May 14, 2026

via Electronic Filing

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

Re: In the Matter of PACIFICORP, dba PACIFIC POWER,
Advice No. 25-015, Schedule 401- Service to New Large Energy Use Facilities
OPUC Docket No. UE 463

Attention Filing Center:

The Data Center Coalition ("DCC") hereby submits the following Opening Testimony and Exhibits for filing in the above-referenced docket. Should you have any questions, or need anything further, please do not hesitate to contact me.

Thank you for your assistance with this matter.

Sincerely,

Sidney Villanueva

Sidney Villanueva
Blue Skies Law, LLC

BEFORE THE OREGON PUBLIC SERVICE COMMISSION

IN THE MATTER OF PACIFICORP, DBA PACIFIC POWER, ADVICE NO. 25-0515, SCHEDULE 401 - SERVICE TO NEW LARGE ENERGY USE FACILITIES	))))	**Docket No. UE 463**

DIRECT TESTIMONY OF

JUSTIN BIEBER

ON BEHALF OF

THE DATA CENTER COALITION

May 14, 2026

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Justin Bieber. My business address is 111 E Broadway, Suite 1200, Salt Lake City, Utah, 84111.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am a Principal at Energy Strategies, LLC. Energy Strategies is a private consulting firm specializing in economic and policy analysis applicable to energy production, transportation, and consumption.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. My testimony is being sponsored by The Data Center Coalition ("DCC").

Q. PLEASE DESCRIBE YOUR QUALIFICATIONS AND PROFESSIONAL EXPERIENCE.

A. My academic background is in business and engineering. I earned a Bachelor of Science in Mechanical Engineering from Duke University in 2006 and a Master of Business Administration from the University of Southern California in 2012. I am also a registered Professional Civil Engineer in the state of California.

I joined Energy Strategies in 2017, where I provide regulatory and technical support on a variety of energy issues, including regulatory services, transmission and renewable development, and financial and economic analyses. While at Energy Strategies, I have filed and supported the development of testimony before various state utility regulatory commissions.

Prior to joining Energy Strategies, I held three positions at Pacific Gas and Electric Company ("PG&E") as Manager of Transmission Project Development,

Independent System Operator ("ISO") Relations and Federal Energy Regulatory Commission ("FERC") Policy Principal, and Supervisor of Electric Generator Interconnections. During my career at PG&E, I supported multiple facets of utility operations and led efforts in policy, regulatory, and strategic initiatives, including supporting the development of testimony before and submitting comments to Federal Energy Regulatory Commission, the California Independent System Operator, and the California Public Utilities Commission.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?

A. Yes, I have testified in the following proceedings before this Commission:

- PGE's 2018 general rate case, Docket No. UE 335;
- PacifiCorp's 2020 general rate case, Docket No. UE 374;
- PGE's 2021 general rate case, Docket No. UE 394;
- PacifiCorp's 2022 general rate case, Docket No. UE 399;
- PGE's 2023 general rate case, Docket No. UE 416; and
- PacifiCorp's 2024 general rate case, Docket No. UE 433.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE ANY OTHER STATE UTILITY REGULATORY COMMISSIONS?

A. Yes. I have testified in more than 80 regulatory proceedings on the subjects of utility rates and regulatory policy before state utility regulators in Arizona, Colorado, Indiana, Kansas, Kentucky, Michigan, Montana, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

II. OVERVIEW AND CONCLUSIONS

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. My testimony responds to the Application by PacifiCorp d/b/a Pacific Power ("PacifiCorp" or "Company") seeking approval of a new tariff, Schedule 401, for New Large Energy Use Facilities ("LEUFs"), which it has proposed to implement the requirements of Oregon House Bill 3546 ("HB 3546").

A. PacifiCorp's Proposed Tariff Framework

Q. PLEASE DESCRIBE PACIFICORP'S PROPOSED SCHEDULE 401.

A. PacifiCorp proposes a new Schedule 401 tariff which would establish a new rate schedule for new LEUF customers. Importantly, PacifiCorp's proposed Schedule 401 tariff would provide significant flexibility for the Company and prospective LEUF customers to negotiate individualized agreements that specify the terms, conditions, and rates for receiving electric service, subject to a certain base level of generic special conditions that are included in the proposed tariff.

Specifically, PacifiCorp's application includes the following key provisions in the proposed Schedule 401 tariff:

1. **Applicability.** PacifiCorp proposes that Schedule 401 apply to new LEUFs, where LEUFs are defined as customers that are primarily engaged in services described under NAICS code 518210 and have an electric load of 20,000 kW or greater or a Reserved Capacity of 20,000 kW or greater.[1]

[1] PAC Advice No. 25-015- Schedule 401- Service to New Large Energy Use Facilities, p. 3.

The schedule would be limited to customers that do not participate in a Direct Access program and that either (a) have not entered into an electric service agreement with the Company prior to June 16, 2025, or (b) have an existing agreement but require the Company to make significant investments or incur substantial additional costs after that date.[2]

2. **Commission Oversight.** PacifiCorp proposes that every LEUF would enter into an individualized agreement that would specify the terms, conditions, and rates for service. PacifiCorp further proposes to submit each agreement to the Commission for review and approval and proposes that the Commission would approve or reject each Agreement within 60 days.[3]

3. **Minimum Contract Term.** The proposed tariff specifies a minimum contract term of not less than 10 years.[4]

4. **Minimum Charges.** The proposed tariff includes a special condition that specifies that each LEUF Agreement would include a minimum payment obligation to ensure that LEUFs contribute to the Company's costs to serve them. However, the proposed tariff does not identify any specific minimum amount.[5] As a result, these terms would be negotiated on a customer-specific basis and set forth in individual agreements.

5. **Contract Flexibility.** The proposed Schedule 401 tariff does not include any specific provisions that would explicitly allow a customer to reduce or augment contract capacity or otherwise modify the terms of an individualized agreement.

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[2] *Id.*
[3] *Id*.
[4] *Id*. p. 4.
[5] *Id*.

6. **Collateral.** PacifiCorp proposes that each agreement may contain unique credit, deposit, and security provisions for the customer.[6] As a result, these terms would be negotiated on a customer-specific basis and set forth in individual agreements.

7. **Cost Allocation**. PacifiCorp proposes to directly assign all costs of serving each LEUF to that individual customer through its individualized agreement.[7] As a result, these terms would be negotiated on a customer-specific basis and set forth in individual agreements.

8. **Rates.** The Company's approach would not establish specific Schedule 401 rates for electric service. As a result, these terms would be negotiated on a customer-specific basis and set forth in individual agreements.

Q. HAS PACIFICORP PROPOSED REVISIONS TO ANY OTHER SCHEDULES AS PART OF THIS FILING?

A. Yes. PacifiCorp proposes revisions to Schedules 47 and 48 to clarify that large customers are eligible to take service under Schedules 47 and 48 only if they are not required to take service under Schedule 401. PacifiCorp also proposes revisions to Schedule 90 to identify the adjustment schedules that would apply to Schedule 401 customers.[8]

Q. DID THE COMMISSION RECENTLY APPROVE REVISIONS TO THE COMPANY'S TARIFF THAT WERE INTENDED TO PROTECT EXISTING CUSTOMERS FROM UNIQUE COSTS AND RISKS ASSOCIATED WITH LARGE NEW LOADS?

[6] *Id*.
[7] *Id*. p. 3.
[8] *Id*. p. 6.

A. Yes. In the Company's 2024 general rate case, it proposed several tariff revisions designed to protect the Company and its existing customers from certain costs and risks associated with large new loads.

Most notably, the Commission approved a new capacity reservation charge and excess demand charge applicable to customers with loads greater than 50,000 kW. Specifically, the Commission approved a capacity reservation charge of $3.68/kW-month with a buffer of 10%, meaning that it would apply to any unused contract capacity that is less than 90% of a customer's contract capacity. The Commission also adopted an excess demand charge equal to three times the capacity reservation charge with no buffer, applicable when a customer exceeds its contracted demand level.[9]

In addition, the Commission approved limitations restricting large customers from unilaterally reducing load by more than 10 percent or 50 MW annually, whichever is greater, absent mutual agreement between the customer and the Company.[10]

These provisions are outlined in the Company's Rule 13 of its General Rules and Regulations for Line Extensions. Collectively, these recently approved provisions provide important protections intended to mitigate the risks associated with large new loads, including risks related to stranded infrastructure investment, underutilization of reserved capacity, and significant fluctuations in customer demand.

[9] *PacifiCorp, dba Pacific Power, Request for a General Rate Revision (UE 433)*, Order (Dec. 19, 2024), p. 99.
[10] *Id*. p. 104.

B. DCC Recommendations

Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS TO THE COMMISSION.

A. While I agree that it is appropriate and necessary for PacifiCorp to develop a new customer class and specialized service provisions for LEUF customers, both to implement safeguards that protect other utility customers from the costs and risks associated with significant infrastructure investments made to serve anticipated large new loads and to comply with the requirements of HB 3546, I disagree with PacifiCorp's proposed approach of relying primarily on individualized contracts to establish terms of service. Instead, I recommend that the Commission establish a standardized tariff that clearly defines the terms, conditions, and rates applicable to LEUF customers taking standard bundled service from the Company.

The Company's proposal requiring each LEUF customer to negotiate an individualized contract represents a piecemeal approach that lacks transparency and may not provide the regulatory certainty necessary to support long-term planning and investment decisions associated with large-scale load development. Further, this approach does not ensure that similarly situated customers will have the ability to receive fair or comparable terms and rates for similar service.

While I recommend that the Commission maintain flexibility to address unique operational circumstances through special contracts, it is important to also establish a baseline set of Commission-approved terms, conditions, and rates that can be applied consistently and made available to all LEUF customers on a

nondiscriminatory basis. Accordingly, I recommend that the Commission adopt a standardized tariff framework and clear cost-allocation methodologies that: (1) provide balanced protections for new large-load customers, existing customers, and the Company; (2) ensure compliance with HB 3546; and (3) promote transparency, predictability, and consistency for all stakeholders.

1. **Applicability.** I recommend that the Commission accept PacifiCorp's proposed applicability provisions which would apply to new facilities defined as LEUFs, consistent with the definition contained in HB 3546. I also recommend that the Commission approve PacifiCorp's proposals to limit the applicability to customers that do not participate in a Direct Access program and that either (a) have not entered into an electric service agreement with the Company prior to June 16, 2025, or (b) have an existing agreement but require the Company to make significant investments or incur substantial additional costs after that date.
2. **Commission Oversight.** I recommend that the Commission approve the terms and conditions applicable to Schedule 401 consistent with the standardized tariff framework outlined in my testimony. To the extent the Commission adopts, in this proceeding, a standardized tariff structure that provides balanced protections for new large-load customers, existing customers, and the Company, ensures compliance with HB 3546, promotes transparency and consistency for all stakeholders, and further determines that such framework is just and reasonable, there would be no need for the Commission to separately evaluate individual agreements for LEUF customers taking standard fully bundled service under that Commission-approved tariff.

However, to the extent that there are unique circumstances for a large load customer that requires *non-standard* service, I recommend that the Commission still retain the ability to review and approve individualized agreements tailored to those specific circumstances.

3. **Minimum Contract Term**. I recommend the Commission approve PacifiCorp's proposal to require a minimum contract term for Schedule 401 customers of no less than 10 years to ensure sufficient revenue recovery and align with HB 3546.

4. **Minimum Charges.** As I explain above, in PacifiCorp's last rate case, the Commission approved the current capacity reservation charge of $3.68/kW with a 10% buffer, in conjunction with an excess demand charge equal to three times the capacity reservation charge with no buffer, to mitigate the potential costs, risks, and negative consequences associated with inaccurate load forecasts for customers greater than 50,000 kW.[11]

Although the current terms apply to customers with loads greater than 50,000 kW, LEUF customers with loads greater than 20,000 kW generally have similar size and load characteristics. Given that this issue was recently litigated and decided by this Commission, I recommend applying these same minimum charge provisions to LEUF customers through the proposed Schedule 401 tariff to promote regulatory consistency.

5. **Contract Flexibility.** As I explain above, in PacifiCorp's last rate case, the Commission approved limitations that prevent a large customer greater than 50,000

[11] *PacifiCorp, dba Pacific Power, Request for a General Rate Revision (UE 433)*, Order (Dec. 19, 2024), p. 99.

kW from unilaterally reducing load more than 10% or 50 MW per year, with larger reductions allowed subject to mutual agreement between a large load and the Company.[12]

Consistent with that prior Commission determination, I also recommend applying these same load reduction limitations to LEUF customers through the proposed Schedule 401 tariff to promote regulatory consistency.

6. **Collateral.** I recognize the need for financial security provisions for new large loads, particularly during periods of load growth that may necessitate infrastructure expansion. Accordingly, I do not object to the Company's proposal to require unique credit, deposit, and security provisions for customers lacking sufficiently robust credit or liquidity, provided that these requirements are applied uniformly and on a nondiscriminatory basis to all new large loads.

However, I recommend that the tariff incorporate the following criteria to ensure that customers are able to negotiate reasonable collateral requirements that are not overly excessive:

a. Acceptable forms of financial security should include guarantees, cash, letters of credit, or surety bonds;

b. The amount of required collateral should not exceed the total cost of any incremental facilities necessary to serve the new load;

[12] *PacifiCorp, dba Pacific Power, Request for a General Rate Revision (UE 433)*, Order (Dec. 19, 2024), p. 104.

c. A customer should not be required to provide collateral more than 12 months before the Company makes the capital expenditures for required infrastructure investments;

d. Any customer required to provide financial security should be permitted to reasonably reduce the amount of security over the course of the contract term on a pro rata basis; and

e. Any revenues received from the drawdown of an LEUF customer's financial security should be deferred and used to offset costs for remaining customers through appropriate ratemaking treatment.

7. **Cost Allocation Methodology.**

Sole-Use Transmission and Distribution Facilities

I agree that it is reasonable for the Company to directly assign the costs of sole use distribution and transmission facilities, such as customer-specific substations and radial distribution or transmission lines that serve a single customer or small group of customers. In addition, to the extent that other customers make use of the direct assigned facilities in the future, there should be a mechanism to payback the customer(s) that originally funded the facilities on a pro rata basis.

Shared Network Transmission and System Generation Facilities

However, it is not appropriate to direct assign the cost of shared *system* assets, such as network transmission facilities or system generation resources, because these assets provide integrated system-wide benefits and are not solely attributable to any individual customer. Direct assignment of these kinds of shared system assets creates the potential for duplicative cost allocation to LEUF

customers and may distort efficient price signals for both LEUF and existing customers.

Accordingly, I recommend that the Commission adopt a "higher of" pricing policy for the allocation of network transmission and system generation facilities triggered by new LEUF customers. This approach would prevent cost shifting to existing customers while also avoiding unnecessary subsidies from LEUF customers, particularly in circumstances where the addition of new load is beneficial from a system cost perspective. My recommended approach is based on FERC's longstanding pricing policy for wholesale transmission service, which has been successfully applied for more than 30 years.[13]

Network Distribution Facilities

Given the size requirements for Schedule 401, it is likely that most LEUF customers will be interconnected either at transmission voltage or at a dedicated primary distribution voltage substation and therefore will not make use of any downstream *network* distribution facilities. However, in the event that an LEUF Schedule 401 customer does interconnect to the grid downstream of a primary voltage substation, then I recommend that network distribution system costs be

[13] See *Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act; Policy Statement*, 59 Fed. Reg. 55,031, 55,034 (Nov. 3, 1994), available at https://www.govinfo.gov/content/pkg/FR-1994-11-03/html/94-27091.htm ("the Commission has allowed a utility to charge transmission-only customers the higher of embedded costs (for the system as expanded) or incremental expansion costs, but not the sum of the two.").
See also *Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act*, Policy Statement, FERC Stats. & Regs. ¶ 31,005 at 31,141 (1994), order clarified, 71 FERC ¶ 61,241 (1995), available at https://www.ferc.gov/sites/default/files/2020-06/RM93-19-000.pdf ("In the Policy Statement, the Commission explained that when the transmission grid is constrained and a utility chooses not to expand its system, we have allowed the utility to charge transmission-only customers the higher of embedded costs or legitimate and verifiable opportunity costs, but not the sum of the two ('or' pricing). The opportunity costs are capped by incremental expansion costs.").

allocated to the Schedule 401 rate class in a similar manner as the Company allocates distribution costs to all other customer classes.

8. **Rates.** As I explain above, I recommend that the Commission adopt reasonable cost allocation methodologies in this proceeding to allocate costs to the proposed Schedule 401 customer class. In future general rate cases, those approved methodologies should be applied using actual adjusted test period costs and loads to allocate costs to Schedule 401 customers, and rates should be designed consistent with the results of a class cost-of-service study to reasonably recover those allocated costs.

Until Schedule 401 rates can be updated in a future general rate case based on actual cost and load data, I recommend that the Commission approve Schedule 401 charges in this proceeding equal to the effective Schedule 48 charges for any LEUF customers that begin taking service under Schedule 401 prior to the establishment of new base rates.

Q. PLEASE PROVIDE A BRIEF SUMMARY OF HOW YOUR RECOMMENDATIONS COMPARE TO PACIFICORP'S PROPOSAL.

A. Figure JB-1 below summarizes my recommendations compared to PacifiCorp's recommended proposals.

Figure JB-1
Summary of DCC Recommendations Compared to PacifiCorp's Proposal

Issue	PacifiCorp's Proposal	DCC's Recommendation
Applicability	• NAICS 518210 facilities with ≥20 MW load • Execute service agreement or cause significant investment to occur after June 16, 2025	• No change
Commission Oversight	• Individualized Agreements subject to Commission approval within 60 days of filing	• No filing required for customers taking service on Commission approved standard tariff • Commission approval required for special contracts necessary to address unique circumstances
Minimum Contract Term	• 10 years minimum	• No change
Minimum Charges	• To be negotiated in individualized agreements	• Apply existing Rule 13 capacity reservation charge and excess demand charge
Contract Flexibility	• To be negotiated in individualized agreements	• Apply existing Rule 13 capacity reduction limitations
Collateral	• To be negotiated in individualized agreements	• To be negotiated subject to the following requirements: o Acceptable forms include guarantees, cash, letters of credit, or surety bonds o Collateral cannot exceed total cost of new facilities o Security not required more than 12 months before capital expenditures o Customer can reduce security amount pro rata over contract term o PacifiCorp must defer any revenues from drawdown of collateral
Cost Allocation Methodology	• Direct Assignment, to be negotiated in individualized agreements	• Direct assignment for sole-use distribution and transmission facilities only • "Higher of" pricing policy for shared network transmission and system generation resources that benefit all customers • Status quo cost allocation for network distribution assets
Rates	• To be negotiated in individualized agreements	• Costs allocated based on actual test period costs and loads in a rate case. Rates designed to recover allocated cost • Sch 401 equal to Sch 48 rates until updated Sch 401 rates established in a subsequent rate case

III. BACKGROUND ON THE DATA CENTER COALITION

Q. PLEASE DESCRIBE DCC.

A. DCC is a national membership association for the data center industry, representing leading data center owners and operators who maintain data center infrastructure across the country and globe. DCC supports the data center community through public policy advocacy, thought leadership, stakeholder outreach, and community engagement. DCC also advocates for a highly skilled and diverse technology workforce, greater access to clean energy, and a competitive business environment to support the growth and success of this essential business sector. DCC's approximately 50 members include prospective customers of PacifiCorp and companies with business interests in PacifiCorp's service territory.

Q. WHAT ARE DATA CENTERS?

A. Data centers are facilities that house computing machines and related hardware. They provide the essential digital infrastructure that supports the applications, platforms and services people rely on every day. Facilities which rely on data centers include, but are not limited to: healthcare facilities that rely on data centers to support electronic record storage and telemedicine visits; educational institutions that rely on data centers to facilitate online courses and learning platforms; governments rely on data centers to provide services to their citizens, including online application and hearing options; and online retailers that rely on data centers to ensure their websites are available to consumers 24 hours a day, 7 days a week. Essentially, nearly every part of our economy that relies on the internet benefits from the existence of data centers.

From 2017 to 2023, the U.S. data center industry experienced substantial growth, with total employment rising 60% to 4.7 million jobs and labor income nearly doubling to $404 billion—outpacing national averages. Its contribution to GDP increased from $355 billion to $727 billion, a 105% rise that far exceeded the overall U.S. GDP growth of 41%, highlighting the industry's expanding economic impact and high-wage job creation.[14]

Data centers are a critical component of the digital economy and an enabler of its growth and benefits. Large, high load factor data center customers enhance the utilization of existing grid assets and contribute to the recovery of fixed costs. Additionally, the growth of the emerging data center industry can reduce the utility's overall risk by diversifying its customer base and decreasing its reliance on the manufacturing sector.

Q. WHAT IS DCC'S INTEREST IN THIS PROCEEDING?

A. In this proceeding, PacifiCorp has filed an application for approval of a new tariff, Schedule 401, for new LEUF customers which it has proposed to implement the requirements of HB 3546. The proposed schedule would establish the terms and conditions under which PacifiCorp serves new large data center customers, including the requirement to enter into individualized agreements prior to receiving service. DCC's members rely on reliable and affordable electric service and consequently have a substantial interest in ensuring that service is provided under

[14] (February 2025). Economic Contribution of Data Centers in the United States. PwC. https://static1.squarespace.com/static/63a4849eab1c756a1d3e97b1/t/67b38f78e9cf125daf756112/1739820925392/Data+Center+Economic+Contribution+Study+2025_Final.pdf

just and reasonable terms that support their businesses over the short- and long-term.

DCC does not oppose reasonable measures to ensure that new large load customers bear their fair share of service costs and that existing customers are protected from unwarranted cost shifting. However, DCC is concerned that certain aspects of PacifiCorp's proposal, particularly its reliance on individually negotiated agreements and the absence of standardized rates, terms, and conditions, could create unnecessary uncertainty, administrative burden, and potential inconsistencies for LEUF customers without corresponding benefits to other customers or the Commission.

Accordingly, DCC supports a framework that is transparent, workable, and administratively efficient, while providing fair and reasonable treatment for both LEUF customers and existing customers.

IV. RESPONSE TO PACIFICORP'S PROPOSAL

Q. WHAT IS YOUR OVERALL REACTION TO PacifiCorp's PROPOSED SCHEDULE 401?

A. I recognize that PacifiCorp is anticipating significant load growth from prospective LEUF customers in its Oregon and other service territories. I believe it is reasonable for the Commission to implement safeguards to protect other utility customers against the costs that may arise if PacifiCorp invests in significant new infrastructure to serve anticipated large loads, as well as to satisfy the requirements of HB 3546.

However, I have concerns with PacifiCorp's proposed reliance on individualized customer contracts as the primary mechanism for establishing the terms, conditions, and rates applicable to service for LEUF customers. Requiring each LEUF customer to separately negotiate service terms on a case-by-case basis creates a piecemeal framework that may result in similarly situated customers receiving materially different treatment for comparable service. In addition, reliance on individualized negotiations reduces transparency and limits the ability of stakeholders and the Commission to evaluate whether rates, terms, and conditions are being applied fairly and consistently across LEUF customers.

Given the substantial infrastructure investments and long-term commitments associated with serving new large loads, it is important that the Commission establish a standardized tariff framework that clearly defines the applicable rates, terms, conditions, and cost-allocation principles for LEUF service. While I recommend that the Commission maintain flexibility to address unique operational circumstances through special contracts, I recommend that the Commission adopt, in this proceeding, a standardized tariff structure and clear cost-allocation methodologies that establish foundational provisions for LEUF customers taking service under the proposed Schedule 401 tariff. Such an approach would provide balanced protections for existing customers, new LEUF customers, and the Company; ensure compliance with HB 3546; and promote transparency, predictability, and consistent nondiscriminatory treatment across similarly situated customers.

A. Applicability

Q. WHAT ARE THE APPLICABILITY PROVISIONS IN PACIFICORP'S PROPOSED SCHEDULE 401?

A. PacifiCorp proposes that Schedule 401 be applicable to facilities primarily engaged in services described under NAICS code 518210 with an electric service load of 20,000 kW or greater that either (1) have not entered into a contract for electric service with PacifiCorp before June 16, 2025, or (2) have an existing contract but require the Company to make significant investments or incur significant costs after June 16, 2025.[15]

Q. WHAT IS YOUR ASSESSMENT OF PACIFICORP'S APPLICABILITY PROPOSAL?

A. I recommend that the Commission accept PacifiCorp's proposed applicability provisions which would apply to new facilities defined as LEUFs, consistent with the definition contained in HB 3546.

I also recommend that the Commission approve PacifiCorp's proposals to limit the applicability to customers that do not participate in a Direct Access program and that either (a) have not entered into an electric service agreement with the Company prior to June 16, 2025, or (b) have an existing agreement but require the Company to make significant investments or incur substantial additional costs after that date. These applicability provisions reasonably exclude customers that were already receiving service prior to the effective date of HB 3546.

[15] PAC Advice No. 25-015- Schedule 401- Service to New Large Energy Use Facilities, p. 3.

B. Commission Oversight

Q. WHAT FRAMEWORK HAS PACIFICORP PROPOSED FOR ESTABLISHING RATES AND TERMS UNDER SCHEDULE 401?

A. PacifiCorp proposes that every LEUF would enter into an individualized agreement with the Company prior to receiving service. Each agreement would specify the terms, conditions, and rates for service. PacifiCorp further proposes to submit each agreement to the Commission for review and approval and proposes that the Commission would approve or reject each agreement within 60 days of filing.[16]

Q. WHAT IS YOUR ASSESSMENT OF THE COMPANY'S PROPOSAL?

A. As I explain above, I have concerns with PacifiCorp's proposed reliance on individualized customer contracts as the primary mechanism for establishing the terms, conditions, and rates applicable to LEUF service. Requiring each LEUF customer to separately negotiate service terms on a case-by-case basis creates a piecemeal framework that may result in similarly situated customers receiving materially different treatment for comparable service. In addition, reliance on individualized negotiations reduces transparency and limits the ability of stakeholders and the Commission to evaluate whether rates, terms, and conditions are being applied consistently across LEUF customers.

Q. DO YOU RECOMMEND AN ALTERNATIVE FRAMEWORK FOR SCHEDULE 401 CUSTOMERS?

A. Yes. As I discuss throughout my testimony, I recommend that the Commission establish a complete tariff framework for Schedule 401 that establishes

[16] *Id.*

standardized terms, conditions, and rates that would apply to all new Schedule 401 customers on a consistent basis and treat them as a unified customer class, similar to customers on the Company's other rate schedules.

Creating a new rate class with a complete tariff framework that is available to all new LEUF customers will provide certainty for new customers regarding the terms that will be available for service which is critical and necessary given the significant and long-term investments necessary to accommodate LEUFs. At the same time, it will ensure consistency and provide transparency to all stakeholders.

Q. HOW WOULD YOUR RECOMMENDED APPROACH REDUCE THE REGULATORY BURDEN ON THE COMMISSION AND OTHER STAKEHOLDERS?

A. To the extent that the Commission approves a comprehensive Schedule 401 tariff, that establishes just and reasonable terms, conditions, and rates for a new LEUF rate class, it would mitigate the need to have separate filings and regulatory reviews for each new LEUF with an individually negotiated agreement. New LEUF customers could take service based on consistent terms and rates contained in the Schedule 401 tariff that have already been reviewed and determined to be just and reasonable through this instant proceeding, and as modified in subsequent general rate cases, or other relevant proceedings.

Q. ARE YOU PROPOSING THAT ALL LEUF CUSTOMERS WOULD BE REQUIRED TO TAKE SERVICE ON SCHEDULE 401?

A. As I explain above, I support the Company's proposed applicability provisions for Schedule 401. However, I also think it is important to maintain flexibility to address unique circumstances.

While it is important to have a clear and complete set of terms and rates in Schedule 401 for LEUF customers that seek standard bundled service from the Company, to the extent that a customer is seeking alternative non-standard service arrangements, then it could be appropriate for the Commission to require a filing to review and approve those alternative arrangements.

Q. PLEASE SUMMARIZE YOUR RECOMMENDATION REGARDING COMMISSION OVERSIGHT FOR SCHEDULE 401?

A. I recommend that the Commission approve the terms and conditions for Schedule 401 as outlined in my testimony. To the extent the Commission adopts a standardized tariff structure in this proceeding that provides balanced protections for new large load customers, existing customers, and the Company, ensures compliance with HB 3546, promotes transparency for all stakeholders, and finds such structure to be just and reasonable, there would be no need for the Commission to separately evaluate individual new agreements for LEUF customers taking fully bundled service under that Commission-approved tariff.

However, where unique circumstances arise for non-standard service to a new LEUF customer, I recommend that the Commission retain the ability to consider individualized agreements and terms to address those specific unique circumstances.

C. Minimum Contract Term

Q. WHAT HAS PACIFICORP PROPOSED FOR MINIMUM CONTRACT TERMS UNDER SCHEDULE 401?

A. PacifiCorp proposes that each Large Energy Use Facility Agreement must specify a contract term of not less than 10 years, consistent with the minimum term required by HB 3546.[17]

Q. WHAT IS YOUR RECOMMENDATION REGARDING MINIMUM CONTRACT TERMS?

A. I recommend that the Commission approve PacifiCorp's proposal to require a minimum contract term of no less than 10 years for Schedule 401 customers. A 10-year minimum term would help ensure a meaningful level of revenue recovery toward the Company's fixed costs and would align with precedent recently established for large load tariffs in other jurisdictions across the country.

D. Minimum Charges

Q. WHAT HAS PACIFICORP PROPOSED REGARDING MINIMUM PAYMENT OBLIGATIONS FOR SCHEDULE 401 CUSTOMERS?

A. The proposed tariff includes a special condition that specifies that each LEUF Agreement would include a minimum payment obligation to ensure that LEUFs contribute to the Company's costs to serve them. However, the proposed tariff does

[17] *Id*. p. 4.

not identify any specific minimum amount.[18] As a result, these terms would be negotiated on a customer-specific basis and set forth in individual agreements.

Q. WHAT IS YOUR RECOMMENDATION REGARDING MINIMUM PAYMENT OBLIGATIONS FOR SCHEDULE 401?

A. As I explain above, in PacifiCorp's last rate case, the Commission approved the current capacity reservation charge of $3.68/kW with a 10% buffer, in conjunction with an excess demand charge equal to three times the capacity reservation charge with no buffer, to mitigate the potential costs risks and negative consequences associated with inaccurate load forecasts for customers greater than 50,000 kW.[19]

Although the current terms apply to customers with loads greater than 50,000 kW, LEUF customers with loads greater than 20,000 kW generally have similar size and load characteristics. Given that this issue was recently litigated and decided by this Commission, I recommend applying these same minimum charge provisions to LEUF customers through the proposed Schedule 401 tariff to promote regulatory consistency.

[18] *Id*.
[19] *PacifiCorp, dba Pacific Power, Request for a General Rate Revision (UE 433)*, Order (Dec. 19, 2024), p. 99.

E. Contract Flexibility

Q. DOES PACIFICORP'S PROPOSED SCHEDULE 401 ADDRESS CAPACITY REDUCTIONS?

A. No. The proposed Schedule 401 tariff does not include any specific provisions that would allow a customer to reduce or augment contract capacity or otherwise modify the terms of an individualized agreement.

Q. WHAT IS YOUR RECOMMENDATION REGARDING CONTRACTED CAPACITY REDUCTIONS UNDER SCHEDULE 401?

A. As I explain above, in PacifiCorp's last rate case, the Commission approved limitations that prevent a large customer greater than 50,000 kW from unilaterally reducing load more than 10% or 50 MW per year, with larger reductions allowed subject to mutual agreement between a large load and the Company.[20]

Consistent with that prior Commission determination, I recommend that the Commission apply the same load reduction limitations to the proposed Schedule 401 tariff to promote regulatory consistency.

[20] *Id*. p. 104.

F. Collateral

Q. WHAT COLLATERAL REQUIREMENTS DOES THE COMPANY PROPOSE FOR SCHEDULE 401?

A. PacifiCorp proposes that each agreement may contain unique credit, deposit, and security provisions for the customer.[21] These terms would be negotiated on a customer-specific basis and set forth in individual agreements.

Q. WHAT IS YOUR RECOMMENDATION REGARDING PACIFICORP'S PROPOSED COLLATERAL REQUIREMENTS?

A. I recognize the need for financial security provisions for new large loads, particularly during periods of load growth that may necessitate infrastructure expansion. Accordingly, I do not object to the Company's proposal to require unique credit, deposit, and security provisions for customers lacking sufficiently robust credit or liquidity, provided that these requirements are applied uniformly and on a nondiscriminatory basis to all new large loads.

However, I recommend that the tariff incorporate the following criteria to ensure that customers are able to negotiate reasonable collateral requirements that are not overly excessive:

a. Acceptable forms of financial security should include guarantees, cash, letters of credit, or surety bonds;

b. The amount of required collateral shall not exceed the total cost of any incremental facilities necessary to serve the new load;

[21] PAC Advice No. 25-015- Schedule 401- Service to New Large Energy Use Facilities, p. 4.

c. A customer should not be required to provide collateral more than 12 months before the Company makes the capital expenditures for required infrastructure investments;

d. Any customer required to provide financial security should be permitted to reasonably reduce the amount of security over the course of the contract term on a pro rata basis; and

e. Any revenues received from the drawdown of an LEUF customer's financial security should be deferred and used to offset costs for remaining customers through appropriate ratemaking treatment.

Q. PLEASE EXPLAIN WHY IT IS IMPORTANT TO REQUIRE THE COMPANY TO ACCEPT VARIOUS TYPES OF FINANCIAL SECURITY INSTRUMENTS?

A. As I explain above, I recommend that acceptable forms of financial security include guarantees, cash, letters of credit, and surety bonds. These forms of security are commonly used in utility contexts and provide reasonable flexibility for customers while still protecting the Company and its existing customers from the risk of non-payment or default. Importantly, these forms of financial security are also consistent with the options currently recognized under PacifiCorp's Open Access Transmission Tariff ("OATT"). Allowing multiple forms of acceptable collateral promotes consistency across the Company's tariffs and reduces the likelihood that financial security requirements become unnecessarily restrictive or discriminatory.

Q. WHY DO YOU RECOMMEND LIMITING REQUIRED COLLATERAL TO THE COST OF INCREMENTAL FACILITIES NECESSARY TO SERVE THE NEW LOAD?

A. Financial security requirements should be designed to protect the Company and existing customers from the risk of stranded costs associated with infrastructure investments made to serve a new customer. As a result, the amount of required collateral should not exceed the estimated capital costs of the incremental facilities necessary to provide service to the new load. Requiring collateral in excess of those costs would impose unnecessary financial burdens on customers without providing any additional protection against stranded asset risk or cost shifting. In my view, there is no reasonable basis for requiring a customer to post financial security above the level of the actual incremental investment required by that customer.

Q. WHY DO YOU RECOMMEND LIMITING WHEN THE COMPANY MAY REQUIRE A CUSTOMER TO POST FINANCIAL SECURITY?

A. I recommend that a customer should not be required to provide financial security more than 12 months before the Company makes the associated capital expenditures for required infrastructure investments. Requiring collateral substantially in advance of planned construction activity could impose significant and unnecessary financing costs on customers for extended periods of time before facilities are actually developed. In addition, this limitation would help ensure that the Company proceeds with infrastructure development in a timely manner after the required collateral posting is made.

Q. WHY SHOULD LEUF CUSTOMERS BE PERMITTED TO REDUCE THEIR FINANCIAL SECURITY OVER TIME?

A. If an LEUF customer remains in good standing and continues to satisfy its contractual obligations, the amount of required financial security should reasonably decline over the course of the contract term on a pro rata basis. This approach appropriately reflects the declining risk exposure associated with the remaining term of the customer's service commitment. For example, under a 10-year minimum contract term, a customer that initially posts financial security equal to the full cost of incremental facilities should generally be permitted to reduce the required security by approximately 10% each year, assuming continued compliance with the contract. Allowing pro rata reductions ensures that collateral requirements remain proportionate to the actual remaining risk exposure over time.

Q. WHY SHOULD REVENUES RECEIVED FROM THE DRAWDOWN OF AN LEUF CUSTOMER'S FINANCIAL SECURITY BE DEFERRED?

A. Any revenues received from the drawdown of an LEUF customer's financial security should be deferred and used to offset costs for remaining customers through appropriate ratemaking treatment. The purpose of financial security is to protect existing customers from potential cost shifts caused by a customer default, not to provide the utility with a financial windfall. Accordingly, if the Company draws upon a customer's posted security, those amounts should be used to mitigate the impacts of stranded costs or unrecovered investments that would otherwise be borne by remaining customers. This treatment would ensure that the financial

security mechanism functions as intended by protecting customers while avoiding over-recovery by the Company.

G. Cost Allocation

Q. WHAT HAS PACIFICORP PROPOSED REGARDING COST ALLOCATION UNDER SCHEDULE 401?

A. PacifiCorp proposes to directly assign all costs of serving each LEUF to that individual customer through its Agreement.[22] In discovery, the Company provides some additional clarification, stating that all necessary distribution upgrades would be directly assigned to the LEUF,[23] but the allocation of regional transmission upgrades, fixed generation costs, and net power costs may depend on the facts and circumstances of each LEUF and the necessary investments required to provide service to the customer.[24]

Q. WHAT REASONS DOES PACIFICORP PROVIDE TO SUPPORT ITS PROPOSAL TO DIRECTLY ASSIGN COSTS INDIVIDUALLY TO LEUF CUSTOMERS?

A. In its filing, PacifiCorp explains that HB 3546 provides the option for utilities to either allocate the costs of serving LEUFs to the customer class as a whole or to directly assign the costs to individual LEUF facilities. PacifiCorp asserts that its proposal to use the latter approach to direct assign costs is a simple and efficient way to implement HB 3546. PacifiCorp claims that directly assigning costs ensures

[22] *Id.* p. 3.
[23] PacifiCorp response to OPUC Data Request 9, reproduced in DCC Exhibit 101.
[24] PacifiCorp response to OPUC Data Requests 10-12, reproduced in DCC Exhibit 101.

that LEUFs bear the costs associated with serving them and prevents other retail customers from paying unwarranted costs.[25] PacifiCorp also claims that, as a multi-jurisdictional utility, directly assigning costs to individual customers ensures that costs incurred to serve a large load in one state are not borne by customers in another state.[26]

Q. WHAT IS YOUR ASSESSMENT OF PACIFICORP'S PROPOSED COST ALLOCATION APPROACH?

A. I have significant concerns with the direct assignment of certain cost categories to new LEUF customers. In particular, I am concerned with the potential to directly assign costs for shared *system* assets, such as network transmission facilities and system generation resources, assets that clearly provide benefits to all users of the system, to a single customer. Further, as I will explain in more detail below, direct assignment of shared system assets to a single customer can result in the potential for duplicative cost allocation of existing system costs.

Additionally, I disagree that directly assigning the costs of system assets is a simple or efficient means of implementing HB 3546. Specifically, PacifiCorp's proposed direct-assignment framework raises significant practical and administrative concerns.

Even where a network transmission or generation investment may be triggered by a new large-load request, those network transmission and generation resources are planned and developed to serve the *integrated* needs of the

[25] PAC Advice No. 25-015- Schedule 401- Service to New Large Energy Use Facilities, p. 4.
[26] *Id*.

Company's multi-state system. In many cases, a particular large customer may merely be the incremental addition that causes the Company to move forward with an investment that was already being driven by broader system growth, reliability, and resource adequacy needs. In that sense, the customer may be the "straw that breaks the camel's back," but not the sole or even primary cause of the underlying investment need.

Moreover, once such investments are constructed, they become part of the integrated system used to provide service to all customers. Existing customers benefit from those new investments in the same way that new customers benefit from the existing system infrastructure that was developed and funded by existing customers. This is a fundamental characteristic of integrated utility systems and is one of the reasons why embedded-cost ratemaking and cost sharing across customer classes have long been central features of traditional utility regulation.

Determining which specific network investments, or what portion of those investments, should be attributed to a particular LEUF customer would therefore require highly subjective assumptions regarding load growth, timing, diversity benefits, resource adequacy requirements, and future system utilization. As a result, the proposed framework creates substantial potential for inconsistent and arbitrary cost assignments and would likely lead to significant disputes regarding the appropriate allocation of shared system costs in future rate cases and other related proceedings.

Q. DOES HB 3546 REQUIRE UTILITIES TO DIRECTLY ASSIGN THE COSTS TO NEW LEUF CUSTOMERS?

A. No, it does not. HB 3546 provides utilities with the option to either allocate the costs of serving LEUF customers to the LEUF customer class as a whole or to directly assign certain costs to individual LEUF facilities. In either case, the statute requires that rates and cost-allocation approaches be designed to mitigate the risk of existing customers bearing unwarranted costs or experiencing unwarranted cost shifting as a result of serving new LEUF load.[27]

Q. DO YOUR CONCERNS REGARDING THE DIRECT ASSIGNMENT OF COSTS APPLY TO THE ASSIGNMENT OF COSTS FOR ALL TYPES OF FACILITIES?

A. No. My concerns regarding the direct assignment of costs are limited to the costs associated with shared *system* assets, such as network transmission facilities and system generation resources, that clearly provide benefits to all users of the system.

Q. CAN YOU PLEASE ELABORATE WHAT KIND OF TRANSMISSION FACILITIES YOU CONSIDER TO BE NETWORK TRANSMISSION FACILITIES?

A. Generally, transmission facilities that operate at high voltages (typically greater than or equal to 69 kV or 100 kV), are located on the utility side of a load or generator interconnection point, and are not radial or sole-use facilities, are considered network transmission facilities.

Q. ARE THERE ANY TYPES OF FACILITIES FOR WHICH IT WOULD BE REASONABLE TO DIRECT ASSIGN COSTS TO NEW LEUF CUSTOMERS?

[27] H.B. 3546, 83rd Leg. Assemb., Reg. Sess. § 2(2).

A. Yes. I agree that it would be reasonable and efficient to directly assign the costs of *sole-use* facilities to a new LEUF customer. Sole-use facilities include customer-specific substations, radial distribution lines, and radial transmission lines that only allow a single customer, or small group of customers, to interconnect to the grid.

Direct assignment is appropriate because these facilities do not provide a broader system benefit and have limited or no alternative use if the customer departs. However, if such facilities are later used by additional customers, a payback or credit mechanism should be implemented to ensure that the original customer is not subsidizing future users of the same facilities.

Q. CAN YOU PROVIDE AN EXAMPLE TO ILLUSTRATE HOW DUPLICATIVE COST ALLOCATION CAN OCCUR WHEN THE COST OF SYSTEM FACILITIES ARE DIRECTLY ASSIGNED?

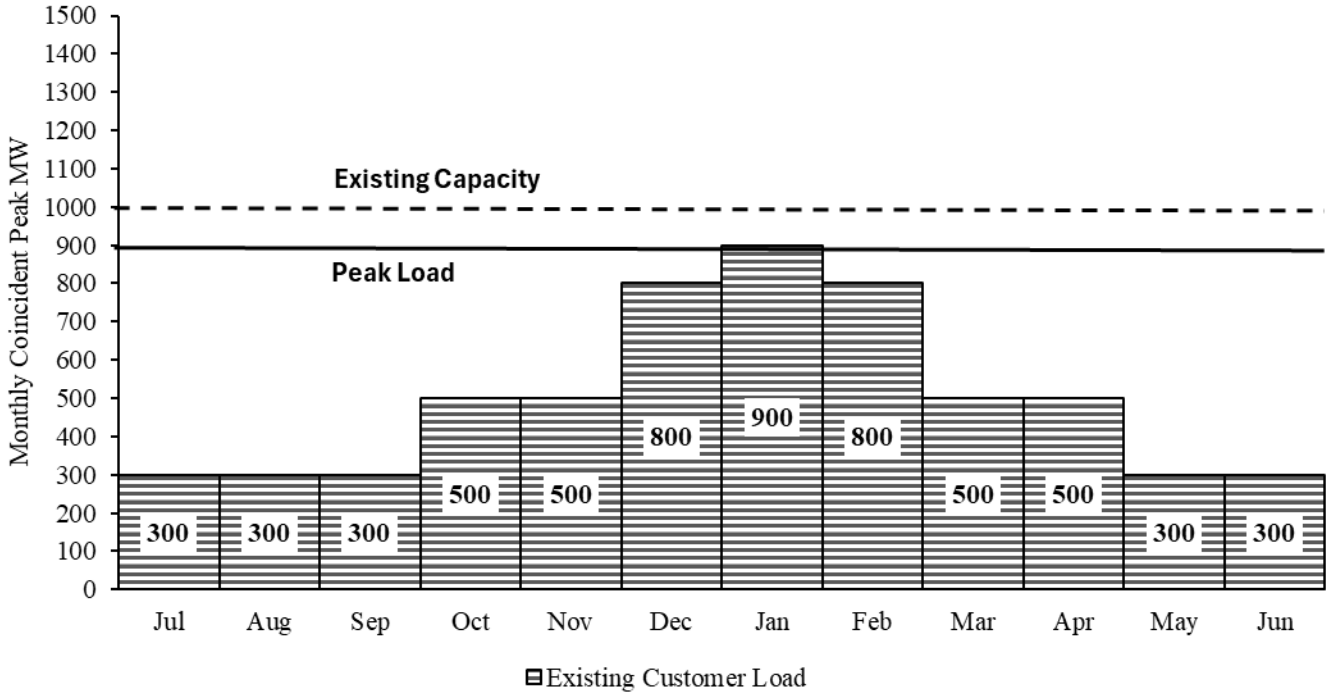
A. While direct assignment of costs can be appropriate for sole-use or dedicated facilities, it is not appropriate to directly assign costs for *system* assets because system assets cannot be directly attributable to a single customer. Even if a new large load triggers the need for a new investment like a power plant, other customers also contribute to the need and receive the benefit of that investment. Likewise, the new large load also benefits from the existing transmission and generation system.

If a new large load is directly assigned the entire cost of a new power plant, based on the premise that the new power plant is directly serving the new load, then it would be duplicative to also allocate existing system generation costs to that customer based on its total load. That is because doing so would be inconsistent with the questionable premise justifying the direct assignment in the first place, that

the new power plant is directly or exclusively serving the new large load.

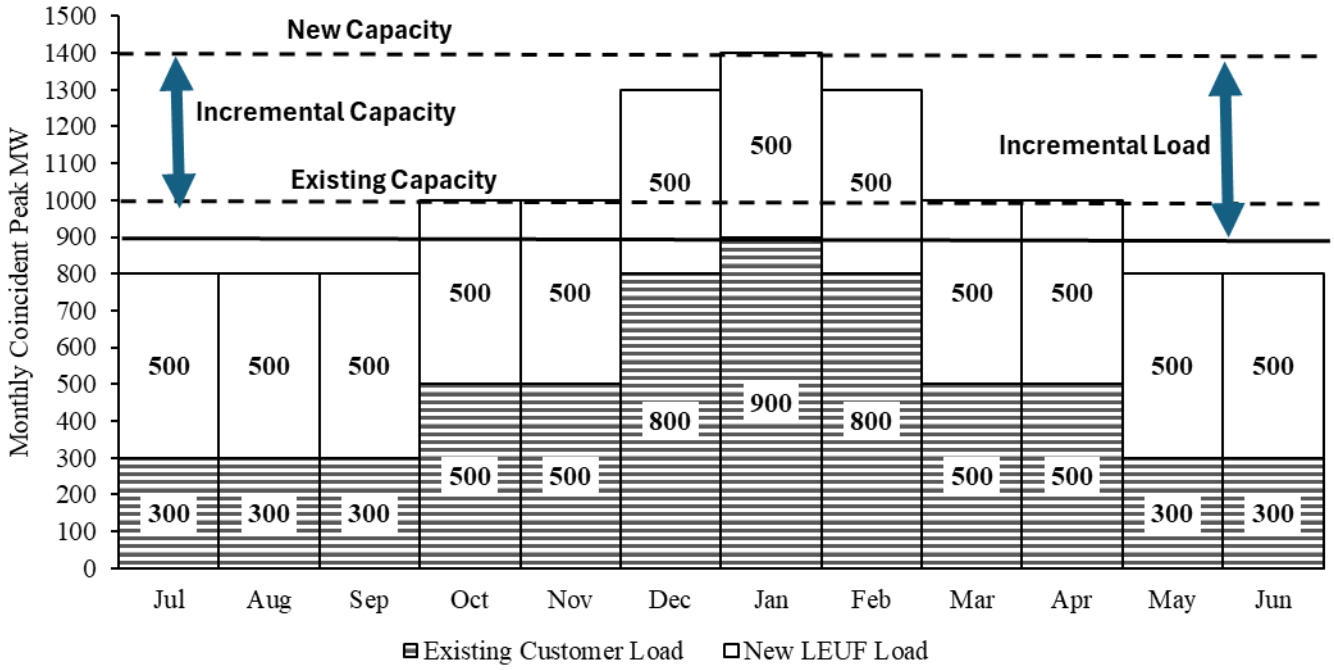
This issue can be illustrated with a simple example. Consider a utility system with a 900 MW peak load that occurs in January, and monthly peak loads through the rest of the year that vary between 300 MW to 800 MW. And further, assume that the utility's portfolio of transmission and generation resources is capable of serving 1,000 MW of peak load, resulting in 100 MW of excess capacity, or headroom. This hypothetical system is illustrated in Figure JB-2 below.

Figure JB-2
Hypothetical Utility System Loads and Capacity
Existing System



Now assume that a new 500 MW LEUF customer requests electric service. In order to serve this new customer, the utility must invest in additional transmission and generation resources sufficient to increase total system capacity by 400 MW. The required incremental investment is 400 MW rather than 500 MW because the existing system already had 100 MW of unused capacity available to accommodate part of the new load. This revised system configuration is illustrated in Figure JB-3 below.

Figure JB-3
Hypothetical Utility System Loads and Capacity
Existing System Plus Incremental Load



Prior to the addition of the new large load, existing customers were responsible for the cost of 100% of the utility's 1,000 MW of load serving capacity. If the new load is directly assigned the costs of the incremental 400 MW of capacity investments, while also being allocated a share of the existing 1,000 MW system on a proportional basis based on its *total* load, that will result in a duplicative cost

allocation to the new large load.

Under this example, the new load would be allocated 100% of the incremental 400 MW of capacity plus 5/14ths of the existing 1,000 MW system capacity,[28] or 357 MW.[29] In total, the customer would effectively be assigned cost responsibility for approximately 757 MW of capacity-related investment[30] despite having only 500 MW of actual load.

This example demonstrates how directly assigning system assets that both serve and benefit the integrated system, while simultaneously allocating embedded system costs through traditional allocators (based on *total* load without appropriate adjustments), can result in duplicative recovery of capacity-related costs from the new large-load customer.

Q. WHY CAN'T THE COMPANY SIMPLY ALLOCATE THE COSTS OF NETWORK TRANSMISSION AND SYSTEM RESOURCE INVESTMENTS TO THE PROPOSED SCHEDULE 401 RATE CLASS IN THE SAME MANNER THAT IT ALLOCATES COSTS TO ALL OTHER RATE CLASSES IN A GENERAL RATE CASE?

A. I believe that it could be reasonable to allocate system costs to the Schedule 401 rate class in the same manner that costs are allocated to all other customer classes. However, I also recognize that there are concerns that new LEUF customers could potentially shift costs to existing customers in an unwarranted manner. Avoiding

[28] Assuming a single coincident peak allocation methodology, the new 500 MW LEUF customer would be allocated 5/14ths of the existing system capacity costs, equal to their January peak load of 500 MW divided by 1,400 MW, the sum of the existing customers' 900 MW peak load and the new customer's 500 MW peak load during that month.
[29] 5/14ths x 1,000 MW = 357 MW.
[30] 400 MW + 357 MW = 757 MW.

this potential outcome is one of the stated requirements in HB 3546.[31]

Q. HOW COULD A NEW LARGE LOAD HAVE THE POTENTIAL TO IMPACT COSTS FOR EXISTING CUSTOMERS?

A. When a new load is added to the system, it provides additional revenues. However, when a new load requires significant additional infrastructure investments, that also creates additional cost and associated revenue requirement.

If the incremental revenue requirement associated with new investments exceeds the incremental revenues from the new load, that can put *upward* pressure on rates, *all else being equal*.

Conversely, if the incremental revenues from the new load are greater than the revenue requirement associated with new investments, it will put *downward* pressure on rates, *all else being equal*. In this latter scenario, existing customers may benefit from the addition of a new large load because the significant increase in billing units allows fixed costs to be spread over a larger customer base.

Q. DO YOU HAVE AN ALTERNATIVE RECOMMENDATION TO ALLOCATE NETWORK TRANSMISSION AND SYSTEM GENERATION COSTS TRIGGERED BY SCHEDULE 401 CUSTOMERS THAT WILL PREVENT COST SHIFTING TO OTHER CUSTOMERS?

A. Yes. I recommend that the Commission adopt a "higher of" pricing policy for the allocation of network transmission and system generation facilities triggered by new LEUF customers. This approach would prevent cost shifting to existing customers while also avoiding unnecessary subsidies from LEUF customers,

[31] H.B. 3546, 83rd Leg. Assemb., Reg. Sess. § 2(2).

particularly in circumstances where the addition of new load is beneficial from a system cost perspective. My recommended approach is based on FERC's longstanding pricing policy for wholesale transmission service, which has been successfully applied for more than 30 years.[32]

My recommended approach would apply a relatively simple test to determine whether new infrastructure investments required to serve new LEUF customers would cause rates to increase for existing customers. Specifically, this pricing policy would compare the incremental cost-based rate for incremental investments triggered by a new LEUF customer to the embedded cost-based rate. The incremental cost-based rate is equal to the incremental revenue requirement of the new system transmission and generation facilities divided by the LEUF customer's load. The embedded cost-based rate is equal to the utility's total embedded transmission and generation revenue requirement divided by total system load, inclusive of the new facilities and new LEUF load.

If the *incremental* cost-based rate is *lower* than the *embedded* cost-based rate, then the LEUF customer class would take service at the embedded cost-based rate, similar to other customers, because the addition of the new load would not

[32] See *Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act; Policy Statement*, 59 Fed. Reg. 55,031, 55,034 (Nov. 3, 1994), available at https://www.govinfo.gov/content/pkg/FR-1994-11-03/html/94-27091.htm ("the Commission has allowed a utility to charge transmission-only customers the higher of embedded costs (for the system as expanded) or incremental expansion costs, but not the sum of the two.").
See also *Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act*, Policy Statement, FERC Stats. & Regs. ¶ 31,005 at 31,141 (1994), order clarified, 71 FERC ¶ 61,241 (1995), available at https://www.ferc.gov/sites/default/files/2020-06/RM93-19-000.pdf ("In the Policy Statement, the Commission explained that when the transmission grid is constrained and a utility chooses not to expand its system, we have allowed the utility to charge transmission-only customers the higher of embedded costs or legitimate and verifiable opportunity costs, but not the sum of the two ('or' pricing). The opportunity costs are capped by incremental expansion costs.").

place upward pressure on system costs. However, if the *incremental* cost-based rate is *higher* than the *embedded* cost-based rate, then the LEUF customer, or customer class, would pay the higher incremental cost-based rate. Under that scenario, the additional revenues[33] recovered from the LEUF customer would ensure that existing customers are not exposed to upward pressure on rates resulting from the new infrastructure investments.

Mathematically, this approach ensures that customers triggering significant new infrastructure investments do not put upward pressure on rates for other existing customers. At the same time, it aligns with cost-causation principles and avoids the potential for duplicative cost allocation that can result from directly assigning shared system facilities, as discussed above.

Q. CAN YOU PROVIDE AN EXAMPLE OF HOW YOUR RECOMMENDED HIGHER OF PRICING POLICY CAN BE APPLIED TO AVOID COST SHIFTING?

A. Consider the hypothetical system example I provided above. Let's further assume the annual revenue requirement for the existing network transmission and system generation capacity is $54 million, resulting in an average embedded cost of $60,000/MW of January peak load.[34]

Now assume that a new LEUF customer with 500 MW of January peak load causes the utility to construct incremental transmission and generation capacity that results in an additional annual revenue requirement of $35 million. In this scenario,

[33] The additional revenues refer to the difference between the revenues that would be received at the incremental cost-based rate relative to the revenues that would be received at embedded cost-based rate.
[34] $54 million ÷ 900 MW = $60,000/MW.

the incremental cost-based rate associated with serving the new LEUF customer would be $70,000/MW,[35] which is higher than the existing embedded cost-based rate of $60,000/MW. Incorporating the new infrastructure investments into the system would increase the overall embedded cost-based rate to $63,571/MW.[36] This scenario is illustrated in Table JB-1 below.

Table JB-1
New Load Pays Incremental Cost-Based Rate

	Existing	Incremental	Embedded
Annual Rev Req $	54,000,000	35,000,000	89,000,000
Capacity MW	900	500	1,400
$/MW	60,000	70,000	63,571

Since the *incremental* cost-based rate in this scenario is *higher* than the *embedded* cost-based rate, the new LEUF customer would pay the *incremental* cost-based rate which would be designed to recover 100% of the new transmission and generation capacity that it caused to be built. Because the incremental facilities are fully funded through the incremental rate, the existing cost-based rate for existing system capacity would remain unchanged. As a result, existing customers would be held harmless and would continue paying the same embedded cost-based rate as before the new load interconnected.

Now assume instead that the new LEUF customer caused the utility to build incremental transmission and generation capacity that resulted in an additional annual revenue requirement of $25 million, rather than $35 million. In this scenario, the *incremental* cost-based rate would be $50,000/MW,[37] which is less

[35] $35 million ÷ 500 MW = $70,000/MW.
[36] ($35 million + $54 million) ÷ (500 MW + 900 MW) = $63,571/MW.
[37] $25 million ÷ 500 MW = $50,000/MW.

than the existing embedded cost-based rate of $60,000/MW. This scenario is illustrated in Table JB-2 below.

Table JB-2
New Load Pays Embedded Cost-Based Rate

	Existing	Incremental	Embedded
Annual Rev Req $	54,000,000	25,000,000	79,000,000
Capacity MW	900	500	1,400
$/MW	60,000	50,000	56,429

Since the *incremental* cost-based rate is *lower* than the existing embedded cost-based rate, the addition of the new load and associated infrastructure would place downward pressure on the updated embedded cost-based rate, resulting in an embedded cost-based rate of $56,429/MW.[38] Under this scenario, both the new LEUF customer and existing customers would pay the lower embedded cost-based rate. Importantly, the revenues collected from the new LEUF customer would exceed the incremental revenue requirement associated with the new facilities required to serve that customer, *thereby reducing the embedded cost-based rate for all customers and producing a net benefit for existing customers*.

Q. YOU HAVE ADDRESSED COST ALLOCATION ABOVE FOR SOLE-USE TRANSMISSION AND DISTRIBUTION FACILITIES AND SYSTEM TRANSMISSION AND GENERATION INVESTMENTS ABOVE. HOW SHOULD NETWORK DISTRIBUTION COSTS THAT ARE NOT ASSOCIATED WITH SOLE-USE FACILITIES BE ALLOCATED?

A. Given the size requirements for Schedule 401, it is likely that most LEUF customers will be interconnected either at transmission voltage or at a dedicated primary

[38] ($25 million + $54 million) ÷ (500 MW + 900 MW) = $56,429/MW.

distribution substation, and therefore will not make use of any downstream network distribution facilities.

However, in the event that an LEUF Schedule 401 customer does interconnect to the grid downstream of a primary substation, then I recommend that distribution system costs be allocated to the Schedule 401 rate class in a similar manner as the Company allocates distribution costs to all other to other similarly situated customer classes.

LEUF customers that would interconnect downstream of a primary substation are likely to be relatively small compared to most other LEUF customers. In addition, customers taking service at these lower voltage levels would generally not be expected to require uniquely significant network distribution investments that materially differ from those required to serve other large commercial or industrial customers interconnected at similar voltage levels. Accordingly, applying the Company's existing distribution cost allocation methodologies to such customers would be reasonable and consistent with cost causation principles.

H. Rates

Q. HOW DOES PACIFICORP PROPOSE TO ESTABLISH RATES UNDER SCHEDULE 401?

A. The Company's approach would not establish specific Schedule 401 rates for electric service. Instead, customers would negotiate individualized contracts with

customized rates. As a result, the specific rates paid by each customer would vary depending on the terms negotiated in their individual agreement.

Q. WHAT DO YOU RECOMMEND REGARDING THE ACTUAL RATES AND CHARGES FOR SCHEDULE 401?

A. I recommend that the Commission adopt reasonable cost allocation methodologies in this proceeding, such as the ones I have recommended, to allocate costs to the proposed Schedule 401 customer class. In future general rate cases, those approved methodologies should be applied using actual adjusted test period costs and loads to allocate costs to Schedule 401 customers, and rates should be designed consistent with the results of a class cost-of-service study to reasonably recover those allocated costs.

Q. ABOVE YOU RECOMMEND THAT SCHEDULE 401 RATES SHOULD BE ESTABLISHED IN A RATE CASE BASED ON <u>ACTUAL</u> TEST PERIOD REVENUES, COSTS, AND LOADS. WHAT SCHEDULE 401 CHARGES SHOULD BE IMPLEMENTED IN THIS PROCEEDING UNTIL RATES CAN BE UPDATED IN A SUBSEQUENT RATE CASE BASED ON <u>ACTUAL</u> TEST PERIOD DATA?

A. Since there are currently no customers taking service under Schedule 401, the costs associated with serving prospective new LEUF loads, as well as the magnitude and characteristics of those loads, are not currently known. Without this information, it is not possible to perform a class cost-of-service study sufficient to allocate costs and develop cost-based rates for the proposed Schedule 401 class.

However, LEUF customers are likely to exhibit load characteristics similar to customers that are currently taking service under the existing Schedule 48. In fact, the Company confirmed in discovery that some existing large load customers that meet the HB 3546 definition for an LEUF are already taking service under Schedule 48.[39] Accordingly, until updated cost-based Schedule 401 rates can be developed in a subsequent general rate case based on actual test period data, I recommend that the charges applicable under Schedule 401 initially be set equal to the effective Schedule 48 charges, which have already been determined by the Commission through a general rate case proceeding to be just and reasonable rates for similarly situated large customers.

Q. DOES YOUR RECOMMENDATION TO SET SCHEDULE 401 CHARGES EQUAL TO SCHEDULE 48 CHARGES UNTIL NEW RATES CAN BE UPDATED IN A SUBSEQUENT RATE CASE CAUSE A POTENTIAL FOR COST SHIFTING TO EXISTING CUSTOMERS?

A. No, it does not. To the extent that PacifiCorp makes significant infrastructure investments for transmission or generation facilities to serve a new Schedule 401 customer, those costs will not be included in rate base and recovered through rates from existing customers until the Commission approves new base rates through a subsequent general rate case, or other rate mechanism. Therefore, setting Schedule 401 charges equal to Schedule 48 charges in this proceeding, until they can be updated in a subsequent rate case, would not result in any cost shifting to existing customers.

[39] PacifiCorp response to OPUC Data Request 1, reproduced in DCC Exhibit 101.

Importantly, if the Company undertakes significant investments to serve a new LEUF customer, it would also begin receiving substantial incremental revenues from that customer once service commences. While it is not possible at this time to determine whether those incremental revenues will ultimately be sufficient to fully recover the incremental costs associated with serving such load, the Company retains the ability to file a general rate case under established regulatory procedures if it believes updated rates are necessary.

In any event, my recommendation simply establishes effective charges for Schedule 401 based on existing cost-based rates for similarly situated Schedule 48 customers until sufficient actual load, revenue, and cost data exist to support the development of cost-based Schedule 401 rates in a subsequent rate case. Because no new infrastructure costs would be recovered from existing customers absent Commission approval in a future rate proceeding, my recommendation would not create cost shifting to existing customers.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, it does.

DCC Exhibit 101
OPUC Docket No. UE 463

PacifiCorp Responses to Data Requests Referenced in the Direct Testimony of Justin Bieber

OPUC Data Request 1

Please provide a count of the current number of customers that would qualify as a Large Energy Use Facility as defined by HB 3546 by schedule.

Confidential Response to OPUC Data Request 1

By "current customer" the company assumes the Public Utility Commission of Oregon (OPUC) is referring to customers with existing facilities receiving electric service as of the current date. Assuming the foregoing, the company responds as follows:

There are [redacted] entities with 11 Schedule 48 metered points of delivery that qualify as Large Energy Use Facilities as defined by House Bill (HB) 3546.

Confidential information is designated as Protected Information under Order No. 23-132 and may only be disclosed to qualified persons as defined in that order.

OPUC Data Request 9

How does the Company plan to attribute the costs of distribution upgrades through the Large Energy Use Facility Agreement?

(a) Does the Company anticipate any instances where a Large Energy Use Facility will share distribution equipment with other customers? If yes, please describe how distribution costs would be allocated.

Response to OPUC Data Request 9

PacifiCorp anticipates that all necessary distribution upgrades would be directly assigned to the Large Energy Use Facility. The threshold for a customer being classified as a Large Energy Use Facility is 20 megawatts (MW), which is very similar to the 25 MW threshold in the current line extension tariff which only provides for an allowance for the necessary metering. Please refer to the Rule 13 tariff.

OPUC Data Request 10

How does the Company plan to attribute the costs of transmission upgrades through the Large Energy Use Facility Agreement?

(a) Does the Company plan to attribute the costs of regional transmission upgrades to a single customer? If so, what analysis would the Company use for this cost assignment?

(b) If in the future, if these transmission lines are proven to provide reliability benefits to the system at large, would the Company propose cost reassignment?

(c) If the costs of regional transmission lines are attributed to a single customer, how would these costs be allocated in PacifiCorp's current MSP proposal in UM 2401?

Response to OPUC Data Request 10

The assignment of transmission upgrades to a Large Energy Use Facility through a Large Energy Use Facility Agreement will depend upon the unique facts and circumstances of the transmission upgrades and the requirements for the Large Energy Use Facility.

(a) Assignment of the costs of regional transmission upgrades to a Large Energy Use Facility would depend upon the unique facts and circumstances of the transmission upgrades and the requirements for the Large Energy Use Facility.

(b) Please refer to the company's response to subpart (a) of this request.

(c) If all, or a portion, of the costs were solely assigned to a single customer, the company would propose situs treatment to the state for the amount solely assigned to the single customer.

OPUC Data Request 11

How does the Company intend to allocate fixed generation costs through the Large Energy Use Facility Agreements?

(a) Will fixed generation costs related to new resources directly assigned to specific customers?

(b) How does the Company intend to spread fixed generation costs of existing assets?

Response to OPUC Data Request 11

How PacifiCorp intends to allocate fixed generation to Large Energy Use Facilities will depend on the facts and circumstances of each Large Energy Use Facility and the generation that will be required to serve the customer. The calculation of rates for a Large Energy Use Facility may include incremental costs, contributions to existing costs, or a combination of both.

OPUC Data Request 12

How does the Company intend to allocate net power costs through the Large Energy Use Facility Agreement?

Response to OPUC Data Request 12

How PacifiCorp intends to allocate net power costs (NPC) to Large Energy Use Facilities will depend on the facts and circumstances of each Large Energy Use Facility and the generation that will be required to serve the customer. Rates that recover NPC for a Large Energy Use Facility may be based on incremental costs, existing cost, reference to a specific index such as the locational marginal price at a node in the Extended Day-Ahead Market (EDAM), or a combination of these elements, as appropriate.