federal incentives, rapidly evolving technologies, and a dynamic market environment.

For all of these reasons, CRITFC appreciates PGE's honest recognition of the shortcomings of existing avoided cost templates.⁵ As PGE looks ahead to collaborating with Staff, Energy Trust, Tribes, and stakeholders, we offer the following suggestions for the Commission to consider as starting points to guide this discussion:

- **Review the existing avoided cost inputs and incorporate the scale and intensity of climate change.** We recommend that the Commission review the current metrics driving its avoided cost calculations and incorporate the costs associated with changes to the climate, including impacts to the environment, future energy demand and production, and the systemic grid changes expected from implementing HB 2021 and other policies enacted to address these impacts.
- **Accelerate the process for updating avoided costs.** This recommendation should also be tailored to overhauling existing avoided cost methodologies. Streamlining the mechanics of the Oregon process will be beneficial in the next few years, but will not by themselves produce the systemic policy changes adopted by Oregon in HB 2021. The Commission should consider options for accelerating how cost updates move from the forecasting process into approval for Energy Trust use, perhaps in time for 2024 implementation. An accelerated process would result in more accurate and likely higher avoided costs thus easing near-term cost-effectiveness constraints.
- **Cost-effectiveness tests should not be conducted at the project level.** We recommend that cost-effectiveness tests be performed at an appropriate scale. In the 2024 budget and action plan discussions, the Energy Trust has suggested moving to portfolio-only tests, as is done in Washington. Given the inability of cost-effectiveness methods to capture the true cost of GHG emissions and the grid's over-reliance on the Columbia River hydro system, we caution against depending on resource investment tests that heavily weight formerly traditional notions of cost-effectiveness.

⁵ Docket No. UM 1893

- **Enhance low-income investments with other energy resource investments and subject them to different investment criteria.** The aim should be to increase energy efficiency investments in low-income communities.” Oregon House Bill 2475, passed two years ago, creates a legal framework for equity investments.⁶ Like California, “market support” for program costs, key elements of achieving high levels of deployment of Demand Side Resources (DSR), should be separated from program costs and not directly subjected to cost-effectiveness testing. These include programs with a primary objective of supporting the long-term success of the energy efficiency market by educating customers, training contractors, building government infrastructure and partnerships, or moving beneficial technologies towards greater cost effectiveness. Tribal energy programs, like others, are constrained by the lack of human capital to integrate the deployment of efficiency resources with other programs in residential and commercial settings.
- **Quantify more non-energy benefits of efficiency.** Under the current Oregon Commission process, the Energy Trust may quantify those benefits where this takes reasonable effort and provides a reasonable range of uncertainty. Fully quantifying the co-benefits of energy efficiency however is likely to remain elusive and their quantification should not be a barrier to deployment. Energy Trust is exploring how to quantify health benefits from weatherization programs and is scanning for other benefits that can be estimated with reasonable effort and with confidence. Other more difficult-to-quantify benefits are currently considered through the exception process. Some analytical device better than an “exception” is needed. CRITFC and its member tribes are very aware of the problems to salmon and the costs to their environment due to climate change.⁷ These costs include very real adaptations to habitat improvement measures necessitated by prudent climate change planning. These costs are real but hardly recognized in the broader planning environment. Something better than an “exception” is needed to robustly address the GHG mandates of HB 2021 as well as its policy mandates.
- **Use a Societal Test instead of the Total Resource Cost test.** This would incorporate benefits to society that are not specific to ratepayers, participants, or the utility system such as the societal benefits of carbon reduction beyond the compliance costs avoided by the utility, employment benefits, or social justice. Several states use this test. The societal test should include a wider array of pollution costs beyond carbon dioxide emissions.

⁶ HB2475 (2021) (*amending* ORS 756.010, 757.072 and 757.230 to create special rate classes for low-income and environmental justice communities).

⁷ www.critfc.org/fish-and-watershed/climate/

We look forward to future conversations, and reiterate our support for Staff's recommendations on these issues.

II. PGE and Warm Springs' Bethel-Round Butte Project reflects the value of tribal partnerships and consultation. (Recs. 3, 5, 8, 10)

CRITFC agrees with Staff's recommendation that PGE should more rigorously analyze its transmission needs overall.⁸ Transmission projects create major impacts to plants, wildlife, and tribal treaty resources on- and off-reservation. These investments should be critically examined and their impacts thoroughly investigated.

In this light, we appreciate that Staff highlighted the recent agreement between the Confederated Tribes of Warm Springs (CTWS) and PGE to upgrade the 230 kV Bethel-Round Butte transmission line. Projects like Bethel-Round Butte – which proceed through express tribal consent and are designed, built, and operated in partnership with tribal governments – represent the highest standard for business in Indian country, and this project alone will create significant benefits for the tribal community. The project will serve growing needs east and west of the Cascades, and does so by re-investing in existing relationships and infrastructure. As CTWS Tribal Chairman Jonathan Smith said of the partnership, "This is a tremendous opportunity that will open the potential for renewable energy development on the CTWS Reservation to the economic benefit of the tribe and its membership."⁹ We applaud PGE for its thoughtful practices and clear commitment to building partnerships in Indian country.

We also appreciate Staff's recommendations that PGE continue to develop its engagement with diverse community voices and integrate their decisions in its IRP recommendations and portfolio selection.¹⁰ Staff's recommendation for a working group to develop these protocols is sound, and should lead to better valuations of community benefits and a more responsive IRP/CEP overall. Likewise, we support the Energy Advocate's comments and Staff's recommendation that PGE be required to go beyond traditional RFP practices and pursue a broader range of community-led mechanisms for procuring CBRE.¹¹ The only way to realize HB 2021's broad and inclusive mandate is to actually seek out and build partnerships with communities on the ground.

That said, tribes are not stakeholders. CRITFC's Member Tribes are sovereign governments. Because of decades of misuse, the term "stakeholder" is not appropriate

⁸ Draft Recommendation 5, at 15.

⁹ <https://www.prnewswire.com/news-releases/us-doe-grants-250m-to-confederated-tribes-of-warm-springs-in-partnership-with-pge-for-critical-transmission-upgrades-301961167.html>

¹⁰ 4.2 Community Engagement and Draft Recommendation 8, at 29-30.

¹¹ Draft Recommendation 3, at 11.

to characterize tribal governments or their subordinate organizations. It triggers connotations of bygone eras of assimilationist policies where tribes were treated just like other user groups.

Working with tribal communities requires direct and meaningful consultation and partnership-building with tribal governments. As the Bethel-Round Butte project demonstrates, these practices are essential to realizing HB 2021's ambitious mandate. In order to give meaning to the statute's provisions, the diverse interests of affected tribal communities must be understood and considered by decision makers through direct engagement with the tribes and their elected officials. All the Member Tribes fish on the Columbia River, share an interest in a fish- and climate-friendly energy system, and should be consulted at a pre-decisional stage of IRP/CEP development and CBRE procurement.

At a fundamental level, such engagement recognizes and acknowledges the sovereignty of tribal governments, their authority to govern activities occurring within reservation boundaries, and the scope and meaning of treaty rights reserved to the tribe. Importantly, each tribal government is shaped by their singular culture, traditions, and unique history. As a result, they may or may not share the specific interests of other tribes or may give a specific issue different weight in importance or immediacy. In the end, the interests of each tribe will be driven by its needs and what its governing body believes essential to assuring the safety, health, and welfare of its members. For PGE, the range and complexity of tribal interests can only be learned by direct engagement with the tribes on the multitude of subjects and outcomes offered in its CEP/IRP. This task may be formidable but is nonetheless required to comply with express provisions of HB 2021.¹²

Successful engagement with tribes starts with the recognition and acknowledgement of a tribal government's sovereignty and authority to govern activities occurring both within reservation boundaries and as affecting off-reservation reserved treaty rights. Also important is the recognition that elements of protocol come into play when interacting with tribal governments. For example, tribal elected officials expect an equivalent level of power and authority in the party seeking their time and attention. It is a sign of respect to initially approach tribal officials with representatives from the utility's top levels of leadership. In other words, individuals with the authority to change elements or outcomes based upon tribal input. After the initial meeting, delegates will likely be designated to carry out the details of the remaining engagement.

In each instance of tribal/utility interaction, success will be dependent upon the development of open and organic lines of communication with the affected tribes and their elected officials. The tribes have sovereign oversight of their lands and will expect

¹² ORS 469A.400(5); ORS 469A.405(3) (expressing a policy of meaningful state consultation with tribal governments).

the utility to engage with a purpose, such as explaining the utility's plans to ensure the delivery of reliable and efficient electric service to tribal members while meeting the requirements of HB 2021. Other likely topics could include planning exercises that may include weatherizing or otherwise making more efficient on-reservation housing; providing tribal communities with financial support for demand-side generation and load control; or adding new or changing existing facilities on reservation or within ceded areas.

Another very important element is the timing of the interaction. In each example above, the elements of a utility's plan should be shared with the tribes at a *pre-decisional* stage. Nothing is more frustrating in Indian country than having an entity bring an already complete action plan to the tribes for presentation. It is seen as a "take or leave it" failure in "consultation." There is a distinctive difference between a "consultation" to tell a tribe what will be done and a *pre-decisional* meeting that allows for an alignment with tribal objectives and rights *before* a plan is filed with the Oregon Commission or other government authorities.

Finally, we reiterate our appreciation for PGE's strong partnership with CTWS, and urge the company to continue developing demand side and other fish-friendly resources in tribal communities.

III. Ahead of its next IRP, PGE should develop tribal-specific portfolio CBIs that account for the co-benefits of efficiency and the effect of projects on treaty resources and healthy fisheries. (Rec. 9).

CRITFC agrees with Staff's Draft Recommendation 9 that it's time for PGE to develop more concrete portfolio CBIs to measure environmental, health, and community benefits, and to see those reflected in its next IRP preferred portfolio.¹³ PGE has stressed the difficulty of gathering specific, localized environmental and community health indicators.¹⁴ However, as Staff accurately states, CBIs are a significant aspect of HB 2021 and should not be ignored: "[a] key part of HB 2021 is ensuring that the clean energy transition does not leave systemically underserved communities behind . . . PGE's current approach fails to provide any tangible information in portfolio evaluation or provide any sort of timeline by which the metrics will be improved."¹⁵ PGE's minimal proposed investment in energy efficiency underlines this point: without measuring community impacts, the co-benefits of efficiency go uncounted and the resource stays undervalued despite its clear utility to regional climate mitigation and adaptation.

Like the benefits of efficiency, current modeling practices leave the impacts of the federal hydro system uncounted as an externality of harm borne by tribal communities.

¹³ 4.3 Community Benefits, Draft Recommendation 9, at 30-31.

¹⁴ PGE's Round 1 Reply Comments, p. 62.

¹⁵ Staff Recommendations, at 31.

Resource planning must consider and address impacts to the treaty fisheries through CBIs that measure the extent a proposed project furthers reliance on the federal hydro system for peak load management.

Fishery managers have been calling for higher Columbia River flows in the spring and summer to help young salmon migrate from their natal streams to the ocean for more than forty years, and salmon are on the brink of extinction. A full suite of hydro system measures is described in the *Energy Vision*. The persistent failure of the grid to accept these operations and the risks thus placed on salmon resources must be considered in future CEP and IRP processes. When the energy system lacks the resilience created through energy efficiency and distributed resources, it experiences higher peak loads, which in turn increases the risk of disaster for tribal communities and salmon. Time and again, when the energy system has reached a crisis point, salmon and tribal fishers have borne the costs. The 2001 drought and energy market failure led to unplanned, emergency power operations that caused massive and unnecessary losses of salmon. This catastrophe motivated CRITFC's first *Energy Vision* in 2003.¹⁶ Since then, the expansion of renewable resources across the western interconnection has profoundly changed the grid. Our 2022 *Vision* recognizes that the grid's transition away from carbon-based resources will create enormous opportunities to build diverse and resilient energy systems where salmon needs and hydro power demands are not pitted against each other.

PGE should design its portfolio CBIs to value a salmon-friendly energy system. For example, new renewable resources can and should include their own storage and wisely integrate with the grid to improve conditions for Columbia River salmon. The intermittency of solar and wind resources requires support from other balancing resources to be effectively integrated. In today's grid, hydroelectric, natural gas, coal, and other renewable facilities are used to integrate intermittent resources. Battery storage facilities have grid-scale potential but using battery storage as a balancing resource is costly and complex over a 24-hour period. Typically, the most flexible and economical balancing resource is hydro when actual production cost is the *only* factor considered. However, the Columbia Basin's hydro system operates in a living ecosystem and has profoundly and detrimentally impacted the biological resources dependent on that ecosystem. Adding more burdens to that ecosystem through increasing over-reliance on hydro resources to integrate renewable energy sources would be irresponsible and with adequate planning is not necessary to provide reliable and affordable clean power.

Columbia and Snake River hydro system configuration and operation have changed and will change in the future. Recently, plaintiffs and defendant agencies of the United States in the long-running ESA litigation, *NWF v. NMFS*, filed a stay of litigation

¹⁶ <https://critfc.org/documents/tribal-energy-vision-for-the-columbia-river-2003/>.

through July 31, 2022, to increase spill for juvenile fish passage, limit “zero flow” operations, and maintain reservoirs at minimum operating pools to benefit salmon migration. Conversations are continuing among these parties. At the same time, Senator Patty Murray and Governor Jay Inslee of Washington announced their intention to consider replacing the power and other services provided by the four lower Snake River federal dams if they are breached.¹⁷

To assume that the current configuration of the Columbia and Snake River hydropower system allows for the full integration of solar and wind energy overlooks and conflicts with many resource concerns. Assigning zero costs for a pathway that relies on this “flexibility” is contrary to the intent of the HB 2021 to protect overly burdened environmental justice communities, like tribal fishers who rely on not only healthy salmon runs but safe river flows for their fishing platforms. Not only does resource development reliant on hydro peaking harm salmon and worsen water quality, but it disrupts tribal fisheries and platforms below the dams, adding further burdens to an already over-burdened community of fishers.

IV. Conclusion

CRITFC and its member tribes are committed to working with other regional interests to lead the region to a brighter and healthier future. Affordable and reliable power is important to regional families and businesses, tribal and non-tribal. The true wealth of our region begins with the health of our rivers, fish, and the ecosystem they support, which is our culture, history, and future.

Thank you for your consideration.

Sincerely,

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¹⁷ Lower Snake River Dams: Benefit Replacement Report:
https://governor.wa.gov/sites/default/files/2022-11/LSRD%20Benefit%20Replacement%20Final%20Report_August%202022.pdf