

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

4 In the Matter of: )  
5 PACIFICORP d/b/a PACIFIC POWER ) PREHEARING BRIEF OF  
6 Request for General Rate Revision ) SMALL BUSINESS UTILITY  
7 ) ADVOCATES  
8 )  
9 )  
10 )  
11 )  
12 )  
13 )  
14 )  
15 )  
16 )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )

8 **I. INTRODUCTION**

9 This filing by PacifiCorp not only includes their request for an increase in their revenue  
10 requirement which also contains numerous cost recovery issues, but also how PAC proposes to  
11 recover any increase in their revenue requirement through their proposed rate design for each  
12 individual customer classes. In summary PACs filing encompasses the global universe of  
13 ratemaking issues which are how much should the company be allowed to earn in revenues and  
14 what will each customer rate class pay. With this breath of complex issues raised in UE-374, a  
15 settlement of all these issues maybe be difficult to achieve without further follow on work in the  
16 future as an outcome from this proceeding. is a comprehensive rate case but not everything can  
17 be resolved here.

18 A marked characteristic of this Rate Request is the almost complete lack of data or any  
19 attention at all on the small commercial customer class, identified as Schedule 23, even though  
20 at 83,000 customers this ratepayer class is by far the second most numerous class of customers  
21 served by PacifiCorp in Oregon. SBUA supports a stipulation providing a report within a year  
22 on this customer class, and evaluation of potential options, and a class specific outreach plan and  
23

1 effort. There has been no rate case since 2013 and even then not mention was made about this  
2 customer class. However, as events of 2020 alone have shown, much has changed and it is im-  
3 portant to take stock of this customer class and evaluate rate cases for fairness and reasonable-  
4 ness as the energy landscape evolves in Oregon, and also has small customer class needs have  
5 changed both as a result of the virus COVID-19, and even without the virus impacts. SBUA  
6 supports the stipulation as a best option to find a clear path forward to address needs of this  
7 unique class of customers, and also sets forth here SBUA's positions on other aspects of this rate  
8 case to ensure the result is fair and reasonable.

## 9 **II. STANDARD OF REVIEW**

10 In a General Rate Case the utility bears the burden to show that its rates are fair, just and  
11 reasonable.<sup>1</sup>

## 12 **III. BACKGROUND**

13 This is a broad rate case where the utility seeks to address several topics impacting elec-  
14 tric service in Oregon and elsewhere in its system. PacifiCorp's most recent general rate cases,  
15 UE 246 and UE 263, took place eight and seven years ago almost eight years ago. UE 246 had  
16 broader focus<sup>2</sup>; UE 263 was narrower.<sup>3</sup> The purpose of this rate case was more like UE 246 to  
17 address costs associated with closing coal-fired resources, completing major capital projects and

---

18 <sup>1</sup> ORS 756.040(1), ORS 757.210(1)(a), *Pacific Northwest Bell Tel. Co. v. Sabin*, 21 Or App 200, 213-214 (1975).

19 <sup>2</sup> UE 246 In the Matter of PacifiCorp General Rate Revision, PacifiCorp Executive Summary, p 3-6 available at:  
20 <https://edocs.puc.state.or.us/efdocus/UAA/ue246uaa144556.pdf> (last accessed 9/2/20).

21 <sup>3</sup> UE 263 In the Matter of PacifiCorp General Rate Revision, Order 13-474 p2 available at [https://apps.puc.s-](https://apps.puc.s-tate.or.us/orders/2013ords/13-474.pdf)  
22 [tate.or.us/orders/2013ords/13-474.pdf](https://apps.puc.s-tate.or.us/orders/2013ords/13-474.pdf) (last accessed 9/1/20) (Pacific Power stated that the primary drivers of its rate  
23 increase are: the revised depreciation rates proposed by Pacific Power in docket UM 1647; system investments in a  
24 fish collector system on the Lewis River hydroelectric project; a turbine upgrade at the Jim Bridger plant that is ex-  
pected to produce 12 megawatts of additional generation with no increase in fuel input or emissions; transmission  
investments to comply with reliability requirements; and twoway radio investments to comply with Federal Com-  
munications Commission narrowband rules.)

1 adjust to Oregon’s shifting energy landscape by modernizing rate design.<sup>4</sup> Similar to UE 246,  
2 this rate case, UE 374, is wide reaching including emissions controls, transmission across the  
3 western United States, wildfire mitigation, rate structure changes, proposal to change annual and  
4 incremental power costs, modifying transportation electrification and lighting, among other  
5 topics.

6 Since the earlier rate cases, the number of small commercial ratepayers has grown from  
7 approximately 74,000 to 83,000.<sup>5</sup> Small commercial customers remain by far the second most  
8 numerous class of ratepayers in PacifiCorp’s Oregon service area, and approximately the same  
9 proportion of small commercial customers as in the previous rate cases.<sup>6</sup> In recent years, the  
10 Company implemented technological changes to its operations in Oregon including advanced  
11 metering infrastructure (“AMI”). However, these technological changes did not evidently keep  
12 pace with the Company’s regulatory structure and this rate case UE 374 was filed with virtually  
13 no data regarding small general service customers, otherwise known as Schedule 23 customers  
14 (“Schedule 23”).

15 Shortly after PacifiCorp filed its General Rate Request to increase utility rates, Oregon  
16 was subjected to public health, and social and economic problems caused by the COVID-19  
17 virus (“COVID”), a highly contagious and a lethal virus. This virus affected the entire United  
18 States, and the rest of the world. In order to contain COVID the Governor of Oregon ordered a  
19

---

20 <sup>4</sup> PAC/200 Lockey/5-6.

21 <sup>5</sup> UE 246 PacifiCorp Request for General Rate Revision, filed March 1, 2012, Exhibit PAC/1303 Griffith/1; UE 374  
22 PacifiCorp Request for General Rate Revision, filed February 14, 2020, PAC/1408 Meredith/78.

23 <sup>6</sup> Id.

1 shut down order requiring businesses to close.<sup>7</sup> In person government and private sector func-  
2 tions ceased and transitioned to virtual and distance causing huge and unprecedented disruption  
3 of the State of Oregon's economy. Students have been schooling at home which will continue  
4 until at least November 3, 2020.<sup>8</sup> Small business is greatly impacted by COVID and while the  
5 impact is not fully known, testimony notes that a ten percent loss of urban small business and 30  
6 percent loss of rural businesses is expected.<sup>9</sup> The current state of the labor market in Oregon is  
7 about as bad as it was at the worst of the Great Recession.<sup>10</sup>

8 Meanwhile, the State of Oregon continues to pursue an energy policy to remove fossil-  
9 fuel emitting sources of electricity from its electricity supply. In 2020, the Governor of Oregon  
10 issued Executive Order 20-04 to increase the percentage of non-fossil fuel emitting power gener-  
11 ation to 80% of the state's energy by 2050.

#### 12 **IV. ARGUMENT**

13 The Commission shall make use of the jurisdiction and powers of the office to protect  
14 utility customers, and the public generally, from unjust and unreasonable exactions and practices  
15 and to obtain for them adequate service at fair and reasonable rates.<sup>11</sup> The Commission shall  
16 balance the interests of the utility investor and the consumer in establishing fair and reasonable  
17

---

18 <sup>7</sup> Oregon Governor Kate Brown Second Extension of Executive Order 20-03 and Covid State of Emergency, avail-  
able at [https://www.oregon.gov/gov/admin/Pages/eo\\_20-30.aspx](https://www.oregon.gov/gov/admin/Pages/eo_20-30.aspx) (last visited 9/2/2020).

19 <sup>8</sup> Oregon Dept. of Education & Oregon Health Authority announcement <https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/DISEASESAZ/Emerging%20Respiratory%20Infections/Ready-Schools-Safe-Learners-Community-COVID-19-Metrics.pdf>

20 <sup>9</sup> SBUA/201 White/4; Energy Trust of Oregon Conservation Advisory Committee, April 22, 2020, SBUA/201  
White/1

21 <sup>10</sup> Oregon Office of Economic Analysis, August 18, 2020 available at: <https://oregoneconomicanalysis.com/2020/08/18/oregon-employment-july-2020/> (last accessed 9/2/20).

22 <sup>11</sup> ORS 756.040(1).

1 rates.<sup>12</sup> A lack of data available for small commercial customers prevents a fair and reasonable  
2 rate increase. Yet as the Company pursues its regulatory mandate to replace fossil fuel genera-  
3 tion with a cleaner energy source it is the ratepayers who will fund this in fair proportions,  
4 though even this must be fair and reasonable to the ratepayers. Its reasonable that this is the  
5 lowest proposal increased where there is no data and where the company is implementing Ore-  
6 gon requirements.

7 A. SBUA supports the Partial Stipulation.

8 SBUA supports the Partial Stipulation focusing on rate spread and rate design as a step in  
9 the right direction on the path to adjusting small commercial customers to contemporary electric  
10 utility regulation.

11 Basically, what PAC did was to take the revenue requirement and using the class cost of  
12 service study allocation factors to assign costs to the Schedule 23 rate class. Unlike the residen-  
13 tial customer class which the Company took the next steps after costs where assigned, it then  
14 looked at rate dosing options for residential customer class. It would have been nice if the Com-  
15 pany would have taking this additional step for the small commercial rate class.

16 The context of a review of data in approximately a year with the intent to review for rate  
17 design options, more customer specific outreach, and lower average increase in rates allows ad-  
18 justment for both the utility and the customer class. The Company was making no changes in  
19 Schedule 23 based on not having a full 12 months of profile data from the AMI.<sup>13</sup> It is reason-  
20 able that the small commercial customer have the lowest multiple of average increase besides the

21 \_\_\_\_\_  
<sup>12</sup> ORS 756.040(1).

22 <sup>13</sup> PAC/1400 Meredith/47.

1 remainder. SBUA supports this rate spread and rate design stipulation as a reasonable position in  
2 this rate case that leads to a clear path forward to address needs of this unique class of customers.

3 B. The discretion of the Commission should lie toward lessening the changes requested by  
4 the Company in this rate case.

5 Beyond rate spread and rate design, SBUA suggests that the Company's insistence on a  
6 higher return on equity is not warranted and it may also not be time in this proceeding to consid-  
7 er changing the power cost recovery mechanism since a follow up proceeding with fewer issues  
8 may be an appropriate forum. Also, SBUA is concerned that this comprehensive rate request will  
9 see slips in transmission costs to include costs outside of the 2020 Protocol that should not be  
10 born by small commercial, or any Oregon, ratepayers.

11 The Oregon Court of Appeals has affirmed the methods and considerations by which  
12 Commission deems ratemaking and rates to be fair and reasonable.<sup>14</sup> The uncertainty of the  
13 Company's proposals combining this large array of elements, and then in the context of a pan-  
14 demic creating severe economic circumstances does not support large returns or changes in  
15 ratemaking.

16 C. Return on Equity

17 From the perspective of a customer class with very little evidence supporting an increase  
18 in rates and devastated by the pandemic, PacifiCorp's requested return on equity of 9.8% appears  
19 high. The Company needs to be sharing some of the economic hardship with COVID with its  
20 shareholders since PacifiCorp customers in Oregon are already taking a financial hit. Splitting  
21

---

22 <sup>14</sup> *Chang v. Pub. Util. Comm'n of Or.*, 256 Or App 151, 158 (2013)

1 the risk between shareholders and ratepayers is common regulatory practice. The Company  
2 would still be allowed to earn a return but an increase at this time is not warranted given COVID.

3 D. Changing out PCAM for APCA

4 PacifiCorp asks the Commission to allow the Company to substitute an Annual Power  
5 Cost Adjustment (“APCA”) for a Power Cost Adjustment Mechanism (“PCAM”).<sup>15</sup> In 2012  
6 PacifiCorp filed to change its PCAM.<sup>16</sup> SBUA suggests making no change and applying the  
7 same standards applied to the PCAM as the Commission applied in UE 246. “In adopting a  
8 PCAM for PGE, we articulated general principles that form the basis of a well-designed PCAM:  
9 (1) any adjustment under a PCAM should be limited to unusual events and capture power cost  
10 variances that exceed those considered normal business risk for the utility; (2) there should be no  
11 adjustments if the utility's overall earnings are reasonable; (3) the PCAM's application should  
12 result in revenue neutrality; (4) the PCAM should operate in the long-term to balance the inter-  
13 ests of the utility shareholder and ratepayer; and, implicitly, (5) the PCAM should provide an in-  
14 centive to the utility to manage its costs effectively.”<sup>17</sup> SBUA agrees with CUB’s point that  
15 “Even if the APCA had merit, this is not the right time or circumstances for shifting risk to cus-  
16 tomers. The COVID pandemic and equitable considerations for customers indicate that Pacifi-  
17 Corp should stick with the PCAM and just settle for somewhat low returns that are “close  
18 enough”.<sup>18</sup> In 2020 it is too soon to tell the magnitude of impact of the Executive Order 20-04  
19 or the COVID-19 to determine whether these events exceed normal business risk for the utility.

20 <sup>15</sup> PacifiCorp Request for General Rate Revision, filed February 20, 2020.

21 <sup>16</sup> UE 246 PacifiCorp d/b/a Pacific Power’s Request for a General Rate Revision, PacifiCorp’s Prehearing Brief, p2.

22 <sup>17</sup> Docket Nos. UE 180, UE 181, UE 184, Order No. 07-015 at 26-27 (Jan 12, 2007), *cited in* Order 12-493 entered  
December 20, 2012, p 13.

23 <sup>18</sup> PAC 37/Graves 3 citing CUB/400, Jenks/2-4, 17-18, 27, 58; Staff/2400, Gibbens/23-24.

Especially where the small commercial customer is in a holding position to determine the position of this customer class per data, especially given 2020 events, it is best to keep the power cost mechanisms as they are in this rate case.

E. COVID Impacts on this Rate Case

It is unclear yet the actions the utilities will be taking toward alleviating the severe impacts of COVID on utility customers. This is a topic currently before the Commission staff in COVID Workshops with a report due in the near future. SBUA has supplied comments that it is too soon to tell the impacts.<sup>19</sup> The impacts are ongoing as demonstrative Executive Order No. 20-37 extends House Bill 4204’s Mortgage Foreclosure Moratorium until December 31, 2020.<sup>20</sup> PacifiCorp says that “Despite the pandemic, the utility must provide service and must have a fair opportunity to eventually recover those prudent costs. That recovery can be delayed or socialized in new ways because of the pandemic, but it should not be disallowed outright, and the PCAM’s inappropriate design should not be defended because it happens to give a nice outcome for customers under these extreme and unusual risk conditions.”<sup>21</sup> This contrasts with the Company’s obligation to provide reliable electrical service and reliance of small commercial customers to operate their business. Without affordable rates they will not survive. The question remains outstanding when and how to best address the impacts which supports the suggestion to hold off on making significant changes pending the Commission’s review in COVID proceedings.

---

<sup>19</sup> Oregon Public Utility Commission COVID-19 Workshops, <https://www.oregon.gov/puc/utilities/Pages/COVID-19-Impacts.aspx>, Comments of SBUA August 17, 2020 and September 1, 2020.

<sup>20</sup> EO 20-37 dated August 31, 2020.

<sup>21</sup> PAC/3700 Graves/11.



1            F. Transmission Disallowance

2            While the 2020 Protocol may allow transmission costs, the 2020 Protocol should be re-  
3 view at some point in time as the transition is away from coal and renewables may not be located  
4 in the standard path of transmission line corridors. Costs are likely to change.

5            SBUA appreciates and supports Staff’s scrutiny of transmission projects as it seeks to en-  
6 sure that all transmission projects subject to this rate case benefit Oregon customers. The Com-  
7 pany may recover prudently incurred costs under ORS 756.040. SBUA supports a close look at  
8 Staff’s briefing and discussion regarding transmission to ensure that the 2020 Protocol is correct-  
9 ly applied to the different transmission or distribution projects. So long as they are paid for by  
10 Oregon ratepayer dollars, any out of state transmission facilities of under 100 kV should benefit  
11 Oregon customers. At a minimum alternative to disallowance, it is reasonable that the Commis-  
12 sion authorize deferred accounting to track the revenue requirement impact of the Company’s  
13 transmission investments, pending resolution of Staff’s proposed transmission allocation investi-  
14 gation.<sup>22</sup>

15            //

16            //

17            //

21            \_\_\_\_\_  
22            <sup>22</sup> PAC/3300 Lockey/15-16.

1 //

2 **V. CONCLUSION**

3 The Partial Stipulation is one step in the right direction for a path forward for small  
4 commercial customers to have rate design options which address their electricity needs. We be-  
5 lieve that SBUA’s advocacy has wakened the Company up to the need to address rate design op-  
6 tions for this class of its customers. SBUA appreciates the work of the parties to review and vet  
7 the many issues this rate case includes.

8 Respectfully Submitted:

9 September 2, 2020

s/ Diane Henkels

10

---

Diane Henkels, OSB #00523  
Small Business Utility Advocates  
621 SW Morrison St., Ste 1025  
Portland, OR 97205  
t: 541.270.6001  
e: [diane@utilityadvocates.org](mailto:diane@utilityadvocates.org)

11

12

13

14

15

16

17

18

19

20

21

22

23

24