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November 25, 2020

***VIA ELECTRONIC FILING***

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

Attn: Filing Center

**RE: UE 374—Response to ALJ Bench Requests Set 3 (1)**

Pursuant to Administrative Law Judge (ALJ) Alison Lackey's Ruling of November 18, 2020, enclosed for filing in this docket is the Confidential Response to ALJ Bench Request No. 3.1.

Please direct any questions regarding this filing to Cathie Allen at (503) 813-5934.

Sincerely,



Etta Lockey  
Vice President, Regulation

Enclosures

### **ALJ Bench Request 3.1**

Refer to PAC/4100, Ralston/20 (“The requirement to maintain the mine for 21 additional months and install a de-watering pipeline extending approximately six miles in length significantly increased mine closure costs.”) Please provide a breakdown of the mine closure costs increases, separately identifying the costs associated with the increase in the length of the de-watering pipe and the costs of 21 months of additional mine maintenance.

### **Confidential Response to ALJ Bench Request 3.1**

PacifiCorp performed preliminary analysis in a limited time frame to provide responses to the request above.

The application seeking approval of the Deer Creek mine transaction, filed in Docket UM 1712, assumed the Company would continue to operate the Deer Creek mine and manage mine maintenance and closure activities. This work was scheduled to conclude in March 2016. Further, the application assumed the Company would continue to make contributions to the United Mine Workers of America (UMWA) 1974 Pension Trust through March 2016. This option exposed customers to future risk of increasing UMWA pension obligations driven by UMWA affiliated mine bankruptcies and the re-allocation of obligations to plan participants. The only option available for Energy West to limit these future obligation increases to the UMWA 1974 Pension Trust was to withdraw from the plan.

To mitigate this risk, the Company chose to contract a third party for mine operation and closure activities versus Company employees. Therefore, the Company executed a General Services Contract with East Mountain Energy, LLC (EME) effective June 29, 2015. EME is an independent contractor with a UMWA affiliation and is not affiliated with PacifiCorp. The service agreement required EME to maintain and complete closure of the mine following the approval and installation of the bulkhead seals.

A second major change to assumptions described to the Commission in Docket UM 1712 was a course change from impounding water in the mine to installation of a pipeline from Rilda Canyon to the Huntington plant. PacifiCorp submitted the original bulkhead application to the Mine Safety and Health Administration (MSHA) in January 2015. The Company interfaced with MSHA and other governmental agencies through March 2016 seeking to obtain approval to construct bulkheads in the mine. Prior to the August 2015 Gold King mine spill<sup>1</sup>, bulkhead installations had been approved as an acceptable method for impounding water in underground mining operations. On April 12, 2016, MSHA and the Department of Oil, Gas and Mining notified the Company that in-mine bulkheads would not be approved.

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<sup>1</sup> See PAC/4100 Ralston/17-22

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During 2015 and early 2016, activities focused on maintaining the mine, performing closure activities, installing seals and preparing for bulkhead installations. After receiving the bulkhead construction denial letter, the Company coordinated a meeting with stakeholders to evaluate permitting requirements for installation of a drainage pipeline from Rilda Canyon to the Huntington plant. The design and ultimate approval of the pipeline spanned a period of 15 months (April 2016 to July 2017).

Project costs increased from those included in the Docket UM 1712 application, in large part due to operating changes discussed above. Based on the Company's preliminary analysis, total project cost increases can be summarized as follows:

**Confidential Table 1: Mine Closure Cost Summary View**

	(m\$)
Project Delays (21 months)	
Pipeline Installation (direct costs)	
Legal/Arbitration (excl. pipeline installation)	
Other (labor, M&S, contract services, misc.)	
Total	

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**Confidential Table 2: Mine Closure Cost Category View**

		OR UM 1712 Deer Creek	Actual 2014 - 2016	Actual 2014 - 6/2019	Actual Incr. (Decr.) Total	Comments	
<b>East Mountain LLC (EME)</b>							
Labor/Benefits	EME PacifiCorp	[REDACTED]					
	Subtotal						
Materials & Supplies	EME PacifiCorp						
	Subtotal		Cost increase due to extending the project period and higher costs for resin and sealant for in-mine projects				
Contract Services	EME PacifiCorp	[REDACTED]					
	Subtotal						
Power	EME PacifiCorp						
	Subtotal		Decrease due to lower energy usage				
Miscellaneous	EME PacifiCorp	[REDACTED]					
	Subtotal						Cost increase due to extending the project period and charging labor/benefits after June 2015 to "Corporate Overhead"
Contract Fee/Bonus	EME						Cost increase for contract fee/bonus payments
Total	EME PacifiCorp	[REDACTED]					
	Consolidated Total						
Adjustments:							
	Severance	[REDACTED]					
	UMWA Medical Benefits						
	UMWA Supp Unemployment						
	Other	[REDACTED]					
	Subtotal						
	Adjusted Total						

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**Extended Mine Maintenance Cost Estimate**

The Company evaluated normalized mine maintenance costs for the period beginning July 2015 and ending July 2017. This period was chosen because costs associated with mine equipment and material recovery completed in May 2015 lagged by approximately one month. The ending period represents the date approval was received from agencies to install the de-watering pipeline. The normalized monthly cost estimate of [REDACTED] was determined by subtracting bulkhead, legal, and out of period labor costs from mine closure costs. The estimated cost increase driven by extending the project by 21 months is approximately [REDACTED].

**Total Project Cost Summary**

As noted in Mr. Ralston’s surrebuttal testimony, “Total project costs, excluding 1974 pension costs, included in docket UM 1712 were [REDACTED]. Costs are projected to increase by [REDACTED], or [REDACTED] percent.”<sup>2</sup> Refer to Table 3 below:

**Confidential Table 3: Total Project Cost Summary (Confidential Exhibit PAC/4102)**

CONF Exhibit PAC/4102					
Energy West Transaction - Deer Creek Mine Project Summary (actuals through June 2019) Updated July 22, 2019					
Closure	Application	Dollars (000's)			
		6/30/2019 Actual	Incr. (Decr.) vs. Application	Project Estimate	Incr. (Decr.) vs. Application
<b>Unrecovered Investment</b>					
Unrecovered investment					
Loss on assets sold					
Subtotal					
<b>Mine Closure/Reclamation</b>					
Royalties Triggered by Closure					
Coal Lease Abandonment					
Inventory write-off					
Unrecovered Reclamation Costs 2014 PV					
Income Tax Regulatory Asset					
Prepayments					
Miscellaneous Closure Costs (incl sev and UMWA medical/unemployment)					
Subtotal					
<b>Retiree Medical Settlement</b>					
Regulatory Asset Excluding 1974 UMWA Pension					

<sup>2</sup> PAC/4100 Ralston/21 4-6

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Confidential information is designated as Protected Information under the protective order in this proceeding and may only be disclosed to qualified persons as defined in that order.

## CERTIFICATE OF SERVICE

I certify that I delivered a true and correct copy of PacifiCorp's **Bench Request 3.1** on the parties listed below via electronic mail and/or or overnight delivery in compliance with OAR 860-001-0180.

### Service List UE 374

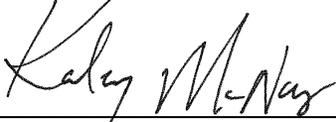
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Dated this 25<sup>th</sup> day of November, 2020.



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Kaley McNay  
Senior Coordinator, Regulatory Operations