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September 16, 2026

VIA EMAIL TO

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

Re: Docket No. UE 463 – In the Matter of PacifiCorp d/b/a Pacific Power, Advice No. 25-015, Schedule 401 – Service to New Large Energy Use Facilities.

Attention Filing Center:

Attached for filing in the above-captioned docket, please find the Joint Testimony of Robert M. Meredith, Bret Stevens, Ryan Tran, and Jeremy Fisher on behalf of PacifiCorp, Public Utility Commission of Oregon Staff, Oregon Citizens' Utility Board, and Environmental Intervenors in Support of Stipulation.

Please contact this office with any questions.

Sincerely,

Hanna Campbell
Paralegal
McDowell Rackner Gibson PC

Docket No. UE 463
Exhibit Stipulating Parties/100
Witnesses: Robert M. Meredith, Bret Stevens, Ryan Tran, and Jeremy Fisher

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

STIPULATING PARTIES

Joint Testimony of Robert M. Meredith, Bret Stevens, Ryan Tran, and Jeremy Fisher

on behalf of

PacifiCorp, Public Utility Commission of Oregon Staff, Oregon Citizens' Utility Board, and Environmental Intervenors

in Support of Stipulation.

September 16, 2026

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I. INTRODUCTION AND SUMMARY

Q. Who is sponsoring this testimony?

A. This testimony is sponsored by PacifiCorp d/b/a Pacific Power (PacifiCorp or the company); Public Utility Commission of Oregon (Commission) Staff; Oregon Citizens' Utility Board (CUB); and Community Energy Project, Climate Solutions, Oregon Environmental Council, and Sierra Club (Environmental Intervenors) (collectively, the Stipulating Parties).

Q. Please provide your names, positions, and qualifications.

A. Our names are Robert M. Meredith, Bret Stevens, Ryan Tran, and Jeremy Fisher. The qualifications for witness Meredith, the sponsor for PacifiCorp, are set forth in PAC/100, Meredith/1. The qualifications for witness Stevens, the sponsor for Staff, are set forth in Exhibit Staff/101, Stevens. The qualifications for witness Tran, the sponsor for CUB, are set forth in Exhibit CUB/101, Tran. The qualifications for witness Fisher, the sponsor for Environmental Intervenors, are set forth in Exhibit Environmental Intervenors/101, Fisher and Environmental Intervenors/102, Fisher.

Q. What is the purpose of this Joint Testimony?

A. This Joint Testimony describes and supports the Stipulation, filed concurrently with this testimony. The Stipulation resolves all issues among the Stipulating Parties related to Schedule 401 and sets forth additional commitments PacifiCorp has made related to implementing the POWER Act, Oregon Laws 2025 Chapter 323 (POWER Act). The Alliance of Western Energy Consumers (AWEC); Amazon Data Services, Inc. (ADS); and Vitesse, LLC (Vitesse) (collectively, Non-Opposition Parties) are also parties to this docket, and these parties do not join the Stipulation but have authorized the

Stipulating Parties to represent that the Non-Opposition Parties do not oppose the Stipulation.

Q. Has any party to docket UE 463 objected to the Stipulation?

A. The Data Center Coalition (DCC) has informed the other parties it intends to object to the Stipulation.

Q. Are there any other parties to docket UE 463?

A. Yes, Rowan Percheron (Rowan) is also a party to docket UE 463. Rowan did not file testimony, and although Rowan participated in the settlement discussions, Rowan has not provided its position regarding the Stipulation.

II. BACKGROUND

Q. Please summarize the background and context of docket UE 463.

A. On June 16, 2025, the POWER Act took effect. The POWER Act requires the Commission to create a service classification for retail electricity customers that are large energy use facilities, which are defined as facilities that use or are able to use 20 megawatts (MW) or more and are primarily engaged in providing a service described under code 518210 of the 2022 North American Industry Classification System (computing infrastructure providers, data processing, web hosting, and related services).[1] The POWER Act requires the service classification for large energy use facilities to be "separate and distinct" from classifications of service for other commercial or industrial retail electricity consumers and have its own tariff schedule.[2] The Act also sets forth various requirements for tariff schedules applicable to the new

[1] House Bill (HB) 3546 § 2(1)(d).
[2] HB 3546 § 2(2).

large energy use facility customer classifications,[3] as well as considerations the Commission must take into account when deciding whether to approve a proposed tariff for large energy use facility customers.[4]

On October 2, 2025, PacifiCorp filed Advice No. 25-015, proposing new tariff sheets for Schedule 401 – Service to New Large Energy Use Facilities, and revised tariff sheets for Schedule 47 – Large General Service Partial Requirements 1,000 KW and Over Delivery Service, Schedule 48 – Large General Service 1,000 KW and Over Delivery Service, and Schedule 90 – Summary of Effective Rate Adjustments (Initial Filing). The company's Initial Filing proposed implementing the POWER Act by establishing a new customer class for new Large Energy Use Facilities (LEUFs) or LEUFs with existing contracts with the company that require the company to make significant investments or incur significant costs.

Q. How did PacifiCorp propose to serve the new customer class for new LEUFs and existing LEUFs requiring significant investments?

A. PacifiCorp proposed to serve this new class under Schedule 401. Proposed Schedule 401 defined "Large Energy Use Facilities" consistently with the definition in HB 3546 and defined "New Large Energy Use Facilities" as LEUFs that do not participate in a Direct Access program and either have not entered into a contract for electric service with the company before June 16, 2025, or have previously entered into a contract with the company for electric service but require the company to make significant investments or incur significant costs after June 16, 2025. Schedule 401 proposed directly assigning these customers their costs of service by requiring them to enter a

[3] HB 3546 § 2(2)(a)-(c)
[4] HB 3546 § 2(3).

Large Energy Use Facility Agreement (LEUF Agreement) with the company that would be subject to the Commission's approval and would establish their rates, terms, and conditions of service.

Q. How did intervenors respond to PacifiCorp's advice filing?

A. On October 31, 2025, ADS filed a petition requesting the Commission to initiate an investigation and contested case hearing regarding the filing and suspend Schedule 401 for the pendency of the investigation and hearing. PacifiCorp responded on November 11, 2025, requesting the Commission to adopt an expedited schedule for the contested case and make Schedule 401 effective on an interim basis. ADS filed a reply on November 18, 2025, opposing PacifiCorp's proposed case schedule.

On November 17, 2025, AWEC filed a motion to dismiss PacifiCorp's filing for not proposing a stated, cost-of-service rate for customers in the new customer class and requested that the Commission require PacifiCorp to develop a stated, cost-of-service rate option for LEUF customers. ADS and DCC filed responses generally supporting AWEC's motion, and PacifiCorp filed a response requesting that the Commission deny AWEC's motion.

Q. How did the Commission resolve the early filings in this docket?

A. On December 16, 2025, the Commission issued an Order finding that "good and sufficient cause exists to investigate the propriety and reasonableness" of PacifiCorp's Initial Filing.[5] The Commission opened an investigation into PacifiCorp's proposed Schedule 401 and suspended PacifiCorp's proposed tariff revisions for ten months, although the Commission stated it "acknowledge[d] PacifiCorp's arguments that

[5] Order No. 25-516 at 2.

customer protection requires timely decision making."[6] The Commission denied AWEC's motion to dismiss and PacifiCorp's request that the tariff changes take effect on an interim basis, holding that "[t]he contested case investigation will address both timing concerns and the requirements of HB 3546 and other statutes and rules."[7]

Q. Did the parties to this docket exchange discovery?

A. Yes. Since the Initial Filing, PacifiCorp has responded to 155 data requests from AWEC, CUB, DCC, Environmental Intervenors, Staff, and Vitesse, and Staff has responded to 13 data requests from Vitesse.

Q. Please provide an overview of the parties' testimony in this docket.

A. Staff, AWEC, CUB, ADS, DCC, Environmental Intervenors, and Vitesse filed opening testimony on May 14, 2026, and PacifiCorp filed reply testimony on June 11, 2026. PacifiCorp's reply testimony included two proposed contract structures indicative of the type of LEUF Agreements PacifiCorp proposed to enter under Schedule 401. On July 9, 2026, Staff, AWEC, CUB, ADS, DCC, Environmental Intervenors, and Vitesse filed rebuttal testimony. On July 28, 2026, PacifiCorp filed surrebuttal testimony, which committed to the two contract structures detailed in PacifiCorp's reply testimony and appended a revised Schedule 401 tariff proposal.

Q. Did the parties to this proceeding engage in settlement discussions?

A. Yes. The parties convened settlement conferences on July 17, 2026; August 6, 2026; August 13, 2026; and August 18, 2026. As a result of the settlement discussions, the Stipulating Parties reached a settlement resolving all issues related to Schedule 401, in addition to certain other issues related to LEUFs, such as a separate tariff for customers

[6] Order No. 25-516 at 2.
[7] Order No. 25-516 at 2.

that are considered LEUFs and subject to the POWER Act, but do not qualify as a "New LEUF," in PacifiCorp's Oregon service territory.

Q. Please provide an overview of the Stipulation and how it will be implemented.

A. The Stipulation addresses many aspects of proposed Schedule 401, and once the Stipulation is approved, PacifiCorp will implement several of the terms in the Stipulation by submitting a compliance filing that updates the revised Schedule 401 proposal included in PacifiCorp's surrebuttal testimony. The Stipulation also includes additional commitments from PacifiCorp related to implementing the POWER Act that would not be reflected in Schedule 401 but instead will require revisions to other tariffs or other actions.

Q. Does the Stipulation comprehensively encapsulate PacifiCorp's implementation of the POWER Act?

A. No. The Stipulation clarifies and updates several terms in PacifiCorp's revised Schedule 401 proposal filed with its surrebuttal testimony in this proceeding but does not address every term in the revised tariff. Thus, the Stipulation should be read in concert with PacifiCorp's revised Schedule 401 proposal, which will be updated in a compliance filing after the Stipulation is approved. In addition, the Stipulation does not address all issues regarding development of a new rate schedule for existing LEUFs, which the Stipulating Parties agree will occur after the conclusion of docket UE 470..

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III. SETTLEMENT TERMS IMPLEMENTED THROUGH SCHEDULE 401

A. Qualification for Schedule 401

1. Definition of LEUFs and New LEUFs

Q. Does the Stipulation define "LEUF"?

A. No. The definition of a "LEUF" is supplied by the POWER Act, and PacifiCorp's proposed Schedule 401 incorporates the definition of "LEUF" provided by the POWER Act. Schedule 401 applies to a subset of LEUFs in PacifiCorp's Oregon service territory that are deemed "New LEUFs." Schedule 401 and the Stipulation provide additional criteria regarding when a customer that meets the POWER Act's definition of a LEUF will be required to take service under Schedule 401 by virtue of being a "New LEUF," as explained below.

Q. Please provide the parties' positions regarding which LEUF customers should be subject to Schedule 401.

A. PacifiCorp's Initial Filing proposed to create a new customer class served under Schedule 401 for New LEUFs, defined as customers that meet the POWER Act's definition of a LEUF, do not participate in a Direct Access program, and either have not entered into a contract for electric service with the company before June 16, 2025, or have previously entered into a contract for electric service but require the company to make significant investments or incur significant costs after June 16, 2025.

In opening testimony, DCC recommended the Commission approve PacifiCorp's proposed applicability criteria for Schedule 401,[8] while AWEC and ADS took issue with PacifiCorp's applicability criteria on the basis that they were

[8] DCC/100, Bieber/20.

inconsistent with the POWER Act.[9] ADS also argued that any assignment of costs to customers with service contracts predating the POWER Act should be subject to several showings and should require PacifiCorp to file evidence supporting cost assignment to such customers, with an opportunity for customers to rebut that evidence.[10] Vitesse took issue with PacifiCorp's failure to define significant investments and significant costs and recommended the Commission require PacifiCorp to modify Schedule 401 to establish a threshold of $100 million for a "significant investment."[11]

PacifiCorp and Staff opposed setting a $100 million threshold for significant investments.[12] PacifiCorp's reply testimony also opposed ADS's proposal to create an adjudicative process to determine whether an existing LEUF is subject to the POWER Act's requirements, and PacifiCorp confirmed that existing LEUFs that do not require significant new investments after June 16, 2025, should not be subject to Schedule 401.[13] Then, in surrebuttal testimony, PacifiCorp revised Schedule 401 to specify that "significant investments" are "distribution or transmission upgrades or improvements, including Network Upgrades that cumulatively cost $10 million or more."[14]

Q. What does the Stipulation provide regarding the applicability of Schedule 401?

A. The Stipulation refines the applicability provision in PacifiCorp's revised Schedule 401 to clarify that Schedule 401 is applicable to "New LEUFs" and provide a definition of "New LEUFs."

[9] AWEC/100, Kaufman/2-3; ADS/100, Berry-Cain/15.
[10] ADS/100, Berry-Cain/15.
[11] Vitesse/100, Coyle/13.
[12] Staff/200, Stevens/23; PAC/100, Meredith/37.
[13] PAC/100, Meredith/37, 40-41.
[14] PAC/300, Meredith/4.

A. The Stipulation defines "New LEUFs" as:

> [A] Large Energy Use Facility that has not entered into a contract for electric service with PacifiCorp before June 16, 2025, or has entered into a contract for electric service with PacifiCorp before June 16, 2025 for the provision of electricity service that requires PacifiCorp to make significant investments or incur significant costs after June 16, 2025 that could result in increased costs or risks to PacifiCorp's other retail electricity consumers. Any customer contributions via a contribution in aid of construction (CIAC) that have been paid by the LEUF customer would not be included in any calculation used to determine this designation.[15]

Q. Under the Stipulation's definition of "New LEUFs," what will be considered a "significant investment or cost after June 16, 2025, that could result in increased costs or risks to PacifiCorp's other retail electricity consumers?"[16]

A. The Stipulation provides that:

> Significant investments or costs after June 16, 2025, that could result in increased costs or risks to PacifiCorp's other retail electricity consumers are defined as cumulative investments of $10 million or more for any combination of the following components:
>
> a. New transmission facilities placed in service after June 16, 2025,
>
> b. New distribution facilities placed in service after June 16, 2025, and
>
> c. Generation and power purchase agreement costs placed in service after June 16, 2025, for a LEUF that has not entered into a Schedule 272 agreement with PacifiCorp before June 16, 2025.[17]

The Stipulation further provides that "'significant investment' or 'significant cost' does not include investments or costs incurred after June 16, 2025, to maintain, repair, renew,

[15] Stipulation at ¶ 15.
[16] Stipulation at ¶ 15.
[17] Stipulation at ¶ 15.

or replace facilities placed into service before June 16, 2025, and necessary to continue providing existing service, up to the contract demand in place on June 16, 2025."[18]

Q. Why is limiting Schedule 401's applicability to New LEUFs reasonable and appropriate?

A. This approach is consistent with Sections 5 and 6 of the POWER Act, which require utilities to enter into contracts with LEUF customers for electricity service that comply with the POWER Act if: (1) the LEUF enters into the contract for electricity service on or after June 16, 2025, or (2) the LEUF entered into a contract for electricity service before June 16, 2025, but "requires the electric company to make significant investments or incur costs after the effective date of this 2025 Act that could result in increased costs or risks to other retail electricity consumers of the electric company."[19] The definition of "New LEUF" ensures that all LEUFs that are required to enter into a contract for electricity service are subject to Schedule 401 and its contracting requirement.

Q. Why is the Stipulation's definition of "significant investments or costs after June 16, 2025," reasonable and appropriate?

A. The Stipulation benefits all parties by providing detailed, objective criteria for identifying when a LEUF with an existing contract qualifies as a "New LEUF" and is therefore subject to Schedule 401. It is appropriate to use a cumulative threshold of $10 million or more, because a cost-based threshold (as opposed to alternatives such as a load-based threshold) is administrable, and a threshold of $10 million is commensurate with the level of risk the POWER Act is intended to address. It is

[18] Stipulation at ¶ 15.
[19] HB 3546 §§ 5, 6.

important that the threshold be cumulative, because the combined impact of multiple investments that are less than $10 million individually could be significant.

The categories of investments listed in Paragraph 15 of the Stipulation that count toward the "significant investments" threshold (i.e., new transmission facilities placed in service after June 16, 2025; new distribution facilities placed in service after June 16, 2025; and generation and power purchase agreement costs placed in service after June 16, 2025, for a LEUF that has not entered into a Schedule 272 agreement with PacifiCorp before June 16, 2025) capture the likely types of significant investments that could be required to provide service to a LEUF. It is appropriate to count generation and power purchase agreement costs placed in service after June 16, 2025, towards the significance threshold only for customers that have not entered into a Schedule 272 agreement with PacifiCorp before June 16, 2025. Schedule 272 permits large non-residential customers to purchase renewable energy certificates from specified renewable resources acquired on their behalf, which buys down the cost of those resources for other customers.[20] Because such customers have already paid to support renewable investments that were not otherwise cost effective, it is reasonable to exclude generation costs for such customers from counting towards the "significance" threshold.

It is also appropriate to exclude investments or costs incurred after June 16, 2025, to maintain, repair, renew, or replace facilities placed into service before the POWER Act passed. The Stipulating Parties believe that implementing the POWER Act in a way that does not require LEUFs that were already in-service when the Act

[20] *See* PacifiCorp d/b/a Pacific Power, Schedule 272, *Renewable Energy Rider Optional Bulk Purchase Option*, P.U.C. Or. 36, Fourth Revision of Sheet No. 272-1 (effective Jan. 1, 2022).

passed to move to Schedule 401 simply because their existing equipment needs to be repaired is reasonable and consistent with the purpose and intent of the POWER Act.

Although non-New LEUFs may not be required to take service on Schedule 401, that does not mean they will not still be subject to the POWER Act as a LEUF.

Q. Does the Stipulation address any unique circumstances in which the applicability of Schedule 401 to a LEUF would be decided elsewhere?

A. Yes. The Stipulation states:

> the determination of whether the LEUFs presently engaged in a contested case proceeding (Contested LEUFs) concerning PacifiCorp's performance of its obligations under existing service agreements entered into before June 16, 2025 (Complaint Proceeding) are subject to Schedule 401 as a "New LEUF" shall be decided through the Complaint Proceeding and not Paragraph 15 of the Stipulation. If the Commission declines to decide the issue or the Complaint Proceeding is resolved without resolution of this issue, then Paragraph 15 shall apply to the Contested LEUFs.[21]

Q. Why is it appropriate to resolve the applicability of Schedule 401 to Contested LEUFs in a separate Complaint Proceeding?

A. In the limited circumstance where LEUFs with existing service agreements with PacifiCorp are presently engaged in an ongoing contested proceeding before the Commission, the contested proceeding provides the best venue for resolving the issue of whether the Contested LEUFs must take service under Schedule 401. It is administratively efficient to avoid addressing fact-specific disputes regarding PacifiCorp's existing contracts with specific individual LEUFs, and service to such LEUFs, in the present proceeding, which is a general investigation into PacifiCorp's proposed tariff. Resolving LEUF-specific issues related to the applicability of

[21] Stipulation at ¶ 15.

Schedule 401 in the separate contested proceeding prevents the record in this proceeding from being burdened with evidence pertaining to individual customers, which may be highly confidential, and avoids the potential delay that would be caused by the investigation of customer-specific issues. That said, however, given that this is the POWER Act implementation docket itself, and the Stipulating Parties were given an opportunity to review existing service agreements as part of the investigation, the Stipulating Parties agree it is suitable to propose recommendations for just and reasonable implementation that hinge on outstanding proceedings before the Commission.

B. Direct Contracting Approach

Q. Please provide the parties' positions regarding implementing the POWER Act through a direct contracting approach.

A. PacifiCorp proposed implementing the POWER Act through a direct contracting approach in which Schedule 401 customers would be required to enter individualized agreements with the company that specified the terms and conditions of service (LEUF Agreement). In opening testimony, Staff raised concerns with PacifiCorp's proposal, contending that this approach risked discrimination among LEUFs, lacked transparency, and would require a burdensome degree of Commission and Staff review.[22] Staff therefore recommended that the Commission adopt a standardized framework modeled on the docket UM 2377 outcome for Portland General Electric Company (PGE).[23] While CUB did not oppose a direct contracting approach, CUB raised concerns about the level of detail in Schedule 401 and made several

[22] Staff/100, Stevens/14.
[23] Staff/100, Stevens/18.

recommendations regarding the terms of the tariff, including the time period for review of the LEUF Agreements.[24] The Environmental Intervenors argued that PacifiCorp's approach was too vague and reliant on individual contracts to achieve HB 2021 goals.[25] AWEC also contended that PacifiCorp's reliance on individualized, negotiated agreements for new LEUFs lacked transparency, was legally deficient under the POWER Act, and would result in prices that are not just and reasonable without a stated rate alternative.[26] Vitesse similarly argued that PacifiCorp's proposal relied excessively on individualized contract negotiations and had insufficient guardrails on the terms of LEUF Agreements, thereby giving PacifiCorp too much leverage, creating uncertainty for LEUFs, raising issues with PacifiCorp's obligation to serve, and risking LEUFs being assigned more than their fair share of system costs.[27] ADS and DCC raised similar concerns to those of AWEC and Vitesse regarding the company's direct contracting approach and the lack of specificity in Schedule 401.[28] DCC recommended a separate "higher of" pricing policy framework.[29]

In reply testimony, PacifiCorp explained that a direct contracting approach was the best solution for POWER Act implementation for new LEUFs on PacifiCorp's system because it most closely aligns LEUF rates and payment obligations with the customer-specific costs and risks that would not be incurred but for the customer's request for service.[30] PacifiCorp also noted that the POWER Act expressly gives the

[24] CUB/100, Tran/4-5, 14-15.
[25] Environmental Intervenors/100, Fisher/12-14.
[26] AWEC/100, Kaufman/2-4.
[27] Vitesse/100, Coyle/2-3, 11.
[28] ADS/100, Berry-Cain/10-12; DCC/100, Bieber/8, 19.
[29] DCC/100, Bieber/32-41
[30] PAC/100, Meredith/18.

Commission and utilities two permissible implementation paths: costs may either be allocated to the LEUF class ***or*** directly assigned to the individual LEUF customer.[31] PacifiCorp further explained that because it was a multijurisdictional utility, a standard cost of service rate—such as a Peak Growth Modifier—would not accurately reflect costs specific to LEUFs and would not be appropriate as costs triggered by a LEUF in Oregon could be spread to customers in other states.[32] Moreover, as acknowledged by Staff, PacifiCorp noted that the company's more rural system made customer-induced costs easier to identify and directly assign through agreements in contrast to PGE's largely urban service territory and more concentrated siting of LEUFs.[33]

In addition, considering the scale of the large load service requests and substantial investments needed to accommodate the LEUF requests on PacifiCorp's system, PacifiCorp argued that a direct contract is a better instrument because it is more flexible, matches obligations and protections to the actual risk profiles of the projects, and can "address both foreseen and currently unforeseen potential customer preferences."[34] To demonstrate this flexibility, PacifiCorp provided two example term sheets for LEUF Agreements, the first showing terms and conditions for customers that selected a simplified service structure and the second demonstrating options for customer-directed customization.[35]

The company further explained that the direct contracting framework provides needed assurance for substantial investments that would not be satisfied by a standard

[31] PAC/100, Meredith/18.
[32] PAC/100, Meredith/18-19.
[33] PAC/100, Meredith/19 (citing Staff/100, Stevens/39).
[34] PAC/100, Meredith/19-20; PAC/200, Eller/18-19.
[35] PAC/200, Eller/12-19; PAC/201, Eller; PAC/202, Eller.

tariff rate, and allows the utility to establish project-specific provisions regarding the customer's service obligations, reserved capacity, construction-related payments, credit support, timing, and other requirements necessary to support prudent investment.[36] Finally, to the extent there was interest among parties to employ the same approach as PGE (docket UM 2377), the company explained that consistency within Oregon was not the only consideration.[37] Rather, PacifiCorp's tariffs in Utah, Wyoming, and Idaho all established frameworks that require very large new loads to be served under the terms of special contracts, and maintaining a reasonably consistent contracting approach across PacifiCorp's service territory supports efficient administration and reduces the potential for regulatory arbitrage across state lines.[38]

While Staff continued to express the same concerns regarding the direct contracting approach in its rebuttal testimony, Staff stated that it was not categorically opposed to direct contracting and acknowledged that the company's two example term sheets were "largely reasonable."[39] CUB was also generally supportive of the direct contracting approach in its rebuttal testimony, although it conditioned its support on the incorporation of certain requirements into Schedule 401.[40] Environmental Intervenors continued to support the docket UM 2377 framework, but added that special contracts should be used as a supplement to bring non-emitting resources to PacifiCorp's system.[41] While Vitesse argued that the docket UM 2377 framework recommended by Staff and the Environmental Intervenors was overly rigid and discriminatory toward

[36] PAC/100, Meredith/20.
[37] PAC/100, Meredith/21.
[38] PAC/100, Meredith/21.
[39] Staff/200, Stevens/21, 31.
[40] CUB/200, Tran/7-14.
[41] Environmental Intervenors/300, Fisher/32, 36-37.

data center customers, Vitesse also expressed concern that Schedule 401 lacked sufficient specificity.[42] Accordingly, although Vitesse was not wholly satisfied with either the direct contracting or docket UM 2377 frameworks, Vitesse provided recommendations that applied to both proposals.[43] AWEC and ADS continued to recommend a standard cost of service tariff,[44] and DCC continued to support its "higher of" pricing policy proposal.[45]

In response to the rebuttal testimony from other parties, the company proposed in its surrebuttal testimony to reflect the parameters of its direct contracting framework for LEUFs (standard LEUF Agreement terms) in the Schedule 401 tariff itself to provide transparency, mitigate concerns regarding undue discrimination between LEUFs, and ensure that the core protections for existing customers apply uniformly across all LEUF Agreements, while preserving the flexibility needed to address customer-specific circumstances.[46] The company continued to maintain that direct contracting is the most appropriate implementation of the POWER Act for PacifiCorp, and that parties' proposals for a stated cost of service rate, a class allocation methodology such as the Peak Growth Modifier, or a "higher of" pricing policy would each be less accurate and less protective of existing customers than the direct contracting framework.[47]

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[42] Vitesse/200, Coyle/2.
[43] Vitesse/200, Coyle/2.
[44] AWEC/200, Kaufman/9; ADS/200, Berry-Cain/5, 10, 24.
[45] DCC/200, Bieber/3-5.
[46] PAC/300, Meredith/1, 2-4.
[47] PAC/300, Meredith/1-2, 7, 15-17, 20, 26-27, 30-31, 34-35.

Q. What does the Stipulation provide regarding implementation of the POWER Act through a direct contracting approach?

A. The Stipulation states that "[n]ew LEUFs must sign a LEUF Agreement to receive service from PacifiCorp."[48] It also provides that "[n]ew LEUFs that are already energized may not exceed their highest actual measured peak demand as of the day the Commission issues a final order in this proceeding until a LEUF Agreement is approved by the Commission."[49]

Q. Why is it fair and appropriate to require Schedule 401 customers to take service under an individual LEUF Agreement, rather than a stated class-wide rate?

A. Requiring Schedule 401 customers to enter individual LEUF Agreements that are consistent with the parameters in Schedule 401 and cover all costs and terms of service for New LEUFs is consistent with Sections 5 and 6 of the POWER Act, which require certain LEUFs to execute contracts "that cover the provision of the electricity service," and with Section 2(2)(a) of the POWER Act, which provides that utilities may either allocate the costs of serving LEUF customers to a LEUF service class ***or*** directly assign the costs of serving a LEUF that is a retail electricity customer to that LEUF.[50] PacifiCorp's direct contracting approach, when paired with the other requirements of the Stipulation, sufficiently mitigates the risk of unwarranted cost-shifting to non-LEUF customers by assigning to New LEUFs most of the direct and identifiable costs they cause. Moreover, due to the unique characteristics of PacifiCorp's interjurisdictional service territory and the highly diverse nature of individual LEUFs'

[48] Stipulation at ¶ 17.
[49] Stipulation at ¶ 18.
[50] HB 3546 § 2(2)(a).

service needs, direct contracting is a reasonable and accurate methodology for assigning LEUFs their costs of service.

1. Site Aggregation for Purposes of Schedule 401 Eligibility

Q. Please provide the parties' positions regarding site aggregation for purposes of Schedule 401's applicability.

A. In opening testimony, Staff proposed that there be two separate criteria for site aggregation for customers that qualify as LEUFs. First, Staff proposed that if two sites have common ownership and are within 2,500 feet of each other or are served by the same substation, the sites will be treated as one for the purpose of capacity allocation and the qualification for an Agreement.[51] Second, Staff proposed that data center customers with similar ownership that are located anywhere in PacifiCorp's territory have their reserved capacity summed for the purposes of LEUF qualification and minimum contract lengths.[52]

In reply testimony, PacifiCorp agreed with aggregating sites based on Staff's criteria for purposes of determining eligibility under Schedule 401 and applicability of Schedule 401 requirements.[53] However, PacifiCorp did not agree that aggregated sites should enter a single LEUF Agreement.[54] No other party responded to Staff's recommendation.

Q. What does the Stipulation provide regarding site aggregation?

A. The Stipulation provides that the following two criteria will apply for purposes of determining whether a customer must take service under Schedule 401:

[51] Staff/100, Stevens/34.
[52] Staff/100, Stevens/34.
[53] PAC/200, Eller/64.
[54] PAC/200, Eller/64.

a. If two or more sites have common ownership and are within 2,500 feet of each other or are served by the same substation, the sites will be treated as one for the purpose of capacity allocation and the qualification for a LEUF Agreement.[55]

b. Data center customers with similar ownership that are located anywhere in PacifiCorp's territory must have their Contract Demand summed for the purposes of LEUF qualification.[56]

Q. Why are these criteria reasonable and appropriate?

A. These criteria appropriately dissuade customers from attempting to avoid Schedule 401's requirements by utilizing unique corporate structures or by siting multiple smaller data centers in PacifiCorp's service territory.

C. Standard LEUF Agreement Terms

Q. Does the Stipulation establish standard terms to be included in each LEUF Agreement under Schedule 401?

A. Yes, as discussed above, many parties expressed concern that PacifiCorp's initially proposed Schedule 401 did not provide sufficient specificity regarding LEUF Agreement terms, and PacifiCorp's reply testimony provided two distinct contract structures to which PacifiCorp's surrebuttal testimony proposed to adhere in standard LEUF Agreements. The Stipulation builds on and revises those two contract structures by setting forth terms that it states "shall be included in each LEUF Agreement and reflected in Schedule 401, unless PacifiCorp and the LEUF agree to and the Commission approves a specialized structure."[57] We discuss each standard term in greater detail below.

[55] Stipulation at ¶ 27.a.
[56] Stipulation at ¶ 27.b.
[57] Stipulation at ¶ 21.

1. Assignment of Network Upgrade and Qualified Network Upgrade Costs (Paragraphs 21.a and 21.b).

Q. Please describe the parties' positions regarding cost assignment for Network Upgrades.

A. Special Condition 7 in the company's initial Schedule 401 tariff proposal provided that "[i]n addition to any advance required by the Customer's line extension, a LEUF Agreement may require the Customer to advance the costs of network upgrades, bulk transmission investments, generation facilities, and energy storage facilities."[58] PacifiCorp further clarified that the assignment of Network Upgrade costs through an agreement under Schedule 401 would depend on the unique facts and circumstances of the transmission upgrades and the LEUF's requirements.[59]

In opening testimony, Staff stated that while it was not proposing that all customer-caused transmission assets be directly assigned, Staff was open to direct assignment of local transmission upgrades to LEUFs on a case-by-case basis based on the studies performed by the company.[60] With respect to shared transmission assets, Staff proposed the Peak Growth Modifier approach be used to allocate costs.[61] Both CUB and Vitesse raised concerns about the lack of detail in Schedule 401 regarding cost assignment for Network Upgrades.[62] ADS also argued that PacifiCorp's existing Rule 13 line extension tariff already permits the direct assignment of certain facility costs to large customers, including potentially the full cost of new transmission or

[58] Proposed Schedule 401 at ¶ 7.
[59] PAC/200, Eller/41.
[60] Staff/100, Stevens/38-39.
[61] Staff/100, Stevens/10.
[62] CUB/100, Tran/5; Vitesse/100, Coyle/32.

distribution lines required to interconnect a LEUF customer.[63] DCC opposed direct assignment of shared system assets—such as network transmission facilities—that DCC argued would provide benefits to all customers on PacifiCorp's system.[64] DCC also raised concerns about the administrative feasibility of establishing causation for the need for a new transmission facility and the potential for duplicative cost allocation of existing system costs.[65]

In reply testimony, PacifiCorp argued that upfront direct cost allocation of Network Upgrades through contracts was more accurate for a multijurisdictional utility than a cost of service rate approach, such as the Peak Growth Modifier.[66] The company revised Schedule 401 to make clear the LEUF Agreement would require New LEUFs to be directly assigned for all distribution, local transmission, Network Upgrades, and bulk transmission investments that would not be incurred but for the New LEUF's energization.[67] PacifiCorp noted that direct assignment of network upgrade costs would not result in duplicative cost assignment to LEUFs because the costs and revenues recovered through the Reservation Charge (Scenario 1) or an upfront Contributions in Aid of Construction (CIAC) payment (Scenario 2) would be removed from the company's revenue requirement, preventing the company from double-recovering these costs and preventing subsidization from existing customers.[68]

In response to ADS, PacifiCorp explained that under Section I.M of Rule 13, investments in transmission facilities of 230 kilovolt (kV) and above that are utilized

[63] ADS/100, Berry-Cain/16-17.
[64] DCC/100, Bieber/34.
[65] DCC/100, Bieber/32-41.
[66] PAC/100, Meredith/18-22, 28; PAC/200, Eller/4-9.
[67] PAC/100, Meredith/44.
[68] PAC/200, Eller/44.

and defined as a transmission path, or that are on the Western Electric Coordinating Council critical path list, and associated substations, are made at PacifiCorp's expense.[69] Accordingly, existing Rule 13 was not sufficient under the POWER Act as PacifiCorp—and ultimately its customers—would be responsible for paying for these types of Network Upgrades even where such transmission lines would not be required but for a LEUF.[70]

In addition, PacifiCorp responded to DCC that the company would be able to directly assign network upgrade costs to LEUFs as it was able to identify the specific transmission projects necessary to serve a LEUF based on the engineering studies for the interconnection of the LEUF load (system impact studies), the grant of network transmission for the LEUF (Designated Network Load studies), the interconnection of necessary resources (interconnection studies), and the grant of network transmission for necessary resources (Designated Network Resource studies).[71]

In rebuttal testimony, Staff continued to support the use of the Peak Growth Modifier for Network Upgrade cost allocation.[72] CUB contended that the costs of co-located and local transmission should be directly assigned and recovered through CIAC, and that the costs of regional transmission should be allocated by directly assigning the cost of regional transmission to a LEUF if the LEUF is the primary cause of the investment.[73] If the LEUF was not the primary cause of the investment, CUB argued that regional and shared transmission should be allocated using the greater of a

[69] PAC/100, Meredith/43.
[70] PAC/100, Meredith/43-44.
[71] PAC/200, Eller/43.
[72] Staff/200, Stevens/39-40.
[73] CUB/200, Tran/9-10.

Peak Growth Modifier calculation, the LEUF's share of capacity, or its share of coincidental peak.[74] Vitesse continued to argue that if PacifiCorp required a LEUF to advance the cost of Network Upgrades, the company could double recover on these costs.[75] ADS disagreed with direct assignment of transmission assets—including local transmission.[76] While DCC agreed that direct assignment of sole-use transmission and distribution facilities was appropriate, DCC argued that direct assignment was not appropriate for shared network transmission assets because it would result in duplicative cost allocation.[77]

In surrebuttal testimony, PacifiCorp agreed with CUB that distribution, local and co-located transmission, and regional transmission costs caused primarily by the LEUF should be directly assigned.[78] However, for regional transmission that does not meet the condition of "primary cause," the company did not agree with CUB's proposal for shared regional transmission costs that relied on the greater of three different allocation methods.[79]

Q. What does Paragraph 21.a of the Stipulation provide regarding cost assignment for Network Upgrades?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following:

> Rule 13 will apply to line extensions for New LEUFs, but any Network Upgrades (as defined in Rule 13, including bulk transmission) required to serve the New LEUF's load will be paid for upfront by the New LEUF, unless each of the following criteria are met, in which instance

[74] CUB/200, Tran/9-10.
[75] Vitesse/200, Coyle/16-17.
[76] ADS/200, Berry-Cain/10-13.
[77] DCC/200, Bieber/14.
[78] PAC/300, Meredith/16.
[79] PAC/300, Meredith/16-17.

> the proportionate share of the cost of the Qualified Network Upgrade meeting each of the criteria will be paid by the LEUF through time, as detailed in Paragraph 21.b below:
>
> i. the Network Upgrade is a transmission facility of 230 kV and above,
> ii. the Network Upgrade is utilized and defined as a transmission path or facility that is on the Western Electric Coordinating Council (WECC) critical path list, and
> iii. Less than 80 percent of the Network Upgrade's presently known capacity needs allocated to PacifiCorp are comprised of LEUF customer(s) demand.
>
> LEUFs will pay the share of costs related to Qualified Network Upgrades based on the proportion of the LEUF's usage of the Qualified Network Upgrade versus the total presently known capacity needs by PacifiCorp of the Qualified Network Upgrade. "Presently known capacity needs" are forecasted needs no more than five years in the future that are likely to prudently use a Network Upgrade.
>
> Multiple LEUFs may agree to share line extension, Network Upgrade, or Qualified Network Upgrade costs. Provided the LEUF makes all required payments under this section, PacifiCorp will reserve sufficient transmission rights to provide electric service to meet the LEUF's contract demand.[80]

Q. Please explain why this term is reasonable and appropriate for LEUF Agreements.

A. This standard term is appropriate and reasonable to include in LEUF Agreements because it provides that New LEUFs generally must pay upfront for Network Upgrades, which fulfills the POWER Act's purpose of avoiding cost-shifting to other customers and is consistent with Schedule 401's approach of directly assigning to LEUFs their cost of service.

The Stipulation also provides that when all three of the criteria listed in Paragraph 21.a of the Stipulation are met, the New LEUF need not fund the Network Upgrade upfront because it is a "Qualified Network Upgrade." In these circumstances,

[80] Stipulation at ¶ 21.a.

the New LEUF can pay for its proportionate share of the cost of the Qualified Network Upgrade over time. The LEUF's proportion of the Qualified Network Upgrade will be determined based on the proportion of PacifiCorp's total presently known capacity need from the facility that the LEUF uses. For example, if PacifiCorp must construct 1,000 MW of capacity on a facility that is a Qualified Network Upgrade, a LEUF needs 400 MW of that capacity, and non-LEUF PacifiCorp customers need 200 MW, then PacifiCorp's presently known capacity need would be 600 MW, the LEUF's proportion of PacifiCorp's 600 MW capacity need would be approximately 67 percent (400 MW / 600 MW), and the LEUF therefore would be responsible for approximately 67 percent of the cost of the 1,000 MW Qualified Network Upgrade over time.

However, if all else was held equal in the above example except non-LEUF PacifiCorp customers needed 100 MW of capacity instead of 200 MW, then PacifiCorp's presently known capacity need would be 500 MW, the LEUF's proportion of this 500 MW capacity need would be 80 percent (400 MW / 500 MW), and the facility would lose eligibility to be a Qualified Network Upgrade because 80 percent or more of PacifiCorp's presently known capacity need would be comprised of LEUF demand. In these circumstances, the LEUF would be required to pay for the full cost of the 1,000 MW facility upfront.

This approach to assigning the costs of Qualified Network Upgrades is appropriate because when all three of the criteria for a Qualified Network Upgrade are met, non-LEUF customers contribute to the presently known need for the Qualified Network Upgrade to a sufficient extent that it is fair to permit LEUFs to pay for only their proportion of PacifiCorp's presently known capacity need over time. Requiring

LEUFs to pay for their proportionate share of PacifiCorp's presently known capacity need—as opposed to their proportion of the rated capacity of the facility—ensures that costs of Qualified Network Upgrades are not borne by PacifiCorp customers who do not benefit from the Qualified Network Upgrade.

It is also reasonable to permit multiple LEUFs to agree to share line extension and Network Upgrade costs and to pay their share of the costs in proportion to their usage of PacifiCorp's presently known capacity need from the upgrade. This term contemplates the situation where multiple LEUFs utilize the same facilities, and it is fair to permit LEUFs to equitably share costs in this scenario. Additionally, LEUF cost sharing does not harm PacifiCorp's non-LEUF customers because it is subject to the other terms in Paragraph 21 that prevent the costs of Network Upgrades or Qualified Network Upgrades from being borne by non-LEUF customers that do not have a presently known need for capacity on the Network Upgrade.

Requiring PacifiCorp to reserve sufficient transmission rights to provide service to meet the LEUF's contract demand if the LEUF makes all its required payments for Network Upgrades ensures that LEUFs are able to receive the benefit of their contributions to the cost of Network Upgrades.

Finally, defining "presently known capacity needs" as "forecasted needs no more than five years in the future that are likely to prudently use a Network Upgrade" ensures that capacity estimates used to calculate a LEUF's responsibility for the cost of a Network Upgrade reflect realistic projections that only account for capacity that is likely to materialize.

Q. What does Paragraph 21.b of the Stipulation provide regarding the recovery mechanism for Qualified Network Upgrades that are assigned to New LEUFs?

A. The Stipulation provides that LEUF Agreements by default would contain the following term:

> The recuperation of the LEUF's share of a Qualified Network Upgrade will be set as a monthly fee equal to the then-current revenue requirement for the assigned portion of the Qualified Network Upgrade. The revenue requirement for these assets will be calculated based on final actual costs as if the asset's depreciable life was equal to the remaining contract length of the customer's LEUF Agreement, and the rate of return will be PacifiCorp's Commission-approved rate of return. In the event of default by the LEUF, PacifiCorp may seek recovery of unrecovered Qualified Network Upgrade costs in a future Oregon rate case to the extent that it demonstrates that (i) PacifiCorp has not fully recovered the final actual costs through the combination of monthly fees and default collateral, (ii) continued operation of the Qualified Network Upgrade provides greater net benefits to PacifiCorp's Oregon customers than removal or sale of the Qualified Network Upgrade, and (iii) PacifiCorp demonstrates that including these costs in other customers' rates will lead to fair, just, and reasonable rates.[81]

Q. Please explain why this term is reasonable and appropriate for LEUF Agreements.

A. This term applies when a LEUF does not fund a Network Upgrade upfront and instead is permitted under Paragraph 21.a of the Stipulation to pay for its assigned proportion of the Qualified Network Upgrade over time. This term reflects a reasonable approach to determining the revenue requirement associated with a LEUF's assigned proportion of a Qualified Network Upgrade. Basing this payment on a final actual cost as if the asset's depreciable life were equal to the remaining contract length of the customer's LEUF Agreement is appropriate. This approach prevents a situation where a customer's LEUF Agreement term is less than the depreciable life of the Qualified Network

[81] Stipulation at ¶ 21.b.

Upgrade and the LEUF does not renew its LEUF Agreement with the company, resulting in the LEUF underpaying for its share of a Qualified Network Upgrade and causing cost shifting to other customers. The term also provides protection for PacifiCorp in the event of a LEUF default, subject to safeguards to ensure PacifiCorp's customers would not be harmed.

2. Third-Party Transmission Reimbursement (Paragraph 21.c).

Q. Please describe the parties' positions regarding how Schedule 401 should recover the cost of third-party transmission service needed to serve New LEUFs.

A. PacifiCorp contemplated reimbursement of agreed upon third-party transmission costs (Third-Party Transmission Reimbursement) in its LEUF Agreements.[82] Both of PacifiCorp's proposed contract structures attached to the company's reply testimony as Exhibits PAC/201 and PAC/202 include a Third-Party Transmission Reimbursement term, which is referred to as "Point-to-Point Transmission Costs."[83] This provision provides that if point-to-point transmission service from a third-party is required by mutual agreement of PacifiCorp and the LEUF (either to serve the LEUF or wheel resources to PacifiCorp's system to serve the LEUF), the LEUF is responsible for reimbursing PacifiCorp for the actual costs of that transmission service.[84] The Third-Party Transmission Reimbursement, which PacifiCorp's surrebuttal testimony incorporated as a parameter in Schedule 401,[85] ensures the LEUF pays for necessary third-party transmission services without impacting existing customers.[86] No other

[82] PAC/200, Eller/13.
[83] PAC/201, Eller/2 ; PAC/202, Eller/2.
[84] PAC/200, Eller/16.
[85] PAC/400, Eller/10; PAC/301, Meredith/2.
[86] PAC/200, Eller/16.

party opined on reimbursement of third-party transmission service costs needed to serve LEUFs.

Q. What does the Stipulation provide regarding recovering third-party transmission service costs needed to serve New LEUFs?

A. Under the Stipulation, standard LEUF Agreements will contain terms reflecting that "The New LEUF will reimburse PacifiCorp for any actual third-party transmission service costs needed to serve the customer."[87]

Q. Please explain why this term is reasonable and appropriate for LEUF Agreements.

A. This term implements the POWER Act's purpose of assigning LEUFs their costs of service and preventing cost-shifting, given that serving LEUF customers may require PacifiCorp to procure transmission service from third parties.

3. Energy Charge (Paragraph 21.d).

Q. Please describe the parties' positions regarding a variable-cost energy charge.

A. PacifiCorp contemplated that a variable-cost energy charge (Energy Charge) would be included in LEUF Agreements.[88] The Energy Charge compensates the company's customers for the total amount of electricity the large load customer uses over a billing period, measured in kilowatt-hours (kWh).[89] The charge is designed to utilize the locational marginal price of energy (LMP) as determined by the California Independent System Operator (CAISO) in the extended day-ahead market (EDAM).[90] As a result, the LEUF will always pay for the marginal (i.e., most expensive) resource dispatched to meet the incremental load requirement. The design of the Energy Charge ensures

[87] Stipulation at ¶ 21.c.
[88] PAC/200, Eller/13.
[89] PAC/200, Eller/14.
[90] PAC/200, Eller/14-15.

that in every hour, existing customers are either held harmless or will benefit from the company's service to the LEUF.[91]

In opening testimony, Staff and Environmental Intervenors proposed a 90 percent minimum demand charge for generation based on a tariff rate, in line with the approach adopted in UM 2377.[92] PacifiCorp's reply testimony adhered to its proposed Energy Charge and provided sample contract terms.[93]

In rebuttal testimony, Staff argued that the company should have a general framework for how to allocate power costs to a customer, but the company had not provided any such framework.[94] In surrebuttal testimony, PacifiCorp disagreed with Staff, explaining that the company had proposed a framework for recovery of power costs through the Energy Charge as shown in the two example contracts.[95] PacifiCorp further proposed to incorporate the Energy Charge as a standard LEUF Agreement term in Schedule 401.[96]

Q. What does the Stipulation provide regarding a charge to recover the variable cost of energy used by a LEUF?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following: "The New LEUF will pay an hourly energy charge equal to the Energy Day-Ahead Market (EDAM) Locational Marginal Price (LMP) at a node that both parties agree upon and is approved by the Commission."[97] The revenue from this charge would

[91] PAC/200, Eller/15.
[92] Staff/100, Stevens/42; Environmental Intervenors/100, Fisher/21.
[93] PAC/200, Eller/39; PAC/201, Eller/2; PAC/202, Eller/2.
[94] Staff/200, Stevens/18.
[95] PAC/400, Eller/49.
[96] PAC/300, Meredith/1, 2-4; PAC/400, Eller/49.
[97] Stipulation at ¶ 21.d.

be allocated among PacifiCorp's six-state service territory consistent with the treatment of other wholesale revenues.

Q. Please explain why this term is reasonable and appropriate for LEUF Agreements.

A. This term ensures Schedule 401 customers will pay for the electricity they use, consistent with the POWER Act. It is reasonable and appropriate to set the charge at a level equal to the EDAM LMP at a node agreed-upon by the parties and approved by the Commission when it reviews the LEUF Agreement because this ensures a LEUF will always pay for the marginal resource dispatched to meet the LEUF's incremental load requirement, which is an effort to hold PacifiCorp's other customers harmless from the LEUF's impact on PacifiCorp's net power costs. This term reflects an accurate and targeted approach to assigning LEUFs their energy costs because it ties the energy charge to the nearly-real-time market clearing price near the location of the LEUF's load.

4. Peak Demand Charge (Paragraph 21.e).

Q. Please describe the parties' positions regarding a monthly peak demand charge.

A. PacifiCorp contemplated that a monthly peak demand charge (Peak Demand Charge) would be included in LEUF Agreements.[98] The Peak Demand Charge is a monthly charge based on the customer's actual highest demand (i.e., the customer's peak actual usage) during the month. It is inclusive of the current effective monthly firm Schedule 2, Schedule 3, and Network Integration Transmission Service (NITS) rates posted by PacifiCorp Transmission under its Open Access Transmission Tariff (OATT).[99] This charge compensates for the ongoing cost of the LEUF utilizing the

[98] PAC/200, Eller/13.
[99] PAC/200, Eller/14.

transmission system.[100] The revenue from this charge would be allocated among PacifiCorp's six-state service territory consistent with the treatment of other OATT revenues.[101] This ensures the existing customers are not subsidizing the ongoing cost to transmit power to the LEUF.[102]

In opening testimony, Staff and Environmental Intervenors proposed a 90 percent minimum demand charge for transmission based on a tariff rate, in line with the approach adopted in UM 2377.[103] PacifiCorp's reply testimony adhered to its proposed Peak Demand Charge and provided sample contract terms.[104]

In its surrebuttal testimony, PacifiCorp proposed to incorporate the Peak Demand Charge as a standard LEUF Agreement term in Schedule 401.[105] PacifiCorp also updated the formula for the proposed Peak Demand Charge by replacing the reference to Schedule 2 with Schedule 1 to reflect recent changes in the applicability of OATT Schedule 2 and clarified that the Peak Demand Charge would be subject to the annual true-up process for OATT rates.[106]

Q. What does the Stipulation provide regarding a Peak Demand Charge?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following:

> The New LEUF will be subject to a Peak Demand Charge that is based on the Customer's highest demand during the month to the nearest kilowatt equal to the sum of the following PacifiCorp Open Access Transmission Tariff (OATT) Schedule monthly rates:

[100] PAC/200, Eller/14.
[101] PAC/200, Eller/14.
[102] PAC/200, Eller/14.
[103] Staff/100, Stevens/42; Environmental Intervenors/100, Fisher/21.
[104] PAC/200, Eller/39; PAC/201, Eller/2; PAC/202, Eller/1-2.
[105] PAC/300, Meredith/1, 2-4; PAC/400, Eller/9.
[106] PAC/400, Eller/42.

i. Schedule 1
ii. Schedule 3
iii. Network Integration Transmission Service

This charge will be updated with changes to pricing in the OATT and will be subject to the annual true-up of OATT rates. PacifiCorp will utilize the Oregon-allocated portion of LEUF OATT-based revenues to lower the revenue requirement for other Oregon non-LEUF customers in any ratemaking proceeding when the revenue requirement from OATT revenue is considered.[107]

Q. Please explain why this term is reasonable and appropriate for LEUF Agreements.

A. This term reflects a reasonable approach to requiring LEUFs to compensate PacifiCorp for the ongoing cost associated with LEUFs' use of PacifiCorp's transmission system. The charge is comprised of the Schedule 1 (Scheduling, System Control and Dispatch Service), Schedule 3 (Regulation and Frequency Response Service), and NITS rates, which appropriately capture the transmission services PacifiCorp must provide to deliver power to the LEUF's load. Including this term in LEUF Agreements is consistent with the POWER Act, because it ensures that LEUFs pay a fair share of PacifiCorp's existing transmission system which benefits them.

5. HB 2021 Compliance (Paragraphs 21.f and 21.g).

Q. What does the POWER Act provide regarding LEUF contracts for electric service and Oregon emissions reduction policy?

A. The POWER Act requires LEUFs' tariff and electric service contracts to not "[i]mpede the electric company's ability to meet the clean energy targets set forth in ORS 469A.410 or reduce the emissions of greenhouse gases consistent with state policy" and to "[a]llow for procurement of or contracts for generation resources that

[107] Stipulation at ¶ 21.e.

support the electric company's ability to meet the clean energy targets set forth in ORS 469A.410 or reduce the emissions of greenhouse gases consistent with state policy."[108]

Q. Please describe the parties' positions regarding compliance with the POWER Act's requirements concerning state emissions reduction policy.

A. In PacifiCorp's Initial Filing, Special Condition 3 provided that LEUF Agreements "shall not impede the Company's ability to meet the clean energy targets set forth in ORS 469A.410 or reduce the emissions of greenhouse gases consistent with state policy[,]" and must allow for procurement of generation resources that allow the company to meet its clean energy targets and reduce emissions.[109] In opening testimony, both Staff and Environmental Intervenors recommended establishing a generation queue to ensure LEUFs do not impede HB 2021 compliance akin to the queue approved in Order No. 26-154.[110] Staff also recommended that the LEUF Agreements require PacifiCorp to perform an analysis of whether the generation resource meets HB 2021 emissions targets, advances reliability, and complies with resource adequacy obligations.[111] The Environmental Intervenors recommended that all generation resources acquired through special contracts be non-emitting.[112] CUB did not specifically state that it supported a generation queue, but did state that PacifiCorp "may want to adopt something similar[.]"[113]

In reply testimony, PacifiCorp explained that it did not support establishing a generation queue because a queue-based construct does not currently exist on

[108] HB 3546 §§ 2(3)(c), 5(1)(b)(A)(i).
[109] Proposed Schedule 401 at ¶ 3 (c), (d).
[110] Staff/100, Stevens/18; Environmental Intervenors/100, Fisher/48.
[111] Staff/100, Stevens/36-37.
[112] Environmental Intervenors/100, Fisher/39, 47.
[113] CUB/100, Tran/3.

PacifiCorp's system and developing one would be complex and challenging given the scale of LEUFs seeking to connect across the company's multi-state service territory.[114] The company also noted that a queue was unnecessary because Schedule 401 already provided that a LEUF Agreement must comply with HB 2021 and other applicable environmental requirements as a condition of service.[115] In response to the Environmental Intervenors' recommendation regarding special contracts, PacifiCorp explained that the company's proposal requires that new LEUFs pay for the incremental costs of serving their load with non-emitting generation and/or storage such that HB 2021 compliance, small scale renewables, and resource adequacy positions of existing customers are not harmed.[116] Under the second sample contract structure proposed by PacifiCorp in its reply testimony—which gives customers the latitude to contract directly with resources to serve their load—PacifiCorp's obligation to meet the LEUF's contract demand is contingent on the LEUF's Customer Resources "satisfying relevant . . . portfolio requirements."[117]

Vitesse's rebuttal testimony opposed the proposal for PacifiCorp to implement a formal generation queue structure identical to the one adopted for PGE.[118] DCC stated that it "agree[d] it would not be prudent for the Company to procure only fossil-fueled generation to serve LEUF load growth or energize new LEUF loads without developing or procuring sufficient clean resources" and recommended that LEUFs "be allowed to facilitate new resource development through onsite generation or negotiating deals for

[114] PAC/100, Meredith/27.
[115] PAC/100, Meredith/27-28.
[116] PAC/100, Meredith/31-32.
[117] PAC/202, Eller/5.
[118] Vitesse/200, Coyle/12.

new resources that can be delivered through PAC (i.e. sleeving arrangements)" set forth in special contracts between PacifiCorp and the customer that are subject to Commission review and approval.[119] ADS argued that "Environmental Intervenors' concerns about noncompliance with HB 2021 and possible shifting of compliance costs to other customers" did not have merit and opposed the proposal to limit the types of resources that may be acquired for a LEUF through a special contract as discriminatory.[120]

In their rebuttal testimony, both Staff and the Environmental Intervenors stated that proposed Schedule 401 did not create a sufficient framework to ensure that New LEUFs did not cause an increase in emissions, impeding PacifiCorp's ability to meet the POWER Act's requirements related to state emissions reductions policy.[121] Staff also stated that a lack of an interconnection queue framework could result in undue discrimination.[122] In response to these concerns, PacifiCorp's surrebuttal testimony noted that under Schedule 401, each LEUF Agreement will ensure that service is provided in a manner that does not harm PacifiCorp's resource adequacy or impede HB 2021 or small-scale renewable compliance positions for existing customers, and PacifiCorp's revised Schedule 401 proposal included a standard LEUF Agreement term committing to this.[123] PacifiCorp's revised Schedule 401 proposal also added a standard term for LEUF Agreements that requires PacifiCorp to analyze the generation and capacity resources necessary to serve the LEUF's load without impeding

[119] DCC/200, Bieber/38-39.
[120] ADS/200, Berry-Cain/25.
[121] Staff/200, Stevens/19; Environmental Intervenors/300, Fisher/28-30.
[122] Staff/200, Stevens/19.
[123] PAC/300, Meredith/1, 2-3.

PacifiCorp's compliance with HB 2021 or its Small Scale Renewable mandate from ORS 469A.210.[124]

Q. What does the Stipulation provide regarding HB 2021 and the small-scale renewable mandate?

A. The Stipulation provides:

> PacifiCorp will analyze the generation and capacity resources necessary to serve the New LEUF's load without impeding PacifiCorp's compliance with House Bill (HB) 2021 or its small-scale renewable mandate from ORS 469A.210. Any incremental resources PacifiCorp acquires for the purpose of serving a New LEUF will be non-emitting. The analysis used to support the LEUF Agreement will ensure that to the extent a New LEUF is served with existing, emitting resources, the New LEUF will be responsible for emissions reductions associated with electricity delivered to other Oregon PacifiCorp customers such that the New LEUF does not cause an increase in PacifiCorp's emissions or shift the costs of HB 2021 compliance onto other customer classes. Each LEUF Agreement will ensure that the New LEUF's load is served in a manner that does not harm PacifiCorp's resource adequacy position or impede its HB 2021 or small-scale renewable compliance positions for existing customers. PacifiCorp's analysis used to determine a New LEUF's impact on HB 2021 compliance will be included in its filing for LEUF Agreement approval with the Commission.[125]
>
> In the event that PacifiCorp's legal requirements regarding emissions or its generation mix change in the future, the Stipulating Parties will reconvene to ensure that Schedule 401 does not impede PacifiCorp's ability to comply with the law.[126]

Q. Please explain why these requirements are reasonable and appropriate for LEUF Agreements.

A. These terms reasonably implement the POWER Act's requirement that LEUF Agreements do not impede PacifiCorp's ability to meet the clean energy targets set forth in ORS 469A.410 or reduce the emissions of greenhouse gases consistent with

[124] PAC/301, Meredith/3.
[125] Stipulation at ¶ 21.f.
[126] Stipulation at ¶ 21.g.

state policy. It is very important for non-LEUF customers to be held harmless from LEUFs' impact on PacifiCorp's resource adequacy, HB 2021 compliance, and small-scale renewable obligations, because the scale of anticipated LEUF load will require significant new generation and storage resources to serve their load. Absent a strict requirement that LEUFs' resources do not impede PacifiCorp's progress toward complying with state energy policies, LEUF load growth imperils PacifiCorp's ability to meet its compliance obligations because PacifiCorp's compliance obligation under Oregon's small-scale renewable energy standard in ORS 469A.210 is calculated based on PacifiCorp's aggregate electrical capacity. LEUF load growth also poses a significant challenge with respect to meeting HB 2021's emissions reduction targets, as PacifiCorp would be obligated to procure material additional volumes of HB 2021-compliant resources to serve new LEUF load, above PacifiCorp's current procurement efforts.

The requirement that the incremental resources PacifiCorp secures to serve a LEUF must be non-emitting is reasonable because it ensures that service to LEUFs does not set back PacifiCorp's attainment of Oregon's emissions reduction and small-scale renewable targets.

Finally, requiring PacifiCorp to: (i) analyze the generation and capacity resources necessary to serve new LEUF load without impeding PacifiCorp's compliance with HB 2021 or its small-scale renewable mandate from ORS 469A.210; and (ii) file that analysis with the Commission provides the opportunity for Commission and stakeholder oversight of LEUFs' impacts on PacifiCorp's compliance obligations.

6. Reservation Charge (Paragraph 21.h).

Q. Please describe the parties' positions regarding cost recovery for generation and storage resources for New LEUFs.

A. Special Condition 7 in the company's initial Schedule 401 tariff proposal provided that "[i]n addition to any advance required by the Customer's line extension, a LEUF Agreement may require the Customer to advance the costs of . . . generation facilities[] and energy storage facilities."[127] Accordingly, PacifiCorp contemplated a fixed-cost monthly take or pay component (Reservation Charge) in the LEUF Agreement.[128] The Reservation Charge compensates all capital and maintenance costs of the necessary generation and storage facilities to reliably serve the load and comply with Oregon emissions and small-scale renewable standards on a 24x7 basis without customer load flexibility.[129]

As noted above, in opening testimony, Staff and Environmental Intervenors proposed a 90 percent minimum demand charge for transmission and generation.[130] In PacifiCorp's reply testimony, the company maintained that Schedule 401 should clearly identify the types of costs that will be recovered from the LEUF but defer the specific cost recovery mechanisms to the mutual agreement of the contracting parties.[131] PacifiCorp provided two examples of LEUF Agreements, one with a Reservation Charge[132] and the other that replaced the Reservation Charge with (1) an increased CIAC associated with integration of the LEUF; the addition of a second category of

[127] Proposed Schedule 401 at ¶ 7.
[128] PAC/200, Eller/13.
[129] PAC/200, Eller/13-14.
[130] Staff/100, Stevens/42; Environmental Intervenors/100, Fisher/21.
[131] PAC/200, Eller/39.
[132] PAC/201, Eller/1.

CIAC associated with reimbursing the actual costs of integrating the LEUF resources; and the addition of a Portfolio Risk Management Charge.[133]

In rebuttal testimony, Staff continued to disagree with PacifiCorp's proposal to negotiate cost recovery mechanisms on a customer-by-customer basis and recommended a standardized approach to establishing the minimum demand charge.[134] While the Environmental Intervenors agreed that if all costs are directly assigned to a LEUF customer, then a minimum demand policy may not be necessary, the Environmental Intervenors stated that "in light of the continued ambiguity around PacifiCorp's proposed direct cost assignment, . . . having a clear cost allocation scheme and minimum demand charge policy is critical."[135] AWEC and ADS did not support Staff's and Environmental Intervenor's minimum demand charge proposals.[136]

In response to these concerns, PacifiCorp proposed in its surrebuttal testimony to incorporate the standard LEUF Agreement terms in Schedule 401—including (1) the Reservation Charge from the company's first contract example, and (2) from the second contract example, the LEUF's increased CIAC funding obligations and the direct pass through of all Customer Resource costs to achieve the same result of ensuring full recovery from the LEUF regardless of the LEUF's usage levels.[137]

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[133] PAC/200, Eller/19; *see also* PAC/202, Eller/2-3.
[134] Staff/200, Stevens/39.
[135] Environmental Intervenors/300, Fisher/15-16.
[136] AWEC/200, Kaufman/8; ADS/200, Berry-Cain/18-20.
[137] PAC/300, Meredith/1, 2-4; PAC/400, Eller/8-14, 33-34.

Q. What does the Stipulation provide regarding cost recovery for generation and storage resources for New LEUFs?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following:

> The New LEUF will compensate PacifiCorp for the full cost of all necessary generation and storage resources through either: (a) a Reservation Charge based on the Contract Demand and paid monthly during the term, beginning with the commencement date, or; (b) the sum of (i) direct reimbursement of the actual costs of the Customer Resources (those dictated by the Customer) inclusive of capacity costs in $/kW-month, energy costs in $/MWh, costs associated with compensable curtailment of the Customer Resource, internal costs associated with procurement or management of third-party contracts and interconnection-related upgrades and improvements and network service related upgrades and improvements, (ii) a Portfolio Risk Management Charge that will be based on Contract Demand and will be proportionate to the additional pass through agreements PacifiCorp is required to carry on its balance sheet, and (iii) a System Firming and Balancing Charge set at 33 percent of System Fixed Generation applicable to Schedule 48 less a generation credit applicable to Customer Generation priced at the EDAM LMP applicable to the hour of scheduled energy generation, net of all imbalance charges associated with variances between scheduled and actual generation amounts, and not to exceed the actual cost of energy from the Customer Resource.
>
> i. The Reservation Charge will be set to compensate all capital and maintenance costs of constructing and operating all of the necessary load interconnection facilities, network improvements associated with the designation of network load, the necessary generation and storage facilities to reliably serve the load and comply with Oregon emissions and small-scale renewable standards on a 24x7 basis without customer load flexibility, the resource and storage interconnection facilities, the network improvements associated with the designation of network resources, and the company's return on these investments at a rate that will prevent any subsidization from existing customers. This rate will be set to recover these costs over the life of the customer's contract.

ii. The Portfolio Risk Management Charge will be designed to avoid harming the company's credit metrics.[138]

Q. Please explain how Option (a) in this Stipulation provision—a Reservation Charge based on the Contract Demand and paid monthly during the term—fully compensates PacifiCorp for the cost of all necessary generation and storage resources needed to serve a LEUF.

A. The Reservation Charge is a simple approach to cost recovery because it is calculated by comprehensively summing the costs associated with the generation and storage resources needed to serve the LEUF's reserved capacity and then recovering these costs from the LEUF over the contract term through a single charge. With this approach, PacifiCorp pays the resource costs for generation and storage resources but does not include such costs in its general revenue requirement. Rather, the company recovers all these costs from the LEUF through the Reservation Charge. Other provisions, discussed later, ensure full cost recovery if the LEUF stops service before the contract term expires. Together, the Stipulation's provisions, as reflected in LEUF Agreements, ensure the LEUF pays for the capacity it reserves without impacting existing customers.

Q. Please explain how Option (b) in this Stipulation provision—involving the upfront, direct reimbursement of the actual costs of customer resources—fully compensates PacifiCorp for the cost of all necessary generation and storage resources needed to serve a LEUF.

A. In Option (b), the LEUF directly reimburses PacifiCorp upfront for all costs associated with the generation and storage resources selected by the LEUF to serve the LEUF's

[138] Stipulation at ¶ 21.h.

reserved capacity. In addition, Option (b) includes other charges not reflected in Option (a) to ensure that costs associated with the resources directly procured by the LEUF customer and costs associated with backing up those resources using PacifiCorp's existing system resources do not fall on other PacifiCorp customers: The Portfolio Risk Management Charge mitigates the potential for detrimental impacts to PacifiCorp's credit ratings from the company not earning additional net income under Option (b) despite incurring the significant costs and risks that are inherent to serving LEUFs. The System Firming and Balancing Charge offsets the operating costs associated with the company's existing resource portfolio, which is used to firm and balance the LEUF-selected resources.

Q. Please explain why the term regarding cost recovery for generation and storage costs is reasonable and appropriate for LEUF Agreements.

A. The approach adopted in the Stipulation gives Schedule 401 customers the flexibility to choose between a more standardized, company-directed option and an option involving more customer direction and control. It also allows customers a choice between funding the necessary costs upfront or paying them over time through the Reservation Charge. Critically, both options ensure that no costs are shifted to PacifiCorp's other customers.

7. Excess Demand Charge (Paragraphs 21.i and 21.j).

Q. Please describe the parties' positions regarding excess demand by New LEUFs.

A. Special Condition 5 in PacifiCorp's proposed Schedule 401 provides that "A Large Energy Use Facility Agreement may include a charge for excess demand."[139] In

[139] Proposed Schedule 401 at ¶ 5.

opening testimony, Staff and the Environmental Intervenors recommended an exceedance penalty equal to four times the transmission charge and 1.5 times the generation charge, which is identical to what the Commission approved for PGE in docket UM 2377.[140] The Environmental Intervenors proposed that there be no buffer before the fee applies.[141] In addition, Vitesse stated that Special Condition 5 was vague and gives PacifiCorp too much control when negotiating agreements, and questioned the need for the charge if the company is also proposing to directly charge costs to individual facilities.[142]

In reply testimony, PacifiCorp clarified that while the Excess Demand Charge provides a financial disincentive to understating demand, the company also intended to include contract language that makes clear that any use of power or energy in excess of the Contract Demand requires prior approval of the company and may be curtailed if needed to maintain system reliability, safety and/or emissions requirements.[143] PacifiCorp disagreed with Vitesse that the Excess Demand Charge was unnecessary, explaining that costs of meeting the Contract Demand are directly assigned but usage beyond the Contract Demand can result in additional costs and also hamper safety, reliability, and emissions requirements.[144] In response to Staff and the Environmental Intervenor's exceedance penalty proposal, PacifiCorp stated that the Excess Demand Charge and exceedance penalty framework achieve similar goals.[145]

[140] Staff/100, Stevens/45; Environmental Intervenors/100, Fisher/31.
[141] Environmental Intervenors/100, Fisher/31.
[142] Vitesse/100, Coyle/23.
[143] PAC/200, Eller/48.
[144] PAC/200, Eller/48-49.
[145] PAC/200, Eller/48.

In rebuttal testimony, Staff supported the inclusion of an excess demand charge but took issue with PacifiCorp's statement that the company "intend[s]" to include excess demand charges in LEUF Agreements.[146] CUB stated that in order for CUB to agree to Schedule 401, it must contain an exceedance penalty or Excess Demand Charge.[147] The Environmental Intervenors continued to recommend their original exceedance penalty framework with no buffer prior to its application.[148] The other parties did not directly address an Excess Demand Charge or exceedance penalties in their rebuttal testimony. Staff recommended adoption of certain criteria for curtailment, and Environmental Intervenors stated they were not opposed to a right to curtail in theory but were not recommending the Commission adopt a right to curtail for exceedances in this docket.[149]

In response to parties' concerns regarding the lack of a firm commitment in Schedule 401 to include an Excess Demand Charge in LEUF Agreements, the company revised Schedule 401 to state in Special Condition 4(g) that LEUFs "will be subject to the Schedule 300 Excess Demand Charge[.]"[150] In addition, the company revised Special Condition 4(h) to state that any Excess Demand greater than the Contract Demand requires prior company approval and may be subject to curtailment if needed to maintain system reliability or safety.[151]

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[146] Staff/200, Stevens/40.
[147] CUB/200, Tran/14.
[148] Environmental Intervenors/300, Fisher/4, 22.
[149] Staff/200, Stevens/40; Environmental Intervenors/300, Fisher/23-25.
[150] PAC/400, Eller/52; PAC/301, Meredith.
[151] PAC/400, Eller/52; PAC/301, Meredith.

Q. What does the Stipulation provide regarding excess demand by New LEUFs?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following:

> The New LEUF will be subject to the Schedule 300 Excess Demand Charge. PacifiCorp will provide an analysis in each of its Power Cost Adjustment Mechanism filings documenting the frequency and severity of LEUF excess demand events. In this analysis, the company will provide the number of excess demand events, the duration of the events, and the amount of excess demand per event by anonymized customer account for the prior year.[152]

> Any Excess Demand greater than Contract Demand requires prior company approval and will be subject to curtailment if needed to maintain system reliability, safety, or if it will risk unwarranted cost shifting to other customers.[153]

Q. Please explain why these terms are reasonable and appropriate for LEUF Agreements.

A. A LEUF exceeding its Contract Demand could impose costs on PacifiCorp's other customers and have detrimental impacts on system reliability and safety. The Stipulation's terms protect PacifiCorp's non-LEUF customers by incentivizing LEUFs to not exceed their Contract Demand and by making clear that any use in excess of a LEUF's Contract Demand requires the company's prior approval and may be curtailed if needed to maintain system reliability, safety, or if the exceedance will risk unwarranted cost shifting to other customers. Requiring Schedule 401 customers to be subject to the excess demand charge in Schedule 300 is a simple and administrable approach that is consistent with the company's requirements for its large customers that are not LEUFs. Finally, requiring PacifiCorp to provide an analysis in each of its Power

[152] Stipulation at ¶ 21.i.
[153] Stipulation at ¶ 21.j.

Cost Adjustment Mechanism filings of the frequency and severity of LEUF excess demand events can inform the Commission's, PacifiCorp's, and stakeholders' understanding of the prevalence and amount of LEUF exceedances and inform any future action regarding this issue.

8. Surcharges (Paragraph 21.k).

Q. Please describe the parties' positions regarding the surcharges applicable to Schedule 401.

A. PacifiCorp's Initial Filing proposed revisions to Schedule 90, which summarizes the applicability of the company's adjustment schedules, to identify the specific adjustment schedules that would be applicable to Schedule 401 customers.[154] The Initial Filing acknowledged that there were no prices applicable to Schedule 401 customers in the adjustment schedules, but the company would propose adjustment schedule rates for Schedule 401 customers "[i]f and when the Company brings an Agreement before the Commission for approval."[155]

Vitesse stated that it did not take issue with PacifiCorp's proposed revisions to Schedule 90, and DCC stated it "expect[ed]" that LEUFs would contribute to PacifiCorp's existing rider schedules, including Schedule 90.[156] ADS implicitly agreed with applying the adjustments or riders proposed in PacifiCorp's revised Schedule 90 filing to LEUFs, although ADS argued LEUFs should pay the rates applicable to Schedule 47 or 48 customers until PacifiCorp determined a stated rate for a LEUF

[154] Advice No. 25-015 at 6.
[155] Advice No. 25-015 at 6.
[156] Vitesse/100, Coyle/11, 19-20; DCC/200, Bieber/36.

class.[157] All other parties did not directly address Schedule 90 surcharges and riders for LEUFs in their testimony.

The example term sheets filed with PacifiCorp's reply testimony confirmed that applicable surcharges and riders would be included in LEUF Agreements.[158] In response to parties' general concerns in opening testimony and rebuttal testimony regarding a lack of firm commitment of LEUF Agreement terms in Schedule 401, PacifiCorp proposed to include Special Condition 4(i) in Schedule 401, which provides: "The Large Energy Use Facility will pay all of the surcharges applicable to Schedule 401 at the same price applicable to Schedule 48 customers."[159]

Q. What does the Stipulation provide regarding surcharges for New LEUFs?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following:

> The New LEUF will pay all of the surcharges applicable to Schedule 401 at the same price applicable to Schedule 48 customers. To achieve this, all surcharges will be calculated recursively so that the original rate spread is applied to a revenue requirement that accounts for the additional revenues raised by Schedule 401 customers. This will be done by subtracting the forecasted revenue from Schedule 401 from the original revenue requirement, then recursively solving for a set of rates that maintains the intended rate spread on the modified revenue requirement while keeping Schedule 401 rates equal to Schedule 48 rates.[160]

Q. Please explain why this term is reasonable and appropriate.

A. The surcharges and riders that Schedule 90 designates as applicable to Schedule 401 provide a benefit to PacifiCorp's existing Oregon customers. Additionally, it is just and

[157] ADS/100, Berry-Cain/15-16.
[158] PAC/200, Eller/13; PAC/201, Eller/2; PAC/202, Eller/2.
[159] PAC/400, Eller/10; PAC/301, Meredith/4.
[160] Paragraph ¶ 21.k.

reasonable to require Schedule 401 customers to pay the applicable surcharges at the same price applicable to Schedule 48 customers because Schedule 401 customers are similarly situated to the large customers on Schedule 48 customers for purposes of their contributions to PacifiCorp's adjustment schedules. The Stipulation also makes clear that when making Schedule 401 subject to the applicable surcharges, PacifiCorp will recalculate other rate classes' surcharges to account for the additional revenues.

9. Exit Fees (Paragraph 21.l).

Q. Please describe the parties' positions regarding exit fees for New LEUFs.

A. PacifiCorp's Initial Filing did not discuss exit fees for New LEUFs.[161] In opening testimony, Environmental Intervenors recommended an identical exit fee to the one the Commission adopted in docket UM 2377.[162] Staff recommended a similar exit fee structure as the Commission adopted in docket UM 2377 for customers 20 MW or larger, calculated as the sum of: (1) the net book value of all directly assigned assets; and (2) the greater of (a) the remaining minimum transmission demand and minimum generation demand charges for the remainder of the contract, or (b) three years' worth of minimum transmission demand and minimum generation demand charges at the highest allocated system capacity during the contract.[163] Staff also proposed that if another customer assumed all or a portion of the exiting customer's capacity and cost responsibilities within three years of the customer exiting, then the exiting customer may receive a full or partial refund of its exit fee, minus the minimum demand and distribution charges for the time spanning when the exiting customer left and the new

[161] PAC/200, Eller/52.
[162] Environmental Intervenors/100, Fisher/28.
[163] Staff/100, Stevens/45.

customer connected.[164] ADS also supported an exit fee as long as it was appropriately defined in the tariff.[165]

In reply testimony, the company noted that while it anticipated establishing exit fees based on the unique terms of the LEUF Agreement, it did not see a path to establishing a standardized exit fee under the direct contracting method under Schedule 401.[166] In rebuttal testimony, both Staff and the Environmental Intervenors continued to support their original exit fee proposals and took issue with PacifiCorp's plan to negotiate exit fees with customers individually.[167] CUB stated that it could "consider" a situation in which a special contract does not contain an exit fee, but only if the contract "functionally guarantee[] zero chance of a single dollar of stranded asset being passed to other customers."[168] In contrast, AWEC and ADS both opposed an exit fee, arguing that blindly duplicating docket UM 2377 was unwarranted and the fee would discourage speculative load requests "at the end of the process after it has already interconnected to the grid" rather than at the beginning of the interconnection process, which was preferrable.[169]

In surrebuttal testimony, PacifiCorp proposed modifying Staff's exit fee proposal to be the sum of either:

- Scenario 1: (i) the Reservation Charge for the remaining contract term; (ii) all unpaid CIAC amounts; (iii) all unpaid third-party transmission costs, and (iv) the net cost of removing any facilities no longer needed; or

[164] Staff/100, Stevens/45-46.
[165] ADS/100, Berry-Cain/28-30.
[166] PAC/200, Eller/54.
[167] Staff/200, Stevens/42; Environmental Intervenors/300, Fisher/4, 19-20.
[168] CUB/200, Tran/14.
[169] ADS/200, Berry-Cain/22; AWEC/200, Kaufman/9.

- Scenario 2: (i) all unpaid CIAC amounts; (ii) all unpaid third-party transmission costs; (iii) the Portfolio Risk Management Fee for the remaining term of the contract, and (iv) the net cost of removing any facilities no longer needed.[170]

Q. What does the Stipulation provide regarding exit fees for New LEUFs?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following:

> The New LEUF will be subject to an Exit Fee that is set to recover infrastructure costs that are funded by PacifiCorp. The Exit Fee will include the net book value of company-funded infrastructure, the net cost of customer-specific power/tolling agreements, the Reservation Charge for the remainder of the customer's contract, and the net cost of removing facilities no longer needed. If another large customer takes service within three years of an exiting LEUF's departure, the Exit Fee will be refunded by a pro-rata share of the capacity assumed by the new large customer. No refund will be given for the net cost of removing facilities that served the exiting LEUF.[171]

Q. Please explain why this term is reasonable and appropriate for LEUF Agreements.

A. This term protects existing customers from the risk of stranded costs if PacifiCorp funds the cost of facilities to serve a LEUF and the LEUF departs before the end of its contract term. It strikes a fair balance between providing standardized language regarding exit fees to include in LEUF Agreements and not imposing an overly stringent exit fee term on customers that choose to pay a significant portion of the costs they cause upfront. The exit fee holds a New LEUF accountable for yet unpaid-for infrastructure costs caused by the customer, minimizing the risk of stranded assets

[170] PAC/400, Eller/61.
[171] Stipulation at ¶ 21.*l*.

10. Administrative and General Expense (Paragraph 21.m).

Q. What does the Stipulation provide regarding a surcharge for Administrative and General (A&G) expense?

A. Under the Stipulation, standard LEUF Agreements will contain terms that reflect the following:

> The New LEUF will pay a surcharge that will be equal to (i) PacifiCorp's forecasted administrative and general expense included in the final cost of service study in its most recent general rate case divided by forecast energy sales from the general rate case, (ii) any charges that get folded into base rates that Schedule 401 LEUFs are eligible for, and (iii) any other shared costs the Commission deems appropriate. In between general rate case filings, this surcharge shall be adjusted annually by the Consumer Price Index until the rules for the Multi-Year Rate Plan are developed, at which time, this surcharge will be adjusted by the I-factor determined in those rules (if one is included). In addition, costs recovered through the Z-factor may be included in the surcharge if the Commission deems appropriate.[172]

Q. Please explain why this term is reasonable and appropriate for LEUF Agreements.

A. This term is reasonable and appropriate to include in LEUF Agreements because it ensures that LEUFs contribute to shared system costs, such as PacifiCorp's administrative and general expense. It also creates a reasonable mechanism for ensuring LEUFs' contributions to shared system expenses remain accurate over time.

D. <u>Other Schedule 401 Requirements</u>

1. Time to File LEUF Agreements (Paragraph 19)

Q. What does the Stipulation provide regarding the timeline for filing a LEUF Agreement with the Commission after it is executed?

A. The Stipulation provides that "[w]ithin 45 days after execution, a LEUF Agreement will be filed with the Commission for approval. If the parties have not executed a LEUF

[172] Stipulation at ¶ 21.m.

Agreement within 180 days of completion of the service study, either party may file an unexecuted LEUF Agreement and request Commission resolution of disputed terms."[173]

Q. Why are these provisions appropriate and reasonable?

A. The first provision is responsive to all parties' interest in having negotiated LEUF Agreements be filed timely to commence the Commission approval process. The second provision addresses concerns regarding the potential for service delays if PacifiCorp and a prospective LEUF customer cannot agree to LEUF Agreement terms. Commencing the 180-day period after the service study makes sense because service studies can vary greatly in how much time they take to complete due to differences in the size of the study, and because PacifiCorp and a LEUF cannot understand the costs necessary to serve the LEUF until the service study is completed.

2. Commission Review of LEUF Agreements (Paragraph 20)

Q. Please describe the parties' positions regarding Commission review of LEUF Agreements.

A. PacifiCorp's Initial Filing provided that the company will file for approval of LEUF Agreements with the Commission, and that the Commission shall approve or reject a LEUF Agreement within 60 days.[174] In opening testimony, Staff expressed concerns about a 60-day review timeline.[175] Staff also noted that the proposed review period is less than what is given for many standard advice filings although LEUF Agreements would require more intensive review by Staff and the Commission.[176] CUB

[173] Stipulation at ¶ 19.
[174] Proposed Schedule 401 at ¶¶ 1, 4.
[175] Staff/100, Stevens/14.
[176] Staff/100, Stevens/14.

recommended that the length of time for review of the LEUF Agreement should increase in proportion to the size of the customer's requested load, although a shorter length of time for review could be appropriate if Schedule 401 contained standard contract terms.[177] In reply testimony, PacifiCorp continued to advocate for a 60-day timeline.[178]

In rebuttal testimony, Staff recommended a review period of 120 days for customers under 220 MW and 180 days for customers larger than 220 MW.[179] CUB recommended a minimum 120-day review period for all New LEUF Agreements.[180] While the Environmental Intervenors did not recommend a review period, they claimed that PacifiCorp's proposed 60-day review period was insufficient for "transparent, meaningful" review of LEUF Agreements.[181]

In response to these concerns, PacifiCorp revised its proposal in surrebuttal testimony to include a longer, 120-day review period for LEUF Agreements that differ from the standard contract terms in Schedule 401.[182]

Q. What does the Stipulation provide regarding Commission review of LEUF Agreements?

A. The Stipulation provides:

> The Commission will have 90 days to approve or reject a standard LEUF Agreement. PacifiCorp or the LEUF may propose a non-conforming contract structure, in which case the Commission will have 180 days to approve or reject the LEUF Agreement. For either

[177] CUB/100, Tran/8, 15.
[178] PAC/200, Eller/63.
[179] Staff/200, Stevens/18, 22.
[180] CUB/200, Tran/23.
[181] Environmental Intervenors/300, Fisher/34-36.
[182] PAC/400, Eller/62.

> standard or non-standard contracts, the Commission may extend the review period for good cause.[183]

The Stipulation also provides that "[i]n the filing seeking Commission approval, PacifiCorp will provide a description of how the contract structure is designed to avoid double-counting."[184]

Q. Why are these provisions regarding Commission review of LEUF Agreements reasonable?

A. Providing 90 days for Commission review of LEUF Agreements with standard terms and 180 days for LEUF Agreements with non-standard terms (*i.e.*, terms that do not match the standard terms identified in Paragraph 21 of the Stipulation) is a reasonable compromise of the parties' differing positions regarding the appropriate amount of time for Commission review of LEUF Agreements. The 90 day/180 day timelines provide sufficient time for Commission review and strike a reasonable balance between the need for robust Commission and stakeholder review of LEUF Agreements and LEUF customers' interest in expediency. The option for the Commission to extend these time periods for good cause provides flexibility for the Commission to take additional time for review of LEUF Agreements if needed—for example, if addressing access to confidential information is time-consuming.

Finally, the requirement that PacifiCorp include in its LEUF Agreement filings a description of how the contract structure is designed to avoid double-counting will inform the Commission's and stakeholders' review of executed LEUF Agreements.

[183] Stipulation at ¶ 20.
[184] Stipulation at ¶ 20.a.

3. Application Fee (Paragraph 23)

Q. Please describe the parties' positions regarding an application fee for prospective Schedule 401 customers.

A. PacifiCorp proposed a $25,000 application fee for LEUF Agreements in Schedule 401.[185] In opening testimony, CUB recommended that the application fee for prospective customers requesting service under Schedule 401 cover the full costs to prepare an agreement and scale according to the size of the load request.[186] In reply testimony, PacifiCorp disagreed that restructuring the application fee to scale with load size was necessary, noting that LEUF Agreements will likely require a similar amount of work for necessary studies and contracting process regardless of the LEUF's exact size.[187]

In rebuttal testimony, CUB changed its position and supported a fixed application fee so long as the full costs were covered.[188] Staff stated that it did "not have a strong opinion on the application fee" but proposed that the application fee be trued up based on the actual costs of evaluating a customer's service request.[189]

In surrebuttal testimony, PacifiCorp continued to advocate for a fixed $25,000 application fee.[190] However, in response to party concerns, the company clarified that the fee is in addition to necessary study costs associated with the request, which will be fully recovered from the LEUF.[191] PacifiCorp noted it was open to revisiting the

[185] Proposed Schedule 401 at ¶ 10.
[186] CUB/100, Tran/15.
[187] PAC/100, Meredith/30-31; PAC/200, Eller/67.
[188] CUB/200, Tran/21.
[189] Staff/200, Stevens/44.
[190] PAC/400, Eller/65.
[191] PAC/400, Eller/66.

amount of the fee in the future if the fixed application fee is later found to be insufficient to compensate the company for the costs to prepare a LEUF Agreement.[192]

Q. What does the Stipulation provide regarding an application fee for prospective Schedule 401 customers?

A. The Stipulation provides:

> Applicants seeking New LEUF Agreements with PacifiCorp shall pay a $25,000 nonrefundable fee as offset to the costs of the company preparing the LEUF Agreement, but this does not cover the cost of the engineering studies which will be entirely allocated to the New LEUF. As part of any study agreement, the LEUF will agree to true-up PacifiCorp's costs of preparing and negotiating the LEUF Agreement to be recovered from the LEUF, regardless of whether the LEUF Agreement is ultimately executed.[193]

Q. Why is this term reasonable and appropriate?

A. This term requires prospective LEUF customers to compensate PacifiCorp for its full costs of studying their load requests and preparing a LEUF Agreement. This term prevents PacifiCorp's existing customers from subsidizing the cost of preparing LEUF Agreements for prospective LEUF customers, which would be inconsistent with the POWER Act.

4. Minimum Contract Term and Renewal Term (Paragraphs 24 and 31)

Q. Please describe the parties' positions regarding a minimum contract term and renewal term for New LEUF Agreements.

A. PacifiCorp's Initial Filing provided that LEUF Agreements must specify a term that is at least 10 years, consistent with the POWER Act's requirement that contracts with LEUFs must be for 10 years or longer.[194] In the Initial Filing, the company explained

[192] PAC/400, Eller/65-66.
[193] Stipulation at ¶ 23.
[194] Proposed Schedule 401 ¶ 3(e); HB 3546 § 5(1)(b)(A)(ii).

that this minimum term length, in combination with minimum payment provisions, would ensure that LEUFs contribute to the company's costs to serve them for a sufficient length of time to minimize the risk of stranded investments.[195]

In opening testimony, Staff and the Environmental Intervenors proposed that the term for LEUF Agreements should scale based on the amount of a customer's reserved capacity, consistent with what the Commission approved for PGE in docket UM 2377, with a minimum term of 10 years and a maximum of 30 years.[196] The Environmental Intervenors additionally proposed that Schedule 401 include a five-year ramp period.[197] Vitesse recommended that Schedule 401 be revised to specify that LEUF Agreements shall be 10 years or more, and that this term is "inclusive of any ramp period."[198] ADS recommended a minimum contract term of 10 years, plus an optional five-year ramping period.[199] DCC recommended a 10-year minimum contract term.[200]

In response to parties' suggestions, PacifiCorp proposed revising Schedule 401 to specify that LEUF Agreements must have a term that is a minimum of ten years and a maximum of 30 years, and this term will be inclusive of a ramp period.[201] The company noted that this change was generally consistent with the approach in docket UM 2377, provided clarity and certainty to prospective customers, and complied with the minimum 10-year period required by the POWER Act while affording flexibility to

[195] Advice No. 25-015 at 4.
[196] Staff/100, Stevens/29; Environmental Intervenors/100, Fisher/23-24.
[197] Environmental Intervenors/100, Fisher/24.
[198] Vitesse/100, Coyle/21.
[199] ADS/100, Berry-Cain/21.
[200] DCC/100, Bieber/24.
[201] PAC/200, Eller/31.

negotiate term lengths and ensuring LEUF Agreements will be of a sufficient duration to protect against risk and stranded costs.[202]

In rebuttal testimony, Staff and the Environmental Intervenors argued that PacifiCorp's revised proposal was insufficient, lacked clarity, did not provide any incentives for longer term contracts, and "weaken[ed] its previous proposal with a ceiling on the possible contract length."[203] Environmental Intervenors also recommended a minimum renewal contract term of 10 years, and that contracts automatically renew 36 months prior to the end of the previous contract term unless a LEUF gives notice of its intent to end the contract earlier.[204] Vitesse continued to support its prior proposal and did not oppose a 30-year contract term ceiling, but objected to any treatment of 30 years as a presumptive or default term.[205] ADS and DCC argued that Staff's and the Environmental Intervenors' proposals were overly stringent and "excessive" compared to industry standards for protecting against stranded assets and cost-shifting risks.[206]

PacifiCorp's surrebuttal testimony continued to advocate for minimum contact term of 10 years and a maximum contract term of 30 years for LEUF Agreements, inclusive of a ramp period.[207] PacifiCorp reasoned that a minimum 10-year and maximum 30-year term would not result in stranded assets because—under either the Reservation Charge or the upfront CIAC payment—there would not be any stranded

[202] PAC/200, Eller/31.
[203] Staff/200, Stevens/14; Environmental Intervenors/300, Fisher/12.
[204] Environmental Intervenors/300, Fisher/10-11.
[205] Vitesse/200, Coyle/21-22.
[206] ADS/200, Berry-Cain/18-23; DCC/200, Bieber/31-33.
[207] PAC/400, Eller/28-31.

costs remaining at the end of the LEUF Agreement term.[208] With respect to the Environmental Intervenors' claim that PacifiCorp's revised proposal for a 30-year cap was less protective, the company argued that a longer contract term is not necessarily more protective against cost-shifting and must be viewed in the context of the LEUF Agreement as a whole, which ensures full recovery of the company's incremental cost of serving the LEUF prior to the end of the contract term.[209] While PacifiCorp viewed a 10-year minimum renewal term as unnecessary and not required by the POWER Act, PacifiCorp stated that it would not oppose a minimum extension period of 10 years if desired by parties or the Commission.[210]

Q. What does the Stipulation provide regarding a minimum contract term for LEUF Agreements?

A. The Stipulation provides that "[t]he minimum term for a LEUF Agreement will be 10 years, and the maximum term will be 30 years, inclusive of any ramp period."[211] It also provides that "LEUF Agreement renewals will be a minimum of 10 years in length."[212]

Q. Why is this term reasonable and appropriate?

A. This term represents a compromise of parties' differing positions regarding the appropriate minimum term for a LEUF Agreement and LEUF Agreement renewal. It is also consistent with the POWER Act and, along with other LEUF Agreement terms addressed in the Stipulation, ensures that any LEUF Agreement under Schedule 401 or

[208] PAC/400, Eller/29.
[209] PAC/400, Eller/30.
[210] PAC/400, Eller/31.
[211] Stipulation at ¶ 24.
[212] Stipulation at ¶ 31.

LEUF Agreement renewal will be of a sufficient duration to recover the Schedule 401 customer's costs of service.

5. Collateral and Credit Requirements (Paragraph 29)

Q. Please describe the parties' positions regarding collateral and credit requirements.

A. Special Condition 6 in PacifiCorp's Initial Filing stated that a LEUF Agreement "may contain unique credit, deposit, and security provisions for the Customer."[213] In opening testimony, Staff proposed that Schedule 401 include the same credit requirements as those adopted in docket UM 2377, including: (i) the senior unsecured long-term debt of a customer has a rating of A- or higher by Standard & Poor's or Fitch, A (low) or higher by DBRS, or A3 or higher by Moody's Investor Services, Inc.; provided that if a Person is rated by multiple credit rating agencies, the Person will be deemed to satisfy the Creditworthiness Requirements only if at least two of the foregoing standards are met; or (ii) if there is no such rating of the customer's senior unsecured long-term debt, the customer has an equivalent rating as determined by the utility through its standard internal process review.[214] The Environmental Intervenors recommended that Schedule 401 require a customer deposit equal to three years of minimum generation demand and minimum transmission demand charges, based on the Reserved Capacity over the source of the contract.[215] The Environmental intervenors further argued that the deposit should be refunded 50 percent at the midway point of the initial contract term and 100 percent at the end of the initial term if the customer is not in arrears.[216]

[213] Proposed Schedule 401 at ¶ 6.
[214] Staff/100, Stevens/41.
[215] Environmental Intervenors/100, Fisher/36.
[216] Environmental Intervenors/100, Fisher/36.

ADS recommended that: (1) LEUF Agreements should contain collateral requirements and that such requirements should be based on the customer's financial obligation, credit rating and/or liquidity, and the length of time the customer has taken service under Schedule 401; (2) the Commission should set a cap on the collateral requirement equal to three years of minimum monthly bills and allow LEUFs and the company to negotiate lesser credit requirements; and (3) that this early financial commitment be credited against any larger collateral requirement when the LEUF Agreement is executed and released at that time.[217] Vitesse argued that Special Condition 6 was too vague and should provide explicit detail regarding what level of credit, deposit, or security would be required depending on the creditworthiness of the facility, similar to the level of detail in PacifiCorp's OATT.[218]

DCC recommended that Schedule 401 include the following criteria: (i) guarantees, cash, letters of credit, or surety bonds are acceptable forms of financial security; (ii) the amount of collateral required may not exceed the total cost of the incremental facilities to serve the new load; (iii) customers are not required to provide collateral more than 12 months before the company makes the capital expenditures required for infrastructure improvements; (iv) customers required to provide financial security may reasonably reduce the amount of security over the contract term on a pro rata basis; and (v) any revenues from the drawdown of a LEUF's financial security

[217] ADS/100, Berry-Cain/29-30. ADS suggested that these commitments could take the form of letters of credit, parent guarantees, or third-party guarantees, at $50,000/MW, though a different amount may be appropriate depending on (i) the project development and interconnection stage when the commitment is posted; (ii) the obligations governing whether the customer can recover the commitment; and (iii) PacifiCorp's corresponding binding obligations to the customer during that process. *Id*. at 29.
[218] Vitesse/100, Coyle/23-25.

should be deferred and used to offset costs for remaining customers through appropriate ratemaking treatment.[219]

PacifiCorp's reply testimony did not support setting specific security amounts for all LEUFs under its proposed direct contracting approach, which would result in unique risk for each LEUF contract and require tailored amounts of security.[220] In rebuttal testimony, Staff raised concerns that the company's failure to provide a uniform set of credit requirements—or a framework for determining credit requirements—was inconsistent with the Commission's decision in docket UM 2377.[221] The Environmental Intervenors continued to support their proposal in rebuttal and recommended requiring a customer deposit equivalent to three years' worth of minimum generation demand and minimum transmission demand that may be refunded 50 percent at the midpoint of the initial contract and 100 percent at the end of the initial term if the LEUF is not in arrears.[222]

Vitesse argued in rebuttal that the company's proposed $4,000/kW security requirement was too high and not justified and recommended that this requirement be replaced with a "cost-based security requirement grounded in PacifiCorp's actual demonstrated credit exposure at each stage of project development, using a tiered approach keyed to project milestones."[223] Vitesse also recommended that the Commission require PacifiCorp to disclose the cost analysis supporting the security requirement in every LEUF Agreement filing.[224]

[219] DCC/100, Bieber/27-28.
[220] PAC/200, Eller/52.
[221] Staff/200, Stevens/41.
[222] Environmental Intervenors/300, Fisher/5-6, 25.
[223] Vitesse/200, Coyle/28.
[224] Vitesse/200, Coyle/29.

In surrebuttal testimony, PacifiCorp clarified that at the time of execution of the LEUF Agreement, a LEUF must be required to provide sufficient creditworthiness or post-collateral, as determined by the company, to cover either:

- Scenario 1: (i) the Reservation Charge for at least five years; (ii) all unpaid CIAC amounts; and (iii) five years of third-party transmission costs;
- Scenario 2**:** (i) all unpaid CIAC amounts; (ii) five years of third-party transmission costs; and (iii) the Portfolio Risk Management Fee for at least five years.

In addition, under Scenario 2, the company confirmed that the LEUF will be required to enter into an agreement with each resource owner for the purpose of providing any necessary financial security and performance obligations between the resource owner and the LEUF.[225]

In response to Vitesse's concerns, PacifiCorp explained that the $4,000/kW security amount Vitesse referenced was a reasonable and conservative approximation compared to the benchmark of PacifiCorp's 2025 Integrated Resource Plan Update where base capital assumptions indicated that the capital cost of incremental resources alone could reasonably be expected to approach or exceed $3,000/kW of load.[226] PacifiCorp also explained that when the company negotiates and files a specific LEUF Agreement and actually takes security, the final security amount may be greater or less than $4,000/kW depending on the unique costs, risks, and obligations identified for the LEUF.[227]

[225] PAC/400, Eller/54-55.
[226] PAC/400, Eller/55-56.
[227] PAC/400, Eller/56.

Q. What does the Stipulation provide regarding collateral and credit requirements?

A. The Stipulation provides that

> A LEUF shall, at the company's election, be required to provide sufficient creditworthiness or post collateral to cover the customer's Exit Fee. This determination will be made using the credit requirements described below. This amount will be reassessed every two years to reflect the customer's current Exit Fee.
>
> a. The senior unsecured long term debt of a customer has a rating of A- or higher by Standard & Poor's or Fitch, A (low) or higher by DBRS, or A3 or higher by Moody's Investor Services, Inc.; provided that if an entity is rated by multiple credit rating agencies, the entity will be deemed to satisfy the Creditworthiness Requirements only if at least two of the foregoing standards are met, or
>
> b. If there is no such rating of the customer's senior unsecured long-term debt, the customer has an equivalent rating as determined by the utility through its standard internal process review.[228]

Q. Why is this term reasonable and appropriate?

A. This term represents a reasonable compromise of the parties' differing positions regarding the appropriate collateral and credit requirements. In reaching agreement regarding these credit requirements, the Stipulating Parties took into account the testimony of data center parties and other parties who raised concerns about overly burdensome credit and collateral requirements. These collateral and credit requirements adequately protect the company from the potential for stranded costs from speculative load requests but are not overly burdensome for prospective LEUFs.

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[228] Stipulation at ¶ 29.

6. LEUF Resource Eligibility (Paragraph 33)

Q. Please describe the parties' positions regarding which resources should be eligible to support LEUFs.

A. In opening testimony, consistent with docket UM 2377, Staff proposed that direct contracts with LEUFs should contain a comparison of the resource with cost-of-service procurements in the request for proposals (RFP).[229] Environmental Intervenors proposed restricting the type of generation resources that can be procured through a direct contract to certain categories of non-emitting resources, including: (i) resources that bid into a PGE or PacifiCorp RFP but failed to make a Final Shortlist; (ii) resources co-located with the data center; (iii) geothermal resources; (iv) long-duration storage; and (v) resources that the Commission approves for special contract acquisition on a case-by-case basis after a showing that the resource would not have been available for other cost of service utility customers at a cost-effective price.[230] While PacifiCorp agreed with Staff's proposed requirements as consistent with the information that would be provided at the time the company files a LEUF Agreement, the company viewed the Environmental Intervenors' generation requirements as overly restrictive, likely to discourage emerging technologies, and duplicative of existing statutory requirements.[231] Staff and the Environmental Intervenors did not provide rebuttal testimony on this issue.

To manage non-LEUF and LEUF resource needs, PacifiCorp proposed in surrebuttal testimony that any resource, including company-owned benchmark

[229] Staff/100, Stevens/36-37.
[230] Environmental Intervenors/100, Fisher/39-40.
[231] PAC/200, Eller/28-29.

resources, that are actively participating in a formal system procurement request (whether the RFP is for Oregon specifically or another state in PacifiCorp's service territory), would be ineligible to support a LEUF.[232] The company further noted that a resource that chooses to participate in a formal system procurement may become eligible for a LEUF if their participation in the RFP ends, such as in the event they do not make a short list or other key milestone.[233]

Q. What does the Stipulation provide regarding the eligibility of resources to support LEUFs?

A. The Stipulation provides that

> Any resource, including company-owned benchmark resources, that are actively participating in a formal system procurement request, whether the [RFP] is for Oregon specifically or another state in PacifiCorp's service territory, would be ineligible to support a LEUF. A resource that chooses to participate in a formal system procurement may become eligible for a LEUF if the resource's participation in the RFP ends, such as in the event the resource does not make a short list or other key milestone.[234]

Q. Why is this term reasonable and appropriate?

A. Allowing LEUFs to acquire resources that otherwise might have been acquired as a least-cost, least-risk resource for cost-of-service customers could result in indirect cost shifting. This term protects against such a scenario by preventing resources that might be procured through a formal system procurement from being used to support a LEUF unless and until the resource's participation in the formal procurement process ends.

[232] PAC/400, Eller/24.
[233] PAC/400, Eller/24.
[234] Stipulation at ¶ 33.

7. Tax on CIAC (Paragraph 34)

Q. What does the Stipulation provide regarding tax implications of CIAC paid by a customer under a LEUF Agreement?

A. The Stipulation provides that "[a]ny forecasted negative tax implications for a customer's CIAC must be documented by PacifiCorp, paid for by the customer, and included in any LEUF Agreement presented to the Commission."[235]

Q. Why is this term reasonable and appropriate?

A. It is reasonable, appropriate, and consistent with the POWER Act to require New LEUFs to compensate PacifiCorp for the negative tax implications of New LEUFs' CIAC, because otherwise PacifiCorp's tax liability on LEUF CIAC would be shifted to non-LEUF customers, in violation of the POWER Act. Requiring PacifiCorp to document and disclose these tax impacts promotes transparency and accountability when PacifiCorp assigns these costs to LEUFs.

8. Direct Assignment of Unrecovered Investments (Paragraph 35)

Q. What does the Stipulation provide regarding the direct assignment of unrecovered investments identified in existing service contracts between PacifiCorp and LEUFs?

A. The Stipulation provides that "any and all unrecovered portions of the proportionate share of investments identified in service contracts between PacifiCorp and LEUFs subject to Schedule 401 are directly assigned, in a manner consistent with Paragraph 21, to the customer on a going forward basis as part of the LEUF Agreement for customers eligible for Schedule 401."[236]

[235] Stipulation at ¶ 34.
[236] Stipulation at ¶ 35.

Q. Why is this reasonable and appropriate?

A. This term applies to LEUFs subject to Schedule 401 with existing service contracts with PacifiCorp. It ensures that in the event PacifiCorp has unrecovered investments associated with its service to Schedule 401 customers under those pre-existing contracts, those costs are directly assigned to such customers on a going forward basis. This ensures that any investments that PacifiCorp has already made to serve a New LEUF but has not recovered will not be passed on to PacifiCorp's non-LEUF customers, which is consistent with the intent and purpose of the POWER Act.

9. LEUF Contributions to Future Shared Facility Costs (Paragraph 36)

Q. What does the Stipulation provide regarding LEUF contributions to future shared facility costs?

A. The Stipulation provides:

> If, when studying the LEUF's load request, PacifiCorp determines that the LEUF's load will accelerate PacifiCorp's need to construct a planned facility, the LEUF Agreement will identify the facility for future cost recovery from the LEUF. In the proceeding when the facility goes into rates for Oregon customers, a surcharge will be developed that will recover the LEUF's proportionate share of the facility based upon total presently known capacity need and over the remaining life of the LEUF Agreement.[237]

Q. Why is this term reasonable and appropriate?

A. This term contemplates the scenario where a New LEUF does not by itself trigger the need for a new facility but instead accelerates PacifiCorp's need to construct a planned facility. This term is reasonable, appropriate, and consistent with the POWER Act because it recognizes the New LEUF's contribution to the timing and need for a new facility and assigns to the New LEUF its proportionate share of the facility costs.

[237] Stipulation at ¶ 36.

10. Applicability of Rule 15 (Paragraph 37)

Q. Please summarize Rule 15 in PacifiCorp's Oregon tariffs.

A. Rule 15 sets forth PacifiCorp's electric service curtailment plan for periods of prolonged energy shortages, which identifies the non-discriminatory process by which the company would initiate and implement regional load curtailment.

Q. Please describe the parties' positions regarding the curtailment of LEUFs for reasons other than exceedances of contract demand.

A. CUB's rebuttal testimony argued that Schedule 401 must give the company permission to interrupt LEUF load without a LEUF's permission in circumstances where the contribution to grid efficiency, resiliency, and reliability, but also adhering to the general principle of the prevention of unwarranted cost shifting (such as LEUF contribution to extreme weather pricing events), made the interruption a "clearly prudent decision." [238]

Q. What does the Stipulation provide regarding the applicability of Rule 15 to LEUFs subject to Schedule 401?

A. The Stipulation provides that "LEUFs will not be exempted from the requirements of Rule 15 as a result of entering a LEUF Agreement."[239]

Q. Why is this term reasonable and appropriate?

A. This prevents PacifiCorp and LEUFs receiving service under Schedule 401 from entering into LEUF Agreements that would exempt the LEUF from the same curtailment protocols as all other PacifiCorp customers in the event of a reliability event that triggers the plan set forth in Rule 15. The Stipulating Parties understand that this

[238] CUB/200, Tran/12.
[239] Stipulation at ¶ 37.

provision does not change the status quo (i.e., Rule 15 would apply to LEUFs subject to Schedule 401 in the absence of this Stipulation) but included this provision to ensure no future LEUF agreements exempted a LEUF from Rule 15's requirements.

IV. SETTLEMENT TERMS NOT IMPLEMENTED THROUGH SCHEDULE 401

A. Interconnection of LEUFs (Paragraph 32)

Q. Please provide parties' positions regarding PacifiCorp's process for evaluating prospective LEUF loads.

A. ADS's opening testimony recommended that the Commission require PacifiCorp to develop a more transparent interconnection process, in consultation with stakeholders, and file the interconnection process within six months of the Commission's order in this docket.[240] ADS also requested that the Commission require PacifiCorp to explicitly identify the timing for signing a LEUF Agreement within the interconnection process and the expected energization date.[241]

In PacifiCorp's reply testimony, PacifiCorp explained in detail its existing process to evaluate and interconnect large loads.[242] In response to ADS's proposal, PacifiCorp expressed openness to setting realistic timelines for various interconnection milestones such as completing studies and making regulatory filings.[243]

Staff's rebuttal testimony raised concerns about the lack of clarity in PacifiCorp's proposal regarding how PacifiCorp would prioritize customer interconnection.[244] Staff did not oppose ADS's proposal that the Commission direct

[240] ADS/100, Berry-Cain/6-8.
[241] ADS/100, Berry-Cain/30.
[242] PAC/200, Eller/7.
[243] PAC/200, Eller/66-67.
[244] Staff/200, Stevens/19.

PacifiCorp to develop a more transparent interconnection process.[245] ADS's rebuttal testimony maintained ADS's recommendation regarding developing a transparent interconnection process, and ADS supported a general interconnection queue with non-discriminatory terms.[246] Vitesse's rebuttal testimony did not support a formal generation interconnection queue structure like the one adopted for PGE, but Vitesse recommended that if the Commission approved a queue for PacifiCorp, it should require PacifiCorp to explain in its tariff how competing LEUF load requests will be evaluated, prioritized, and processed.[247] Vitesse also raised concerns about PacifiCorp's lack of a clear interconnection processing methodology and argued that PacifiCorp "should be required to articulate its pre-LEUF Agreement processing methodology, including sequencing criteria, milestone triggers, and applicant communication standards, in a Commission-approved process document filed as a supplement to Schedule 401 and included in the tariff."[248]

In its surrebuttal testimony, PacifiCorp clarified that it performs studies of load interconnection requests in the order requests are received and provided additional clarification regarding its interconnection process.[249] The company opposed ADS's recommendation that it be required to develop and file with the Commission an interconnection process.[250]

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[245] Staff/200, Stevens/19.
[246] ADS/200, Berry-Cain/3-4.
[247] Vitesse/200, Coyle/12-13.
[248] Vitesse/200, Coyle/11-13.
[249] PAC/400, Eller/20.
[250] PAC/400, Eller/20.

Q. What does the Stipulation provide regarding interconnection of LEUFs?

A. The Stipulation provides:

> LEUF customer interconnection will be on a first-come, first-served basis, meaning that LEUF customers will be interconnected in the order in which they execute a LEUF Agreement, subject to agreed-upon construction timelines and system constraints (including proposals such as flexibility to address system constraints). The load interconnection queue for LEUF interconnection will be shared with the Commission in a confidential report that is updated whenever the queue changes, but not more frequently than once per quarter. PacifiCorp will provide a justification for any changes made to the queue. A public version of the report shall be made available in a manner that protects the confidentiality of all LEUF customers. The Commission will have the right to make changes to the queue for good cause, if the change does not result in unfair or unduly discriminatory treatment of any other LEUF customers.[251]

Q. Why is this term reasonable and appropriate?

A. Prioritizing LEUFs for interconnection on a first-come, first-served basis is equitable and transparent and gives prospective customers certainty about how the company will evaluate and process their load requests. Additionally, the confidential report regarding PacifiCorp's load interconnection queue that PacifiCorp will file with the Commission and update to reflect queue changes will permit Commission and stakeholder oversight of PacifiCorp's LEUF interconnection process. Finally, giving the Commission the right to make changes to the queue for good cause gives the Commission flexibility to address a dispute or other issue regarding LEUF placement in the queue. Finally, enabling the Commission to make changes to the queue only for good cause and if the change does not result in unfair or unduly discriminatory treatment of any other LEUF

[251] Stipulation at ¶ 32.

customers protects LEUFs from having their spot in the queue changed for arbitrary or unfair reasons.

B. Increases in Contract Demand by Existing LEUFs (Paragraph 16)

Q. What does the Stipulation provide regarding when a LEUF that is not taking service under Schedule 401 increases its contract demand?

A. The Stipulation provides:

> In the event that an existing LEUF that is not on Schedule 401 increases its contract demand by 10 [MW] or more but does not meet the definition of a New LEUF described in Paragraph 15, PacifiCorp must submit a study into docket UE 463 showing the impact of this increase on the system and what, if any, upgrades are required to accommodate the increase in contract demand.[252]

Q. Why is this term reasonable and appropriate?

A. This term gives the Commission and stakeholders visibility into LEUF load increases that do not cause a LEUF to meet the definition of a New LEUF and need to execute a LEUF Agreement with company.

C. Demonstrated System Benefits and Flexibility Compensation (Paragraphs 22 and 28)

Q. Please describe the parties' positions regarding flexibility compensation for New LEUFs.

A. In its opening testimony, Staff recommended that the company establish a uniform framework for compensating flexible projects for capacity value made available to the system during times of peak need in a non-discriminatory manner and that the company study and compile data related to the potential for load reductions through flexibility.[253] CUB expressed interest in the potential for LEUF flexibility and noted that PacifiCorp

[252] Stipulation at ¶ 16.
[253] Staff/100, Stevens/39-40.

had not considered flexibility provisions such as demand response or curtailment in existing contracts."[254] The Environmental Intervenors did not advance a recommendation regarding flexibility but stated that the Commission "should look for opportunities to support policies that allow for either flexibility or interruptibility, but only if it is achieved through the use of non-emitting resources and so long as it is not used to allow for faster interconnection for data center loads."[255]

PacifiCorp's reply testimony stated that its direct assignment approach ensured that customers offering flexibility and interruptibility could directly benefit from their offerings through a reduction in the costs assigned to them in their LEUF Agreements.[256]

In rebuttal testimony, Staff reiterated its recommendations regarding flexibility.[257] CUB stated that Schedule 401 should give PacifiCorp the opportunity to "seek prudent opportunities to interrupt LEUF load" without permission from the LEUF for certain purposes, and that PacifiCorp should also have the ability to "interrupt, curtail, and/or flex LEUF load" with permission from the LEUF when opportunities exist for equitable contributions to grid efficiency, resiliency, and reliability.[258] The company's surrebuttal testimony opposed Staff's proposal for the company to develop a tariff for flexibility compensation, but stated that the company recognizes the value that customer flexibility can provide and expressed willingness to work with LEUFs that offer flexibility.[259] The company also stated that negotiating

[254] CUB/100, Tran/13.
[255] Environmental Intervenors/100, Fisher/53.
[256] PAC/200, Eller/58.
[257] Staff/200, Stevens/28.
[258] CUB/200, Tran/12-13.
[259] PAC/300, Meredith/17; PAC/400, Eller/66.

flexibility provisions in individual LEUF Agreements would allow the arrangement to reflect the most relevant and up-to-date value of flexibility at the time.[260]

Q. What does the Stipulation provide regarding compensating New LEUFs for their flexibility or other demonstrated system benefits?

A. The Stipulation provides that "[a] LEUF Agreement may include provisions that account for demonstrated system benefits provided by interruptible service," as detailed in Paragraph 28 of the Stipulation.[261] Paragraph 28 provides that

> PacifiCorp will propose a uniform flexibility compensation program based on avoided cost principles for New LEUF customers in its next [g]eneral [r]ate [c]ase or in its filing to establish a tariff for LEUFs not subject to Schedule 401, whichever is first. Since non-LEUF customers would compensate LEUF customers for flexibility, the analysis of the LEUF customer's resource need would not consider any assumed flexibility. An alternative compensation for flexibility could still be proposed as part of a non-standard LEUF Agreement filing.[262]

Q. Why is this term reasonable and appropriate?

A. LEUF interruptibility may provide reliability and resiliency benefits to PacifiCorp's system. Thus, this term appropriately provides an avenue for PacifiCorp to include provisions in a LEUF Agreement that account for a LEUF's ability to provide demonstrated system benefits by taking interruptible service. Given the potential benefits of interruptible LEUF load, but the lack of an adequate record in this proceeding to develop a LEUF flexibility compensation tariff, it is also appropriate for PacifiCorp to propose a uniform flexibility compensation program for LEUFs in either its next General Rate Case or its filing to establish a tariff for LEUFs not Subject to Schedule 401 (addressed in Stipulation paragraph 25 and discussed below). To avoid

[260] PAC/300, Meredith/17.
[261] Stipulation at ¶ 22.
[262] Stipulation at ¶ 28.

compensating a LEUF twice for the same flexibility, a LEUF that receives uniform compensation for curtailment under the tariff would not also be able to include the same flexibility in the loads PacifiCorp studies to determine its resource need.

D. <u>Tariff Filing for LEUFs Not Subject to Schedule 401 (Paragraph 25)</u>

Q. Please describe the parties' positions regarding the treatment of LEUFs that are not subject to Schedule 401.

A. PacifiCorp's Initial Filing did not address LEUFs with existing service contracts that do not meet the definition of a New LEUF subject to Schedule 401.

In its opening testimony, Vitesse noted that Section 5 of the POWER Act does not apply to existing LEUFs that do not require the company to make significant investments and recommended that the Commission order PacifiCorp to assign such LEUFs to Schedule 48.[263] Vitesse also stated that if the Commission were to request a new schedule for service for existing LEUFs, then the new schedule should mirror the requirements of Schedule 48 for transmission-level customers.[264] Vitesse, CUB, and AWEC noted PacifiCorp's recent rate case filing in docket UE 470, which indicated that the treatment of existing LEUFs not subject to Schedule 401 would be addressed in a future proceeding.

The company's reply testimony clarified that the company does not object to existing LEUFs that do not fall within the purview of Schedule 401 remaining on Schedule 48; that deferring POWER Act implementation for existing LEUFs to a future ratemaking proceeding rather than adding it to the docket UE 470 rate case was preferrable to accommodate high workload demands on Staff and stakeholders; and

[263] Vitesse/100, Coyle/29.
[264] Vitesse/100, Coyle/29.

that the purpose of docket UE 463 is to prioritize creating a tariff framework for New LEUFs.[265]

Vitesse's rebuttal testimony recommended that the Commission's order in this proceeding affirmatively find that existing LEUFs can remain on Schedule 48.[266] It also recommended that the Commission direct PacifiCorp to include in its compliance filing in this docket a revision to Schedule 48 expressly confirming the continued eligibility of existing LEUFs for Schedule 48 service.[267] ADS's rebuttal testimony argued that the Commission should find that LEUF customers currently taking service under existing service contracts are not required to migrate to Schedule 401.[268] Staff's rebuttal testimony noted that the POWER Act requires PacifiCorp to develop a new rate class for its existing data center customers because it requires LEUFs to have a separate tariff.[269] Therefore, Staff opposed Vitesse's position that existing LEUFs should be permitted to continue receiving service under Schedule 48, but stated that the new tariff schedule for existing LEUFs could have the same rate design as Schedule 48.[270]

In surrebuttal testimony, PacifiCorp proposed that the ratemaking treatment for existing LEUFs not subject to Schedule 401 should be handled in a future proceeding.[271]

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[265] PAC/100, Meredith/36, 38.
[266] Vitesse/200, Coyle/5.
[267] Vitesse/200, Coyle/5.
[268] ADS/200, Berry-Cain/2.
[269] Staff/200, Stevens/22.
[270] Staff/200, Stevens/22.
[271] PAC/300, Meredith/29.

Q. What does the Stipulation provide regarding the treatment of LEUFs that are not subject to Schedule 401?

A. The Stipulation provides:

> Within 60 days of the rate effective date of docket UE 470, PacifiCorp will make a tariff filing to create a new rate class for LEUFs that are not subject to Schedule 401 that assigns the cost of serving such LEUFs to that class consistent with the POWER Act, including net power costs. The tariff filing will restate the revenue requirement from docket UE 470 with a new rate class allocation that includes the new rate class. This new tariff will use a similar structure to Schedule 48. PacifiCorp will provide notice of the new tariff filing to the parties in dockets UE 470 and UE 463.[272]

Q. Why is this term reasonable and appropriate?

A. This term is reasonable and appropriate because it provides certainty and predictability regarding when a new rate class will be established for LEUFs in PacifiCorp's service territory that are not subject to Schedule 401, in response to concerns raised by several parties in this proceeding. Establishing this new rate class shortly after docket UE 470 concludes allows PacifiCorp sufficient time to develop the new rate class and is efficient and fair because docket UE 470 will establish a new revenue requirement from which PacifiCorp can allocate costs to the existing LEUF class.

E. <u>Community Energy Benefits Charge (Paragraph 26)</u>

Q. Please describe the parties' positions regarding a community energy benefits charge.

A. Environmental Intervenors recommended the Commission adopt a one cent per kilowatt-hour surcharge paid by LEUFs to fund non-cost-effective energy efficiency, enabling repairs, and distributed energy resources (DERs) for low-income

[272] Stipulation at ¶ 25.

customers.[273] CUB generally supported Environmental Intervenors' surcharge proposal and suggested the Commission could also create a balancing account to which LEUFs could contribute through a surcharge on energy usage "for the purpose of equitable spending towards grid efficiency, reliability, and resiliency in the public interest."[274] Similarly, Staff recommended a one cent per kilowatt- hour surcharge to fund non-cost-effective energy efficiency, critical home repairs, or DERs, but Staff recommended that this charge apply only to LEUFs with a capacity allocation above 100 MW.[275]

DCC's testimony recommended rejecting the surcharge as arbitrary and on the basis of DCC's concerns about funding programs that are known to be non-cost-effective.[276] PacifiCorp took no position on the surcharge itself but recommended that if the Commission approved the surcharge, program development should occur in a PacifiCorp-specific docket rather than by including PacifiCorp in a proceeding already underway for PGE.[277]

Q. What does the Stipulation provide regarding a community energy benefits charge?

A. The Stipulation provides:

> LEUFs over 100 MW will be charged a 1 cent/kWh charge to fund non-cost-effective energy efficiency, critical home repairs ("enabling repairs"), or distributed energy resources for low-income customers in PacifiCorp's Oregon service territory. This charge will be set at 0 cents/kWh in the event the same charge ordered by the Commission for PGE in docket UM 2377 is found to be unlawful by a court of competent jurisdiction, at the time the decision becomes final and not subject to

[273] Environmental Intervenors/201, Basofin-Brint/5; Environmental Intervenors/400, Basofin-Brint/3.
[274] CUB/200, Tran/20.
[275] Staff/200, Stevens/30.
[276] DCC/200, Bieber/6.
[277] PAC/300, Meredith/24.

> appeal. The charge will revert back to 1 cent/kWh if, at some point thereafter, the Oregon Legislature fixes the legal infirmity identified by the court or otherwise allows for a substantially similar surcharge to be established. Rules governing the administration of any funds generated will be established within a separate docket.[278]

Q. How will the community energy benefits charge be implemented?

A. PacifiCorp will establish a new tariff schedule for the community energy benefits charge. This is appropriate because the charge applies to LEUFs larger than 100 MW, so the pool of customers that qualify for the charge will include customers on Schedule 401 as well as LEUF customers on Schedule 48 or on the new schedule that will be applicable to existing LEUFs.

Q. Why is this term reasonable and appropriate?

A. Although parties disagreed regarding the propriety of requiring LEUFs to fund non-cost-effective energy efficiency, enabling repairs, or distributed energy resources for low-income customers in PacifiCorp's Oregon service territory through a 1 cent/kW/h surcharge, the Stipulating Parties agree that it is a reasonable compromise to require customers larger than 100 MW to pay this surcharge. This surcharge is consistent with the requirement in the POWER Act utility tariffs implementing the POWER Act provide for equitable contributions to grid efficiency, reliability and resiliency benefits.[279] Moreover, to acknowledge that parties may have different positions regarding the legality of the charge, the Stipulating Parties negotiated terms that eliminate the charge if the analogous PGE charge is declared unlawful and reinstate the charge if the Legislature requires the same or a similar charge.

[278] Stipulation at ¶ 26.
[279] HB 3546 § 2(3)(b).

F. Biennial Reporting (Paragraph 30)

Q. Please describe the parties' positions regarding a reporting requirement for PacifiCorp.

A. The Environmental Intervenors and Staff recommended that PacifiCorp be required to make annual reports in line with the reporting requirements the Commission adopted in docket UM 2377.[280] PacifiCorp agreed to provide an annual report addressing a subset of information the Environmental Intervenors requested to be included and raised concerns about administrative burden and protection of confidential customer information.[281] Vitesse also raised confidentiality concerns about the disclosure of any customer information through a reporting requirement.[282]

Q. What does the Stipulation provide regarding a reporting requirement?

A. Paragraph 30 of the Stipulation provides:

> PacifiCorp will submit a report every other year regarding its LEUF customers.
>
> a. The report will contain the following information:
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> i. Number of LEUFs
> ii. Aggregated Reserved Capacity (or Contract Capacity) of LEUF Customers
> iii. Aggregated peak monthly [d]emand of LEUFs
> iv. Aggregated monthly energy usage of LEUFs
> v. The total number of instances a LEUF requested to exceed its Reserved Capacity (or Contract Capacity) during the calendar year, the date of each request, and whether PacifiCorp granted the request
> vi. Anonymized, individualized monthly peak demand of each LEUF
> vii. Anonymized, individualized monthly usage of each

[280] Environmental Intervenors/100, Fisher/53; Staff/200, Stevens/29-30.
[281] PAC/100, Meredith/33.
[282] Vitesse/100, Coyle/17, 34.

LEUF[283]

Q. Does the Stipulation specify how the report will be filed?

A. Yes. The report "will be filed in docket UE 463 no later than March 31 of the year following the reporting year (i.e., reporting for 2026 would be due March 31, 2027)."[284]

Q. What confidentiality provisions will be in place?

A. The Stipulation provides that:

> Information contained in Paragraph 30(a)(vi) through (viii) above will be provided confidentially. Information contained in Paragraph 30(a)(i) through (v) will be made publicly available. Until PacifiCorp has at least four LEUFs with distinct ownership, the information contained in Paragraph 30(a)(i) through (v) made publicly available will be provided in ranges appropriate to prevent disaggregation.[285]

Q. Does the Stipulation provide when PacifiCorp's reporting obligation will end?

A. Yes. "PacifiCorp's reporting obligation will conclude after the 2040 reporting year, unless the Commission determines that continued reporting is necessary to continue to assess the efficacy of the approach adopted in docket UE 463 to adhere to the laws and principles established in the POWER Act."[286]

Q. Why is this reporting obligation reasonable?

A. This term is a reasonable compromise to the parties' different positions regarding the necessity for a reporting obligation and the confidentiality protections that should be in place. This term addresses PacifiCorp's concern about the burden of a reporting obligation by making the reports due every other year and by imposing a sunset date on the reporting obligation. It also accounts for concerns about confidentiality by

[283] Stipulation at ¶ 30.a.
[284] Stipulation at ¶ 30.b.
[285] Stipulation at ¶ 30.c.
[286] Stipulation at ¶ 30.d.

requiring some of the information in the reports to be provided confidentially and for other information to be produced publicly on a disaggregated basis only if there are four or more LEUFs with distinct ownership.

V. REASONABLENESS OF THE STIPULATION

Q. What is the basis for the Stipulation?

A. The Stipulation is based on PacifiCorp's Initial Filing, reply testimony, and surrebuttal testimony, along with the opening and rebuttal testimony filed by the Stipulating Parties and Non-Opposition Parties. Additionally, it is based on the discovery the parties exchanged and PacifiCorp's revision to Schedule 401 filed with its surrebuttal testimony. The Stipulating Parties had several settlement conferences and resolved their differences through dialogue, negotiations, and compromise.

Q. Please explain why the Stipulating Parties believe that the Commission should adopt the Stipulation.

A. The Commission should adopt the Stipulation because it faithfully implements the POWER Act in a manner that is reasonable and appropriate for PacifiCorp, will result in just and reasonable rates, and is otherwise in the public interest. The direct contracting approach reflected by the Stipulation and Schedule 401 allows PacifiCorp to allocate the specific costs caused by serving an individual LEUF to that LEUF and includes numerous safeguards to ensure that LEUF costs are not shifted to non-LEUF customers. The Stipulation also achieves a reasonable balance between PacifiCorp's interest in having flexibility to negotiate LEUF Agreements that are tailored to the unique needs and risks of individual LEUFs and parties' desire for standardized terms to mitigate discrimination concerns and streamline the Commission review process.

The Stipulation establishes an administrable LEUF interconnection and LEUF Agreement contracting framework that also provides for robust Commission oversight and stakeholder input and protects individual LEUFs' confidential customer information. Finally, the Stipulation represents a negotiated outcome among multiple stakeholders representing diverse interests and is not opposed by several data center parties. The Commission's approval of the Stipulation would avoid the need for protracted litigation, preserve Commission and party resources, and allow PacifiCorp to promptly implement the POWER Act.

A. <u>PacifiCorp</u>

Q. Witness Meredith, please explain why PacifiCorp supports this Stipulation.

The Stipulation represents a balanced approach to implementing the POWER Act for PacifiCorp and is maximally protective of PacifiCorp's non-LEUF customers. The Stipulation reflects a direct contracting approach, which is the best and most accurate approach to cost assignment for LEUFs given PacifiCorp's multi-jurisdictional service territory and the location, diversity, scale, and risks of LEUF development PacifiCorp is experiencing. A direct contracting approach is one of the two implementation paths permitted by the POWER Act and ensures that all the costs PacifiCorp would not incur but for a New LEUF are identified in a LEUF Agreement and funded by the customer that causes them, protecting against unfair cost-shifting to non-LEUF customers. Moreover, the flexibility afforded by direct contracting enables the company and Schedule 401 customers to negotiate LEUF Agreements that provide for equitable contributions to grid efficiency, reliability, and resiliency, and do not impede PacifiCorp's compliance with Oregon environmental policies.

PacifiCorp also supports the Stipulation because it strikes a fair and reasonable balance between the need for Commission oversight of LEUF Agreements and LEUFs' and PacifiCorp's interest in protecting the confidentiality of sensitive customer information. The Stipulation provides several opportunities for Commission and stakeholder review of PacifiCorp's contracting with LEUFs in Oregon, such as a report on PacifiCorp's LEUF interconnection queue, filings of LEUF Agreements with the Commission, and biennial reporting of various LEUF metrics. The Stipulation provides ample opportunity for the Commission to ensure that existing, non-LEUF customers are adequately protected from the risks attendant to LEUF load growth.

Finally, PacifiCorp supports the Stipulation because it represents a negotiated resolution to several complicated contracting issues that were vigorously litigated by the parties. The Stipulation represents a compromise outcome among stakeholders with differing backgrounds and viewpoints and was carefully negotiated and drafted to address most parties' positions and concerns.

B. <u>Staff</u>

Q. Witness Stevens, please explain why Staff supports this Stipulation.

A. In its sum, the framework created by this Stipulation directly assigns new infrastructure costs to the LEUFs that cause them, binds LEUFs to long-term financial commitments, and provides robust protections for non-LEUF customers. These are all key directives of the POWER Act, and as such, Staff believes that this framework fully satisfies HB 3546. Further, the protections provided by this framework were crafted with fairness and transparency, but also a reasonable level of flexibility. Staff believes that

this combination of principles will lead to a robust and durable framework that will provide certainty for LEUF and non-LEUF customers alike in this dynamic space.

Staff is supportive of the direct contracting approach laid out in this agreement. As discussed in Staff's Opening Testimony, PacifiCorp's service territory is less likely than other Oregon utilities to have a geographic clustering of LEUF customers.[287] As a result, identifying which specific investments are made for a particular customer will be far more streamlined. Further, absent an unforeseen boom in other customer segments, it will also be simpler to identify which specific investments are made for LEUF and non-LEUF customers. The direct contracting approach minimizes the possibility of any unintended spill-over costs from a more general cost allocation framework. This framework also minimizes the risk of intra-class cross subsidization for LEUF customers as only a minimal amount of costs will be shared between LEUFs.

As discussed above, Staff had reservations regarding PacifiCorp's initial direct contracting approach. Staff's largest overarching concern regarding PacifiCorp's initial proposal was its lack of standardization and specificity. However, throughout the course of the case and through the development of this Stipulation, robust and concrete contract terms have been developed. Staff is satisfied that the combination of the particular mechanisms provided through this proposed framework will reduce the risk of unwarranted risk or cost shift to PacifiCorp's other retail customers, reduce the risk for undue discrimination between LEUF customers, reduce the administrative burden faced by the Commission and intervenors, increase transparency, and fairly allocate costs – all issues that Staff identified with PacifiCorp's initial proposal.[288]

[287] Staff/100, Stevens/11-12.
[288] Staff/100, Stevens/14.

However, Staff recognizes that this framework does not complete all the work regarding POWER Act implementation. This Stipulation only contemplates a proactive framework for LEUF customers that have entered into a contract for electric service with the company after June 16, 2025, or if the provision of electricity service would require PacifiCorp to make significant investments or incur costs that could result in increased costs or risks to PacifiCorp's other retail customers. A separate process to determine the treatment of customers who enter into a contract prior to the passage of the POWER Act is still needed to fully comply with the POWER Act for PacifiCorp. Given the limited number of customers that would be impacted by this process, Staff believes that a separate docket is justified as its limited scope will allow for only the relevant parties to be engaged and for customer specific circumstances to considered.

C. <u>CUB</u>

Q. Witness Tran, please explain why CUB supports this Stipulation.

In 2025, the Oregon Legislature passed the POWER Act to help utilities rein in data centers' adding costs to Oregonians' energy bills. The POWER Act (HB 3546) ensures that data centers and cryptocurrency operations pay their fair share for the significant demands they place on Oregon's electric grid. The new law allows regulators to fairly assign infrastructure and energy costs, rather than passing those costs on to Oregon households and small businesses.

I think this is a good settlement. This settlement effectively isolates most of the costs incurred to serve LEUFs and ensures that those costs be paid for by the LEUF that causes the need for those costs to be incurred. Because PacifiCorp's Oregon service territory is more rural than Portland General Electric's there is a greater ability to isolate

and directly assign costs associated with individual LEUFs. CUB also supports the requirement for loads above 100 MW to pay a 1 cent/kWh charge to support non-cost-effective energy efficiency, enabling repairs, or DERs for low-income customers in PacifiCorp's Oregon service territory. While the agreement does a good job of directly assigning most costs, there will be some costs associated with large increases in demand that are hard to identify, quantify and assign. The surcharge will support community benefits to customers who are impacted by these additional costs but have the least ability to absorb them. We will still have to work on existing data centers, but that will come after the UE 470 rate case establishes a new revenue requirement.

There is one important point I want to call attention to. Provision 20 provides the Commission will have 90 days to review or reject a standard LEUF Agreement or 180 days to review or reject a non-conforming agreement. The provision then provides that "For either standard or non-standard contracts, the Commission may extend the review period for good cause." CUB is concerned that there may be disputes that arise around access to confidential/HC materials submitted with the agreements and that those disputes would eat away at our time to review the agreements. It is CUB's understanding that the stipulating parties agree that the Commission could extend the review period for good cause if a dispute arises that limits our ability to sufficiently review the agreement.

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D. Environmental Intervenors

Q. Witness Fisher, please explain why Environmental Intervenors support this Stipulation.

A. The Stipulation represents a reasonable method of achieving the core purposes of the POWER Act, namely, preventing both cost- and risk-shifting from LEUFs to non-LEUF customers. While my testimony called for an approach that mirrored the Commission's Order in UM 2377, I believe the approach adopted in the Stipulation is likely to provide either the same or greater levels of protection against cost-shifting than the UM 2377 approach. When costs are paid for upfront through CIAC, the risk of cost-shifting or stranded assets is greatly reduced and, arguably, eliminated. Assigning other costs directly and requiring those costs be paid for during the initial term of a LEUF Agreement further reduces the risk of cost-shifting and stranded assets by condensing the time period over which cost-recovery occurs. The exit fee and credit requirements constitute a meaningful backstop that help ensure New LEUFs pay for any infrastructure built or acquired for service.

I also support the creation of a 1 cent/kWh surcharge to fund energy efficiency, enabling repairs, and DERs for low-income customers. The surcharge will reduce the capacity impact of LEUFs, provide bill reductions for low-income customers, and mitigate some of the harder-to-quantify risks of cost shifting associated with serving large customers. While the direct contracting approach proposed in the Stipulation should capture as many costs as possible, it remains likely that some costs and risks may slip through and be spread to non-LEUFs. A surcharge mitigates the impact of those costs for PacifiCorp's most vulnerable customers.

Finally, the requirement that resources acquired to serve New LEUFs must be non-emitting is a crucial element in preventing cost or risk shifting while meeting Oregon statutory requirements under HB 2021, and is consistent with the POWER Act's direction that LEUFs should not impede progress towards HB 2021 compliance. Taken together, the Stipulation represents a reasonable approach to allow PacifiCorp to provide service to New LEUFs in a manner that is not likely to result in unwarranted cost or risk shifting while also adhering to the POWER Act's other provisions.

VI. CONCLUSION

Q. What is your recommendation to the Commission regarding the Stipulation?

A. The Stipulating Parties recommend and request that the Commission approve the Stipulation in its entirety.

Q. Does this conclude your testimony?

A. Yes.