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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: ADV 1790 – PacifiCorp's Advice No. 25-015, Schedule 401 - Service to New Large Energy Use Facilities

Dear Filing Center:

Enclosed for filing in the above-captioned docket is Amazon Data Services, Inc.'s Petition to Suspend Tariff Filing and Initiate Investigation and Contested Case Hearing. Thank you for your assistance.

Respectfully submitted,

Davis Wright Tremaine LLP

Caroline A. Cilek

Caroline A. Cilek

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

ADV 1790

In the Matter of PacifiCorp's Advice No. 25-015, Schedule 401 – Service to New Large Energy Use Facilities.	**PETITION TO SUSPEND TARIFF FILING AND INITIATE INVESTIGATION AND CONTESTED CASE HEARING**

I. PETITION

Pursuant to ORS 757.210 and 757.215, Amazon Data Services, Inc. ("ADS") requests that the Oregon Public Utility Commission ("Commission") suspend the PacifiCorp, dba Pacific Power ("PacifiCorp") Advice No. 25-015, Schedule 401 – Service to New Large Energy Use Facilities tariff filing (the "Tariff Filing") and initiate an investigation and contested case hearing into the Tariff Filing's propriety and reasonableness. This petition is supported by the points below.

II. MEMORANDUM IN SUPPORT

A. Applicable Law

ORS 757.210(1)(a) provides that this Commission may, upon written complaint or its own initiative, conduct a hearing to determine whether a public utility's proposed "rate or schedule is fair, just, and reasonable."[1] The Commission "shall conduct such a hearing upon a written complaint."[2] The utility bears the burden of proof to support its proposed rate.[3] In turn, ORS 757.215 provides that the Commission may, "pending such investigation and determination,

[1] ORS 757.210(1)(a).
[2] *Id.*
[3] *Id.*

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order the suspension of the rate or schedule of rates for a period of up to ten months beyond the time when such rate or schedule would otherwise go into effect."[4]

B. Discussion

Suspension and investigation of the Tariff Filing is warranted here. PacifiCorp's Tariff Filing proposes to adopt a new tariff, Schedule 401, for service to certain large energy use facilities (described as "Large Energy Use Facilities"). According to the Tariff Filing, PacifiCorp submits its proposed changes "[i]n accordance with Oregon House Bill (HB) 3546" and other Commission laws and regulations.[5] However, PacifiCorp's Tariff Filing does not accurately implement HB 3546, and raises a series of issues that require the Commission and stakeholders' evaluation.

ADS provides a preliminary list of these issues below, for consideration in the requested investigation and hearing.

1. **The Tariff Filing violates PacifiCorp's statutory obligations**. Subject to certain exceptions not applicable here, ORS 757.603 provides that "an electric company shall provide all retail electricity consumers that are connected to the electric company's distribution system with a regulated, cost-of-service rate option."[6] The Tariff Filing would eliminate a cost-of-service rate option for Large Energy Use Facilities and instead force such customers into amorphous, individualized "Large Energy Use Facility Agreements" that are to specify the "terms, conditions, and rates for service,"[7] which means, in other words, that there is no guarantee that a Large Energy Use Facility will have a cost-of-service rate option. Nothing in HB 3546 relieves an electric company from compliance with ORS 757.603.
2. **The Tariff Filing is inconsistent with, and fails to accurately reflect, HB 3546's applicability parameters**. The Tariff Filing states that Schedule 401 would apply to Large Energy Use Facilities that "have entered into a contract for electric service with the Company

[4] ORS 757.215(1).
[5] Tariff Filing at 1.
[6] ORS 756.603(1).
[7] Tariff Filing, Proposed Schedule 401 at 1 ("Proposed Schedule").

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before June 16, 2025, but require the Company to make significant investments or incur significant costs after June 16, 2025 for the provision of electric service."[8] But that's not what HB 3546 allows. HB 3546 applies only to existing contracts "if the provision of electricity service requires the electric company to make significant investments or incur costs after [June 16, 2025] *that could result in increased costs or risks to other retail electricity consumers of the electric company*."[9]

By omitting this statutory limitation, the Tariff Filing expands the retroactive scope contemplated by the Oregon Legislature. PacifiCorp's omission thus exacerbates the significant constitutional and prudential concerns associated with retroactive application of tariffs to existing contracts. Further, the omission shifts all discretion to PacifiCorp to determine which existing contracts are subject to its tariff change.

3. **Adoption of the Tariff Filing without investigation is inconsistent with the Commission's investigation of Portland General Electric's ("PGE") application of HB 3546 in UM 2377**. As reflected in the ongoing investigation in UM 2377, PGE interprets HB 3546's requirements very differently than PacifiCorp. To highlight some of those differences: (a) PGE's proposed Schedule 96 includes both a cost-of-service rate and a Special Contract option—consistent with HB 3546, and (b) PGE's proposed Schedule 96 more accurately limits its applicability to existing contracts as provided in HB 3546.[10]

The Commission should not accept one utility's inconsistent application of new legislation while simultaneously proceeding with an investigation of another utility's application of that same legislation. There is a significant risk of competing interpretation, and treatment, of this new law's requirements between the Commission's PGE investigation and PacifiCorp's Tariff Filing.

[8] Tariff Filing, Proposed Schedule 401 at 1.
[9] HB 3546, Section 6 (emphasis added).
[10] *See* UM2377, PGE/101 (Ferchland-Barrow/1) (Proposed Schedule 96).

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4. **The Tariff Filing shifts unwarranted control to PacifiCorp while undermining the Commission's supervisory role.** The Tariff Filing shifts unwarranted bargaining power to PacifiCorp to negotiate the "terms, conditions, and rates for service" within a non-competitive, exclusive service territory.[11] Authorizing such bargaining power undermines the Commission's supervisory authority over rates and service. The Commission has a statutory obligation to protect customers—which includes large load customers—from "unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates."[12] Yet under the Tariff Filing, there is no requirement that PacifiCorp set its rates based upon the costs of providing service—or any other reasonable limits. Additionally, while the Tariff Filing provides that PacifiCorp will file Large Energy Use Facility Agreements with the Commission for approval, there is no mechanism identified for a large load customer to seek Commission assistance if no agreement is reached. This provides PacifiCorp a pathway to present unjust and unreasonable contract terms to large load customers without any Commission oversight unless and until the large load customer agrees with those terms—or files a formal complaint.

ADS has no objection to allowing PacifiCorp and large-load consumers to *voluntarily* enter into individualized electric service agreements that are consistent with HB 3546 (and subject to Commission oversight). But if such consumers have no other option for service within an exclusive service territory, the Commission must set limitations on PacifiCorp's ability to demand unreasonable terms.

III. CONCLUSION

The Tariff Filing includes a significant change in tariff policy without adequate justification and without proper evaluation as to whether the revisions are fair, just and reasonable. Accordingly, ADS requests this Commission initiate an investigation and contested

[11] Tariff Filing, Proposed Schedule 401 at 1.
[12] ORS 756.040(1).

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case proceeding for this Tariff Filing, and suspend the Tariff Filing pending conclusion of that proceeding.

DATED: October 31, 2025

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By: *s/ Derek D. Green*

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