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January 29, 2021

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 Reconsideration and Clarification. 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 page of PacifiCorp's **Motion for Reconsideration and Clarification** on the parties listed below that have signed the modified protective order via electronic mail and/or or overnight delivery in compliance with OAR 860-001-0180.

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Dated this 29th day of January 2021.



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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 374

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

**PACIFICORP'S MOTION FOR
RECONSIDERATION AND CLARIFICATION**

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I. INTRODUCTION

1 Pursuant to ORS 756.561 and OAR 860-001-0720, PacifiCorp d/b/a Pacific Power
2 (PacifiCorp or Company) asks the Public Utility Commission of Oregon (Commission) to
3 reconsider or clarify two issues in Order No. 20-473: Schedule 272 and cost recovery related to
4 the installation of Advanced Metering Infrastructure (AMI).

5 First, the Commission limited the use of Schedule 272 on an interim basis and allowed
6 Staff to open an investigation to reconsider whether the tariff is a voluntary renewable energy
7 tariff (VRET).¹ PacifiCorp respectfully asks the Commission to reconsider and clarify these
8 decisions, as follows:

- 9 (1) The Commission should reconsider its decision to apply a 175 average megawatt
10 (MW) cap to Schedule 272's sale of unbundled renewable energy credits (RECs)
11 because application of the cap is not supported by substantial evidence in the record,
12 adoption of a cap unfairly prejudices that Schedule 272 is a VRET, and treating
13 Schedule 272 as a VRET is legally incorrect.
- 14 (2) Alternatively, if the Commission declines to remove the Schedule 272 cap, then the
15 Commission should clarify how to apply the cap and any other interim restrictions on
16 Schedule 272 so that PacifiCorp and its customers understand what transactions
17 remain permissible pending further investigation. Clarification is necessary to
18 implement the Commission's order.
- 19 (3) The Commission should also clarify the scope and timing of the investigation into
20 Schedule 272 to ensure the regulatory certainty necessary for the tariff to continue to
21 function. PacifiCorp proposes delaying the investigation until 2022 to allow the

¹ *In the Matter of PacifiCorp, dba Pac. Power, Request for a General Rate Revision*, Docket UE 374, Order No. 20-473, at 134 (Dec. 18, 2020).

1 Company time to develop and file a separate VRET program, which could then be
2 evaluated alongside Schedule 272.

3 Second, the Commission concluded that the Company’s meters replaced by AMI, with a
4 value of approximately \$16.1 million,² are retired assets ineligible to remain in rate base under
5 ORS 757.355.³ The Commission directed PacifiCorp to amortize the amount removed from rate
6 base over a 10-year period at a 3.737 percent interest rate, to reflect the time value of money.⁴
7 PacifiCorp respectfully asks the Commission to reconsider or clarify these decisions, as follows:

8 (1) The Commission should reconsider its decision to remove a subset of the Company’s
9 group meter account from rate base because the Company’s group meter account
10 remains used and useful to serve customers. Distinguishing the usefulness of
11 replaced meters by the rate of replacement is not supported by substantial reason.

12 (2) Alternatively, if the Commission declines to reconsider its decision to remove a
13 subset of the Company’s group meter account from rate base, the Commission should
14 clarify how this new precedent applies to (a) other group accounts where multiple
15 assets are replaced or upgraded in a short period of time, and (b) the ongoing
16 replacement of mechanical meters.

17 (3) The Commission should also reconsider the amortization period and interest rate to
18 apply to any undepreciated amount removed from rate base, as the Commission failed
19 to apply its own precedent and maximize cost recovery while avoiding rate shock. A
20 shorter amortization period and/or higher interest rate would better serve the interests
21 of fairness and would be fully offset by the benefits of AMI replacement.

² *Id.* at 91.

³ *Id.* at 91–92 (adopting a blended rate based on PacifiCorp’s authorized cost of debt and the rate of its most recent 10-year debt issuance, or 3.737 percent, as the “time value of money”).

⁴ *Id.*

II. DISCUSSION

1 Reconsideration or clarification is appropriate where there is either (1) an error of law or
2 fact in the order that was essential to the decision, or (2) good cause for further examination of
3 an issue essential to the decision.⁵ The Commission’s orders must be “supported by substantial
4 evidence in the record.”⁶ Substantial evidence exists “when the record, viewed as a whole,
5 would permit a reasonable person to make that finding.”⁷ The Commission’s orders must also be
6 supported by “substantial reason,” which “connects the facts found to the ultimate conclusion.”⁸
7 In addition, the Commission “may not authorize a rate or schedule of rates that is not fair, just
8 and reasonable.”⁹

A. The Commission Should Reconsider and Clarify its Rulings on Schedule 272.

9 In Order No. 20-473, the Commission concluded that the development of the Pryor
10 Mountain wind project was prudent, but found that it “raises new questions regarding appropriate
11 use of Schedule 272.”¹⁰ Pending further investigation of Schedule 272, the Commission
12 “caution[ed]” PacifiCorp against procuring new utility-owned resources to supply RECs under
13 Schedule 272 and against using Schedule 272 to provide community-wide green tariffs.¹¹ In
14 addition, and despite no party raising the proposal through testimony, briefing, or oral argument,
15 the Commission applied a cap (designed to apply to an as-yet unrequested PacifiCorp VRET) to

⁵ OAR 860-001-0720(3)(c) & (d); *see, e.g., In the Matter of PacifiCorp dba Pacific Power Application for an Order Approving Queue Reform Proposal*, Docket UM 2108, Order No. 20-465, App’x A at 2, 12 (Dec. 4, 2020) (modifying the Commission’s previous order based on a showing of good cause to “allow interconnection customers more time after receiving a cluster study to post a security deposit for the estimated cost of identified Network Upgrades,” despite the fact that no party had shown legal error).

⁶ ORS 183.482(8)(B)(c); *see also Calpine Energy Sols. LLC v. Pub. Util. Comm’n of Or.*, 298 Or App 143, 163 (2019) (overturning the Commission’s order for lack of substantial evidence).

⁷ ORS 183.482(8)(B)(c).

⁸ *Calpine*, 298 Or App at 159.

⁹ ORS 757.210(1)(a).

¹⁰ Order No. 20-473 at 133.

¹¹ *Id.* at 133-34.

1 Schedule 272, stating that “procurement of new PPA-based resources to supply Schedule 272
2 customers—including Pryor Mountain—[are] subject to the cap set in UM 1690 (175 average
3 MW for PacifiCorp) unless PacifiCorp can demonstrate to the Commission in advance that it has
4 mitigated the potential impacts on non-participating cost-of-service customers.”¹² The
5 Commission’s order did not address Schedule 272 uses not associated with utility-backed or
6 PPA-backed resources. Finally, the Commission indicated that Staff could bring a proposal for
7 interim changes to Schedule 272 to a public meeting, and could conduct an investigation alone or
8 in combination with other current or planned customer choice investigations.¹³

**1. Reconsideration of the Commission’s Schedule 272 Decision is Warranted
Because a Cap is Not Supported by Substantial Evidence on the Record.**

9 The Commission’s decision to apply the VRET cap to Schedule 272 lacks any record in
10 this case. No party suggested applying the VRET cap to Schedule 272 nor did the Commission
11 raise this issue before it appeared for the first time in Order No. 20-473. Given that the VRET
12 cap was never raised during the course of this lengthy proceeding, PacifiCorp did not have an
13 opportunity to address its applicability to Schedule 272. As a result, the Commission’s decision
14 to apply the cap to Schedule 272 lacks both evidentiary support and basic procedural fairness.

15 The requirement for substantial evidence ensures that issues are decided based on a well-
16 developed record and implemented with the benefit of that context.¹⁴ Without any record to
17 inform the Commission’s decision on this issue, the meaning of Order No. 20-473 is unclear.
18 This lack of a record is particularly concerning because the Commission’s order may result in
19 significant impacts to interested customers and communities. For instance, Order No. 20-473

¹² *Id.* at 134.

¹³ *Id.*

¹⁴ See *Bridgeview Vineyards, Inc. v. Or. State Land Bd.*, 258 Or App 351, 365–66 (2013) (explaining the need for a “fully developed record” to “determine whether the agency’s order is supported by substantial evidence based on the whole record”).

1 clearly states that PacifiCorp would be able to undertake additional Schedule 272 REC sales
2 pending any additional investigation.¹⁵ However, depending on how the Commission’s new cap
3 is interpreted and applied, the Company’s existing Schedule 272 sales could use up most or all of
4 the program capacity. In this way, the Commission may have inadvertently foreclosed all
5 options for PacifiCorp customers now looking to purchase RECs.

6 The prejudice to PacifiCorp is clear. Portland General Electric Company (PGE) is
7 currently proposing to increase its VRET program cap in docket UM 1953.¹⁶ As a party to that
8 case, PacifiCorp filed testimony in support of PGE’s position.¹⁷ Because PacifiCorp does not
9 have a VRET program of its own, however, PacifiCorp never advocated for a similar increase to
10 its own program cap. Indeed, in Staff’s Opening Brief in that case, filed on November 3, 2020,
11 Staff addressed PGE’s proposal and noted that “[n]o party proposed changes to PacifiCorp’s
12 VRET program size, as PacifiCorp does not currently offer a VRET product.”¹⁸

13 Even if the 175 average MW cap had been raised for consideration in this case (or in
14 docket UM 1953), applying the VRET cap inappropriately imports one portion of the
15 Commission’s VRET guidelines without reconciling Order No. 17-051, where the Commission
16 recently decided that Schedule 272 is not a VRET.¹⁹ Applying the VRET guidelines to
17 Schedule 272, pending a full investigation, inappropriately prejudices the outcome of such a
18 proceeding.

¹⁵ Order No. 20-473 at 133 (“[W]e will not prohibit PacifiCorp from moving forward under Schedule 272. . . .”).

¹⁶ *In the Matter of Portland Gen. Elec. Co. Investigation into Proposed Green Tariff*, Docket UM 1953, Closing Brief of Portland Gen. Elec. Co. at 1 (proposing to increase the tariff cap from 300 MW to 500 MW).

¹⁷ Docket UM 1953, PAC/100, Lockey/1-5 (July 26, 2019).

¹⁸ Docket UM 1953, Staff’s Opening Brief at 8 (Nov. 3, 2020).

¹⁹ *Compare* Order No. 20-473 at 134 (“Staff may conduct a review of Schedule 272 . . . including revising the question of whether Schedule 272—as PacifiCorp has used it—should properly be considered a VRET.”) *with In the Matter of PacifiCorp, dba Pac. Power, Advice No. 16-012 (ADV 386), Changes to Schedule 272 Renewable Energy Rider Optional Bulk Purchase Option*, Docket UE 318/ADV 386, Order No. 17-051 (Feb. 13, 2017) (adopting Staff’s recommendation to approve Schedule 272 tariff revisions because the tariff did not constitute a VRET).

1 To the extent that the Commission implicitly reversed Order No. 17-051 and concluded
2 that Schedule 272 is a VRET, the Commission erred as a matter of law because, under VRET
3 Guideline 2, VRETs apply to the sale of RECs bundled with energy, while Schedule 272 sells
4 unbundled RECs only.²⁰ To be clear, Schedule 272 has allowed PacifiCorp to sell unbundled
5 RECs separately from the underlying energy since the tariff was first established in 2004.²¹
6 Applying VRET standards to programs that pre-date the VRET legislation is inconsistent with
7 the point of that legislation, which was to authorize new programs, not to restrict existing ones.²²

8 In docket UE 318/ADV 386, the Commission approved modifications to Schedule 272
9 that allow customers to specify the resource from which unbundled RECs are purchased.²³
10 However, Schedule 272 sales still consist only of unbundled RECs, not the underlying energy.²⁴
11 Customers purchasing unbundled RECs from a specified resource under Schedule 272 retain the
12 ability to receive their energy supply as either a cost of service or direct access customer—
13 making clear that the unbundled RECs sold under Schedule 272 are unbundled from the resource
14 which produced them, even if that resource is identified as a part of the Schedule 272 sale.

15 While the Commission previously adopted Staff’s conclusion that Schedule 272 is not a
16 VRET because Schedule 272 does not sell bundled RECs,²⁵ in Order No. 20-473, the
17 Commission stated that Schedule 272’s revisions were approved “based on the understanding

²⁰ *In the Matter of Pub. Util. Comm’n of Or., Voluntary Renewable Energy Tariffs for Non-Residential Customers*, Docket UM 1690, Order No. 15-405 at 1 (Dec. 15, 2015) (Guideline 2); Order No. 17-051, App’x A at 7.

²¹ Docket UE 318/ADV 386, Initial Filing at 2 (Jan. 31, 2017) (“The Company has been offering service under Schedule 272 since November 1, 2004.”).

²² ORS 469A.005; Order No. 15-405 at 1 (encouraging utilities to introduce VRET proposals).

²³ Order No. 17-051 at 1 (adopting Staff’s recommendation to approve the revised tariff with an additional reporting requirement).

²⁴ *Id.*, App’x A at 7 (“It is clear from the revised tariff language that what is offered through Schedule 272 is an unbundled REC and not a bundled REC.”).

²⁵ *Id.* (noting that a VRET involves “purchasing renewable energy” and that “renewable energy is not being purchased under this tariff”).

1 that specific resources would not be built to meet specific customer preferences.”²⁶ There is
2 nothing in the VRET Guidelines, however, indicating that the origin of an unbundled REC is
3 relevant to the characterization of a transaction as a VRET. Nor did the Commission suggest
4 that the nature of the underlying resource transforms the sale of unbundled RECs under
5 Schedule 272 into a bundled sale of both RECs and energy.

6 Even if an evidentiary record existed in this case, application of the VRET cap to
7 Schedule 272 is inconsistent with the purpose of the original cap. The VRET cap was adopted
8 from direct access, which tied the cap to the amount of departing customer load to minimize the
9 overall cost-shifting impact of large customers leaving the utility’s system.²⁷ Staff’s report in
10 docket UE 318/ADV 386 addressed cost-shifting concerns under Schedule 272.²⁸ In that report,
11 Staff explained that there was some concern that the cost of RECs needed for renewable
12 portfolio standard (RPS) compliance might be higher than the price of unbundled RECs sold
13 under Schedule 272, thus increasing RPS compliance costs for cost-of-service customers.²⁹
14 Schedule 272 addresses that concern by requiring that unbundled RECs acquired for sale be: (1)
15 incremental to investments associated with the Company’s Integrated Resource Plan, and (2) not
16 considered for RPS compliance.³⁰ In addition, the Commission imposed annual reporting

²⁶ Order No. 20-473 at 133 (citing Order No. 17-051, App’x A at 7 (“Staff struggles with NIPPC’s position that this tariff constitutes a VRET given Staff’s understanding that Schedule 272 customers are not purchasing renewable energy from a specifically identified source, *nor are specific resources being built to meet specific customer preferences.*”) (emphasis added)).

²⁷ *In the Matter of PacifiCorp dba Pac. Power Transition Adjustment, Five-Year Cost of Service Opt-out*, Docket UE 267, Order No. 15-060 at 10 (Feb. 24, 2015) (“The parties agree that PacifiCorp’s five-year program should be capped at 175 aMW of departing load.”).

²⁸ Order No. 17-051, App’x A at 4-5.

²⁹ *Id.* at 4 (requiring the Company to file an annual report with the Commission on participation in Schedule 272 and to provide copies of negotiated agreements to address concerns “that REC purchases under Schedule 272 may affect and/or increase the cost of RECs the Company would need to purchase for RPS compliance and therefore result in cost-shifting to [cost-of-service] customers”).

³⁰ Schedule 272 at 2.

1 requirements.³¹ Notably, Staff found that there is *no risk* of energy cost-shifting (for instance, by
2 Schedule 272 customers receiving a negotiated discount on energy) because the product does not
3 include energy.³² Therefore, the cost-shifting concerns that drove the development of the VRET
4 cap simply do not apply in this case.

2. In the Alternative, the Commission Should Clarify How the Schedule 272 Cap and Other Interim Restrictions Will Apply.

5 If the Commission denies PacifiCorp’s request for reconsideration, the Commission
6 should clarify how the cap and any other interim restrictions on Schedule 272 will apply.

7 First, the Commission should clarify that, under any interpretation, the cap will not apply
8 to preexisting REC sales under Schedule 272 (subject to the treatment of Pryor Mountain,
9 addressed below). This interpretation is reasonable because the Commission referred to “new”
10 resources in Order No. 20-473 and application of the cap retrospectively could void future use of
11 Schedule 272. The Commission was clear that it did not intend to wholly freeze use of
12 Schedule 272 pending further investigations—both due to the significant demand for large-scale
13 green products, as well as the Commission’s difficulty keeping pace with this demand.³³ For
14 these reasons, the Commission should not apply the cap retrospectively.

15 Second, the Commission should clarify that the cap does not apply to Schedule 272
16 transactions of unbundled RECs where no underlying resource has been specified. As noted
17 above, the Commission’s order does not discuss the sale of unbundled RECs unassociated with
18 either a utility-backed or PPA-backed resource, and no party during this proceeding raised any
19 concern with the ongoing use of Schedule 272 to continue selling such unbundled RECs. To be

³¹ Order No. 17-051, App’x A at 4.

³² *Id.*, App’x A at 5 (“Staff noted . . . that the changes to Schedule 272 would not induce cost-shifting” because “the voluntary charge under this tariff is ‘in addition’ to all other charges contained in the customer’s standard bill and is applied ‘regardless of actual energy consumption.’”).

³³ Order No. 20-473 at 133 (“[W]e will not prohibit PacifiCorp from moving forward under Schedule 272[.]”).

1 clear, PacifiCorp customers have relied on the availability of Schedule 272 to procure unbundled
2 RECs separate from energy resources since the tariff was first established in 2004.

3 Third, the Commission should clarify that the Schedule 272 cap was intended to apply to
4 the Oregon-allocated energy from the new resource generating the sold unbundled RECs, not to
5 the unbundled RECs themselves. This makes sense because the VRET cap is measured in
6 energy (average MW), and, as the Commission explained in Order No. 07-083, RECs are
7 considered utility property, not energy.³⁴ This interpretation also responds to the Commission’s
8 underlying concerns about energy-based cost shifting between classes of customers. Given that
9 Schedule 272 customers pay for the full cost of purchased unbundled RECs, placing the cap on
10 the total amount of unbundled RECs procured would not respond to energy-based cost shifting
11 concerns. Similarly, any energy-related cost shifting concerns can impact Oregon customers
12 only up to the Oregon-allocated share of the underlying resource. Therefore, the cap should be
13 tied to the amount of energy allocated to Oregon from the designated resource that generates the
14 RECs. This interpretation is consistent with the 2020 Protocol, which governs inter-state
15 allocation of generating resources. Unlike how the cap operates for direct access, the total
16 energy load of participating customers is irrelevant. Based on this interpretation of the cap,
17 PacifiCorp would be able to proceed with new unbundled REC sales where the specified
18 resources used to generate those unbundled RECs, on an Oregon-allocated basis, do not exceed
19 175 average MW.

³⁴ *In the Matter of Portland Gen. Elec. Application for Approval to Sell Tradable Renewable Energy Credits*, Docket UP 236, Order No. 07-083, at 1 (Mar. 5, 2007) (approving the sale of RECs and directing PGE to record all proceeds and fees in the company’s property sale deferred account); *see also In the Matter of PacifiCorp dba Pac. Power Request for a Gen. Rate Revision*, Docket UE 210, Order No. 10-022, at 15 (Jan. 26, 2010) (“Commission Order No. 07-083 makes clear, however, that the sale of RECs will be treated as a property sale with gains on sale being placed in a property sales balancing account for return to customers.”).

1 Fourth, the Commission should clarify that the cap does not include energy generated by
2 qualifying facilities. Again, the Commission’s stated concern with specified unbundled REC
3 sales under Schedule 272 is the potential for cost-shifting associated with PacifiCorp’s
4 procurement of the underlying energy. Given that energy purchases from qualifying facilities are
5 mandatory and the purchase price is intended to reflect PacifiCorp’s avoided costs, cost-shifting
6 concerns associated with the underlying energy are inapplicable.³⁵

7 Fifth, in Order No. 20-473, the Commission stated that the new cap applies to “new PPA-
8 based resources . . . including Pryor Mountain[.]”³⁶ Because Pryor Mountain is not a PPA-based
9 resource, however, the reference appears misplaced. PacifiCorp requests confirmation that the
10 175 average MW cap applies prospectively to new PPA-based resources, and therefore should
11 not include Pryor Mountain. This interpretation would allow the Company to pursue additional
12 Schedule 272 transactions, subject to a 175 average MW cap on the amount of Oregon-allocated
13 energy used to derive new PPA-backed unbundled REC sales. Alternatively, if the Commission
14 intended the cap to apply to the energy generated by utility-owned projects such as Pryor
15 Mountain, then the Commission should clarify that the cap applies only to *non*-PPA-based
16 resources. To support this interpretation, the Commission should replace the word “new” (as in,
17 “new PPA-based resources”) with the word “non” (as in, “non-PPA-based resources”). Under
18 this approach, the cap would allow approximately [REDACTED] average MW, on an Oregon-allocated
19 basis, of new utility resource-backed sales and no cap on PPA-backed sales.³⁷

20 Sixth, the Commission indicated that the cap could be waived if “PacifiCorp can
21 demonstrate to the Commission in advance that it has mitigated the potential impacts on non-

³⁵ PacifiCorp is obligated to procure energy from qualifying facilities and REC purchases from qualifying facilities do not constitute a risk that would necessitate a cap.

³⁶ Order No. 20-473 at 134.

³⁷ On an Oregon-allocated basis, Pryor Mountain is expected to provide approximately [REDACTED] average MW of energy.

1 participating cost-of-service customers.”³⁸ PacifiCorp requests clarification on the timing and
2 substance of the demonstration necessary for waiver of the cap. As noted above, the incremental
3 nature of unbundled REC sales under Schedule 272 avoids the type of cost-shifting concerns
4 previously anticipated by the Commission in the VRET context, where customers procuring
5 energy under a tariff would no longer be standard cost-of-service customers. As a result, it is not
6 clear what showing the Commission would require to waive application of the cap and how
7 PacifiCorp could present that information to the Commission.

8 Finally, it is unclear what the Commission meant in “caution[ing]” the Company against
9 procuring new utility-owned resources to supply specified unbundled RECs to customers³⁹ and
10 considering Schedule 272 an appropriate mechanism to provide community-wide green tariffs.⁴⁰
11 As an initial matter, PacifiCorp requests that the Commission clarify whether its order imposed
12 new restrictions on Schedule 272 or simply directed the Company to consider customer interests
13 more closely in these contexts.

14 To the extent that the Commission established new restrictions on the use of
15 Schedule 272 to serve community customers, such a decision is unsupported by evidence on the
16 record, lacks substantial reason, and unfairly discriminates against certain classes of customers.
17 On an evidentiary basis, the issue of “community-wide green tariffs” was not discussed at all in
18 the voluminous record in this case. As a result, there is no factual record on which to base a
19 Commission finding that Schedule 272 “may not have sufficient protections” to serve
20 community customers.⁴¹

³⁸ Order No. 20-473 at 134.

³⁹ *Id.* at 133.

⁴⁰ *Id.* at 134.

⁴¹ *Id.*

1 Moreover, Order No. 20-473 fails to define a “community-wide green tariff”—a term that
2 similarly does not appear in any previous Commission order or in the Commission’s rules.⁴² As
3 a result, it is unclear what the scope of the Commission’s prohibition would be, to whom it
4 would apply, or how limits on the types of customers purchasing unbundled RECs logically
5 relates to the Commission’s cost-shifting concerns articulated in Order No. 20-473. Thus, the
6 Commission failed to “connect[] the facts found to the ultimate conclusion” in this case.⁴³

7 Finally, if the Commission intends to prohibit communities from purchasing unbundled
8 RECs through Schedule 272, in the absence of a clearly identified and rationally supported
9 customer class distinction, such unjustified restrictions would be plainly and unfairly
10 discriminatory.⁴⁴ It is unclear why a community seeking to purchase unbundled RECs—
11 including RECs that are not associated with specified sources—should be precluded from
12 participating in Schedule 272 merely by virtue of being a community customer, as compared to
13 all other large non-residential customers.⁴⁵

3. The Commission Should Rule Now on Any Interim Changes to Schedule 272, and Also Clarify the Scope of the Investigation.

14 In Order No. 20-473, the Commission indicated that Staff could bring additional near-
15 term changes to Schedule 272 for consideration through the public meeting process.⁴⁶
16 PacifiCorp requests that the Commission clarify the interim changes, if any, it intends to make to

⁴² Order No. 20-473 refers to the Commission’s Executive Order 20-04 Work Plan, which mentions, but does not define, “community-wide green tariffs.” See Or. Pub. Util. Comm’n, Executive Order 20-04 Work Plans at 12 (Sept. 22, 2020).

⁴³ *Calpine*, 298 Or App at 159.

⁴⁴ ORS 757.325(1) (“No public utility shall make or give undue or unreasonable preference or advantage to any particular person or locality, or shall subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.”); *Rainbow Youth Golf Education Program, Inc. v. PacifiCorp*, Docket UM 1424, Order No. 09-502, at 8 (Dec. 22, 2009) (citing ORS 757.310 and ORS 757.325 and noting that a utility “is required to treat all of its customers equally”).

⁴⁵ Schedule 272 is currently available to all Large Non-residential Consumers receiving Delivery Service.

⁴⁶ Order No. 20-473 at 134.

1 Schedule 272 in response to this motion and not consider further changes in the public meeting
2 process. The availability of voluntary renewable program options is an increasingly crucial
3 consideration for economic development. States and communities that do not offer these options
4 are often less competitive for attracting new investment and local jobs. PacifiCorp is currently
5 involved in negotiations with multiple customers interested in procuring RECs to “green”
6 existing and prospective energy supplies. Allowing continued revisions to Schedule 272 would
7 functionally foreclose use of the tariff, as parties would be unable to negotiate without a clear
8 understanding of the tariff’s basic guidelines.

9 In addition, the Commission should clarify the timing and scope of the investigation into
10 Schedule 272 to provide the regulatory certainty necessary for the tariff to continue to function.
11 PacifiCorp proposes delaying the investigation until 2022 to allow the Company time to develop
12 and file a separate VRET program, which could then be evaluated alongside Schedule 272.

B. The Commission Should Reconsider or Clarify its Decision to Remove Replaced Meters from Rate Base.

13 In Order No. 20-473, the Commission directed PacifiCorp to remove meters replaced by
14 AMI from rate base, despite the fact that (1) the Commission has never separately tracked the
15 individual useful lives of millions of small distribution assets such as the meters at issue here;
16 and (2) meters are reflected in rates on a group depreciation basis, which treats replaced meters
17 as fully depreciated and recovers group depreciation balances on meters that are fully used and
18 useful to serve customers.⁴⁷ The Commission justified its order by highlighting “the scale of
19 replacements”—that is, 85 percent of the Company’s mechanical meters were upgraded over the
20 last several years—as distinguished from the gradual replacement of meter upgrades.⁴⁸ The

⁴⁷ *Id.* at 91.

⁴⁸ *Id.*

1 Commission concluded that PacifiCorp should have sought to accelerate depreciation for the old
2 meters ahead of their replacement if the Company wished to earn its rate of return on this full
3 plant balance, pointing out that PGE had previously bifurcated its existing meters into
4 mechanical and automated meter accounts.⁴⁹ The Commission then directed PacifiCorp to
5 amortize the removed amounts over a 10-year period at a 3.737 percent interest rate.⁵⁰

6 Historically, PacifiCorp has included all meters in its Oregon service territory as part of a
7 single group depreciation account.⁵¹ Similar group accounts are used for utility poles, overhead
8 conductors, and other classes of distribution assets that are too numerous to track on an
9 individual basis.⁵² Under this method, the same depreciation rate is applied for all assets within
10 the group—which, for the Oregon meter assets, would have applied a 16-year rate of
11 depreciation to the depreciation reserve. The group depreciation methodology does not require
12 the maintenance of the net book value of individual assets, but rather the group in total.
13 Therefore, when a meter is replaced, it is assumed to be fully depreciated and any remaining net
14 book value is simply reflected in the ongoing depreciation reserve and rate base for the new
15 meters, which are fully used and useful.⁵³

16 To comply with the Commission’s order, PacifiCorp has removed \$16.1 million from rate
17 base, reflecting AWEC’s estimate of the undepreciated meter amounts.⁵⁴ But as PacifiCorp has
18 explained, meter retirements are not tracked on a meter-by-meter basis.⁵⁵ In order to accurately
19 identify the *actual* undepreciated amount, the Company would need to first examine the vintage

⁴⁹ *Id.*

⁵⁰ *Id.* at 92.

⁵¹ PAC/4400, McCoy/11–12.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Order No. 20-473 at 91–92 (adopting AWEC’s estimate of the undepreciated book value).

⁵⁵ AWEC/302, Kaufman/7 (PacifiCorp Response to AWEC Data Request 28).

1 of each of the approximately 627,000 meters replaced in PacifiCorp’s Oregon service territory to
2 determine what share of the meters were fully depreciated.⁵⁶ Many meters have been in service
3 for decades, with some meters entering service in the 1950s.⁵⁷ Next, the Company would have
4 to apply a retirement pattern curve to the historical balance of each asset, to identify how that
5 asset was actually depreciated over time through the group depreciation rate. In contrast, AWEC
6 simply applied a straight-line depreciation rate over the total estimated replaced meter balance,
7 recognizing that “[g]roup accounting does not match depreciation with specific units of assets.”⁵⁸
8 The fact that AWEC’s adjustment is admittedly an approximation means that it fails the
9 substantial evidence standard. In addition, the impossibility of calculating the precise
10 undepreciated amount highlights the incompatibility of the adjustment with actual group
11 depreciation accounting.

12 Application of the carrying charge of 3.737 percent instead of a full return results in
13 \$831,000 loss for the Company in 2021, despite the fact that the AMI installation produces \$7.7
14 million in customer benefits in 2021.

1. Reconsideration of the Commission’s Replaced Meters Decision is Warranted Because PacifiCorp’s Group Account Remains Used and Useful to Serve Customers.

15 The Commission’s decision to remove a subset of the Company’s meters from the group
16 depreciation account is not supported by substantial reason because there is no logical basis for
17 distinguishing the replacement of a small subset of meters from the replacement of a larger
18 subset of meters.⁵⁹ Subsets of a single group account are commonly replaced in other contexts,

⁵⁶ PAC/1100, Lucas/23 (explaining that the AMI project replaced “approximately 627,000 existing customer meters with AMI meters”).

⁵⁷ AWEC/501, Kaufman/4.

⁵⁸ AWEC/300, Kaufman/48.

⁵⁹ PAC/1100, Lucas/23; AWEC/302, Kaufman/7 (PacifiCorp Response to AWEC Data Request 28) (noting that the increase in meter replacements occurred from January 2017 through March 2020).

1 such as upgrading a plant turbine, without the need to remove the replaced item from rate base.⁶⁰
2 In that context, the group depreciation account is defined as the generating plant, and the
3 removal of a subsidiary piece of equipment does not impact whether the plant as a whole remains
4 used and useful for purposes of ORS 757.355. It is only when the generating plant retires that
5 the depreciation group is closed and balances are removed from rate base.

6 In the context of meters, the broader group depreciation account is all Oregon meters,
7 including both new AMI meters, as well as a subset of replaced mechanical meters. As a result,
8 the collective asset remains used and useful to serve customers—just as the collective generating
9 plant asset remains used and useful when a turbine is replaced.

10 The Commission’s novel interpretation of the used-and-useful standard could yield
11 unworkable results. The natural extension of the Commission’s position would require the
12 Company to track the depreciable life and usefulness of each subsidiary asset in all of
13 PacifiCorp’s distribution group accounts. Such an outcome would be impossibly burdensome
14 and impractical given the millions of individual poles, meters, lines, and other equipment
15 necessary to distribute electricity to customers. Moreover, the Commission’s failure to recognize

⁶⁰ See *In the Matter of PacifiCorp, dba Pacific Power Request for a Gen. Rate Revision*, Docket UE 217, PPL/1102, Page 8.6.14 (Mar. 1, 2010) (describing turbine upgrades at Hunter Unit 1 and Huntington Unit 1, both of which replaced the existing turbine with a new turbine that used the latest technologies to increase efficiency); *In the Matter of PacifiCorp, dba Pacific Power Request for a Gen. Rate Revision*, Docket UE 217, Order No. 10-473, at 3 (Dec. 14, 2010) (no party challenged the turbine upgrades and the Commission ultimately approved a stipulation that allowed recovery of these upgrades); *In the Matter of PacifiCorp, dba Pacific Power Request for a Gen. Rate Revision*, Docket UE 263, PAC/400, Ralston/2 (Mar. 1, 2013) (describing turbine upgrade at Jim Bridger Unit 2 turbine that would produce 12 MW of additional generation with no increase in fuel input or emissions; the case ultimately settled and no party disputed the prudence of the turbine upgrade); *In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision*, Docket UE 215, PGE/200, Pope/15 (Feb. 16, 2010) (describing Coyote Springs plant turbine upgrades to increase capacity and improve heat rate; no party challenged the upgrade and it was ultimately allowed into rates); *In the Matter of Portland Gen. Elec. Co. Application for an Order Approving Amortization of Deferred Costs Associated with Four Capital Projects*, Docket UE 275, Order No. 13-440 (Nov. 26, 2013) (Coyote Springs upgrade was not in service by the conclusion of docket UE 215, so PGE filed a deferral to recover the capital costs of the Coyote Springs project and three other capital projects; no party objected to the deferral and amortization of the capital costs); *In the Matter of Portland Gen. Elec. Co. Application to Amortize Boardman Deferral*, Docket UE 196, Order No. 10-051, at 2 (Feb. 11, 2010) (describing upgrades to two low pressure turbines, which were approved by the Commission without comment).

1 the unity of a single group depreciation account for meters is inconsistent with the order’s
2 simultaneous ratification of group depreciation accounting in the context of Jim Bridger’s
3 selective catalytic reduction systems (SCRs).⁶¹ Clearly, the Commission continues to recognize
4 the validity of group depreciation accounting, and should apply such accounting uniformly.

5 Order No. 20-473 appears to be the first instance in which the Commission has squarely
6 addressed the operation of ORS 757.355 when distribution assets are being depreciated as a
7 group, and where a subset of replaced equipment remains in a group of used and useful
8 equipment. While the Commission relied on PGE’s decision to bifurcate its metering account in
9 docket UM 1233, PGE’s accounting request in that instance was voluntary, and there was no
10 suggestion that the Commission’s order established an affirmative obligation to create a separate
11 account for different types of meters.⁶² Indeed, while PGE sought to bifurcate its meter
12 accounts, this unique accounting treatment was largely designed to reflect the two different types
13 of meters that PGE intended to replace with AMI meters.⁶³ Where the depreciation rate for
14 replaced meters has been accelerated, all of the meters in the underlying group depreciation
15 account were replaced.⁶⁴ Here, the Commission should reconsider its decision to establish clear
16 and rational precedent for future upgrades to subsets of distribution assets in group depreciation
17 accounts.

⁶¹ Order No. 20-473 at 83–84.

⁶² *In the Matter of Portland Gen. Elec. Co. Detailed Depreciation Study of the Electric Properties of the Company*, Docket UM 1233, Order No. 06-581, at 1–2 (Oct. 13, 2006) (approving the parties’ stipulation without comment on the need for different meter accounts).

⁶³ Order No. 06-581, App’x A at 7; *In the Matter of Portland Gen. Elec. Co. Request to Add Schedule 111, Advanced Metering Infrastructure (AMI)*, Docket UE 189, Order No. 08-245, at 6 (May 5, 2008) (describing the replacement of previously installed advanced meters).

⁶⁴ *See, e.g.*, Order No. 08-245, at 10 (finding that PGE’s early retirement of all “advanced meters” approved in a previous general rate case was prudent); *In the Matter of Idaho Power Co. Application to Accelerate Depreciation of Existing Metering Equipment to be Replaced by Advanced Metering Infrastructure (“AMI”) Installation; and to Implement Revised Depreciation Rates for the Company’s Electric Plant-In-Service*, Docket UE 202, Order No. 08-614, at 3 (Dec. 30, 2008) (discussing the necessity of accelerated depreciation on all existing Idaho Power meters for a successful AMI transition).

2. In the Alternative, the Commission Should Clarify the Threshold for Analyzing Subsets of Assets in a Group Depreciation Account.

1 If the Commission declines to reintegrate replaced meters into their depreciation group,
2 then the Commission should clarify the threshold for removing replaced components of a group
3 depreciation account from rate base. The Commission indicated that some distinction exists
4 between “the gradual replacement and retirements of individual units over time” and the
5 Company’s replacement of approximately 85 percent of its preexisting mechanical meters over
6 several years.⁶⁵ This reasoning lacks adequate guidance to allow PacifiCorp to ensure
7 compliance in the future, as there is no clear threshold of replacements that would trigger a
8 subset of a group depreciation account to be considered separately under ORS 757.355. For
9 instance, if a significant number of poles are burned in a wildfire, it is not clear if the Company
10 would be expected to pull the estimated or actual amounts out of rate base to reflect these poles’
11 replacement—regardless of the ongoing usefulness of the associated group depreciation account.
12 Some degree of clarifying guidance is essential to ensure that the Company can feasibly comply
13 with the Commission’s expansion of ORS 757.355, particularly in the context of ongoing efforts
14 to upgrade and harden the Company’s distribution system.

15 Finally, it is unclear whether the Commission’s application of the used-and-useful
16 analysis to the subset of replaced mechanical meters is ongoing. While the Commission appears
17 to believe that PacifiCorp is no longer replacing old meters with AMI meters,⁶⁶ this
18 understanding is incorrect; PacifiCorp continues to replace certain mechanical meters with AMI.
19 Under the Commission’s order, it is not clear if PacifiCorp would be obligated to account for all

⁶⁵ Order No. 20-473 at 91.

⁶⁶ *Id.* (“PacifiCorp has completed its AMI roll out[.]”).

1 future replaced mechanical meters separately, or if the Commission’s finding was limited to the
2 replacement of meters between 2017 and 2020 only.

3. The Commission Should Reconsider the Applicable Amortization and Interest Rate for Removed Meters.

3 If the Commission declines to allow full recovery of replaced meters in rate base
4 notwithstanding group depreciation conventions, then the Commission should reconsider the
5 amortization and interest rates imposed in Order No. 20-473. Where an asset is retired in the
6 public interest, the Commission may authorize full recovery of the cost of the asset, along with
7 the time value of money.⁶⁷ In its order, the Commission attempted to reflect the time value of
8 money by applying a blended interest rate, based on the Company’s authorized cost of debt and
9 the rate of its most recent 10 year debt issuance—yielding a rate of 3.737 percent.⁶⁸ In so doing,
10 the Commission disregarded the Company’s testimony objecting to this proposal, as well as the
11 Company’s evidence of the significant offsetting benefits provided by the Company’s AMI
12 investment.⁶⁹

13 In previous orders, the Commission has provided for expedited amortization of assets
14 retired in the public interest, balancing the desire to promote intergenerational equity with the
15 goal of avoiding rate shock.⁷⁰ For instance, in 2008, the Commission authorized PGE’s recovery
16 of \$321.8 million in undepreciated investments in the Trojan nuclear power plant,⁷¹ applying an

⁶⁷ *In the Matters of The Application of Portland Gen. Elec. Co. for an Investigation into Least Cost Plan Plant Retirement, Revised Tariffs Schedules for Elec. Serv. in Or. Filed by Portland Gen. Elec. Co., Portland Gen. Elec. Co.’s Application for an Accounting Order and for Order Approving Tariff Sheets Implementing Rate Reduction*, Dockets DR 10, UE 88, & UM 989, Order No. 08-487, at 72–73 (Sept. 30, 2008); *see also Citizens’ Util. Bd. v. Pub. Util. Comm’n of Or.*, 154 Or App 702, 714 (1998) (*Trojan I*) (“[ORS 757.355], as we interpret it, does not allow public utilities to obtain a profit from ratepayers on their unused or retired property. It makes no difference whether the profit is called ‘interest’ instead of a ‘return.’ We conclude that read together, ORS 757.140(2) and ORS 757.355 allow only the principal amount of the undepreciated investment to be recovered through rates.”).

⁶⁸ Order No. 20-473 at 92.

⁶⁹ PAC/4400, McCoy/11-12 (objecting to AWEC’s 10-year amortization period).

⁷⁰ Order No. 08-487 at 71–73.

⁷¹ *Id.* at 75 n.267.

1 accelerated 10-year amortization period and a 7.09 percent interest rate (reflecting the Treasury
2 rate for 10-year bonds).⁷² In considering the appropriate recovery period, the Commission
3 declined to apply a three- or five-year amortization period due to the disproportionate burden that
4 would be placed on “a relatively small number of PGE’s customers,” as well as the risk of rate
5 shock.⁷³ Similarly, in 2015, the Commission authorized recovery of PacifiCorp’s remaining
6 \$21.1 million in Oregon-allocated undepreciated investment in the Deer Creek mine pursuant to
7 ORS 757.140, amortizing the balance over four years at a 3.31 percent interest rate (reflecting a
8 blend of PacifiCorp’s then-authorized cost of debt and Treasury bond yields).⁷⁴ The
9 Commission concluded that this amortization schedule balanced customer and utility interests,
10 promoted least-cost planning, and avoided rate shock.⁷⁵

11 As in both the Trojan and Deer Creek cases, here the Commission should have analyzed
12 the appropriate amortization schedule by balancing customer and utility interests while avoiding
13 rate shock. Accelerated amortization is particularly appropriate because this case includes \$7.7
14 million in cost savings associated with AMI installation, and no party contests the Company’s
15 prudence in replacing mechanical meters with AMI meters.⁷⁶ Delaying cost recovery more than
16 necessary to mitigate rate shock would merely disincentivize the type of proactive upgrades and
17 pursuit of customer benefits that PacifiCorp successfully included in this case. While the
18 Commission referred to the customer benefits resulting from AMI in this case, the Commission

⁷² *Id.* at 73.

⁷³ *Id.* at 72.

⁷⁴ *In the Matter of PacifiCorp, dba Pac. Power, Application for Approval of Deer Creek Mine Transaction*, Docket UM 1712, Order No. 15-161, at 7 (May 27, 2015).

⁷⁵ *Id.* at 8 (citing Order No. 08-487 at 67).

⁷⁶ Order No. 20-473 at 89.

1 failed to account for these considerable savings in determining the appropriate recovery period
2 for the replaced meter assets.⁷⁷

3 Rather than account for this balance of interests, Order No. 20-473 summarily accepted
4 AWEC’s 10-year proposal without discussion.⁷⁸ On reconsideration, the Commission should
5 accelerate amortization to a three- or five-year period because there is no risk of rate shock; the
6 amortization costs are already more than offset by the accompanying benefits of replacing the
7 meters with AMI.

8 If the Commission declines to accelerate the amortization period, then the Commission
9 should apply the Company’s requested interest rate at its cost of long-term debt (4.77 percent),⁷⁹
10 as the more appropriate reflection of the time-value of money over a 10-year period.⁸⁰ It would
11 be inconsistent to apply the same time value of money formula used for the four-year Deer Creek
12 amortization to the 10-year period in this case. Application of this interest rate would increase
13 the tariff by approximately \$100,000 per year, from \$1.9 million to \$2.0 million.

III. CONCLUSION

14 The Commission should reconsider its decision to apply a cap and other restrictions to
15 Schedule 272 or, in the alternative, clarify how to interpret these restrictions. The Commission
16 should also define the scope and timing of any follow-up investigation of Schedule 272 to
17 minimize regulatory uncertainty and allow continued REC sales under the tariff.

18 The Commission should also reconsider its direction to remove a portion of the
19 Company’s Oregon meter account from rates as the collective account remains used and useful

⁷⁷ *Id.* at 89–92.

⁷⁸ *See id.* at 91–92 (accepting AWEC’s proposal and finding that “no additional adjustment is required”).

⁷⁹ *Id.* at 25–26 (adopting PacifiCorp’s proposed cost of long-term debt).

⁸⁰ PAC/4400, McCoy/14.

1 to serve customers. In the alternative, the Commission should clarify when and on what basis
2 subsets of group depreciation accounts will be assessed discretely from the larger group account,
3 and apply a more reasonable amortization schedule and interest rate to recovery of replaced
4 meters.

Respectfully submitted this 29th day of January 2021, on behalf of PacifiCorp.



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