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October 7, 2022

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High Street SE, Suite 100  
Salem, OR 97301-3398

**Re: UE 399—Joint Testimony in Support of Fourth Partial Stipulation**

PacifiCorp d/b/a Pacific Power (PacifiCorp) encloses for filing in this docket the Joint Testimony in Support of the Fourth Partial Stipulation.

If you have questions about this filing, please contact Cathie Allen at (503) 813-5934.

Sincerely,

Shelley McCoy  
Director, Regulation

Enclosures

Docket No. UE 399  
Exhibit Joint Stipulating  
Parties/100

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**STIPULATING PARTIES**

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Joint Testimony of Matthew McVee, Madison Bolton, Will Gehrke, Alex Kronauer,  
Bradley Cebulko, and Carol Opatrny in Support of Stipulation

on behalf of

PacifiCorp, Public Utility Commission of Oregon Staff, Oregon Citizens'  
Utility Board, Walmart, Vitesse, LLC, and NIPPC

October 2022

**JOINT TESTIMONY IN SUPPORT OF FOURTH PARTIAL STIPULATION**

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**ATTACHED EXHIBIT**

Exhibit Joint Stipulating Parties/101—Witness Qualification Statement of Carol Opatrny

**PURPOSE OF TESTIMONY**

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**Q. Who is sponsoring this testimony?**

A. This testimony is jointly sponsored by PacifiCorp (PacifiCorp or Company), Staff of the Public Utility Commission of Oregon (Staff), the Oregon Citizens' Utility Board (CUB), Walmart Inc. (Walmart), Vitesse, LLC (Vitesse), and the Northwest & Intermountain Power Producers Coalition (NIPPC), together referred to as the Stipulating Parties.

**Q. Please provide your names and qualifications.**

A. Our names are Matthew McVee, Madison Bolton, Will Gehrke, Alex Kronauer, Bradley Cebulko, and Carol Opatrny. The qualifications for Mr. McVee, the sponsor for PacifiCorp, are set forth in PAC/1700, McVee/1. The qualifications for Mr. Bolton, the sponsor for Staff, are set forth in Exhibit Staff/501. The qualifications for Mr. Gehrke, the sponsor for CUB, are set forth in CUB/201. The qualifications for Mr. Kronauer, the sponsor for Walmart, are set forth in Exhibit Walmart/101. The qualifications for Mr. Cebulko, the sponsor for Vitesse, are set forth in Exhibit Vitesse/101. The qualifications for Ms. Opatrny, the sponsor for NIPPC, are set forth in Exhibit Joint Stipulating Parties/101.

**Q. What is the purpose of this joint testimony?**

A. This joint testimony describes and supports the Fourth Partial Stipulation filed in docket UE 399, PacifiCorp's 2022 general rate case. The Fourth Partial Stipulation resolves issues around PacifiCorp's proposed Accelerated Commitment Tariff (ACT).

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**BACKGROUND**

**Q. Please describe how docket UE 399 began.**

A. On March 1, 2022, PacifiCorp filed its 2022 general rate case, which included direct testimony and exhibits proposing the ACT.

**Q. Please explain PacifiCorp’s ACT proposal.**

A. PacifiCorp’s ACT program will provide customers the opportunity to accelerate the decarbonization of their energy supply by facilitating the development of new renewable energy facilities. Through specified renewable resources that are incremental additions to those selected for system use, PacifiCorp will provide bundled renewable energy and the corresponding renewable energy certificates (RECs) to participating customers. PacifiCorp will leverage existing competitive procurement processes to identify potential projects eligible for ACT or seek appropriate waivers of such processes where appropriate. This will allow the Company to identify a variety of resources that meet customer expectations while minimizing costs and maximizing overall system benefits.

**Q. Did Staff and other parties review and analyze the Company’s filing?**

A. Yes. Parties conducted discovery and each of the Stipulating Parties filed testimony on PacifiCorp’s ACT.

**Q. In their opening testimonies dated June 22, 2022, did the parties propose adjustments to PacifiCorp’s proposed ACT?**

A. Yes. Staff, CUB, Vitesse, and NIPPC filed testimony addressing the ACT.

1 **Q. Did the Company respond to this testimony in its reply testimony?**

2 A. Yes, PacifiCorp filed reply testimony on July 19, 2022, addressing the issues raised  
3 by the Parties.

4 **Q. Did the parties respond to PacifiCorp's reply testimony in their rebuttal  
5 testimony?**

6 A. Yes, Staff, CUB, Vitesse, NIPPC and Walmart filed rebuttal testimony addressing the  
7 ACT.

8 **Q. Did the parties hold settlement discussions after Staff and intervenors filed  
9 opening testimony?**

10 A. Yes. The parties participated in settlement conferences on July 1, 2022, and July 28,  
11 2022, and August 19, 2022, and ACT specific settlement conferences on August 24,  
12 2022, August 26, 2022, and August 31, 2022. As a result of these settlement  
13 conferences, the Stipulating Parties have reached an agreement that resolves the  
14 issues contained herein. The terms of the settlement are captured in this Fourth Partial  
15 Stipulation.

16 **Q. Are all the Parties that participated in the development of the stipulation,  
17 signatories to the stipulation?**

18 A. No, NewSun is not a signatory party to the stipulation.

19 **Q. Did NewSun previously submit any testimony on the ACT?**

20 A. No.

21 **KEY PROVISIONS OF THE FOURTH PARTIAL STIPULATION**

22 **Q. Please provide an overview of the Stipulation.**

23 A. The Stipulation represents the settlement of PacifiCorp's proposed ACT and the

1 development of a program that has been negotiated with the Parties to the Fourth  
2 Partial Stipulation. Through the Fourth Partial Stipulation, the Parties have made a  
3 number of revisions and clarifications to the ACT that are identified in the Fourth  
4 Partial Stipulation.

5 **Q. Please describe the change from guaranteeing RECs to providing customers a**  
6 **share of the variable output from program resources.**

7 A. Through this stipulation PacifiCorp will no longer guarantee a certain level of RECs  
8 to customers as proposed in PacifiCorp's original filing. PacifiCorp will now provide  
9 customers with a percentage of the variable output from ACT program resources  
10 based on their proportional percentage of customer participating load to total load  
11 participation in a resource or portfolio of resources.

12 **Q. Why is PacifiCorp's revised proposal dependent on securing a no action letter**  
13 **from the Securities and Exchange Commission (SEC)?**

14 A. PacifiCorp wants to ensure that this program fully complies with federal securities  
15 law, and so will seek a no-action letter from the SEC. In the event that PacifiCorp is  
16 unable to secure a no action letter from the SEC, PacifiCorp will develop and file a  
17 new program proposal.

18 **Q. Please explain the provisions around an ACT resource defaulting.**

19 A. In order to ensure that the resources perform to the benefit of the program, PacifiCorp  
20 shall take reasonable efforts to begin procurement of a replacement resource(s) if an  
21 ACT program resource defaults under the power purchase agreement (PPA), so that  
22 in the event of termination, a replacement resource(s) can be available as soon as

1 practicable. PacifiCorp will coordinate with participating customers if the PPA is  
2 terminated.

3 **Q. How will RECs be treated under this stipulation?**

4 A. RECs resulting from a resource's performance above any performance guarantee  
5 shall be banked on behalf and for the benefit of participants in the event of future  
6 underperformance. At PacifiCorp's discretion, it may retire on behalf of participants  
7 some or all of the banked RECs based on consistent performance of the resource.  
8 PacifiCorp shall retire RECs for all program participants and shall have no obligation  
9 to manage different WREGIS accounts for each participating customer.

10 **Q. Please describe the Stipulating Parties' agreement on PacifiCorp's Participation**  
11 **Cap for the ACT.**

12 A. The Program will have a general participation cap of 175 average megawatts (aMW).  
13 Once the cap has been reached, a customer with 10 aMW or greater of new load may  
14 request Commission approval of an increase to the participation cap. PacifiCorp shall  
15 provide the customer an estimated impact analysis that approximates how increasing  
16 the cap could impact PacifiCorp's energy and capacity needs based on the new load  
17 and a proxy renewable resource to be used in the customer's request for an increase to  
18 the cap.

19 **Q. How do the Parties recommend the Commission address a request to increase**  
20 **the participation cap for a customer?**

21 A. The Parties request that the Commission set a process to address the request that  
22 would lead to a decision being issued within six months of filing. The Parties request  
23 that the Commission evaluate the increase in the participation cap, to determine,



1 among other things, whether the proposed increase:

- 2 a. Poses no significant risk or cost to non-participating cost-of-service customers
- 3 associated with the increase;
- 4 b. Poses no significant impacts to the competitive market;
- 5 c. Advances the goals reflected in HB 2021, including but not limited to
- 6 emissions impacts;
- 7 d. Other criteria as determined by the Commission or raised by stakeholders to
- 8 demonstrate good cause.

9 **Q. Please describe any additional limitations on the ACT Energy and Capacity**  
10 **Credit.**

11 A. The energy and capacity credit in the ACT cannot exceed an ACT program  
12 participant's cost of participation.

13 **Q. Please describe how participation in the program will be coordinated with**  
14 **customers initially.**

15 A. PacifiCorp will solicit interest in an initial offering to customers to determine  
16 participation levels following approval of the ACT. Following this initial offering,  
17 PacifiCorp may work with individual large customers to identify specific resources  
18 for those customers. PacifiCorp may also make another offering to identify multiple  
19 customers wishing to participate in incremental renewable resources. Each portfolio  
20 (initial or subsequent) will receive the costs and benefits from those resources  
21 identified for the customers participating in those resources, and not receive the costs  
22 or benefits of other resources. Administrative costs will be socialized across all ACT  
23 program participants.

24 **Q. Will the Commission's competitive bidding rules apply to these resource**  
25 **acquisitions?**

26 A. Yes, the Stipulating Parties agree that the Commission's competitive bidding rules,

1 including the ability to apply for an exemption or seek a waiver, should apply and that  
2 PacifiCorp's 2022 All-Source Request for Proposal (2022AS RFP) can be used to  
3 identify resources, provided negotiations and Commission approvals are completed  
4 prior to the bid validity date on November 21, 2023.

5 **Q. Does the stipulation include any additional process for a Company-owned**  
6 **resources?**

7 A. Yes, prior to PacifiCorp committing to develop a company-owned resource as an  
8 ACT program resource, PacifiCorp agrees that it will submit a filing detailing  
9 accounting methods and safeguards, including treatment of the subscriber mismatch  
10 fee for Commission approval. Nothing in this partial settlement prevents Parties from  
11 taking any position on the applicability of the Commission's Voluntary Renewable  
12 Energy Tariff Design Criteria Condition 7 or other matter of law or policy in that  
13 proceeding.

14 **Q. Will there be a workshop to evaluate the operation of the ACT program?**

15 A. Yes, PacifiCorp has agreed to hold a workshop before December 31, 2023, that will  
16 address issues encountered during program implementation and identify potential  
17 modifications to help refine the program.

18 **Q. Please describe the process for developing a customer supply option.**

19 A. PacifiCorp will meet with customers that have identified a potential ACT program  
20 resource to evaluate the resource for service to that participant's load, PacifiCorp  
21 retains the right to reject the resource if the participant, utility, and developer cannot  
22 agree on risk allocation or the structure of such shifts undue costs to non-participating  
23 customers.

1 **Q. How will PacifiCorp review a customer supplied option?**

2 A. PacifiCorp's review of the customer identified resource will consider, among other  
3 things, whether the resource and qualifying PPAs shift costs and risks onto non-  
4 participating customers or PacifiCorp, including but not limited to interconnection  
5 costs and risks. If the customer-supplied resource and terms of service are acceptable  
6 to PacifiCorp and the participating customer, PacifiCorp and the participating  
7 customer shall file a request with the Commission seeking approval of the resource.  
8 If the customer-supplied resource and terms of service are not acceptable to  
9 PacifiCorp, the participating customer can file a request with the Commission seeking  
10 approval of the resource.

11 **Q. Is there a process for other interested parties to review any customer supplied  
12 option?**

13 A. Yes, prior to filing any request with the Commission, PacifiCorp and the participating  
14 customer shall hold an informational meeting for interested stakeholders to discuss  
15 the risk allocation and structure of the proposal, and the interested stakeholders may  
16 raise concerns.

17 **Q. Will a customer proposing an ACT program resource be required to take the  
18 entire output of the facility?**

19 A. Yes, a customer proposing an ACT program resource must take the entire output of a  
20 facility and take variable annual delivery, and PacifiCorp will not procure any  
21 replacement RECs due to under-delivery or under-performance. PacifiCorp will  
22 provide (and publicly post) the required terms for the customer supplied PPA.

1           **REASONABLENESS OF THE FOURTH PARTIAL STIPULATION**

2   **Q.    What is the basis for the Fourth Partial Stipulation?**

3    A.    Through multiple rounds of testimony, the Stipulating Parties created an extensive  
4           record in this case. The Company responded to hundreds of data requests and served  
5           discovery on other parties. Parties had multiple settlement conferences and resolved  
6           their differences incrementally through dialogue and negotiations.

7   **Q.    Please explain why the Stipulating Parties believe that the Commission should**  
8           **adopt the Fourth Partial Stipulation.**

9    A.    The Fourth Partial Stipulation addresses PacifiCorp’s ACT tariff, one of the few  
10           remaining outstanding issues after the first three stipulations have been filed. In  
11           addition, the Fourth Partial Stipulation represents a reasonable compromise among  
12           the parties regarding the development of a new tariff that will benefit customers by:

- 13           • Providing an important option for customers to reach their renewable energy  
14           goals; and
- 15           • Creating a program that provides protections that are developed in order to  
16           protect the interests of non-participating customers.

17           While the above list is not an exhaustive description of every feature of the Fourth  
18           Partial Stipulation, the compromises on the remaining issues are reasonable.

19   **Q.    Have the Stipulating Parties evaluated the overall fairness of the Fourth Partial**  
20           **Stipulation?**

21    A.    Yes. Each Stipulating Party has reviewed the record in this case and the Fourth  
22           Partial Stipulation. The Stipulating Parties agree that the matters resulting from the  
23           Fourth Partial Stipulation meet the standard set forth in ORS 756.040 and represent a  
24           reasonable compromise of the issues presented in this case.

1 **Q. What do the Stipulating Parties recommend regarding the Fourth Partial**  
2 **Stipulation?**

3 A. The Stipulating Parties recommend that the Commission adopt the Fourth Partial  
4 Stipulation as the basis for resolving the ACT in this case, and request that the  
5 Commission include the terms and conditions of the Fourth Partial Stipulation in its  
6 final order in this case.

7 **Q. Does this conclude your joint testimony?**

8 A. Yes.

Docket No. UE 399  
Exhibit Joint Stipulating  
Parties/101

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**STIPULATING PARTIES**

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Exhibit Accompanying Testimony of Joint Stipulating Parties

Witness Qualification Statement of Carol Opatny

October 2022

**QUALIFICATION STATEMENT OF  
CAROL C. OPATRNY  
Witness for NIPPC**

1 **Q. Please state your name, employer, and business address.**

2 A. My name is Carol C. Opatrny. I am President of Opatrny Consulting, Inc. My  
3 business address is 18509 NE Cedar Drive, Battleground, Washington  
4 98604.

5 **Q. Please summarize your educational background.**

6 A. I graduated from Claremont Colleges in 1978 with a Bachelor of Science, in  
7 Economics (Claremont McKenna College) and a Bachelor of Arts in  
8 Psychology (Scripps College).

9 **Q. Please summarize your professional background.**

10 A. I am a consulting economist who has served the electric power industry since  
11 1980 with special emphasis on wholesale power, transmission and ancillary  
12 service rate design, wholesale markets, retail rate design for industrial  
13 customers, power and transmission operations, and strategic industry issues.  
14 I have worked directly on policy issues involving the Pacific Northwest  
15 Conservation and Electric Power Planning Act, the National Energy Policy  
16 Act, the Endangered Species Act, the Federal Power Act, the Energy Policy  
17 Acts of 1992 and 2005, and the Federal Energy Regulatory Commission's  
18 open access orders and policies. I also have worked with utilities, marketers,  
19 industrial customers and resource developers in the Northwest and Northern  
20 Atlantic regions of the United States and Canada. From August, 2019 to  
21 March, 2020, I was the Interim Executive Director for the Northwest and

1 Intermountain Power Producers Coalition, and I continue to consult for NIPPC  
2 from time to time.

3 **Q. Have you previously testified on energy matters?**

4 A. Yes. I have prepared expert statements, been deposed, and presented  
5 testimony before the Federal Energy Regulatory Commission, the British  
6 Columbia (Canada) Utilities Commission, the U.S. District Court for the  
7 Western District of Washington, King County Superior Court in Washington  
8 State, the U.S. District Court for the District of Idaho, the U.S. District Court  
9 for the State of Oregon, the U.S. Court of Federal Claims, and the Superior  
10 Court of the State of Washington for Spokane County.