

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 390

In the Matter of)	
)	
PACIFICORP 2022)	REPLY BRIEF OF SMALL
TRANSITION ADJUSTMENT)	BUSINESS UTILITY
MECHANISM)	ADVOCATES
)	

I. INTRODUCTION:

PacifiCorp dba Pacific Power’s Opening Brief, as consistent with the rest of its work in the docket, does not review at all the 2020 Protocol provision 3.1.9 in reference to this Transition Adjustment Mechanism (“TAM”). Small Business Utility Advocates (“SBUA”) asks the Commission to examine carefully and specifically any justification increasing rates under the 2022 TAM in the context of applying the 2020 Protocol section 3.1.9 of changed economic conditions.¹ This TAM occurs at a time when the state has incurred unprecedented economic impact to the Oregon customers of this utility, PacifiCorp dba Pacific Power (“PAC”).² The utility has the burden of demonstrating that the proposed TAM is just and reasonable and does not meet that burden here to justify any increase.

II. BACKGROUND:

This 2022 TAM docket follows a PAC general rate case that concluded in 2021 and occurs during a pandemic that is impactful on utilities and their customers such that the Commis-

¹ COVID-19 impacts and Wildfires is another impact

² “PAC” is the abbreviation for this Opening Brief of SBUA to facilitate reading the utility’s name throughout this document which also references testimony labelled “PAC”.

sion has opened several active dockets to deal with the economic fallout the pandemic has had in Oregon. A snapshot of the economic impact can be seen in SBUA/200 Wertz/202.

The Transition Adjustment Mechanism (“TAM”):

PacifiCorp dba Pacific Power’s TAM is an annual filing, updating the Company’s forecast net power costs to account for changes in market conditions, with the final forecast update close to the direct access window to capture costs associated with direct access and to identify the proper amount for the transition adjustment.³ The TAM guidelines developed in 2009 provide that issues related to the prudence of contracts, the appropriate modeling of contracts, and known and measurable changes to inputs for existing methodologies are within the proper scope of a stand-alone TAM proceeding.⁴ This 2022 is a stand alone TAM proceeding.

In accordance with the TAM Guidelines adopted in Order No. 09-274, the test period for the TAM is the year during which the Schedule 201 rates will be effective, which is the 12 months ending December 31, 2022.⁵ PAC proposes what amounts to an overall increase of .1% on a net basis.⁶ This amounts to a TAM price change in Schedule 23 rates of .07-.09 percent over a forecasted 84,000 customers.⁷ The tariffs identifying the net power cost per rate schedule are reflected in Schedule 201. The Schedule 201 rate design shall reflect the method prescribed by

³UE 199 In the Matter of (“ITMO”) PacifiCorp dba Pacific Power 2009 Transition Adjustment Mechanism Schedule 200, Cost-Based Supply Service; Order 09-274 (“Order 09-274”), entered 07/16/09, p2.

⁴ Id.

⁵ UE 390 ITMO PacifiCorp dba Pacific Power 2022 Transition Adjustment Mechanism, Direct Testimony of Judith Ridenour, PAC/300 Ridenour/2 *citing* ITMO PacifiCorp, d/b/a Pacific Power, 2009 Transition Adjustment Mechanism Schedule 200, Cost- Based Supply Service, Docket No. UE 199, Order No. 09-274 (July 16, 2009).

⁶ Id. at 4-5.

⁷ Id at PAC/303. The impact of the increase is likely to be greater on the actual number of individual customers which number fewer than the forecasted 84,000.

the Commission in the most recent general rate case or other Commission proceeding regarding rate spread and rate design.⁸ The Proposed Schedule 201 rate design shall reflect the method prescribed by the Commission in the most recent general rate case or other Commission proceeding regarding rate spread and rate design.⁹

The TAM requires an accurate forecast: The Commission stated in Order 16-482: “The TAM effectively removes regulatory lag for the company because the forecasts are used to adjust rates. For that reason, the accuracy of the forecasts is of significant importance to setting fair just and reasonable rates. Our goal, therefore, is to achieve an accurate forecast of PacifiCorp's power costs for the upcoming year.”¹⁰

Having concluded the 2021 rate case with little data with regard to small general service customers, that is Schedule 23, for the purposes of this docket, SBUA seeks to ensure the Commission bases its conclusion on this TAM on the best data and most accurate forecast given that the pandemic is still live and impactful on customers.

2020 Protocol:

Establishing this TAM update occurs within, or alongside of, the agreement approved by the Commission regarding the PacifiCorp multi-jurisdictional process in docket UM 1050, aka the 2020 Protocol.¹¹ The goal of the PacifiCorp multi-state process is to reach agreement among all the interested parties on allocation mechanisms among the states in the PacifiCorp service ter-

⁸ Id. At 5.

⁹ Id.

¹⁰ Order 16-482, also quoted in Direct Testimony of David G. Webb, PAC/100 Webb/4-5.

¹¹ UM 1050 regarding allocation of costs among the different states in the six-state region served by PacifiCorp dba PacifiCorp (Oregon, Washington, California) and Rocky Mountain Power (Utah, Idaho, and Wyoming).

ritory or policies whereby PacifiCorp has the opportunity to recover all of its costs and be in the public interest of Oregon.¹²

In December 2019 the Commission adopted the Inter-Jurisdictional Cost Allocation Protocol (“Protocol 2020”) in docket UM 1050.¹³ The 2020 Protocol, like its original predecessor, 2002 Protocol includes a provision that identifies “significant economic changes” as part of the costs entering to the equation of determining the allocation among states. In Order 20-024, the Commission disagreed with the position taken by SBUA to hold a hearing regarding the 2020 Protocol, but the Commission stated in that Order: “...when rates are set in future proceedings, the 2020 Protocol does not change our ability and responsibility to approve just and reasonable rates supported by evidence. Indeed, we note that in these future proceedings we expect parties to develop robust records that the Commission will carefully examine.”¹⁴

As early as 2002 in this multi-jurisdiction docket, the Commission established that “Any loss or increase load occurring as a result of change in economic conditions” all be reflected in the changed in Load Based Dynamic Allocation Factors.¹⁵ “Load-Based Dynamic Allocation Factor” means an allocation factor that is calculated using States’ monthly energy usage and/or States’ contribution to monthly system Coincident Peak.¹⁶ Section 3 was a focus of the Commis-

¹² UM 1050 ITMO PacifiCorp Initiates Investigation into Multi-Jurisdictional Issues and Approve an Inter-Jurisdictional Cost Allocation, Order 02-193 (emphasis added).

¹³ UM 1050 In the Matter of PacifiCorp dba Pacific Power Request to Initiate an Investigation of Multi-Jurisdictional Issues and Approve of an Inter-Jurisdictional Cost Allocation Protocol, Order 20-024, .

¹⁴ Order 20-024, p6.

¹⁵ Section XI. Revised Protocol, 05-021.

¹⁶ Id. Revised Protocol, Appendix A, p3 “Defined Terms”. In transparency, SBUA acknowledged testimony of its expert of not having reviewed the Load Based Dynamic Allocation Factors, but also notes this does not relieve the responsibility of the Commission to review the impact of the 2020 Protocol on the TAM and vice versa.

sion in 2017 Protocol: “Overall, we find that the 2017 Protocol is, on balance, in the public interest because it is a short-term agreement between numerous stakeholders from different jurisdictions that is generally consistent with the status quo of the 2010 Protocol.” In adopting the 2017 Protocol the Commission emphasized fully analyzing Oregon-specific issues and working its own investigation.¹⁷ At the time, the Commission opened a new investigation that “will allow us to independently explore approaches consistent with cost-causation principles that make sense for Oregon customers.”¹⁸ In its order approving the 2020 Protocol the Commission indicated that the section 3 contained an allocation method for an interim period terminating no later than December 2023.¹⁹ The Commission found the section 3 was in the public interest as it largely maintained current allocation methodology and was well-grounded in past protocols. In that decision the Commission did not delve into the particulars of implementing 3.1.9.²⁰

III ARGUMENT:

Oregon law ORS 757.210 establishes the burden of proof, and provides that, in a rate case, "the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable." ORS 757.210. Thus, PacifiCorp must submit evidence showing that its proposed rates are just and reasonable.

1. Evidence supports the Commission applying the available data of this TAM to the 2020 Protocol 3.1.9 to determine whether the load-based dynamic allocation factors do reflect a loss of

¹⁷ UM 1050, Petition for Approval of the 2017 PacifiCorp Inter -Jurisdictional Allocation Protocol, Order 16-319, August 23, 2016, p 6.

¹⁸ Id. p7.

¹⁹ Order 20-024, p4.

²⁰ SBUA is cognizant of the lack of attention the utility pays to this 2020 Protocol provision, however, that does not change the Commission’s obligation to abide by it as part of its ability and responsibility to approve just and reasonable rates supported by evidence and in the public interest. See Order 20-024, p6.

load occurring as a result of change in economic conditions finding the evidence regarding load does not support finding the proposed TAM is just and reasonable.

The 2022 load forecast used in the Company's calculation of NPC reflects an increase in Oregon load compared to the 2021 forecast loads in the 2021 TAM. Due to the increase in Oregon load, the Company anticipates it will need to collect approximately \$3.3 million more than what was approved in the 2021 TAM.²¹ However, the Commission resolution to the recent PAC General Rate Revision in docket UE 374, shows the Commission considering the TAM in the context of the COVID-19.²² Other evidence in this docket puts this forecast into question or support close examination of the load forecast in the context of the 2020 Protocol 3.1.9.

Varying factors made forecasting difficult and indicate low point in the economy. Witness Mullins referred to forecasting challenge testifying "But, you know, once you start dealing with, you know, natural disasters, and, you know, wildfires, and shortages, and things like that, it becomes -- you know, it becomes difficult to forecast those,²³ and noting "in recent history there have been these sort of non-normal events".²⁴

The testimony of Daniel McNeil in response to Commissioner Tawney's question whether his load scenario thoroughly encapsulated the way COVID reduced the load and so was representative, McNeil did not respond "yes". Rather he offers an answer indicating that the im-

²¹ UE 390 PacifiCorp dba Pacific Power Transition Adjustment Mechanism 2022, Direct Testimony of David Webb, PAC/100 Webb/3.

²² Order No. 20-473, "We recognize the unique challenges of this case, both due to the timing of this proceeding relative to the beginning of the COVID-19 pandemic as well as the magnitude and complexity of the company's filing."

²³ Testimony of Brad Mullins , UE 390 PacifiCorp dba Pacific Power Transition Adjustment Mechanism, August 26, 2021 Hearing Transcript, p 184.

²⁴ Id. p187.

pact of COVID-19 was relatively small compared to the change implemented for the low case with no sales, and that the impact of COVID was negligible beyond 2021.²⁵ Comparing a low case with no sales seems a low point of comparison. Evidence submitted by SBUA and PAC merit a close look along with Robert Meredith's testimony regarding the source of forecasting data.

2. Evidence regarding the sales/load forecast supports applying 3.1.9 of the 2020 Protocol to ensure treatment of Oregon customers in this TAM is supported by the evidence.

SBUA expert Wertz brings up the issue of applying the Provision 3.1.9 of the 2020 Protocol in his Opening Testimony and explains further in his Rebuttal Testimony.²⁶ Wertz incorporates in that testimony PAC's Oregon Service Territory Economic Drivers Forecast for non-manufacturing employment and comparing that decrease as not nearly the decrease as that reflected in the State of Oregon's Recession Comparison.²⁷ In the latter, the return to pre-COVID employment is not projected until the fourth quarter of 2022. While PAC was dismissive of the SBUA's witness' Opening Testimony, it does not dismiss Wertz qualifications.²⁸ And the information from the PAC is incomplete with regard to the applicability of the provision 2020 Protocol 3.1.9 in the 2022 TAM. Meredith only begins to answer questions on this.²⁹

²⁵ UE 390 PacifiCorp dba Pacific Power Transition Adjustment Mechanism, Testimony of D. McNeil, UE 390 PacifiCorp dba Pacific Power Transition Adjustment Mechanism, August 26, 2021 Hearing Transcript, p 65-66.

²⁶ UE 390 PacifiCorp dba Pacific Power Transition Adjustment Mechanism, Opening Testimony of Darren Wertz SBUA/100 Wertz/101, Rebuttal Testimony of SBUA SBUA/200 Wertz/201 & Wertz/202.

²⁷ UE 390

²⁸ SBUA/100 Wertz/101.

²⁹ UE 390 PacifiCorp dba Pacific Power Transition Adjustment Mechanism, Testimony of Robert Meredith, August 26, 2021 Hearing Transcript pp154-159.

The crux of the SBUA testimony for SBUA is that the data on which PAC based its load forecast appears to be is dramatically different from the State of Oregon's forecast well into 2022. When presented with the question of the difference between the information the PAC witness presents only an informal contrast between a statewide perspective and the utility's territory.³⁰

IV. CONCLUSION:

Perhaps SBUA's Reply Brief is as nonresponsive to PAC's Opening Brief as is the reverse case. Regardless, it is up to the Commission to decide how to apply the law here. As the TAM is applied in the context of the 2020 Protocol and provision 3.1.9, SBUA asks the Commission to review the evidence to ensure compliance with the requirement that the TAM rates be just and reasonable and within the public interest, and, in the nonresponse of PAC to the argument of SBUA regarding application of the 2020 Protocol provision 3.1.9, find that any increase in the TAM is not justified.

RESPECTFULLY SUBMITTED September 28, 2021.



s/ Diane Henkels

Diane Henkels
Attorney, Small Business Utility Advocates
www.utilityadvocates.org
621 SW Morrison St. Ste 1025
Portland, OR 97205
541-270-6001
diane@utilityadvocates.org

³⁰ Id. 161-162.