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December 19, 2025

**VIA E-MAIL TO**

Public Utility Commission of Oregon  
Filing Center  
201 High Street SE, Suite 100  
Salem, Oregon 97301-3398

**Re: Docket No. UM 2410 – *Amazon Data Services, Inc. v. PacifiCorp d/b/a Pacific Power***

Attention Filing Center:

Attached for filing in the above-captioned docket, please find PacifiCorp d/b/a Pacific Power's Partial Motion to Dismiss.

Please contact this office with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "MH", written over a horizontal line.

Michael Highfill  
Paralegal  
McDowell Rackner Gibson PC

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2410**

AMAZON DATA SERVICES, INC.,

Complainant,

v.

PACIFICORP d/b/a PACIFIC POWER,

Respondent.

**PACIFICORP’S PARTIAL  
MOTION TO DISMISS**

**I. INTRODUCTION**

In accordance with Administrative Law Judge Michael Grant’s November 7, 2025, Ruling and Oregon Rule of Civil Procedure (ORCP) 21, PacifiCorp d/b/a Pacific Power (PacifiCorp or Company), submits this Partial Motion to Dismiss (Motion) to the Public Utility Commission of Oregon (Commission). The Commission should dismiss the Sixth Claim for Relief in Amazon Data Services, Inc.’s (ADS) Complaint for failure to state a claim on which relief can be granted. PacifiCorp is filing an Answer to ADS’s Complaint concurrently with this Motion to respond to ADS’s other claims.

ADS’s Complaint articulates six claims for relief that generally allege the Company breached contractual and other duties regarding the provision of electric service to four new ADS data center campuses in PacifiCorp’s exclusive service territory. Relevant to this motion, ADS’s “alternative” Sixth Claim for Relief alleges that PacifiCorp has proven “unable or unwilling” to provide adequate service to ADS’s four data center campuses and requests the Commission to remove the data center campuses from PacifiCorp’s exclusive service territory and to assign the service territory to a different utility.<sup>1</sup>

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<sup>1</sup> Complaint at ¶¶ 98-102, 108 (Oct. 30, 2025).

ADS's Sixth Claim for Relief must be dismissed because there is no statutory basis for the Commission to provide the requested relief. Oregon's Territory Allocation Laws (ORS 758.400 to 758.475) do not give the Commission authority or discretion to reallocate service territory or customers without the agreement of the affected utilities. The more general statutory authorities on which ADS relies also do not provide a basis for reallocating PacifiCorp's service territory because these statutes cannot overcome the more specific and comprehensive Territory Allocation Laws.

## II. LEGAL STANDARD

The Commission's administrative rules along with the ORCP govern contested case proceedings before the Commission.<sup>2</sup> ORCP 21 authorizes a defense against a pleading through a motion to dismiss for "failure to state ultimate facts sufficient to constitute a claim."<sup>3</sup> When considering a motion to dismiss for failure to state a claim, "all factual allegations are assumed to be true[] and construed in a light most favorable to the nonmoving party,"<sup>4</sup> but the Commission disregards allegations that are conclusions of law.<sup>5</sup> The Commission must dismiss the claim if it

<sup>2</sup> OAR 860-001-0000(1).

<sup>3</sup> ORCP 21A(1)(h).

<sup>4</sup> *Portland Gen. Elec. Co. v. Dayton Solar I LLC, et al.*, Docket No. UM 2151, Order No. 21-210 at 3 (June 25, 2021); *Huang v. Claussen*, 147 Or App 330, 332, 936 P.2d 394 (1997) (“In considering the sufficiency of plaintiff’s complaint, we accept as true all well-pleaded allegations and all reasonable inferences that may be drawn therefrom, *Stringer v. Car Data Systems, Inc.*, 314 Or 576, 584, 841 P.2d 1183 (1992), *recon den*, 315 Or 308, 844 P.2d 905 (1993), but disregard any allegations that are conclusions of law, *Tydeman v. Flaherty*, 126 Or App 180, 182, 868 P.2d 755 (1994).”).

<sup>5</sup> See *Tydeman v. Flaherty*, 126 Or App 180, 182, 868 P2d 755 (1994).

1 finds that, even assuming the facts in the Complaint are true, the Complaint does not articulate a  
2 claim for which the Commission may grant relief.<sup>6</sup>

### 3 III. DISCUSSION

4 There is no legal basis for the Commission to remove portions of PacifiCorp's exclusive  
5 service territory so that the territory can be served by a different utility. Such a process is  
6 prohibited by the Territory Allocation Laws, which set forth the exclusive process for allocating  
7 and reallocating service territory and do not recognize the process ADS requests.

#### 8 A. The Territory Allocation Laws Do Not Permit Reassignment of PacifiCorp's 9 Exclusive Service Territory Over Its Objection

10 Oregon's Territory Allocation Laws provide for Commission allocation of exclusive  
11 service territory to utilities and protect the integrity of that exclusive service territory once  
12 allocated. The Territory Allocation Laws constitute a comprehensive statutory scheme that  
13 provides for the "orderly" allocation and reallocation of territory and customers between utilities  
14 and is the exclusive process for such allocations.<sup>7</sup>

15 The Territory Allocation Laws establish two ways for service territory to be allocated:  
16 (1) Commission approval of a utility's application for a novel allocation of territory not already  
17 allocated to or served by any utility, and (2) a Commission-approved contract between utilities

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<sup>6</sup> See, e.g., *In re W. Radio Servs. Co., Request for Ruling on Good Faith Claim against Qwest Corp.*, Docket No. UM 1469, Order No. 10-318 at 8 (Aug. 12, 2010) (granting respondent's motion to dismiss where "[a]ccepting as true all allegations of fact in the complaint and giving [complainant] the benefit of favorable inferences drawn from those facts, [the complainant] failed to state ultimate facts sufficient to state a claim"); *Util. Reform Project, et al. v. Portland Gen. Elec. Co.*, Docket No. UCB 13, Order No. 03-401 at 8-11 (July 9, 2003) (dismissing two claims on the basis that they did not request legally cognizable claims within the Commission's jurisdiction); *Theodore Fasy v. Citizens Telecomms. Co. of Or.*, Docket No. UC 553, 2000 Or PUC LEXIS 459 at \*9 (Dec. 20, 2000) (stating that because "[t]he actions which appear necessary to satisfy Complainant's demand ... are beyond our jurisdiction[,] [t]he Complainant ... fails to state a claim upon which the Commission may grant relief" and dismissing the complaint).

<sup>7</sup> *In re the Petition of NW Nat. Gas Co. for a Declaratory Ruling Pursuant to ORS 756.450 Regarding Whether Joint Bypass to Two or More Indus. Customers Violates ORS 758.400 et seq.*, Docket No. DR 23, Order No. 01-719 at 7 (Aug. 9, 2001), *rev'd on other grounds*, 195 Or App 547 (2004).

1 allocating service territory.<sup>8</sup> For the first path, “[a]pplication[s] for [the] allocation of territory”  
2 are governed by ORS 758.435, which clarifies that such applications can only be for territory  
3 that is not already served by a utility.<sup>9</sup> Applications under ORS 758.435 must show that the  
4 applicant “is lawfully and in good faith providing exclusive utility service within the area  
5 described in the application and that no other person is providing a similar utility service within  
6 such territory.”<sup>10</sup> For the second path, under ORS 758.410, utilities providing similar services  
7 may agree to allocate or reallocate service territory and customers between them,<sup>11</sup> and such  
8 agreements become enforceable if the Commission approves them based on conditions set forth  
9 in the Territory Allocation Laws.<sup>12</sup> The PacifiCorp service territory on which ADS’s facilities  
10 are located was allocated in the latter manner by Commission-approved agreement between  
11 PacifiCorp and neighboring electric cooperatives in Order No. 82-025.<sup>13</sup>

12         Once a utility has been granted exclusive service territory through one of the two  
13 pathways, the utility’s exclusive right to provide service within its service territory is strictly  
14 protected. Under ORS 758.450(2), no other person may offer or provide a similar utility service  
15 in that service territory.<sup>14</sup> In addition, ORS 758.465 provides utilities a cause of action and

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<sup>8</sup> ORS 758.400(1) (defining “Allocated territory” as “an area with boundaries established by a contract between persons furnishing a similar utility service and approved by the [Commission] or established by an order of the [C]ommission approving an application for the allocation of territory”); *see also* Order No. 01-719 at 7-8.

<sup>9</sup> ORS 758.435(1) (“Any person providing a utility service in a territory *that is not served by another person providing a similar utility service* may file an application with the [Commission] for an order allocating such territory to the person providing the utility service.”) (emphasis added).

<sup>10</sup> OAR 860-025-0020(4).

<sup>11</sup> ORS 758.410 (“Any person providing a utility service may contract with any other person providing a similar utility service for the purpose of allocating territories and customers between the parties and designating which territories and customers are to be served by which of said contracting parties.”). Notably, although ORS 758.410 is the relevant Territory Allocation Law for “transfer of [utility] facilities,” ORS 758.410 makes no mention of the forced reallocation of exclusive service territory once a utility been granted exclusive service territory.

<sup>12</sup> ORS 758.415.

<sup>13</sup> *In re the Application of Pac. Power & Light Co. for an Order or Orders Approving the Assignment of Rights in Allocated Serv. Territory*, Docket No. UF 3764, Order No. 82-025, Exhibit C at 28-29, 32, 34-37 (Jan. 11, 1982).

<sup>14</sup> ORS 758.450(2).

1 specifies an enforcement procedure if a utility’s service territory is invaded or a territory  
2 allocation contract is breached.<sup>15</sup>

3 Other than municipal condemnation, which is not relevant here,<sup>16</sup> the only way a  
4 previous territorial allocation can be changed is through a voluntary agreement between utilities  
5 that is approved by the Commission.<sup>17</sup> ORS 758.460 provides that the rights to an allocated  
6 territory may be “assigned or transferred,”<sup>18</sup> which are both actions taken by and with the  
7 consent of the utility to whom the territory was originally allocated—not unilaterally by the  
8 Commission at the request of a customer. ORS 758.430 confirms that a Commission-approved  
9 territory-allocation contract can be amended “by the parties thereto” with the approval of the  
10 Commission, but that statute does not contemplate that the Commission can revise the parties’  
11 contract without their agreement.<sup>19</sup>

12 The Commission has repeatedly confirmed that voluntary contracts between utilities are  
13 the only procedural pathway to amend a utility’s existing service territory boundaries. For  
14 example, the Commission has stated that “[t]here is ... no provision in the territory allocation  
15 statutes that permits amending a service territory agreement over the objection of one of the  
16 utility signatories to the agreement” and that “Commission-approved allocated service territories

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<sup>15</sup> ORS 758.465.

<sup>16</sup> Condemnation by a municipality or public utility district is the only context in which a utility may be forced to *involuntarily* relinquish its service territory under Oregon law. *See* ORS 758.470(1) (municipal utilities); Or Const, Art. XI, § 12 and ORS 261.305 (public utility districts). ORS 758.470 recognizes the power of municipalities to condemn property for providing utility service and acquire the right to serve the territory served by the property acquired, and Article XI, section 12 of the Oregon Constitution and ORS 261.305 provide that public utility districts may exercise the power of eminent domain. These statutes and this constitutional provision are plainly not relevant, as there is no municipal entity that has attempted to condemn the portions of PacifiCorp’s service territory that correspond to the data center campuses. Outside of the context of condemnation, there is no other legal mechanism in Oregon for a utility to be forced to involuntarily relinquish its service territory.

<sup>17</sup> ORS 758.450(1).

<sup>18</sup> ORS 758.460(1). The Commission must approve the assignment or transfer after finding that it is not contrary to the public interest. *Id.*

<sup>19</sup> ORS 758.430.

1 may only be altered if the utilities mutually agree to amend the contract.”<sup>20</sup> Similarly, the  
2 Commission stated that “[t]he Territory Allocation Law ... is silent as to the legality of service to  
3 [a customer that straddles adjoining service territories] when utilities are not able to reach a  
4 negotiated resolution,”<sup>21</sup> thus confirming that the Territory Allocation Laws do not contemplate  
5 reallocating a utility’s exclusive service territory in whole or in part over its objection.

6 Here, it is undisputed that the four data center campuses are wholly or partially in  
7 PacifiCorp’s exclusive service territory and that PacifiCorp has the exclusive right to serve  
8 them.<sup>22</sup> Pursuant to the comprehensive statutory scheme set forth in the Territory Allocation  
9 Laws, the only way the four data center campuses can be removed from PacifiCorp’s service  
10 territory is through PacifiCorp’s voluntary agreement to a contract with another electric utility to  
11 reallocate these portions of its exclusive service territory. However, PacifiCorp objects to such a  
12 reallocation. Absent PacifiCorp’s voluntary agreement with another utility, there is no legal  
13 avenue for the Commission to grant ADS’s request and reallocate the portions of PacifiCorp’s  
14 service territory at issue in this proceeding.

15 **B. ADS’s Reliance on the Territory Allocation Laws is Misplaced.**

16 ADS asserts that PacifiCorp’s exclusive service territory can be unilaterally revoked by  
17 the Commission because “[t]he Territory Allocation Law provides for the Commission to  
18 investigate the allocation of a service territory and to assign or transfer an allocated service

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<sup>20</sup> *In re Prop. Owners of Tax Lot 501; Petition to Rev. Serv. Area for Tax Lot 501, Petitioners, and PacifiCorp, dba Pac. Power & Light Co., and Hood River Elec. Coop., Inc.*, Docket No. UA 110, Order No. 07-415 at 3 (Sept. 21, 2007).

<sup>21</sup> *Columbia Basin Elec. Coop., Inc. v. Umatilla Elec. Coop.*, Docket No. UM 1818, Order No. 19-221 at 7 (July 2, 2019).

<sup>22</sup> *See, e.g.*, Complaint at ¶ 58 (“The Data Center Campuses are located within PacifiCorp’s exclusive service territory.”) and at ¶¶ 70, 79, 89 (alleging that because the four data center campuses are in PacifiCorp’s exclusive service territory, ADS cannot obtain power from another utility); PacifiCorp’s Answer and Counterclaims at ¶ 58.

territory when such transfer is not contrary to the public interest.”<sup>23</sup> ADS’s articulation of the Territory Allocation Laws amalgamates at least two different statutes that do not apply here.

***1. The Commission’s authority to investigate applications for the negotiated reallocation of service territory is inapplicable.***

First, ADS relies on the Commission’s authority to initiate investigations into proposed allocations of service territory, but ADS misconstrues the relevant provision. ORS 758.455(1) provides that “[t]he [Commission] may make such investigations respecting a contract or an application for the allocation of territory as the [C]ommission deems proper . . . .” However, ORS 758.455 is not a blanket authorization for any Commission investigation into the boundaries of a utility’s exclusive service territory. Instead, it is limited by its own terms to investigations into “contract[s] . . . for the allocation of territory” and investigations into “application[s] for the allocation of territory.” These phrases refer to the two ways in which service territory can be allocated, as discussed above. Thus, ORS 758.455 provides that the Commission may investigate proposed service territory allocations that are brought before the Commission through the appropriate channels; it does not create an independent mechanism to investigate or reallocate a utility’s exclusive service territory.

***2. ORS 758.460 does not authorize the forced reallocation of PacifiCorp’s service territory.***

Second, ADS refers to the Commission’s authority to investigate whether the allocation of service territory or transfer of previously allocated service territory is not contrary to the public interest.<sup>24</sup> PacifiCorp understands ADS’s reference to a “public interest” standard to be a reference to ORS 758.460, but this statute also does not support ADS’s Sixth Claim for Relief. In relevant part, ORS 758.460(1) provides: “The rights acquired by an allocation of territory may

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<sup>23</sup> Complaint at ¶ 99.

<sup>24</sup> *Id.*



1 only be assigned or transferred with the approval of the [Commission] after a finding that such  
2 assignment or transfer is not contrary to the public interest.” This provision establishes the  
3 standard the Commission must apply when reviewing an assignment or transfer conducted *by the*  
4 *utility itself*, but it does not authorize the Commission to redraw the boundaries of a utility’s  
5 exclusive service territory against the utility’s will.<sup>25</sup>

6 The Commission has previously denied a claim under ORS 758.460(1) that was very  
7 similar to ADS’s Sixth Claim for Relief. In that proceeding, the owners of property located  
8 within PacifiCorp’s exclusive service territory filed a petition requesting the Commission to  
9 “redraw” the boundary line of PacifiCorp’s service territory so they could be served by a  
10 different utility, as ADS effectively requests here.<sup>26</sup> PacifiCorp opposed the petition.<sup>27</sup> The  
11 Commission denied the petition, holding that there was no statute that allowed amending  
12 PacifiCorp’s service territory boundary over PacifiCorp’s objection and that the petitioners could  
13 not seek to revise an agreement that they were not party to.<sup>28</sup> The property owners relied on  
14 ORS 758.460(1), but the Commission held that this statute does not apply when a utility objects  
15 to the reassignment of its service territory:

16 As [Commission] Staff points out, ORS 758.460(1) does not apply to the  
17 circumstances at hand, because the statute contemplates that the assignment or  
18 transfer of allocated service territory will occur as a result of an agreement between  
19 utilities. Since PacifiCorp does not agree with the proposed territory reallocation,  
20 ORS 758.460(1) does not come into play.<sup>29</sup>

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<sup>25</sup> Order No. 07-415 at 3.

<sup>26</sup> *Id.* at 1.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 3.

<sup>29</sup> *Id.* at 4.

1 ORS 758.460(1) is inapplicable here for the same reasons and does not authorize ADS's Sixth  
2 Claim for Relief.<sup>30</sup>

3 **C. The Commission's General Authority Does Not Permit Forced Reallocation of**  
4 **Exclusive Service Territory**

5 ADS also argues that the Commission can force PacifiCorp to involuntarily relinquish  
6 portions of its service territory because of: (1) the Commission's general authority "to supervise  
7 and regulate every public utility and telecommunications utility in this state, and to do all things  
8 necessary and convenient in the exercise of such power and jurisdiction" under ORS 756.040(2),  
9 and (2) the Commission's "power to rescind, suspend or amend any Commission order" under  
10 ORS 756.568.<sup>31</sup> Contrary to ADS's claim, neither statute provides direct legislative authority for  
11 reallocating portions of PacifiCorp's exclusive service territory.

12 As an executive agency, the Commission is a "creature of statute"<sup>32</sup> that cannot exercise  
13 any powers or perform any duties "beyond that granted by the terms of a statute."<sup>33</sup> The  
14 Commission's exercise of authority is limited to what is "expressly authorized or necessarily  
15 implied by statute."<sup>34</sup> Where there are specific statutes that give the Commission jurisdiction  
16 over particular subject matter, the Commission declines to exercise jurisdiction over similar  
17 subject matter based on its general regulatory authority "under the principle of statutory  
18 construction that the specific controls the general."<sup>35</sup> Accordingly, parties cannot protect their

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<sup>30</sup> OAR 860-025-0027 provides the requirements for applications to transfer service territory under ORS 758.460, including the requirement that the application contain "[c]opies of all written evidence and a statement of all oral understandings comprising the agreement between the transferor and transferee covering the transfer of the territory described in the application and sought to be transferred." Thus, OAR 860-025-0027 further confirms that ORS 758.460 only contemplates voluntary service territory transfers.

<sup>31</sup> Complaint at ¶ 99.

<sup>32</sup> *PNW Metal Recycling, Inc. v. Or. Dep't of Env't Quality*, 371 Or 673, 676, 540 P3d 523 (2023).

<sup>33</sup> *Joyce v. Pub. Emps. Ret. Bd.*, 209 Or App 289, 293, 147 P3d 379 (2006).

<sup>34</sup> *Gearhart v. PUC*, 356 Or 216, 231-32, 339 P3d 904 (2014).

<sup>35</sup> *Falcon Cable Systems Co. v. Lane Elec. Coop.*, Docket No. UC 329, Order No. 98-087, 1998 Or PUC LEXIS 122 at \*1-2 (March 13, 1998).

1 claims from motions to dismiss by relying on statutes that grant the Commission general  
2 authority but do not specifically authorize the relief they request where the subject matter is  
3 otherwise addressed under another statute.<sup>36</sup>

4 Here, the Commission’s specific authority to regulate service territory reallocations is  
5 comprehensively set forth in the Territory Allocation Laws, which provide “an explicit  
6 framework” to resolve issues related to territory allocations.<sup>37</sup> General statutes that are not part  
7 of the Territory Allocation Laws are not directly relevant to territory allocation questions and  
8 cannot change the regulatory scheme set forth in the Territory Allocation Laws. Because the  
9 Territory Allocation Laws are the beginning and the end of the Commission’s authority in the  
10 context of territory allocation questions, the Commission need not refer to any other statutes to  
11 determine that ADS’s Sixth Claim for Relief fails to plead sufficient facts to state a claim on  
12 which relief can be granted.<sup>38</sup>

13 In addition, neither of the general statutes ADS relies on constitutes an independent grant  
14 of new authority to the Commission. Instead, they clarify the Commission’s powers to regulate  
15 matters over which it already has jurisdiction. ORS 756.040(2) provides that all public utilities in  
16 Oregon are subject to regulation by the Commission and provides that the Commission can “do  
17 all things necessary and convenient” to exercise its existing jurisdiction. Where the Commission  
18 does not already have authority to regulate a utility in some specific way, ORS 756.040(2) does

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<sup>36</sup> Order No. 03-401 at 10 (dismissing a party’s claim requesting the Commission to issue refunds on the basis the Commission lacked statutory authority to do so, and stating that statutes directing the Commission to represent customers in all matters of which the Commission has jurisdiction and protect the integrity of the hearing process did not save the claim because these statutes did not “provide specific legislative authority for us to [grant the requested relief]”).

<sup>37</sup> Order No. 01-719 at 7-8 (stating that the Territory Allocation Laws provide the relevant context for interpreting any terms or statutes located in the Territory Allocation Laws).

<sup>38</sup> *See id.* at 7 (stating that ORS 758.400 through ORS 758.475 are the relevant statutes that provide the statutory context for issues related to territorial allocation, and that these statutes provide the “explicit framework” for the Commission’s analysis).

1 not create that new, specific authority. Reading ORS 756.040 as an open-ended authorization of  
2 any action the Commission may take to “supervise and regulate” public utilities—as ADS  
3 suggests—would make ORS 756.040(2) constitutionally suspect by raising nondelegation  
4 issues.<sup>39</sup>

5 Similarly, ORS 756.568 should not be interpreted as an independent pathway for revising  
6 a service territory allocation established through an earlier Commission order, as this would  
7 directly conflict with the Territory Allocation Laws’ more specific and prescriptive provisions.<sup>40</sup>  
8 Indeed, the Company is not aware of any instance where the Commission has forgone the  
9 explicit framework in the Territory Allocation Laws and instead relied on ORS 756.040(2) or  
10 ORS 756.568 to reallocate a utility’s exclusive service territory. This makes sense because there  
11 are other legal remedies already available to address a utility’s alleged refusal to serve a  
12 customer. The Commission has previously found its authority to ensure that utilities provide  
13 “adequate” service under ORS 757.020 sufficient to address a utility’s refusal to serve new  
14 customers.<sup>41</sup>

15 Finally, the Commission should not interpret its general powers as allowing ADS’s Sixth  
16 Claim for Relief, because granting ADS’s request would disrupt the regulatory compact at the  
17 heart of public utility regulation. Under the regulatory compact, public utilities are granted the

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<sup>39</sup> See Or Const, Art. I, § 21; *Along Came Trudy LLC v. Or. Liquor & Cannabis Comm’n*, 330 Or App 295, 307, 543 P3d 751 (2024) (stating that “[t]he purpose of Article I, section 21, is to ‘prevent unlawful delegation of legislative authority’ to make laws” and that “[w]hether the legislature unconstitutionally delegates its authority in any particular instance ... depends ‘on the presence or absence of adequate legislative standards and whether the legislative policy has been followed’” (quoting *Marr v. Fisher et al.*, 182 Or 383, 388, 187 P2d 966 (1947) and *State v. Long*, 315 Or 95, 102, 843 P2d 420 (1992))).

<sup>40</sup> Principles of statutory interpretation require that when multiple statutes appear to conflict, the Commission should first attempt to reconcile the apparent conflict. If it is not possible to reconcile the conflict, then when one statute deals with a subject in general terms and another statute deals with the subject in more definite terms, the Commission should give the terms of the specific statute precedence over the terms of the general statute. See *Preble v. Centennial Sch. Dist. No. 287*, 298 Or App 357, 364, 447 P3d 42 (2019).

<sup>41</sup> *In re the Investigation into the Capacity of Salmon Valley Water Co. to Serve New Development*, Docket No. UM 774, Order No. 97-074, 1997 Or PUC LEXIS 127 at \*6 (Mar. 3, 1997).

1 exclusive right to provide service in their allocated service territories and are entitled to rates that  
2 enable them to recover their costs of service and have a reasonable opportunity to earn a return  
3 on their capital investment.<sup>42</sup> In return, utilities are obligated to provide safe, reliable, and  
4 nondiscriminatory utility service within their service territories and cannot charge rates other  
5 than those reviewed and approved by the Commission.<sup>43</sup> Under ADS's interpretation of the  
6 Territory Allocation Laws and the Commission's general authority, a utility's exclusive service  
7 territory would not be truly exclusive, because any customer or competing utility could petition  
8 the Commission to reallocate a utility's territory in whole or in part. This would unravel the  
9 balance of rights of duties that comprise the regulatory compact and that are already reflected in  
10 Oregon's territory allocation scheme.

#### 11 IV. CONCLUSION

12 For the foregoing reasons, the Commission cannot grant the relief ADS seeks in its Sixth  
13 Claim for Relief as a matter of law. The Commission therefore should dismiss ADS's Sixth  
14 Claim for Relief with prejudice.

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<sup>42</sup> E.g., *In re PacifiCorp, dba Pac. Power, Advice No. 23-018 (ADV 1545), Modifications to Rule 4, Application for Elec. Serv.*, Docket No. UE 428, Order No. 24-155 at 6 (May 30, 2024).

<sup>43</sup> *Id.*

Respectfully submitted this 19<sup>th</sup> day of December 2025.

**MCDOWELL RACKNER GIBSON PC**



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