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October 19, 2020

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
P.O. Box 1088
Salem, Oregon 97308-1088

Re: UE 374 – In the Matter of PACIFICORP d/b/a PACIFIC POWER'S Request for a General Rate Revision.

Attention Filing Center:

Attached for filing in the above-referenced docket is PacifiCorp's Closing Brief. Confidential material in support of the filing will be provided to qualified parties under Protective Order No. 20-040 via encrypted zip file.

Please contact this office with any questions.

Sincerely,

Katherine McDowell

Attachment

CERTIFICATE OF SERVICE

I certify that I delivered a true and correct copy of the confidential pages of PacifiCorp's **Closing Brief** on the parties listed below that have signed the modified protective order via electronic mail and/or or overnight delivery in compliance with OAR 860-001-0180.

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Dated this 19th day of October, 2020.

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 374

In the Matter of

PACIFICORP d/b/a PACIFIC POWER'S

Request for a General Rate Revision.

PACIFICORP'S CLOSING BRIEF

October 19, 2020

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I. INTRODUCTION

PacifiCorp d/b/a Pacific Power (PacifiCorp or the Company) respectfully requests that the Public Utility Commission of Oregon (Commission) approve the Company's base rate change of $46.3 million, or approximately 3.5 percent,[1] as a just and reasonable reflection of the Company's cost of providing safe and reliable service.[2] This case asks the Commission not only to evaluate the Company's past seven years of transformational energy investments, but also to support a sustainable and resilient energy future for PacifiCorp and its Oregon customers.

Parties to this proceeding present a wide array of adjustments, quantified in updated Attachment A to this Closing Brief.[3] In summary, Staff proposes adjustments totaling $82.9 million for a rate decrease of $36.6 million; the Alliance of Western Energy Consumers (AWEC) proposes adjustments totaling $65.3 million for a rate decrease of $19.0 million, the Oregon Citizens' Utility Board (CUB) proposes adjustments of $[redacted] million for a rate decrease of $[redacted] million; and Sierra Club proposes adjustments of $32.4 million for a rate decrease of $13.9 million.

Only a fraction of the proposed adjustments directly challenge the Company's prudence or the reasonableness of the underlying costs.[4] For instance, while Staff proposes unprecedented disallowances to the Company's transmission costs, it made no effort to demonstrate that these costs were imprudently incurred or deviated from normal, historical levels. Similarly, while parties dispute the mechanics of the Company's net power cost (NPC) recovery mechanism, no

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[1] The slight reduction in the proposed rate increase (from $47.5 million to $46.3 million) from PacifiCorp's surrebuttal testimony reflects the Company's acceptance of Staff's revised adjustment of $1.2 million to account for additional Advanced Metering Infrastructure (AMI) benefits, as described in section XVI below.
[2] ORS 756.040.
[3] Parties did not dispute the Company's quantification of their adjustments and their overall impact in Attachment A to PacifiCorp's Opening Brief. The updates in Attachment A reflect the Company's acceptance of Staff's AMI adjustment and adjustments to customer and administrative and general accounts that Staff appears to have withdrawn.
[4] *See* PacifiCorp's Opening Brief, Attachment A (Sept. 28, 2020).

party challenges that PacifiCorp's proactive investments in renewable energy have substantially decreased customers' costs—and will do so for many years to come.

Parties have also proposed disallowances without regard to their combined effect on PacifiCorp's overall rates. If approved, parties' adjustments could produce a rate decrease as high as $85 million when combined with the stipulated rate decrease pending in the 2021 Transition Adjustment Mechanism (TAM).[5] This outcome would be unprecedented, particularly after PacifiCorp's multi-year rate case stay-out and given the major capital investment program in which PacifiCorp is now engaged. It would likely result in a ratings downgrade—substantially interfering with PacifiCorp's ability to make the investments needed to meet Oregon's statutory and policy goals. Such a result would also require future rate filings to attempt to restore rates to a sustainable level.

Many of the parties' adjustments in this case implicitly challenge the cost-of-service regulatory paradigm, whereby PacifiCorp receives an opportunity to recover its prudently incurred costs.[6] For instance, parties challenge PacifiCorp's cost recovery requests because recovery of prudently incurred costs would serve to reward "Berkshire Hathaway shareholders" at customers' expense,[7] or because "economic conditions have deteriorated" over the past year.[8] Similarly, parties argue that disallowances are justified based on the mistaken belief that PacifiCorp has been over-earning in the seven years since its last rate case[9]—despite the fact that PacifiCorp's actual normalized earnings averaged *below* its authorized return on equity (ROE)

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[5] Subject to the TAM Final Update, parties have stipulated to a $49.8 million rate decrease in the 2021 TAM. *In the Matter of PacifiCorp, d/b/a Pacific Power, 2021 Transition Adjustment Mechanism*, Stipulation, Docket UE 375 (Aug. 18, 2020).
[6] *In the Matter of Portland Gen. Elec. Co.'s Proposal to Restructure and Reprice its Services in Accordance with the Provisions of SB 1149*, Docket UE 115, Order No. 01-988 at 6 (Nov. 20, 2001).
[7] CUB's Opening Brief at 24 (Oct.12, 2020).
[8] Staff's Opening Brief at 56 (Oct.12, 2020).
[9] CUB's Opening Brief at 23.

throughout this period. None of these justifications are rationally related to the questions the Commission must consider in approving PacifiCorp's rate request, namely, (1) are the overall proposed rates just and reasonable? and (2) has the Company demonstrated the prudence of the underlying costs? As demonstrated by the exhaustive record in this case, the answer to both of these questions is yes.

II. COST OF CAPITAL

A. Capital Structure

1. The impact of the Tax Cuts and Jobs Act is not fully reflected in PacifiCorp's financial metrics.

AWEC argues that the impact of the Tax Cuts and Jobs Act (TCJA) is now "fully reflected" in the market and has not impeded the Company's ability to access capital.[10] Staff argues that the adverse impact of the TCJA has already been accounted for because PacifiCorp was recently labeled "Stable" by Standard & Poor's (S&P) and Moody's based on 2019 data.[11] Both arguments ignore the evidence that *for PacifiCorp* the rate impacts of the TCJA are still being addressed by regulators, *including in this case*, and therefore the impact of the TCJA is not fully reflected in PacifiCorp's credit metrics.[12]

2. PacifiCorp's stable credit rating is based on its actual capitalization; reducing the equity ratio will therefore jeopardize the current rating.

Staff claims that, because S&P and Moody's labeled PacifiCorp's credit rating "Stable" during the pendency of this case, there is no risk of a downgrade if PacifiCorp reduced its equity ratio.[13] Moody's made clear, however, that PacifiCorp [redacted] and PacifiCorp's evidence shows that [redacted]

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[10] AWEC's Opening Brief at 3 (Oct.12, 2020).
[11] Staff's Opening Brief at 4-5.
[12] PAC/300, Kobliha/14-16.
[13] Staff's Opening Brief at 5.

[redacted] without a higher equity ratio.[14]

Staff also argues that the Company failed to address the fact that average authorized equity ratios for electric utilities fell during the first half of 2020.[15] The more accurate comparison is to the operating companies in the proxy group. The actual equity ratios for the operating companies in the proxy group used to estimate PacifiCorp's ROE have increased over time and the most recent data in the record shows that PacifiCorp's recommended equity ratio is consistent with the proxy group.[16]

3. AWEC's analysis shows that its recommendation would result in a downgrade.

AWEC argues that Mr. Michael Gorman provided "affirmative evidence" that AWEC's recommended equity ratio will "maintain PacifiCorp's current credit rating"; but Mr. Gorman's own analysis shows a rating downgrade.[17] AWEC also claims that if Mr. Gorman had updated his credit metric analysis based on the increased rate base reflected in PacifiCorp's surrebuttal testimony, then the financial metrics would have improved.[18] But this ignores other changes, including the decreased depreciation and amortization expense and increased deferred taxes.[19] AWEC cannot update one input in isolation, as Mr. Gorman himself argued at hearing.[20] Without updating everything, which Mr. Gorman concedes he did not do, his metrics are outdated and unreliable.

[14] *See* PAC/3400, Kobliha/7-9.
[15] Staff's Opening Brief at 5.
[16] PAC/413, Bulkley/1. AWEC correctly pointed out a typographical error in Ms. Bulkley's testimony. The eight-quarter average equity ratio in PAC/413 is 52.43 percent, not 52.87 percent. AWEC Reply Brief at 4. Despite that typo, the data still demonstrates that PacifiCorp's recommended equity ratio is consistent with the proxy group and as close to the most recent average as Mr. Gorman's recommendation.
[17] AWEC's Opening Brief at 3; AWEC/602, Gorman/1.
[18] AWEC's Opening Brief at 5.
[19] *Compare* PAC/1302, McCoy/5-6 to PAC/4402, McCoy/5-6.
[20] Evidentiary Hearing Transcript (Sept. 9, 2020) (hereinafter "Sept. 9, 2020, Tr.") Sept. 9, 2020, Tr. 58:8-13 ("You can't change one without revising the others, otherwise that coordination of the utilities cost to service would no longer be valid. So if you change the rate base, you have to change the other numbers in the schedule to properly align with the utility's actual cost of service.").

B. <u>Cost of Equity</u>

1. The COVID-19 pandemic increased equity costs.

Staff claims that market turmoil has not increased equity costs because higher market volatility has not led to higher returns in the utility sector.[21] But Staff's own analysis showed higher equity costs after accounting for COVID-19, even with Staff's manual adjustments that depressed its results (adjustments Staff neither acknowledges nor defends in its brief).[22]

Moreover, lower utility returns do not mean lower equity costs. Utilities have not been a safe haven and the correlation between utility stocks and the broader market has substantially increased (as evidenced by higher beta coefficients)—both of which show that investors require a higher return to compensate for these added risks.[23] Utilities are underperforming the broader market because investors view the risk/reward relationship for this sector as less attractive than for many other market sectors.

2. PacifiCorp's recommended ROE accounts for long-term interest rates.

AWEC claims that PacifiCorp ignores the impact of currently low interest rates.[24] AWEC's argument, however, misconstrues Ms. Ann Bulkley's testimony and improperly conflates long- and short-term interest rates. As AWEC notes, Ms. Bulkley's direct testimony pointed out that investor expectations of increases in *long-term* interest rates is an important consideration in setting PacifiCorp's ROE.[25] AWEC then argues that PacifiCorp has contradicted its direct testimony by deemphasizing interest rates after the Federal Reserve (Fed) announced plans to keep *short-term* interest rates artificially low. But, as Ms. Bulkley explained at hearing, the Fed has not signaled an intent to reduce *long-term* rates, investors still expect increases in

[21] Staff's Opening Brief at 8.
[22] PAC/3500, Bulkley/3; PacifiCorp's Opening Brief at 19-21.
[23] PAC/3500, Bulkley/9.
[24] AWEC's Opening Brief at 8.
[25] AWEC's Opening Brief at 8.

long-term interest rates, and *long-term* interest rates are relevant to setting PacifiCorp's ROE.[26] PacifiCorp has not ignored interest rates; rather, PacifiCorp correctly focused on *long-term* interest rates.

3. AWEC updated only interest rates, not its ROE models.

AWEC argues Mr. Gorman's recommendation is based on his assessment of broader market conditions, not just interest rates.[27] But Mr. Gorman's rebuttal testimony updated only interest rates; he did not update his modeling to account for broader market conditions, including the impact of the COVID-19 pandemic.[28]

AWEC states that there is no certainty that the current volatility will last into the Company's Rate Year.[29] The most up-to-date data in the record, however, shows continued elevated market volatility caused by the pandemic.[30] While no one can predict market conditions over the next year, the best data available shows that the pandemic will continue to impact equity markets and volatility is unlikely to subside.

4. PacifiCorp's Constant Growth Discounted Cash Flow Model results are reasonable.

AWEC criticizes PacifiCorp for removing only low-end results from the Constant Growth Discounted Cash Flow (DCF) results.[31] But using the median, as Mr. Gorman recommends, instead of removing low-end results has virtually no impact on the model results so there is no upward bias.[32]

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[26] Sept. 9, 2020, Tr. 20:9-26:7.
[27] AWEC's Opening Brief at 9.
[28] Sept. 9, 2020, Tr. 41:9-43:25; *see* AWEC/603, Gorman/3
[29] AWEC's Opening Brief at 8-9.
[30] PAC/3500, Bulkley/5-6.
[31] AWEC's Opening Brief at 10-11.
[32] PAC/3502. If the median of all results is used instead of removing outliers the 8.91 percent Constant Growth Average for the "Mean" forecast decreases by 3 basis points.

5. PacifiCorp's recommended ROE aligns with peer utilities' authorized ROEs.

CUB argues there is "uncontroverted evidence that PacifiCorp's request is out of line with its peer utilities[.]"[33] This claim ignores both the record and PacifiCorp's briefing, which explain that the undisputed evidence shows that for vertically integrated utilities, PacifiCorp's requested 9.8 percent ROE is consistent with peer utilities.[34] CUB does not address these facts nor does it reconcile its 9.4 percent ROE proposal with authorized ROEs for vertically integrated utilities.

CUB believes the "best comparator" for purposes of setting PacifiCorp's ROE is other Oregon utilities.[35] The average authorized ROE for vertically integrated electric utilities in Oregon is 9.7 percent,[36] which aligns with national averages and is close to PacifiCorp's recommendation in this case.[37]

CUB also points to PacifiCorp's recent settlement of its Washington rate case, which maintained its currently authorized ROE in that jurisdiction.[38] The Company has taken the same approach here and recommends that the Commission maintain PacifiCorp's currently authorized ROE. In addition, settlement agreements always involve give and take on various issues and are nonprecedential for that reason. For example, the Washington stipulation included a revenue requirement adjustment of only $5.61 million, a small fraction of what parties are proposing in this case.[39]

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[33] CUB's Opening Brief at 26.
[34] PAC/2200, Bulkley/9-11; PacifiCorp's Opening Brief at 15-17.
[35] CUB's Opening Brief at 26-27.
[36] CUB/300, Jenks/6 (PGE's authorized ROE is 9.5 percent); *In the Matter of Idaho Power Co., Request for a Gen. Rate Revision*, Docket UE 233, Order No. 12-055 at 2 (Feb. 23, 2012) (Idaho Power's authorized ROE is 9.9 percent).
[37] PAC/2200, Bulkley/9-11
[38] CUB's Opening Brief at 27.
[39] *Wash. Utils. and Transp. Comm'n v. PacifiCorp d/b/a Pac. Power & Light Co.*, WUTC Docket UE-191024, Settlement Stipulation ¶ 9.

C. <u>The Commission should consider all available evidence given current conditions.</u>

Staff dismisses all models except the Constant Growth and Multi-Stage DCF models and Capital Asset Pricing Model (CAPM) and claims that, if PacifiCorp used only those models, Ms. Bulkley's average point ROE would be 9.19 percent.[40] Staff does not explain how it calculated this figure or the other calculations that are made for the first time in its brief so there is no evidentiary basis for its claims.[41] Using Ms. Bulkley's most recent model results (PAC/3501), and averaging the Mean column for the DCF models and the six Value Line CAPM results—consistent with how Staff describes its calculations—produces an average ROE of 10.16 percent.[42] Therefore, if PacifiCorp had used only the three models Staff recommends, the point ROE estimate is 36 basis points higher than PacifiCorp's recommendation.

Staff argues that the Commission has a "well-established framework for determining cost of equity" that considers only DCF and CAPM results, based on two orders issued in 2001.[43] Current market conditions, however, are markedly different from those in 2001 when the Commission issued those orders. Given current conditions, it is critical that the Commission rely on all available evidence and not ignore relevant model results simply because of Commission orders issued nearly 20 years ago.

Staff also argues that the Commission should ignore the Risk Premium model based on a Commission finding that a particular variant of that methodology used by PGE in a 2001 case (the so-called "risk positioning" methodology) was not generally accepted.[44] Staff does not make

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[40] Staff's Opening Brief at 8.
[41] PacifiCorp was unable to reproduce any of Staff's calculations, which are not explained in any way in Staff's brief.
[42] *See* PAC/3501 (average CAPM result is 12.15 percent; average Constant Growth DCF using the "Mean" column is 8.91 percent; average Multi-Stage DCF using "Mean" column is 9.42 percent).
[43] Staff's Opening Brief at 7.
[44] Staff's Opening Brief at 7 (citing *In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision*, Dockets. UE 180, UE 181 & UE 184, Order No. 07-015 (Apr. 2, 2007), which repeated a finding made in *In the*

any attempt to compare PacifiCorp's Risk Premium methodology used here with the "risk positioning" methodology that was previously rejected; the fact the methodologies share a similar name is insufficient to dismiss the results.

D. <u>Green Bonds.</u>

Staff claims that "a recent surge in demand for green bonds" has allowed cheaper access to capital.[45] The Company agrees that it will pursue green bonds as soon as practical but issuing those bonds comes with additional costs that the Company must consider when evaluating the cost-effective of issuing green bonds.[46]

III. ANNUAL POWER COST ADJUSTMENT

A. <u>The Annual Power Cost Adjustment is necessary to allow a fair opportunity to recover net power costs.</u>

PacifiCorp's current Power Cost Adjustment Mechanism (PCAM) was not designed to account for the conditions of today's energy industry, a fact that no party disputes. Since the PCAM was developed 15 years ago, the growth and the greater integration of regional markets as well as an unprecedented level of renewable energy deployment have fundamentally changed how the Company manages NPC. These changes also affect all other utilities in the Western Electricity Coordinating Council (WECC), creating a more dynamic and more efficient power scheduling and pricing environment but also complicating forecasting and cost recovery.[47] PacifiCorp's proposed Annual Power Cost Adjustment (APCA) updates PacifiCorp's NPC recovery mechanism for today's environment, modernizing the framework to better support Oregon's greenhouse gas reduction and renewable energy development policies.

Matter of Portland Gen. Elec. Co.'s Proposal to Restructure and Reprice Its Services in Accordance with the Provisions of SB 1149, Docket UE 115, Order No. 01-777 (Aug. 31, 2001)).
[45] Staff's Opening Brief at 5.
[46] PAC/3400, Kobliha/12.
[47] PAC/3000, Graves/17.

Parties contest the APCA based on three primary arguments: (1) the applicability and effectiveness of incentive structures in NPC recovery, (2) whether a systematic cost recovery problem exists or has just been circumstantial, and (3) whether there are alternative remedies to the APCA for the Company's persistent under-recovery of NPC. None of these arguments should prevent the Commission from providing a much-needed update to the PCAM through adoption of the APCA.

1. PacifiCorp's APCA improves the applicability and effectiveness of incentive structures in NPC recovery.

With respect to incentives, CUB and AWEC continue to claim that the current PCAM incentivizes the Company to minimize NPC,[48] that such an incentive is required by the Commission's PCAM rules, and that the APCA lacks such an incentive and so cannot be approved.[49] Transitioning to the APCA does not remove any cost-minimizing incentive, because the claimed incentive does not exist. The current PCAM incentivizes achieving low risk and predictable—not low cost—power expenses, by tying recovery to the accuracy of the forecast, with an inadvertent bias to under-collection.[50] Contrary to hopes and beliefs of CUB and AWEC, the PCAM does not incentivize better operations or better forecasting, because the key drivers of the Company's recurring under-recovery of NPC, namely the hourly deviations in renewables output and in the costs of balancing transactions from the year-ahead forecasts, are not controllable, better forecastable, or subject to hedging by the Company.[51] The Company is put at risk for something it cannot improve and so tends to under-recover the costs of efficient, prudent operating practices. In contrast, the proposed APCA aligns the Company's incentives to procure

[48] AWEC's Opening Brief at 12; CUB's Opening Brief at 19.
[49] CUB's Opening Brief at 20.
[50] PAC/3000, Graves/12.
[51] PAC/3000, Graves/12-13.

least-cost power generation (even if it is inherently difficult to accurately forecast) by allowing for a fair opportunity to recover prudently incurred costs subject to prudence review.

Staff and AWEC object that the existing PCAM could not be disincentivizing renewable resource investments because the Company has nonetheless been pursuing new renewable resources.[52] PacifiCorp's investments in low-cost renewable resources demonstrate PacifiCorp's dedication to obtain low-cost energy for its customers *despite*—not because of—the PCAM's misaligned incentives. The fact that PacifiCorp has remained committed to pursuing the least-cost, low-carbon means of serving customers cannot fairly serve as a basis to preserve cost-recovery penalties.

In response to PacifiCorp's surrebuttal testimony that parties failed to provide any evidence that the current PCAM encourages optimization of NPC, CUB submitted CUB/500 as a late-filed exhibit over PacifiCorp's objection. CUB/500 is an academic article purportedly showing that risk-sharing provisions in power cost recovery mechanisms create effective cost-control incentives because they "are associated with greater efficiency levels."[53] This outdated article, published in 2001, relies on data collected between 1981 and 1996—reinforcing the point that such risk-sharing provisions in NPC recovery mechanisms are now largely obsolete. Due to the article's vintage, it assumes that the efficient operation (which is defined in the study as high generation output of thermal plants) depends on a utility's operational performance, rather than the impacts of regional markets, environmental controls, or abundant renewable energy.[54] That

[52] AWEC's Opening Brief at 12; Staff's Opening Brief at 32.
[53] CUB's Opening Brief at 20-21. CUB cites CUB/500, which has not yet been admitted to the record and to which PacifiCorp objects. *See* PacifiCorp's Objection to CUB's Motion to Admit CUB/500 (Sept. 24, 2020). CUB has committed to removing any references to CUB/500 if the Commission denies CUB's Motion to Admit this cross-exhibit. CUB's Opening Brief at 20 n.88. The Company's response to CUB's argument on CUB/500 is offered on a provisional basis, assuming the Commission allows CUB's exhibit.
[54] PAC/4600, Graves/5. PacifiCorp submitted PAC/4600 as part of the Company's Objection to CUB's Motion to Admit CUB/500, with the request that this Supplemental Testimony be admitted if CUB's Motion to Admit is

is, the article was focused on identifying whether utilities were effectively maximizing the output of baseload thermal resources, rather than increasing the overall *economic* efficiency of the power supply.[55]

Today, increasing the efficiency in power supply means taking actions like joining the Energy Imbalance Market, changing the operation of coal facilities, and taking advantage of new technologies and market opportunities.[56] Notably, the majority of other states now have full flow-through mechanisms for NPC-type costs, with no deadbands or risk-sharing provisions.[57] These present-day examples better reflect the needs of today's changing industry than a 20-year-old analysis of thermal plant performance.

2. Current NPC mechanisms do create a systematic cost-recovery problem.

Regarding the need for the APCA and PacifiCorp's historical under-recovery of NPC, Staff alleges that the APCA is unnecessary because the Commission did not anticipate that deviations from NPC forecasts would offset each other over time—but rather that the costs of forecast errors to customers would balance out over time.[58] The Commission has stated that, with respect to "the differences in the actual value of [utilities'] renewable resources from the forecasted values[,] . . . the PCAM is designed so that the errors should balance out over time."[59] Because forecast errors are the source of under- and over-collection of NPC, the Commission's statement implies an assumption that over time, the mechanism would permit roughly offsetting

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granted. CUB objects to PacifiCorp's request to submit this Supplemental Testimony responding to CUB's new exhibit. *See* CUB's Reply to PacifiCorp's Objection to CUB's Motion to Admit CUB/500 at 6 (Sept. 30, 2020). The Company's reference to PAC/4600 is offered on a provisional basis, assuming the Commission allows PacifiCorp's supplemental testimony.

[55] PAC/4600, Graves/5.

[56] PAC/3600, Wilding/6-7.

[57] PAC/600, Graves/7.

[58] Staff's Opening Brief at 31.

[59] *In the Matter of Portland Gen. Elec. Co. and PacifiCorp, d/b/a Pacific Power, Request for Generic Power Cost Adjustment Mechanism Investigation*, Docket UM 1662, Order No. 15-408 at 7 (Dec. 18, 2015).

under- and over-recoveries of NPC, similar to normal business risk.[60] As PacifiCorp has demonstrated, however, the NPC shortfalls it has experienced are persistent and one-sided, a function of the fact that system balancing transactions generally increase NPC, irrespective of the cause. It is true that customer rates have not been impacted by the outcome of net adjustments under the PCAM—*because those have in fact never flowed through at all to customers under the skewed and extreme collars and exclusions of the PCAM*. This is hardly a standard for legitimacy in sustaining a mechanism that is blocking recovery of prudently incurred costs and preventing the balancing of errors over time that the Commission envisioned.

Staff also claims that PacifiCorp has "provided no empirical evidence" that intermittent renewable energy inevitably causes a large volume of balancing costs.[61] The expert testimony of Mr. Frank Graves clearly demonstrates that increased intermittent renewable energy penetration is tied to substantial increased balancing costs.[62] That increase is not just on PacifiCorp's supply system but in the mix of resources throughout the entire Western power market in which PacifiCorp functions.[63] The Commission has already recognized this connection through approval of the day-ahead/real-time adjustment, though that modification has only partially addressed the under-recovery issue.[64]

AWEC claims that the Company's NPC under-recovery cannot be tied to increasing renewable penetration because the Company's recent power forecasts "have become more accurate recently," which "should not happen if . . . more renewables equates to greater power cost under-recovery."[65] As PacifiCorp has explained, the recent improvements in long-term

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[60] PAC/3000, Graves/18; *see also* PacifiCorp's Opening Brief at 28.
[61] Staff's Opening Brief at 32.
[62] PAC/3000, Graves/10-11.
[63] Sept. 9, 2020, Tr. 138:16-18 ("And then just WEC[C] wide, there has been a change the last decade as more renewables have come onto the system.").
[64] PAC/3600, Wildling/5-6.
[65] AWEC's Opening Brief at 13.

average cost predictions have been offset by the growing forecasting impacts of increased renewable penetration.[66] These impacts will continue to compound as the remaining half of the Company's 4,789 megawatts (MW) of new renewable energy capacity is incorporated into NPC forecasts.[67]

CUB wrongly claims that the APCA is inappropriate because the Company "has earned on average more than 50 basis points above its authorized ROE since 2014"[68]—seemingly claiming that the inability to recover prudently incurred costs is irrelevant so long as the Company's overall rates are reasonable. As testified by Mr. Bob Jenks, however, the Company's "normalized earnings averaged 21 basis points *below* authorized" ROE between 2014 and 2019.[69] Normalized or adjusted earnings, which reflect required regulatory adjustments, are the basis for earnings reviews, not the unadjusted results which CUB misleadingly cites.

Moreover, CUB's logic is inconsistent with cost-of service ratemaking. CUB agrees that the Company should not "settle for 'close enough'" ratemaking,[70] and recognizes that "the Commission must determine the rates that are reasonable to charge Oregon customers based upon the Company's cost of service in the state."[71] Prudently incurred NPC are part of the Company's cost of service. Allowing the Company a fair opportunity to recover its prudently incurred costs would not be an "inequity," as CUB claims,[72] but instead would be consistent with the Commission's cost-of-service construct.

[66] PacifiCorp's Opening Brief at 26.
[67] PAC/3700, Graves/22-23.
[68] CUB's Opening Brief at 19.
[69] CUB/100, Jenks/33 (emphasis added).
[70] PacifiCorp's Opening Brief clearly stated that the quoted language was derived from SBUA's Prehearing Brief. PacifiCorp's Opening Brief at 27 n.166. CUB has also stated that more accurate power cost recovery is inappropriate in light of the current economic conditions, thereby implying that "close enough" ratemaking is indeed appropriate in certain circumstances. CUB/400, Jenks/2; *see also* CUB's Opening Brief at 31 ("[T]he under or over-recovery of individual costs is irrelevant in ratemaking.").
[71] CUB's Opening Brief at 3.
[72] CUB's Opening Brief at 24.

AWEC claims that Avista has been substantially over-recovering power costs, and that this over-recovery is a basis for denying PacifiCorp's APCA.[73] AWEC cites no factual basis for its claim, nor is it clear how Avista's alleged over-recovery is relevant to PacifiCorp's demonstrable and persistent under-recovery. PacifiCorp is seeking the APCA based on its particular experiences and circumstances. A decision to adopt the APCA would not dictate the NPC mechanism for differently situated utilities, nor should the experience of another utility dictate the NPC mechanism for PacifiCorp.

Staff and AWEC claim that the APCA would undermine the 2020 TAM settlement by allowing actual wind generation to flow through the true-up portion of the mechanism.[74] However, this is a fundamental misrepresentation of the 2020 TAM settlement, which set wind capacity factors for the TAM. Requiring PacifiCorp to use forecasted capacity factors in actual NPC is unreasonable and unworkable in practice.[75] Staff attempts to propose some sort of "with and without' GRID/AURORA run", but provides no detail how over two gigawatts of actual wind generation could be replaced with a single annual forecast capacity factor.[76] PacifiCorp's proposal remains consistent with the 2020 TAM settlement by using the stipulated capacity factors for the NPC forecast. The 2020 TAM settlement does not restrict the Commission's ability to authorize a true-up of actual NPC. Customers continue to receive guaranteed production tax credits (PTCs) and zero-fuel cost energy, thus reducing overall NPC.

3. The alternative remedies proposed by parties are not as effective as the APCA.

Staff and AWEC speculate that modeling improvements could solve the under-recovery problem. Specifically, Staff and AWEC suggest that the pending adoption of the AURORA

73 AWEC's Opening Brief at 13-14.
74 Staff's Opening Brief at 32; AWEC's Opening Brief at 14.
75 PAC/3600, Wilding/14-15.
76 Staff/2400, Gibbens/16.

model might resolve the issue—and AWEC even suggests that PacifiCorp could adopt Idaho Power Company's (Idaho Power) heuristic modeling approach.[77] These arguments ignore the fact that AURORA assumes the same perfect realization of assumed market conditions in the TAM year that causes the forecasting discrepancy with GRID. No improved model can overwhelm the fact that intra-year transactions will not be forecastable and that those inevitable errors will tend to have a net cost to PacifiCorp.[78] This means that the new modeling software cannot resolve the persistent under-recovery because forecasting errors are biased toward underestimation of NPC.[79]

In addition, Idaho Power's heuristic modeling approach is unworkable for PacifiCorp's system because the heuristic approach relies extensively on hydropower forecasts as a proxy for power costs—a feature inconsistent with PacifiCorp's generation portfolio and greater reliance on market purchases. Idaho Power's and PacifiCorp's systems are very different, and those differences define their modeling needs.[80] A move away from a modeling approach that is inconsistent with the manner in which PacifiCorp operates its system is not appropriate. Even then, any model that attempts to include uncertainty "still requires assumptions about the pattern of uncertainty that will be faced."[81] Attempting to include the actual costs of unanticipatable variances in a normalized power cost forecast would be complicated and controversial.[82]

PacifiCorp's proposed APCA is the most simple and efficient solution to address the issues that have been identified. However, Staff does suggest certain incremental changes to the PCAM.[83] If the Commission chooses not to adopt PacifiCorp's more effective solution, but make

[77] AWEC's Opening Brief at 13; Staff's Opening Brief at 31.
[78] PAC/3700, Graves/29-30.
[79] PAC/3600, Wilding/6-7.
[80] PAC/3600, Wilding/14.
[81] PAC/3700, Graves/30.
[82] PAC/3700, Graves/30.
[83] Staff/2400, Gibbens/30-34.

incremental changes to the PCAM, then it should set symmetrical deadbands set between $5 and $10 million and an earnings test set at the authorized return on equity.[84]

B. The Commission should reject parties' proposal to unduly burden the annual NPC filing process.

AWEC and CUB urge the Commission to modify the current guidelines to require concurrent filing of all workpapers on the same day as the initial filing of the Company's NPC recovery mechanism, with the exception of four sample NPC sample calculations.[85] This process would be significantly burdensome, and is unnecessary given that the Company already provides the vast majority of the information concurrent with filing, and the balance of materials within the subsequent 15 days. The parties do not demonstrate that the existing process has hampered their ability to timely review the Company's annual filings in the past.

C. Wheeling revenues are unrelated to variable power costs and therefore should not be included in a power cost recovery mechanism.

CUB argues that wheeling revenues should be included in the power cost recovery mechanism because they are no more associated with the underlying transmission investment than power purchases and sales are associated with the capital cost of generation.[86] Yet an NPC mechanism is logically a means of recovering power costs—not all variable costs. Wheeling revenues are not associated with the costs of PacifiCorp obtaining or supplying power, but rather reflect the costs for other entities using PacifiCorp's transmission system. The cost of power purchases and sales, in contrast, are inherently tied to power costs and are therefore appropriately

[84] PAC/3600, Wilding/17.
[85] AWEC's Opening Brief at 14 n.54; CUB's Opening Brief at 28. CUB also objects to the structure of PacifiCorp's Opening Brief, which address CUB's and AWEC's proposals involving NPC recovery in the same section as PacifiCorp's APCA proposal—which is an NPC recovery mechanism. CUB's Opening Brief at 28 (describing PacifiCorp's briefing structure as "an apparent effort to conflate issues"). CUB's concerns are superficial and misplaced; the Company's briefing was structured to allow the reader to consider all changes relevant to NPC recovery in sequence.
[86] CUB's Opening Brief at 29.

included in a power cost recovery mechanism. It is evident that CUB fundamentally misunderstands wheeling revenues. They have described them as "[t]he transmission that is available to be sold to third parties is what is available after dispatch of PacifiCorp's system."[87] This is simply inaccurate, because third party firm and network customers have the same rights and access to PacifiCorp's transmission system as PacifiCorp does.[88]

CUB's proposal is explicitly motivated by a desire "to move away from using deferred accounting for this expense," which CUB states has historically been trued-up through annual deferrals.[89] PacifiCorp is proposing to reflect wheeling revenues in base rates, not track them through a deferral. PacifiCorp's proposal is consistent with CUB's stated preference that cost recovery occur in general rate cases whenever possible.[90]

IV. WILDFIRE MITIGATION COST RECOVERY MECHANISM

Staff, CUB, and PacifiCorp generally agree on the need for a Wildfire Mitigation Cost Recovery Mechanism (Wildfire Recovery Mechanism). However, Staff and CUB[91] contest PacifiCorp's proposed modifications to allow full recovery of baseline costs, and to normalize violations based on the amount of transmission audited.[92]

A. <u>Baseline wildfire mitigation costs should be recoverable in rates.</u>

Staff objects to including all baseline wildfire mitigation costs in rates by reasoning that conditioning a greater share of cost recovery provides "a greater incentive" to improve

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[87] CUB/400, Jenks/28-29.
[88] PAC/3600, Wilding/22.
[89] CUB's Opening Brief at 29.
[90] *In the Matter of Public Utility Commission of Oregon, Investigation of the Recovery of Capital Costs Consistent with Commission Legal Authority and the Public Interest*, Docket UM 2004; Joint Customer Group/100, Jenks-Hellman/2 (Nov. 25, 2019) (stating that AWEC and CUB support "restoring the principal use of the general rate case format to set rates on a holistic basis").
[91] CUB joins Staff's position in its entirety. CUB's Opening Brief at 31.
[92] Staff does not appear to object to PacifiCorp's proposal to work with Staff to develop the appropriate scope for an IE, so long as the scope and metrics used by the IE are revisited as the Commission's pending wildfire rulemaking advances. *See* PacifiCorp's Opening Brief at 34; Staff's Opening Brief at 10-14.

performance.[93] Under this logic, all of PacifiCorp's wildfire mitigation and vegetation management costs would be subject to the mechanism—a result that no party supports, as such an approach would unreasonably limit the Company's ability to recover foundational and prudent costs of providing service. While PacifiCorp agrees to the application of performance-based incentives, these incentives should not preclude recovery of baseline costs that all parties agree are prudently incurred. By applying the performance-based mechanism to incremental costs over this baseline amount, the Wildfire Recovery Mechanism incentivizes improved vegetation management while ensuring basic cost recovery.

B. Normalizing vegetation management violations ensures consistent year-over-year assessments.

Staff and CUB also oppose normalizing the number of violations to reflect the rate (rather than number) of vegetation management violations, claiming that PacifiCorp inappropriately focuses on whether the target level of violations is reasonably attainable.[94] PacifiCorp's proposal to normalize violations into a rate of violations-per-span is discrete from the feasibility of the specific targets—*i.e.*, the specific level of violations-per-span. The specific violation rates PacifiCorp proposes are designed to establish a stretch goal for the Company to meet, as compared to Staff's target number of violations which would not have been achieved at any point during the last 17 years.[95] Realistic goals create meaningful incentives. The feasibility of the target rate can be adjusted while still normalizing the violation measurement.

Staff claims that PacifiCorp has offered no rationale for why a threshold based on a violation rate is preferable to a mechanism based on a specific number of violations.[96] As

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[93] Staff's Opening Brief at 11.
[94] Staff's Opening Brief at 12-14.
[95] Sept. 9, 2020, Tr. at 148:4-8.
[96] Staff's Opening Brief at 14.

PacifiCorp explained in its Opening Brief, focusing on the rate of violations for the amount of transmission audited ensures that overall system performance improves.[97] Under Staff's approach, the Company could reduce the frequency of violations across its system, but nonetheless be penalized, depending on how much of the Company's system Staff chooses to audit in a given year.

Staff argues that focusing on the rate of violations is inappropriate because Staff might audit different portions of the Company's system in different years, and these regions may have different rates of violations.[98] But, logically, these regions could also have different *numbers* of violations—meaning that Staff's concern is unrelated to whether the number of violations are normalized.

Finally, Staff objects that PacifiCorp's proposal to normalize violation rates is "late-breaking" and has not been sufficiently reviewed by key Commission Staff.[99] PacifiCorp's approach is a simple adjustment to better effectuate Staff's goal of encouraging improved vegetation management and was timely presented in testimony responding to Staff's performance-based proposal.[100] PacifiCorp witness Ms. Etta Lockey fully answered Staff's questions concerning the details of this normalization approach at hearing.[101] Staff's concern that there is inadequate detail concerning "who is keeping track and verifying the number of spans viewed"[102] is perplexing given that Staff itself audits the Company's system.

C. <u>The Wildfire Recovery Mechanism balances performance incentives with essential cost recovery.</u>

While AWEC recognizes "the need for all utilities to take all reasonable and prudent

[97] PacifiCorp's Opening Brief at 34-35.
[98] Staff's Opening Brief at 15.
[99] Staff's Opening Brief at 14.
[100] PAC/3300, Lockey/36.
[101] Sept. 9, 2020, Tr. at 145:22-149:10.
[102] Staff's Opening Brief at 15.

measures to mitigate" wildfire risks,[103] AWEC continues to oppose the Wildfire Recovery Mechanism in its entirety because "PacifiCorp does not explain what a 'dynamic' cost is," nor how they are different from other "substantial" costs incurred to ensure the safety of the Company's system.[104] To clarify, dynamic costs are those costs subject to considerable change year-over-year. And here, the substantial costs associated with wildfire mitigation and the accompanying variability could reasonably drive frequent rate increases as the Company pursues enhanced system hardening and wildfire mitigation measures.

V. EMISSIONS CONTROL INVESTMENTS

A. PacifiCorp's decision to install SCRs at Jim Bridger Units 3 and 4 was prudent and reasonable based on the information available at the time.

1. Sierra Club is wrong that PacifiCorp "elected" to make the SCR investment without a legal mandate—as Sierra Club's historical positions make clear.

Sierra Club wrongly contends that PacifiCorp had a "years-long plan to 'pre-comply'" with clean air laws, one in which PacifiCorp self-imposed compliance deadlines of 2015 and 2016 for the Jim Bridger SCRs and created a "false sense of urgency and inability to reconsider the project in light of changing circumstances."[105] Sierra Club also claims that Wyoming Department of Environmental Quality's (DEQ) State Implementation Plan (SIP) that included these compliance deadlines did not create a legal obligation to install SCRs in advance of U.S. Environmental Protection Agency (EPA) action on the SIP.[106] This narrative is completely false, as every state commission that reviewed this issue has previously concluded.[107]

First, in docket UE 246, Sierra Club raised a similar argument that PacifiCorp moved

[103] AWEC's Opening Brief at 15.
[104] AWEC's Opening Brief at 15.
[105] Sierra Club's Opening Brief at 4-5 (Oct. 12, 2020).
[106] Sierra Club's Opening Brief at 4.
[107] PAC/2500, Owen/11 (citing orders from Wyoming, Utah, Washington and California Commissions).

forward with regional haze compliance upgrades before it was legally required to do so.[108] In response, the Commission found that PacifiCorp "acted prudently in initiating efforts to address the air quality and emissions regulations," and rejected Sierra Club's argument "that a prudent utility faced with these state and federal regulations would have simply done nothing and waited to see what additional requirements emerged."[109] PacifiCorp witness James Owen testified at hearing that, if the Company had not taken the initiative, regulators might have imposed unworkable compliance requirements and schedules.[110] Mr. Owen also opined that it is standard industry practice for utilities to initiate compliance conversations with environmental regulators.[111]

Second, the record is clear that Wyoming DEQ imposed the SCR compliance timelines of 2015 and 2016 over the consistent objection of PacifiCorp, which had proposed relatively inexpensive low nitrogen burners and overfire air (LNB and OFA) as Best Available Retrofit Technology (BART) controls at Jim Bridger Units 3 and 4. PacifiCorp opposed installation of the SCRs, but Wyoming DEQ ultimately required them.[112] In contrast, Sierra Club urged Wyoming DEQ to require SCRs by 2014 at Jim Bridger Units 3 and 4 regardless of costs, explaining that SCRs "are consistent with Congress' policy goals, DEQ's duty to satisfy federal air quality goals, and DEQ's overarching duty to protect the quality of Wyoming's

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[108] *In the Matter of PacifiCorp, d/b/a Pacific Power, Request for a General Rate Revision*, Docket UE 246, Order No. 12-493 at 22 (Dec. 20, 2012).
[109] Order No. 12-493 at 27-28.
[110] Sept. 11, 2020, Tr. 98:4-100:15.
[111] Sept. 11, 2020, Tr. 100:16-101:3. Sierra Club also continues to claim that the Company's communications with its regulator were designed to set out the Company's preferred course to "[redacted]." Sierra Club's Opening Brief at 7. As PacifiCorp previously explained in its Prehearing and Opening Briefs, and has discussed below, the Company's preferred emissions controls for Jim Bridger Units 3 and 4 were LNB and OFA, not SCRs. PacifiCorp's Prehearing Brief at 44; PacifiCorp's Opening Brief at 52. In addition, as is clear from the record in this case, PacifiCorp's regional haze compliance investments are subject to multiple layers of regulatory oversight.
[112] Sept. 11, 2020, Tr. 95:6-11.

environment."[113]

Third, Sierra Club's current position that the SCRs were not cost-effective and the 2015-2016 compliance deadlines were non-binding is in sharp contrast to Sierra Club's position at the time. In August 2013, Sierra Club filed comments with EPA claiming that "SCR is extremely cost effective" on the Jim Bridger units and was required as BART.[114] In August 2012, Sierra Club opposed EPA's alternative proposal to allow PacifiCorp five years from the date of EPA's final action to install SCRs (until approximately 2019), claiming that installation by 2015-2016 best complied with the statutory requirement that SCRs be installed as expeditiously as possible.[115] As the record makes clear, in early 2013, PacifiCorp sought to delay the 2015-2016 compliance deadlines to five years after the EPA approval of the SIP (2019), but Wyoming DEQ rejected that request (within one day) and reaffirmed the SCR compliance obligation.[116]

Sierra Club concedes that the Commission judges prudence based on facts and circumstances that exist at the time of the decision.[117] This means that Sierra Club's historical positions supporting expeditious SCR installation at Jim Bridger Units 3 and 4 as legally required and cost-effective are the most germane to the prudence review, not Sierra Club's current, contradictory positions, which are informed by hindsight and the desire for a regulatory disallowance.

Fourth, Sierra Club claims that the Company could not point to any legal requirement to comply with the Wyoming SIP in advance of EPA approval, but Sierra Club failed to cite to the portion of the transcript where Mr. Owen directly addressed this question.[118] Pointing to 40

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[113] PAC/2500, Owen/5, citing PAC/2501 (Aug. 4, 2009 Comments).
[114] PAC/2500, Owen/6-7, citing PAC/2507 (Aug. 26, 2013).
[115] PAC/2500, Owen/7, citing PAC/2505 (Aug. 2, 2012).
[116] PAC/2500, Owen/12 and PAC/4000, Owen/19, citing PAC/830 (March 6, 2013).
[117] Sierra Club's Opening Brief at 3.
[118] Sept. 11, 2020, Tr. 93-95. Sierra Club cited earlier passages in the transcript which did not directly address the issue of state enforcement of a SIP in advance of EPA approval.

C.F.R. Appendix B, part 51, Mr. Owen explained that the Clean Air Act requires states to submit a plan to the EPA which the state has already adopted and made enforceable; once the EPA adopts the plan, it becomes enforceable at the federal level as well.[119] Mr. Owen also clarified that the SCR requirements were legally enforceable through the Wyoming SIP, the BART permit and the settlement agreement between Wyoming DEQ and PacifiCorp.[120]

Sierra Club cites *N. Carolina, ex rel. Cooper v. Tenn. Valley Auth.*, 15 F.3d 291, 299 (4th Cir. 2010), for the proposition that "[o]nly once EPA approves a SIP does it become legally enforceable."[121] The Fourth Circuit's decision is fully supportive of PacifiCorp's position because it addresses when a SIP's requirements "become federal law and are fully enforceable in federal court,"—*not* whether the state actions implementing a SIP are state enforceable.

2. Contrary to CUB's premise for disallowance, PacifiCorp considered early retirement of Jim Bridger Units 3 and 4, but this alternative was neither feasible nor economic.

CUB argues that the Jim Bridger SCRs should be entirely disallowed because the Company did not initiate conversations regarding deferred early retirement with its Wyoming environmental regulators. Without legal citation, CUB claims that this prevented the regulators from proposing deferred early retirement. CUB also claims, without citation to any evidence, that the regulators would have agreed to such a proposal in lieu of requiring SCRs and that any such a proposal would have been economically superior to SCR installation. Simply based on its firm belief "that a deal could have been made," CUB declares that the Company's evidence that SCRs were the best compliance option should be given no weight.[122]

CUB's simplistic argument ignores the following evidence demonstrating that deferred

[119] Sept. 11, 2020, Tr. 94:1-95:5.
[120] Sept. 11, 2020, Tr. 105:5-17; PAC/2500, Owen/9.
[121] Sierra Club's Opening Brief at 8.
[122] CUB's Opening Brief at 14.

early retirement was not a viable or superior alternative to SCR installation for Jim Bridger Units 3 and 4:

- Wyoming DEQ was clear that it would not revise its SIP.[123] This was the same as it saying it would not consider any alternatives to SCRs, whether it was an alternative retrofit or a "better than BART" alternative, be it retirement or conversion.[124] All deferred early retirement alternatives would require a revised SIP.[125]

- Wyoming DEQ reinforced in writing that it was unwilling to revise its SIP.[126] Any "better than BART" alternative would have required a SIP revision, and the state was inflexible on such a revision. The only flexibility it allowed was on timing of the SCR installations, hence the outcome of the settlement allowing PacifiCorp additional compliance time for Jim Bridger Units 1 and 2 (which has allowed PacifiCorp to pursue a non-SCR compliance option for these units).

- As just noted, the Company repeatedly challenged the SCR requirement and its timing, and those challenges opened plenty of opportunities for Wyoming DEQ to express a willingness to consider SCR alternatives, including deferred early retirement. For example, the Company gave Wyoming a clear alternative option to SCRs in demonstrating that alternative retrofits (LNB/OFA) should be BART. Wyoming DEQ disregarded this request, and never accepted the invitation to reconsider or revise its SCR mandate.

- Even when the Company made a good case that SCRs should not be BART, Wyoming simply sidestepped BART altogether and used the Long Term Strategy (LTS) to ensure the SCR requirement remained. This demonstrates that, contrary to CUB's theory, the state's hands were not tied and it was agile in finding creative ways to require SCRs. The hoops Wyoming DEQ had to jump through to maneuver away from BART into an entirely distinct regional haze concept of LTS were far more difficult and burdensome that it would have been to simply pursue a BART alternative. Clearly, Wyoming was determined to keep SCRs.

- EPA had already pushed for and commended Wyoming for the SCR requirements in the SIP.[127] At the time, Wyoming was at odds with EPA on many other fronts, so there were benefits to the state in aligning its requirements with what it expected EPA would require anyway.

[123] PAC/4000, Owen/6.
[124] PAC/4000, Owen/8, 20.
[125] PAC/4000, Owen/8.
[126] PAC/830.
[127] PAC/4000, Owen/5, 8.

- Without any evidentiary support, CUB claims that the Company was imprudent because it knew that *less expensive* compliance pathways were available yet consciously ignored them.[128] The Company's economic analysis demonstrated that a Boardman-style deferred early retirement (i.e. one that extended the plant life by four years after the compliance deadline to 2020-2021) had less favorable economics than SCRs, as did a later retirement scenario (2022-2023).[129] Thus, deferred early retirement would not have been economic unless it allowed the units to run for a long period without SCRs—to some point beyond 2023—an outcome that Wyoming DEQ had made clear was unacceptable.

- The early retirement compliance plan for Dave Johnston Unit 3, negotiated with regulators as a part of the Wyoming SIP, proves that the Company was open to this compliance option if it was both cost-effective for customers and feasible with regulators. The early retirement came about because the Wyoming SIP adopted LNB and OFA as BART for Dave Johnston Unit 3 and the EPA disapproved, rejected PacifiCorp's selective non-catalytic reduction alternative, and ultimately ordered PacifiCorp to either install SCRs by January 2019 or cease operations by the end of the plant's depreciable life, 2027.[130] In contrast, Wyoming DEQ and the EPA were in lock-step in supporting SCRs at Jim Bridger Units 3 and 4, which made cost-effective, deferred early retirement unattainable as an alternative.

3. Sierra Club and CUB incorrectly claim that the Company's decision to install SCRs was driven by the desire to increase rate base returns.

CUB and Sierra Club argue that PacifiCorp decision to invest in the SCRs at Jim Bridger Units 3 and 4 was driven by the desire to maximize rate base expenditures and increase shareholder returns. This theory ignores the fact that PacifiCorp waited until this case, nearly five years after its initial investment in the SCRs, to propose adding the investment to Oregon rate base. PacifiCorp has fully absorbed Oregon's share of the costs of the investment in the meantime. This theory is also irreconcilable with the fact that PacifiCorp consistently opposed costly SCR requirements proposed by its environmental regulators, including those at Jim Bridger plant, while Sierra Club supported these requirements and, even in this case, has

[128] CUB's Opening Brief at 15 (emphasis added).
[129] PAC/3800, Link/12.
[130] PAC/4000, Owen 11-12.

criticized PacifiCorp for contesting them.[131]

Relatedly, CUB argues that PacifiCorp did not consider deferred early retirement because Jim Bridger played such a central role in providing reliability and other benefits to the PacifiCorp system.[132] As noted above, CUB is incorrect that PacifiCorp did not consider deferred early retirement for Jim Bridger Units 3 and 4—PacifiCorp did review this alternative, but it was neither cost-effective nor reasonably attainable at the time. CUB is correct, however, that Jim Bridger has been an integral resource for customers, providing capacity and critical ancillary services. In recommending acknowledgement of the SCRs in the 2013 Integrated Resource Plan (IRP), Staff noted the importance of the Jim Bridger plant to the system and concluded that "there are other plants in PacifiCorp's fleet that it would make more sense to shut down or convert to natural gas, than Bridger."[133]

In its brief, Staff questions PacifiCorp's statement that Oregon customers have received the benefits of the SCRs at no cost for many years due to the Company's rate case stay-out.[134] To be clear, the SCR investments benefitted customers by allowing them to continue to receive reliable and cost-effective service from Jim Bridger Units 3 and 4, while fully complying with regional haze requirements.[135] The value of this benefit was quantified in PacifiCorp's economic analysis, which demonstrated that closure of Jim Bridger Units 3 and 4 in lieu of compliance in 2015-2016 was the most costly alternative for customers by $588 million.[136]

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[131] PAC/2500, Owen/14 (noting that Sierra Club witness Dr. Hausman criticized PacifiCorp for having "repeatedly chosen to fight compliance" with emission control requirements, citing Sierra Club/300, Hausman/21-22).
[132] CUB's Opening Brief at 12.
[133] *In the Matter of PacifiCorp, dba Pacific Power, 2013 Integrated Resource Plan*, Docket LC 57, Staff's Final Comments at 7 (Jan. 10, 2014).
[134] Staff's Opening Brief at 35.
[135] Staff also states that customers did not receive benefits of SCRs at "no cost" because depreciation naturally offsets against increases in rate base. Staff's Opening Brief at 35. With an investment this size, however, regulatory lag is not fully offset by annual depreciation,
[136] PAC/700, Link/110.

4. Contrary to Sierra Club's and Staff's arguments, the Company properly monitored its investment decision for material changes before it made the decision to commence installation of the SCRs.

In May 2013, PacifiCorp decided to proceed with the SCR investment at Jim Bridger Units 3 and 4. The Company made this decision after five years of litigation and negotiations with its environmental regulators, after a year of state regulatory proceedings, and after filing the 2013 IRP, which included analysis of various alternatives, including early retirement.

The Company developed an innovative engineering, procurement, and construction contract, which allowed it to monitor the SCR decision for material changes during the pre-construction phase of the project between May and December 2013. The Company also developed two "break-even" analysis tools that allowed it to continuously monitor and rapidly reassess the impact of changing natural gas prices and carbon prices, which the Company identified as the major variables in its economic analysis.

Staff and Sierra Club challenge the prudence of the Company's SCR decision, claiming that the Company did not properly monitor and update its analysis before making the final decision to proceed in December 2013.[137] Staff claims that the Company relied on "a potentially over-simplified breakeven analysis" for changes in natural gas prices.[138] As PacifiCorp witness Mr. Rick Link testified, however, it is not a simple process to re-run the IRP models that PacifiCorp relied upon to support this investment, and such updates can take up to two months.[139] The Company's rapid reassessment tool allowed the Company to monitor the investment decision in a much more agile, but still accurate, way.

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[137] Staff also continues to propose calculating its adjustment according to the gross book value of the Jim Bridger SCRs, rather than the net book value. Staff's Opening Brief at 33. PacifiCorp previously address this argument in its Opening Brief and explained that any disallowance should be limited to 10 percent of the remaining undepreciated balance. *See* PacifiCorp's Opening Brief at 53-54.
[138] Staff's Opening Brief at 34-35.
[139] Sept. 10, 2020, Tr. 44-47.

The quarterly official forward price curve (OFPC) that immediately preceded the Company's final investment decision was published at the end of September 2013, approximately two months before the final decision date. Nominal, levelized natural gas prices under this OFPC ($5.35/MMBtu) were well above the break-even price ($4.86/MMBtu), carbon prices had not changed, and the SCRs remained more economic than other alternatives by $130 million.[140] This margin was large enough not to signal a need to rerun the Company's IRP analysis as Staff suggests or reassess the decision based on potential changes in coal costs as Sierra Club suggests. While more analysis can always be conducted for any investment decision, prudence is based on an objective reasonableness standard.[141] After the extensive review of this investment decision by regulators, with a margin of $130 million supporting the decision, and with the compliance deadlines looming, it was objectively reasonable for the Company to move forward with the SCR investment.

Sierra Club challenges the Company's reliance on its September OFPC, claiming that it should have prepared it differently, scrutinized the inputs more carefully, or updated it out of cycle with less than full information.[142] The evidence is undisputed, however, that the OFPC PacifiCorp relied upon here was the same OFPC the Company used for all business and regulatory purposes during the quarter in which it was operative.[143] The Commission had also recently reviewed and approved the Company's OFPC methodology in the 2012 TAM.[144] It would have been unreasonable for the Company to have relied on information other than its most

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[140] PAC/3800, Link/5.

[141] *In the Matter of PacifiCorp, dba Pacific Power, Request for a General Rate Revision*, Docket UE 246, Order No. 12-494 at 27 (Dec. 20, 2012) (inquiry is whether the utility exercised the standard of care which a reasonable person would be expected to exercise under the same circumstances).

[142] Sierra Club's Opening Brief at 11-24.

[143] Sept. 10, 2020, Tr. 74-75.

[144] *In the Matter of PacifiCorp, dba Pacific Power, 2012 Transition Adjustment Mechanism*, Docket UE 227, Order No. 11-435 at (Nov. 4, 2011).

recent OFPC for the SCR investment decision as Sierra Club suggests.

B. PacifiCorp's decision not to challenge the SCR investments at Hayden Units 1 and 2 was prudent.

Sierra Club largely repeats its previous contentions opposing installation of SCRs at Hayden Units 1 and 2.[145] As PacifiCorp has explained, the Public Service Company of Colorado had an independent obligation to operate the units in compliance with applicable law, and received specific direction from the Colorado Public Utilities Commission to install SCRs on both units pursuant to state and federal laws.[146] These legal obligations were non-optional and independently enforceable and PacifiCorp therefore declined to bring an arbitration action against its co-owners.[147] Sierra Club also incorrectly states that early retirement would have been economically preferable;[148] PacifiCorp's analysis showed that, under the circumstances, SCR installation was a better option for customers.[149] Both the Wyoming and California commissions have rejected Sierra Club's argument concerning these investments.[150]

C. PacifiCorp prudently did not assume that it would be permitted to run Hunter Unit 1 without emissions controls for 14 years past the compliance deadline.

AWEC has argued that the Company should have avoided installing low-NOx burners and a baghouse at Hunter Unit 1 by retiring the unit in 2029, which would have required the unit

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[145] PacifiCorp does not repeat the bulk of its analysis already presented in both the Company's Prehearing and Opening Briefs. *See* PacifiCorp's Prehearing Brief at 45-47; PacifiCorp's Opening Brief at 54-57.
[146] PacifiCorp's Opening Brief at 54-55.
[147] 42 USC § 7401(a); 40 CFR Appendix B part 51; Colo. Rev. Stat. § 40-3.2-204; *see* PacifiCorp's Opening Brief at 56.
[148] Sierra Club's Opening Brief at 46.
[149] PAC/2600, Ralston/37 (explaining that, in the case where coal contract termination costs applied, the installation of SCRs was more economic for customers).
[150] Wyoming Public Service Commission, *In the Matter of Rocky Mountain Power Co. Request for Approval of a Gen. Rate Increase*, Docket No. 20000-446-ER-14 (Record No. 13816), Findings of Fact, Conclusions of Law, Decision, and Order at ¶ 82 (Dec. 30, 2014); California Public Utility Commission, *In the Matter of the Application of PacifiCorp, an Oregon Co., for an Order Authorizing a Gen. Rate Increase*, A.18-04-002, D.20-02-025 at 35 (Feb. 6, 2020).

to operate without required controls for 14 years past the compliance deadline.[151] PacifiCorp explained that such an extended period of non-compliance is plainly unreasonable.[152] Now, AWEC states that, if running Hunter Unit 1 for 14 years past the emissions compliance deadline was unreasonable, then installing emissions controls must have been uneconomic compared to an earlier shut-down date.[153] AWEC is confusing compliance scenarios. Avoiding complying with the emissions control deadline for 14 years was unrealistic. This fact is separate from the question of which of the remaining options—*e.g.*, a more realistic early retirement date or installing the emissions controls in a timely manner—was most cost-effective. PacifiCorp's analysis showed that installation of emissions control equipment was the best option for customers.[154]

D. <u>The Company's emissions control investments are appropriately depreciated consistent with the Commission's approved depreciation rate.</u>

Staff and CUB continue to propose revising the depreciation balances for each of the Company's SCR investments.[155] This argument is premised on a simple misunderstanding of how group depreciation works. When a new asset is added to a group depreciation account, it is the depreciation *rate*—not the depreciable life—that must be applied.[156] Both Staff and CUB recognize that PacifiCorp applied the correct depreciation rates, consistent with the parties' stipulation and the Commission's binding order.[157] It would be wholly inappropriate for the

[151] AWEC's Prehearing Brief at 36. AWEC also continues to argue that the Company imprudently failed to assign a greater-than-zero value to water rights in an early retirement analysis. AWEC's Opening Brief at 17. PacifiCorp thoroughly addressed this argument in its Prehearing and Opening Briefs. PacifiCorp's Prehearing Brief at 43; PacifiCorp's Opening Brief at 48.
[152] PacifiCorp's Opening Brief at 58.
[153] AWEC's Opening Brief at 18.
[154] PAC/2300, Link/50.
[155] CUB's Opening Brief at 18; Staff's Opening Brief at 36.
[156] *In the Matter of PacifiCorp, d/b/a Pacific Power, Application for Authority to Implement Revised Depreciation Rates*, Docket UM 1647, Order No. 13-347 at 1-2 (Sept. 25, 2013); PAC/4400, McCoy/17.
[157] Staff's Opening Brief at 36 ("Staff has not argued that PacifiCorp is generally applying incorrect depreciation rates, nor has it asserted that the Company does not utilize group depreciation rates for plant additions."); CUB's

Commission to retroactively apply depreciation rates that are *explicitly contrary* to both the parties' stipulation and the Commission's own order. Notably, Staff's own depreciation witness, Ms. Ming Peng, did not propose any adjustments to the Company's depreciation treatment for SCR investments.

Staff claims that such a revision is necessary because applying the Commission-approved depreciation rates "inherently assumes" that the useful life of the underlying generation plant extends beyond the Oregon-approved depreciable life.[158] No such assumption exists. Rather, an inherent part of group depreciation—which Staff does not contest—is that all additions and upgrades to a portion of that group are depreciated at the same *rate*. That rate was approved by the Commission and applied by the Company.

VI. CHOLLA/TCJA OFFSET

A. <u>All parties support PacifiCorp's proposed Cholla/TCJA offset.</u>

The Commission should approve the uncontested proposal to offset Cholla Unit 4's undepreciated plant balance and closure costs using the TCJA benefits.[159] Subject to this approval, PacifiCorp withdraws its request for a Generation Plant Removal Adjustment (GPRA) because there will be no immediate need for the mechanism.

B. <u>Staff's proposed automatic adjustment clause is unnecessary.</u>

Staff nonetheless asks the Commission to approve Staff's alternative to the GPRA—an automatic adjustment clause (AAC) that would track and recover the costs of the Company's undepreciated plant balances for PacifiCorp's coal-fired generating facilities, with the exception

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Opening Brief at 18 ("The Company is correct that the group depreciation rates for Jim Bridger and other investments were approved in Commission Order No. 13-347 and that PacifiCorp must depreciate its assets using approved depreciation rates pursuant to ORS § 757.140.").

[158] Staff's Opening Brief at 36.

[159] Staff's Opening Brief at 47.

of Cholla Unit 4.[160] It is premature for the Commission to consider Staff's AAC proposal at this time because this rate case does not seek recovery of undepreciated plant balances or closure costs associated with the removal of any other coal-fired generating facility from Oregon rates.

C. <u>Staff's proposal to require annual depreciation updates is unsupported.</u>

Even if the Commission wishes to consider an additional recovery mechanism in this case, the Commission should decline to adopt Staff's AAC. Staff proposes to track and annually update the depreciation balance for all of the Company's coal-fired generating facilities on an annual basis—adjusting the depreciation balance before these assets are removed from service.[161] PacifiCorp is unaware of any such comprehensive annual depreciation update ever having been either proposed or approved before this Commission. Functionally, Staff's proposal would be a radical departure from the ongoing balancing of depreciation and continuous investment that the Commission has endorsed as part of the traditional ratemaking process.[162] There is nothing in this context that warrants such a change, as the Commission made clear in previously approving an AAC for cost recovery of a coal-fired generating unit for the Valmy generating facility, without including an annual depreciation update.[163]

Staff claims that an annual depreciation update is appropriate and necessary because a utility's rate base cannot include costs related to a retired asset under ORS 757.355.[164] ORS 757.355 expresses the "basic premise of utility ratemaking" that "property that is not reasonably necessary to and actually providing utility service is ineligible for either inclusion in the rate base

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[160] Staff's Opening Brief at 48-49.
[161] Staff/2200, Anderson/8.
[162] *In the Matter of Pub. Util. Comm'n of Or. Investigation into Recovery of Safety Costs by Nat. Gas Utils.*, Docket UM 1722, Order No. 17-084 at 6 (Mar. 6, 2017).
[163] *In the Matter of Idaho Power Co. Application for Authority to Increase Rates for Elec. Serv. to Recover Costs Associated with N. Valmy Power Plant*, Docket UE 316, Order No. 17-235 at 9 (June 30, 2017) (explaining that annual updates would update projected decommissioning expense, but not depreciation expense unless the unit's end-of-life changed).
[164] Staff's Opening Brief at 47.

or for a rate of return payable by utility customers."[165] This statute does not address how to treat assets that are providing service and are in rate base when rates are set. Staff's logic that a retired asset must be immediately removed from rate base is unworkable because any asset retirement would trigger the need for an immediate rate change.

While PacifiCorp disagrees with the specifics of Staff's AAC, the Company remains committed to working with parties to develop a collaborative solution for the timely recovery of retired coal-fired generation assets, consistent with the requirements of the 2020 Multi-State Protocol (2020 Protocol).

VII. EXIT DATES/EXIT ORDERS

Sierra Club alone seeks to modify the agreed-upon Exit Dates established in the 2020 Protocol,[166] despite acknowledging that these dates are consistent with Oregon law.[167] Sierra Club claims that accelerated Exit Dates are necessary to further reduce greenhouse gas emissions pursuant to the Governor's direction in Executive Order (EO) 20-04, and because the ongoing COVID-19 health crisis "is likely to fundamentally alter current assumptions made for electricity generation[.]"[168] EO 20-04 does not dictate a change from the 2020 Protocol and does not override the Commission's statutory obligation to ensure reasonable rates for customers.[169] Sierra Club offers no support for its speculations concerning the long-term impacts of COVID-19 on energy markets. Sierra Club does not contest that the Company has already committed to analyze the relevant changes to the Company's coal-fired generating facilities in the 2021 IRP.[170] Further examination of long-term resource planning is appropriately deferred to the IRP process.

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[165] *Citizens' Util. Bd. v. Pub. Util. Comm'n of Or.*, 154 Or App 702, 709-710 (1998) (internal quotes omitted).
[166] *See* AWEC's Opening Brief at 20 (challenging Sierra Club's departure from the parties' agreement).
[167] Sierra Club's Opening Brief at 46.
[168] Sierra Club's Opening Brief at 47.
[169] EO 20-04 at 8; Oregon Const. art. III, § 1.
[170] Sierra Club's Opening Brief at 47.

VIII. DECOMMISSIONING

A. <u>The Decommissioning Studies provide the most accurate available cost estimate.</u>

PacifiCorp agrees with CUB that "[i]t is incredibly important to get the decommissioning cost estimates right"[171]—particularly because, as Staff notes, there is a "relatively short timeframe in which to collect these costs."[172] To establish accurate cost estimates, Staff, CUB, and AWEC previously agreed that engaging an independent third-party to develop updated decommissioning studies was appropriate—studies that Kiewit has since provided.[173] No party contests Kiewit's independence or expertise.[174] While PacifiCorp provided some basic information to Kiewit, such as labor costs and engineering fees, Kiewit remained responsible for determining whether to adopt or replace the Company's estimates in its expert report.[175] Nonetheless, Staff, CUB, and AWEC ask the Commission to set decommissioning costs using the decommissioning study previously filed in docket UM 1968.[176]

Staff claims that it "is inconclusive" whether the new Decommissioning Studies are "'more accurate' than the 2018 decommissioning cost estimates," pointing out that the Kiewit's estimates have an expected accuracy of minus 20 percent to plus 30 percent, for 10-40 percent of the project scope.[177] Yet the previous decommissioning cost estimates were explicitly less detailed, with an expected accuracy of minus 50 percent to plus 100 percent, for 0-2 percent of

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[171] CUB's Opening Brief at 32.
[172] Staff's Prehearing Brief at 13.
[173] *In the Matter of PacifiCorp, d/b/a Pacific Power, Request to Initiate an Investigation into Multi-Jurisdictional Issues and Approve an Inter-jurisdictional Cost Allocation Protocol*, Docket UM 1050, Order No. 20-024, Appendix B at 21 (Jan. 23, 2020), (referring to "a contractor-assisted engineering study"); *see also* PAC/3300, Lockey/24; PAC/2400, Van Engelenhoven/11.
[174] While CUB states that the evidentiary record "fails to demonstrate that the estimates in the Kiewit Report are unbiased and reasonably accurate," the remainder of CUB's briefing appears to focus on the perceived adequacy of the documentation to support the accuracy of Kiewit's estimates—not Kiewit's independence. CUB's Opening Brief at 33.
[175] PacifiCorp's Opening Brief at 71; Sept. 9, 2020, Tr. 180:2-9.
[176] CUB's Opening Brief at 35; *see also* AWEC's Opening Brief at 23; Staff's Opening Brief at 19.
[177] Staff's Opening Brief at 20.

the project scope.[178]

B. The Decommissioning Studies are supported by substantial evidence.

Staff, CUB, and AWEC argue that "there is no support" for Kiewit's Decommissioning Studies[179] and that there is no witness that can testify to the reasonableness of the Kiewit Report.[180] On the contrary, these costs are supported by a rigorous third-party report and expert testimony. Mr. Bob Van Engelenhoven testified that, based on his many years of experience analyzing third-party decommissioning assessments, the reports are consistent with his expectations for an expert decommissioning study—particularly one prepared by an independent expert with a reasonable expectation of preserving its proprietary information.[181]

While parties continue to rely on the Independent Evaluator's (IE) conclusion that [redacted], no party contests that the IE was obligated to prepare an alternate, independent Association for the Advancement of Cost Engineering Class 3 estimate—an estimate that was not provided.[182]

C. A separate decommissioning proceeding could resolve parties' concerns.

In response to parties' concerns, PacifiCorp continues to support opening a new proceeding to further evaluate the Decommissioning Studies, and establishing a tracking mechanism to allow final decommissioning cost estimates to be trued-up to the amounts in rates.

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[178] PAC/1703, Teply/5; Sept. 9, 2020, Tr. 188:13-189:24; *see* PacifiCorp's Opening Brief at 68.
[179] CUB's Opening Brief at 33; *see also* AWEC's Opening Brief at 20; Staff's Opening Brief at 20.
[180] AWEC's Opening Brief at 20-21. AWEC also claims that the Court of Appeals' decision in *Calpine Energy* concluded "that *only* testimony supported the Commission's findings." AWEC's Opening Brief at 20. While the Court of Appeals noted that the Commission referred to an item of testimony, the Court found that this testimony did not support the Commission's finding. *Calpine Energy Sols., LLC v. Pub. Util. Comm'n of Or.*, 298 Or App 143, 160 (2019) ("[T]hose statements on their own are not supportive of the PUC's finding because those statements are not directed at the question whether it is reasonable to assume that fixed generation costs increase at the rate of inflation[.]"). AWEC recognizes that, in this case "the Commission has both a third-party report and testimony[.]" AWEC's Opening Brief at 21.
[181] PAC/2400, Van Engelenhoven/12; Sept. 9, 2020, Tr. 171:1-5; *see* PacifiCorp's Opening Brief at 70.
[182] Docket UE 374, Staff Report, Attachment C at 16; *see* PacifiCorp's Opening Brief at 72.

Staff does not oppose this tracking and true-up mechanism.[183] Only AWEC opposes the proposal for a new proceeding and true-up mechanism on the basis that PacifiCorp could not commit to providing new information not already produced in this case.[184] PacifiCorp remains optimistic that a separate proceeding will allow the parties to resolve their concerns through clarification of expectations, retention of an alternate IE, or other means.

IX. TRANSMISSION

A. <u>Staff's transmission classification adjustment has no merit.</u>

1. PacifiCorp's assets are properly classified as transmission.

Staff agrees that an asset is appropriately allocated to Oregon rates as transmission facilities if the asset is: (1) greater than 34.5 kilovolts (kV); (2) used to provide transmission service; and (3) included in PacifiCorp's transmission revenue requirement.[185] Every asset subject to Staff's disallowance meets these criteria.

First, there is no dispute that all the assets Staff has proposed to disallow are greater than 34.5 kV.[186] Second, PacifiCorp's testimony explains that all the assets Staff has proposed to disallow are used to provide transmission service and are included in PacifiCorp's transmission revenue requirement. PacifiCorp has a formula rate for its transmission revenue requirement that includes all assets of 46 kV and above.[187] PacifiCorp annually updates that formula rate and therefore, by the time that rates are effective in this case, all the transmission assets that Staff proposes to disallow will be included in PacifiCorp's transmission revenue requirement.[188] FERC audited PacifiCorp's formula rates in 2017 and did not object to the classification of

[183] Staff's Opening Brief at 22.
[184] AWEC's Opening Brief at 23; AWEC's Prehearing Brief at 17-18.
[185] Staff's Opening Brief at 25-26.
[186] PAC/4200, Vail/42-44.
[187] PAC/4200, Vail/42.
[188] PAC/4200, Vail/43.

assets.[189] Staff neither acknowledges nor disputes this evidence; Staff simply ignores it.

Staff implies that the Company is obligated to apply FERC's seven-factor test to every transmission investment before including the costs of that investment in transmission revenue requirement.[190] But that is not how it works—the Company's formula rates include all assets greater than 46 kV in transmission rates.[191]

2. Staff does not dispute its adjustment is unprecedented.

Staff's brief did not dispute the fact that its classification adjustment is unprecedented—both because the Commission has never approved a disallowance like Staff's and because PacifiCorp's classification of transmission assets under its OATT has been consistent for many years.[192]

3. Staff does not dispute its adjustment is contrary to the Commission's rules.

Staff's brief ignored the inconsistency between its disallowance and the Commission's unbundling rule that classifies transmission assets as facilities operating at 46 kV or above.[193] The consistency between the classification of transmission facilities in the Commission's unbundling rules and the OATT is no accident—PacifiCorp amended its OATT to include the 34.5 kV threshold specifically to implement retail direct access in Oregon.[194] Applying a different classification, as Staff recommends, would create an inconsistency between the OATT and the Commission's rules and undermine retail direct access.

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[189] PAC/4200, Vail/42.
[190] Staff's Opening Brief at 25.
[191] PAC/4200, Vail/42.
[192] *See* PacifiCorp's Opening Brief at 76.
[193] OAR 860-038-0200(9)(a)(C).
[194] *See PacifiCorp*, 98 FERC ¶ 61,224 (2002) (FERC accepted language including 34.5 kV threshold in definition of "Transmission System" as part of proposed OATT revisions "primarily intended to accommodate retail access for its customers located in Oregon.").

4. Staff's brief does not address the prudence of the Company's pro forma transmission investments.

Staff's only specific criticism of the pro forma adjustments is that the evidence in PAC/4202 is "not sufficient to show the projects are properly classified as transmission."[195] But PacifiCorp's testimony specifically addresses this concern and explains that all of the assets included in PAC/4202 are classified as transmission assets in accordance with the OATT.[196]

5. Staff's disallowance is contrary to the 2020 Protocol.

Staff claims that "nothing in the 2020 Protocol precludes a state from challenging the inclusion of any individual assets in PacifiCorp's OATT revenue requirement."[197] The 2020 Protocol provides a process to reclassify transmission assets, which requires PacifiCorp to first make a filing in each state and then at FERC.[198] Because FERC has the ultimate authority to classify transmission assets, the classification must be the same in every state—both to comply with FERC's classification and to prevent inconsistent classifications across jurisdictions.[199] The 2020 Protocol was not intended to allow each state to adopt its own classifications, which is effectively what Staff has done here. If Staff wants to change the classification of PacifiCorp's transmission assets, it must do so at FERC and in accordance with the 2020 Protocol.

6. Staff's proposed transmission investigation should be coordinated through the Multi-State Process.

Staff agrees that "changes to how costs for PacifiCorp's assets are allocated is a matter for the [Multi-State Process (MSP)]," but claims that its proposal to reclassify transmission

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195 Staff's Opening Brief at 23.
196 PAC/4200, Vail/38-42.
197 Staff's Opening Brief at 27.
198 Order No. 20-024, Appendix B at 4; PAC/4502 at 4-5.
199 *In the Matter of Portland Gen. Elec. Co. Application for Support for Reclassification of Plant in Service*, Docket UM 2031, Order No. 19-400 at 3 (Nov. 21, 2019) ("Whether facilities are used in transmission is a question of fact to be decided by FERC.").

assets does not impact how transmission costs are allocated.[200] But Staff does not dispute that classification of assets as transmission or distribution can shifts costs between the states—which is exactly the issue the MSP is designed to address. Therefore, before initiating an Oregon-only transmission investigation, the Company recommends that the issue be addressed in the MSP to allow for coordination across states to better ensure efficient use of PacifiCorp, stakeholder, and Commission resources.

B. <u>Staff's cost overrun disallowances lack evidentiary support.</u>

Staff argues that customers should not bear the costs associated with change orders related to the Threemile Canyon Farms project.[201] Staff then recites a list of changes to the cost estimate but fails to explain why any particular change is imprudent. Without actual evidence of imprudence, Staff's disallowance should be rejected.

Staff claims that its adjustment to the Wallula to McNary project costs were also targeted at only amounts related to cost increases that should have been anticipated and minimized.[202] But Staff did not dispute the Company's evidence that Staff's adjustment bears no relationship to the specific issues it raised.[203] Staff also does not dispute the Company's evidence explaining that the cost increases were reasonable.[204] Again, Staff's disallowance has no evidentiary support.

Staff's disallowance related to the Vantage to Pomona Heights Project is apparently "intended to incent PacifiCorp to proactively manage its project costs."[205] Staff has not disputed the Company's evidence explaining why the cost increases that occurred over the course of the project development were prudent.[206] There is no basis to disallow prudently incurred costs as an

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[200] Staff's Opening Brief at 27.
[201] Staff's Opening Brief at 28-29.
[202] Staff's Opening Brief at 29.
[203] Staff's Opening Brief at 29.
[204] Staff's Opening Brief at 29; PacifiCorp's Opening Brief at 79-80.
[205] Staff's Opening Brief at 29.
[206] Staff's Opening Brief at 29; PacifiCorp's Opening Brief at 80.

incentive to manage project costs.

Finally, Staff does not even address its proposed disallowance of the Pryor Mountain Project costs and therefore that adjustment must be rejected.[207]

X. NEW WIND AND ATTESTATIONS

A. <u>The Commission should reject AWEC's proposed restrictions on cost recovery for the Energy Vision 2020 wind and transmission projects.</u>

No party contests the prudence of PacifiCorp's decision to invest in the Energy Vision (EV) 2020 new wind and transmission projects. PacifiCorp has already agreed to provide attestations for these and other new wind projects, and the Commission has approved a stipulation in the 2020 TAM addressing capacity factor and PTC modeling for EV 2020 projects. Nonetheless, AWEC argues that hard caps on capital and O&M costs, a hard cap on transmission costs, a guarantee of full PTC benefits, and a guaranteed minimum capacity factor are necessary for all EV 2020 projects on the basis that the projects were not "intended to meet an energy and capacity need."[208] However, PacifiCorp's 2017 IRP identified the EV 2020 projects as the least-cost, least-risk means of meeting near-term energy and capacity needs.[209]

AWEC points to the Commission's recent order in Portland General Electric Company's (PGE) Renewable Adjustment Clause proceeding to claim that resources timed to take advantage of economic benefits fail to meet energy and capacity needs.[210] This order supports PacifiCorp's position, not AWEC's. The order recognizes that resources may be acquired early "to supply near-term capacity and energy at the lowest long-term portfolio cost."[211] And, despite the urging

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[207] *In the Matter of PacifiCorp, d/b/a Pacific Power, 2014 Transition Adjustment Mechanism*, Docket UE 264, Order No. 13-387 at 10 (Oct. 28, 2013) ("Parties must clearly present all proposed adjustments in their briefs.").
[208] AWEC's Opening Brief at 23.
[209] *In the Matter of PacifiCorp, d/b/a Pacific Power, 2017 Integrated Resource Plan*, Docket LC 67, Order No. 18-138 at 4 (Apr. 27, 2018).
[210] AWEC's Opening Brief at 24.
[211] *In the Matters of Portland Gen. Elec. Co., Renewable Resource Automatic Adjustment Clause (Schedule 122)*

of parties, the Commission declined to impose preemptive requirements that assume the resource will not provide the modeled benefits.[212] In any event, the Commission has already taken steps to ensure customer benefits from EV 2020 resources by approving the 2020 TAM settlement which specifically addressed this issue.[213]

AWEC claims that its proposed caps do not discourage proactive pursuit of customer benefit opportunities, but "simply disincentivize future investment in renewable resources that are unfavorable for customers."[214] On the contrary, AWEC's caps require the utility to insure customers against any degree of risk, regardless of whether the investment was prudent or the risk was reasonable. When a utility makes a prudent decision to invest in a least-cost, least-risk means to meet near-term capacity and energy needs, it is inappropriate to penalize the utility as AWEC proposes.

B. **<u>The Commission should approve a $5 million attestation threshold for other plant placed in-service near the rate effective date.</u>**

Staff objects to PacifiCorp's $5 million threshold for requiring attestations of non-wind, non-transmission plant placed in service because "the relatively low dollar impact to Oregon customers" is not a "relevant basis to remove customer protections[.]"[215] Not only is Staff's logic inconsistent with its own recommendation for a $1 million threshold, but the Commission can—and recently has—authorized $5 million as a reasonable attestation threshold for new plant

(Wheatridge Renewable Energy Farm) (UE 370), and Renewable Resource Automatic Adjustment Clause (Schedule 122) (BPSC Energy Storage Microgrid and ARC Energy Storage) (UE 372), Dockets UE 370 and UE 372, Order No. 20-321 at 8 (Sept. 29, 2020).

[212] Order No. 20-321 at 10.

[213] *In the Matter of PacifiCorp, d/b/a Pacific Power, 2020 Transition Adjustment Mechanism*, Docket UE 356, Order No. 19-351 at 6 (Oct. 30, 2019) ("We find the amount of PTCs to be calculated pursuant to the stipulation meets the standard we set in the 2017 IRP Order, with a level of benefits consistent with projections.").

[214] AWEC's Opening Brief at 25.

[215] Staff's Opening Brief at 44-45

placed in service.[216]

XI. SCHEDULE 272

A. **Staff's proposed Schedule 272 investigation is unnecessary.**

Staff proposes to suspend future use of Schedule 272 for utility-owned resources, pending resolution of a new investigation, because Schedule 272 "may" be a Voluntary Renewable Energy Tariff (VRET).[217] Given that Staff's proposed suspension is limited to utility-owned resources, it is clear that Staff's genuine concern is associated with the use of Schedule 272 for utility-owned resources. PacifiCorp has already indicated that it does not anticipate entering into another such agreement, meaning that a new investigation into this issue is not a pressing or appropriate use of the Commission's finite resources.

B. **The Commission has already concluded that Schedule 272 is not a VRET.**

Despite limiting its proposed suspension to transactions associated with utility-owned resources, Staff claims that its legal concerns would apply "regardless of whether the underlying resource is utility-owned[.]"[218] This argument overlooks recent Commission precedent clearly stating that Schedule 272 is *not* a VRET because it does *not* involve the sale of bundled Renewable Energy Credits (RECs).[219]

As Vitesse explained in its Opening Brief, the Commission recently reviewed and approved revisions to Schedule 272 to allow customers to specify the resource from which RECs are purchased.[220] In that proceeding, the parties specifically addressed Staff's concern that the

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[216] *In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision*, Docket UE 335, Order No. 18-464 at 9 (Dec. 14, 2018) (authorizing attestations to be filed for each non-blanket project projected to cost $5 million or more).
[217] Staff's Opening Brief at 51.
[218] Staff's Opening Brief at 51.
[219] *In the Matter of PacifiCorp, d/b/a Pacific Power, Advice No. 16-012 Changes to Schedule 272*, Docket ADV 386, Order No. 17-051 (Feb. 13, 2017).
[220] Vitesse's Opening Brief at 6-7 (Oct. 12, 2020).

program might constitute a VRET and clarified that only RECs—and not the underlying energy—are sold pursuant to Schedule 272.[221] A REC "is bundled when it is acquired *along with* the qualifying renewable energy."[222] Under Schedule 272, as Staff explained in language adopted by the Commission, a customer purchases only the REC; "[n]o energy product is traded under this tariff."[223] Staff has failed to explain why the Commission should revisit this precedent so soon after its implementation.

XII. WAGES AND INCENTIVES

A. **<u>PacifiCorp's wage escalation more accurately reflects the Company's anticipated expenses.</u>**

Staff states that PacifiCorp's wage escalation approach is inconsistent with Commission precedent because it substitutes an entirely different model for Staff's accepted three-year model, which uses the All-Urban Consumer Price Index (CPI) to escalate wages.[224] Staff recognizes that the Commission has previously substituted a two-year model instead, where doing so yielded more accurate results.[225] Here, PacifiCorp is using a two-year model that, like Staff's model, begins with actual base period data, but then applies a wage- and utility-specific benchmarking study to escalate wages, rather than the less accurate All-Urban CPI.[226]

Staff argues that PacifiCorp's approach would not meet the Commission's goal of preventing unchecked wage escalation.[227] Yet PacifiCorp's approach, like Staff's, is rooted in "actual market-based data by using actual historic wages as a starting point[.]"[228] Moreover,

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[221] Order No. 17-051, Appendix A at 3-5.
[222] Order No. 17-051, Appendix A at 7 (emphasis original).
[223] Order No. 17-051, Appendix A at 7.
[224] Staff's Opening Brief at 39.
[225] *In the Matter of PacifiCorp's Proposal to Restructure and Reprice its Services in Accordance with the Provisions of SB 1149*, Docket UE 116, Order No. 01-787 at 40 (Sept. 7, 2001).
[226] PacifiCorp's Opening Brief at 86; *see also* PAC/4300, Lewis/4-5.
[227] Staff's Opening Brief at 40.
[228] Staff's Opening Brief at 39.

Staff does not suggest that the Company's wage and salary forecasts are unreasonable, imprudent, or less accurate.

B. <u>PacifiCorp's contract-based wage increases for unions were clearly documented and appropriately reflect the relative size of the Company's unions.</u>

Staff does not contest the fact that the Commission has previously rejected Staff's attempt to apply the three-year wage and salary formula to union payroll.[229] Actual contracted wage increases are appropriately used to calculate Test Year wages for union employees.

Staff continues to claim that it was not provided with adequate information to calculate union-specific wage increases for Oregon, and therefore based its wage increase on the calendar average of the nine unions.[230] PacifiCorp provided detailed system-wide union information and contracted-for wage increases, as requested by Staff. The Company does not possess Oregon-specific union contracts because labor costs are system-allocated.[231] Nonetheless, the information PacifiCorp provided allows for the calculation of union-specific wage increases in a manner accounting for the relative size of the different unions across PacifiCorp's system. Staff's approach arbitrarily averages the Company's system-wide information in a manner that understates actual overall union wage increases.

C. <u>The Company's employee incentive compensation should be fully recovered because the incentives are designed to benefit customers.</u>

Staff claims that its adjustment is consistent with Commission precedent requiring cost-sharing for pay-at-risk because "both shareholders and ratepayers may benefit" from the incentive program.[232] The Commission's precedent was focused on the potential for shareholders to benefit from *financial* based incentive programs—not programs specifically designed to

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[229] *In the Matter of the Application of Nw. Natural Gas Co. for a Gen. Rate Revision*, Docket UG 132, Order No. 99-697 at 43 (Nov. 12, 1999).
[230] Staff's Opening Brief at 41.
[231] Staff's Opening Brief at 41; *see also* PacifiCorp's Opening Brief at 87.
[232] Staff's Opening Brief at 43.

benefit customers.[233] Here, Staff claims that it is "absurd" to suppose that the Annual Incentive Plan (AIP) would benefit customers as much as or more than shareholders, despite the fact that the six [redacted] goals are: (1) customer service; (2) employee commitment; (3) environmental respect; (4) regulatory integrity; (5) operational excellence; and (6) financial strength. Of these six goals, *only one* is tied to financial performance, and that goal nonetheless inures to customers' long-term benefit by reducing capital costs.

Staff suggests that PacifiCorp has misrepresented the basis for the executive incentive compensation in this case by citing PacifiCorp's 2019 10-K, which notes that executives are eligible to earn discretionary cash incentives "not based on a specific formula or cap."[234] As PacifiCorp has explained, these non-AIP incentives are *already excluded* from the Company's rate case request.[235] PacifiCorp did not seek recovery for these discretionary executive incentives in this case at all. The sole category of pay-at-risk included for cost recovery in this case is that allocated under the customer-benefit goals of the AIP.

XIII. PENSION SETTLEMENTS

A. <u>Pension settlement losses are a prudent cost of service that must be recoverable.</u>

Staff fundamentally fails to reckon with the implications of its proposed disallowance of pension settlement losses, which would disallow a cost of service that no party contests as imprudent merely because such costs are tracked in a separate Financial Accounting Standards (FAS) account—FAS 88, rather than FAS 87—and because the Company's pension plan is frozen.[236] Yet at no point has the Commission stated that pension settlement losses are unrecoverable in rates.

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[233] *In the Matter of U.S. West Communications, Inc. Application for an Increase in Revenues*, Docket UT 125, Order No. 97-171, 1997 Ore. PUC Lexis 102 at *173-74 (May 19, 1997).
[234] Staff's Opening Brief at 44.
[235] PAC/3100, McCoy/17.
[236] Staff's Opening Brief at 45-46.

Staff states that "Commission policy dictates that pension-related costs are recovered via FAS 87 expenses in base rates," but cites no Commission decision declining to include FAS 88 costs in rates.[237] Staff does not and cannot establish that FAS 87 is the sole source of pension-related costs. On the contrary, the Commission referred to both FAS 87 and FAS 88 accounts as relevant pension expenses.[238]

B. <u>Staff's objection to the Company's past pension cost recovery is irrelevant.</u>

Staff's objection to recovering pension settlement losses in rates appears to be tied to Staff's belief that PacifiCorp has previously over-collected FAS 87 expenses, "and has not sought to defer or otherwise pass back" these collections between general rate cases.[239] As Staff has previously explained, rates are set in rate cases "based on a snapshot in time."[240] Moreover, Staff's belief that the Company should have filed more single-issue ratemaking requests[241] is irrelevant to whether the Company's pension settlement losses reflect prudently incurred and reasonably foreseeable costs in *this* case.

XIV. DEER CREEK MINE

A. <u>Deer Creek mine closure costs were prudently managed and reasonably close to forecast costs despite unforeseeable circumstances.</u>

AWEC challenges the prudence of $24 million in "increased closure costs" at the Deer Creek mine.[242] However, AWEC fails to note that the Company's overall mine closure costs

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[237] Staff's Opening Brief at 46.
[238] *In the Matter of Pub. Util. Comm'n of Or. Investigation into Treatment of Pension Costs in Util. Rates*, Docket UM 1633, Order No. 15-226 at 2 (Aug. 3, 2015) (Commission explained "[o]ver the life of the plan, . . . total contributions are expected to equal total FAS 87 expense (as well as FAS 88 expense related to pension plan termination)" and did not preclude cost recovery of FAS 88 expense).
[239] Staff's Opening Brief at 46.
[240] *In the Matter of Pub. Util. Comm'n of Or. Investigation of the Scope of Commission's Authority to Defer Capital Costs*, Docket UM 1909, Staff's Closing Brief at 13 (Apr. 16, 2018).
[241] Under ORS 757.259, Staff and other parties can file requests for deferred accounting unilaterally. *See, e.g., AWEC and CUB Application to Require PGE to Defer Boardman Expenses and Costs*, Docket UM 2119, Application (Oct. 8, 2020).
[242] AWEC's Opening Brief at 26.

increased by only $3.4 million (2.0 percent) from the Company's initial estimate because the Company was able to avoid a coal abandonment royalty penalty.[243]

While AWEC recognizes that the denial of the Company's first closure plan "may" not have resulted in the substantial delays that the Company experienced, AWEC nonetheless states that the Company's "other denials" resulted in "substantial delay."[244] AWEC mischaracterizes the Company's mine closure regulatory review process. As described by Mr. Dana Ralston, the Company's second application had been submitted to the Mine Safety and Health Administration (MSHA) for review when the Gold King Mine Spill occurred.[245] The MSHA thereafter declined to consider, and then disclaimed jurisdiction over, the Company's second application—before finally rendering a verdict denying the application almost a year later.[246] Following this review process, the Company successfully collaborated with the Bureau of Land Management, the United States Forest Service, and the Division of Oil, Gas and Mining to develop an alternative mine de-watering system and pipeline project that was ultimately approved.[247]

AWEC claims that PacifiCorp unreasonably continued to "[redacted]."[248] This is incorrect on its face, as PacifiCorp's revised application [redacted].[249]

AWEC criticizes the Company for "blaming the Gold King mine spill" for the difficulty getting the mine closure plan approved, given "the lack of any reference to this incident in any of the documents repeatedly rejecting PacifiCorp's mine closure plan."[250] In the same document

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[243] PacifiCorp's Opening Brief at 91.
[244] AWEC's Opening Brief at 26.
[245] PAC/4100, Ralston/19.
[246] PAC/4100, Ralston/19.
[247] PAC/4100, Ralston/19.
[248] AWEC's Opening Brief at 27-28.
[249] AWEC/705 at 3, 6.
[250] AWEC's Opening Brief at 26.

quoted by AWEC, MSHA stated that, [redacted]"[251] In the same paragraph, the MHSA commented that the Company's proposal, while having "[redacted]."[252] Clearly, [redacted]

AWEC claims that it "took no position in its Prehearing Brief on whether East Mountain Energy is an affiliate" of PacifiCorp.[253] AWEC's Prehearing Brief refers to "the PacifiCorp subsidiary East Mountain Energy," despite the subsequent line noting that "PacifiCorp disputes that East Mountain Energy is a PacifiCorp subsidiary[.]"[254]

B. <u>PacifiCorp has provided a reasonable estimate of royalty payments associated with the Deer Creek mine.</u>

AWEC challenges the Company's request to recover royalty payments associated with the Deer Creek mine because the precise amount of these payments is preliminary.[255] PacifiCorp included these amounts in base rates because, at this point, the payment amounts can be reasonably forecast.[256] AWEC and PacifiCorp continue to agree that, in the alternative, PacifiCorp can continue to defer royalty costs as approved in docket UM 1712 for recovery in a future rate proceeding.[257]

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[251] AWEC/705 at 9.
[252] AWEC/705 at 9 (emphasis added).
[253] AWEC's Opening Brief at 27.
[254] AWEC's Prehearing Brief at 40 (quoting AWEC/500, Kaufman/23).
[255] AWEC's Opening Brief at 28.
[256] PAC/4400, McCoy/20-21.
[257] PacifiCorp's Opening Brief at 93; AWEC's Prehearing Brief at 41.

XV. OREGON CORPORATE ACTIVITY TAX

Staff argues that the Company's costs associated with the Oregon Corporate Activity Tax (OCAT) should be included in base rates because the Oregon Department of Revenue's (DOR) implementing rules have sufficiently solidified during the pendency of this proceeding.[258] Staff agrees that the OCAT tax return form has not been issued, that "there may be pending technical corrections," and that not all of the OCAT's governing rules are final.[259] Nonetheless, Staff notes that the DOR recently adopted certain rules on June 28, 2020—months after this rate case proceeding was filed in February of 2020. DOR's issuance of these rules does not immediately translate into a straightforward dollar impact. The Commission's January 29, 2020, approval of the OCAT deferral provides the opportunity to ensure that the Company is resolving implementation issues before the amount is fixed in customers' base rates.

Staff's insistence that the estimated OCAT expense be included in base rates immediately, despite ongoing significant uncertainties regarding costs, is inconsistent with Staff's reluctance to include other types of cost updates—such as insurance premiums—in the Company's base rates, even where those costs are clearly defined and uncontested. Moreover, Staff's treatment would be an outlier among other Oregon utilities; PGE currently has a deferral for OCAT expenses in place,[260] and Northwest Natural Gas Company's OCAT expenses are subject to true-up in a deferral.[261] If the Commission accepts Staff's proposal to approve the OCAT expense in base rates, then the Commission should also establish a separate regulatory account to defer and true-up the over- or under-collections for this expense.

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[258] Staff's Opening Brief at 62.
[259] Staff's Opening Brief at 61.
[260] *In the Matter of Portland Gen. Elec. Co. Application for Deferred Accounting of Costs associated with the OCAT*, Docket UM 2037, Order No. 20-029 (Jan. 29, 2020).
[261] *See In the Matter of Nw. Nat. Gas Co. Application for Authorization to Defer Expenses or Revenues Related to Corp. Activity Tax*, Docket UM 2044, Staff Report at 3 (Oct. 6, 2020).

XVI. ADVANCED METERING INFRASTRUCTURE

A. The Commission should accept Staff's proposed adjustment to AMI operating costs.

In its Opening Brief, Staff proposes a new AMI adjustment under a different rationale, which the Company now accepts. Specifically, rather than proposing a $2.0 million adjustment tied to capital costs that were already excluded from the Company's rate request, Staff identifies an error that reduces AMI operating costs by $1.2 million.[262] Staff correctly points out that PacifiCorp's response to Staff DR 592 identified that ongoing AMI operating costs will be $2.5 million, rather than the originally estimated $3.7 million. PacifiCorp accepts Staff's adjustment as proposed in Staff's Opening Brief and the Company has reduced its rate request accordingly.

B. The Commission should allow full cost recovery of upgraded meters because these assets are part of a single group depreciation account that has been only partially replaced.

Staff and AWEC also argue that the Company's replaced meters must be removed from rate base and moved into a separate regulatory asset,[263] despite the fact that these assets are subject to group depreciation and only a subset of the group is being replaced.[264] Staff argues that group depreciation is not a basis for including otherwise unlawful amounts in rates.[265] Under this logic, PacifiCorp would need to seek accelerated depreciation for each individual customer meter that is replaced for any reason—an unworkable result that has no basis in

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[262] Staff's Opening Brief at 59. Previously, Staff proposed a $2.0 million adjustment tied to perceived changes in ongoing capital spending. *See* PacifiCorp's Opening Brief at 95-96.

[263] AWEC's Opening Brief at 29; Staff's Opening Brief at 59 (noting that "Staff's testimony did not address the issue"). AWEC urges the Commission to establish a separate regulatory asset amortized over a 10-year period, earning interest at a rate no more than the Company's most recent debt issuance. Staff supports either AWEC's approach, or a more comprehensive adjustment that would disallow the entirety of the Company's undepreciated balance associated with the subset of retired meters. Staff's Opening Brief at 61. If the Commission believes that an adjustment is appropriate, then it should adopt AWEC's proposed adjustment to create a regulatory asset because Staff's new adjustment is unsupported by reasoned argument, unprecedented, and unnecessarily punitive. Staff presents no justification the proposed wholesale disallowance over the creation of a regulatory asset.

[264] PacifiCorp's Opening Brief at 96.

[265] Staff's Opening Brief at 60.

Commission precedent. Where equipment is replaced as part of an upgrade, the Commission has kept the replaced equipment in rate base.[266]

Staff suggests that PacifiCorp was imprudent for not seeking to accelerate depreciation of the replaced share of the Company's existing meters, pointing to examples in which Idaho Power and PGE sought modified depreciation for existing meters.[267] Neither of these cases involved partial replacement of a group of meter assets. In Idaho Power's case, the company sought accelerated depreciation for *all* of its existing meters, not a subgroup thereof.[268] In PGE's case, the company bifurcated depreciation for existing and AMI meters because, as Staff explained in supporting testimony, the different types of meters "do not have the same life-expectancy characteristics."[269] PGE's proposal *did not* accelerate depreciation for existing meters to account for the AMI replacement project. PGE recognized that full conversion to AMI would not be completed for several years, but nonetheless proposed (and received Commission approval) to

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[266] *See In the Matter of PacifiCorp, dba Pacific Power Request for a General Rate Revision*, Docket UE 217, PPL/1102, Page 8.6.14 (Mar. 1, 2010) (describing turbine upgrades at Hunter Unit 1 and Huntington Unit 1, both of which replaced the existing turbine with a new turbine that used the latest technologies to increase efficiency); *In the Matter of PacifiCorp, d/b/a Pacific Power, Request for a Gen. Rate Revision*, Docket UE 217, Order No. 10-473 at 3 (Dec. 14, 2010) (no party challenged the turbine upgrades and the OPUC ultimately approved a stipulation that allowed recovery of these upgrades); *In the Matter of PacifiCorp, dba Pacific Power Request for a Gen. Rate Revision,* Docket UE 263, PAC/400, Ralston/2 (Mar. 1, 2013) (describing turbine upgrade at Jim Bridger Unit 2 turbine that would produce 12 MW of additional generation with no increase in fuel input or emissions; the case ultimately settled and no party disputed the prudence of the turbine upgrade); *In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision*, Docket UE 215, PGE/200, Pope/15 (Feb. 16, 2010) (describing Coyote Springs plant turbine upgrades to increase capacity and improve heat rate; no party challenged the upgrade and it was ultimately allowed into rates); *In the Matter of Portland Gen. Elec. Co. Application for an Order Approving Amortization of Deferred Costs Associated with Four Capital Projects*, Docket UE 275, Order No. 13-440 (Nov. 26, 2013) (Coyote Springs upgrade was not in service by the conclusion of docket UE 215, so PGE filed a deferral to recover the capital costs of the Coyote Springs project and three other capital projects; no party objected to the deferral and amortization of the capital costs); *In the Matter of Portland Gen. Elec. Co. Application to Amortize Boardman Deferral*, Docket UE 296, Order No. 10-051 at 2 (Feb. 11, 2010) (describing upgrades to two low pressure turbines, which were approved by the Commission without comment).

[267] Staff's Opening Brief at 60-61.

[268] *In the Matter of Idaho Power Co. Application to Accelerate Depreciation of Existing Metering Equipment to be Replaced by AMI Installation*, Docket UE 202, Order No. 08-614 at 1-2 (Dec. 30, 2008); *see also* Docket UE 202, Application at 3 (Oct. 3, 2008) ("Idaho Power proposes to install AMI throughout its entire service territory (99 percent of its customers) in a systematic three-year deployment schedule[.]").

[269] *In the Matter of Portland Gen. Elec. Co. Detailed Depreciation Study of the Elec. Properties of the Company*, Docket UM 1233, Staff/100, White/9 (Aug. 17, 2006).

retain the 10-year depreciable life for the existing metering infrastructure.[270]

XVII. MISCELLANEOUS REVENUE REQUIREMENT

Staff claims that the Company inappropriately updated the expenses for the most recent twelve-month period of historical actuals (Base Year), such that the Company's Base Year became "a rolling, 18-month Base Year[.]"[271] Staff's claim is based on the Company's proposal to use updated, actual cost information for insurance and franchise fee expenses (discussed below), neither of which involved Base Year updates,[272] but merely updated Test Year expense forecasts as actual data became available.[273] Two cost updates do not transform the nature of the Base Year. Staff itself proposed similar updates when those updates resulted in a rate decrease.[274]

A. PacifiCorp's updated insurance premiums accurately reflect the Company's Test Year expenses.

Staff claims that the Company inappropriately updated Base Year insurance premium expenses in order to update Test Year expenses.[275] PacifiCorp did not make any changes to Base Year expenses, which continue to reflect the insurance premiums in effect in August of 2019.[276] Instead, the Company adjusted Test Year expenses to reflect the actual insurance premiums that became effective in August of 2020, as soon as this information became available.[277] No party contests that the Company's updated insurance premiums more accurately reflect the Company's actual Test Year expenses.

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[270] Docket UM 1233, Application at 49 (Nov. 8, 2005).
[271] Staff's Opening Brief at 52.
[272] Staff's Opening brief at 52-54 (stating that the Company's purported Base Year updates were discussed in the subsequent sections, and describing Base Year changes in the insurance and franchise fee sections).
[273] PAC/3100, McCoy/20-21.
[274] *See, e.g.,* Staff/300, Fjeldheim/14 (proposing to modify the Commission's fee expense based on the modified rate approved after the Company's rate case was filed).
[275] Staff's Opening Brief at 53.
[276] PAC/3100, McCoy/21; PAC/4400, McCoy/35.
[277] PAC/4400, McCoy/35 (Table 2).

Staff also claims that the low claims bonus, which offsets the Company's insurance premiums, could not be clearly identified "because the table provided by PacifiCorp to demonstrate that the low claims insurance premium bonus was included also reflects increased insurance premiums, which Staff opposes[.]"[278] The referenced table itemizes the low claims insurance premium bonus separately from the Base Year insurance premiums, allowing Staff to view this item separately.[279]

B. <u>PacifiCorp's franchise fees reflect up-to-date actual information.</u>

Staff objects to PacifiCorp's update to reflect actual franchise fees for calendar year 2019 because this includes data beyond the Base Year (ending June 30, 2019).[280] Staff's calculation of franchise fees does not correspond to the Base Year period, but instead relies on calendar years 2016-2018.[281] In reply testimony, PacifiCorp accepted Staff's proposal to apply a three-year model, but proposed using then-available calendar year 2019 data as more accurate.[282] Staff does not suggest that using calendar year 2016-2018 data is more accurate. Staff even indicated that it would be amenable to using half of calendar year 2019 data; nonetheless, Staff continues to propose an adjustment based on 2016-2018 data.[283]

Staff claims that the Company failed to respond to Staff's data requests seeking calendar year 2019 data, citing Staff's opening testimony.[284] However, this information was included in the reply testimony of Ms. Shelley McCoy.[285]

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[278] Staff's Opening Brief at 53.
[279] PAC/4400, McCoy/35 (Table 2).
[280] Staff's Opening Brief at 54.
[281] Staff's Opening Brief at 54.
[282] PAC/4400, McCoy/37.
[283] Staff's Opening Brief at 54.
[284] Staff's Opening Brief at 54 (citing Staff/300, Fjeldheim/1-2).
[285] PAC/3102, McCoy/68.

C. <u>PacifiCorp's dues and memberships expenses are prudent, supported by evidence, and fully recoverable.</u>

PacifiCorp previously explained that Staff's adjustment to dues and memberships expenses is inappropriately based on system-wide costs.[286] Staff claims that it did not identify any adjustments based on system-wide costs.[287] This is surprising, given that the issue was discussed during repeated conference calls between the Company and Staff on April 10 and 22, 2020, where the parties agreed that converting approximately 12 million lines of system-wide transactional data to Oregon-allocated information would be unduly burdensome.[288] Staff is clearly aware that its adjustment was based on system-wide amounts.

Staff claims that PacifiCorp mistakenly describes Staff's adjustment for North American Electric Reliability Corporation (NERC) certificates as a reduction of approximately $15,000, rather than $4,700.[289] Ms. McCoy's testimony specifically noted that the partial disallowance of NERC certifications was an "example" of an adjustment to a clearly mandatory expense.[290]

Staff states that its own prior support for partial recovery of dues and memberships in civic organizations in a 2016 rate case was "anomalous and its rationale [is] not in this record."[291] Yet in Avista's 2017 rate case, Staff similarly supported recovery of "100 percent of expenditures associated with memberships in industry research organizations and 75 percent of expenditures on membership in national or regional trade organizations[.]"[292] In that case, Staff explained that it will propose disallowances only where the costs "have no benefit to Oregon

286 PacifiCorp's Opening Brief at 98.
287 Staff's Opening Brief at 55.
288 PAC/3100, McCoy/59-60.
289 Staff's Opening Brief at 55.
290 PAC/4400, McCoy/41.
291 Staff's Opening Brief at 56.
292 *In the Matter of Avista Corp. dba Avista Utils. Request for a Gen. Rate Revision*, Docket UG 325, Staff/1000, Barry/11 (Mar. 1, 2017).

ratepayers."[293] Here, in contrast, Staff relies on examples from more than three decades ago, making clear that what is "anomalous" is Staff's position in this case.

Staff also argues that its own prior positions are irrelevant because "economic conditions have deteriorated," such that customers should not be required "to fund PacifiCorp's participation in non-energy-related organizations."[294] The Commission has clearly rejected Staff's argument that economic circumstances can void the regulatory compact and deny a utility the opportunity to recover prudently incurred costs.[295] Staff does not claim that PacifiCorp's participation in these organizations is imprudent.

D. PacifiCorp's meals and entertainment costs are a reasonable business expense.

Staff fails to support its categorical 50 percent adjustment to meals and entertainment expenses, which PacifiCorp showed is *not* required by Commission order as Staff previously claimed.[296] The Commission should reject Staff's categorical adjustment as unjustifiable and unsupported. Staff claims that PacifiCorp misunderstands Staff's use of key word searches in evaluating meals and entertainment expenses.[297] Yet Staff does not contest that its disallowances include removing cost recovery for *any* meal purchased at any type of coffee shop—despite PacifiCorp providing evidence that meals (not refreshments) were purchased.[298] Staff's use of key words appears to have functionally substituted for actual analysis.

While Staff is correct that FERC requires the Company to maintain records in support of its entries, these records do not need to be included in the description recorded in the Company's

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[293] Docket UG 325, Staff/1000, Barry/11.
[294] Staff's Opening Brief at 56.
[295] Order No. 01-988 at 6; *see also id.* at 5 ("[T]his Commission must allow a utility the opportunity to recover increased operating expenses that are prudently incurred.").
[296] PacifiCorp's Opening Brief at 98-99.
[297] Staff's Opening Brief at 56-57.
[298] PAC/3100, McCoy/25.

accounting system.[299] Staff did not request supporting records for any of the transactions.

Staff disputes that PacifiCorp's policy is limiting meals and entertainment expense to those with a business purpose because "Staff's review shows otherwise."[300] Staff's bare conclusion is unsupported by any reference and indicates that Staff, without reason, simply chooses to disbelieve the validity of the Company's policy. This is not evidence. PacifiCorp proactively limits meals and entertainment expenses to those costs specifically associated with a business purpose.[301]

E. <u>Staff's adjustment to miscellaneous O&M non-labor expenses is moot.</u>

Staff proposes a $2.7 million adjustment to a list of FERC accounts on the basis that the Company has failed to explain the need for escalation other than the All-Urban CPI.[302] Staff has also abandoned its customer accounts reduction adjustment, which it does not mention in its Opening Brief and must therefore be rejected.[303] Additionally, Staff has withdrawn its adjustment to administrative and general accounts, stating that "[i]n its surrebuttal testimony, PacifiCorp provided additional explanation of the increases to FERC Accounts 924 and 928."[304] Staff's updated adjustment is moot because it overlooks the Company's updated escalation rates in its reply testimony, which resulted in an approximately $60,000 cost *decrease* from Base Year

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[299] 7 C.F.R. § 1767.15(a).
[300] Staff's Opening Brief at 57.
[301] PAC/3100, McCoy/24.
[302] Staff's Opening Brief at 57-58 (proposing adjustments to FERC accounts 570, 583, 587, 592, and 594). Staff correctly notes that it previously lowered its adjustment from $3.6 million to $2.7 million in its Prehearing Brief. Staff's Prehearing Brief at 59. However, Staff's Prehearing Brief continued to state that it proposed adjustments to FERC Accounts 924 and 928—which would have corresponded to the $3.6 million disallowance. Staff's Prehearing Brief at 59. Staff now clarifies that it no has adjustments to FERC Accounts 924 and 928. Staff's Opening Brief at 58 ("PacifiCorp provided additional explanation of the increases to FERC Accounts 924 and 928, which led Staff to withdraw these adjustments in its Prehearing Brief.").
[303] *See* PacifiCorp's Opening Brief, Attachment A at 2 (noting that Staff's customer accounts reduction adjustment resulted in a $1.5 million reduction in revenue requirement); Order No. 13-387 at 10 ("Parties must clearly present all proposed adjustments in their briefs.").
[304] Staff's Opening Brief at 58.

to Test Year—a de-escalation of existing expenses for the relevant FERC accounts.[305] Applying Staff's preferred All-Urban CPI would instead *increase* the Company's Test Year expenses for these accounts.

XVIII. CONCLUSION

The adjustments presented by Staff and intervenors are unsubstantiated or unwarranted, and if adopted, would reduce PacifiCorp's rates to a level that would undermine its ability to provide safe and reliable service and implement changes mandated by Oregon energy policy. The Commission should reject these adjustments and adopt PacifiCorp's proposed rate increase of $46.3 million or 3.5 percent overall. PacifiCorp has presented substantial evidence demonstrating that its investments and costs were prudently incurred and that its proposed rate revision is reasonable and necessary.

Dated this 19th day of October 2020.

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305 PAC/3102, McCoy/78-80.

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 374

PACIFICORP

Attachment A to
PacifiCorp's Closing Brief

Updated Adjustment Appendix

REDACTED

October 19, 2020

PacifiCorp's Revenue Requirement Changes
(millions)

Revenue Requirement Increase (FILED)	$78.0
Corrections:	
Wages & Benefits	(1.8)
Advertising Expenses	(1.0)
Other Corrections	(0.2)
Updates:	
Increased Vegetation Management	9.0
Use Cholla 4 Excess Deferred Income Tax (EDIT) to offset Cholla balances	1.2
Increase in Insurance Premiums	1.1
Move Deer Creek pension costs from TAM	0.8
Incremental Advanced Metering Infrastructure (AMI) Net Benefits	(6.7)
Updated Escalation Factors	(5.0)
Amortization of Oregon Depreciation Deferral	(2.7)
Decrease Reliability Coordinator Fee	(0.6)
Other updates	(0.4)
Total Change	(6.2)
Reply Revenue Requirement Increase	$71.8
ROE Update to 9.80%	(12.3)
Depreciation Study Settlement	(10.7)
Depreciation Rate Update Impact on Other Adjustments	(0.3)
Depreciation Update Impact on Protected EDIT	0.4
Cholla 4 Decommissioning Regulatory Liability	(0.7)
Remove 2021 Wildfire Capital Projects	(0.7)
Other Updates	(0.1)
Total Change	**(24.4)**
Surrebuttal Revenue Requirement Increase	**$47.5**
Additional AMI Benefits	**(1.2)**
Closing Brief Revenue Requirement Increase	**$46.3**

Staff's Revenue Requirement Adjustments
(millions)

PacifiCorp's Closing Brief Revenue Requirement Increase	$46.3
Staff's Additional Adjustments	
Capital Structure - 51.86% equity	(5.9)
ROE - 9.00%	(23.9)
Cost of Debt – Increase from 4.77% to 4.82%	1.1
Jim Bridger 3 & 4 SCRs – 10% Gross Plant Disallowance	[redacted]
Transmission Disallowance – Cost Overruns	(0.7)
Transmission Disallowance – Classification	(1.6)
Transmission Disallowance – Pro Forma Additions[1]	(7.8)
Operations & Maintenance Reduction[2]	(2.8)
Wages and Salaries	(3.0)
Incentive Compensation	(3.4)
Pension Settlement Costs	(2.3)
Addition of Oregon Corporate Activity Tax (OCAT)	5.7
Meals, Memberships, and Dues	(0.2)
Insurance Premiums	(1.1)
Vegetation Management and Wildfire Mitigation – Costs Moved to Mechanism	(6.9)
Incremental Decommissioning Costs	[redacted]
Low Claims Insurance Bonus	(0.2)[3]
Jim Bridger 3 & 4 SCRs – Depreciation Adjustment	[redacted]
Hayden 1 & 2 SCRs – Depreciation Adjustment	
Craig 2 SCR – Depreciation Adjustment	
Hunter Unit 1 Low NOx Burner & Baghouse – Depreciation Adjustment	
Total Change	**(82.9)**
Staff's Revenue Requirement Decrease	**$(36.6)**

[1] This adjustment does not include disallowance of the Sams Valley substation or the 3 Phase Wye-Delta XFMR project, as Staff's Prehearing Brief states that it has no adjustment to either project. Staff's Prehearing Brief at 26-27.
[2] This adjustment reflects Staff's use of All Urban CPI instead of IHS Markit industry-specific escalation factors.
[3] This adjustment is based on an error because it is already included in the Company's revenue requirement.

AWEC's Revenue Requirement Adjustments
(millions)

PacifiCorp Closing Brief Revenue Requirement Increase	$46.3
AWEC's Additional Adjustments	
ROE - 9.20%	(18.5)
Capital Structure – 51.86% equity	(5.4)
Bridger 3 & 4 SCRs – Complete Disallowance	(7.7)
Hunter Unit 1 Low NOx Burner & Baghouse – Complete Disallowance	(2.8)
AMI Replaced Meters[4]	0.4
Cholla Property Tax	[redacted]
Deer Creek – Closure Costs and Royalties[5]	
Incremental Decommissioning Costs	
Total Change	**(65.3)**
AWEC's Revenue Requirement Decrease	**$(19.0)**

[4] This adjustment removes estimated net book value from rate base for recovery over 10 years at 1.66% carrying charge.
[5] This adjustment limits mine closure costs to original estimate and continues to defer royalties until paid.

Sierra Club's Revenue Requirement Adjustments
(millions)

PacifiCorp Closing Brief Revenue Requirement Increase	$46.3
Sierra Club's Additional Adjustments	
ROE – 9.20%	(18.5)
Capital Structure – 51.86% equity	(5.4)
Bridger 3 & 4 SCRs – Complete Disallowance	(7.7)
Hayden 1 & 2 SCRs – Complete Disallowance	(0.8)
Total Change	**(32.4)**
Sierra Club's Revenue Requirement Increase	**$13.9**

CUB's Revenue Requirement Adjustments
(millions)

PacifiCorp Closing Brief Revenue Requirement Increase	$46.3
CUB's Additional Adjustments	
ROE – 9.40%	(12.3)
Bridger 3 & 4 SCRs – Complete Disallowance	(7.9)
Incremental Decommissioning Costs	[redacted]
Total Change	[redacted]
CUB's Revenue Requirement Increase	[redacted]