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VIA Email – puc.filingcenter@puc.oregon.gov

Filing Center
Public Utility Commission of Oregon
201 High St. SE
Salem, OR 97301

Re: In the Matter of PACIFICORP, dba PACIFIC POWER, Advice No. 25-015, Schedule 401-Service to New Large Energy Use Facilities.
Docket No. UE 463

Dear Filing Center:

Please find enclosed ADS' Comments on the Stipulation and Joint Testimony in Support the Stipulation, in the above-referenced proceeding. Please let me know if you have any questions.

Respectfully submitted,

Davis Wright Tremaine LLP

Caroline A. Cilek

Caroline A. Cilek

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 463

In the Matter of PACIFICORP d/b/a PACIFIC POWER, Advice No. 25-015, Schedule 401 – Service to New Large Energy Use Facilities.	**AMAZON DATA SERVICES, INC.'S COMMENTS ON STIPULATION**

I. Introduction & Summary

Pursuant to OAR 860-001-0350 and Administrative Law Judge Katharine Mapes's Ruling issued August 31, 2026, Amazon Data Services, Inc. ("ADS") submits these comments in response to the Stipulation and Joint Testimony filed by the Stipulating Parties[1] on September 16, 2026.

ADS does not oppose the Stipulation or request a hearing. However, ADS appreciates the opportunity to provide these comments to address three aspects of the Stipulation and the supporting Joint Testimony.

First, although ADS recognizes that a Stipulation does not bind the Oregon Public Utility Commission ("Commission"),[2] it is central to ADS' non-opposition that the Commission evaluate the Stipulation as a whole.

Second, and relatedly, should the Commission propose to modify the Stipulation,[3] ADS requests the opportunity to supplement the record with evidence and argument. ADS was—and remains—prepared to litigate the issues in this contested case through a full hearing procedure.

[1] The Stipulating Parties are PacifiCorp d/b/a Pacific Power ("PacifiCorp"), Staff of the Public Utility Commission of Oregon ("Staff"), the Oregon Citizens' Utility Board ("CUB"), and Community Energy Project, Climate Solutions, Oregon Environmental Council, and Sierra Club ("Environmental Intervenors").
[2] OAR 860-001-0350(9).
[3] *Id.*

Although the Stipulating Parties' Joint Testimony supports the Stipulation, it does not fully capture the positions and testimony of all parties previously submitted in this proceeding, including by ADS. Accordingly, if the Commission does not accept the Stipulation in its entirety, ADS requests the Commission recommence the hearing procedure to allow the parties to submit testimony accurately reflecting their respective positions in this proceeding and responding to any of the Commission's proposed modifications.

Third, ADS does not oppose Paragraph 21.a of the Stipulation regarding cost assignment for Network Upgrades. However, in response to the Stipulating Parties' discussion of this provision in the Joint Testimony, ADS notes that nothing in the Stipulation provides PacifiCorp with justification to overbuild resources.

II. Discussion

A. ADS' non-opposition is contingent upon the Commission's adoption of the Stipulation in its entirety.

Based upon extensive good-faith negotiations between the parties,[4] ADS reached a position of non-opposition to the Stipulation. However, ADS' non-opposition should not be construed as support for the Stipulation. ADS first requested the Commission open this investigation last year based upon ADS' concerns, on both legal and policy grounds, with PacifiCorp's Advice Filing No. 25-015 to establish a new Schedule 401 for Large Energy Use Facilities ("LEUFs").[5] Since then, ADS has submitted two rounds of pre-filed testimony further addressing these concerns, proposing an alternative compliance path for HB 3546 (the POWER Act), and responding to PacifiCorp's and other parties' revised proposals.[6]

[4] UE 463, Stipulating Parties/100, Meredith-Stevens-Tran-Fisher/5.
[5] *See* UE 463, ADS Petition to Suspend Tariff Filing and Initiate Investigation and Contested Case Hearing (Oct. 31, 2025) ("ADS Petition").
[6] *See* UE 463, ADS Opening Testimony and Exhibits of Carolyn A. Berry and Collin Cain (ADS/100-102, Berry-Cain) (May 14, 2026); ADS Rebuttal and Cross-Answering Testimony of Carolyn A. Berry and Collin Cain (ADS/200, Berry Cain) (July 9, 2026).

Many of ADS's fundamental concerns that were initially raised remain. ADS was only able to reach a position of non-opposition to the Stipulation based upon the negotiated terms as a whole. In particular, inclusion of the last paragraph in Paragraph 15 of the Stipulation is critical to ADS's non-opposition. In relevant part, it provides:

> Notwithstanding anything to the contrary herein, the determination of whether the LEUFs presently engaged in a contested case proceeding (Contested LEUFs) concerning PacifiCorp's performance of its obligations under existing service agreements entered into before June 16, 2025 (Complaint Proceeding) are subject to Schedule 401 as a "New LEUF" shall be decided through the Complaint Proceeding and not Paragraph 15 above. If the Commission declines to decide the issue or the Complaint Proceeding is resolved without resolution of this issue, Paragraph 15 shall apply to the Contested LEUFs.[7]

This paragraph directly relates to ADS' ongoing contested case against PacifiCorp in UM 2410, which includes allegations that pre-date the POWER Act. ADS considers it important to have a forum—UM 2410—in which to present its arguments and evidence regarding its existing service contracts with PacifiCorp. PacifiCorp has likewise maintained that the applicability of the POWER Act to the facilities at issue in UM 2410 should be decided in that docket, rather than this proceeding.[8] The above-quoted provision in Paragraph 15 of the Stipulation reaffirms that approach, as does the Stipulating Parties' Testimony:

> [T]he contested proceeding provides the best venue for resolving the issue of whether the Contested LEUFs must take service under Schedule 401. It is administratively efficient to avoid addressing fact-specific disputes regarding PacifiCorp's existing contracts with specific individual LEUFs, and service to such LEUFs, in the present proceeding, which is a general investigation into PacifiCorp's proposed tariff. Resolving LEUF-specific issues related to the applicability of Schedule 401 in the separate contested proceeding prevents the record in this proceeding from being burdened with evidence pertaining to

[7] UE 463, Paragraph 15, Stipulation.
[8] *See* UE 463, PacifiCorp Response to ADS Petition to Suspend Tariff Filing and Initiate Contested Case Hearing (Nov. 11, 2025) ("To the extent ADS is concerned with HB 3546's application to its own facilities, such concerns are presented and more appropriately addressed in the complaint proceeding ADS initiated, docket UM 2410.").

> individual customers, which may be highly confidential, and avoids the potential delay that would be caused by the investigation of customer-specific issues."[9]

ADS agrees with these points. The Complaint Proceeding, which predates the Commission's opening of this tariff investigation, involves fact-specific allegations and legal issues unique to that dispute that should be addressed separately in the Complaint Proceeding.

ADS further notes that the parties to the Complaint Proceeding continue to engage in good-faith negotiations towards a potential final settlement.[10] If, however, the dispute is not resolved through settlement, Paragraph 15 confirms that the issues raised in the Complaint Proceeding are not pre-determined by the Stipulation and should, in the first instance, be resolved through the Complaint Proceeding.

B. If the Commission does not adopt the Stipulation in its entirety, all parties should have an opportunity to submit evidence and argument on proposed modifications.

OAR 860-001-0350(9) provides:

> A stipulation is not binding on the Commission. The Commission may adopt or reject a stipulation, or propose that a stipulation be modified prior to approval. If the Commission proposes to modify a stipulation, the Commission must explain its decision and, if necessary, provide the parties sufficient opportunity on the record to present evidence and argument to support the stipulation. No further hearing need be held when a review hearing has already been held under section (8) of this rule and the Commission or ALJ determines that the issues were fully addressed in the prior hearing.

The Stipulating Parties prepared Joint Testimony in support of the Stipulation, and the testimony is intended to support the Stipulation's terms.[11] It does not provide a complete record of the parties' positions or incorporate the parties' pre-filed testimony. ADS does not fault the Stipulating Parties for presenting the testimony in this manner, consistent with OAR 860-001-0350(7). However, if the Commission proposes modifications to the Stipulation, all parties

[9] UE 463, Joint Testimony in Support of Stipulation; Stipulating Parties/100, Meredith-Stevens-Tran-Fisher/12-13.
[10] *See* UM2410, PacifiCorp and Amazon Data Services, Inc's Fourth Joint Status Report and Motion to Extend the Suspension of the Procedural Schedule (Sept. 18, 2026).
[11] OAR 860-001-0350(7)(a).

should have the opportunity to submit responsive testimony and argument. If the proposed modifications substantively change the Stipulation's terms, ADS anticipates it may need to offer into evidence its full pre-filed testimony, as well as any supplemental testimony and arguments responsive to the Commission's proposed modifications.

C. Paragraph 21.a does not support overbuilding network resources.

As part of the settlement, ADS does not oppose Paragraph 21.a of the Stipulation regarding cost allocation of Network Upgrades and Qualified Network Upgrades. ADS supports that LEUFs should pay for the infrastructure necessary to service to them. However, Paragraph 21.a should not be read as providing PacifiCorp with authority to overbuild its resources. An example in the Joint Testimony raises this concern. Specifically, the Stipulating Parties state:

> For example, if PacifiCorp *must construct 1,000 MW of capacity on a facility* that is a Qualified Network Upgrade, a LEUF needs 400 MW of that capacity, and non-LEUF PacifiCorp customers need 200 MW, then PacifiCorp's presently known capacity need would be 600 MW, the LEUF's proportion of PacifiCorp's 600 MW capacity need would be approximately 67 percent (400 MW/ 600 MW), and the LEUF therefore would be responsible for approximately 67 percent of the cost of the 1,000 MW Qualified Network Upgrade over time. However, if all else was held equal in the above example except non-LEUF PacifiCorp customers needed 100 MW of capacity instead of 200 MW, then PacifiCorp's presently known capacity need would be 500 MW, the LEUF's proportion of this 500 MW capacity need would be 80 percent (400 MW / 500 MW), and the facility would lose eligibility to be a Qualified Network Upgrade because 80 percent or more of PacifiCorp's presently known capacity need would be comprised of LEUF demand. In these circumstances, the LEUF would be required to pay for the full cost of the 1,000 MW facility upfront.[12]

This example does not provide the circumstances under which PacifiCorp "must construct 1,000 MW of capacity" when (according to the example) the presently known capacity needs are only half that amount (500 MW) or 60% (600 MW). In such a scenario, PacifiCorp

[12] UE 463, Joint Testimony in Support of Stipulation, Stipulating Parties/100 Meredith-Stevens-Tran-Fisher/25-26 (emphasis added).

would need to justify building 1,000 MW of capacity. Nothing in Paragraph 21.a changes that obligation.

III. Conclusion

ADS does not oppose the Stipulation or request a hearing. However, if the Commission does not adopt the Stipulation in its entirety, all parties should have an opportunity to submit evidence and argument on any proposed modification. Finally, ADS respectfully requests that the Commission confirm that the Stipulation does not support overbuilding of network resources.

Respectfully submitted this 1st day of October, 2026.

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