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**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

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In the Matter of

PACIFICORP, dba PACIFIC POWER

Request for a General Rate Revision

Docket No. UE-374

**PRE-HEARING BRIEF OF WALMART  
INC.**

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**I. Introduction**

Pursuant to the Administrative Law Judge’s (“ALJ”) ruling issued August 10, 2020, Walmart Inc. (“Walmart”) submits this prehearing brief in the above-captioned docket. On February 14, 2020, PacifiCorp d/b/a Pacific Power (“PacifiCorp” or the “Company”) filed a request for a general rate revision, requesting an increase in rates of approximately \$78 million, recovery of costs related to the early closure of Cholla Unit 4, and amortization of deferred tax benefits associated with the Tax Cut & Jobs Act (“TCJA”).<sup>1</sup> This prehearing brief will provide the legal standard applicable to this proceeding, provide Walmart’s support of the Partial Stipulation filed August 17, 2020, and summarize Walmart’s position on the still outstanding issue of Return on Equity (“ROE”) raised in Walmart’s Opening Testimony.

**II. Legal Standard**

PacifiCorp’s rate revision request is subject to ORS 757.210, which requires that the Commission only approve a rate increase if it is found to be fair, just and reasonable.<sup>2</sup> PacifiCorp carries the burden to demonstrate that its proposed request is fair, just and

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<sup>1</sup> UE374 – *In the Matter of PacifiCorp dba Pacific Power Request for a General Rate Revision*, PacifiCorp’s Executive Summary, 1 (Feb. 14, 2020).

<sup>2</sup> ORS 757.210(1)(a).

reasonable.<sup>3</sup> The Commission also has an independent obligation to ensure that a utility's rates are fair and reasonable.<sup>4</sup>

### **III. Partial Stipulation**

On August 17, 2020, the parties to this docket filed a Partial Stipulation that settled all the issues related to rate design and rate spread. Walmart supports the Partial Stipulation and recommends that the Commission approve the Partial Stipulation as filed. The Partial Stipulation is the just and reasonable outcome of extensive arms-length negotiations conducted in good faith between the parties in this docket. Additionally, the settlement process greatly aids in administrative efficiency, which can reduce costs to all parties and ratepayers.

### **IV. Walmart's Recommendation**

Walmart's Opening Testimony in this case focused on PacifiCorp's requested ROE and certain rate design issues. The rate design issues have been resolved by the Partial Stipulation. Therefore, Walmart only discusses herein its position related to PacifiCorp's requested ROE.

Electricity is one of the most significant operating costs for many commercial retailers such as Walmart. Thus, an increase in electricity rates puts substantial pressure on Walmart to increase consumer prices. This is especially true in the current economic environment. As a result, an increase in electricity rates has a trickle-down effect that also results in increased prices of consumer goods. Therefore, the Commission should thoroughly and carefully consider the impact on customers in examining PacifiCorp's requested revenue requirements and ROE. PacifiCorp is only entitled to a reasonable return on its investment, not a princely sum.

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

<sup>4</sup> ORS 756.020(1).

PacifiCorp is currently operating in Oregon subject to a 9.8% ROE. Under that ROE, PacifiCorp has greatly expanded its transmission system and added to its wind facilities. Nevertheless, in its opening and reply testimony, the Company requested a ROE of 10.2%.<sup>5</sup> It is not until the Company's surrebuttal testimony that it finally acknowledges that a 9.8% ROE would more likely balance the need to maintain access to capital on reasonable terms with concerns for customers during these difficult economic times.<sup>6</sup>

PacifiCorp admits that the regulatory decisions of other commissions provide a basic test of reasonableness and a benchmark that investors consider in evaluating the authorized ROE against the returns available from other comparable regulated utilities.<sup>7</sup> That being said, from 2017 to the present time, the Commission has twice approved an ROE of only 9.5% for Portland General Electric, a similarly situated utility.<sup>8</sup> Furthermore, as Walmart has demonstrated, the average of the 129 reported electric utility rate case ROEs authorized by state commissions to investor-owned utilities from 2017 to present is 9.6%.<sup>9</sup> And, the average authorized ROE for vertically integrated utilities from 2017 to present is 9.73%. As such, from the perspective of a national customer on industry trends, even PacifiCorp's most recently updated ROE request of 9.8% may be overreaching.

## **V. Conclusion**

Walmart recommends the Commission approve the Partial Stipulation filed by the parties in this docket. Walmart also recommends that the Commission carefully consider the impact a

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5 UE 374 – PAC/400/Bulkley/4; UE 374 – PAC/2200/Bulkley/2.

6 UE 374 – PAC/3500/Bulkley/16.

7 UE 374 – PAC/2200/Bulkley/9.

8 UE 374 – Walmart/100/Chriss/8.

9 UE 374 – Walmart/100/Chriss/9.

revenue requirement increase will have on Oregon citizens in this very challenging economic time.

RESPECTFULLY SUBMITTED this 2nd day of September 2020.

/s/ Vicki M. Baldwin

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