

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 399, UM 1964, UM 2134, UM 2142, UM 2167, UM 2185, UM 2186, and UM 2220

In the Matters of)	
)	
PACIFICORP, dba, PACIFIC POWER,)	RESPONSE OF THE OREGON
)	CITIZENS' UTILITY BOARD TO
Request for a General Rate Revision (UE)	PACIFICORP'S MOTION TO
399),)	CONSOLIDATE
)	
Application for Approval of Deferred)	
Accounting for a Balancing Account Related)	
to the Transportation Electrification Program)	
(UM 1964),)	
)	
Application to Defer Costs Relating to Cedar)	
Springs II (UM 2134),)	
)	
Application for Approval of Deferred)	
Accounting for Cholla Unit 4-Related)	
Property Tax Expense (UM 2142),)	
)	
Application for Approval of Deferred)	
Accounting for Revenues Associated with)	
Renewable Energy Credits from Pryor)	
Mountain (UM 2167),)	
)	
Application for Approval of Deferred)	
Accounting and Accounting Order Related to)	
Non-Contributory Defined Benefit Pension)	
Plans (UM 2185),)	
)	
Application for Approval of Deferred)	
Accounting for Costs Relating to a)	
Renewable Resource Pursuant to ORS)	
469A.120 (UM 2186), and)	
)	
Application for Approval of Deferred)	
Accounting for Operating Costs and Capital)	
Investments Made to Implement PacifiCorp's)	
Distribution System Plan (UM 2220).)	
)	

I. INTRODUCTION

Pursuant to OAR 860-001-0600, OAR 860-001-0420(4), and Administrative Law Judge (ALJ) Mapes' March 25, 2022 Memorandum, the Oregon Citizens' Utility Board (CUB) hereby files this Response to PacifiCorp's (PAC or the Company) March 22, 2022 Motion to Consolidate Docket Nos. UM 1964, UM 2134, UM 2142, UM 2167, UM 2185, and UM 2186 into its UE 399 general rate case (GRC) proceeding. CUB does not oppose PacifiCorp's motion and notes that the Public Utility Commission of Oregon (Commission) has recently held that issues related to deferred accounting applications are relevant to the determination of setting just and reasonable rates in a GRC.¹

CUB files this Response to respectfully request that, in the event PAC's Motion is granted, the Commission also consolidate Docket No. UM 2220, PacifiCorp's Application for Approval of Deferred Accounting for Operating Costs and Capital Investments Made to Implement PacifiCorp's Distribution System Plan into the UE 399 GRC. In addition to the other above-referenced deferrals, consolidation of UM 2220 will promote judicial and administrative efficiency by allowing the Commission to address preliminary issues related to the authorization and scope of UM 2220 alongside a review of proposed distribution system-related costs to be included in base rates in the GRC, the primary venue for distribution investment cost recovery.

II. STANDARD OF REVIEW

Proceedings may be consolidated for hearing at the discretion of the Commission or ALJ.² Relevant evidence is "evidence tending to make the existence of any fact at issue in the proceeding more or less probable than it would be without the evidence."³ Commission rules

¹ *In re Portland General Electric Company, Request for a General Rate Revision*, OPUC Docket No. UE 394, Ruling Denying Motion to Strike at 3-4 (Nov. 10, 2021).

² OAR 860-001-0600.

³ OAR 860-001-0450(1)(a).

state that relevant evidence may be excluded if the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay.⁴ Evidence may be excluded on relevancy grounds if it does not relate to a “fact at issue” in the case.⁵

III. ARGUMENT

CUB does not oppose PAC’s Motion to Consolidate, and requests that the Commission similarly consolidate Docket No. UM 2220 into UE 399. The Commission has a longstanding practice of considering issues related to deferred accounting applications within a GRC.⁶ In a GRC, the Commission’s core responsibility is to review the record to set rates that are “just and reasonable.”⁷ The Commission recently considered potential consolidation of a deferred accounting application into PGE’s GRC. There, ALJ Lackey ultimately held that “[i]n establishing just and reasonable rates, the Commission considers the overall effect of rates, which includes the flexibility to consider *any* pending deferrals, amortizations, or *other elements* including carrying costs of deferrals.”⁸

Here, CUB asks the Commission to consolidate UM 2220 into UE 399 to promote

⁴ *In re PacifiCorp, dba Pacific Power, Request for a General Rate Revision*, OPUC Docket No. UE 374, ALJ Lackey Ruling at 2 (Dec. 16, 2020) citing OAR 860-001-0450.

⁵ *In re Madras PVI, LLC v. Portland General Electric Company*, Docket UM 2009, Ruling Denying Motion to Strike at 3 (Dec. 9, 2019).

⁶ *See, e.g., in re Portland General Electric Company, Request for a General Rate Revision*, OPUC Docket No. UE 394, Ruling Denying Motion to Strike at 3-4 (Nov. 10, 2021). UE 335 – PGE/800/Nicholson – Bekkedahl/17, lines 1-5 (“To the extent that UM 1817 is unresolved, [PGE] request[s] the Commission approve our deferral and apply these costs to our proposed balancing account.”); *see also* UE 262 – PGE/300/Tooman – Liddle/2, lines 1-3 (“This base rates request includes approximately \$26.8 million of revenue requirements associated with capital projects that were subject to a deferral authorized in UE 215 (capital deferrals).”) (Requesting recovery of deferred amounts in the context of a GRC.); *see also* UG 347 – CNGC/200/Parvinen/4, lines 16-17 (“Cascade recommends that the Commission consider and approve the request for deferral as well as the Company’s proposed amortization in this rate case.”); *and* UG 221 – NWN/400/Feltz/6, lines 6-8 (“[T]he Company has requested the balance of deferred environmental expenditures be recovered in rates on a rolling five-year basis, reflecting expenditures and recoveries through time.”).

⁷ *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944); *see also* ORS 756.040(1) (“[t]he commission shall balance the interests of the utility investor and the consumer in establishing fair and reasonable rates.”); *see also* ORS 757.210(1)(a) (The Commission “may not authorize a rate or schedule of rates that is not fair, just and reasonable.”).

⁸ *In re Portland General Electric Company, Request for a General Rate Revision*, OPUC Docket No. UE 394, Ruling Denying Motion to Strike at 4 (Nov. 10, 2021) (emphasis added).

judicial efficiency and align with Commission precedent. In UM 2220, filed January 3, 2022, the Company requests “deferral of the operating costs and capital investments made to implement and operate the [Distribution System Plan (DSP)] for the 12-month period beginning on January 3, 2022.”⁹ Typically, distribution system investments are recovered in base rates at amounts set in a GRC. Therefore, investments in the distribution system are inextricably tied to the establishment of just and reasonable rates in the GRC process. The issues included in PAC’s UM 2220 filing are relevant to the UE 399 GRC.

The Company’s sparse UM 2220 filing makes it unclear whether PAC intends to truly defer incremental DSP-driven costs (i.e., costs associated with hosting capacity analyses) or all distribution system costs arising from its Oregon distribution plan. Therefore, it is difficult to discern what the Company is proposing to recover in base rates in UE 399 and what it proposes for future cost recovery in UM 2220. Even if no DSP-related costs are included in UE 399’s test year, CUB believes that the Commission would benefit from a policy discussion regarding which distribution-related costs should be tracked and recovered in UM 2220, and which should be recovered through the future and current GRCs. Consolidating UM 2220 into the GRC will enable CUB and other parties to explore issues related to UM 2220’s scope and overlap with rates sought in UE 399, if any.

Although amounts accrued in UM 2220 are not yet eligible for potential amortization, it is important to ensure this deferral has clear contours around eligibility. The UE 399 GRC is an appropriate venue to address these issues. This is consistent with ALJ Lackey’s UE 394 memorandum indicating the Commission’s broad flexibility to consider *any* elements of any potential deferral within a GRC.¹⁰ Conducting this analysis within an ongoing GRC will ensure

⁹ UM 2220 – PacifiCorp’s Application for Deferred Accounting at 2 (Jan. 3, 2022).

¹⁰ *In re Portland General Electric Company, Request for a General Rate Revision*, OPUC Docket No. UE 394,

customers are not potentially being asked to fund distribution investments in two different arenas.

Issues related to the scope and potential authorization of UM 2220 are therefore relevant to this proceeding. CUB's envisioned forthcoming testimony on this issue will be relevant because it will provide the Commission with significant probative value to help determine the proper overall just and reasonable rates to set in this GRC.¹¹ The amounts subject to potential recovery in UM 2220 represents a "fact at issue" in the UE 399 GRC, and CUB's forthcoming testimony on this issue will be relevant to the setting of base rates in the GRC process. CUB's preference is that distribution system-related costs be recovered through the GRC. While CUB does not have a final position on the deferral at this point of the proceeding, some DSP implementation costs may, from CUB's perspective, be eligible for recovery in PAC's deferred accounting application, rather than in the GRC. CUB requests the opportunity to help determine which distribution-related costs should be recovered in a GRC and which are appropriate for inclusion in the UM 2220 deferral filing.

At this time, CUB simply requests the Commission consolidate UM 2220 into UE 399 to explore these issues and ensure cost recovery in the two processes is truly discrete. CUB envisions that issues related to amortization, carrying charges, and earnings review can be conducted in UM 2220 when amounts in the deferral are eligible for potential inclusion in rates at the end of the deferred accounting period.

Ruling Denying Motion to Strike at 3-4 (Nov. 10, 2021).

¹¹ *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (Discussion of just and reasonable rates.); *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 313-315 (1989) ("The economic judgments required in rate proceedings are often hopelessly complex, and do not admit of a single correct result. The Constitution is not designed to arbitrate these economic niceties. Errors to the detriment of one party may well be canceled out by countervailing errors or allowances in another part of the rate proceeding. The Constitution protects the utility from the net effect of the rate order on its property. Inconsistencies in one aspect of the methodology have no constitutional effect on the utility's property if they are compensated by countervailing factors in some other aspect.").

IV. CONCLUSION

For the reasons discussed above, CUB respectfully urges the Commission to consolidate UM 2220 into UE 399 alongside the other deferred accounting applications the Company has highlighted.

Dated this 30th day of March, 2022.

Respectfully Submitted,



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