**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UE 374

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| In the Matter of<br>PACIFICORP, dba PACIFIC POWER,<br>Request for a General Rate Revision. | STAFF'S PREHEARING BRIEF |

## I. INTRODUCTION

Staff of the Public Utility Commission of Oregon (Staff) files this prehearing brief in anticipation of the hearing scheduled for September 9 and September 10, 2020. PacifiCorp seeks a $47.5 million increase in revenue requirement in this case, relative to its current rates.[1] All revenue requirement issues remain unsettled, which include:[2]

- Cost of Capital
- Wildfire Mitigation and Vegetation Management Cost Recovery Mechanism
- Decommissioning Costs for Coal Units
- Emissions Control Investments Cost Recovery
- Capital Cost Recovery for Transmission Assets
- Annual Power Cost Adjustment Mechanism/Transition Adjustment Mechanism
- Capital Cost Recovery for EV 2020 New Wind and Repowered Wind, and Pryor Mountain
- Attestations for Non-Transmission, Non-Wind Capital Projects
- Exit Orders and Exit Dates for Coal Units
- Cholla Unit 4 Cost Recovery
- Amortization of Tax Cuts & Jobs Act Deferred Amounts

[1] PAC/3300, Lockey/3.

[2] Some issues in this list are either not addressed in Staff's testimony, or not issues that Staff contests, but are included for completeness.


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- Cost Recovery Mechanism for Coal Generation Assets
- Pension Settlement Losses
- Schedule 272 Investigation
- Wages & Salaries
- Advanced Metering Infrastructure
- Deer Creek Mine Costs
- Oregon Corporate Activities Tax
- Insurance Premiums
- Other O&M Adjustments
- Wheeling Revenues

As Staff's testimony in this proceeding demonstrates, despite the Company's movement in its requested revenue requirement,[3] the Company's requested rates in this case remain overstated. Staff continues to recommend that the Commission adopt its adjustments and recommendations in this case, as summarized below. For the issues that Staff and PacifiCorp reached agreement through testimony in this case, Staff recommends that the Commission adopt the positions described in testimony.[4]

Although the parties to this proceeding were not able to reach settlement on any revenue requirement issues, that is not the case for rate spread and rate design issues. On August 17, 2020, PacifiCorp, the Alliance of Western Energy Consumers (AWEC), Calpine Energy

[3] PAC/3300, Lockey/3-5.

[4] These issues include Miscellaneous Revenue (Staff/2300, Soldavini/85); Reliability Coordinator Fee (Staff/2300, Soldavini/87); Custody Fees (Staff/2300, Soldavini/89); Trapper Mine final reclamation liability (Staff/1800, Fox/26); ILR 4.1.9 Future Fish Passage Stage 1 Ph (Staff/1800, Fox/26); Central Utah Water Conservancy District project (Staff/1800, Fox/26); Pro Forma Tax Balances (Staff/1800, Fox/26); Post-retirement Employee Benefit Plans other than Pension (Staff/2000, Storm/37); Advertising Expense (Staff/2500, Cohen/19); OPUC Fee (Staff/2600, Fjeldheim/7); KHSA depreciation expense (Staff/2600; Fjeldheim/8); IrionNet project removal (Staff/2600, Fjeldheim/10); Health Insurance Benefits, D&O insurance, Directors Fees and Expenses, Fuel Stock, Non-fuel Materials and Supplies, Miscellaneous Debits, Cash and other Working Capital, Misc. Rate Base and Customer Advances for Construction (Staff/2600, Fjeldheim/11).


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Solutions, LLC (Calpine), ChargePoint, Inc. (ChargePoint), Fred Meyer Stores (Fred Meyer), Klamath Water Users Association (KWUA), Oregon Citizens' Utility Board (CUB), Oregon Farm Bureau Federation (Oregon Farm Bureau), Small Business Utility Advocates (SBUA), Staff, Tesla, Inc. (Tesla), Vitesse, LLC (Vitesse), and Walmart, Inc. (Walmart), filed a Partial Stipulation resolving certain issues related to rate spread and rate design. Sierra Club did not join the Stipulation. Per OAR 860-001-0350(7)(a), Staff writes in support of the settlement as part of this prehearing brief.

## II. BURDEN OF PROOF

PacifiCorp bears the burden of proof in demonstrating that the rate or schedule of rates (and related adjustments and issues) it proposes are "fair, just and reasonable."[5]

## III. ARGUMENT

### (A) The Commission should adopt Staff's proposed cost of capital.

ORS 756.040(1) provides, in part, that "rates are fair and reasonable for the purposes of this subsection if the rates provide adequate revenue both for operating expenses of the public utility or telecommunications utility and for capital costs of the utility, with a return to the equity holder that is: (a) Commensurate with the return on investments in other enterprises having corresponding risks; and (b) Sufficient to ensure confidence in the financial integrity of the utility, allowing the utility to maintain its credit and attract capital." A utility's fair return can change along with economic conditions and capital markets.[6] It is the end result that is important and not the methods used to arrive at the rates,[7] which must be "measured as much by the success with which they protect those (broad public) interests as by the effectiveness with which they maintain credit…and…attract capital."[8]

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[5] ORS 757.210(1)(a).

[6] *Bluefield Waterworks & Imp. Co. v. Public Service Comm'n of West Virginia*, 43 S Ct 675, 679 (1923).

[7] *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

[8] *In re Permian Basin Area Rate Cases*, 88 S Ct 1344, 1372-1371 (1968).


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Despite national trends for regulated utilities[9] and financial markets, generally,[10] PacifiCorp requests that the Commission approve an overall rate of return of 7.46, assuming a 9.8 percent Return on Equity (ROE).[11] The Company's rebuttal testimony position purports to be mindful of the impacts of COVID-19 to its customers, partially demonstrated by the reduction in its requested ROE.[12]

<u>Capital Structure</u>

For capital structure, PacifiCorp recommends that the Commission approve 53.52 percent equity capital structure, with no update for the April 2020 bond issuance and new 2021 bond dividend projections, which it argues would increase the equity component of the capital structure as measured on a five-quarter average to 53.55 percent.[13] PacifiCorp argues that this capital structure is needed at this time in order to "maintain credit ratings and low cost access to debt markets[] during this significant extended capital build cycle."[14]

Staff continues to be unpersuaded by the Company's argument and analysis. As Staff's testimony demonstrates, PacifiCorp's capital structure is well outside of industry trends,[15] and fails to minimize costs to ratepayers.[16] Staff's rebuttal testimony indicated its support for AWEC's rationale and recommendation for a 50.64 percent equity and 49.35 percent long-term (LT) debt, moving away from Staff's earlier recommended 52 percent equity layer.[17] In its surrebuttal testimony, AWEC updated its analysis to support a 51.86 percent common equity, 0.01 percent preferred stock, and 48.13 percent LT debt.[18] Staff continues to support AWEC's

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[9] Staff/1911, Muldoon – Enright – Dlouhy/466-471.

[10] *See* Staff/1911.

[11] PAC/3300, Lockey/4.

[12] *Id.*

[13] PAC/3400, Kobliha/2.

[14] *Id.*

[15] Staff/1900, Muldoon – Enright – Dlouhy/21-22.

[16] Staff/1900, Muldoon – Enright – Dlouhy/21-23.

[17] Staff/1900, Muldoon – Enright – Dlouhy/18.

[18] AWEC/600, Gorman/4.


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analysis and recommendations for capital structure as its primary recommendation. Alternatively, Staff continues to find that a notional 50 percent capital structure is reasonable in the context of an overall Rate of Return (ROR) above 7.0 percent.[19] As Staff's testimony demonstrates, the average electric utility capital structure decided in each of the last three full years and also to date in 2020 is at or below 50 percent equity.[20] Of the Oregon investor-owned utilities, Avista, Cascade Natural Gas, NW Natural and PGE all have a 50 percent equity capital structure.[21]

Return on Equity

For return on equity (ROE), PacifiCorp, KWUA[22] and Sierra Club[23] recommend the Commission approve a ROE of 9.80 percent. PacifiCorp argues that this "takes into consideration both the results of the DCF models and risk premium methodologies, specifically the forward-looking CAPM analysis and the Risk Premium model, as well as the Expected Earnings analyses."[24] PacifiCorp further argues that its proposed ROE "considers other factors…including company-specific risk factors, and the capital attraction standard."[25]

As Staff's testimony demonstrates, however, PacifiCorp's proposed ROE is well outside of the range of reasonable ROEs, which it has identified fall between 8.57 and 9.42 percent.[26] Staff's analysis of the peer utilities[27] and three-stage discounted cash flow (DCF) models[28] with a

[19] Staff/1900, Muldoon – Enright – Dlouhy/3, Table 3.

[20] Staff/1911, Muldoon – Enright – Dlouhy/469.

[21] Staff/1900, Muldoon – Enright – Dlouhy/26.

[22] KWUA/100, Reed/27. Staff notes that KWUA argues that if the Commission removes the deadbands, earnings test and sharing in the Power Cost Adjustment Mechanism (PCAM), PacifiCorp's ROE should be adjusted downward. *Id.*

[23] Sierra Club/200, Posner/3-4.

[24] PAC/3500, Bulkley/15.

[25] *Id*.

[26] Staff/1900, Muldoon – Enright – Dlouhy/38.

[27] Staff/200, Muldoon – Enright/12-13; Staff/1900, Muldoon – Enright – Dlouhy/30.

[28] Staff/1900, Muldoon – Enright – Dlouhy/32.


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Hamada adjustment[29] support its recommended the Commission adopt a 9.0 ROE, with a ceiling of reasonableness of 9.42 percent.[30] Staff's analysis using a single-stage DCF model and CAPM point to the upper end of Staff's range;[31] however, as Staff explains, its analyses point to 9.0 ROE as being enough of a return to reward investors and is reflective of PacifiCorp's risk profile.[32] Both AWEC's and CUB's recommended ROEs are also within this range – at a ceiling of 9.2 percent, and 9.4 percent, respectively.[33]

<u>Cost of Long-term Debt</u>

For cost of long-term (LT) debt, PacifiCorp recommends the Commission adopt a 4.774 percent cost of LT debt,[34] which is slightly lower than Staff's recommended 4.824 percent.[35] The slight difference is due to a minor disagreement in methodology.[36] Staff continues to find that its recommended cost of LT debt is supportive of an overall reasonable Rate of Return (ROR) as it removes the current portion of LT debt as bonds mature, conforming to Oregon Staff's definition of LT Debt as having maturities over one year.[37] PacifiCorp seems to prefer a slightly lower cost of debt, based on the analysis in its initial testimony.[38] Staff does not agree with the Company that a lower cost of debt, balanced with a higher ROE, is an optimal balance for customers and shareholders in the current financial climate.

With regard to the issuance of Green First Mortgage Rate Bonds, Staff appreciates that PacifiCorp will continue to evaluate the use of green bonds each time that it goes into the

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[29] Staff/1900, Muldoon – Enright – Dlouhy/31.
[30] Staff/1900, Muldoon – Enright – Dlouhy/38-39.
[31] Staff/1900, Muldoon – Enright – Dlouhy/38.
[32] Staff/1900, Muldoon – Enright – Dlouhy/38-39.
[33] AWEC/200, Gorman/2; CUB/300, Jenks/10.
[34] PAC/2100, Kobliha/10.
[35] Staff/1900, Muldoon – Enright – Dlouhy/109.
[36] Staff/1900, Muldoon – Enright – Dlouhy/109-110.
[37] *Id*.
[38] PAC/2100, Kobliha/10.


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market;[39] however, Staff continues to encourage PacifiCorp to act as expeditiously as possible in the interest of customers and shareholders.[40] Staff does not have a specific adjustment related to this issue.[41] Staff notes that going forward, it intends to monitor issuances of green bonds in debt markets, paying particular attention to yields achieved on such bonds, to inform its determination of the prudence of LT debt issuances in future general rate case proceedings.[42]

**(B) The Commission should adopt Staff's proposed Wildfire Mitigation and Vegetation Management Cost Recovery Mechanism without PacifiCorp's proposed modifications.**

In its rebuttal testimony, Staff proposed a comprehensive Wildfire Mitigation and Vegetation Management Cost Recovery Mechanism to address the on-going and increasing risk associated with wildfires. Specifically, Staff proposed a mechanism that combined cost recovery for vegetation management with wildfire mitigation, given the relationship between vegetation and infrastructure when it comes to wildfire risk[43] and the state's policy on addressing wild fire risk.[44] Staff's proposal is as follows:

- Include in base rates $26.58 million in revenue requirement of the $33.35 million PacifiCorp requests for vegetation management and wildfire mitigation O&M expense projected for the 2021 test period.[45] This assumes that 2020 wildfire mitigation capital expenditures are prudent and included in base rates.
- Each year, beginning with 2021, all expenses for vegetation management and wildfire mitigation above the amount included in base rates ($26.58 million), as well as expenses for an Independent Evaluator (IE) would be subject to an annual

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[39] PAC/2100, Kobliha/9.

[40] Staff/1900, Muldoon – Enright – Dlouhy/48.

[41] Staff/1900, Muldoon – Enright – Dlouhy/43-44.

[42] Staff/1900, Muldoon – Enright – Dlouhy/49.

[43] Staff/600, Moore/8.

[44] Staff/2700, Moore/8-10; Staff/2700, Moore/11-14.

[45] Staff clarifies that forecast 2021 capital costs should not be included in base rates in this case, and would be subject to the Vegetation Management and Wildfire Mitigation Cost Recovery Mechanism as described.


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deferral. The annual revenue requirement effects of vegetation management and wildfire mitigation capital expenditures would also be included in the deferral.

- Amortization of deferred amounts would occur on the schedule proposed by PacifiCorp in its reply testimony (PAC/2000, Wilding/47) and be subject to the following:
    - Vegetation management performance metrics:
        - Violation level I (when violations exceed 75)
        - Violation level II (when violations exceed 150); and
        - Violation level III (when violations exceed 200).
    - Each year, beginning in 2021, for prudently incurred expenses of more than $26.58 million and up to $33.225 million (for a total of $6.645 million) of deferred amounts, except for deferred costs for the IE, would be subject to the following earnings test:
        - No earnings test applicable if vegetation management violations are below Violation Level I.
        - An earnings test of UE 374 authorized ROE minus 100 basis points is applicable if vegetation management violations are at or above Violation Level I and less than Violation Level II.
        - An earnings test of UE 374 authorized ROE minus 150 basis points is applicable if vegetation management violations are at or above Violation Level II and less than Violation Level III.
        - An earnings test of UE 374 authorized ROE minus 200 basis points is applicable if vegetation management violations are at or above Violation Level III.
        - Each of the above earnings tests will be adjusted to add an additional 50 basis points if any of the vegetation management


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clearance violations occur in a Fire High Consequence Area (FHCA).

- o Each year, beginning in 2021, for prudently incurred expenses of $33.25 million or greater, deferred amounts (except for deferred costs for the IE) would be subject to the following earnings test:
  - ▪ At UE 374 authorized ROE, except in the circumstance where vegetation management violations are at or above Level II and at least one of the violations occurs in a FHCA zone. In that case, the earnings test applied would be equal to UE 374 authorized ROE minus 50 basis points.
- o No earnings test would apply to the deferred costs related to the IE.
- o Expenses found to be prudently incurred in a year, but nevertheless not amortized into rates due to the applications of an earnings test, would not roll-over for cost recovery in a future year.

In its surrebuttal testimony, PacifiCorp largely agreed with Staff's proposed mechanism, but advocates for one procedural and three substantive changes. Procedurally, PacifiCorp proposes that the deferral period align with the calendar year, with a filing date of May 5 each year and a rate-effective date of November 5 each year.[46] PacifiCorp argues that these timing changes are necessary to incorporate Staff's earnings test, but still allows ample time for a prudence review of proposed costs.[47] Substantively, PacifiCorp first argues that all anticipated 2021 costs should be included in base rates set in this general rate case (i.e. $33.225 million, and not Staff's proposed $26.58 million); second, PacifiCorp argues that the methodology for determining violations should be normalized on a per audit mile basis; third, although PacifiCorp agrees to the use of an IE to review its wildfire mitigation plan and performance against the plan,

[46] PAC/3300, Lockey/35.
[47] PAC/3300, Lockey/36.


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PacifiCorp argues that the criteria, scope, budget and selection of an IE should be determined in the recently opened wildfire rulemaking proceeding (AR 638).[48] Staff is supportive of PacifiCorp's proposed timing changes, but opposes all of PacifiCorp's proposed substantive changes.

In support of its argument that all costs requested in this case - $33.225 million – should be allowed in rates, the Company argues that Staff's proposed ratemaking treatment equates to a disallowance of prudent costs subject to an earnings collar.[49] Staff disagrees that its proposed ratemaking treatment is akin to a disallowance, as the Company has the opportunity to recover these costs, if prudently incurred, in the deferral mechanism. Staff further disagrees that the application of an earnings test means that the utility is not recovering prudently incurred costs.[50]

Staff's testimony demonstrates that the Company's performance with vegetation management has been in decline for some time, despite the fact that PacifiCorp's rates assume recovery of amounts necessary to comply with the Commission's safety rules for vegetation management and that the Company has been roughly meeting its budget.[51] Trees in contact with high-voltage conducted, and climbable trees in contact with any conductor have increased significantly since 2013, going from less than 100 violations per year to around 500.[52] This led Staff to conclude that a performance-based cost-recovery mechanism, as it proposed, is necessary in order to ensure that PacifiCorp's violations are brought to more reasonable levels, particularly in high consequence areas and given the increasing risk of wildfires. A

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[48] *Id.*

[49] *Id.*

[50] *See e.g. In Idaho Power Company*, OPUC Docket No. UE 233, Order No. 13-416 at 5 (Nov. 12, 2013) ("The purpose of an earnings test is to protect both customers and the utility from an unfair result, regardless of how the amounts became subject to amortization." Also, "The Commission has concluded that the earnings test should examine whether past ratepayers paid reasonable amounts for service for the period in question." *Id.* at 8.).

[51] Staff/600, Moore/8-9, 11.

[52] Staff/600, Moore/10 (table at top of page).


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performance-based recovery mechanism, by definition, ties cost recovery to performance—this is not akin to a disallowance of otherwise prudently incurred costs.

With regard to normalizing violation levels on a per audit miles basis with an error rate of .3 percent, Staff is left with several questions about the Company's proposal, particularly how it may reduce the number of total violations and allow PacifiCorp greater cost recovery despite lack of improvement in its vegetation management performance. Because this information is not available on the record, Staff is not able to recommend the Commission approve this change in methodology at this time.

Finally, with regard to the IE, Staff appreciates the Company's agreement on the use of an IE, but is concerned about the interceding time between now and when rules may be finalized in AR 638. The Commission initiated the informal phase of AR 638 at its August 25, 2020 public meeting.[53] As Staff's public meeting memo set forth, the informal phase of the rulemaking is intended to be robust and collaborative, and to that end, will take time.[54] PacifiCorp's testimony does not address how the Company anticipates addressing the use of an IE prior to final Commission rules. Staff continues to advocate that an IE be used beginning in 2021, with the understanding that PacifiCorp's use of the IE, and other aspects of PacifiCorp's cost recovery mechanism, may be revisited in the future following the adoption of applicable administrative rules.[55]

AWEC argues that cost recovery for wildfire mitigation should be included in base rates, and not subject to a special mechanism.[56] In its rebuttal testimony, AWEC refined its recommendation to include that, if approved, any stand-alone mechanism should be subject to an earnings test capped at 100 basis points below PacifiCorp's authorized return.[57] For the reasons

[53] *In re Rulemaking for Risk-based Wildfire Protection Plans and Planned Activities Consistent with Executive Order 20-04*, OPUC Docket No. AR 638, Order No. 20-272 (Aug. 26, 2020).

[54] AR 638 – Staff Public Meeting Memo for August 25, 2020 Public Meeting at pg. 4.

[55] Staff/2700, Moore/13.

[56] AWEC/100, Mullins/24.

[57] AWEC/500, Kaufman/35.


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set forth at length in Staff's opening and reply testimony, Staff continues to find that performance-based cost recovery for vegetation management and wildfire mitigation provides the optimal balance between ratepayers and shareholders, and best serves the public interest in helping to reduce wildfire in Oregon. Staff's testimony also discusses at length why its proposed earnings tests, when coupled with its cost recovery mechanism and performance-based approach, is in the best interest of ratepayers, shareholders and the State of Oregon.[58]

**(C) The Commission should approve use of the decommissioning costs set forth in PacifiCorp's initial UM 1968 filing and open an investigation into whether those costs should be modified.**

Under the 2020 Protocol, Oregon committed to pay its fair share of decommissioning costs for coal-fueled generation resources. For coal units that have a common operating life across all states, meaning that the resource is closed as a system, Oregon is allocated its share of *actual* decommissioning costs.[59] For coal-fueled generating resources that do not have a common operating life across all states, meaning that they are not closed as a system resource, Oregon is allocated *estimated* decommissioning costs based on the Decommissioning Studies described in sections 4.3.1.1 and 4.3.1.2 of the 2020 Protocol.[60] This means that for coal-fueled generating resources that are closed as a system, Oregon's decommissioning costs will be trued-up to actuals, once those final costs are known, which may occur well into the future. Conversely, for those units not closed as a system, estimated decommissioning costs are not subject to true-up and are recovered while Oregon continues to take output from the plant. Importantly, there is a distinction between decommissioning costs allocated to each state (governed by Section 4.3.1.4 of the 2020 Protocol), and the ratemaking treatment for decommissioning costs in each state. For the latter, each state commission retains the authority to make a final determination of each state's just and reasonable decommissioning costs.[61] Given

[58] Staff/2700, Moore/11-15.

[59] 2020 Protocol Section 4.3.1.4.

[60] *Id*.


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Oregon's impending exit from all of PacifiCorp's coal-fired generating units no later than December 31, 2029, and in many cases, earlier, determining appropriate decommissioning costs for Oregon as soon as practicable is paramount due to the relatively short timeframe in which to collect these costs.[62]

Under the terms of the 2020 Protocol, PacifiCorp agreed to undertake two contractor-assisted engineering studies to estimate decommissioning cost reserve requirements for Jim Bridger, Dave Johnston, Hunter, Huntington, Naughton, Wyodak, Hayden and Colstrip with completion prior to March 15, 2020.[63] The Company committed to "provide the information from the study to the States as a supplemental filing in all applicable depreciation dockets" and the results would be used to inform the Company's recommendation on decommissioning cost amounts, which are to be allocated to each state.[64] Section 4.3.4 of the 2020 Protocol contemplated review of the studies by an independent evaluator (IE) if ordered by a state commission.

In accordance with its obligations under the 2020 Protocol, PacifiCorp contracted with Kiewit Engineering Group, Inc. (Kiewit) to undertake the contemplated decommissioning studies, which included providing "a Class 3 cost estimate for the decommissioning, demolition, reclamation, and remediation" of seven PacifiCorp coal plants.[65] PacifiCorp either provided or

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[61] 2020 Protocol Section 4.3.1.3. PacifiCorp also seems to suggest that Oregon's determination of decommissioning costs will affect other states. Specifically, the Company states that "The amount of decommissioning costs to be paid for by Oregon customers is of particular interest to the other states…which also agreed to this treatment as part of the 2020 Protocol." PAC/3300, Lockey/24. However, Section 4.3.1.4. of the 2020 Protocol provides that "If the Decommissioning Costs ordered to be included in the reserve balance established for an Exiting State are less than the estimated Decommissioning Costs allocated to that Exiting State as specified above, such difference shall not be allocated to any other State under any circumstance."

[62] Staff/1700, Storm/4.

[63] 2020 Protocol at Section 4.3.1.1.

[64] *Id*.

[65] PAC/400, Teply/3 in UM 1968, as part of PacifiCorp's supplemental direct testimony in that proceeding.


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modified some of the estimates of line items or estimated cost parameters.[66] Kiewit performed the work, and the Company filed the studies in OPUC Docket No. UM 1968, and subsequently in this proceeding.[67] In order to provide an expert opinion on these studies, Staff facilitated a contract with an independent evaluator, Dr. Ranajit Sahu, to review PacifiCorp's Decommissioning Studies and to inform Staff's and other parties' recommendations in this case.[68]

Unfortunately, the consistent conclusion from Dr. Sahu, Staff and Intervenors was that these studies suffer from a lack of evidence supporting the conclusions and recommendations.[69] PacifiCorp's scope of work for Kiewit did not include providing workpapers or other materials in support of its studies,[70] which constrained the IE's and parties' review of the studies. This issue was exacerbated by the Company's decision to withhold relevant information from Staff, Intervenors and the Independent Evaluator, which became apparent in the Company's last round of testimony.[71] Despite the Company's obligation to provide information from the study to the states initially,[72] and discovery requests that should have produced the information in time for review,[73] PacifiCorp failed to provide to the parties information supporting the cost estimates

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[66] Staff/1700, Storm/30-31.

[67] UE 374 – Administrative Law Judge Lackey's April 2, 2020 Ruling on PacifiCorp's Motion to Expand Scope and Supplement Filing.

[68] Staff/1700, Storm/5-6.

[69] *See* Staff/1700, Storm/13-18 for a summary of CUB's and AWEC's positions; *see* Staff/1700, Storm/23-26 for a summary of Dr. Sahu's conclusions and Staff/1701 for Dr. Sahu's report.

[70] AWEC/400, Kaufman/4; PAC/3900, Van Engelenhoven/5.

[71] PAC/3900, Van Engelenhoven/5 ("I believe that if the IE had an understanding of the PacifiCorp-provided information and the costs that were include in the base estimate, an AACE Class 3 estimate could have been performed to validate the Decommissioning Studies.") compared with e.g. Staff/1704, which contains a data response from PacifiCorp that it has no workpapers prepared by Kiewit in its possession supporting the costs in the Kiewit report. The responses do not address or mention any workpapers supporting estimated costs PacifiCorp provided to Kiewet. Staff/1705 and Staff/1706, which include PacifiCorp's enumeration of the information—including estimated costs by line item amounts – the Company provided to Kiewit for inclusion in the latter's two reports.

[72] 2020 Protocol at Section 4.3.1.1.; CUB/300, Jenks/6-7.

[73] *See e.g.* Staff/1704.


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that it provided to Kiewit to calculate the base estimate to decommission and reclaim coal plant sites. PacifiCorp specifically identified the Asset Retirement Obligation (ARO) for each plant with asbestos removal separated out, owners costs, and the physical attributes of the each coal plant including the depth of excavation for the clean-up of the coal piles as being included in information it provided to Kiewit.[74] Because the supporting information was not provided in a timely manner, the IE, Staff and other parties were not able to review the supporting information, analyze its impact on their recommendations, and provide the Commission with final recommendations in this case.

This leaves the Commission in the position of determining what rates should reflect for decommissioning costs from several less than ideal options – (1) set depreciation rates based on PacifiCorp's initial UM 1968 filing, equaling $474 million (total- Company and for the coal plants included in Kiewit's report filed January 16, 2020));[75] (2) set depreciation rates based on the Kiewit studies, equaling **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**[76] or (3) set depreciation rates using AWEC's adjusted Kiewit estimates, equaling **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**.[77] The difference between options one and two is substantial for Oregon ratepayers, amounting to a **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** difference in estimated decommissioning costs, representing an increase of**[ BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIA]**.[78]

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[74] *See* PAC/3900, Van Engelenhoven/15. Compare with the more detailed list included in Staff/1705. Staff notes that—with the exceptions of indirect costs and subtotals and totals, the values in the workpaper supporting PAC/1900 are fixed values and not the result of any calculation; i.e., the workpaper provides essentially no support for the estimated costs provided by PacifiCorp to Kiewit.

[75] Staff/1700, Storm/27.

[76] *Id*.

[77] AWEC/500, Kaufman/38. Estimated total is on a total Company basis.

[78] Staff/1700, Storm/27.


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On balance, Staff agrees with AWEC that the evidentiary basis for the estimated decommissioning costs in PacifiCorp's initial UM 1968 filing are stronger than those based on the Kiewit studies.[79] This conclusion is also supported by CUB.[80] As such, Staff, CUB and AWEC are all supportive of setting rates based on the estimated decommissioning costs in PacifiCorp's initial UM 1968 filing, at least on an interim basis.[81] Staff, CUB and PacifiCorp do not oppose further proceedings in an attempt to build a better record to determine decommissioning costs for Oregon.[82] AWEC is skeptical that additional process will lend itself to different results, given the Company's failure to secure Kiewit's workpapers and consent in sharing the evidentiary basis for its reports, and questions whether this is a structurally sound solution.[83]

The testimony in this proceeding contains detailed discussions of various cost categories and assumptions for estimating decommissioning costs. But the fundamental conclusion in this docket is clear – there is not a sufficient evidentiary basis to support using the Kiewit studies to set rates in Oregon at this time. Staff continues to recommend the Commission adopt the recommendations set forth in its rebuttal testimony:

- Order PacifiCorp to utilize the estimated decommissioning costs included in PacifiCorp's initial filing in UM 1968 for each coal plant and its constituent unit(s) included in Oregon rates; and
- Allow PacifiCorp to make a filing subsequent to the rate-effective date in this proceeding to determine whether decommissioning costs set in UE 374 should be adjusted.[84]

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[79] AWEC/300, Kaufman/24.
[80] CUB/300, Jenks-6-8.
[81] Staff/1700, Storm/3; AWEC/400, Kaufman/1; CUB/300, Jenks/7.
[82] Staff/1700, Storm/37; CUB/300, Jenks/8; PAC/3300, Lockey/23.
[83] AWEC/500, Kaufman/40-42.
[84] Staff/1700, Storm/3.


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**(D) The Commission should adopt Staff's recommendations for transmission capital costs.**

PacifiCorp seeks rate recovery for Oregon's share of more than approximately $1.67 billion[85] of investment in PacifiCorp's transmission infrastructure. Staff supports including in rate base the Oregon-allocated share of the majority of this new investment. However, Staff believes PacifiCorp failed to establish all of what PacifiCorp claims is Oregon's allocated share is appropriately included Oregon rates.

Staff recommends excluding from rate base the costs of two of the eleven transmission projects described in the testimony of PacifiCorp witness Richard Vail and most of PacifiCorp's "pro forma" projects. (Pro forma are projects built, or scheduled to be built, after the date PacifiCorp filed its rate case but prior to the rate effective date.) Staff recommends excluding these costs because PacifiCorp failed to provide sufficient evidence, including evidence that the projects are properly classified as transmission, to show the investment is appropriately included in Oregon rates. Excluding the costs from rate base in this case would not prevent PacifiCorp from seeking to include the projects in Oregon rate base in a subsequent proceeding. Staff also recommends disallowing cost overruns at three major transmission projects and one pro forma transmission project.

PacifiCorp opposes Staff's recommendations. PacifiCorp argues Staff's proposed disallowance of a portion of the costs of four projects is based on a mischaracterization of the costs as overruns. With respect to Staff's proposal to exclude all costs of three projects and most of PacifiCorp's pro forma projects from rate base, PacifiCorp argues the level of scrutiny Staff uses for these lower-cost projects is a "wild departure" from Staff's analysis in prior rate cases.[86] PacifiCorp also argues that Staff's concerns regarding the potential allocation of assets that do

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[85] This dollar amount covers the projects discussed in this testimony, which are eleven projects described in the testimony of Richard Vail, which include two "pro forma projects" and all other "pro forma" projects, which are projects built, or scheduled to be built after the date of filing but before the rate effective date. Staff did not have time within this rate case to address all of the cumulative investment placed into service after the last rate case and prior to the filing date of this rate case unless it was part of projects described in Mr. Vail's testimony.

[86] PAC/3300, Lockey/13.


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not provide benefits to Oregon are inconsistent with allocation of transmission assets contemplated under the 2020 Protocol and that Staff fails to apprehend the role that PacifiCorp's OATT plays in the categorization of assets as transmission.[87] None of PacifiCorp's arguments is well taken.

### *1. Staff's analysis of PacifiCorp's pro forma projects is consistent with its analysis in previous rate cases.*

PacifiCorp testifies that Staff has adopted a new analytical approach that seeks, for the first time, to itemize all the Company's pro-forma transmission investments and that if Staff wishes to apply this new approach, this should happen prospectively.[88] Staff disagrees it is using a novel approach in this rate case. Although its analysis may differ from PacifiCorp's last rate case, it is consistent with Staff's investigation in rate cases in more recent years after guidance provided by the Commission in Avista's 2017 general rate case, Docket No. UG 325. In Docket No. UG. 325, parties entered into a stipulation under which the parties agreed to decreasing the amount to be included in rate base for new plant additions by $5.392 million. In a Bench Request asking for additional information supporting the agreed-upon decrease, the Commission noted parties' supporting testimony regarding the proposed rate base decrease was vague and inconclusive on this issue and implied it was not sufficient to meet the statutory requirements imposed on the Commission to ensure plant investments must be presently used for utility service and prudent.[89] The Commission asked the parties to "address the apparent disconnect between investment in specific projects that are used and useful and providing safe and reliable service at reasonable rates and the notion that the Commission may approve a stipulation based merely on a defined budget amount for capital investment in utility plant."[90]

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[87] *Id*.

[88] PAC 3300, Lockey/15.

[89] *In re Avista Corporation*, OPUC Docket No. UG 325, August 25, 2017 Bench Request at 2.

[90] *Id*. at 2-3.


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In Docket No. UG. 325, the Commission was concerned that Staff had entered into a stipulation in which the parties agreed to allow plant investment into rates on the ground the amount spent was reasonable, without regard to whether the plant itself satisfied the statutory criteria. That same concern is applicable here. It is not sufficient to simply consider whether the total amount to be added for PacifiCorp's Pro Forma plant additions is reasonable. Instead, Staff must drill down into the investments themselves to determine whether they satisfy the criteria for inclusion in rates.

Staff undertook a review of proposed plant additions in PGE's 2017 general rate case that is similar to its review of PacifiCorp's transmission plant additions in this case. As Staff witness Lance Kaufman testified in Docket No. UE 235, he believed it was necessary to scrutinize all plant investment at issue in that case. He testified that Staff requested project documents for all new plant PGE asked to be included in rate base in that case so that he could ascertain the prudence of the investment and whether it would be in use to serve customers prior to the rate effective date.[91] Review of Staff's testimony in Northwest Natural Gas Company's last two general rate cases, one filed in 2018 and the other in 2019, shows a similarly rigorous analysis of all NW Natural's plant additions.[92]

It is unfortunate that PacifiCorp was caught off-guard by the rigor of Staff's analysis. However, the Commission discussed its concern regarding a less-than-in-depth analysis of plant additions such as PacifiCorp's "pro forma" plant in Docket No. UG 325 in 2017. Staff's analysis in every rate case since that case has included this same amount as rigor and therefore does not, as PacifiCorp states, diverge wildly from previous practice.

PacifiCorp's complaints that Staff's proposed disallowances were not identified until rebuttal testimony are also not well taken. PacifiCorp witness Rick Vail testified regarding eleven major projects totaling over $1 billion. Staff sent a total of 382 data requests regarding

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[91] UE 335 - Staff/800, Kaufman/33-37.

[92] UG 388 - Staff/200, Fox/2-17; UG 344 - Staff/300, Fox/2-27.


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these projects as well as pro forma projects that were not identified by project. As Staff testified, Staff believes PacifiCorp met its burden of proof with respect most of the projects described in Mr. Vail's testimony and that their costs, with the exception of two projects and cost overruns in other projects, are appropriately included in rate base.

PacifiCorp acknowledges in its rebuttal testimony it was not prepared to provide the Staff the detailed information regarding the pro forma plant that Staff requested.[93] This acknowledgment is consistent with Staff's testimony detailing the difficulty Staff had in procuring information from PacifiCorp regarding the investment.

With the exception of two projects discussed in Mr. Vail's testimony, PacifiCorp addressed none of the pro forma in opening testimony. Instead, PacifiCorp noted inclusion of their costs with a Confidential workpaper included as an exhibit to PacifiCorp witness Shirley McCoy's testimony, with no detail on the specifics of the projects.[94] Staff requested additional information regarding these projects and the projects described in Mr. Vail's testimony through data requests, ultimately sending 382 requests regarding PacifiCorp's transmission testimony. As discussed in Staff's testimony, Many of PacifiCorp's responses were provided past the due date and some responses were not adequate. At the time of its opening testimony, Staff did not have sufficient information to formulate a position regarding PacifiCorp's transmission investments.

Notably, Staff recommends excluding plant for which PacifiCorp failed to carry its burden of proof from rate base until such time as PacifiCorp shows the plant is recoverable in Oregon rates. Given that the opportunity to provide direct evidence has passed, Staff does not anticipate that PacifiCorp will do so in this case. Accordingly, PacifiCorp will have to wait until its next rate case to make its showing. However, as discussed in testimony, Staff is willing to

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[93] PAC/3300, Lockey/15.

[94] PAC/1309, McCoy/16.


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support a deferral of the excluded costs as an alternative to waiting for the PacifiCorp's next general rate case.

### 2. *Staff's analysis is consistent with the 2020 Protocol.*

PacifiCorp is incorrect that Staff's proposed rate base exclusions are inconsistent with the 2020 PacifiCorp Inter-Jurisdictional Allocation Protocol (2020 Protocol). However, Staff recognizes that it must clarify for the Commission the basis of its proposed exclusion of some of PacifiCorp's investment. Staff testified that it recommended excluding plant that did not appear to provide system or reliability benefits to Oregon or for which PacifiCorp failed to show system benefits. However, Staff acknowledges that framing the analysis in this way is confusing in light of the 2020 Protocol.

As PacifiCorp testified, the proper allocation of plant investment does not turn on each individual state's analysis of whether the resource provides a direct benefit to the state.[95] This is because states have agreed that facilities categorized as transmission facilities provide system benefits to all states and are to be allocated system-wide with allocation factors determined under the Protocol:

> [T]he 2020 Protocol maintains the status quo allocation, with existing and new generation and transmission resources (online before 2024) treated as system resources and allocated to Oregon based on our use of the PacifiCorp system. Oregon's use will continue to be measured with the System Generation (SG) factor. PacifiCorp explains the SG factor is comprised of 75 percent demand or capacity use, and 25 percent energy use. The 75 percent demand, or capacity use, reflects the relative capacity requirements of each state based on 12 monthly coincident peaks. The 25 percent system energy use is based on weather-normalized energy for each jurisdiction.[96]

Staff clarified in discovery prior to PacifiCorp's surrebuttal testimony that its investigation of the appropriate ratemaking treatment of the investment was no different than the investigation called for under the 2020 Protocol, which is whether the resources at issue are

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[95] PAC/3300, Lockey/13-14.
[96] *In re PacifiCorp*, OPUC Docket No. UM 1050, Order No. 20-024 at 5 (Jan. 23, 2020).


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properly classified as transmission. If a resource is transmission, it is treated as a system resource and appropriately to all the states participating in the 2020 Protocol.

Under the state's standards and 2020 Protocol, the questions presented by PacifiCorp's request to include transmission investment in Oregon's rate base are whether the investments were prudent, whether the costs were prudently managed, whether the resources are or will be used and useful by the rate effective date, and whether the costs are properly allocated to Oregon under the 2020 Protocol.

***3. Staff's recommendations in this case are supported and should be adopted.***

**a. Prudence**

Staff does not take issue with the prudence of any of the projects but does conclude that the costs incurred for three of the eleven projects described in Richard Vail's testimony were not prudently managed. In its rebuttal testimony, Staff identified cost overruns at the Wallula to McNary, Threemile Canyon Farm, and SW Wyoming Silver Creek projects and at the "pro forma" Pavant transformer improvement project.

PacifiCorp asserts that Staff misunderstands PacifiCorp's budgeting process and mischaracterizes the costs as overruns.[97] PacifiCorp also notes that the costs at issue are for circumstances not necessarily in PacifiCorp's control and that changing costs are a given during a construction project. Staff believes that PacifiCorp has more accountability for the costs of the projects that it appears to require for itself. Staff recognizes that costs for construction will vary but expects the Company to be proactive to manage the potential for costs not included in the original budget. Staff believes the Company could have been more proactive with respect to the projects at issue to manage the costs. Accordingly, to the extent the Company failed to anticipate certain costs and mitigate them, the Company should bear them, not ratepayers.

[97] PAC/4200, Vail/13-15.


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**b. Staff properly examined whether the projects are used and useful.**

Some of the transmission projects are still underway. For the projects that are not in service as of December 31, 2020, Staff recommends that prior to the rate effective date for this filing the Company file an attestation by an officer or vice-president of Rocky Mountain Power or Pacific Power that the project is in service. Staff also recommends that the costs for the project be capped at the amount included in PacifiCorp's testimony. Costs for any of these projects for which no attestation is filed or that exceed the amounts included in PacifiCorp's initial filing will be excluded from rates in this rate case. However, PacifiCorp may seek recovery of the excluded costs in a subsequent rate case or other appropriate proceeding.

**c. Staff properly examined whether the projects are appropriately classified as transmission**

As explained above, Staff analyzed whether the projects at issue are properly classified as transmission and therefore properly allocated as a system resource under the 2020 Protocol. Staff was unable to make this determination for most of the pro forma projects. For some of the projects, Staff only had a brief description, but no one-line diagram or information to show how the facility would be used. Further, Staff had difficulty verifying the costs of the projects.[98] Staff recommends excluding the costs of these projects from rate base until such time as PacifiCorp can show they are transmission facilities.

Staff was also unable to conclude that two of the major projects described in the testimony of Richard Vail are properly allocated as transmission projects. However, Staff does not recommend the Commission find the resources are distribution and not properly allocated to Oregon. Instead, Staff recommends the Commission exclude the resources from rate base in this proceeding and allow PacifiCorp opportunity to show in its next rate case or other appropriate proceeding that the investment is properly included in Oregon rate base.

[98] Staff/2100, Hanhan-Rashid-Muldoon/42-44.


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In rebuttal, PacifiCorp states Staff's disallowance is troublesome because it is contrary to the 2020 Protocol and ignores that the Company allocates transmission investment accordance with its Open Access Tariff (OATT).[99] Ms. Lockey notes that "[i]n the 2020 Protocol, amounts are defined by Federal Energy Regulatory Commission (FERC) account, and the Company's transmission account has historically included all transmission investments over 46 kV."[100]

Staff does not dispute PacifiCorp's statement that "transmission assets over 46kV have always been allocated on a system basis under the MSP," but the statement is not probative of the issue presented here. *All* transmission assets are allocated on a system basis, whether they are 46 kV or otherwise. If PacifiCorp is attempting to represent that all assets 46 kV and above are classified as transmission assets, there is no evidence in the record that establishes this fact.

In any event, if in fact it is PacifiCorp's policy to classify all assets that are 46 kV and above as transmission, this policy is troubling. It is inconsistent with Federal Energy Regulatory Commission (FERC) precedent to use a single factor such as voltage to classify assets as distribution or transmission.

Whether a facility is a transmission or distribution facility depends on how the facility is used. The Federal Energy Regulatory Commission (FERC) has established a Seven-Factor Test for determining whether a facility is a transmission or distribution facility.[101] No one factor is dispositive.[102] So, the fact a facility is designed to operate at a certain voltage, i.e., 46 kV is not, by itself, determinative of whether the facility is transmission or distribution.

Staff recommends the Commission accept PacifiCorp's "transmission" classification for most of investment at issue in this case. With respect to two of the projects described in Mr. Vail's testimony, the Goshen-Sugarmill-Rigby and SW Wyoming Silver Creek projects, and the

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[99] PAC/3300, Lockey/13.

[100] PAC/3300, Lockey/14.

[101] *See e.g., Southern California Edison Company*, 153 FERC P 61384 (2015) (2015 WL 9595351).

[102] *Id.*


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majority of the pro forma projects, PacifiCorp did not provide sufficient information to show they are properly included in Oregon rate base.

**d. Summary of Staff's recommendation.**

Staff's recommendation regarding transmission investment is summarized in the tables below.

| **Transmission Projects described in Opening Testimony of Richard Vail that should be included in rate base.** | | | | | | |
|---|---|---|---|---|---|---|
| **Project** | **Description** | **System cost ($m)** | **Oregon-allocated Cost ($m)** | **In-service** | **Staff Position ($m) (Oregon-Allocated)** | **Rationale** |
| Aeolus to Bridger/Anticline | 140-mile 500 kV line, Five-mile 345 kV line, Voltage control device/Latham Substation, Network upgrades | 679.1 | 176.7 | 12.20 | Allow in rate base, subject to attestation of completion and subject to cost cap at 176.7. | Costs incurred to date and estimated for remainder of Test Year appear to be prudent, but project must be in service prior to rate effective date. Also, no ability to review costs that exceed estimates prior to rate effective date. |
| Q707 TB Flats 1 | | 30.6 | 8.0 | 12.20 | Allow in rate base, subject to attestation of completion and cost cap at 8.0. | Same as above. |
| Q712 Cedar | | 61.7 | 16.1 | Dec. | Allow in rate | Same as |


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| | | | | | | |
|---|---|---|---|---|---|---|
| Springs Wind 1 Q712 | | | | 2020 | base, subject to attestation of completion and cost cap at $16.1. | above |
| Sigurd to Red Butte | 345 kV Line | 354 | 92.1 | x | None | N/A |
| Snow Goose Substation | 500/230 kV substation | 42.8 | 11.1 | x | (0.3) | Revising to match actual final cost |
| NE Portland Upgrade | | 20.6 | 5.4 | May 2019 | None | N/A |
| Threemile Canyon Farm | 230-34.5 kV | 6.2 | | x | [redacted] | Disallowance for cost overruns |
| Vantage to Pomona Heights | 230 kV Line | 57.3 | 41.2 | May 2020 | [redacted] Subject to attestation and cost cap at [redacted] (system). | Disallowance for cost overruns |
| Wallula to McNary | 230 kV Line | 42.6 | | x | [redacted] | Disallowance for cost overruns |

| **Pro Forma Transmission Projects PAC/1309, McCoy/16 (Confidential spreadsheet 8.5) that should be included in rate base** | | | | | | |
|---|---|---|---|---|---|---|
| U2 2-2 GSU Replacement | Replacement | [redacted] | | | No adjustment | |
| UO Spare GSU Transformer | Materials | [redacted] | | | No adjustment | |
| Reroute JB Goshen line for Slide | 345kV line | [redacted] | | | No adjustment | |
| Idaho Power-Borah-Midpoint #1 | Replace wood with steel | [redacted] | | | No adjustment | |
| 302 Spare GSU Replacement | Materials and Supplies | [redacted] | | | No adjustment | |
| Sams Valley | 500-230kV Substation | [redacted] | | | No adjustment | |
| Wye-Delta | 239-69kV 150 | [redacted] | | | No | |


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| | | | | | | |
|---|---|---|---|---|---|---|
| XFMR | MVA 3 Phase | | | | adjustment | |
| Q0542 Pryor Mountain | Network Upgrade | [redacted] | | | [redacted] | Cost overrun |

Staff recommends that the Commission exclude from rate base the cost of the following two projects described in Mr. Vail's opening testimony and all the remaining 2020 pro forma projects[103] because PacifiCorp has failed to establish they are recoverable in Oregon rates.

| **Projects in Vail Opening Testimony that should be excluded from rate base** | | | | | | |
|---|---|---|---|---|---|---|
| **Project** | **Description** | **System cost ($m)** | **Oregon-allocated Cost ($m)** | **In-service** | **Staff Position ($m) (System)** | **Rationale** |
| Goshen-Sugarmill-Rigby | 161 kV Line | 21.5 | 5.6 | Nov. 2020 | (21.5) | Insufficient evidence showing properly classified as transmission |
| SW Wyoming Silver Creek | 138 kV Line | 41.9 | 10.9 | x | (41.9) | Insufficient evidence showing properly classified as transmission |

### *4. Staff recommends that the Commission open an investigation into PacifiCorp's classification of transmission assets.*

Staff recommends that the Commission open an investigation into the classification of PacifiCorp's resources. Given FERC's authority to classify transmission assets, the result of this investigation would likely not result in changing the classification of any resource. However, Staff believes the investigation results would inform the next multi-state jurisdictional allocation

[103] In its rebuttal testimony Staff specifically identified two other pro forma projects that should be excluded from rate base. However, Staff also noted that PacifiCorp would have the opportunity to establish they are properly included in rate base in a subsequent proceeding. Rather than call those two pro forma projects out in this brief, Staff includes them in the group of other pro forma projects for which PacifiCorp failed to it is appropriate to include in rate base.

protocol process and serve as a basis for a request for a declaratory order from FERC to change the classification of assets currently classified as transmission.

**(E) The Commission should affirm its existing regulatory policy for recovery of net power costs in rates and deny PacifiCorp's request to adopt a single Annual Power Cost Adjustment (APCA).**

In this case, PacifiCorp proposes to eliminate the current two-pronged approach that includes a recovery of power costs pursuant to a forecast (the Transition Adjustment Mechanism (TAM)), subject to true-up mechanism through the Power Cost Adjustment Mechanism (PCAM), in favor of a combined approach – the Annual Power Cost Adjustment (APCA).[104] This mechanism would incorporate aspects of both the TAM and the PCAM, with the most notable difference being the elimination of customer protections in the PCAM, namely the sharing, deadbands, and an earnings test.[105] In effect, PacifiCorp's proposed APCA would allow for dollar-for-dollar recovery of NPC costs in Oregon.

PacifiCorp argues that dollar-for-dollar recovery of NPC is warranted for a number of reasons, including that the Company has not had a reasonable opportunity to recover its prudently incurred NPC,[106] a changing energy landscape that includes an increase in renewables,[107] anticipated unique generation portfolios among its states,[108] its inability to accurately forecast intermittent supply changes,[109] and market dynamics that bias load forecast

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[104] PAC/500, Wilding/5. PacifiCorp notes that it is open to maintaining two separate power cost proceedings – the forecast (TAM) and true-up (PCAM), subject to certain changes in each proceeding. For the TAM, the Company proposes a change in the TAM guidelines that would allow for Jim Bridger coal to be updated on rebuttal. PAC/500, Wilding/15. For the PCAM be restructured to eliminate the deadbands, sharing bands and earnings test. PAC/500, Wilding/15.

[105] The Company also proposed two additional changes to the forecast portion of its power cost proceedings: (1) that the filing date be pushed back from April 1 to May 15 each year, and (2) that it be permitted to update fuel costs at Jim Bridger plant as part of the rebuttal update. PAC/2000, Wilding/76. In its reply testimony, PacifiCorp was agreeable to continuing with the April 1 filing date each year. PAC/2000, Wilding/77. Staff continues to support the April 1 filing date.

[106] PAC/500, Wilding/4-5; PAC/600, Graves/3.

[107] PAC/500, Wilding/5-9.

[108] PAC/500, Wilding/17.

[109] PAC/3600, Wilding/4.


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errors towards higher costs.[110] As a matter of regulatory policy, PacifiCorp generally argues that it is punitive to require it to assume all of the risk and costs associated with power cost under-recovery.[111]

AWEC, CUB, KWUA, and Staff oppose PacifiCorp's APCA mechanism and continue to advocate that power cost recovery remain the same in Oregon, and that PacifiCorp's proposed ACPA should be denied. As Staff's testimony demonstrates, the current PCAM is meeting the Commission's stated policy goals for NPC recovery.[112] AWEC and Staff both argue that it is likely a modeling issue as opposed to an incurable problem.

***1. PacifiCorp's proposal for the APCA is contrary to existing, sound regulatory policy in Oregon.***

PacifiCorp's proposal in this case is directly contrary to the long-standing policy underlying the PCAM and disregards the Commission's previous dismissal of similar arguments against the deadbands, earnings test and sharing percentages.[113]

The Commission approved the current PCAM structure in Order No. 07-015, based on the goals identified in Order No. 05-1261.[114] Those goals being that a power cost adjustment should be: (1) limited to unusual events, (2) no adjustment if overall earnings are reasonable, (3) revenue neutrality, and (4) long-term operation.[115] The Commission has also found that the utility should be incented to manage costs effectively.[116] In adopting the current PCAM structure, the Commission explained that its purpose was "to capture power cost variations that

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[110] PAC/600, Graves/4-7.

[111] PAC/2000, Wilding/52.

[112] Staff/1300, Gibbens/20-21.

[113] Staff/1300, Gibbens/9.

[114] *In re Portland General Electric*, OPUC Docket Nos. UE 180, UE 181 & UE 184, Order No. 07-015 at 26-27 (Jan. 12, 2007).

[115] *In re Portland General Electric Co.*, OPUC Docket Nos. UE 165, UM 1187, Order No. 05-1261 (Dec. 21, 2005).

[116] Order No. 07-015 at 26.


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exceed those considered part of normal business risk."[117] In reaching this decision, the Commission noted that "normal business risk" included hydro variability (the driver for the mechanism at the time),[118] but the Commission has since applied that reasoning to other types of variability, including wind variability.[119]

PacifiCorp's requested APCA is a fundamental policy shift away from a PCAM structure that sought to balance the risks of NPC variability between shareholders and ratepayers. Dollar-for-dollar recovery of the Company's NPC under the APCA, as proposed, would run afoul of each of the Commission's four goals—it would not limit rate changes to unusual events, would not limit rate changes if the Company is otherwise earning within a reasonable zone of its authorized rate of return, would not be revenue neutral, and is not designed to ensure that adjustments would balance out over time. PacifiCorp has offered no new or compelling arguments as to why the Commission should abandon its long-standing policy framework for power cost recovery in favor of a mechanism that would shift complete risk of NPC variation to customers.

### *2. The Commission has previously rejected nearly identical arguments from PacifiCorp in the past, and should do so again in this case.*

In OPUC Docket No. UE 246, PacifiCorp made nearly identical arguments to those made in this case, which were summarily rejected by the Commission. In that case, the Commission was unpersuaded to change the structure of the PCAM for PacifiCorp, despite the Company's claimed under-recovery of NPC due to adoption of the Renewable Portfolio Standard (RPS),

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[117] *Id.*

[118] *Id.*

[119] *In re Portland General Electric Co. and PacifiCorp*, OPUC Docket No. UM 1662, Order No. 15-408 at 7 (Dec. 18, 2015) ("We are not persuaded that there is a material difference between variable power costs associated with RPS-compliant resources and variable power costs associated with other resources to warrant different ratemaking treatment. All variable power costs, regardless of resource type, should be recovered through the operation of the Joint Utilities' respective PCAMs. As Staff and intervenors note, these PCAMs were designed to promote various regulatory policies and to operate in the long-term interests of the utility shareholders and ratepayers.").


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inability to accurately forecast wind generation and integrating renewables.[120] The Commission stated:

> (1) any adjustment under a PCAM should be limited to unusual events and capture power cost variances that exceed those considered in normal business risk for the utility; (2) there should be no adjustment if the utility's overall earnings are reasonable; (3) the PCAM's application should result in revenue neutrality; (4) the PCAM should operate in long-term to balance the interests of the utility shareholder and ratepayers; and implicitly, (5) the PCAM should provide an incentive to the utility to manage its costs effectively.[121]

Table 2 in Staff/1300, Gibbens/11 sets forth a comparison of the arguments made in UE 246 and PacifiCorp's arguments in this case, which are incredibly similar, except in the former case, the alleged under-recovery of NPC was nearly double that alleged in this case.[122] As the Commission did in UE 246, PacifiCorp's request for the APCA should be denied.

#### ***3. PacifiCorp has not demonstrated that it is unable to make modeling changes that would address its alleged under-recovery, and even if this is the case, the Company will soon be switching to a different power forecast model.***

In rejecting PGE's and PacifiCorp's request to change the PCAM to allow for dollar-for-dollar recovery of variable RPS compliance costs, the Commission noted that "forecast errors exist for all generation resources…the PCAM is designed so that the errors should balance out over time. In the event of a persistent forecast error in one direction, we agree with Staff that the solution is to refine models and improve the forecasting of model inputs…"[123] In this case, PacifiCorp has failed to demonstrate that it is unable to make modeling changes that would address any persistent under-recovery of power costs.[124]

Moreover, as Staff and AWEC both argue, this is not the proper time to change the PCAM due to PacifiCorp's impending switch to a new forecasting model (AURORA).

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[120] *In re PacifiCorp*, OPUC Docket No. UE 246, Order No. 12-493 at 9 (Dec. 20, 2012); Staff/1300, Gibbens/9-12.

[121] *Id.* at 13.

[122] Staff/1300, Gibbens/11 at Table 2.

[123] Order No. 15-408 at 7.

[124] PAC/3700, Graves/30-32. Staff/2400, Gibbens/9.


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PacifiCorp responds that AURORA is similar to GRID, but admits that it has a "few more features than GRID" and if the user decides to implement it, the model has the ability to capture the inherent uncertainty that exists in NPC.[125] PacifiCorp argues that this is not an optimal solution because it increases complexity and would likely be contentious.[126] Staff does not find this to be a compelling argument, as the Commission has previously stated this type of issue should be fixed with modeling improvements, as discussed above. In the very least, PacifiCorp should attempt to identify and test modeling changes in AURORA prior to proposing to eliminate the customers protections in the PCAM.[127] PacifiCorp argues that Staff has not provided any evidence that the new model would overcome the intrinsic input data problem,[128] however Staff noted that AURORA can, with user input, attempt to mitigate this issue.[129] PacifiCorp has not rebutted this point, and seeks to inappropriately shift the burden to Staff to demonstrate a future model's capabilities, when the issue is that the Company has not adequately demonstrated that either GRID or AURORA are incapable of modification to address this issue.

***4. PacifiCorp has not demonstrated that any under-recovery of NPC has been outside of its normal business risk.***

As Staff testified, in three out of the seven years that PacifiCorp has had a PCAM, the deadbands have resulted in an adjustment; if limited to years including a DA/RT adjustment, the rate is one in four.[130] This demonstrates that the deadbands are achieving the Commission's goal of including only unusual events in any adjustment (based on a definition of unusual as a one in 4.5 year event).[131]

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[125] PAC/3600, Wilding/13.
[126] *Id.*
[127] Staff/2400, Gibbens/39.
[128] PAC/3700, Graves/13.
[129] Staff/2400, Gibbens/9.
[130] Staff/1300, Gibbens/13-14.
[131] *Id.*


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Nevertheless, the Company makes a number of arguments about why it seems to under-forecast NPC. PacifiCorp argues that the intermittent variability of resources like wind result in balancing transactions that are not accurately captured in the forecast. When below forecast, prices are higher and purchases above expected costs. When below forecast, prices are lower and sales revenues are below expected revenues. In response, Staff argues that forecasted purchase costs are generally above actual purchase costs, which does not reflect the Company's narrative.[132] Forecasted sales being above actuals are the driving force behind much of the under-recovery, which points to over-optimized modeling and inefficient operation and not unforecastable intermittent variance.[133]

Ultimately, PacifiCorp does not respond to the fact that there is no evidence in historical actuals of under-forecasting of wholesale purchase costs. This is the basis for the Company's narrative about intermittent variances leading to greater costs. The Company fails to demonstrate how it is possible that only wholesale sales are being mis-forecast, but not wholesale purchases. Without evidence in support of premise, none of the Company's other arguments are dispositive, because the main premise for removing the current PCAM structure is not supported.

***5. PacifiCorp has not demonstrated that its overall earnings, inclusive of NPC, have been unreasonable due to the PCAM, or that the APCA would lead to more reasonable earnings.***

Despite the fact that the deadband has been triggered in several years since its inception, PacifiCorp is correct that it has never triggered a rate change. That is because upon application of the earnings test, the Company's earnings have been reasonable.[134] And even if there were no deadbands, a PCAM adjustment based on earnings alone would have triggered in only one year (2018).[135] Conversely, if dollar-for-dollar recovery were permitted, as would be the case under

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[132] Staff/2400, Gibbens/19-23.
[133] *Id.*
[134] Staff/1300, Gibbens/16.
[135] *Id.*


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PacifiCorp's APCA, the Company would have over-earned by roughly 60 basis points on average and over-recovered NPC in nearly every year.[136] The Company has provided no evidence that future years should be expected to be different.

***6. PacifiCorp has not demonstrated that its proposed APCA will provide an incentive for the Company to manage its costs.***

The Commission has previously stated that a power cost true-up mechanism should provide an incentive for the utility to manage costs.[137] PacifiCorp argues that the current PCAM does not incent the prudent management of power costs because the Company does not utilize the TAM forecast as a benchmark, has no control over the market prices, and must serve load.[138] But as made clear through the Commission's adoption of the current PCAM mechanism, the incentive structure is in allowing the Company to keep some of the over-recovery while requiring it to pay for some of the under-recovery. From an economic perspective, this should incent PacifiCorp to operate in the most efficient manner possible. In its opening testimony, Staff discussed ways in which the Company can control power costs, further they cited (and PacifiCorp provided further list in surrebuttal) of things the Company has done to try to minimize power costs under the current structure. The Company argues that the costs are uncontrollable and intervenors are not providing evidence, but the Company is simply ignoring the evidence it cannot refute and setting up strawmen which do not capture the actual argument. The Company wants to create an environment where stakeholders must prove imprudence before any potential cost to the Company may result. The risk to the Company of additional costs is much lower than the assumption that any costs above forecast may come at shareholder expense.

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[136] Staff/1300, Gibbens/6.

[137] Order No. 12-493 at 13.

[138] PAC/3600, Wilding/8.


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***7. PacifiCorp's proposal, if applied to EV 2020 new and repowered wind projects, would run afoul of the 2020 TAM stipulation.***

In the 2020 TAM proceeding, AWEC, Calpine, CUB, PacifiCorp and Staff agreed to use wind capacity factors from its February 2018 economic analysis for repowered wind facilities and for new wind, capacity factors would be set at the economic analysis used to justify the new wind.[139] As part of that Stipulation, the stipulating parties "expressly agree[d] not to propose any changes to wind capacity factors until 2024, in the 2025 TAM or other annual NPC filing which uses a 2025 test year."[140]

PacifiCorp states that it wants to abide by the 2020 TAM Stipulation for PTCs, but then also explains that "actual NPC will continue to be affected by the actual wind generation and will be reflected in the APCA just as it would have been reflected in the PCAM."[141] The Company clarified in its surrebuttal testimony that it is or has been using stipulated capacity factors to forecast power costs in the TAM, but not applying parallel treatment in the PCAM.[142] This is inconsistent with the Stipulation and results in rates being subject to true-up based on variances in wind generation from forecast and actuals, thus limiting the negotiated benefit to PTCs only and potentially removing part of the benefit of the settlement agreement (i.e. zero cost energy to customers). The impetus for this provision was to ensure that customers receive the anticipated benefits forecast in the 2017 IRP proceeding, that served as part of the justification to move forward with the projects.[143] PacifiCorp attempts to limit the purpose of this provision to ensuring customers receive anticipated PTCs,[144] but this limitation is not supported by the plain language of the stipulation. There is no evidence in the 2020 TAM, or any other proceeding,

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[139] UE 356 – Stipulation at paragraph 18.
[140] *Id.*
[141] PAC/2000, Wilding/69.
[142] *Id.*
[143] UE 356 – Staff/100, Gibbens/19-22.
[144] PAC/3600, Wilding/14.


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wherein the parties agreed that capacity factors for these projects would only be fixed for purposes of ensuring PTCs flowed through to customers, and not zero cost energy benefits as well. In fact, the opposite is true – in Staff's opening testimony in OPUC Docket No. UE 356, Staff argued that customers should receive the NPC benefits forecast in the IRP, which included both PTCs and zero variable cost wind.[145]

Staff recognizes that the Company's 2019 PCAM is not part of this proceeding, and does not have a recommendation in this case related to the true-up of wind capacity factors in other current ratemaking proceedings. However, to the extent that the Commission is inclined to adopt the Company's proposed APCA or otherwise allow for dollar-for-dollar recovery of power costs, it should direct PacifiCorp to use the forecast wind capacity factors in the true-up portion of the APCA so that customers are ensured the full benefits of its 2020 EV projects.

***8. PacifiCorp's proposed APCA guidelines are reasonable, if the mechanism is adopted.***

Staff's primary recommendation remains that the TAM and PCAM structure, with current filing guidelines and timing requirements in effect. However, should the Commission adopt PacifiCorp's APCA, Staff finds that PacifiCorp's proposed APCA guidelines are reasonable.

**(F) PacifiCorp should be subject to a management disallowance for its insufficient analysis supporting emissions control investments for Jim Bridger Units 3 and 4 as described in Staff's testimony.**

<u>Jim Bridger Units 3 and 4</u>

PacifiCorp seeks cost recovery for Selective Catalytic Reduction (SCR) systems installed on Jim Bridger Units 3 and 4, which were installed in November 2015 and November 2016, respectively.[146] The Company argues that these were prudent investments, necessary in order to

[145] UE 356 – Staff/100, Gibbens/19-22.

[146] PAC/800, Teply/32.


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comply with environmental regulations in Wyoming so that these units could remain operational.[147]

Staff, AWEC, CUB and Sierra Club all provided detailed testimony concerning the Company's decision-making process for these investments, and ultimately, the prudence of the Company's investments. Sierra Club, CUB and AWEC argue that these investments should be fully disallowed, based on the Company's lack of analysis and decision-making process.[148] Staff continues to recommend that the Commission find that PacifiCorp acted prudently in December 2013 when it issued its final notice to proceed (FNTP) with the installation of the SCRs, which Staff concluded was reasonable based on PacifiCorp's reasonable assumption that the investments were necessary in order to comply with state and federal guidelines.[149] However, Staff agrees with the concerns also raised by CUB, AWEC and Sierra Club that the Company's analysis leading up to issuing its FNTP was deficient.[150] On this basis, Staff also recommends that the Commission impose a 10 percent management disallowance to the Oregon-allocated gross-book value, equal to approximately **[BEGIN CONFIDENTIAL]** [redacted] **[ END CONFIDENTIAL]** or in the alternative, to allow the full Oregon-allocated undepreciated cost of the investment into rates, but not allow the Company to earn a rate of return on its **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** investment.[151] Additionally, Staff recommends the Commission direct PacifiCorp to use the Oregon depreciable life for Jim Bridger (2025) when calculating the remaining balance subject to rate recovery in Oregon.[152]

As Staff's testimony has demonstrated, PacifiCorp failed to consider a sufficient number of alternatives to its investment in the Jim Bridger Units 3 and 4 SCRs, and should have analyzed

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[147] PAC/4000, Owen/18.

[148] AWEC/500, Kaufman/1; CUB/400, Jenks/59; Sierra Club/100, Fisher/4-6.

[149] Staff/700, Soldavini/42-43.

[150] Staff/700, Soldavini/43-50.

[151] Staff/2300, Soldavini/4.

[152] *Id.*


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potential transmission system benefits associated with retiring these units.[153] This conclusion is further shared and strengthened by the analysis of AWEC, CUB and Sierra Club on this issue.[154]

PacifiCorp disagrees that its analysis was deficient, and with any disallowance in this case.[155] However, it argues that "if the Commission concludes that the Company's analysis was insufficient…a one-time disallowance of no more than 10 percent of current rate base should be the cap."[156] The Company goes on to argue that this treatment is consistent with Staff's initial recommendation and the Commission's disallowance in Order No. 12-493 in OPUC Docket No. UE 246.[157] The Company, however, is mistaken on its first point. Staff's recommendation is that a disallowance be applied to the Oregon-allocated gross book value, not net book value, and Staff's initial recommendation was not for a one-time disallowance, but a disallowance to rate base that would apply to each year cost of cost recovery.[158] Despite the slight difference in methodology from the Commission's management disallowance in OPUC Docket No. UE 246, Staff's rationale is consistent with the Commission's rationale in that case—namely, that a more precise disallowance is impossible to calculate because the Company's analysis of alternatives is deficient.[159] Staff's alternative recommendation is consistent with a 2016 Washington Utilities and Transportation Commission decision for these same investments.[160]

PacifiCorp also disagrees with Staff's recommendation that the net book value subject to inclusion in rates in this case should be calculated based on the Oregon end-of-life date for Jim Bridger of 2025.[161] PacifiCorp argues that in between depreciation studies, all additions must

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[153] Staff/2300, Soldavini/14.
[154] Staff/2300, Soldavini/9-14.
[155] PAC/3800, Link/3.
[156] PAC/3800, Link/3-4.
[157] PAC/3800, Link/4.
[158] Staff/2300, Soldavini/50.
[159] Staff/2200, Soldavini/14; *See also* Order No. 12-493 at 31-32.
[160] WUTC Docket No. UE-152253, Order 12 at 40 (September 1, 2016).
[161] PAC/4400, McCoy/14-20.


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depreciate at the unit's group rate regardless of if that plant has a different useful life than the life of the unit.[162]

Oregon-Allocated Costs for Prudent Plant

Sierra Club recommends a disallowance for SCRs installed at the Hayden generating plant, arguing that the Company's investment was imprudent. Staff's testimony on this issue was that PacifiCorp should be permitted cost recovery for these investments;[163] however, Staff finds that an adjustment to PacifiCorp's allocated net book value for the SCRs at Hayden Units 1 and 2 should be adjusted under the same rationale as that for Jim Bridger SCRs, described above.[164]

AWEC recommends the Commission disallow costs associated with Hunter low NOx burners and baghouse—a conclusion which Staff does not support; however, Staff's testimony recommends that these investments also be adjusted to comport with the Oregon depreciable life of the Hunter plant.[165]

No party proposes a prudence disallowance for the Company's installation of an SCR on Craig Unit 2; however, for this investment, Staff again proposes that the Oregon-allocated amount be adjusted to reflect the Oregon life of the asset, rather than the extended life.[166]

**(G) The Commission should affirm the long-standing use of its Wages & Salaries model, and adopt Staff's proposed adjustments to PacifiCorp's labor costs in this case.**

***1. Staff's adjustments to PacifiCorp's proposed wages and salaries are well supported, and should be adopted.***

Staff recommends a $5.9 million downward adjustment to PacifiCorp's Test Year expense for wages and salaries and a $3.39 million decrease to wages and salaries included PacifiCorp's rate base, which combined reduce PacifiCorp's revenue requirement by

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[162] PAC/4400, McCoy/14-20.
[163] Staff/2300, Soldavini/73.
[164] Staff/2300, Soldavini/73-74.
[165] Staff/2300, Soldavini/80.
[166] Staff/2300, Soldavini/83-84.


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approximately $6.407 million.  Staff's proposed adjustments are based on the Commission-approved three-year wage and salary model for determining Test Year expense for non-union and union wages and salaries.[167]

The model uses the utility's actual nonunion and union average wage and salary levels for a base year that is three years prior to the Test Year and escalates the base year amounts to obtain the Test Year levels.[168] For non-union wages and salaries, Staff applies the All-Urban CPI change for each of the three subsequent years to establish a Test Year amount.  For union wages, Staff substitutes actual negotiated increases for the All-Urban CPI for each of the three years.

Once Staff has escalated the base year to determine the Test Year amounts, Staff determines the difference between model Test Year amounts and the Company's Test Year wages and salaries.  Differences within ten percent of the amount determined under the model and the utility's Test Year amounts are shared equally.  To the extent the utility's Test Year amounts differ by more than ten percent from the model amount, the shareholders keep all the benefit or pay all the cost.[169]

PacifiCorp takes issue with Staff's use of the three-year wages and salary model. First, PacifiCorp testifies that Staff's use of a "sharing principle" whereby Staff allows the Company to share 50/50 the lesser of the difference between the wage projections as calculated by Staff and the Company or a 10 percent band around Staff's projection is cherry-picking and "function[s] to disallow costs that have been found prudent."[170]

Second, PacifiCorp objects to Staff's escalation from the base year.  With respect to the union wages, PacifiCorp asserts "the Company's union wage increases are based on actual union

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[167] Staff/2500, Cohen/2-3, 12.

[168] See *In Portland General Electric Company*, OPUC Docket No. UE 88, Order No. 95-322 at 10 (Mar. 29, 1995); *In re Northwest Natural Gas Company*, OPUC Docket No. UG 132, Order No. 99-697 at 41-42 (Nov. 12, 1999).

[169] Order No. 99-697 at 42.

[170] PAC/3300, Lockey/26.


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contracts, not the approximations used by Staff."[171] With respect to the nonunion wages, PacifiCorp states "[t]he benchmarking studies used by the Company to determine annual wage escalation are more reasonable than the All Urban Consumer Price Index (CPI) proposed by Staff because they are specific to utility industry wages."[172]

The Commission has accepted and used the three-year wages and salary model for over 20 years.[173] Utilities have objected to use of the model before, arguing the model ignores market data and impairs their ability to offer competitive salaries. On each occasion, the Commission has rejected the arguments. In 1995 the Commission noted the three-year wages and salary model takes market data into account:

> The [three-year wages and salaries] model produces a reasonable and reliable result. PGE faults staff's model for not being market based. Staff's model is based on market data. Its starting point is actual PGE wages for 1992 and 1993. Moreover, staff's method of sharing the difference between the two payroll projections equally between ratepayers and shareholders also allows for some adjustments to reflect changes in market conditions without allowing unchecked escalation.[174]

In 1999, the Commission rejected the utility's objection to the use of the All-Urban CPI rather than an index that measures actual local labor market wages:

> We also agree with Staffs use of the All Urban CPI index to adjust historic wages and salaries. Adjusting payroll levels by changes in inflation provides the employees the same real level of compensation as in the base year, and provides an incentive to companies to minimize labor costs. Contrary to the assertions by NW Natural, local economic conditions are represented in the All-Urban CPI, as the Bureau of Labor Statistics includes prices in Oregon when it conducts its survey. Moreover, Staffs method of sharing the difference between payroll projections equally between ratepayers and shareholders also allows NW Natural some ability to increase wages above the rate of inflation in response to changes in market conditions without allowing unchecked escalation.[175]

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[171] PAC/4300, Lewis/1-2.

[172] PAC/3300, Lockey/27.

[173] Order No. 95-322 at 10 (Commission noting "[t]his Commission has relied on staff's [three-year wages and salaries] model for over ten years to monitor energy utilities' wages and salaries for both general rate cases and earning tests associated with deferred accounting.").

[174] *Id.*

[175] Order No. 99-697 at 42-43.


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In 2001, the Commission rejected PacifiCorp's objections to the model and expressly approved use of a consumer price index to escalate base year wages and the sharing between the model forecast and Company forecast.[176] In 2009, the Commission rejected PGE's objections to use of the All-Urban CPI to inflate non-union wages to arrive at Test Year forecast.[177]

PacifiCorp's argument regarding Staff's escalation of the union wages is similarly unsupported. PacifiCorp complains that Staff "approximated" union increases rather than using actual increases to determine the Test Year forecast for union wage. However, Staff asked PacifiCorp to provide information showing the negotiated union wage increases for Oregon. The Company responded that it did not "maintain wages and full time equivalent information by employee groups such as (NEO, Exempt, Non-Exempt, Non-Union and Union)" and acknowledged "costs associated with wages, salaries and payroll taxes are charged to numerous accounts and to acquire such data on an Oregon basis would result in copious time."[178] When Staff asked for union contracts for Oregon unions, Company responded that also was not possible since "labor costs are system allocated" and responded with information for all PacifiCorp unions, not just those that represent Oregon-based employees.[179] Finally, when Staff asked for Oregon union increases per year for 2017 through 2020, the Company maintained it could not do so and again provided information for all PacifiCorp unions.[180] In preparation for its rebuttal testimony, Staff asked once again for union increases for Oregon jurisdiction and PacifiCorp failed to provide the information.[181] Staff's adjustment was therefore based on the calendar year average of the nine included unions.[182]

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[176] *In re PacifiCorp*, OPUC Docket No. UE 116, Order No. 01-787 at 40 (Sep. 7, 2001).
[177] *In re Portland General Electric Company*, UE 197, Order No. 09-020 at 9-10 (Jan. 22, 2009).
[178] Staff/2500, Cohen/4-5.
[179] Staff/2500, Cohen/5.
[180] *Id.*
[181] *Id.*
[182] Staff/400, Cohen/4-5.


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***2. Staff's proposed adjustments to compensation at risk are reasonable.***

The Company seeks full recovery of $9.5 million of pay-at-risk on an Oregon jurisdictional basis. Staff recommends adjustments based on Commission precedent. Specifically, Staff recommends disallowing 100 percent of officers' incentives disallowing 50 percent of non-officer incentives based on non-financial metrics and 75 percent if the incentives are based on financial performance measures. Staff recommends a reduction in the Company's Oregon test year incentives of ($4.7) million allocated as ($3 million) O&M and ($1.7 million) capital.[183]

PacifiCorp states at-risk pay, or incentives, are necessary to motivate strong performance, increase productivity and improve retention. PacifiCorp testifies its pay-at-risk "is structured to provide benefits to customers consistent with Commission precedent and is part of the Company's total market-based compensation package. The removal of incentive expense would therefore result in below-market compensation."[184]

Contrary to PacifiCorp's suggestion, Staff's proposed adjustment would not "result in below-market compensation." Staff's recommendation does not prevent PacifiCorp from using pay-at-risk. Instead, Staff's recommendation is intended to ensure the costs and benefits of at-risk pay are shared appropriately between ratepayers and shareholders.[185]

Staff's adjustments and the Commission's policy appropriately matches costs and benefits as officers' incentives hinge on meeting shareholders' financial expectations.[186] The policy as it relates to non-officers is more flexible and recognizes that both customers and shareholders benefit from high-achieving employees whose daily jobs impact both customers'

[183] Staff/2500, Cohen/12.

[184] PAC/4300, Lewis/2.

[185] Staff/2500, Cohen/15.

[186] *See In re Portland General Electric Company*, OPUC Docket No. UE 102, Order No. 99-033 at 43-44 (Jan. 27, 1999) (Removing 100 percent of officers' incentive pay).


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quality of service and the Company's bottom line.[187] Union bonuses are treated in the same manner as nonunion bonuses.

Staff also proposes disallowing ($535 thousand) of officer incentives capitalized in plant based on 2015-2020 data. Although the Commission has consistently disallowed officer incentives from Test Year expense, PacifiCorp has included capitalized officer incentives in rate base. Staff proposes to remove previously capitalized incentives from PacifiCorp's rate base.

**(H) The Commission should require attestations for capital investments above $1 million for non-wind, non-transmission plant and for Klamath hydroelectric investments anticipated to close to plant in November and December of this year.**

Staff continues to advocate that the Commission require PacifiCorp to provide attestations for non-wind, non-transmission plant in excess of $1 million that is anticipated to close subsequent to the hearing in this proceeding.[188] Along the same reasoning, Staff also recommended officer attestations for Klamath hydroelectric investments that are slated to be complete in November and December of 2020, in order to ensure they are used and useful prior to inclusion in rates on January 1, 2021.[189] This approach helps to alleviate concerns that material changes in the scope of projects, after the close of the evidentiary record in the case, would lead to plant assumed in rates that is not used and useful, and to ensure that costs have not exceeded projections.[190] To that end, Staff identified a list of 18 projects that should be subject to officer attestation in this case, not including Klamath Dam capital costs.[191]

PacifiCorp is agreeable to officer attestations, but disagrees that the threshold should be at $1 million, and instead, argues that it should only be applied to projects greater than $5 million because of the "small impact the non-wind and non-transmission projects that Mr. Fox identified

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[187] *See e.g.*, Order No. 09-020 at 13 (We agree with Staff, ICNU, and CUB that ratepayers benefit only in part from non-officer incentives. Accordingly, we conclude that an allowance of 50 percent of such costs into the revenue requirement is a fair approximation of the benefit to ratepayers."); Order No. 99-033 (Commission removing 50 percent of non-officer incentive pay).

[188] Staff/1000, Fox/21; Staff/1800, Fox/26.

[189] Staff/2600, Fjeldheim/9.

[190] Staff/1000, Fox/21.

[191] Staff/1000, Fox/21-22.


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in opening testimony have on Oregon-allocated rate base."[192] PacifiCorp applies the same reasoning to Klamath Hydroelectric Facilities.[193] If adopted, PacifiCorp's proposal would apply to a single project from Staff's list – Wildhorse Resort Phase 2 Load Addition.[194] Staff is unpersuaded that the relatively low dollar impact to Oregon customers is a relevant basis to remove customer protections that ensure rates are reflective of prudent, used and useful plant that has been reviewed in this case. A threshold of $1 million dollars for non-wind, non-transmission plant, and for the $540 thousand in Klamath hydroelectric facilities strikes an appropriate balance between ratepayers interests and burden to the Company, and should be adopted in this case.

Staff's Rebuttal Testimony also raised the concern that if the four hydroelectric dams of the Klamath River Hydroelectric Settlement (KHSA) are transferred to the Klamath River Renewal Corporation (KRCC) for decommissioning and deconstruction, continued capital investments may be imprudent and/or not used and useful.[195] Since that time, FERC approved a partial license transfer where PacifiCorp remains a co-license,[196] which has reduced Staff's concerns that some capital investments may not be used and useful, or prudent. Staff has no recommended adjustment to Klamath hydroelectric capital costs.

**(I) The Commission should adopt Staff's proposed adjustments for Dues & Memberships and Meals & Entertainment.**

<u>Dues & Memberships</u>

Staff proposes a downward adjustment of $34,270 to the Company's Test Year O&M expense to remove a portion of PacifiCorp's Test Year expense for dues, licenses, memberships and subscriptions.[197] Staff's analysis of this expense is generally the same in each general rate

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[192] PAC/3300, Lockey/19.

[193] PAC/3300, Lockey/21.

[194] *See* Staff/1000, Fox/22.

[195] Staff/2600, Fjeldheim/35.

[196] 172 FERC P 61062 (F.E.R.C.), 2020 WL 4036946.

[197] Staff/2800, Rossow/3.


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case. Staff reviews the Company's O&M expense using base year data provided by the Company by FERC Account.[198] Staff identifies expense related to the categories above and determines whether there is Commission precedent on whether the expense is recoverable in rates and/or whether there is sufficient information to show the expense provides benefits to ratepayers and is therefore appropriately included in rates.

In this case, Staff reviewed over 184,000 line items and identified and categorized line items related to "Books and Subscriptions," "dues and memberships" and so on. Staff reviewed the identified line items to determine whether they are related to providing utility service and provide rate payers benefits. For example, Staff disallows expense for dues to civic organizations because those expenditures are not necessary to provide utility service.[199]

Staff also examines the expense to determine whether the Company provided sufficient information regarding the expense to show it is recoverable in rates. Staff then escalated the amount of the base year adjustments by the most recent Consumer Price Index all urban (CPI) of 0.7 percent for 2020 and 2.1 percent for 2021, to escalate amounts from the base year to the Test Year.[200]

In its surrebuttal testimony, PacifiCorp states that Staff has mistakenly based part of its adjustment on system-allocated expense rather than Oregon-allocated expense. However, PacifiCorp did not provide workpapers to support its assertion. If PacifiCorp is correct, an adjustment to Staff's position would be warranted.

Meals & Entertainment

Staff proposes a downward adjustment of $594,533 to remove a portion of PacifiCorp's Test Year expense for meals and entertainment, awards, miscellaneous, donations, airfare and travel and lodging.[201] Staff's analysis of Test Year expense for these categories of expense is

[198] Staff/2800, Rossow/3-4.
[199] Staff/2800, Rossow/6.
[200] Staff/2800, Rossow/4.
[201] Staff/2800, Rossow/7.


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similar to the review of other O&M expense described above. Staff reviewed PacifiCorp's FERC accounts for the base year and identified 79,668 line items for the categories at issue, amounting to over $7.7 million.[202] Staff applied Commission precedent related to the recovery of the expense categories. For example, the Commission has previously determined that expense for meals and entertainment should be shared equally by ratepayers and shareholders,[203] but that that donations and awards are not allowed in Test Year expense at all.[204] Travel for a legitimate business purpose is allowed at 100 percent, but non-business travel is disallowed. For those expenses for which Staff could not ascertain whether there was a legitimate business purpose, Staff disallowed it.[205]

PacifiCorp opposes Staff's adjustment, arguing it is arbitrary. As explained above, Staff's proposed disallowance is based on Commission precedent. Accordingly, the Staff's adjustment is anything but arbitrary.

**(J) The Commission should deny PacifiCorp's request to recover its pension settlement losses in rates in this case.**

PacifiCorp continues to advocate for the inclusion of projected pension settlement losses in base rates, arguing that they are a "valid cost of providing a pension plan."[206] The Company's alternative recommendation is that the Commission approve a deferral or balancing account for prospective pension costs, including settlement costs.[207] Staff continues to find, in accordance

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[202] *Id.*

[203] Order No. 09-020 at 16.

[204] *In re Portland General Electric Co.*, OPUC Docket No. UF 3218, Order No. 76-601 (Feb. 22, 1977).

[205] *See e.g.,* Order No. 09-020 at 15 (Commission approving removal of expense that is not required to provide safe and adequate service and unidentified and therefore unjustified expense.)

[206] PAC/3400, Kobliha/17.

[207] *Id.*


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with the Commission's decision in UM 1633, that these costs are not subject to true-up and that the Company's request in this case is one-sided.[208]

A deferral or balancing account would allow for the tracking of losses and gains, but does not address the fact that the proposal is nevertheless unbalanced and inequitable at this point in pension cost recovery, and particularly because the plan is frozen.[209] The Commission should affirm its long-standing policy of including net periodic benefit cost (FAS 87) in base rates as the mechanism to recovery pension-related costs.[210]

**(K) The Commission should open an investigation into PacifiCorp's Schedule 272 to determine whether it is appropriately considered a Voluntary Renewable Energy Tariff (VRET) subject to the Commission's approved VRET Guidelines, and direct PacifiCorp not to enter into any new contracts with Schedule 272 customers that include supplying RECs from utility-owned resources pending the outcome of the investigation.**

Staff's review of the Pryor Mountain wind facility in this case sparked a review of the Company's Schedule 272, an optional rate schedule that permits eligible customers to purchase RECs from PacifiCorp at individually contracted rates.[211] The RECs sold to customers under Schedule 272 can be from PacifiCorp-owned resources, or from contracted resources, but under both circumstances are characterized under the tariff as unbundled RECs.[212] Staff's review raised concerns that the Company's Schedule 272 may be appropriately considered a VRET because the RECs sold meet the definition of a bundled REC (regardless of whether PacifiCorp or a third-party own the underlying resource), in which case, it would be subject to the Commission's VRET Guidelines.[213] Staff's concern is that PacifiCorp is acquiring additional

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[208] Staff/1800, Fox/18.

[209] Staff/1800, Fox/19.

[210] *Id.*

[211] Staff/800, Storm/41.

[212] Staff/800, Storm/46.

[213] Staff/800, Storm/46; *See also In re Public Utility Commission of Oregon*, OPUC Docket No. UM 1690, Order No. 15-405 at 1-2 (Dec. 15, 2015). Staff notes that the VRET Guidelines are currently under review in OPUC Docket No. UM 1953, and therefore, subject to change as a result of that proceeding. Whether PacifiCorp's Schedule 272 is a VRET does not depend on the outcome of that proceeding, as the dispositive question for a VRET is whether the RECs sold are bundled.


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resources on the basis of meeting contracted customer demand under Schedule 272, resulting in the addition of brown resources with a variable load shape outside of its integrated resource plan and the competitive bidding rules and additional risk borne by cost of service customers.[214] If this is the case, there is disparate treatment between PGE and PacifiCorp, as PGE's Green Energy Affinity Rider (GEAR) program is subject to more stringent VRET Guidelines and ensures customers are insulated from cost-shifting, and that VRET participants receive a fair deal.[215] Due to these concerns, Staff proposes the Commission open an investigation into Schedule 272 and the applicability of the VRET Guidelines.[216] In the interim, Staff also recommends the Commission direct PacifiCorp to refrain from entering into Schedule 272 contracts that involve RECs from utility-owned resources.[217]

PacifiCorp argues that Staff's concerns are unfounded, and that its Schedule 272 product does not sell RECs that meet the definition of a bundled REC.[218] It further argues that a proposed investigation is unnecessary because PacifiCorp "does not anticipate entering into another Schedule 272 agreement involving a utility-owned facility in the foreseeable future"[219] and that if it has that opportunity it will "meet and confer with stakeholders before proceeding with the transaction."[220] In this argument, PacifiCorp also assumes that "no party opposes the ongoing use of Schedule 272 in conjunction with power purchase agreements."[221]

PacifiCorp's assumption is incorrect. Although Staff's concerns were initiated by a review of Pryor Mountain, its concerns are not limited to utility-owned resources and are not assuaged by the fact that PacifiCorp is willing to discuss its intended process with parties prior to

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[214] Staff/2000, Storm/33.
[215] Staff/2000, Storm/33-34.
[216] Staff/2000, Storm/36.
[217] *Id.*
[218] PAC/2000, Wilding/25.
[219] PAC/3800, Link/29.
[220] *Id.*
[221] *Id.*


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proceeding with a future utility-owned transaction. Staff's testimony clearly sets forth concerns with PacifiCorp's Schedule 272, generally, and the potential sale of bundled REC products without determining whether VRET guidelines are satisfied by Schedule 272. Staff's only distinction between utility-owned and third-party owned resources was in its recommendation on what should happen in the interim while an investigation is pending – the difference in treatment was in consideration of the fact that third-party owned resources provide relatively lower risk to cost-of-service customers.[222] A simple commitment to discuss these concerns ahead of a potential transaction (utility-owned or otherwise) does not meaningfully address Staff's concerns—without process and Commission resolution, Staff does not find that to be a meaningful path forward at this time.

**(L) The Commission should approve the buy-down of Cholla 4 with Tax Cuts & Jobs Act deferred amounts, and direct the Company to amortize the remaining $13.3 million balance over two years.**

Staff agrees with PacifiCorp's proposal to buy-down the undepreciated investment in its Cholla 4 unit, slated to retire on or before December 31, 2020, with available deferred Tax Cuts and Jobs Act (TCJA) benefits, and then to amortize the remaining TCJA benefits to customers over a two year period.[223] This approach avoids the legal issues with PacifiCorp's initial proposal.[224] In response to Staff's request, PacifiCorp clarified that its buy-down proposal includes closure costs, such as final decommissioning costs, which would leave $13.3 million in TCJA benefits to be passed on to customers over a two year period.[225] However, as discussed below, Staff concurs with AWEC's position that a buy-down of estimated future closure costs should be denied, which will likely increase the amount of tax benefits left to amortize into customer rates above PacifiCorp's estimated $13.3 million.[226]

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[222] Staff/2000, Storm/35.

[223] PAC/4400, McCoy/8; Staff/2200, Anderson/8.

[224] *See e.g.* Staff/1500, Anderson/26-27; CUB/100, Jenks/17-19; AWEC/100, Mullins/3.

[225] PAC/3300, Lockey/33.

[226] Staff agrees with PacifiCorp that the 2020 tax benefit amount was already grossed up in the deferral proceeding, and therefore, agrees with PacifiCorp's assertion that "since the EDIT


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AWEC disagrees with the buy-down approach, arguing that future, unknown and unreviewed costs (final decommissioning costs) are netted against past benefits (TCJA benefits), which raises a number of problems[227] and maintains its recommendation to apply a reduced interest rate to the unrecovered plant balance during a four year amortization period.[228]

If the Commission denies Staff's and PacifiCorp's recommendation to buy-down Cholla Unit 4's undepreciated investment with deferred TCJA dollars, Staff agrees with AWEC's recommendation that the Commission approve a regulatory asset for the undepreciated plant balance only, amortized over four years, at the time value of money consistent with prior Commission precedent and Oregon case law.[229] This approach was Staff's primary recommendation in its opening testimony, and was also supported by CUB.[230] Staff's recommended interest rate was 2.63 percent;[231] CUB's was 2.56 percent;[232] AWEC's is 1.37 percent.[233] Staff does not support PacifiCorp's alternative proposal to use the GPRA to recover Cholla Unit 4's undepreciated plant balance and estimated closure costs at the Company's authorized rate of return. An interest rate set at the Company's weighted average cost of capital is unlawful.[234]

Regardless of whether a buy-down occurs, Staff agrees with CUB and AWEC that actual final decommissioning and other closure costs should be reviewable and tracked in a separate balancing account as they are incurred.[235] This ensures the Commission has an opportunity to

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balances are fully applied to offset Cholla Unit 4, no adjustment to the gross up is required." PAC/4400, McCoy/30.

[227] AWEC/500, Kaufman/17-18.

[228] AWEC/500, Kaufman/15.

[229] Staff/1500, Anderson/26-27.

[230] CUB/100, Jenks/22.

[231] Staff/1500, Anderson/27.

[232] CUB/100, Jenks/22.

[233] AWEC/100, Mullins/4.

[234] *See Citizens' Utility Board of Oregon v. Public Utility Comm'n of Oregon*, 154 Or App 702 (1998).

[235] CUB/100, Jenks/22; AWEC/500, Kaufman/18.


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review the reasonableness of these costs, and consistent with applicable provisions of the 2020 Protocol, Oregon customers pay only their allocated share of actual decommissioning costs.[236] This is also consistent with the Commission's treatment of decommissioning costs for other coal-fired generating units.[237]

**(M) The Commission should adopt Staff's proposed Automatic Adjustment Clause cost recovery mechanism for coal-fired generation costs.**

Staff continues to recommend that the Commission adopt an Automatic Adjustment Clause (AAC) to recover costs for the Company's undepreciated plant balances for its coal-generating units, with the exception of Cholla 4. An AAC allows for the recovery of capital costs, updated annually, which ensures that the Company recovers its capital costs, but customers do not absorb regulatory lag.[238] Furthermore, in order to accommodate interim investments that fall between rate cases, to the extent appropriately allocated to Oregon, Staff's proposal allows for timely rate recovery by allowing the Company to seek cost recovery as part of the annual filing.[239] Decommissioning costs would be tracked in a separate balancing account, as described above.

PacifiCorp does not respond to Staff's recommendation for an AAC in its surrebuttal testimony. As such, the Company's position on Staff's recommendation is unclear. The Company does, however, request that the Commission approve the GPRA in the event that the Commission approves the buy-down of Cholla Unit 4 with deferred Tax Cuts and Jobs Act benefits. As described above, Staff opposes this request and finds that a regulatory asset, amortized over four years at the time value of money, is lawful and consistent with prior Commission precedent. This issue aside, however, PacifiCorp's testimony also fails to address how it will remove coal-fired generation resources from rates, as Oregon exits each unit, in the

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[236] AWEC/500, Kaufman/18-19; 2020 Protocol at Sections 4.1.3.1. and 4.3.1.4.
[237] Staff/1500, Anderson/17-21.
[238] Staff/1500, Anderson/21-23.
[239] Staff/2200, Anderson/9.


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absence of the GPRA, an AAC, or some other ratemaking mechanism. Pursuant to Section 4.1.2. of the 2020 Protocol, PacifiCorp is obligated to "timely propose to Parties from an Exiting State a method to address the treatment of these costs for ratemaking, such that costs and benefits remain matched in customer rates."

**(N) The Commission should approve the Exit Dates and Exit Orders as agreed to by Staff and PacifiCorp in this proceeding.**

In its surrebuttal testimony, the Company agreed to Staff's rebuttal testimony position and requests that the Commission approve the Exit Dates and Exit Orders for the Company's coal-fired generating plants, except for Hunter Units 1, 2 and 3, Huntington Units 1 and 2, and Wyodak.[240] The Company notes that it will request Exit Orders for these plants in a future proceeding.[241] Staff confirms that Exit Orders may be entered outside of a general rate case proceeding, as is consistent with the plain language of the 2020 Protocol.[242] Like PacifiCorp, Staff does not support Sierra Club's recommendation to issue Exit Orders for all of the Company's coal-fired generating units with Exit Dates no later than December 31, 2025.

**(O) The Commission should approve Capital Cost Recovery for EV 2020 New Wind and Repowered Wind, and Pryor Mountain, subject to Staff's recommendations.**

Staff continues to recommend that the Commission find PacifiCorp's investments in its EV 2020 new and repowered wind projects, as well as the Pryor Mountain new wind project, prudent and subject to rate recovery in this proceeding subject to certain conditions.[243] During the pendency of this case, PacifiCorp and the parties became aware that COVID-19 could impact the commercial operation dates of one or more wind projects such that the plants may not be

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[240] PAC/3300, Lockey/5.

[241] *Id.*

[242] 2020 Protocol, Section 4.1.2. provides "A Commission may issue an Exit Order specifying an Exit Date in a proceeding for approval of this Agreement, a depreciation docket, a rate case, or any other appropriate proceeding."

[243] Staff/2000, Storm/2-4.


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commercially available until some time in 2021.[244] Also during the pendency of this case, Congress extended the project completion deadline by which to realize the full value of production tax credits (PTCs).[245] This in turn means that customers would not be harmed by a reduction in anticipated benefits due to limited construction delays. In light of this, Staff's rebuttal testimony recommended that the Commission approve rate recovery for these projects, subject to the following conditions:

- Find PacifiCorp's decision to invest in each of the EV 2020 new wind and repowered wind projects, and Pryor Mountain new wind project, prudent, assuming the projects qualify for 100 percent of PTCs;
- Cap the investment for each project at the level specified in Staff's opening testimony, which reflects amounts previously provided by PacifiCorp, for purposes of this proceeding;
- Require signed declarations from a Vice President of either Pacific Power or Rocky Mountain Power attesting to each new or repowered wind project having been placed in service and in commercial operation prior to January 1, 2021, with rates reflective of the investment effective on January 1, 2021 regardless of actual in-service date; and
- For those projects with commercial online dates between January 1, 2021 and June 30, 2021, allow rates to reflect the project following receipt of a signed declaration from a Vice President of Pacific Power or Rocky Mountain that the project is online and in commercial operation. For those projects with a

[244] Staff assumes that the Company plans to close entire projects to plant prior to seeking cost-recovery, not just a subset of wind turbines within a particular project, in order to be afforded cost recovery in this case.

[245] PAC/2700, Hemstreet/8.


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commercial online date after June 30, 2021, require PacifiCorp to confer with the parties regarding their support for rate recovery.[246]

PacifiCorp agrees with Staff's recommended treatment, and similarly recommends the Commission adopt this approach.[247]

AWEC argues that the Commission should subject EV 2020 rate recovery to the following conditions: (1) a hard cap on capital and O&M costs; (2) a hard cap on costs for the D.2. segment of the Energy Gateway transmission project; (3) a guarantee of full PTC energy benefits from the EV 2020 projects; and (4) a minimum capacity factor for each resource at the level modeled in the RFP bids.[248] AWEC's recommendations are either explicitly or effectively moot in this proceeding, given the Company's self-imposed cost caps for these projects for purposes of this proceeding,[249] PTCs are available at 100 percent in 2021,[250] and capacity factors have been settled in the TAM proceeding.[251]

**(P) The Commission should deny PacifiCorp's request for increased insurance premiums and should adopt Staff's adjustment to the low claims bonus.**

In its reply testimony, PacifiCorp increased its Test Year expense for Oregon-allocated insurance premiums by $1.088 million, based on new premium data from its insurer.[252] The Company did not provide additional evidence to support the increase; rather, the Company included the change in workpapers with no substantive information.[253] Staff is fundamentally concerned with the Company's approach of continuing to update Test Year information on a

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[246] Staff/2000, Storm/15-16; this is also consistent with the pending stipulation in PacifiCorp's 2021 TAM proceeding.

[247] PAC/3300, Lockey/21-22.

[248] AWEC/500, Kaufman/29.

[249] Staff/2000, Storm/12-13.

[250] Staff/2000, Storm/14.

[251] PAC/2000, Wilding/68. Staff notes that it raised concerned about the consistency of the Company's proposed APCA with the TAM settlement.

[252] PAC/3100, McCoy/9-13.

[253] Staff/2600, Fjeldheim/3.


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rolling basis.[254] This approach deprives Staff and Intervenors the ability to review and analyze costs, and make supported recommendations to the Commission, as the target is constantly shifting. PacifiCorp's filed case utilized a Base Year ending June 30, 2019, and the original projected 2021 Test Year revenue requirement is the basis of the Company's initial rate case filing.[255] The addition of $1.088 million in insurance premiums simply serves to eliminate regulatory lag for the Company, with no guarantee that other insurance costs may have gone down compared to amounts included in the Test Year, which were not similarly updated. In response to Staff's criticism of PacifiCorp's approach, the Company argued that Staff could have "issued data requests."[256] This rings hollow. The purpose of having a Test Year is to ensure that there is a universe of information that Staff and Intervenors review in making recommendations to the Commission. The Company's update to insurance premiums is one-sided, and should be denied.

In its opening and rebuttal testimony, Staff raised the concern that PacifiCorp was not including a **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**, low claims bonus in its Test Year insurance premiums. The Company previously argued that no adjustment was necessary, but finally, in the Company's surrebuttal testimony, provided evidence that this low claims bonus is, in fact, reflected in its test year insurance premiums.[257] Staff appreciates that the Company appears to have included this adjustment in its surrebuttal testimony, but the adjustment is reflected in a table that uses revised Company data for the Test Year, which is not consistent with the data provided in its original filing for FERC Account 294, SO Factor Balance in the Company's 2020 JAM Model. As such, Staff is unclear as to whether the low claims adjustment is reflected in the Company's surrebuttal

[254] Staff/2600, Fjeldheim/3.
[255] *Id*.
[256] PAC/4400, McCoy/36.
[257] PAC/4400, McCoy/35, Table 2.


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revenue requirement. Staff continues to recommend the Commission ensure that insurance premiums in this case reflect the low claims bonus.

**(Q) The Commission should adopt Staff's proposed adjustments to Franchise Fees and the Oregon Department of Energy supplier fee.**

PacifiCorp updated its Franchise Fees and Oregon Department of Energy (ODOE) supplier fee percentages based on the three most recently completed calendar years, to include the full 2019 calendar year. In the Company's original filing, the Base Year ended June 30, 2019 and did not include expenditure data for the entire 2019 calendar year. Staff requested historical data for the most recent three full calendar years.[258] The Company provided data for 2016 to 2018 and on this basis, Staff calculated three year average percentages for the Franchise Fees and ODOE supplier fee.

**(R) The Commission should adopt Staff's adjustments to PacifiCorp's requested Advanced Metering Infrastructure (AMI) cost recovery.**

Staff continues to recommend that the Commission adopt a $8.7 million reduction to revenue requirement, rather than the Company's proposed $6.5 million, to account for the incremental financial benefits of AMI.[259] Staff finds this to be appropriate because it is not apparent how ratepayers are receiving an ongoing benefit related to AMI, and Staff believes the Company's adjustment is too conservative.

In its surrebuttal testimony, PacifiCorp argues that the appropriate level of benefit is clearly reflected in PAC/3102 (though was not included in response to Staff Data Request 592), and that including Staff's adjustment would "inflate these benefits beyond the expected levels."[260]

Staff's understanding is the future capital expenditure savings of $1.2 million are on-going in nature, which represents an additional annual cash savings that should be returned to

[258] Staff/305.

[259] Staff/1800, Fox/9.

[260] PAC/4400, McCoy/10.


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ratepayers as a known and measurable adjustment regardless of whether the Company chooses to capitalize them or not.

AMI details provided by the Company (Exhibit 1302 page 74) show that most lines are simply split 1/2, 1/3, or 1/4 between the base year and test year rather than being based on exact data,[261] demonstrating that this represents the lower bound of a range of reasonable outcomes. Accordingly, Staff's recommendation in this case is reasonable.

**(S) The Commission should direct PacifiCorp to include the Oregon Corporate Activities Tax (OCAT) in base rates.**

The OCAT was passed by the 2019 Oregon Legislative Assembly, to be effective on January 1, 2020. This tax is imposed for the privilege of doing business in Oregon and is in addition to any other taxes and fees imposed. It is imposed at a rate of $250 plus .57 percent of taxable commercial activity in excess of $1 million each year.

Because it is a relatively recent tax, PacifiCorp filed a deferral in OPUC Docket UM 2036 to track the expense as the Department of Revenue enacted rules to calculate the amounts owed.[262] The Commission approved PacifiCorp Schedule 104, implementing a rate schedule, balancing account and automatic adjustment clause, in order to effectuate rate recovery for deferred amounts on a temporary basis.[263] PacifiCorp agreed that the tax would ultimately be included in base rates, similar to other taxes paid by all ratepayers.[264] The fundamental question with this issue is whether there is sufficient certainty with how the tax will be assessed such that it is appropriate to include estimated OCAT expense in base rates in this case. Staff continues to argue that there is, in fact, sufficient certainty at this time such that rates would be fair, just and reasonable by including $5.2 million of OCAT expense in base rates, which is similar to other

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[261] PAC/1302, McCoy/74.

[262] *In re PacifiCorp*, OPUC Docket Nos. UM 2036, UE 367, Order No. 20-028 (Jan. 29, 2020).

[263] *Id.*

[264] Order No. 20-028 at Appendix A, pg. 1.


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generally applicable taxes.[265] Staff also recommends against permitting PacifiCorp to defer and true-up any variances between forecast and actuals for future ratemaking treatment.[266]

PacifiCorp advocates for continues use of the current cost recovery mechanism approved in OPUC Docket Nos. UM 2036 and UE 367, and to revisit the inclusion of the OCAT in base rates in the Company's next general rate case. Alternatively, PacifiCorp argues that if OCAT expense is included in base rates in this case, the Company should retain the ability to continue to defer and recover or return any incremental differences.[267]

The Company's surrebuttal testimony provided no additional rationale or evidence as to why the OCAT is not appropriately included in base rates, it simply reiterates its request in this case. Staff remains unpersuaded by PacifiCorp's position, and continues to urge the Commission to direct PacifiCorp to include estimated OCAT expense in base rates, without an annual true-up mechanism.

**(T) The Commission should adopt Staff's proposed adjustments for O&M non-labor expense.**

Staff proposes a downward adjustment of $2,720,541 to PacifiCorp's Test Year O&M non-labor expense for FERC Accounts 570 (maintenance of station equip), 583 (overhead line expenses), 587 (customer installation expenses), 592 (maintenance of station equipment) and 594 (maintenance of underground lines). As Staff explains in testimony, Staff determined that PacifiCorp's Test Year non-labor expense exceeded the Base Year amounts for the FERC accounts listed above by more than the Urban Growth CPI.[268] PacifiCorp provided Staff no justification for the increase.[269] In absence of any justification, Staff recommends a disallowance to reflect a more reasonable level of expense for these cost categories.[270]

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265 Staff/1800, Fox/11-12.

266 Staff/1800, Fox/12.

267 PAC/4400, McCoy/31.

268 Staff/3000, Beitzel/5.

269 Staff/3000, Beitzel/5

270 Staff/3000, Beitzel/4.


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**(U) The Commission should approve the Rate Spread and Rate Design Stipulation without material modification.**

This section of the brief explains and supports the Partial Stipulation (Stipulation) filed in this proceeding on August 17, 2020, in which AWEC, CUB, Calpine, ChargePoint, Fred Meyer, KWUA, Oregon Farm Bureau, PacifiCorp, SBUA, Staff, Tesla, Vitesse, and Walmart (together, Stipulating Parties) reached agreement resolving certain issues related to rate spread and rate design.[271] Sierra Club is the only other party to this proceeding that did not join in the Stipulation. Staff urges the Commission to adopt the Stipulation without material modification, as it will result in rates that are fair, just and reasonable as required by ORS 756.040.

Terms of Stipulation

In the Stipulation, the Stipulating Parties agree that the rate spread and rate design elements therein would result in rates that are fair, just and reasonable as required by ORS 756.040.[272] The Stipulating Parties further agree that the Stipulation does not singularly reflect any party's cost studies, but rather is in consideration of all the cost of service studies filed in this case.[273]

The Stipulating Parties agree to an overall rate spread as set forth in the table below, which will be achieved using the Rate Mitigation Adjustment (RMA) in Schedule 299.[274]

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[271] UE 374 – Partial Stipulation filed August 17, 2020.
[272] *Id.* at ¶ 10.
[273] *Id.*
[274] *Id.*


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| | | Settlement Proposal multiple of average increase |
|---|---|---|
| **Residential** | Schedule 4 | 0.9 |
| **Gen. Svc. < 31 kW** | Schedule 23 | 0.75 |
| **Gen. Svc. 31 - 200 kW** | Schedule 28 | remainder |
| **Gen. Svc. 201 - 999 kW** | Schedule 30 | 0.8 |
| **Large General Service >= 1,000 kW** | Schedule 48, 47 | 1.5 |
| **Agricultural Pumping Service** | Schedule 41 | 1.5 |
| **Total Lighting** | Schedule 15, 51, 52, 53, 54 | 0 |

The Stipulating Parties also agree that the use of the RMA does not reflect agreement by any Stipulating Party for support of any cost study, is not precedential for future cost studies, and may not be used as a basis for identifying subsidies.[275]

Regarding the residential basic charge, the Stipulating Parties agree to a separate Residential Basic Charge for single and multi-family dwellings.[276] The basic charge shall be set at $9.50 for single-family dwellings and $8.00 for multi-family dwellings.[277] For residential tier flattening, the Stipulating Parties agreement is as follows:

> If the overall base revenue requirement determined for PacifiCorp by the Commission in this proceeding is an increase of $31 million or less, the residential tiered energy charge will be flattened by 40 percent. If the overall base revenue requirement as determined by the Commission for this proceeding is a rate increase greater than $31 million and less than or equal to $39 million, the residential tiered energy charge rate structure will be flattened by 33 percent. If the overall base revenue requirement determined by the Commission is an increase greater than $39 million, then the tiered structure will be flattened by 25 percent.[278]

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[275] *Id.*

[276] *Id.* at ¶ 11.

[277] *Id.*

[278] *Id.* at ¶ 12.


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For the Residential Time of Use Pilot, the Stipulating Parties agree that the Commission should adopt PacifiCorp's proposed Residential Time of Use Pilot (Schedule 6) with the following modifications: (a) the on-peak period is 5:00 p.m. to 9:00 p.m. year round, with a 4:1 on-to-off peak ratio; and (b) the pilot cap is expanded to 25,000 participants.[279]

For the Schedule 29 Pilot (General Service Time of Use), the Stipulating Parties agree that the following modification should be made: (a) New customers (a new site for electric service) as of January 1, 2021, will be exempt from the 100 customer cap; (b) The average energy charge for the first 50 kilowatt-hours ("kWh") per kilowatt ("kW") will be increased to $0.25 per kWh; (c) The Time of Use definitions shall be the same as those specified in Schedule 45; (d) Eligibility for this schedule shall be limited to customers whose loads have not registered more than 1,000 kW more than three times in the preceding 12 months or have not registered more than 2,000 kW more than once in the preceding 18 months.[280]

For PacifiCorp's other pilot programs, the Stipulating Parties agree, with the exception of PacifiCorp's Real-Time Day-Ahead Pricing pilot and the Schedule 6 and Schedule 29 Pilot modifications above, the Pilot programs proposed by PacifiCorp in its initial filing should be adopted.[281] PacifiCorp agrees to withdraw the Real-Time Day-Ahead Pricing Pilot. PacifiCorp agrees to provide two reports for all pilot programs: one after 15 months of experience that discusses lessons learned from the pilot's first year and one after the pilot ends that assesses the lessons, information and data gleaned in conducting the pilot.[282] The Company will share with parties what the Company intends to learn and expectations for its pilots.[283] The first reports will be filed on the following dates:[284]

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[279] *Id.* at ¶ 13.

[280] *Id.* at ¶ 14.

[281] *Id.* at ¶ 15.

[282] *Id.*

[283] *Id.*

[284] *Id.*


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| Pilot | Description | 1st Report Due |
|---|---|---|
| Schedule 6 | Residential Time of Use | 4/15/2022 |
| Schedule 29 | Non-Residential Time of Use | 5/16/2022 |
| Schedule 218 | Interruptible Service | 6/15/2022 |

With regard to the Schedule 48 facilities charge, the Stipulating Parties agree that PacifiCorp will reduce the facilities charge for Schedule 48 customers with a load size greater than 4 megawatts by $0.30.[285] The Stipulating Parties agree that this rate design change within the Schedule 48 class will not impact the rate spread for other customer classes, and will not create a dedicated substation group within Schedule 48's pricing.[286]

For the Schedule 48 marginal cost of service study, PacifiCorp agrees to develop a marginal cost of service study that includes a subgroup within Schedule 48 for customers served by dedicated substation facilities.[287] This study will break out distribution costs for this subgroup in a manner similar to lighting distribution costs, with the revenue requirement of dedicated substation distribution costs treated as a separate function.[288] PacifiCorp will provide this informational study to all Stipulating Parties before September 1, 2021.[289] This study will be provided for informational purposes and will not bind any party to any position on this issue in the future.[290]

The Stipulating Parties also agree to update the Time of Use periods for Schedule 47 and 48 customers to be comprised of an on-peak period from 1:00 p.m. to 10:00 p.m. in June

[285] *Id.* at ¶ 16.
[286] *Id.*
[287] *Id.* at ¶ 17.
[288] *Id.*
[289] *Id.*
[290] *Id.*


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through September and 6:00 a.m. to 9:00 a.m. and 4:00 p.m. to 10:00 p.m. in all other months with an off-peak period to include all other hours.[291]

For Schedule 45, the Stipulating Parties agree that the language in special condition 4 that states "available for use by any driver and is capable of charging more than one make of automobile" will be replaced with "in a location accessible by members of the public."[292]

For street and area lighting, the Stipulating Parties agree that PacifiCorp's Street and area lighting tariffs are to be re-designed to be based upon the level of service described in the Company's initial filing, but with the lighting schedules receiving a net zero percent price increase through use of the RMA. PacifiCorp agrees to make a good faith effort to replace all Company-owned street lighting bulbs in Oregon with light-emitting diode ("LED") lighting with 50 percent of bulbs replaced by December 31, 2025, and all remaining bulbs replaced no later than December 31, 2030, unless certain LED conversions are clearly not cost-effective.[293] If PacifiCorp is unable to meet this goal, then PacifiCorp will meet with parties to explain any issues.[294] Company-owned street light conversion may be funded by either the Company or customers.[295] The Stipulating Parties agree that the proactive conversion of Company-owned street lights to LED is prudent as specified in this settlement.[296] The parties' agreement to this provision is not intended to preclude the Company from changing its replacement plan in response to changes in technology that may make other replacement options more cost-effective.[297]

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[291] *Id.* at ¶ 18.
[292] *Id.* at ¶ 19.
[293] *Id.* at ¶ 20.
[294] *Id.*
[295] *Id.*
[296] *Id.*
[297] *Id.*


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Related to small business consumers, PacifiCorp agrees to do additional outreach to small commercial customers on the availability of applicable pilots.[298] PacifiCorp additionally agrees to do the following with respect to small business customers: (a) Create a marketing, education and outreach ("ME&O") plan for Schedule 23 customers; (b) Work collaboratively with SBUA regarding the ME&O plan for these customers, particularly as it relates to enrollment in Schedules 23/210 and 29; and (c) By October 2021, the Company will consult with SBUA prior to providing an informational report on data obtained regarding Schedule 23 customers, and provide the Stipulating Parties an informational report exploring potential alternate rate design changes for Schedule 23 customers.[299] The Company commits to review the data and evaluate rate design and pricing options that may be proposed in a future general rate case.[300]

For Schedule 41, PacifiCorp agrees to decrease the Schedule 41 Load Size charges proposed by PacifiCorp in its initial filing by 10 percent and increase the Distribution Energy charge commensurately.[301]

For Schedule 30, PacifiCorp agrees to increase Schedule 200 demand charges for Schedule 30 by 70 percent and lower the energy charge commensurately.[302]

For agricultural pumping time of use, the Stipulating Parties agree that PacifiCorp's proposed permanent Time of Use rate option is appropriate and should be approved.[303]

Finally, the Stipulating Parties agree that this agreement represents a compromise among competing interests and a resolution of certain contested issues in this docket.[304]

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[298] *Id.* at ¶ 21.

[299] *Id.*

[300] *Id.*

[301] *Id.* at ¶ 22.

[302] *Id.* at ¶ 23.

[303] *Id.* at ¶ 24.

[304] *Id.* at ¶ 25.


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Analysis Supporting the Stipulation

The Commission adopts stipulations that are supported by sufficient evidence in the record, appropriately resolve the identified issues, and that will result in just and reasonable rates.[305] The Stipulating Parties conducted a thorough investigation of the Company's testimony on these issues, as evidenced by their respective testimony, exhibits, data requests, and participation in settlement conferences. On several issues, PacifiCorp also provided additional analysis and testimony in its reply testimony. The Stipulation in this case satisfies the Commission's standards, and will result in fair, just and reasonable states. Notably, the only party to this proceeding not to join in the stipulation has not raised any concerns or objections to the terms of the Stipulation. For all of these reasons, Staff requests that the Commission approve the Stipulation.

## IV. CONCLUSION

Staff urges the Commission to adopt its recommendations as set forth in this prehearing brief.

DATED this 2nd day of September, 2019.

Respectfully submitted,

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*/s/ Sommer Moser*

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[305] *See In re Portland General Electric*, OPUC Docket No. UE 335, Order No. 19-129 at 11 (Apr. 12, 2019).


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