

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **UE 374**

4 In the Matter of:)
5 PACIFICORP d/b/a PACIFIC POWER) OPENING BRIEF OF
6 Request for General Rate Revision) SMALL BUSINESS UTILITY
7) ADVOCATES
8)

9 **I. INTRODUCTION**

10 Small Business Utility Advocates (“SBUA”) submits this Opening Brief to the Public
11 Utility Commission of Oregon (“Commission”). PacifiCorp (“PAC” or “Company”) filed its Ap-
12 plication for General Rate Revision (“Application”) on February 10, 2020. The Application in-
13 cluded many components including a return on equity, capital investments including coal plant
14 pollution control investments and plant closures, costs associated with transmission investments
15 within and without the State of Oregon pursuant to the 2020 Protocol, and various rate design
16 options for many different rate schedules. At the same time, PAC is implementing the State of
17 Oregon’s clean energy policy to reduce carbon intensive electricity production, the recent Gover-
18 nor of Oregon’s Executive Order 20-04 insofar as it impacts the Company, and the impact of the
19 economy and nationwide closures, prompted by the pandemic COVID-19, beginning in March
20 2020.

21 The Commission is charged with establishing “fair and reasonable” rates for the provi-
22 sion of services by public utilities in Oregon. ORS 756.040; *Gearhart v. Public Utility Commis-*
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1 *sion of Oregon*, 255 Or.App. 58, 60 (Or. App. 2013). In this context the Commission may devise
2 a method to achieve the statutory mandate of just and reasonable rates. *See Gearhart*, supra at
3 113 citing *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944) (stating
4 that if the total effect of the rate order is not unjust or unreasonable, “the fact that the method
5 employed to reach that result may contain infirmities is not then important”).

6 SBUA participation in this docket was directed primarily at ensuring any rate change is
7 just and reasonable to small businesses with focus on small nonresidential ratepayers who are
8 Schedule 23. The nature and extent of SBUA’s interest in this docket included reviewing the in-
9 crease in Return on Equity of over 10%, the 10.7% Base Change higher for General Service
10 small business than all but one other customer group, and a net change of .08%, in addition to
11 application of the 2020 PacifiCorp Inter-Jurisdictional Allocation Protocol (2020 Protocol), and
12 other topics related to rates and terms and conditions of service of small nonresidential cus-
13 tomers, mostly known generally as Schedule 23.¹

14 Conspicuously to SBUA, PAC had almost no data or information drawn from Advanced
15 Metering Infrastructure (“AMI”) for small commercial customers, rate schedule 23, and minimal
16 rate design options. Therefore, while SBUA did examine the cost of capital and rate base issues,
17 SBUA focused on the return on equity and rate spread/rate design, primarily, with some focus on
18 transmission. SBUA was among the parties stipulating to rate spread and rate design portion of
19 this rate case. Reviewing information from the AMI with the Company in about a year’s time
20 will inform the Commission on the this customer group use, and also impacts of this tumultuous

22 ¹ UE 374 Petition to Intervene of Small Business Utility Advocates, filed 2/21/20.

1 year due to COVID-19 and wildfires which burned in various parts of PAC’s Oregon service ter-
2 ritory.

3 In addition to its agreement to the Stipulation, SBUA supports Staff’s and other parties’
4 proposals a lower return on equity, no change in annual power cost updates, a close look at
5 transmission and application of the 2020 Protocol, and SBUA requests the Commission to take a
6 look at the information provided by PAC and Staff regarding AMI.

7 **II. ARGUMENT**

8 SBUA urges the Commission to adopt a lower return on equity and maintain the current
9 Annual Power Cost Adjustment (“APCA”). This is true not only for traditional reasons but also
10 because the Commission should determine that shareholders would bear more risk given recent
11 challenges brought by COVID and policies implementing low carbon fuel supply. SBUA sup-
12 ports Staff’s close look at transmission to ensure it is within the 2020 Protocol. Given the lack of
13 information regarding small commercial customers in the Application, SBUA urges the Commis-
14 sion to review the AMI and the report PAC is to provide within about a year’s time, to learn more
15 about PAC’s second largest customer class, PAC’s 83,000 small commercial customers.

16 A. The Commission should adopt Staff’s cost of capital recommendations.

17 SBUA’s expert witness reviewed PAC’s Cost of Capital Testimony and SBUA supports
18 Staff’s recommendations regarding cost of capital.² The Commission should adopt Staff’s rec-
19 ommended return on equity (“ROE”) Staff did a thorough ROE analysis and its recommended
20 ROE falls within the zone of reasonableness. As SBUA previously submitted, PAC’s requested
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22 ² SBUA would have liked to offer more of its own cost of capital testimony but was unable to due to budget con-
23 straints and lacking rate design proposals for Schedule 23 by PAC.

1 return on equity (ROE) of 9.8% appears high.³ Per Staff’s multiple models and pre-COVID re-
2 turn on equity rates, Staff’s recommended ROE of 9.0% is fair and reasonable.⁴ “Utilities bear
3 the risk of unforeseen costs but also receive the benefit when revenues are higher than
4 predicted.” *Industrial Customers of Northwest Utilities v. PUC*, 196 Or.App. 46, 49 (2004) *cited*
5 *in Gearhart v. Public Utility of Oregon, CITE* (2013).

6 SBUA recommends that the Commission account for the COVID19 related dockets UM
7 2114 Investigation into the Effects of the COVID-19 Pandemic on Utility Customers and UM
8 2063 Pacificorp Deferral of Costs Associated with COVID-19 identifying how cost recovery
9 may impact ROE and adjusting the ROE accordingly.

10 B. The Commission should deny PAC’s request to adopt the Annual Power Cost Adjustment
11 (“APCA”).

12 The APCA would replace the Company’s Transition Adjustment Mechanism (“TAM”)
13 and Power Cost Adjustment Mechanism (“PCAM”). SBUA does not support changing to the
14 APCA. Although PAC asserts that the current forecast and true-up mechanisms are insufficient
15 to recover net power costs, SBUA agrees with Staff and the Alliance of Western Energy Con-
16 sumers (“AWEC”) that the issue can be addressed by improving the model.⁵ In its Opening Brief,
17 PAC does not adequately address Staff, Citizens’ Utility Board (“CUB”), and AWEC’s argument
18 that PAC “has failed to demonstrate that it is unable to make modeling changes.”⁶ The mecha-

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20 ³ SBUA’s Prehearing Brief at 6.

21 ⁴ ORS 756.040(1).

22 ⁵ Staff’s Prehearing Brief at 29; *see also* AWEC’s Prehearing Brief at 23.

23 ⁶ Staff’s Prehearing Brief at 31; *see also* AWEC’s Prehearing Brief at 18; CUB’s Prehearing Brief at 10-11.

1 nism should remain in place to incentivize the company to control costs where ROE already
2 compensates the utility for risk already.

3 C. The Commission should further investigate transmission issues raised by Staff.

4 SBUA supports staff's concerns on PAC's allocation and treatment of the transmission
5 assets, as cited in Staff's testimony. Of particular concern are inclusions of costs not outlined in
6 the 2020 Protocol for PAC's transmission and distribution projects, which would place on small
7 commercial ratepayers in Oregon unreasonable and unjust financial burden. SBUA encourages
8 the Commission to further investigate the issues raised by Staff to ensure that PAC uses proper
9 allocation methods. SBUA supports Staff's recommendation of a follow-up investigation espe-
10 cially since it may impact the 2020 Protocol.

11 D. The AMI data is critical to design rate options that will benefit and meet the needs of
12 small commercial customers.

13 PAC cited the lack of data of in not changing the rate design for Schedule 23 customers.⁷
14 In pursuit of identifying rate design options for Schedule 23 customers as outlined in the Partial
15 Stipulation, PAC seeks a full 12 months of profile data from AMI. SBUA appreciate's Staff's
16 weighing in on AMI and also SBUA emphasizes that AMI data is critical for Schedule 23 rate
17 design proposals. Since PAC's last general rate case, small commercial customers and PAC have
18 both experienced large changes. Collection of data through AMI to update the rate design aligns
19 with the Commission's duty to ensure adequate service at fair and reasonable rates to all classes.
20 The Commission should review the information regarding AMI and consider how this informa-
21 tion may be best utilized going forward to meet the just and reasonable rates requirement.

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23 ⁷ PAC/1400, Meredith/47.

1 **III. CONCLUSION**

2 In this rate case, the Commission should ensure that the Company share the risks equi-
3 tably with the customers and employ methodology in its decision-making that yields good
4 enough for the Company and eminently just and reasonable for ratepayers.

5 Respectfully Submitted:

6 October 12, 2020

s/ Diane Henkels

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