BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 390

In the Matter of PACIFICORP, dba PACIFIC POWER, 2022 Transition Adjustment Mechanism.	STAFF'S REPLY BRIEF

I. INTRODUCTION

Staff of the Public Utility Commission of Oregon (Staff) files its Reply Brief in the above-captioned docket. In this case, Pacific Power (PacifiCorp or Company) seeks to increase its Transition Adjustment Mechanism (TAM) costs by approximately $1.1 million (Oregon-allocated) beginning January 1, 2022.[1] In support of its requested rate increase, PacifiCorp seeks to change its market cap methodology and requests a prudence determination on five new Coal Supply Agreements (CSAs). Staff's analysis demonstrates that PacifiCorp's request to change its methodology for market caps should be rejected, and that PacifiCorp's five new CSAs are imprudent, due to a lack of analysis supporting the contract minimums contained therein. Additionally, PacifiCorp's 2022 Net Power Cost (NPC) forecast should be reduced to account for Nodal Pricing Model (NPM) operational benefits, Qualifying Facility (QF) over-forecasting, Fly Ash sales, and an over-forecast of Bridger Coal Company (BCC) Materials & Supplies. This case also raises a policy question related to the Consumer Opt-Out Charge (COOC), which for purposes of this case only, should not be precluded from going negative if the final forecast supports such a result. Finally, PacifiCorp should be required to file its 2023 TAM no later than February 14, 2022, to ensure that parties have sufficient time to gain familiarity with AURORA.

[1] PacifiCorp's Opening Brief at 1.

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II. ARGUMENT

(A) PacifiCorp bears the burden of proof in demonstrating that its proposed costs in this case are reasonable.

PacifiCorp attempts to justify in part its requested increase in this case, and positions rejecting the adjustments recommended by Staff and intervenors, on its alleged overall under-recovery of NPC in recent years. It asks the Commission to set aside whether a particular forecasted cost or methodology change is reasonable in favor of considering PacifiCorp's previous NPC under-forecasts, either over-all (as with market caps) or within a particular cost stream (as with BCC materials and supplies). In fact, PacifiCorp goes so far as to criticize Staff for proposing adjustments that "do not even consider PacifiCorp's historical NPC under-recovery"[2] and proposing adjustments "that decrease NPC based on the historical over-recovery of specific line items."[3] As Staff made clear in its response to PacifiCorp DR 8, "Staff does not explicitly consider PacifiCorp's specific over- or under-recovery of NPC from prior years when making principled recommendations to improve the accuracy and reasonableness…of the TAM forecast, which is forward-looking."[4] In fact, in this proceeding, Staff recommended an adjustment to PacifiCorp's method of forecasting EIM benefits, which represented an increase to NPC.[5] Notably, the Company is not critical of that proposal and accepted Staff's adjustment.[6]

Nevertheless, PacifiCorp's position is legally incorrect. PacifiCorp retains the burden of proof to demonstrate that its proposed rate or schedule of rates is fair, just and reasonable.[7] The Commission is prohibited from authorizing a rate or schedule of rates that is not fair, just and reasonable.[8] Administrative agencies are required to base decisions in contested cases on the

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[2] PacifiCorp's Opening Brief at 2.

[3] PacifiCorp's Opening Brief at 3.

[4] PAC/1600, page 12.

[5] Staff/800, Dlouhy/3-23.

[6] PAC/400, Staples/82.

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

[8] *Id.*

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evidence in the record in the proceeding.[9] As such, if the Commission finds that the evidence demonstrates that a particular cost forecast or methodology is flawed such that it does not produce fair, just and reasonable rates, it is appropriate to adjust the proposed rate accordingly. This analysis is regardless of how the Company has performed in prior years, even to the extent that evidence may be on the record, because ratemaking is legislative and therefore forward-looking in nature. To go back and attempt a "make up call" in the current TAM proceeding based on a history of under-recovery is akin to retroactive ratemaking. Further, focus on total TAM costs, rather than the individual elements that comprise TAM rates, is problematic for two reasons. First, it absolves the utility from its responsibility to demonstrate reasonable and prudent costs. Second, it removes the incentive for the utility to improve its forecast in a principled manner.

As such, Staff's position – and those of intervenors proposed adjustments to 2022 NPC – are appropriately considered based on the evidence in this case, and for purposes of setting fair, just and reasonable 2022 NPC.

(B) The Commission should reject PacifiCorp's proposed modeling change related to market caps for use in the 2022 TAM.

PacifiCorp seeks Commission approval of a modeling change to the market caps included in GRID, which function to "help the GRID model simulate real-world conditions by putting meaningful limitations on PacifiCorp's ability to sell power into illiquid market hubs."[10] The driver for PacifiCorp's proposed change is two-fold: first, PacifiCorp argues that will better reflect actual system operations, and second, it will "mitigate the chronic overstatement of off-system sales in its NPC forecasts."[11] Specifically, the Company proposes replacing the current

[9] ORS 183.450(2); *Groshong v. Montgomery Ward Co.*, 73 Or App 319, *rev den* 332 Or 632 (2001).

[10] PacifiCorp's Opening Brief at 6.

[11] *Id*.

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"maximum-of-averages" market cap methodology with the "average-of-averages" market cap methodology. The result is a $5.1 million increase in 2022 NPC.[12]

Market caps are calculated using four years of hourly sales for each hub. Both methods start by averaging the sales at the hub at the month-hub-high/low demand level, leading to four separate data points for each month-hub-high/low demand group. The current "maximum-of-averages" approach has been in place since the 2013 TAM.[13] It sets market caps based on the "highest of the four most recently available relevant averages for each trading hub, each month, and differentiated by on- and off-peak hours,"[14] or in other words, the maximum of the four data points in each group. Conversely, PacifiCorp's "average-of-averages" approach sets market caps based on "market depth for sales during all hours based on historical average sales from the most recent 48-month period for each trading hub, each month, segregated by heavy-load hour (HLH) and light-load hour (LLH) periods,"[15] or in other words, the average of all four of the data points in each group.

PacifiCorp's request in this case should be rejected. The Company has not demonstrated, based on the evidence in the record in this proceeding, that it has chronically over-forecast off-system sales in recent TAMs. As such, the Company has failed to carry its burden in demonstrating that its proposed methodology change is appropriately targeted to address its alleged over-forecast of off-system sales.

1. The record in this case does not demonstrate that PacifiCorp has chronically over-forecast off-system sales, which undercuts the basis of its argument.

PacifiCorp cites to the Commission's final order in UE 374 for support of its modeling change, wherein the Commission referred to, as an example, Staff's finding in that case that

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[12] Staff/1200, Dlouhy/2.

[13] PacifiCorp's Opening Brief at 7.

[14] PacifiCorp's Opening Brief at 8.

[15] PacifiCorp's Opening Brief at 7.

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PacifiCorp's off-system sales are being over-forecast.[16] PacifiCorp fails to acknowledge that Staff also concluded that GRID over-forecasts purchases from market hubs using GRID, which has an off-setting effect to the over-forecast of sales.[17] Building from the discussion in PacifiCorp's most recent general rate case proceeding (UE 374), Staff asked discovery to verify whether the Company's claims of an over-forecast of off-system sales were founded.[18] Based on information provided to Staff in discovery, Staff concluded that PacifiCorp's claims were exaggerated, based on a comparison of projected and actual off-system sales since 2013.[19] AWEC reached the same conclusion, finding that off-system sales are not over-estimated when adjusted for bookouts.[20]

PacifiCorp argues that Staff and AWEC rely on an inappropriate dataset. Namely, that relying on wholesale sales data, adjusted for bookouts, is inappropriate because GRID does not account for the possibility of bookouts, and therefore, they are not modeled as part of normalized NPC.[21] Instead, PacifiCorp urges the Commission to rely on audited and approved PCAM data and reject the use of wholesale sales data, including bookouts, to conclude that there is a significant over-forecast of off-system sales.[22] As Staff pointed out in testimony, the Company's criticisms of using wholesale transaction data are inconsistent and flawed.[23] PacifiCorp criticizes Staff's analysis for not accounting for booked-out transactions, while simultaneously criticizing AWEC's removal of booked-out transactions and DA/RT transactions that offset in a similar manner.[24] PacifiCorp cannot have it both ways.

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[16] *In re PacifiCorp*, OPUC Docket No. UE 374, Order No. 20-473 at 130 (Dec. 18, 2020).
[17] Staff/800, Dlouhy/34 (citing to UE 374 – Staff/2400, Gibbens/20-21).
[18] Staff/1200, Dlouhy/4.
[19] *Id*.
[20] AWEC/200, Mullins/12-13.
[21] PacifiCorp's Opening Brief at 12.
[22] *Id*.
[23] Staff/1200, Dlouhy/21.
[24] *Id*.

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PacifiCorp also fails to acknowledge the significance of PCAM settlements and the Commission's determinations in those proceedings. While true that PacifiCorp unilaterally asserted that NPC under-recovery was due to an over-estimate of off-system sales in several previous PCAM proceedings,[25] the Commission has never made a factual determination that this is the reason for PacifiCorp's variance from forecast NPC. In fact, every stipulation supports the exact opposite conclusion – that "no Settling Party approves, admits, or consents to the facts, principles, methods or theories employed by any other Settling Party."[26] And in adopting the Stipulation, the Commission is not relying on PacifiCorp's alleged basis for a NPC variance. Instead, the Commission's review of a stipulation considers whether there is sufficient evidence in the record, that the resolution is appropriate and that the result is just and reasonable rates.[27] The issue to resolve in the PCAM is whether a rate change is warranted given the variance between forecast NPC and actual NPC, subject to application of the deadbands, sharing and earnings test. As such, PacifiCorp's arguments that the PCAM filings are audited and should carry more weight are misplaced.[28]

2. PacifiCorp's proposed methodology change should be rejected because it is poorly supported, poorly timed, and has previously been rejected by the Commission.

Even if the Commission concludes that PacifiCorp's NPC forecast for the last several years has over-forecast off-system sales, the Commission should retain the "maximum-of-averages" approach for the 2022 TAM. No party argues that market caps reflect how the Company transacts in the market—rather, they have been deemed a necessary part of GRID to address GRID's assumption that all markets have unlimited market depth that are not burdened by load requirements, transmission constraints, market illiquidity or changing market prices.[29] In

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[25] *See* PAC/1604; PAC/1605; PAC/1606; PAC/1607.

[26] PAC/1604 at 7; PAC/1605 at 8; PAC/1606 at 7; UE 392 – Stipulation at ¶ 10.

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

[28] *See* PacifiCorp's Opening Brief at 12.

[29] Staff/800, Dlouhy/24-25.

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this sense, any market cap is similarly unrealistic. The best solution "is to make the model more realistic instead of imposing increasingly fallacious assumptions to counter other model shortcomings."[30] PacifiCorp's proposal does not make GRID more realistic—in fact, it is an inferior method to the current approach, and lacks analytical support demonstrating otherwise.

Staff's testimony set forth the evidence that would be necessary to demonstrate that the "average of averages" approach is preferable to the "maximum of averages" approach, which would include a time series of each GRID run from 2013 to 2020 using the "average of averages" approach.[31] The Company declined to undertake this analysis, characterizing it as "onerous."[32] But as Staff points out, "this would only require a GRID run for each past year using the proposed other market caps."[33] Without this information, PacifiCorp cannot demonstrate that its proposal is an improvement to GRID.[34]

Notably, PacifiCorp undercuts its own argument that its proposed "average-of-averages" approach is principled and adequate to address the alleged over-forecast of off-system sales by admitting that it merely "reduces off-system sales volume by approximately 16 percent (or 1.4 million MWh total company)… which is a small fraction of the sales over-forecast PacifiCorp has experienced…"[35] The Company seems to argue that its proposal is good enough to move the needle in the right direction, and should therefore be adopted over the infirmities discussed by Staff, CUB and AWEC. The Company's testimony in this case does not demonstrate it put forth an effort to explore alternative ways to address is alleged over-forecasting of off-system sales.[36] This type of results-oriented approach to TAM-modeling should be rejected.

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[30] Staff/800, Dlouhy/30.

[31] Staff/1200, Dlouhy/7-8.

[32] PAC/1000, Staples/43.

[33] Staff/1200, Dlouhy/8.

[34] *Id*.

[35] PacifiCorp's Opening Brief at 6.

[36] Staff/1200, Dlouhy/5.

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Moreover, when adopting the "maximum of averages" approach, the Commission did so over PacifiCorp's objection and concluded that the "average of averages" approach "overstates expected NPC."[37] Inexplicably, PacifiCorp argues that the Commission "was not rejecting the basic methodology of the average-of-averages approach"[38] and that it was merely "splitting the differences between the average-of-averages approach and eliminating market caps altogether."[39] This argument ignores that the Commission may only approve rates that it deems to be fair, just and reasonable,[40] which in that case did not include NPC calculated with market caps using the average of average methodology. The suggestion that the Commission's decision was less than principled is unfounded, even if its effect did "essentially split the difference."[41] PacifiCorp has failed to demonstrate that the infirmities providing a basis for the "average of averages" approach in the 2013 TAM do not persist in this case.[42]

Finally, PacifiCorp's proposal is poorly timed. The Company will utilize the AURORA model in its 2023 TAM to forecast its 2023 NPC. This is its last year to utilize the GRID model. PacifiCorp argues that its transition to AURORA for the 2023 TAM should not preclude its proposed change to market caps methodology in this case, because the change would address "a persistent and significant forecast error in 2022."[43] For the reasons discussed above, the Company's proposal should be rejected, even if only for one year, as the "average-of-averages" methodology for market caps lacks sound support.

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[37] *In re PacifiCorp*, OPUC Docket No. UE 245, Order No. 12-409 at 7 (Oct. 29, 2012).
[38] PacifiCorp's Opening Brief at 10.
[39] *Id*.
[40] ORS 756.040; ORS 757.210.
[41] *In re PacifiCorp*, OPUC Order No. 13-008 at 1 (Jan. 15, 2013).
[42] Staff/1200, Dlouhy/7.
[43] PacifiCorp's Opening Brief at 11.

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3. If the Commission is inclined to make an adjustment to PacifiCorp's market cap methodology, it should adopt Staff's "third quartile of averages" methodology on a one-time, non-precedential basis.

Staff's alternative recommendation, should the Commission determine that an adjustment to PacifiCorp's market cap methodology is warranted, is to adopt a "third quartile of averages" approach. This approach takes the two highest values out of the four calculated market depths for each month-hub-on/off peak group and averages them.[44] The result is a methodology that maintains the "maximum of averages" approach's ability to portray true market depth, while also seeking to address PacifiCorp's concerns about GRID's over-forecast of off-system sales.[45]

Because PacifiCorp will utilize AUORA for the 2023 TAM, Staff's recommendation is that this methodology only be used for setting 2022 TAM rates. Whether and to what extent market caps need to be set or adjusted in AURORA should be fully considered in the ratemaking proceeding utilizing AURORA. The result would be a $3.36 million reduction to PacifiCorp's requested Oregon-allocated 2022 NPC.[46]

PacifiCorp offers little criticism in its Opening Brief, merely arguing that Staff's proposal does not "effectively end the gross over-estimation of the sales in the TAM…"[47] However, Staff's testimony questions PacifiCorp's reliance on PCAM data to demonstrate an over-forecast of off-system sales, given that it provided different data in response to discovery that demonstrates an over-recovery of off-system sales.[48]

(C) The Commission should find PacifiCorp's decision to enter into five new Coal Supply Agreements to be imprudent, based on a lack of analysis supporting the contract minimums.

In this case, PacifiCorp seeks to reflect in rates five new Coal Supply Agreements (CSAs). Two CSAs will supply coal to the Hunter plant, two will supply coal to the Dave

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[44] Staff/1200, Dlouhy/16.

[45] Staff/1200, Dlouhy/3.

[46] *Id*.

[47] PacifiCorp's Opening Brief at 14.

[48] Staff/1200, Dlouhy/20.

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Johnston plant, and one will supply coal to the Craig plant.[49] Staff's analysis in this proceeding has focused on minimum take provisions, and whether those have been appropriately informed by analysis that PacifiCorp should have undertaken prior to execution. As such, the question before the Commission is whether PacifiCorp acted prudently when it executed the five new CSAs. "A prudence review must determine whether the company's actions, based on all that it knew or should have known at the time, were reasonable and prudent in light of the circumstances which then existed."[50] The Commission's review considers not just the decision made by the utility, but also the decision-making process used to reach that decision.[51] The Commission has previously clarified that a utility's decision-making process may be "highly relevant" as to whether the decision was prudent.[52] And in PacifiCorp's 2012 general rate case, the Commission made clear that a lack of analysis was sufficient harm to ratepayers to warrant a prudence disallowance, even when a particular harm for that action could not be readily quantified.[53]

The record in this case is replete with the relevant information that PacifiCorp did consider when it decided to execute the five new coal contracts—but nevertheless the Company's contract negotiations lacked the meaningful, holistic economic cycling analysis that should have informed its decision-making. In fact, PacifiCorp concedes that it did not even include the ability to economically cycle the Dave Johnston or Craig plants in the analysis that informed its negotiations on the five new CSAs. The Hunter plant was allowed to economically cycle in one study, but that study did not look at economic cycling at any of the other coal plants.[54] A holistic study that looks at the best way to utilize economic cycling across

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[49] PacifiCorp's Opening Brief at 29.

[50] *In re PacifiCorp*, OPUC Docket No. UE 246, Order No. 12-493 at 25 (Dec. 20, 2012).

[51] *Id.* at 26.

[52] *Id.* at 27.

[53] *Id.* at 31-32.

[54] Staff/1400, Anderson/12.

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PacifiCorp's coal fleet should be central to determining the level of generation, and therefore coal needs, of PacifiCorp's coal plants. Without it, Staff concludes that it is not possible to know whether the minimum take provisions agreed to by PacifiCorp are reasonable and prudent.[55] A reasonable utility would have considered this type of economic analysis prior to executing new CSAs. For these reasons, PacifiCorp's decision to execute each of the five new CSAs was imprudent. To remedy the Company's imprudence, Staff recommends PacifiCorp be required to model the five new CSAs without minimum take requirements in the TAM for the duration of the contract term.[56]

PacifiCorp attempts a number of arguments as to why Staff's recommendation should be rejected, including that its procurement strategy is "consistent with industry standards and mitigates risks associated with changing market and regulatory conditions,"[57] and that Staff's required analysis is novel, unnecessary and lacks evidentiary support.[58]

1. PacifiCorp's economic cycling analysis is not sufficient to support a prudence finding for its recently executed CSAs.

The genesis of Staff's prudence recommendation is PacifiCorp's failure to conduct a robust, realistic economic cycling study that contains a full assessment of economic cycling on PacifiCorp's system as a whole. Failure to undertake such a study prevents the Company from reasonably estimating the optimal generation level at any of its dispatchable plants, which impacts PacifiCorp's ability to determine optimal minimum take levels that inform contract negotiations.[59]

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[55] Staff/1400, Anderson/12.

[56] Staff/1400, Anderson/10-11.

[57] PacifiCorp's Opening Brief at 30.

[58] PacifiCorp's Opening Brief at 35.

[59] Staff/1400, Anderson/10.

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PacifiCorp argues that its "coal procurement strategy is consistent with industry standards and mitigates risks associated with changing market and regulatory conditions."[60] The Company's focus on industry standards seems to be on the inclusion of minimum-take requirements[61] – a contracting feature which Staff has not in this case argued are *de facto* imprudent. To be clear, Staff's concern is that PacifiCorp did not undertake the appropriate analysis to determine what the correct minimum take levels would be, but Staff does not argue that minimum take levels are, themselves, imprudent. PacifiCorp failed to consider economic cycling of its fleet as a whole, and therefore cannot know the appropriate minimum take levels that the Company should have negotiated. For example, if the Company had looked holistically at its system, economic cycling might have been shown to be beneficial at a plant such as Jim Bridger. If this was the case, then Jim Bridger would have its generation reduced for a time, and the generation forecast at other coal plants could increase in response. In this way, the generation forecast at each plant is dependent on economic cycling outcomes at all of the other plants.

PacifiCorp next argues that it did in fact "reasonably consider[] economic cycling before executing the new CSAs"[62] because it "performed substantively the same analysis as Staff recommends."[63] This is not the case. As Staff witness Ms. Rose Anderson demonstrates in both her testimony and at the hearing, the Company's studies do not "[redacted]

[60] PacifiCorp's Opening Brief at 30.

[61] PacifiCorp's Opening Brief at 30-31.

[62] PacifiCorp's Opening Brief at 37-38.

[63] PacifiCorp's Opening Brief at 37.

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[redacted]”[64] Further, the Company’s studies lack a reliability constraint, rendering the results “[redacted].”[65]

To overcome its lack of analysis, PacifiCorp speculates on the results in an attempt to negate its necessity, arguing that “economic cycling will not materially decrease the minimum take levels because there are limited opportunities for economic cycling in actual operations.”[66] And in the same vein, that its studies “confirm that economic cycling provides insignificant cost savings.”[67] PacifiCorp argues that even when there are no constraints, not even reliability constraints, coal generation in the TAM decreased by a *de minimus* amount of [redacted] and the impact to NPC was a 0.4 percent decrease.

PacifiCorp’s results-oriented justifications miss the point and should be dismissed. It is not possible to know with certainty the results of analysis that was never done. In fact, the results could surprise PacifiCorp given its concerns about how “novel” Staff’s recommendation is in this case. Further, PacifiCorp’s characterization of the likely results as “insignificant” in forecasting operations or rates is not well taken. As Staff witness Ms. Rose Anderson demonstrated at the hearing, [redacted] is hardly *de minimus* when you consider it is the equivalent to a coal plant running at [redacted][8]

2. PacifiCorp has been aware for some time that economic cycling is an integral piece of analysis for the reasonableness of coal costs.

PacifiCorp argues that Staff’s recommendation is novel – that the Commission has never applied this standard before – that it is a departure from the Commission’s long-standing prudence standard. Staff acknowledges that the Commission has not yet required a utility to demonstrate that it has considered economic analysis of its fleet on a holistic basis prior to a

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[64] Confidential Hearing Tr. at 11, lines 16-22.

[65] Confidential Hearing Tr. at 12, line 5.

[66] PacifiCorp’s Opening Brief at 38-39.

[67] PacifiCorp’s Opening Brief at 39.

[68] Confidential Hearing Tr. at 4, lines 13-19.

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finding that a coal supply agreement is prudent. However, Staff's recommendation does not function as a change to the Commission's long-standing prudence standard, which Staff agrees applies in this case as discussed above. Prudence is based on what the utility knew or should have known at the time the decision was made and includes a review of the Company's decision-making process (including supporting analysis). In this case, Staff's argument is that PacifiCorp should have known that it should conduct such analysis prior to executing the five new CSAs, and that a reasonable utility would have conducted robust economic analysis, including economic cycling opportunities on its fleet to identify areas of flexibility, in order to inform fuel supply agreements, including CSAs. Nothing about Staff's recommendation seeks to change the underlying standard. The disagreement between Staff and PacifiCorp is whether PacifiCorp knew or should have known it should be considering economic cycling of its fleet as a whole. In this case, it should have.

PacifiCorp has been well aware for some time that it should be considering the impacts of potential changed market conditions and/or regulatory conditions on economic cycling and generation levels at its coal plants.[69] In PacifiCorp's 2018 TAM, coal was key issue in the case.[70] Staff questioned the Company's coal dispatch in GRID, advocating for inclusion of economic shutdowns,[71] and raised concerns with implications from liquidated damages provisions in CSAs and the impact on the Company's NPC.[72] More generally, Staff and Sierra Club raised numerous issues related to PacifiCorp's CSAs and coal procurement strategies, including a lack of transparency into PacifiCorp's considerations and processes for entering into new long-term CSAs.[73] The Commission validated these concerns by requiring PacifiCorp to

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[69] Staff/1400, Anderson/4 (citing to UE 323 – Staff/500, Kaufman/35-37; UE 323 – Sierra Club/100, Vitolo/8; UM 1712 – Sierra Club's Initial Brief at 1; LC 70 - Staff's final comments to PacifiCorp's 2019 Integrated Resource Plan at 12- (Mar. 4, 2020)).

[70] *In re PacifiCorp*, OPUC Docket No. UE 323, Order No. 17-144 at 10-14 (Nov. 1, 2017).

[71] *Id.* at 10-11.

[72] *Id.* at 11-12.

[73] *Id.* at 12-14.

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engage in additional analysis and reporting in a more holistic and direct way, as well as engaging in workshops with intervenors to better understand and address these issues. With regard to CSAs in particular, the Commission noted that updated reporting "will serve as a starting place, and we will consider any party suggestions for an expanded or altered report in the future."[74]

PacifiCorp's argument also suggests that the Commission cannot require analysis it has not previously directed in determining whether a utility's actions are prudent. This is also not the case. The Commission's determination of imprudence is not limited to instances where the Company has failed to follow an explicit Commission directive. Rather, as Staff witness Rose Anderson testified at hearing, the burden is on the Company to show that it has done the appropriate analysis that a reasonable utility would do to support its decisions, including analyzing whether or not economic cycling would impact contract terms that PacifiCorp should prudently agree to.[75] As summed by Ms. Anderson, "[redacted][6]

PacifiCorp's arguments about modeling required in previous TAMs is similarly misplaced. While economic cycling has been required in the last four TAMs under settlement agreements approved by the Commission, the issue in those cases was related to the Company's forecast dispatch of plants one year into the future. Staff agrees this analysis provides insight into the economics of the Company's coal fleet for ratemaking purposes in power cost proceedings, but not as justification for the prudence of the Company's contracting decisions.

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[74] *Id.* at 13 ("We require [the updated and expanded 2010 fleet-wide coal inventory policies and procedures with current supply information] because we typically receive coal planning information in a piecemeal fashion and this makes it difficult to track year over year.").

[75] Confidential Hearing Tr. at 12, lines 16-25.

[76] Confidential Hearing Tr. at 12, line 25 to 13, line 2.

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3. PacifiCorp should be required to conduct a stand-alone Jim Bridger economic cycling study consistent with CUB's and Staff's recommendation.

CUB recommends that PacifiCorp undertake a study in GRID that allows Jim Bridger Unit 1 to economically cycle.[77] In its rebuttal and-cross answering testimony, Staff supported CUB's request.

PacifiCorp dismisses CUB's and Staff's request, arguing that it is "too late to provide insight into the Company's NPC forecasts in 2022. Even if PacifiCorp did conduct such a study, the results would likely not change Jim Bridger's status during [redacted]"[78]

Consistent with its position above, Staff cautions again that the results of the study cannot be known definitively without the study itself. Further, Staff continues to find that a study looking at the potential to cycle Jim Bridger Unit 1 would be beneficial in determining whether a forecast that includes economic cycling at the unit is a requirement for setting just and reasonable rates in the TAM. Staff recommends that the study "include practical considerations, such as whether the unit can be cycled off while still allowing necessary maintenance to take place on other units."[79] Staff notes that, alternatively, its recommended economic cycling study that would identify economic cycling opportunities across PacifiCorp's system could negate the need to review Jim Bridger Unit 1 individually. If the Company's analysis determines that economic cycling of Jim Bridger Unit 1 is beneficial to customers, while meeting reliability requirements and ensuring an appropriate maintenance schedule is maintained, it should be included in TAM filings.[80]

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[77] CUB/100, Jenks/17.

[78] PacifiCorp's Opening Brief at 45.

[79] Staff/1400, Anderson/18.

[80] Staff/1400, Anderson/18.

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(D) The Commission should direct PacifiCorp to include specific information related to coal supply agreement negotiations as well as copies of executed CSAs and mine plans as part of the minimum filing requirements in a TAM where a new CSA is subject to prudence review.

In order to address concerns about the lack of transparency into PacifiCorp's CSA negotiations, generally, Staff recommends the Commission direct PacifiCorp to include the following in its initial TAM filing:

- For every new CSA subject to prudence review, PacifiCorp must provide an in-depth explanation of how the Company considered the potential for economic cycling when deciding on minimum take levels in that contract.
  - EIM participation should not be assumed to preclude the possibility of economic cycling. The Company must show whether EIM participation is better for customers than economic cycling.
  - Joint ownership should not be assumed to preclude the possibility of economic cycling. The Company must show whether cycling would be economic at co-owned units. For any units that could cycle economically, PacifiCorp must demonstrate that it reached out to co-owners to request they consider cycling as well.
- A chart comparing MMBtus from the generation forecast used to inform contract negotiations to the number of MMBtus that PacifiCorp will be contractually obligated to pay for at each plant, by year.
- Workpapers for the generation forecasts used to inform negotiations on each new coal contract introduced in that TAM filing.[81]

Further, Staff supports Sierra Club's recommendation that PacifiCorp be required to provide copies of its coal supply agreements and affiliate mine plans in each TAM filing.[82] Staff

[81] Staff/1400, Anderson/6-7.

[82] Staff/1400, Anderson/6.

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reasons that ready access to this information is necessary given that these contracts and mine plans represent "a substantial portion of the cost included in rates in the TAM."[83]

PacifiCorp raises concerns that disclosure of such information should not be required. The Company argues that coal suppliers consider the contracts to be extremely sensitive, and that disclosure could subject PacifiCorp to litigation and could damage relationships with counterparties that could impact future negotiations.[84] Further, the Company argues that disclosure of terms could put PacifiCorp, as well as its suppliers, at a competitive disadvantage.[85] It argues that the modified protective order allows parties to seek copies of relevant sections of any CSA for use in developing their testimony, and that "neither Staff nor Sierra Club have explained why this provision is insufficient."[86]

PacifiCorp is mistaken that Staff has not testified to its concerns about the current process. Staff witness Ms. Rose Anderson testifies that "although PacifiCorp has routinely made coal contracts and affiliate mine plans available to view in person or over a web platform, this does not allow parties an ability to revisit contract provisions easily at a later date, and to spend ample time reviewing and analyzing contract provisions and how they relate to one another outside of the purview of the Company."[87] Staff further provided an example as to how this asymmetry in information plays out in the record in a proceeding, citing to the fact that PacifiCorp's reply testimony quoted a specific highly confidential contract provision – something that Staff and other parties do not have ready access to do.[88]

Staff continues to find that the modified protective order is sufficient to ensure proper handling of these sensitive documents and urges the Commission to require PacifiCorp to file

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[83] Staff/1400, Anderson/6.

[84] PacifiCorp's Opening Brief at 51.

[85] PacifiCorp's Opening Brief at 51-52.

[86] PacifiCorp's Opening Brief at 51.

[87] Staff/1400, Anderson/6-7.

[88] Staff/1400, Anderson/7.

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copies of its coal supply agreements and affiliate mine plans in each TAM filing. Alternatively, if the Commission is inclined to give weight to PacifiCorp's concerns, Staff recommends at a minimum that PacifiCorp be required to provide copies of all new CSA agreements and mine plans in the TAM following execution or finalization of the document.

(E) The Commission should ensure customers retain benefits associated with PacifiCorp's transition to the Nodal Pricing Model.

Although the NPM will not be used to track power costs for allocation purposes until 2024, PacifiCorp began using the NPM for operational dispatch purposes on January 15, 2021.[89] Under its contract with CAISO, the third-party vendor providing day-ahead optimal unit commitment and hourly energy schedules for supply resources in PacifiCorp's Balancing Area Authority (BAA), PacifiCorp receives day-ahead schedules that the Company states "may reduce costs the Company incurs in *actual operations* because of the difference between the day-ahead schedule and the real-time dispatch."[90] In the Memorandum of Understanding in which the MSP parties agreed that PacifiCorp's pursuit of the NPM was prudent, PacifiCorp characterized operational benefits as "anticipated."[91]

PacifiCorp does not dispute that operational savings associated with its use of the NPM for dispatch both exist and should accrue to customers. As such, the issue is whether and how those benefits flow through 2022 NPC. PacifiCorp argues that nodal pricing dispatch benefits are "impossible to track" and already embedded in GRID's forecast of 2022 NPC because its use of the NPM in actual operations merely serves to "bring actual operations closer to the perfect foresight of the GRID model."[92] In that sense, PacifiCorp likens the NPM dispatch benefits to

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[89] Staff/1300, Gibbens/2.

[90] PacifiCorp's Opening Brief at 22.

[91] Staff/900, Gibbens/9; UM 1050 – PAC/101, Lockey/119.

[92] PacifiCorp's Opening Brief at 22.

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intra-regional EIM benefits, which the Commission previously concluded were reflected in the GRID forecast.[93]

However, Staff's testimony in this case demonstrates that NPM dispatch benefits are forecastable, and that GRID does not capture these benefits. Staff's recommendation remains that for the 2022 TAM, benefits be set equal to costs. Alternatively, Staff recommends that the Company perform comparative 2022 NPC run in AURORA, and benefits be addressed as part of the 2022 PCAM.

1. GRID does not capture the operational benefits associated with the Company's use of the NPM for dispatch, and therefore, such benefits cannot be embedded in 2022 NPC.

PacifiCorp makes two primary arguments regarding NPM dispatch benefits – first, that they result from a difference between a NPM forecast and actual operational decisions in that the NPM means "fewer changes between the day-ahead dispatch plan and real-time dispatch," which are "impossible to track" on a forecast basis.[94] Next, it argues that GRID assumes these benefits, because the GRID forecast does not include the "inefficient" costs of changes between forecast and actuals.[95]

PacifiCorp's testimony identifies the operational benefits only as those that occur from the reduction in re-dispatching the Company's system when moving from day-ahead to real-time operations due to improvements from the CAISO-produced day-ahead optimal unit commitment over PacifiCorp's old day-ahead dispatch approach and hourly energy schedules for supply resources in PacifiCorp's BAA.[96] In other words, a scenario that is impossible to forecast. Staff identifies a second operational benefit that can be captured in the 2022 TAM, because of PacifiCorp's reliance on the GRID model to forecast NPC rather than AURORA. GRID, as a

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[93] PacifiCorp's Opening Brief at 24-26.

[94] PacifiCorp's Opening Brief at 23.

[95] *Id*.

[96] *Id*.

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zonal model, is not able to forecast with the same granularity as AURORA.[97] PacifiCorp nevertheless argues that GRID has perfect foresight, and therefore, there is no difference between using GRID to forecast NPM operational benefits, and the Company's use of the CAISO-produced schedule to forecast operational benefits.

While Staff does not dispute that GRID has perfect foresight, it nevertheless is unable to capture the NPM forecast dispatch benefits that the Company is currently accruing and will in theory be reflected going forward in AURORA.[98] The NPM dispatch benefits lie in its ability to "identify the impact each generator has on the overall system, something that is not built into GRID."[99] Specifically, each individual generator is assigned a separate contribution to transmission constraints, which allows for a better-informed model "that can optimize to a higher level of precision."[100] Conversely, GRID, as a zonal model, "defines areas of limited transmission constraints and connects zones via transmission constraints between them."[101] Then within each zone, the generation-weighted averages contributing to the constraints between each zone are the same, as opposed to on a separate generator by generator basis.[102] The effect is that even on a forecast basis, the NPM, as a nodal model, allows for a better informed, more optimized forecast dispatch.[103] Notably, PacifiCorp does not dispute that the NPM is more granular than GRID, it simply dismisses the point as not relevant.[104] Staff's testimony demonstrates that this is, in fact, a very relevant distinction for purposes of forecasting 2022 NPC. Although GRID may have perfect foresight, it does not have the ability to identify the

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[97] Staff/900, Gibbens/11-12.
[98] Staff/1300, Gibbens/5-6.
[99] Staff/900, Gibbens/12.
[100] Staff/900, Gibbens/11; Staff/1300, Gibbens/3-4.
[101] Staff/900, Gibbens/11.
[102] *Id.*
[103] *Id.*
[104] Staff/1300, Gibbens/4-5.

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impact each generator has on the overall system.[105] The record demonstrates that PacifiCorp's use of the NPM for dispatch produces operational benefits that are not captured in GRID, and as such, should be separately credited to customers' 2022 NPC rates.

PacifiCorp also attempts to discredit Staff's position using the NPM MOU in docket UM 1050. PacifiCorp claims that it was clear in MSP that "any operational savings resulting from NPM would result from 'a more efficient day-ahead set up' and would be 'embedded' in NPC" and that Staff did not argue in that case that NPM would also create NPC savings that would be imputed into the TAM.[106]

First, Staff rejects PacifiCorp's suggestion that advocating for inclusion of operational benefits in a ratemaking proceeding is somehow inappropriate or something that should have been vetted or discussed in MSP. Notably, MSP is not a ratemaking proceeding—and the ratemaking treatment associated with the Company's decision to utilize a new model are appropriately considered in the TAM. When PacifiCorp joined the EIM, ratemaking treatment of benefits was not something to be settled as part of the MSP process prior to inclusion in TAM rates.

Second, PacifiCorp's recitation of Mr. Wilding's testimony is irrelevant, but nevertheless incomplete and without context. PacifiCorp omitted the remainder of Mr. Wilding's statement, namely that "the NPM potentially provides more granular day-ahead setup information resulting in potential operational cost savings and the cost savings will be embedded in actual NPC."[107] Mr. Wilding's testimony also makes clear that the Company's intent was to use AURORA for NPC forecasts.[108] This raises two questions: (1) whether the "embedded" benefits were thought to be captured through GRID, rather than AURORA, and (2) whether its statement that benefits would be embedded was predicated on the Company's use of AURORA. The parties'

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[105] Staff/900, Gibbens/11-12.

[106] PacifiCorp's Opening Brief at 23.

[107] UM 1050 – PAC/300, Wilding/11.

[108] UM 1050 – PAC/300, Wilding/12-13.

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understanding or intentions in the MSP MOU is not, however, dispositive on the outcome of the issue in this case.

Finally, PacifiCorp's attempt to analogize PacifiCorp NPM operational benefits to intra-regional EIM benefits, which are assumed to be embedded in NPC forecast rates due to GRID's perfect foresight, is flawed. The EIM operates at the fifteen-minute and five-minute time intervals. The new NPM model provides optimal dispatch results in the day-ahead time period. GRID optimizes on an hourly basis but is assumed to be the actual dispatch due to load forecast certainty. This means that GRID estimates what the actual dispatch will be, similar to the EIM dispatch, whereas the CAISO day-ahead dispatch is an advisory forecast meant to optimally situate the system. In actual operations, there are substantive differences between the viable planning, procurement, and operation of a system at the day-ahead time period versus in real-time. Further, the Company's argument that GRID does not "include costs associated with changes between the day-ahead setup and real-time dispatch,"[109] is in direct conflict with assertions made by the Company in previous TAM filings. For example, when discussing the need for the Day-ahead/Real-time (DA/RT) adjustment in UE 296, the Company noted that there are unaccounted for costs related to rebalancing the system and planning to meet load when moving from day-ahead to real-time. Specifically, the Company stated:

> The same is true for daily transactions – in some hours the volume acquired will be too low, while in others it will be too high, and additional purchases and sales will be required to cover the Company's actual position. In addition to buying or selling standard block products for monthly and daily average requirements will not result in a perfect balance of load and resources. This difference then must be closed out in the real-time market where the Company is a price-taker.[110]

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[109] PAC/1100, Wilding/6.

[110] UE 296 - PAC/100, Dickman/25.

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Because the Commission ultimately approved the DA/RT adjustment in UE 296, all subsequent TAM filings include the costs associated with changes between the day-ahead setup and real-time dispatch. Thus, even if the Commission were to determine that no additional benefits of the NPM existed outside of a reduction in re-dispatch costs from the day-ahead to real-time, the Commission should also conclude that either the DA/RT adjustment should be altered to reflect lower re-dispatch costs or adopt Staff's proposal to include the incremental benefits from the CAISO day-ahead advisory dispatch.

In sum, the record in this case supports three conclusions: (1) that PacifiCorp enjoys operational benefits associated with its use of the NPM for dispatch, (2) that GRID, as a zonal model, does not capture the NPM dispatch benefits with the same granularity as AURORA and therefore, does not pass the benefits back to customers through 2022 NPC; and (3) customers should benefit from the operational savings associated with the costs they pay.

2. The Commission should reduce PacifiCorp's 2022 NPC by $8.4 million, equal to the NPM costs paid by customers in 2022 forecast NPC.

Because PacifiCorp is enjoying operational benefits from the NPM, and because customers are currently paying $8.4 million annually in service fees paid to CAISO, customers should be compensated for the operational benefits in order to match the benefits and burdens associated with the NPM in rates.[111] Staff proposes to set benefits equal to costs, which as discussed below, is consistent with prior Commission precedent under similar circumstances.[112] Alternatively, Staff recommends that the Commission direct PacifiCorp to conduct a TAM model run in AURORA using the same inputs as in this year's TAM forecast in GRID, and to assess the difference in the 2022 PCAM.[113]

[111] Staff/900, Gibbens/12.

[112] Staff/900, Gibbens/12.

[113] Staff/1300, Gibbens/6-7.

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PacifiCorp criticizes Staff's $8.4 million adjustment as lacking evidence demonstrating that PacifiCorp enjoys a commensurate level of benefits.[114] It is true that Staff's adjustment is set equal to PacifiCorp's costs, because PacifiCorp has repeatedly declined to quantify the operational benefits.[115] Absent more specific data, Staff's recommendation follows the Commission's initial approach to matching EIM costs and benefits in rates utilized in PacifiCorp's 2015 TAM. In that case, the Commission adopted PacifiCorp, Staff and intervenors' stipulation that included an offset of EIM costs and benefits through 2015, with the exception of start-up costs.[116] The parties reached this agreement based on the premise that costs and benefits must flow together and that PacifiCorp had yet to quantify the benefits associated with its participation in the EIM. The underlying circumstances are similar to this case – PacifiCorp's recent utilization of a new tool impacting its NPC makes quantifying benefits difficult. Nevertheless, costs and benefits should flow together in this case.

Regarding Staff's alternative proposal, PacifiCorp argues it should be rejected because it is based on the false premise that a comparison of an AURORA run and a GRID run would isolate dispatch benefits associated with the NPM.[117] PacifiCorp's concerns should be dismissed. First, AURORA is a nodal model, with similar granularity as CAISO's nodal model. A comparative model run between AURORA and GRID will likely provide meaningful information, which the parties can analyze and make their respective arguments in the 2022 PCAM. The Commission need not pre-determine the validity of arguments that may be made in a future case. Further, as Staff points out, "waiting until the PCAM will allow Staff and stakeholders to utilize AURORA in next year's TAM prior to proposing adjustments or other recommendations regarding NPM benefits in the PCAM the following year."[118] This approach

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[114] PacifiCorp's Opening Brief at 26-27.
[115] Staff/900, Gibbens/12.
[116] *In re PacifiCorp*, OPUC Docket No. UE 287, Order No. 14-331 (Oct. 1, 2014).
[117] PacifiCorp's Opening Brief at 27.
[118] Staff/1300, Gibbens/7.

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provides parties time to review the differences apparent between GRID and AURORA and to make their case on the record from a better-informed position. Any differences between the resulting forecasts of GRID and AURORA should be investigated regardless of the ultimate determination of cause. It provides a more transparent transition to a new model and could aid in the quantification of a benefit forgone in GRID.

(F) The Commission should adopt Staff's adjustment to PacifiCorp's QF modeling, to correct a consistent over-forecast of QF costs.

Staff continues to recommend the Commission adjust PacifiCorp's QF costs by ($1.53) million, due to PacifiCorp's consistent over-estimation of the amount of MWh produced from PURPA QF projects.[119] Over-estimating QF costs results in an increase in NPC. Importantly, PacifiCorp does not dispute that it has consistently over-forecast QF costs. But rather than provide evidence in support of its forecast methodology, the Company relies on hollow arguments that Staff's position is contradictory and unsupported,[120] while failing to address PacifiCorp's chronic under-recovery of NPC.[121]

First, PacifiCorp argues that Staff's position is inconsistent and opportunistic given the Company's reliance on P50 forecasts for forecasting both its owned generation and its QF projects. It argues (without reference) that in prior cases, Staff has advocated for using P50 forecasts for PacifiCorp-owned resources in support of an NPC decrease, while in this case, argues for an adjustment that would adjust the impact of the P50 forecast, resulting in a decrease to NPC.[122] In other words, it argues that Staff's position opportunistically seeks to decrease NPC, rather than standing with principle.

PacifiCorp fails to acknowledge and discuss the context for use of the P50 forecast for PacifiCorp-owned resources, which makes clear that Staff's position is neither contradictory nor

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[119] Staff/1100, Zarate/2.

[120] PacifiCorp's Opening Brief at 28-29.

[121] PacifiCorp's Opening Brief at 29.

[122] *Id.*

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opportunistic. Staff was a signatory to the 2020 TAM, wherein it stipulated to use of a 50/50 weighting of the actual historical capacity factor and the P50 forecast for non-repowered existing wind resources.[123] For PacifiCorp's new and repowered wind projects, the parties agreed to use the P50 forecast in order to ensure that customers received the economic benefits used to justify the investment.[124] The Commission found this agreed-upon treatment consistent with its 2017 IRP customer protection standards, which was the basis for the stipulated treatment of new and repowered resources.[125] Contrary to PacifiCorp's opportunistic search of Staff's position in prior dockets, Staff has explicitly stipulated that use of a 50/50 weighting between P50 and actuals leads to fair, just and reasonable rates. Staff's recommendation in this case similarly seeks to account for actual performance in the wake of a demonstrated over-forecast of QF costs.

Finally, as discussed above, Staff continues to be concerned with PacifiCorp's opportunistic and unsupported arguments that any adjustment that would decrease NPC should be rejected because it does not specifically consider PacifiCorp's alleged under-recovery of NPC. This is not a valid basis for justification of a line-item cost in PacifiCorp's 2022 NPC. The fact remains that, it is undisputed on the record of this proceeding that despite application of the Contract Delay Rate, PacifiCorp's forecast of NPC continues to be over-stated due to its consistent over-forecast of QF costs. Staff has applied a principled adjustment to address this forecast error, which should be adopted.

(G) The Commission should adopt AWEC's Other Revenues adjustment related to fly-ash sales.

AWEC advocates for an adjustment to PacifiCorp's Other Revenues related to fly-ash sales to captures those sales not included in base rates. PacifiCorp argues that it should be rejected, as inclusion of fly-ash sales revenue in TAM rates is contrary to the TAM Guidelines,

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[123] *In re PacifiCorp*, OPUC Docket No. UE 356, Order No. 19-351 at Appendix A, pg 8 (Oct. 30, 2019).

[124] *Id.*

[125] *Id.* at 6.

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improperly one-sided, and unsupported in the record.[126] Staff's testimony sets forth a general concern that PacifiCorp appears to be selectively including, and thus updating, elements of Other Revenues in the TAM. To that end, Staff recommends that PacifiCorp fully review its forecast Other Revenues to ensure that any new contracts that are appropriately included in the TAM and increase revenues in 2022 are included in its indicative November filing.[127]

Staff's testimony also indicates its support for AWEC's recommended adjustment for fly-ash sale revenues. The record in this case indicates a significant increase in these revenues above those embedded in base rates, which is a trend anticipated to continue into 2022.[128] Staff finds that inclusion of these revenues in the TAM ensures that benefits are captured fully between rate cases[129] and that the revenues are directly tied to the production at PacifiCorp's coal plants.[130]

(H) The Commission should adopt AWEC's adjustment for Bridger Coal Company (BCC) Materials and Supplies.

AWEC also proposes an adjustment related to BCC materials and supplies (M&S), which it argues have been grossly overstated in recent years.[131] In 2020, PacifiCorp's forecast was overstated by 32 percent.[132] PacifiCorp does not dispute AWEC's analysis that these costs have historically been overstated in TAM rates, but nevertheless argues that an adjustment is not appropriate because other "offsetting factors substantially reduce AWEC's adjustment."[133] Namely, that materials and supplies related to reclamation were much higher in the last three

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[126] PacifiCorp's Opening Brief at 15-20.

[127] Staff/1000, Enright/11.

[128] *Id*.

[129] Staff/1000, Enright/11.

[130] AWEC/200, Mullins/24.

[131] AWEC/200, Mullins/20; AWEC/105.

[132] AWEC/200, Mullins/20.

[133] PacifiCorp's Opening Brief at 48-49.

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years, and that the overall variance between forecast and actual overall BCC costs have been within [redacted] of the forecasted amount over the last five years.[134]

PacifiCorp's rationale is problematic. First, the Company is attempting to justify a consistent over-forecast of BCC M&S for coal production because of its failure to accurately forecast BCC M&S for BCC reclamation activities. As discussed above, PacifiCorp has the burden of demonstrating that its proposed costs are reasonable on a line-item basis – it is not sufficient to argue that over- or under-forecasts "even out" over time to produce an overall allegedly reasonable forecast. Second, if its BCC M&S for reclamation are under-forecast, the Company could have, and arguably should have, sought to update its forecast for those costs in this proceeding. The mere fact that AWEC sought to correct an error in one aspect of the BCC M&S forecast does not absolve PacifiCorp from reasonably forecasting other aspects of BCC M&S costs.

(I) The Commission should make a final determination on whether the Consumer Opt-Out Charge should be permitted to go negative in its investigation into Direct Access (UM 2024).

PacifiCorp's Schedule 296 contains both the five-year transition adjustment (Schedule 200 generation charges for years one through give) and the Consumer Opt-Out Charge (COOC).[135] The COOC recovers the projected difference between fixed generation costs for years six through ten and the market value of the energy to serve the departed load.[136] For the first time in this proceeding, an unadjusted calculation of the COOC resulted in a calculation that would have produced a credit, rather than a charge, to participating Direct Access customers.[137] Rather than let the COOC go negative, PacifiCorp held the calculation at zero (i.e. no charge or

[134] PacifiCorp's Opening Brief at 48-49.

[135] Staff/1300, Gibbens/8.

[136] *Id.*

[137] *Id.*

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credit to participating DA customers).[138] Calpine, Staff and AWEC oppose PacifiCorp's treatment of the COOC in this proceeding.

Staff continues to recommend that the Commission make a final determination on this issue as part of the UM 2024 proceeding, which is the Commission's investigation into Direct Access issues.[139] This would allow for consideration of the policy implications of this issue in conjunction with other DA issues, allowing for a holistic approach to DA considerations.[140] However, for purposes of this proceeding, Staff recommends that the Commission order PacifiCorp to "utilize its approved methodology to calculate the COOC as a freely floating mechanism that can go below zero."[141]

PacifiCorp makes a number of policy arguments in support of its position that the COOC should be held to a floor set at zero. Specifically, that the COOC was never intended to be a credit,[142] and that allowing the COOC to go negative is bad policy because it implicates cost-shifting concerns.[143] PacifiCorp agrees with Staff that consideration of this issue on a permanent basis should take place in UM 2024, but should set the COOC floor at zero in this case.[144]

Although Staff maintains that consideration of these issues is best left to UM 2024, it is unclear as to whether PacifiCorp is arguing that there is a legal prohibition to the COOC going negative in this case.[145] Staff simply notes that PacifiCorp's characterization of law in the body of its brief fails to acknowledge that the prohibition set forth in ORS 757.607(1) is against *unwarranted* cost-shifting, not simply cost-shifting. That allowing the COOC to go negative

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[138] *Id.*

[139] Staff/1300, Gibbens/9-10.

[140] *Id.*

[141] Staff/1300, Gibbens/11.

[142] PacifiCorp's Opening Brief at 61.

[143] PacifiCorp's Opening Brief at 62.

[144] *Id*.

[145] *See* PacifiCorp's Opening Brief at 61 (referring to its arguments in UE 267 that "the elimination of the COOC was contrary to direct access laws prohibiting cost-shifting.").

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would result in unwarranted cost-shifting in this case requires a factual demonstration not found in the record.[146] When prompted to provide evidence, PacifiCorp declined.[147] Further, regardless of whether PacifiCorp ever intended the COOC to become a credit, there is no legal prohibition to a DA customer's transition from cost-of-service resulting in a transition credit, rather than a transition charge. The plain language of ORS 757.607(2) clearly contemplates both transition charges and transition credits – the check being on whether the overall direct access program results in an "unwarranted shifting of costs" to cost of service customers.[148]

(J) The Commission should direct PacifiCorp to file its 2023 TAM on or before March 1, 2022.

Staff continues to recommend that PacifiCorp file its 2023 TAM early but is amenable to CUB's proposed deadline of March 1, 2022. An earlier filing will better ensure that Staff and intervenors have ample time to work with AURORA and conduct discovery, as necessary, to understand inputs and assumptions. PacifiCorp is amenable to an earlier filing date but raises the concern that the trade-off could be workshops and presenting the AURORA model before the filing deadline.[149] Staff is not concerned that some workshops may need to take place after the TAM is filed, but supports CUB's recommendation that parties have initial access and training on how to use AURORA before the filing is made, as well as a PacifiCorp-led workshop that address AURORA modeling using real, rather than illustrative, figures from the Company's filing.[150] Staff is agreeable to PacifiCorp forgoing an update on April 1, 2022 as well as the Company's request to provide its Schedule 296 TAM calculation on May 30, 2022.

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[146] Staff/1300, Gibbens/10-11.

[147] *Id.*

[148] ORS 757.607(1).

[149] PacifiCorp's Opening Brief at 63.

[150] CUB/200, Jenks/22.

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III. CONCLUSION

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

DATED this 28th day of September 2021.

Respectfully submitted,

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