



KATHERINE MCDOWELL  
Direct (503) 595-3924  
katherine@mrg-law.com

December 4, 2020

**VIA ELECTRONIC FILING**

Attention: Filing Center  
Public Utility Commission of Oregon  
P.O. Box 1088  
Salem, Oregon 97308-1088

**Re: UE 374 – In the Matter of PACIFICORP d/b/a PACIFIC POWER’S Request for a General Rate Revision.**

Attention Filing Center:

Attached for filing in the above-referenced docket is PacifiCorp’s Motion for Leave to File a Sur-Reply and Sur-Reply to AWEC’s Reply to PacifiCorp’s Bench Response 3.1. Confidential material in support of the filing will be provided to qualified parties under Protective Order No. 20-040 via encrypted zip file.

Please contact this office with any questions.

Sincerely,

Katherine McDowell

Attachment

## CERTIFICATE OF SERVICE

I certify that I delivered a true and correct copy of the confidential pages of PacifiCorp's **Motion for Leave to File a Sur-Reply and Sur-Reply to AWEC's Reply to PacifiCorp's Bench Response 3.1** on the parties listed below that have signed the protective order via electronic mail and/or or overnight delivery in compliance with OAR 860-001-0180.

### Service List UE 374


|  |  |
|--|--|
| BILL EHRLICH (C) (HC)<br>TESLA<br>3500 DEER CREEK RD<br>PALO ALTO CA 94304<br><a href="mailto:wehrlich@tesla.com">wehrlich@tesla.com</a>                                       | STEVE ELZINGA (C)<br>CHARGEPOINT INC<br>693 CHEMEKETA ST NE<br>SALEM OR 97301<br><a href="mailto:steve@shermlaw.com">steve@shermlaw.com</a>  |
| FRANCESCA WAHL (C) (HC)<br>TESLA<br>6800 DUMBARTON CIRCLE<br>FREMONT CA 94555<br><a href="mailto:fwahl@tesla.com">fwahl@tesla.com</a>  | LLOYD REED (C) (HC)<br>REED CONSULTING<br>10025 HEATHERWOOD LANE<br>HIGHLANDS RANCH CO 80126<br><a href="mailto:lloyd.reed@lloydreedconsulting.com">lloyd.reed@lloydreedconsulting.com</a> |
| CRYTAL RIVERA (C) (HC)<br>SOMACH SIMMONS & DUNN<br>500 CAPITOL MALL STE 1000<br>SACRAMENTO CA 95814<br><a href="mailto:crivera@somachlaw.com">crivera@somachlaw.com</a>        |  |
| <b>AWEC</b>  |  |
| TYLER C PEPPLER (C) (HC)<br>DAVISON VAN CLEVE, PC<br>1750 SW HARBOR WAY STE 450<br>PORTLAND OR 97201<br><a href="mailto:tcp@dvclaw.com">tcp@dvclaw.com</a>                     | BRENT COLEMAN (C) (HC)<br>DAVISON VAN CLEVE, PC<br>1750 SW HARBOR WAY STE 450<br>PORTLAND OR 97201<br><a href="mailto:blc@dvclaw.com">blc@dvclaw.com</a>                                   |
| <b>CALPINE SOLUTIONS</b>   |  |
| GREGORY M. ADAMS (C)<br>RICHARDSON ADAMS, PLLC<br>PO BOX 7218<br>BOISE ID 83702<br><a href="mailto:greg@richardsonadams.com">greg@richardsonadams.com</a>                      | GREG BASS<br>CALPINE ENERGY SOLUTIONS, LLC<br>401 WEST A ST, STE 500<br>SAN DIEGO CA 92101<br><a href="mailto:greg.bass@calpinesolutions.com">greg.bass@calpinesolutions.com</a>           |
| KEVIN HIGGINS (C)<br>ENERGY STRATEGIES LLC<br>215 STATE ST - STE 200<br>SALT LAKE CITY UT 84111-2322<br><a href="mailto:khiggins@energystrat.com">khiggins@energystrat.com</a> |  |

|   |   |
|---|---|
| <b>CHARGEPOINT</b>  |   |
| ALEXANDRA LEUMER (C)<br>CHARGEPOINT<br><a href="mailto:alexandra.leumer@chargepoint.com">alexandra.leumer@chargepoint.com</a>   | SCOTT DUNBAR (C)<br>KEYES FOX & WIEDMAN LLP<br>1580 LINCOLN ST, STE 880<br>DENVER CO 80203<br><a href="mailto:sdunbar@kfwlaw.com">sdunbar@kfwlaw.com</a>                |
| <b>OREGON CITIZENS UTILITY BOARD</b>  |   |
| OREGON CITIZENS' UTILITY BOARD<br>610 SW BROADWAY, STE 400<br>PORTLAND, OR 97205<br><a href="mailto:dockets@oregoncub.org">dockets@oregoncub.org</a>  | MICHAEL GOETZ (C) (HC)<br>OREGON CITIZENS' UTILITY BOARD<br>610 SW BROADWAY STE 400<br>PORTLAND, OR 97205<br><a href="mailto:mike@oregoncub.org">mike@oregoncub.org</a> |
| ROBERT JENKS (C) (HC)<br>OREGON CITIZENS' UTILITY BOARD<br>610 SW BROADWAY, STE 400<br>PORTLAND, OR 97205<br><a href="mailto:bob@oregoncub.org">bob@oregoncub.org</a>                       |   |
| <b>FRED MEYER</b>   |   |
| JUSTIN BIEBER (C)<br>FRED MEYER/ENERGY STRATEGIES LLC<br>215 SOUTH STATE STREET, STE 200<br>SALT LAKE CITY UT 84111<br><a href="mailto:jbieber@energystrat.com">jbieber@energystrat.com</a> | KURT J BOEHM (C)<br>BOEHM KURTZ & LOWRY<br>36 E SEVENTH ST - STE 1510<br>CINCINNATI OH 45202<br><a href="mailto:kboehm@bkllawfirm.com">kboehm@bkllawfirm.com</a>        |
| JODY KYLER COHN (C)<br>BOEHM, KURTZ & LOWRY<br>36 E SEVENTH ST STE 1510<br>CINCINNATI OH 45202<br><a href="mailto:jkylerecohn@bkllawfirm.com">jkylerecohn@bkllawfirm.com</a>                |   |
| <b>KWUA</b>   |   |
| PAUL S SIMMONS (C) (HC)<br>SOMACH SIMMONS & DUNN, PC<br>500 CAPITOL MALL, STE 1000<br>SACRAMENTO CA 95814<br><a href="mailto:psimmons@somachlaw.com">psimmons@somachlaw.com</a>             |   |
| <b>PACIFICORP</b>   |   |
| PACIFICORP, DBA PACIFIC POWER<br>825 NE MULTNOMAH ST, STE 2000<br>PORTLAND, OR 97232<br><a href="mailto:oregondockets@pacificorp.com">oregondockets@pacificorp.com</a>                      | MATTHEW MCVEE (C)<br>PACIFICORP<br>825 NE MULTNOMAH ST STE 2000<br>PORTLAND, OR 97232<br><a href="mailto:matthew.mcvee@pacificorp.com">matthew.mcvee@pacificorp.com</a> |

|   |   |
|---|---|
| <p>ETTA LOCKEY (C) (HC)<br/> PACIFIC POWER<br/> 825 NE MULTNOMAH ST., STE 2000<br/> PORTLAND OR 97232<br/> <a href="mailto:etta.lockey@pacificorp.com">etta.lockey@pacificorp.com</a></p>           |   |
| <p><b>SBUA</b></p>  |   |
| <p>WILLIAM STEELE (C)<br/> BILL STEELE AND ASSOCIATES, LLC<br/> PO BOX 631151<br/> HIGHLANDS RANCH CO 80164<br/> <a href="mailto:wa.steele@hotmail.com">wa.steele@hotmail.com</a></p>               | <p>DIANE HENKELS (C)<br/> SMALL BUSINESS UTILITY ADVOCATES<br/> 621 SW MORRISON ST. STE 1025<br/> PORTLAND OR 97205<br/> <a href="mailto:diane@utilityadvocates.org">diane@utilityadvocates.org</a></p> |
| <p><b>SIERRA CLUB</b></p>   |   |
| <p>ANA BOYD (C) (HC)<br/> SIERRA CLUB<br/> 2101 WEBSTER ST STE 1300<br/> OAKLAND CA 94612<br/> <a href="mailto:ana.boyd@sierraclub.org">ana.boyd@sierraclub.org</a></p>                             | <p>GLORIA D SMITH (C) (HC)<br/> SIERRA CLUB LAW PROGRAM<br/> 2101 WEBSTER ST STE 1300<br/> OAKLAND CA 94612<br/> <a href="mailto:gloria.smith@sierraclub.org">gloria.smith@sierraclub.org</a></p>       |
| <p>CHRISTOPHER M BZDOK (C) (HC)<br/> OLSON BZDOK &amp; HOWARD<br/> 420 EAST FRONT ST<br/> TRAVERSE CITY MI 49686<br/> <a href="mailto:chris@envlaw.com">chris@envlaw.com</a></p>                    |   |
| <p><b>STAFF</b></p>   |   |
| <p>MARIANNE GARDNER (C)<br/> PUBLIC UTILITY COMMISSION OF OREGON<br/> PO BOX 1088<br/> SALEM, OR 97308-1088<br/> <a href="mailto:marianne.gardner@state.or.us">marianne.gardner@state.or.us</a></p> | <p>SOMMER MOSER (C)<br/> PUC STAFF - DEPARTMENT OF JUSTICE<br/> 1162 COURT ST NE<br/> SALEM, OR 97301<br/> <a href="mailto:sommer.moser@doj.state.or.us">sommer.moser@doj.state.or.us</a></p>           |
| <p><b>TESLA INC</b></p>   |   |
| <p>KEVIN AUERBACHER (C) (HC)<br/> TESLA, INC.<br/> 601 13TH ST NW, 9TH FL NORTH<br/> WASHINGTON DC 20005<br/> <a href="mailto:kauerbacher@tesla.com">kauerbacher@tesla.com</a></p>                  | <p>JOHN DUNBAR (C) (HC)<br/> DUNBAR LAW LLC<br/> 621 SW MORRISON STREET STE 1025<br/> PORTLAND OR 97205<br/> <a href="mailto:jdunbar@dunbarlawllc.com">jdunbar@dunbarlawllc.com</a></p>                 |

|   |   |
|---|---|
| <b>VITESSE LLC</b>  |   |
| R BRYCE DALLEY (C)<br>FACEBOOK INC<br>24005 BERTSINGER RD<br>RIDGEFIELD WA 98642<br><a href="mailto:rbd@fb.com">rbd@fb.com</a>  | LIZ FERRELL (C)<br>FACEBOOK, INC.<br>1 HACKER WAY<br>MENLO PARK CA 94205<br><a href="mailto:eferrell@fb.com">eferrell@fb.com</a>  |
| IRION A SANGER (C)<br>SANGER LAW PC<br>1041 SE 58TH PLACE<br>PORTLAND OR 97215<br><a href="mailto:irion@sanger-law.com">irion@sanger-law.com</a>                                |   |
| <b>WALMART</b>  |   |
| VICKI M BALDWIN (C)<br>PARSONS BEHLE & LATIMER<br>201 S MAIN ST STE 1800<br>SALT LAKE CITY UT 84111<br><a href="mailto:vbaldwin@parsonsbehle.com">vbaldwin@parsonsbehle.com</a> | STEVE W CHRISS (C)<br>WAL-MART STORES, INC.<br>2001 SE 10TH ST<br>BENTONVILLE AR 72716-0550<br><a href="mailto:stephen.chriss@wal-mart.com">stephen.chriss@wal-mart.com</a> |

Dated this 4th day of December, 2020.




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Alisha Till  
Paralegal  
McDowell Rackner Gibson PC

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 374

In the Matter of  
  
PACIFICORP d/b/a PACIFIC POWER  
  
Request for a General Rate Increase.

**PACIFICORP’S MOTION FOR  
LEAVE TO FILE SUR-REPLY  
AND  
SUR-REPLY TO AWEC’S REPLY  
TO PACIFICOP’S BENCH  
RESPONSE 3.1**

**I. REQUEST FOR LEAVE TO FILE SUR-REPLY**

Pursuant to OAR 860-001-0420(1), PacifiCorp d/b/a Pacific Power (PacifiCorp) respectfully asks the Public Utility Commission of Oregon (Commission) for leave to file a sur-reply to address mischaracterization of the facts presented by the Alliance of Western Energy Consumers’ (AWEC) Reply to PacifiCorp’s Bench Response 3.1 (Reply). The Administrative Law Judge’s November 18, 2020 Bench Request provided the opportunity to submit a response, and a reply to a response.<sup>1</sup> While the Bench Request does not specifically provide for the filing of a sur-reply, PacifiCorp carries the burden of proof and believes that its sur-reply will aid the Commission in better understanding the issues in this proceeding.<sup>2</sup>

Pursuant to OAR 860-001-0420(2), PacifiCorp contacted AWEC as the party potentially impacted by this motion and AWEC does not take a position on PacifiCorp’s request to file a sur-reply.

**II. SUR-REPLY**

AWEC’s Reply mischaracterizes the Mine Safety and Health Administration’s (MSHA) finding and PacifiCorp’s subsequent revised application concerning the Deer Creek Mine closure

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<sup>1</sup> Docket UE 374, Bench Request (Nov. 18, 2020).

<sup>2</sup> ORS 757.210(1) (“[T]he utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable.”).

1 process. AWEC claims that, on May 15, 2015, the MSHA reached a broad conclusion that [REDACTED]  
2 [REDACTED]” and that PacifiCorp  
3 nonetheless submitted a “[REDACTED]” in its July 2015 revised application.<sup>3</sup> Yet,  
4 as PacifiCorp previously explained in both testimony<sup>4</sup> and briefing,<sup>5</sup> [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]. The MSHA [REDACTED]

8 [REDACTED]

9 [REDACTED].<sup>6</sup>

10 PacifiCorp [REDACTED]

11 [REDACTED]

12 [REDACTED].<sup>7</sup> The Gold Creek Mine spill did not occur

13 until the following month, on August 6, 2015. MSHA then responded to PacifiCorp’s revised

14 application on August 21, 2015. Thus, when PacifiCorp’s revised application was submitted in

15 July, PacifiCorp had no reason to believe that a revised in-mine bulkhead design, responding to

16 MSHA’s concerns, would be denied.

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<sup>3</sup> AWEC’s Reply to PacifiCorp Bench Response 3.1 at 2 (Dec. 2, 2020).

<sup>4</sup> PAC/4100, Ralston/19 (setting out the relevant timeline of events).

<sup>5</sup> PacifiCorp’s Closing Brief at 48-49.

<sup>6</sup> AWEC/705 at 3-4.

<sup>7</sup> AWEC/705 at 6-7.

Dated this 4<sup>th</sup> day of December 2020.



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Katherine A. McDowell  
Shoshana Baird  
McDowell Rackner Gibson PC  
419 SW 11th Ave., Suite 400  
Portland, OR 97205

Matthew D. McVee  
Carla Scarsella  
Ajay Kumar  
Legal Counsel  
PacifiCorp  
825 NE Multnomah Street, Suite 2000  
Portland, OR 97232

Attorneys for PacifiCorp