

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 390

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2022 Transition Adjustment Mechanism.

RULING

DISPOSITION: TESTIMONY AND EXHIBITS ADMITTED

This ruling memorializes the record for this proceeding and addresses two disputed exhibits. I granted several live motions to admit at hearing that are reflected in the hearing transcript. Parties also filed written motions to admit with supporting declarations from certain witnesses, and I grant those motions. Below is a list of all testimony and exhibits that are admitted into the record. Additionally, I take official notice under OAR 860-001-0460(d) of PacifiCorp's responses to Bench Requests 1 through 5 filed on September 17, 2021.

Calpine Energy Solutions filed a response to Oregon Citizens' Utility Board's (CUB) motion to admit testimony and exhibits, urging the Commission to exclude CUB exhibits 300, 301, and 302 from the evidentiary record. CUB filed a reply asserting its exhibits are relevant and that the exhibits' relevance are not substantially outweighed by unfair prejudice, confusion of this issues, or undue delay.

Calpine specifically objects to the admission of CUB exhibits 301 and 302, explaining these exhibits are two lengthy sets of preliminary comments by Portland General Electric Company and PacifiCorp, dba Pacific Power, from UM 2024 without any context, or any of the responsive comments filed in UM 2024. Calpine states these exhibits express assertions and opinions regarding direct access programs and the consumer opt-out charge. Calpine argues the exhibits should be excluded for lack of foundation because no witness sponsored the exhibits, and if admitted the exhibits could have the effect of expert testimony without having a sponsoring expert in this proceeding.¹ Calpine argues it would be highly prejudicial to allow such opinions and assertions to be admitted as evidence after the hearing, and that it cannot present responsive opinions to the assertions from UM 2024 without undue delay.

¹ Calpine's Response to CUB's Motion to Admit Testimony and Exhibits (Sep 8, 2021).

CUB responds that its exhibits are directly relevant to live issues in this proceeding. CUB argues the exhibits are all publicly available and have been filed by regulated entities before this proceeding and are therefore admissible as relevant evidence that may be relied upon. CUB argues the question is whether the probative value is substantially outweighed by unfair prejudice, confusion of the issues, or undue delay.² CUB explains that its exhibits do not represent expert testimony, but rather represent incremental evidence in support of CUB’s position on the opt-out charge as a matter of policy. CUB notes how the Commission has previously allowed exhibits not used in testimony into the record at the close of an evidentiary record, and that Calpine will not be prejudiced as it has the opportunity to respond to the exhibits in its cross-answering brief. CUB concludes that the Commission always retains discretion to determine how much weight to give different pieces of evidence.

I will admit CUB exhibits 300, 301, and 302. According to OAR 860-001-0450(1)(a), relevant evidence means “tending to make the existence of any fact at issue in the proceedings more or less probable than it would be without the evidence.” According to our rules, evidence may be excluded if the probative value of the evidence is “substantially outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay.”³ I find CUB’s exhibits CUB 301 and 302 are relevant as the opt-out charge is a disputed issue in this proceeding. I further find that allowing CUB 300, 301, and 302 into the record does not create prejudice, confuse the issues, or cause undue delay. The exhibits were not central to CUB’s arguments and merely represent the utilities’ positions in another proceeding. Any procedural concerns with the late timing of CUB’s filing of CUB 300, 301, and 302 were mitigated by the opportunity to respond in a cross-answering brief.

This list memorializes the testimony and exhibits admitted into the record:

PARTY/EXHIBIT NO.	DESCRIPTION
AWEC/100	Opening Testimony of Bradley G. Mullins.
AWEC/101	Qualification Statement of Bradley G. Mullins
AWEC/102	PacifiCorp Responses to Discovery Requests
AWEC/103	2022 Production Tax Credit Rate Analysis
AWEC/104	Other Revenue Analysis

² CUB’s Reply to Calpine (Sep 15, 2021).

³ OAR 860-001-0450(1)(c).

AWEC/105	Confidential Bridger Coal Company Materials and Supplies Forecast Error 2018-2022
AWEC/200	Rebuttal and Cross-Answering Testimony of Bradley G. Mullins
AWEC/201	Confidential AWEC Alternate Analysis
AWEC/202	Confidential Comparison of GRID Model Sales to Historical Actual Sales, Including Detail of Booked-out Transactions
AWEC/203	Confidential Revised BCC Materials and Supplies Expense Analysis
AWEC/204	Revised Other Revenue Adjustment, Including Coal Ash Sales
AWEC/205	Portland General Electric Company Negative Opt-Out Charges from 2008
AWEC/300	OPUC Order No. 10-363 Adopting Stipulation in Docket No. UE 216
AWEC/301	Excerpt of PacifiCorp's FERC Form 1: Annual Report of Major Electric Utilities, Licensees and Others, and Supplemental Form 3-Q: Quarterly Financial Report
AWEC/302	Excerpt of Direct Testimony of Steven R. McDougal in Idaho PUC Case No. PAC-E-21-07
AWEC/303	Other Revenue Forecast
CALPINE/100	Opening Testimony of Kevin C. Higgins
CALPINE/101	Example Calculations
CALPINE/102	PacifiCorp Responses to Data Requests Referenced in Testimony
CALPINE/200	Rebuttal Testimony of Kevin C. Higgins
CALPINE/300	OPUC Order No. 15-060
CALPINE/301	Reply Testimony and Exhibits of PacifiCorp in OPUC Docket No. UE 267 (March 27, 2014), and Exhibits of PacifiCorp in OPUC Docket No. UE 267 (May 13, 2014)
CALPINE/302	PacifiCorp's Schedule 201, Effective for service on and after April 9, 2021
CALPINE/303	Sample Calculations for Consumer Opt-out Charge in UE 339/2021 TAM (UE 339 Calpine Solutions/103)
CUB/100	Opening Testimony of Bob Jenks (Errata 6/24/2021)
CUB/101	Witness Qualification Statement
CUB/102	Confidential Exhibit
CUB/104	Confidential Exhibit
CUB/105	Sierra Club Data Request 1.5 and Response to Sierra Club Data Request 1.5

CUB/200	Rebuttal and Cross-Answering Testimony of Bob Jenks
CUB/300	Redacted Final Shortlist for the 2020 All Source RFP and Sensitivity Analysis Presentation in Docket No. UM 2059, filed July 30, 2021
CUB/301	PacifiCorp's Opening Comments in Docket No. UM 2024, filed March 16, 2020
CUB/302	Portland General Electric Company's Opening Comments in Docket No. UM 2024, filed March 16, 2020
PAC/100	Direct Testimony of David Webb (Adopted by Douglas Staples)
PAC/101	Oregon-Allocated Net Power Costs
PAC/102	Net Power Costs Report
PAC/103	Confidential Update to Renewable Energy Production Tax Credits
PAC/104	Step Log Change
PAC/105	March 1, 2021 Notice Letter
PAC/106	List of Expected or Known Contract Updates
PAC/107	Economic Coal Cycling Study
PAC/200	Direct Testimony of Dana Ralston
PAC/300	Direct Testimony of Judith Ridenour (Adopted by Robert Meredith)
PAC/301	Proposed TAM Spread and Rates
PAC/302	Proposed Tariff Schedule
PAC/303	Estimated Effect of Proposed TAM Price Change
PAC/400	Reply Testimony of Douglas Staples
PAC/401	2022 TAM Oregon-Allocated Net Power Costs Reply Filing
PAC/402	2022 Results of Updated Net Power Cost Study Reply Filing
PAC/403	2022 Updates Summary Reply Filing
PAC/500	Reply Testimony of Seth Schwartz
PAC/501	Seth Schwartz' Resume
PAC/502	PacifiCorp Data Request 1.7
PAC/600	Reply Testimony of Dana Ralston
PAC/601	Confidential 1 st Revised Response to OPUC Data Request 71
PAC/602	Confidential 1 st Supplemental Response to OPUC Data Request 154
PAC/700	Reply Testimony of Daniel MacNeil
PAC/800	Reply Testimony of Mary Wiencke
PAC/900	Reply Testimony of Robert Meredith (page 5, footnote 5 corrected at hearing to read "OAR 860-038-0160)_

PAC/1000	Surrebuttal Testimony of Douglas Staples (Errata 8/19/2021)
PAC/1100	Surrebuttal Testimony and Exhibit of Michael Wilding
PAC/1101	PacifiCorp's Response to OPUC Data Request 135 and 136
PAC/1200	Surrebuttal Testimony of Dana Ralston
PAC/1300	Surrebuttal Testimony of Seth Schwartz
PAC/1400	Surrebuttal Testimony of Mary Wiencke
PAC/1500	Surrebuttal Testimony of Robert Meredith
PAC/1600	Staff Responses to PacifiCorp's Data Requests
PAC/1601	Confidential Excerpts from PacifiCorp's Workpapers
PAC/1602	Docket No. UE 374 Excerpt from Order No. 20-473
PAC/1603	Docket No. UE 374 Excerpt from Staff/2400 Rebuttal Testimony of Scott Gibbens
PAC/1604	Docket No. UE 344 Order No. 18-449
PAC/1605	Docket No. UE 361 Order No. 19-415
PAC/1606	Docket No. UE 379 Order No. 20-489
PAC/1607	Docket No. UE 392 Letter and excerpt from PAC/100 Direct Testimony of Jack Painter
PAC/1608	Docket No. UE 375 AWEC/100 Opening Testimony of Bradley G. Mullins
PAC/1609	Docket No. UE 216 Order No. 10-363
PAC/1610	Docket No. UE 216 Joint Testimony in Support of Stipulation
PAC/1611	Docket No. UE 374 Excerpt from AWEC/100 Opening Testimony of Bradley G. Mullins
PAC/1612	Docket No. UE 374 Excerpt from AWEC/500 Rebuttal Testimony of Lance D. Kaufman
SIERRA CLUB /100	Opening Testimony of Ed Burgess (Highly Confidential)
SIERRA CLUB /101	Curriculum Vitae of Ed Burgess
SIERRA CLUB /102	Redacted PacifiCorp Long-Term Fuel Supply Plan for the Jim Bridger Plant Comparison Report (provided as an attachment to PacifiCorp Response to Sierra Club Data Request 1.31)
SIERRA CLUB /103	Selected Public PacifiCorp Data Responses
SIERRA CLUB /104	PacifiCorp Response to OPUC Data Request 57
SIERRA CLUB /105	Excerpts from 2021 ECAC Evidentiary Hearing Transcript in California Public Utilities Commission Proceeding A.20-08-002

SIERRA CLUB /106	Confidential Attachment to PacifiCorp Response Sierra Club Data Request 1.4
SIERRA CLUB /112	Selected Confidential PacifiCorp Data Responses
SIERRA CLUB /113	PacifiCorp Response to OPUC Data Request 72
SIERRA CLUB /114	PacifiCorp Response to Sierra Club Data Request 8.9 in California Public Utilities Commission Proceeding A.20-08-002
SIERRA CLUB /115	Confidential Attachment OPUC 71-1 to PacifiCorp Response to OPUC Data Request 71
SIERRA CLUB /116	Confidential Attachment to PacifiCorp Response to Sierra Club Data Request 1.6
SIERRA CLUB /117	Confidential Attachment OPUC 71-2 to PacifiCorp Response to OPUC Data Request 71
SIERRA CLUB /118	PacifiCorp Confidential Long-Term Fuel Supply Plan for the Jim Bridger Plant (placeholder)
SIERRA CLUB /119	Corrected Supplemental Direct Testimony of David G. Webb (PAC/600) in California Public Utilities Commission Proceeding A.20-08-002
SIERRA CLUB /120	PacifiCorp Response to Sierra Club Data Request 8.7 in California Public Utilities Commission Proceeding A.20-08-002
SIERRA CLUB /121	Confidential Attachment to PacifiCorp Response to Sierra Club Data Request 2.3
SIERRA CLUB /122	Confidential Attachment to PacifiCorp Response to Sierra Club Data Request 2.7
SIERRA CLUB /123	Confidential Attachment to PacifiCorp Response to Sierra Club Data Request 2.22
SIERRA CLUB /124	PacifiCorp Response to Sierra Club Data Request 3.1 in California Public Utilities Commission Proceeding A.20-08-002
SIERRA CLUB /125	PacifiCorp Response to Sierra Club Data Request 5.1 in California Public Utilities Commission Proceeding A.20-08-002
SIERRA CLUB /126	PacifiCorp Response to Sierra Club Data Request 7.1 in California Public Utilities Commission Proceeding A.20-08-002
SIERRA CLUB /127	Excerpt from Confidential Attachment to PacifiCorp Response to Sierra Club Data Request 1.32
SIERRA CLUB /200	Rebuttal Testimony of Ed Burgess (Confidential)
SIERRA CLUB /201	PacifiCorp Response to Sierra Club Data Request 5.5

SIERRA CLUB /202	Confidential Attachment to PacifiCorp Response to Sierra Club Data Request 2.6
SIERRA CLUB /203	Taylor Kuykendall, US coal deliveries increasingly arrive to power plants on shorter-term contract
SIERRA CLUB /300	Confidential Working Agreement Between Pacific Minerals, Inc. (d/b/a Bridger Coal Company) and the International Brotherhood of Boilermakers Local S1978 (provided as an attachment to Sierra Club Data Request 3.2)
SIERRA CLUB /302	Confidential PacifiCorp Response to Sierra Club Data Request 3.1
SIERRA CLUB /303	Confidential 2021 TAM Workpaper “BRIDGER.xlsx” (Ralston) (provided as an attachment to Sierra Club Data Request 1.34-6(c))
SIERRA CLUB /304	Confidential PacifiCorp Response to Sierra Club Data Request 6.1
SBUA/100	Opening Testimony of Darren Wertz
SBUA/101	Qualifications of Darren Wertz
SBUA/200	Rebuttal Testimony of Darren Wertz
SBUA/201	Confidential PacifiCorp’s Response to SBUA Data Request 8 Oregon Service Territory Economic Drivers Forecast
SBUA/202	Oregon Employment Department Oregon Office of Economic Analysis “Oregon Recession Comparison”
STAFF/100	Opening Testimony of Moya Enright
STAFF/101	Witness Qualification Statement
STAFF/102	PacifiCorp responses to Data Requests, including relevant 7 attachments
STAFF/103	California Carbon Allowance and California Carbon Offset prices.
STAFF/104	Documents detailing REC use in CARB compliance.
STAFF/200	Opening Testimony of Heather Cohen
STAFF/201	Witness Qualification Statement
STAFF/202	Exhibits in Support of Opening Testimony
STAFF/203	Exhibits in Support of Opening Testimony
STAFF/300	Opening Testimony and Exhibits of Nadine Hanhan
STAFF/301	Witness Qualification Statement
STAFF/302	Exhibits in Support of Opening Testimony
STAFF/303	Exhibits in Support of Opening Testimony

STAFF/400	Opening Testimony and Exhibits of Brian Fjeldheim
STAFF/401	Witness Qualification Statement
STAFF/402	Exhibits in Support of Opening Testimony
STAFF/403	Exhibits in Support of Opening Testimony
STAFF/500	Opening Testimony of Kathy Zarate
STAFF/501	Witness Qualifications Statement
STAFF/502	Exhibits in Support of Opening Testimony
STAFF/503	Exhibits in Support of Opening Testimony
STAFF/600	Opening Testimony of John Fox
STAFF/601	Witness Qualifications Statement
STAFF/602	Exhibit in Support of Opening Testimony
STAFF/700	Opening Testimony of Rose Anderson
STAFF/701	Witness Qualifications Statement
STAFF/702	Exhibit in Support of Opening Testimony
STAFF/703	Confidential Staff Exhibit
STAFF/800	Opening Testimony of Curtis Dlouhy
STAFF/801	Witness Qualification Statement
STAFF/802	Data Requests in Support of Opening Testimony
STAFF/803	Exhibit in Support of Opening Testimony
STAFF/804	Attachment in Support of Opening Testimony
STAFF/900	Opening Testimony of Scott Gibbens
STAFF/901	Witness Qualification Statement
STAFF/1000	Rebuttal and Cross-Answering Testimony of Moya Enright
STAFF/1100	Rebuttal and Cross-Answering Testimony of Kathy Zarate
STAFF/1200	Rebuttal and Cross-Answering Testimony of Curtis Dlouhy
STAFF/1201	Data Requests in Support of Rebuttal and Cross-Answering Testimony
STAFF/1300	Rebuttal and Cross-Answering Testimony of Scott Gibbens
STAFF/1400	Rebuttal and Cross-Answering Testimony of Rose Anderson
STAFF/1401	Exhibit in Support of Rebuttal and Cross-Answering Testimony
STAFF/1500	Rebuttal and Cross-Answering Testimony of John Fox
STAFF/1600	Rebuttal and Cross-Answering Testimony and Exhibit of Nadine Hanhan
STAFF/1601	Exhibit in Support of Rebuttal and Cross-Answering Testimony
STAFF/1700	Cross-Examination Exhibit

The record is closed.

Dated this 1st day of November 2021, at Salem, Oregon.



Sarah Rowe
Administrative Law Judge