



# Oregon

Kate Brown, Governor

## Public Utility Commission

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March 5, 2015

### ***Via Electronic Filing and US Mail***

OREGON PUBLIC UTILITY COMMISSION  
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**RE: Docket No. UM 1712 – In the Matter of PACIFICORP, dba PACIFIC  
POWER, Application for Approval of Deer Creek Mine Transaction.**

Enclosed for electronic filing in the above-captioned docket is the Public  
Utility Commission Staff's Redacted Opening Testimony.

The following pages are confidential and are mailed separately to all  
parties who have signed Protective Order No.14-431:

Exhibit 100 pages 3, 8 and 12  
Exhibit 200 pages 3, 9, 15 and 18 and  
Exhibit 300 page 8

*/s/ Kay Barnes*

Kay Barnes

Filing on Behalf of Public Utility Commission Staff

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c: UM 1712 Service List (parties)

CERTIFICATE OF SERVICE

UM 1712

I certify that I have, this day, served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-001-0180, to the following parties or attorneys of parties.

Dated this 5th day of March, 2015 at Salem, Oregon

*Kay Barnes*

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UM 1712  
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**PUBLIC UTILITY COMMISSION  
OF OREGON**

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**UM 1712**

**STAFF OPENING TESTIMONY OF**

**LINNEA WITTEKIND  
BRIAN BAHR  
JOHN CRIDER**

**In the Matter of  
PACIFICORP, dba PACIFIC POWER,  
Application for Approval of Deer Creek Mine  
Transaction.**

**REDACTED  
March 5, 2015**

CASE: UM 1712  
WITNESS: LINNEA WITTEKIND

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 100**

**REDACTED  
Response Testimony**

**March 5, 2015**

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

2 A. My name is Linnea Wittekind. My business address is 3930 Fairview  
3 Industrial Dr. SE, Salem, Oregon 97302.

4 **Q. Please describe your educational background and work experience.**

5 A. My Witness Qualification Statement is found in Exhibit Staff/101.

6 **Q. Did you prepare an exhibit for this docket?**

7

8 A. Yes. I prepared Exhibit Staff/102, consisting of 2 pages and Exhibit Staff/103  
9 consisting of 1 page.

10 **Q. What is the purpose of your testimony?**

11 A. I am the principal analyst and summary witness for this docket. My testimony  
12 will discuss certain aspects of the proposed transaction and provide Staff's  
13 overall recommendations.

14 **Q. How is your testimony organized?**

15 A. My testimony is organized in the following manner:

16 I. A Summary of the Proposed Transaction;

17 II. PacifiCorp's Request for Regulatory Treatment;

18 III. An Introduction of Staff Witnesses and Assignments;

19 IV. The Calculation of the Appropriate Allocation of Costs to Oregon  
20 Ratepayers;

21 V. Staff's Overall Recommendations;

22 VI. Conclusion

23

24

1 **I. A Summary of the Proposed Transaction**

2 **Q. Please summarize PacifiCorp's Application for Approval of the Deer Creek**  
3 **Mine Transaction (Application).**

4 A. PacifiCorp d/b/a Pacific Power (PacifiCorp) filed its Application on December  
5 12, 2014. PacifiCorp's Application to close the Deer Creek Mine consists of  
6 four major components:<sup>1</sup>

- 7 • PacifiCorp will close the Deer Creek Mine and will incur direct closure costs;  
8 • Energy West will withdraw from the United Mine Workers of America  
9 (UMWA) 1974 Pension Trust, incurring a withdraw liability;  
10 • PacifiCorp proposes to sell certain mining assets (Mining Assets); and,  
11 • PacifiCorp proposes to execute a replacement coal supply agreement  
12 (CSA) for the Huntington power plant and an amended CSA for the Hunter  
13 power plant.

14 **Q. Are there additional proposed components in PacifiCorp's Application?**

15 A. Yes. Energy West has settled its retiree medical obligation related to Energy  
16 West union participants (Retiree Medical Settlement). Even though not part of  
17 the transaction contract, PacifiCorp has included the Retiree Medical  
18 Settlement as part of its Application. Taken together, the four components of  
19 the transaction and PacifiCorp's Retiree Medical Settlement constitute the  
20 Application.

21 **Q. Is review of PacifiCorp's Application being expedited?**

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<sup>1</sup> See Application at 1.



1 A. Yes. PacifiCorp requests that the Commission issue an order on or before  
2 May 27, 2015, in order to allow PacifiCorp to garner necessary regulatory  
3 approvals no later than May 31, 2015.

4 **Q. Is it necessary for PacifiCorp to receive regulatory approval by May 31,**  
5 **2015?**

6 A. No. PacifiCorp has requested regulatory approval by May 31, 2015, because  
7 the "sales of the Mining Assets and CSAs are contingent upon regulatory  
8 approval and Transaction closure by May 31, 2015."<sup>2</sup> [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]<sup>3</sup>

## 12 II. PacifiCorp's Request for Regulatory Approval

13 **Q. What regulatory approvals are requested in PacifiCorp's Application?**

14 A. PacifiCorp requests a Commission determination that the closure of the Deer  
15 Creek Mine is in the public interest, the sale of Mining Assets is appropriate,  
16 and that its decision to enter into the transaction (plus the Medical Benefits  
17 Settlement) is prudent.<sup>4</sup> Specifically, PacifiCorp requests:<sup>5</sup>

- 18 • Approval of its proposed Deer Creek Mine closure tariff, which is  
19 designed to be effective June 1, 2015, and recover closure costs in 2015  
20 and 2016, which would be trued up once actual closure is complete in  
21 2016.

<sup>2</sup> See Application at 1-2.

<sup>3</sup> See Exhibit PAC/101; Crane/19 at 19.

<sup>4</sup> See Application at 2.

<sup>5</sup> See generally Application at 2-4.

- 1           • An accounting order authorizing it to transfer the remaining plant balance  
2           for the Deer Creek mine from electric plant in service, establish a  
3           regulatory asset, and accelerate the recovery of the asset through the  
4           Deer Creek Mine closure tariff, with an offset for Deer Creek costs now  
5           in rates, so that its investment in the mine is fully amortized before mine  
6           closure is complete in 2016;
- 7           • An accounting order authorizing it to establish a regulatory asset for the  
8           1974 Pension Trust withdrawal liability, an accounting order for the loss  
9           associated with the Medical Benefits Settlement, and a determination  
10          that both of these decisions are prudent;
- 11          • Approval of the sale of the Mining Assets, adding the loss of the sale to  
12          the Deer Creek Mine closure tariff for immediate amortization, with an  
13          offset for costs now in rates, so that the loss on the Mining Assets is fully  
14          amortized before mine closure is completed in 2016;
- 15          • Approval of an accounting order reflecting costs associated with the  
16          CSAs in 2015 in a regulatory asset for unrecovered investment. In  
17          addition, it seeks approval to: 1) recover the costs of the CSAs and other  
18          replacement fuel supply until such time that base net power costs are  
19          reset in the 2016 TAM through the Deer Creek Mine closure tariff; and 2)  
20          inclusion of the CSAs in the 2016 TAM.
- 21          • An order authorizing it to defer costs associated with the transaction to  
22          the extent necessary to effectuate the regulatory treatment requested.

23   **Q. Are all of these regulatory approvals necessary to execute the proposed**

1           **transaction?**

2           A.    No. The minimum regulatory approvals necessary in Oregon are: 1) an ORS  
3           757.140(2)(b) determination (*i.e.* “net benefits”) that the early closure of the  
4           Deer Creek Mine is in the public interest; an ORS 757.480(1)(a) approval (*i.e.*  
5           “no harm”) to sell the Mining Assets; and 3) possibly approval to defer certain  
6           costs, not provided for in ORS 757.140(2), related to the Deer Creek mine  
7           early closure.

8           **Q.    Do you have concerns related to PacifiCorp’s requested regulatory**  
9           **treatment?**

10          A.    Yes, I have three main concerns. First, PacifiCorp is requesting rate recovery  
11          of these costs outside of a general rate proceeding, which results in a review  
12          of some isolated costs without conducting a review of overall rates through a  
13          general rate proceeding, or a review of earnings, if costs were deferred.  
14          Second, much of PacifiCorp’s request amounts to a predetermination of  
15          prudence through an expedited proceeding. Finally, PacifiCorp agreed, and  
16          the Commission approved, to a stay-out provision that is effective until  
17          January 1, 2016.<sup>6</sup>

18                   **III. An Introduction of Staff Witnesses and Assignments**

19          **Q.    Please outline the areas assigned to each Staff member.**

20          A.    I am the summary Staff witness and also responsible for Staff’s overall  
21          recommendations. Staff witness, John Crider, is responsible for the review of  
22          the alternative cases and the proposed new CSAs. Staff witness, Brian Bahr,

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<sup>6</sup> See Order No. 13-474, Appendix A, ¶ 15, at 5-6.

1 is responsible for review of issues related to pensions and the Medical Benefits  
2 Settlement. Generally, and as related to PacifiCorp's requested regulatory  
3 actions, Staff's testimony is broken into the following categories:

Witness	Application Requests
Linnea Wittekind	(1) the Deer Creek Mine closure tariff; (2) an accounting order authorizing the transfer of remaining plant balance from electric plant in service, establishing a regulatory asset, and accelerated recovery of the asset through the closure tariff; (6) deferral of costs associated with the transaction; and,  Staff overall recommendations.
Brian Bahr	(3) an accounting order establishing a regulatory asset for the pension trust withdrawal and an accounting order for the loss associated with the Medical Benefits Settlement, and a determination that both of these decisions are prudent
John Crider	(4) approval of the sale of mining assets; (5) approval of an accounting order reflecting costs associated with the CSAs.

4

5 **IV. The Calculation of the Appropriate Allocation of Costs to Oregon**  
6 **Ratepayers**

7

8 **Q. Please describe PacifiCorp's request for approval of the Deer Creek Mine**  
9 **closure tariff<sup>7</sup>.**

10 A. The Deer Creek Mine is located in Emery County, Utah, and operated by  
11 Energy West, a wholly-owned subsidiary.<sup>8</sup> PacifiCorp intends that the  
12 proposed closure tariff will recover its estimated mine closure costs in 2015

<sup>7</sup> PacifiCorp's proposed closure tariff includes both Deer Creek mine closure costs and the loss on the sale of the Mining Assets.

<sup>8</sup> PacifiCorp is expected to respond to an oral bench request from Commission Bloom, which was made at a special public meeting on February 23, 2015, related to corporate structure and liability. Staff reserves the right to request leave to respond to facts contained in PacifiCorp's bench responses, if necessary.

1 and 2016, which will then be trued up to actual costs once closure is complete  
2 in 2016. PacifiCorp's main reasons for the early closure of the mine are the  
3 escalating mining costs and pension liabilities as well as declining reserves in  
4 terms of volume and quality of the coal mined.

5 **Q. Please describe the PacifiCorp's request for amortization of the loss on**  
6 **the sale of Mining Assets.**

7 A. PacifiCorp requests amortization of the loss on the sales of the Mining Assets  
8 through the Deer Creek Mine closure tariff, with an offset to amounts now in  
9 rates, so that the loss on the Mining Assets is fully amortized and charged to  
10 ratepayers before mine closure activities are completed in 2016.

11 **Q. Please list the mining assets that are being sold as part of the**  
12 **transaction.**

13 A. The Mining Assets consist of the preparation plant and related assets, the  
14 central warehouse and associated "remainder" assets, and the Trail Mountain  
15 Mine.

16

1 **Q. How is the loss on the sale of the mining assets calculated?**

2 A. The loss on the sale is calculated as follows:

3 [REDACTED]

	Net Book Value 2014	Acquisition Price	Ratepayer Benefit
Prep Plant	[REDACTED]	[REDACTED]	[REDACTED]
Central Warehouse	[REDACTED]	[REDACTED]	[REDACTED]
Trail Mountain Mine	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	[REDACTED]

4  
5 **Q. DOES STAFF AGREE WITH THE LOSS CALCULATION?**

6 A. Yes. Staff agrees with the loss computation and the values of the assets, as  
7 well as the acquisition price. For further Staff analysis of the sale of Mining  
8 Assets, please refer to Staff/200/Crider/7-9.

9 **Q. Does Staff recommend approval of PacifiCorp's proposed Deer Creek  
10 Mine closure tariff?**

11 A. No As described in section V, Staff's primary recommendation is that no  
12 closure tariff is necessary and that these closure costs and Mining Asset sales  
13 costs, with an appropriate condition and approval for certain regulatory assets,  
14 can be considered and reviewed for prudence in PacifiCorp's next general rate  
15 proceeding<sup>9</sup>.

<sup>9</sup> See PacifiCorp's response to Staff Data Request No. 27, included as exhibit Staff/102/Wittekind/1.

1 **Q. If the Commission were inclined to approve a closure tariff in this**  
2 **proceeding, do you recommend approval of PacifiCorp's proposed**  
3 **closure tariff?**

4 A. No. While I agree with certain aspects of PacifiCorp's proposed closure tariff, I  
5 recommend several adjustments to PacifiCorp's proposed closure tariff.

6 **Q. How does PacifiCorp propose to allocate the closure tariff costs to**  
7 **Oregon ratepayers?**

8 A. PacifiCorp proposes to employ the System Energy (SE) multistate allocation  
9 factor, which for the 2015 TAM is 24.484 percent.

10 **Q. Are the current costs of much of what is at issue in this proceeding**  
11 **assigned to the power cost function in some form or fashion?**

12 A. Yes.

13 **Q. How does the 2010 Multistate Protocol treat these costs?**

14 A. These costs are handled through two different mechanisms. First, the costs  
15 are treated in a rolled-in manner, meaning that they are assigned to the six  
16 states where PacifiCorp is subject to retail jurisdiction principally through the  
17 SE factor or system generation (SG) factor. These factors assign costs based  
18 on each state's relative energy use as well as peak demand loads across the  
19 12 months.

20 A second mechanism is also involved and is called the embedded cost  
21 differential (ECD). The ECD essentially reverses a portion of the cost  
22 assignment to Oregon and other legacy Pacific Power jurisdictions in order to  
23 "assign" the costs and benefits of certain hydro facilities, in different

1 percentages, depending on the mWh of the hydro facilities that are attributed to  
2 each state. The ECD sums to zero across all six states with some states  
3 receiving a benefit and some states, notably Utah and Idaho, assigned  
4 additional costs.

5 **Q. Could this transaction affect the value of the ECD?**

6 A. Perhaps. In order to ensure that Oregon's value of the ECD is not diminished,  
7 the economic costs incurred in this transaction should be included in  
8 calculating the costs of "other resources" in the ECD.

9 **Q. Does Staff agree that the SE factor is the appropriate factor to allocate**  
10 **costs to Oregon ratepayers?**

11 A. Yes. The SE factor allocates costs based upon a state's relative use of energy.  
12 Staff agrees that the SE factor is the appropriate way to allocate closure tariff  
13 costs to Oregon.

14 **Q. Are there any assets being sold that are not part of the loss calculation to**  
15 **be included in the closure tariff?**

16 A. Yes. Fossil Rock Fuels is part of the sale, but has not been included in the  
17 loss calculation to be included in the closure tariff.

18 **Q. Why does PacifiCorp propose to exclude Fossil Rock Fuels from the loss**  
19 **calculation?**

20 A. PacifiCorp excludes Fossil Rock Fuels because it is not part of rate base in  
21 Oregon. Fossil Rock Fuels is part of Trail Mountain Mine,<sup>10</sup> which is situs  
22 assigned to Utah<sup>11</sup>.

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<sup>10</sup> See PacifiCorp's response to Staff Data Request No. 14, included as Exhibit Staff/103/Wittekind/1.



1 **Q. Does Staff object to the exclusion of Fossil Rock Fuels from the loss**  
2 **calculation?**

3 A. No. In Oregon, utility property must be used and useful to be included in rates.  
4 Fossil Rock Fuels is not used and useful and is not in Oregon rates nor is it  
5 appropriate to put it into use or reserve its use for future service in Oregon. As  
6 a result, Staff agrees that Fossil Rock Fuels should be excluded from the loss  
7 calculation.

8 **Q. Over what time period does PacifiCorp propose to amortize the closure**  
9 **tariff costs to Oregon ratepayers?**

10 A. PacifiCorp's proposed closure tariff is intended to recover its estimated mine  
11 closure costs and loss on the sale of Mining Assets costs in 2015 and 2016,  
12 which will be trued up to actual costs once closure is complete in 2016. The  
13 proposed Deer Creek Mine closure tariff is to be amortized over one year with  
14 an effective date of June 1, 2015.

15 **Q. Does Staff agree that if a closure tariff was approved it should begin**  
16 **amortization on June 1, 2015?**

17 Yes.

18 **Q. Does Staff propose that ratepayers should begin paying higher rates on**  
19 **June 1, 2015?**

20 A. No. A tariff surcharge before January 1, 2016, would be inconsistent with the  
21 currently operative stay-out provision that was an integral part of a stipulation

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<sup>11</sup> See Application at 18.

1 that PacifiCorp agreed to and that the Commission approved. That stipulation  
2 provides:<sup>12</sup>

3 General Rate Case Stay-Out. The Company agrees to forego a  
4 general rate filing in Oregon in 2014. Following the implementation of  
5 rates on January 1, 2014, in this case and the implementation of Lake  
6 Side 2 tariff rider on approximately June 1, 2014, the earliest proposed  
7 rate effective date for the Company's next general rate case filing will  
8 be January 1, 2016. The Stipulating Parties may file for deferrals  
9 during the general rate case stay-out period, but such filings will be  
10 subject to the Commission's guidelines for deferrals set forth in Docket  
11 UM 1147, unless otherwise authorized by the Commission. The  
12 Stipulating Parties agree that their goal is to minimize rate changes  
13 during the general rate case stay-out period.  
14

15 As proposed by PacifiCorp, the closure tariff would result in a rate increase of  
16 [REDACTED] on an Oregon allocated basis, or an average [REDACTED] percent rate  
17 increase effective June 1, 2015. Such a tariff surcharge in 2015 through a  
18 tariff filing under ORS 757.210 is inconsistent with the plain meaning and the  
19 intent of the negotiated and approved stay-our provision.

20 **Q. What impact would the stay-out provision have on PacifiCorp's tariff**  
21 **surcharge proposal?**

22 A. PacifiCorp proposes to amortize the closure tariff charges over one year  
23 beginning on June 1, 2015. Application of the stay-our provision would result in  
24 PacifiCorp absorbing through regulatory lag approximately 58 percent of the  
25 tariff closure costs and charging ratepayers for approximately 42 percent of the  
26 tariff closure costs.<sup>13</sup>

27 **Q. Does Staff believe that the closure tariff costs must be fully amortized**

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<sup>12</sup> See Order No. 13-474, Appendix A, ¶ 15 at 5-6.

<sup>13</sup> 7/12<sup>th</sup> of the tariff surcharge costs would be absorbed through regulatory lag in 2015 and 5/12<sup>th</sup> would be charged to ratepayers in 2016, respectively.

1           **before the closure of the Deer Creek mine is complete?**

2           A. No. The Commission may approve early retirement under ORS 757.140(2)(b),  
3           which would allow for the recovery of the undepreciated investment in rates.  
4           While the Commission may not allow a return “on” those undepreciated  
5           investments, it may choose to include interest on the unamortized balance (*i.e.*  
6           the present value of money).

7           **Q. If the Commission approved a closure tariff, does Staff agree that the**  
8           **costs should be amortized over one year?**

9           A. No. Staff proposes a two-year amortization period beginning June 1, 2015. A  
10          longer amortization period will provide a lower rate impact to ratepayers and  
11          more closely align with some of the expected net benefits of the transaction. In  
12          addition, a two-year amortization beginning June 1, 2015, will benefit PacifiCorp  
13          as compared to its proposed one-year amortization beginning on the same date  
14          because PacifiCorp would only be required to absorb approximately 30 percent  
15          of the cost through the effect of the stay-out provision and regulatory lag.<sup>14</sup>

16          **Q. Does PacifiCorp propose an interest rate on the unamortized balance of**  
17          **the proposed closure tariff?**

18          A. No.

19          **Q. Would Staff propose an interest rate on the unamortized balance of a**  
20          **closure tariff amortized over two-years?**

21          A. Yes. Staff would propose that the blended modified treasury rate reflects the  
22          present value of money over this relatively short amortization period.

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<sup>14</sup> Instead of absorbing 7/12<sup>th</sup> of the costs as regulatory lag, PacifiCorp would only be required to absorb 7/24<sup>th</sup> of the costs as regulatory lag.

**V. Staff's Recommendations**

1  
2 **Q. Does Staff recommend that the Commission should make prudence**  
3 **determinations in this proceeding?**

4 A. No. PacifiCorp admits that the Commission does not generally provide  
5 prudence determinations before a utility enters into a particular transaction, but  
6 requests that the Commission use its discretion to make prudence  
7 determinations in this instance.<sup>15</sup> Staff recommends against premature  
8 prudence determinations in an expedited proceeding.

9 **Q. Does Staff recommend approval of the closure tariff costs outside of a**  
10 **general rate proceeding?**

11 A. No. The consideration of closure costs outside of a general rate proceeding  
12 amounts to a form of single issue ratemaking, which is generally disfavored. In  
13 addition, the used and useful requirement does not require that these costs be  
14 collected before the closure of the mine so there is no compelling reason to  
15 violate general ratemaking principles and create special ratemaking treatment  
16 for the costs associated with this transaction.

17 **Q. Is Staff concerned about the risk of being bound to long-term CSAs?**

18 A. Yes. PacifiCorp negotiated what appears to be a favorable provision to avoid  
19 liquidated damages if it can longer burn coal at the plants. However, there  
20 could be substantial harm to Oregon ratepayers if the provision did not work as  
21 PacifiCorp claims it will. For more discussion, please refer to Staff/300,  
22 Crider/6-8.

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<sup>15</sup> See Application at 13.

1 **Q. What is Staff's primary recommendation?**

2 A. If the risk of being contractually obligated to a long-term CSA can be eliminated  
3 or substantially mitigated, Staff recommends that the Commission conclude  
4 that the transaction provides net benefits to Oregon ratepayers, but that  
5 prudent determinations should be reserved for a future general rate proceeding.  
6 In the meantime, Staff recommends that the Commission approve the  
7 establishment of necessary regulatory assets,<sup>16</sup> which will allow the  
8 Commission to determine the prudence of costs associated with aspects of the  
9 transaction in the next general rate proceeding.

10 In order to eliminate the risk of being contractually bound to a long-term CSA,  
11 Staff recommends that the Commission condition approval upon PacifiCorp  
12 assuming the risk of damages should operation of the coal plants become  
13 uneconomical and are shut down or converted.

14 As an alternative to eliminating all ratepayer risk, Staff recommends an  
15 alternative condition that would substantially mitigate ratepayer risk by adopting  
16 a condition that there is a rebuttal presumption that PacifiCorp bears the risk of  
17 being bound by the long-term CSAs should operation of the coal plants become  
18 uneconomical and are shut down or converted, but that the rebuttal  
19 presumption can be overcome by clear and convincing evidence to the  
20 contrary.

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<sup>16</sup> The regulatory assets would establish that the decisions were prudent, but reserve the appropriate rate recovery for a future general rate proceeding. The Medical Benefits Settlement is severable from the transaction and would typically not be considered in isolation, but Staff would not oppose the creation of a regulatory asset for the settlement loss, which would establish the prudence of the decision to enter into the settlement, but reserve the appropriate rate treatment for a future rate proceeding.

1 **Q. Does Staff have an alternative recommendation?**

2 A. Yes. As in Staff's primary recommendation, Commission approval would  
3 include a condition eliminating or mitigating the risk to ratepayers of the new  
4 long-term CSAs. However, Staff's alternative recommendation would allow a  
5 tariff surcharge, after taking into account the ECD, beginning on June 1, 2015,  
6 and amortized over a two-year period, with interest at the blended treasury rate  
7 on the unamortized account balance. Because of the application of the stay-  
8 out provision, PacifiCorp would collect zero in the tariff surcharge until January  
9 1, 2016, which would mean that customers would pay approximately 70 percent  
10 of the calculated costs plus interest. As in its primary recommendation, Staff  
11 recommends that appropriate regulatory asset/s be created to consider the  
12 costs of pension withdrawal liability (and the Medical Benefits Settlement, if the  
13 Commission determines to consider it in this proceeding). The appropriate rate  
14 recovery of the costs associated with those regulatory accounts would be  
15 reserved to a future general rate proceeding.

16 **Q. Please describe PacifiCorp's request to defer costs.**

17 A. PacifiCorp requests an order authorizing it to defer costs associated with the  
18 transaction to the extent necessary to effectuate the regulatory treatment  
19 otherwise requested in its Application.<sup>17</sup>

20 **Q. Does Staff support the PacifiCorp's request for deferral?**

21 A. PacifiCorp's request for an order authorizing to defer costs associated with the  
22 transaction seems to be intended as a catch-all mechanism. Staff supports

---

<sup>17</sup> See Application at 4. This request filed under ORS 757.259(2)(e) and OAR 860-027-0300.

1 PacifiCorp's request for a deferral to the extent it is deemed necessary to  
2 preserve the ability to collect Deer Creek Mine closure costs and the loss on  
3 the sale of Mining Asset costs that cannot be included under ORS 757.140.

4 **VI. CONCLUSION**

5 **Q. Does this conclude your testimony?**

6 A. Yes.

CASE: UM 1712  
WITNESS: LINNEA WITTEKIND

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 101**

**Witness Qualification Statement**

**March 5, 2015**



WITNESS QUALIFICATION STATEMENT

NAME: LINNEA WITTEKIND

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR FINANCIAL ANALYST,  
ENERGY – RATES, FINANCE, AND AUDIT DIVISION

ADDRESS: 3930 FAIRVIEW INDUSTRIAL DR. SE, SALEM, OR 97302

EDUCATION: B.S. WESTERN OREGON UNIVERSITY  
MAJOR: BUSINESS WITH FOCUS IN ACCOUNTING  
MINOR: ENTREPRENEURSHIP

EXPERIENCE: Since November 2009, I have been employed by the Public Utility Commission of Oregon. Responsibilities include research, analysis and recommendations on a wide range of cost, revenue and policy issues for electric and natural gas utilities. I have provided testimony in UE 215, UE 233, UG 221, and UE 246 and have filed comments in LC 50 and UI 314. I have also reviewed and analyzed a number of energy efficiency tariff filings. I've written several public meeting memos summarizing my analysis of the energy efficiency tariff filings. I have performed operational audits of NW Natural, Cascade Natural Gas, and Portland General Electric as well as assisted in an operational audit PacifiCorp. Recently I've completed an audit regarding gas accounting best practices.

Through the Public Utility Commission of Oregon, I am a member of the NARUC Staff Subcommittee on Accounting & Finance.

I've attended a number of trainings which include, The Basics through the Center for Public Utilities, New Mexico State University, Best Practices in an Era of Renewables and Reduced Emissions through EUCI as well as Benchmarking the Performance of Electric and Gas Distribution Utilities also through EUCI. I've also attended the Advanced Regulatory Studies Program through the Institute of Public Utilities at Michigan State University.

From July 2005 to November 2009, I worked as a Tax Auditor for the Oregon Department of Revenue. In enforcement of tax laws, rules and regulations, I performed income tax audits of individual tax payers and small businesses. Additionally I prepared cost analysis of tax credits and measures. I also represented the department before the Oregon Tax Court for tax deficiency appeals.

CASE: UM 1712  
WITNESS: LINNEA WITTEKIND

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 102**

**Exhibits in Support  
Of Opening Testimony**

**March 5, 2015**

### **OPUC Data Request 27**

On page 2 of PacifiCorp's Application for Approval, it states: [t]he sales of the Mining Assets and the CSAs are contingent upon regulatory approval and Transaction closure by May 31, 2015." In the next paragraph, PacifiCorp also requests, among other things, that "the Commission determine that the . . . decision to enter into the transaction prudent." Related to these statements, please provide answers to the following questions:

- a) Please describe and provide any documents related to PacifiCorp's options if it does not garner regulatory approvals by May 31, 2015.
- b) Please explain PacifiCorp's intentions related to the issues related in this Transaction if it has the potential to receive regulatory approvals, but not all regulatory approvals by May 31, 2015.
- c) If an applicable jurisdiction were to determine that it did not have sufficient time to make a prudence decision in this truncated review period, but did not find the Transaction imprudent, what actions would PacifiCorp take and how does PacifiCorp believe that would impact Commission prudence decisions in a future general rate proceeding? Please explain.

### **Response to OPUC Data Request 27**

The Company objects to this request as speculative and to the extent it requires a legal opinion or disclosure of information protected by the attorney-client privilege or attorney work product doctrine.

- a) There are no documents related to PacifiCorp's options if regulatory approvals are not obtained by May 31, 2015. The benefits of the proposed transaction are contingent on timely approvals. If regulatory approvals are not obtained, the Company would be left with the following options:
  1. Proceed with mine closure and purchase coal from the market. The assumptions and effects would be similar to the Market Case, including Prep Plant closure and pension withdrawal. This option would result in higher coal pricing for replacement supply and loss of the proceeds from sale of the Prep Plant.
  2. Operate the mine through its depletion. In this case, the costs would be higher than estimated in the Own/Operate case due to restarting development work to initiate longwall mining operations.
- b) Please refer to the Company's response to OPUC Data Request 2. Pre- and post-closing conditions of the Huntington Coal Supply Agreement (CSA) require that the Company obtain all regulatory approvals by May 31, 2015. Conditions precedent outlined in Section X of the CSA can be waived by either party either in whole or in part. A decision to waive based on not having one or more state regulatory approvals would need to be evaluated by the Company after weighing the risks of that decision.

UM-1712/PacifiCorp  
February 19, 2015  
OPUC Data Request 27

- c) The Company made its Oregon filing on the same day as the signing of the transaction documents to provide the maximum possible time to review the Company's request. The Company believes that over five months is sufficient time to conduct a prudence review of this transaction. If a state regulatory commission does not make a prudence determination regarding this transaction, the Company would need to analyze the effect, if any, on the Company's actions and future Commission prudence reviews.

CASE: UM 1712  
WITNESS: LINNEA WITTEKIND

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 103**

**Exhibits in Support  
Of Opening Testimony**

**March 5, 2015**

**OPUC Data Request 14**

How many coal leases will be transferred or sold by PacifiCorp to other entities through the "Transaction"? Please list each of these leases with their Tract designation (that is, in the form "UTU-00000"), number of acres covered by the lease, and an estimate of recoverable volume of coal in tons.

**Response to OPUC Data Request 14**

Please refer to the summary of the Trail Mountain and Fossil Rock leases below.

Trail Mountain Mine Logical Mining Unit Federal Coal Leases	Acres	Source: BLM R2P2 Estimated Recoverable Tons
UTU-082996	80.00	1,299,000
UTU-49332	380.00	635,000
UTU-64375	260.00	1,231,000
Totals	720.00	3,165,000
Fossil Rock Fuels, LLC State Coal Leases	Acres	Source: PacifiCorp 10K 2013 Estimated Recoverable Tons
ML 51191-OBA	8,203.87	47,000,000
ML 51192-OBA *	600.00	-
Totals	8,803.87	47,000,000

\* These reserves are summarized in ML 51191-OBA

CASE: UM 1712  
WITNESS: BRIAN BAHR

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 200**

**REDACTED  
Response Testimony**

**March 5, 2015**

1 **Q. PLEASE STATE YOUR NAME, PRESENT POSITION WITH THE OREGON**  
2 **PUBLIC UTILITY COMMISSION, AND BUSINESS ADDRESS.**

3 A. My name is Brian Bahr. I am employed as a Senior Utility Analyst in the  
4 Energy - Rates, Finance, and Audit Division of the Utility Program. My  
5 business address is 3930 Fairview Industrial Dr. SE, Salem, Oregon 97308.

6 **Q. DID YOU PREPARE AN EXHIBIT TO ACCOMPANY YOUR TESTIMONY?**

7 A. Yes, Staff prepared Exhibit Staff/201 and Exhibit Staff/202, consisting of one  
8 page and 34 pages, respectively.

9 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**  
10 **EXPERIENCE.**

11 A. My Witness Qualification Statement is found in Exhibit Staff/201.

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

13 A. The purpose of Staff's testimony is to analyze and make recommendations  
14 concerning the aspects of PacifiCorp's (Company) Application for Approval of  
15 Deer Creek Mine Transaction (Application) relating to pensions and medical  
16 benefits, specifically:<sup>1</sup>

- 17 1. An accounting order authorizing the Company to establish a  
18 regulatory asset for the liability associated with withdrawal from the  
19 United Mine Workers of America (UMWA) 1974 Pension Trust  
20 (Trust);  
21 2. an accounting order authorizing the Company to establish a  
22 regulatory asset for the loss associated with the settlement of Energy

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<sup>1</sup> See Application at 3. These requests filed under ORS 757.120, ORS 757.125, ORS 757.140(2)(b), and ORS 860-027-0045.



1 West's Retiree Medical Obligation (Medical Benefits Settlement);

2 and,

3 3. A determination that its decisions to withdraw from the 1974 Pension

4 Trust and settle the Retiree Medical Obligation are prudent.

5 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

6 A. The testimony is organized as follows:

7 1. Accounting Treatment of Pension Trust Withdrawal Liability

8 2. Accounting Treatment of Settled Retiree Medical Obligation

9 3. Prudence of Pension Trust Withdrawal

10 4. Prudence of Retiree Medical Obligation Settlement

11 5. Summary of Recommendations

12 1. **Accounting Treatment of Pension Trust Withdrawal Liability**

13 **Q. PLEASE DESCRIBE THE COMPANY'S PROPOSAL TO WITHDRAW FROM**  
14 **THE UMWA 1974 PENSION TRUST.**

15 A. The Company's Application requests that the Commission issue an order  
16 authorizing establishment of a regulatory asset for the liability associated with  
17 withdrawal from the Trust. A regulatory asset allows the Company to record on  
18 its books not only the withdrawal liability, but also a corresponding asset of  
19 equivalent value to account for the expected recovery of the liability amount.  
20 One of the primary benefits of a regulatory asset is that it allows the Company  
21 to record expected rate recovery of a liability before the recovery has actually  
22 occurred, which gives a more accurate picture of the Company's financial  
health.

1        If the Company withdraws from the Trust, it is required to continue making  
2        annual payments until the end of the life of the plan, which is an unknown date  
3        likely to be well in the future. The annual payment amount of approximately \$3  
4        million is calculated as the highest consecutive three-year average of hours  
5        worked in the last ten years times the highest contribution rate in the last ten  
6        years.<sup>2</sup>

7        The Company has the option to elect a lump sum payment amount at the time  
8        of withdrawal or continue paying the \$3 million installment payment indefinitely.  
9        As the annual installment payment amount is not enough to pay down the  
10       actual withdrawal liability, the Company expects to negotiate a lump sum  
11       amount at the time of withdrawal, if it is economically justifiable. The Company  
12       states that, "as of July 1, 2014, the withdrawal liability... was estimated to be  
13       \$125.6 million."<sup>3</sup>

14       Despite the actual amount of the withdrawal liability, GAAP require it be  
15       recorded at its present value using a risk-free rate. Therefore, using a 30 year  
16       treasury rate, a liability of approximately [REDACTED] would be recorded on the  
17       Company's books. This liability amount would not decrease over time because  
18       the annual installment payment of \$3 million would not actually pay down the  
19       withdrawal liability.<sup>4</sup>

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<sup>2</sup> See Company's response to Staff Data Request No. 18, included as Exhibit Staff/202, Bahr/1-2.

<sup>3</sup> See PAC/200, Stuver/9, at line 9.

<sup>4</sup> In its application, the Company originally estimated the present value of the withdrawal liability to be [REDACTED]. See PAC/200, Stuver/9, at line 19. However, the Company updated this amount during a February 12, 2015, workshop held at the Commission.

1 **Q. ARE REGULATORY ASSETS COMMONLY EMPLOYED BY UTILITY**  
2 **COMPANIES?**

3 A. Yes. Regulatory assets are common accounting tools used by most regulated  
4 companies and can often be found in the financial statement footnotes of many  
5 companies for various scenarios under which recovery of a liability is expected.  
6 Common examples of regulatory assets described in financial statement  
7 footnotes are for costs relating to environmental remediation or pensions that a  
8 Company reasonably expects to recover in the future.

9 **Q. HAS THE COMMISSION AUTHORIZED REGULATORY ASSETS FOR**  
10 **COMPANIES IN SIMILAR SITUATIONS IN THE PAST?**

11 A. Yes, this Commission issued an order in January 2014, adopting Staff's  
12 recommendation to authorize Northwest Natural Gas Company (NW Natural)  
13 to record a regulatory asset for its liability associated with withdrawal from a  
14 multi-employer pension plan.<sup>5</sup> The Commission order emphasized that the  
15 establishment of a regulatory asset was approved, but not the ratemaking  
16 treatment or prudence of the withdrawal. NW Natural's financial statements  
17 include the following note:<sup>6</sup>

18 *In applying regulatory accounting principles, we capitalize or*  
19 *defer certain costs and revenues as regulatory assets and*  
20 *liabilities pursuant to orders of the OPUC or WUTC, which*  
21 *provides for the recovery of revenues or expenses from, or*  
22 *refunds to, utility customers in future periods, including a*  
23 *return or a carrying charge in certain cases.*

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<sup>5</sup> The order is included as Exhibit Staff/202, Bahr/3-6.

<sup>6</sup> See Footnote 1 (page 59) of Northwest Natural Gas Company's 2013 10K filing, found online here: [https://www.nwnatural.com/Content/AnnualReport/2013/files/10K\\_2013.pdf](https://www.nwnatural.com/Content/AnnualReport/2013/files/10K_2013.pdf), and included as Exhibit Staff/202, Bahr/7.

1 In addition to this recent docket, the Commission has approved use of  
2 regulatory assets in other past situations. For example, Commission Order No.  
3 03-233 allowed PacifiCorp to establish a regulatory asset for costs associated  
4 with pensions.<sup>7</sup> Again, the order approved the use of a regulatory asset for  
5 accounting purposes only and did not constitute authorization of the future  
6 ratemaking treatment of the costs.

7 Another instance in which the Commission approved the classification of  
8 costs as a regulatory asset was Docket No. UM 1315. Order No. 07-316  
9 approved Avista's request to record costs relating to pension and  
10 postretirement benefit obligations as a regulatory asset.<sup>8</sup> Per the order:

11 *However, approval is for accounting purposes only and does*  
12 *not impact the level of pension expenses included in the*  
13 *company's cost of service or net income, nor does it*  
14 *constitute authorization of any future ratemaking treatment of*  
15 *the costs associated with the regulatory asset.*

16 **Q. DOES STAFF HAVE CONCERNS ABOUT THE COMPANY'S REQUEST?**

17 A. Yes. Staff has concerns that authorizing a regulatory asset for the present  
18 value of the withdrawal liability as well as approving a \$3 million annual  
19 expense for the installment payments would in effect be "double dipping" by the  
20 Company. However, as actual ratemaking treatment is not being addressed in  
21 this case, but reserved for a future ratemaking docket, this issue can be  
22 appropriately addressed at the time the Company requests recovery of the  
23 regulatory asset. Until such a request is made, the Company continues to

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<sup>7</sup> The order is included as Exhibit Staff/202, Bahr/8-12.

<sup>8</sup> The order is included as Exhibit Staff/202, Bahr/13-17.

1 recover its \$3 million installment payment, as approximately that amount is  
2 already in rates.<sup>9</sup>

3 **Q. DOES STAFF AGREE WITH THE COMPANY'S PROPOSAL TO TREAT THE**  
4 **WITHDRAWAL LIABILITY AS A REGULATORY ASSET?**

5 A. Yes. Staff agrees that the appropriate classification of the withdrawal liability is  
6 as a regulatory asset. This recommendation, if adopted by the Commission,  
7 would allow the Company to record a regulatory asset for the purposes of its  
8 accounting records, but does not have any bearing on the future ratemaking  
9 treatment of the costs. To receive cost recovery, the Company should request  
10 the appropriate amount in a future ratemaking proceeding, at which time the  
11 Commission will make its determination regarding the appropriate ratemaking  
12 treatment of the costs.

2. **Accounting Treatment of Retiree Medical Obligation Settlement**

13 **Q. WHAT IS THE COMPANY'S PROPOSAL REGARDING THE RETIREE**  
14 **MEDICAL OBLIGATION?**

15 A. The Company is requesting an accounting order allowing it to record as a  
16 regulatory asset the settlement loss associated with the settlement of the  
17 retiree medical obligation related to Energy West union participants. The  
18 Company also requests a determination of prudence on its decision to settle  
19 the Retiree Medical Obligation and that the Commission addresses the final  
20 ratemaking treatment of the costs in a future ratemaking proceeding.

---

<sup>9</sup> According to the 2015 TAM. See PAC/200, Stuver/4, at line 6.

1 **Q. PLEASE DESCRIBE THE MEDICAL BENEFITS SETTLEMENT.**

2 A. As part of its negotiations with the UMWA, PacifiCorp negotiated a lump sum  
3 payment to settle the Retiree Medical Obligation, rather than continue to pay  
4 periodic costs over the life of the plan. According to Financial Accounting  
5 Statement (FAS) 106, unrecognized actuarial losses of a medical retiree plan  
6 are amortized in the future, but if a settlement is reached, Generally Accepted  
7 Accounting Principles (GAAP) require the recognition of the unrecognized  
8 actuarial losses be accelerated, which results in a settlement loss.<sup>10</sup> The  
9 Company proposes that the settlement loss related to the Medical Benefits  
10 Settlement be amortized as part of the Company's ongoing retiree medical plan  
11 costs, once the actual amount is allowed into rates.

12 **Q. IS THE MEDICAL BENEFITS SETTLEMENT SEVERABLE FROM THE**  
13 **OVERALL TRANSACTION?**

14 A. The Medical Benefits Settlement, which concluded in November 2014, was  
15 negotiated between Energy West and the UMWA with the understanding that  
16 PacifiCorp was seeking to close or sell the Deer Creek Mine.<sup>11</sup> However, the  
17 Medical Benefits Settlement is severable to the overall transaction primarily  
18 because the Medical Benefits Settlement occurred in the past and the overall  
19 transaction apparently is not conditioned on the settlement or its regulatory  
20 approval.

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<sup>10</sup> See FAS 106 at 93, found online here:

[http://www.fasb.org/jsp/FASB/Document\\_C/DocumentPage?cid=1218220123671&acceptedDisclaimer=true](http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1218220123671&acceptedDisclaimer=true), also included as Exhibit Staff/202, Bahr/18.

<sup>11</sup> See PAC/100, Crane/20, at line 9.

1 Absent inclusion in the Company's Application, the settlement loss associated  
2 with the Medical Benefits Settlement would typically fall to regulatory lag and  
3 be addressed in the Company's next general rate case or other appropriate  
4 ratemaking proceeding.

5 **Q. DOES STAFF AGREE WITH THE COMPANY'S PROPOSAL TO CLASSIFY**  
6 **THE SETTLEMENT LOSS AS A REGULATORY ASSET?**

7 A. No. Staff's primary recommendation is that the Commission need not address  
8 the settlement loss in this docket because it is severable from the transaction.  
9 If the Commission is inclined to consider the prudence of the decision to enter  
10 into the Medical Benefits Settlement, the Commission should authorize a  
11 regulatory asset for the settlement loss amount, but reserve the right to  
12 determine appropriate ratemaking treatment for a future ratemaking  
13 proceeding.

**3. Prudence of Pension Trust Withdrawal**

14 **Q. WHAT IS THE COMPANY'S REQUEST REGARDING THE PRUDENCE OF**  
15 **ITS WITHDRAWAL FROM THE 1974 PENSION TRUST?**

16 A. The Company's Application requests a determination that its decision to  
17 withdraw from the 1974 Pension Trust, as part of the overall transaction, is  
18 prudent.<sup>12</sup>

19 **Q. IS THE 1974 PENSION TRUST WITHDRAWAL SEVERABLE FROM THE**  
20 **OVERALL TRANSACTION?**

---

<sup>12</sup> See Application at 3.

1 A. The overall transaction, according to the Company, includes closing of the  
2 mine, selling of assets, withdrawal from the Trust, new coal supply  
3 agreements, and Medical Benefits Settlement.<sup>13</sup> The Company's Application  
4 states that, "the sales of the Mining Assets and the CSAs are contingent upon  
5 regulatory approval and Transaction closure by May 31, 2015."<sup>14</sup> The  
6 Company also stated that Bowie can walk away from the deal if the appropriate  
7 approvals are not obtained.<sup>15</sup> Therefore, should any of these individual  
8 elements not be approved by the Commission, the Company would consider  
9 whether or not to proceed with the other parts of the transaction.

10 It should be noted that [REDACTED]

11 [REDACTED]

12 [REDACTED]<sup>16</sup> Without Commission approval that closure of the mine is in the  
13 public interest, the Company may not proceed. However, a determination of  
14 prudence appears is only necessary to remove regulatory risk to the Company  
15 and is not necessary to actually proceeding with the transaction.

16 **Q. HOW IS THE COMPANY'S REQUEST IN THIS DOCKET UNIQUE**  
17 **RELATIVE TO SIMILAR PAST CASES?**

18 A. As described previously, Commission precedent indicates a willingness to  
19 authorize the classification of certain costs as regulatory assets while still  
20 reserving the right to address the ratemaking treatment of such costs in other  
21 proceedings. It is implied in these precedents, or explicitly stated, that analysis

<sup>13</sup> See Application at 1.

<sup>14</sup> See Application at 2.

<sup>15</sup> See Company's response to Staff Data Request No. 23, included as Exhibit Staff/202, Bahr/19.

<sup>16</sup> See PAC/101, Crane/19-20, Articles 7.1 and 7.2.



1 and evaluation of the prudence of the decision precipitating the costs would be  
2 made at the time of determination of ratemaking treatment of the costs. Staff  
3 found no precedent in which the Commission approved the prudence or  
4 ratemaking treatment of a regulatory asset at the time it was authorized.

5 However, the Company also requests in its application “that the Commission  
6 separately address the final ratemaking treatment of these regulatory assets in  
7 a future ratemaking proceeding.”<sup>17</sup> Given these requests, Staff provides  
8 herewith an analysis of the prudence of the Company’s decision to withdraw  
9 from the Trust, given the information known at this time, but also recommends  
10 the Commission reserve the right to address the ratemaking treatment in a  
11 future proceeding.

12 **Q. WHAT FACTORS DOES STAFF CONSIDER IN REVIEWING THE**  
13 **PRUDENCE OF THE DECISION TO WITHDRAWAL FROM THE 1974**  
14 **PENSION TRUST?**

15 A. There can be many reasons for withdrawing from a multi-employer pension  
16 plan, but the lone issue of concern is whether or not doing so is economically  
17 justifiable considering risks. In determining this, factors should be considered  
18 such as the funding status of the plan, the economic outlook of other plan  
19 participants, the forecast of the financial markets, the rules governing the fund,  
20 potential regulatory changes, current and future cost recovery probability,  
21 potential withdrawal fines, etc. Ultimately, however, even a prudent decision  
22 may not return optimal results. The evaluation of prudence of the decision in

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<sup>17</sup> See Application at 4.

1 this docket is complicated because, among other reasons, the current amount  
2 of the actual Trust withdrawal liability is unknown.<sup>18</sup>

3 **Q. WHAT ARE THE REASONS PROVIDED BY THE COMPANY FOR**  
4 **WITHDRAWING FROM THE 1974 PENSION TRUST?**

5 A. The Company asserts that “the financial condition of the 1974 Pension Trust  
6 has deteriorated dramatically over the last several years. As of the last  
7 valuation on June 30, 2013, the deficit between the market value of the assets  
8 and the present value of the vested benefits was approximately \$5.5 billion.”<sup>19</sup>  
9 This funding deficit amount rose from approximately \$1.1 billion since 2006.<sup>20</sup>  
10 The current contribution rate is \$5.50 per union hour, and it is expected to rise  
11 significantly in the future.<sup>21</sup> These rising costs inhibit the Company’s ability to  
12 mine coal from the site in an economically justifiable manner. Further details  
13 about why the pension costs are expected to rise, and the anticipated effect on  
14 the Company’s mining operations, can be found in the Company’s testimony  
15 and application.

16 **Q. COULD THE COMPANY HAVE WITHDRAWN FROM THE 1974 PENSION**  
17 **TRUST PRIOR TO THE CURRENT PROPOSAL?**

18 A. Withdrawal from the Trust is possible only through closure or sale of the  
19 mine.<sup>22</sup> Prior to 2012, withdrawal from the Trust was not pursued by the  
20 Company primarily because “the quality and volume of coal from the Deer

---

<sup>18</sup> The most recent actual valuation amount published is as of June 30, 2013. See Application at 7.

<sup>19</sup> See Application at 7.

<sup>20</sup> See PPL/300, Schwartz/9, at line 8.

<sup>21</sup> See PPL/300, Schwartz/7, at line 1.

<sup>22</sup> See PAC/100, Crane/20, at line 15 and PPL/300, Schwartz/12, at line 5.

1 Creek Mine had not yet begun its decline.”<sup>23</sup> Additionally, it was expected that  
2 negotiations between the UMWA and the Bituminous Coal Operators’  
3 Association (which negotiates on behalf of PacifiCorp and other member  
4 companies) would address the pension issues. The new collective bargaining  
5 agreement, effective July 1, 2011, however, did not address pension issues,  
6 thereby requiring the Company to pursue other options.<sup>24</sup>

7 Following the implementation of the new collective bargaining agreement, the  
8 Company began to investigate the possibility of selling the mine, and “reached  
9 out to several parties beginning in 2012. After assessing expressions of  
10 interest from some parties, the Company determined that pursuing such  
11 options would not be in the interest of its customers.”<sup>25</sup>

12 Staff received an email from a UMWA media spokesperson in which it was  
13 asserted the following:<sup>26</sup>

14 *During the last two years in which our contract was being*  
15 *negotiated, there was no concrete costs to our health care,*  
16 *pension and wages. Those reasons alone would cause any*  
17 *interested buyers to decide not to purchase. The timing of*  
18 *our for (sic) sale was incredibly wrong. Our contract was*  
19 *ratified in November of 2014. Between then and the present*  
20 *there has been inadequate time for any prospective buyers*  
21 *to assess the value of our location, low coal cost and our*  
22 *accessibility to mine the Trail Mountain leases.*

23 In response to a data request from Staff relating to this assertion, the  
24 Company stated:<sup>27</sup>

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<sup>23</sup> See PAC/100, Crane/19, at line 8.

<sup>24</sup> See PAC/100, Crane/19, at line 16, and the Company’s response to Staff Data Request No. 24, included as Exhibit Staff/202, Bahr/20.

<sup>25</sup> See PAC/100, Crane/20, at line 2.

<sup>26</sup> See Staff/202, Bahr/21-23 for full email from UMWA media spokesperson.

<sup>27</sup> See Company’s response to Staff Data Request No. 26, included as Exhibit Staff/202, Bahr/24.

1            *Any potential buyer of the mine must know the cost of*  
2            *operating the mine. Because knowing these costs is*  
3            *essential to determining an appropriate purchase price, the*  
4            *unsettled union negotiations presented a barrier to any*  
5            *potential sale. The Company has not sought potential*  
6            *buyers following the close of negotiations (December 2014)*  
7            *since the decision has been made to close the mine*  
8            *concurrently with the sale of other assets.*

9            The Company's application states that "none of the sales options were viable  
10           and cost-effective for customers."<sup>28</sup> The primary reason for this conclusion was  
11           that the parties that expressed interest required the Company to retain the  
12           pension liability and the retiree medical liabilities. By selling the mine under  
13           such conditions, the Company's goal of capping these liabilities would not have  
14           been achieved.<sup>29</sup> Because the conditions necessitating extrication from the  
15           Trust only became relevant relatively recently, Staff does not believe it was  
16           reasonably possible for the Company to withdraw from the Trust in the past.

17           **Q. DOES STAFF AGREE WITH THE COMPANY THAT THE CONDITIONS OF**  
18           **THE TRUST ARE LIKELY TO CONTINUE TO DETERIORATE?**

19           A. Yes, present conditions indicate the likely ongoing deterioration of the condition  
20           of the Trust. Recent history of the Trust indicates an alarming decrease in its  
21           funding percentage. As of mid-year 2010 through 2013, the Trust's funding  
22           status was qualified as "Seriously Endangered."<sup>30</sup> The funded status as of June  
23           30, 2013, was 71.2 percent,<sup>31</sup> which represents a funding deficit in actual

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<sup>28</sup> See PAC/100, Crane/20, at line 7.

<sup>29</sup> See PAC/100, Crane/20, at line 4.

<sup>30</sup> See Notices of Zone Status found at the following web address:

<http://www.dol.gov/ebsa/criticalstatusnotices.html>, and included as Exhibit Staff/202, Bahr/25-30.

<sup>31</sup> See Notice of Zone Status found at the following web address: <http://www.dol.gov/ebsa/pdf/e-notice112213013.pdf>, and included as Exhibit Staff/202, Bahr/29-30.

1 dollars of \$5.5 billion as of June 30, 2013.<sup>32</sup> Although the funding percentage  
2 is significantly affected by market rates, it is also affected by contributions from  
3 employers participating in the multiemployer plan.

4 Beginning in 2014, the status had dropped to “critical,” meaning it has funding  
5 or liquidity problems, or both.<sup>33</sup> According to the Notice of Zone Status:

6 *More specifically, the Plan's actuary determined that the sum*  
7 *of the Plan's normal cost and interest on the unfunded*  
8 *benefits for the current plan year exceeds the present value*  
9 *of all expected contributions for the year; the present value*  
10 *of vested benefits of inactive participants is greater than the*  
11 *present value of vested benefits of active participants; and*  
12 *the Plan is projected to have an accumulated funding*  
13 *deficiency for the 2018 plan year.*

14 The specific factors causing the probable deterioration of the fund are  
15 described in the Company's Application, but the main reason appears to be  
16 fewer employers participating in the Trust. The number of participating  
17 employers dwindles as costs rise, coal production decreases, bankruptcies  
18 occur. The trend appears to continue going forward, with several large  
19 companies potentially facing bankruptcy in the near future.<sup>34</sup> Given that there  
20 are currently only eight employers participating in the Trust,<sup>35</sup> the withdrawal of  
21 even one could have a significant effect on the other participants.

22 **Q. WHAT ARE THE EFFECTS OF THE TRUST WITHDRAWAL ON CURRENT**  
23 **RATES?**

<sup>32</sup> See PPL/300, Schwartz/9, at line 11.

<sup>33</sup> See Notice of Zone Status found at the following web address: <http://www.dol.gov/ebsa/pdf/c-notice121014069.pdf>, and included as Exhibit Staff/202, Bahr/31-33.

<sup>34</sup> See PPL/300, Schwartz/7, at line 6.

<sup>35</sup> See Company's response to Staff Data Request No. 22, included as Exhibit Staff/202, Bahr/34.

1 A. The Company's analysis, reviewed by Staff, indicates that withdrawal from the  
2 Trust, in conjunction with the other aspects of the overall transaction, mitigates  
3 exposure to likely adverse outcomes if the mine were to remain open  
4 (postponing withdrawal) through 2019.<sup>36</sup> Specifically, delaying withdrawal  
5 could increase the amount of the Company's liability significantly.

6 As the number of employers participating in the Trust decreases, the cost to  
7 the remaining participants increases. Therefore, remaining in the Trust would  
8 likely increase the Company's costs. These in turn, would likely raise rates of  
9 ratepayers as the Company seeks recovery of its increased costs. Currently,  
10 the Company contributes to the Trust a rate of \$5.50 per union hour worked.<sup>37</sup>  
11 It is forecasted that this contribution rate will increase to \$13.20 per hour in  
12 2017 and \$26.00 per hour by 2022.<sup>38</sup> For reference, in the docket decided by  
13 the Commission in January of 2014, authorizing NW Natural to record its multi-  
14 employer pension fund withdrawal liability as a regulatory asset, NW Natural  
15 stated that its contribution rate was \$0.33 per union hour worked.<sup>39</sup>

16 **Q. DOES STAFF RECOMMEND A RATEMAKING TREATMENT IN THIS**  
17 **DOCKET?**

18 A. No, a future ratemaking docket is the appropriate venue to determine  
19 ratemaking treatment. Nevertheless, a brief discussion is included here. The  
20 Company's proposal contains two parts: first, a regulatory asset for the  
21 amount of the approximate [REDACTED] to record the present value of the

<sup>36</sup> See PAC/100, Crane/26, at line 7.

<sup>37</sup> See PPL/300, Schwartz/9, at line 3.

<sup>38</sup> See PPL/300, Schwartz/11, at line 2.

<sup>39</sup> See Commission Order No. 14-041, page 1 of Appendix A, included as Exhibit Staff/202, Bahr/3-6.

1 withdrawal liability and second, and a \$3 million expense amount in rates to  
2 recover the cost of the annual installment payments. Should the Company  
3 negotiate a lump sum payment, then that amount would then be recorded as a  
4 regulatory asset and recovery of the annual installment payment would  
5 cease.<sup>40</sup>

6 **Q. DOES STAFF HAVE CONCERNS REGARDING THE COMPANY'S**  
7 **PROPOSED RATEMAKING TREATMENT OF THE WITHDRAWAL**  
8 **LIABILITY?**

9 A. Yes, Staff has several concerns, including the following:

- 10 1. The actual amount of the withdrawal liability is only estimated, and  
11 not actually calculated until the time of withdrawal,  
12 2. The \$3 million installment payment will be made indefinitely and does  
13 not pay down the actual liability amount, and  
14 3. Neither the \$3 million installment payment nor the withdrawal liability  
15 represents a cost to provide electricity to actual present customers.

16 These concerns will be addressed by Staff at the time the Company requests  
17 ratemaking treatment of the proposed costs.

18 **Q. DOES STAFF RECOMMEND THE COMMISSION DETERMINE THE**  
19 **COMPANY'S DECISION TO WITHDRAW FROM THE TRUST IS PRUDENT?**

20 A. Yes, based on the information known at this time, Staff recommends the  
21 Commission determine the Company's decision to withdraw from the Trust as  
22 part of the overall transaction to be prudent. The Company could not have

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<sup>40</sup> See PAC/200, Stuver/10, at line 3.

1 realistically been expected to exit prior to the present, and the condition of the  
2 Trust appears to be deteriorating. Staff emphasizes that no decision on the  
3 ratemaking treatment should be made at this time, but reserved until a  
4 ratemaking proceeding when the Company requests the costs be included in  
5 rates for recovery.

#### 4. Prudence of Retiree Medical Obligation Settlement

##### 6 **Q. WHAT IS THE COMPANY REQUESTING?**

7 A. The Company's Application requests that, "in conjunction with these  
8 accounting orders, the Company requests a determination that its decision[s] to  
9 ... settle the Retiree Medical Obligation [is] prudent."<sup>41</sup>

##### 10 **Q. WHAT ARE THE EFFECTS OF THE MEDICAL BENEFITS SETTLEMENT** 11 **ON CURRENT RATES?**

12 A. The Company currently recovers the cost of Retiree Medical Obligation costs  
13 through FAS 106 expense, which is included in the revenue requirement in  
14 general rate case filings, specifically, embedded in fuel costs. If the Company  
15 records a regulatory asset for the settlement loss, the Company could request  
16 recovery of the amount in a future rate case.

##### 17 **Q. DOES STAFF RECOMMEND A RATEMAKING TREATMENT IN THIS** 18 **DOCKET?**

19 A. No, a future ratemaking docket is the appropriate venue to determine  
20 ratemaking treatment. Nevertheless, a brief discussion is included here. The  
21 Company's proposal is to record a regulatory asset in the amount of

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<sup>41</sup> See Application at 3.



1 approximately [REDACTED] for the settlement loss associated with the Medical  
2 Benefits Settlement. The amount could be recovered in rates in the future,  
3 possibly amortized and included in the Company's on-going retiree medical  
4 plan costs.<sup>42</sup>

5 **Q. DOES STAFF RECOMMEND THE COMMISSION DETERMINE THE**  
6 **COMPANY'S DECISION TO SETTLE THE RETIREE MEDICAL**  
7 **OBLIGATION WAS PRUDENT?**

8 A. No. Staff's primary recommendation is that the Medical Benefit Settlement  
9 should be considered severable from the overall transaction. However, if the  
10 Commission determines to consider the Medical Benefit Settlement in this  
11 docket, given the context of the overall transaction, Staff recommends the  
12 Commission determine the Company's decision to settle its Retiree Medical  
13 Obligation was prudent. The Company settled the amount for [REDACTED]  
14 [REDACTED] and  
15 made the decision in part to facilitate the overall transaction.<sup>43</sup> Therefore,  
16 viewed individually, customers benefit from the reduced expense. Staff  
17 emphasizes that no decision on the ratemaking treatment should be made at  
18 this time, but reserved until a ratemaking proceeding when the Company  
19 requests the costs be included in rates for recovery.

<sup>42</sup> See PAC/200, Stuver/11, at line 4.

<sup>43</sup> See PAC/100, Crane/16, at line 17

**5. Summary of Recommendations**

1 **Q. PLEASE SUMMARIZE STAFF'S RECOMMENDATIONS REGARDING THE**  
2 **1974 PENSION TRUST WITHDRAWAL AND RETIREE MEDICAL**  
3 **OBLIGATION SETTLEMENT.**

4 A. Staff recommends the Commission authorize the Company to record a  
5 regulatory asset for the 1974 Pension Trust withdrawal liability. The Medical  
6 Benefits Settlement is severable from the transaction so need not be  
7 considered in this proceeding. However, Staff would not oppose the creation  
8 of a regulatory asset for the settlement loss. Additionally, Staff recommends  
9 the Commission determine the Company's decision to withdraw from the Trust  
10 and (potentially the Medical Benefits Settlement) is a prudent decision at this  
11 time given the information currently known, as part of the overall transaction.  
12 However, the Commission should reserve the right to address the ratemaking  
13 treatment of all costs associated with the transaction in a future ratemaking  
14 proceeding.

15 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

16 A. Yes.

CASE: UM 1712  
WITNESS: BRIAN BAHR

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 201**

**Witness Qualification Statement**

**March 5, 2015**

**WITNESS QUALIFICATION STATEMENT**

**NAME:** BRIAN BAHR

**EMPLOYER:** PUBLIC UTILITY COMMISSION OF OREGON

**TITLE:** SENIOR UTILITY ANALYST

**ADDRESS:** 3930 FAIRVIEW INDUSTRIAL DR. SE, SALEM, OR 97302

**EDUCATION:** Certificate of Public Management, Willamette University,  
Salem OR

Bachelor of Science, Accountancy, Brigham Young  
University, Provo UT

**EXPERIENCE:** Employed with the Oregon Public Utility Commission from  
March 2011 to present, currently serving as Senior Utility  
Analyst in the Rates, Finance, & Audit Section of the Energy  
Division.

Employed by Modern Seouf Plastics in Alexandria, Egypt as  
a Managerial Intern from January 2010 to June 2010.  
Assisted in variety of duties including supervision of  
production facilities and staff, market analysis, budget  
forecasting, sales, and office administration.

Employed by PricewaterhouseCoopers LLP in New York  
City as a Financial Assurance Associate from October 2007  
to November 2009. Performed audits of various financial  
institutions, including investment banks, hedge funds, and  
insurance companies.

Employed by TESRA, SA in Antofagasta, Chile as a Project  
Management Assistant from September 2005 to April 2006.  
Assisted in design process and implementation of rail road  
crossing and other civil engineering projects.

CASE: UM 1712  
WITNESS: BRIAN BAHR

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 202**

**Exhibits in Support  
Of Opening Testimony**

**March 5, 2015**

UM-1712/PacifiCorp  
February 10, 2015  
OPUC Data Request 18

**OPUC Data Request 18**

With regard to Page 11 of the application, specifically the \$3 million installment payment, please provide the calculation of the \$3 million installment payment.

**Response to OPUC Data Request 18**

Please refer to Attachment OPUC 18 noting that the annual installment payments are computed based on the highest consecutive three-year average of hours worked in the last ten years times the highest contribution rate in the last ten years.

Average Hours Worked Calculation  
UMWA 1974 Plan

Current FIP (alt schedule)

	Contributory Hours	Avg. of Last 3 Consec. Yrs.	Ten Year		Base Hourly Rate	Sur-charge	Total Hourly Rate	Annual Payment under installment method
			Lookback - High of 3 Consec. Yr. Avg.					
6/30/2003	468,225							
6/30/2004	515,213							
6/30/2005	566,777	516,738						
6/30/2006	549,639	543,876						
6/30/2007	537,757	551,391						
6/30/2008	530,974	539,457						
6/30/2009	533,868	534,200						
6/30/2010	494,375	519,739						
6/30/2011	519,949	516,064						
6/30/2012	528,395	514,239						
6/30/2013	503,604	517,316	551,391		5.50		5.50	
6/30/2014	473,213	501,737	551,391		5.50		5.50	
6/30/2015	525,805	500,874	551,391		5.50	-	5.50	\$ 3,032,650
6/30/2016	523,332	507,450	551,391		5.50	-	5.50	

The hourly base rate begins January 1 of each year and the annual annuity payment is based on the rate in effect for the calendar year. For this calculation, withdrawal is expected to occur in December. The \$5.50 per hour is the highest contribution rate in the last 10 years.

ORDER NO. 14 041

ENTERED FEB 05 2014

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1680

In the Matter of

NORTHWEST NATURAL GAS  
COMPANY, dba NW NATURAL,

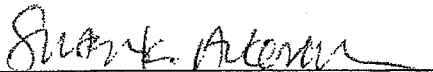
Application for Accounting Order Regarding  
Western States Pension Fund Withdrawal  
Liability.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED


This order memorializes our decision, made and effective at the public meeting on February 4, 2014, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 5<sup>th</sup> day of Feb., 2014, at Salem, Oregon.

  
Susan K. Ackerman  
Chair

  
John Savage  
Commissioner



  
Stephen M. Bloom  
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.



ORDER NO. 14 041

ITEM NO. CA7

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: February 4, 2014**

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: January 28, 2014

TO: Public Utility Commission

FROM: Brian Bahr *BB*  
*E*

THROUGH: Jason Eisdorfer *JE*, Maury Galbraith *MG*, and Marc Hellman *MH*

SUBJECT: NORTHWEST NATURAL: (Docket No. UM 1680) Requests accounting order regarding Western States Pension Fund Withdrawal Liability.

**STAFF RECOMMENDATION:**

The Public Utility Commission of Oregon (Commission) should approve the application by Northwest Natural Gas Company (NWN or Company) for an accounting order authorizing a withdrawal liability related to the Company's withdrawal from the Western States Office and Professional Employees International Union Pension Fund (Western Pension Fund or Fund) to be classified as a regulatory asset.

**DISCUSSION:**

Background

The Company filed this application on December 23, 2013, in accordance with ORS 757.120, ORS 757.125, and OAR 860-027-0045. Prior to filing, the Company held informational meetings with Staff and other interested parties to discuss its application.

Under the terms of its current collective bargaining agreement, NW-Natural participates in the Western Pension Fund, a multi-employer pension plan with about 280 participating companies. The Fund is managed by a board of trustees, and all contribution levels are determined through collective bargaining. Currently, NWN contributes \$0.33 per hour of union employee labor, resulting in annual contributions of about \$425,000 annually. This annual cost is recovered from customers through standard ratemaking procedures.

The Fund currently has a funding level below 70 percent, which classifies its status as "critical" according to federal law regarding pension funding. The Fund adopted a

ORDER NO.

14 041

Docket No. UM 1680  
January 28, 2014  
Page 2

rehabilitation plan in 2009 that increases future employer contribution rates and also reduces benefit accrual rates and adjustable benefits for employees. According to the agreement between NWN and the Fund, the Company may withdraw from the Fund and incur a withdrawal liability if it does so at a time when the Fund is underfunded. The withdrawal liability represents the amount the Company must pay in order to bring its portion of the Fund up to fully funded status.

The Company is now considering withdrawing from the Fund, which would result in a withdrawal liability of approximately \$8 million in present value, payable in annual increments of \$580,000 over 20 years. The Company's decision to withdraw will be influenced by its consideration of various factors, including the financial risk associated with remaining in the significantly underfunded Fund that will likely require substantial contributions in the future, and the potential for other participating employers in the plan to withdraw, resulting in a larger funding burden on remaining participants. NWN will also perform an analysis to compare the overall expected cost of remaining in the underfunded plan with the overall cost of withdrawing. If the Company withdraws from the Fund, participating employees will still receive the pensions they have accrued. Collective bargaining is currently taking place between the Company and its represented employees, and these negotiations will take into account the proposed withdrawal from the Fund.

With this application, the Company is requesting an accounting order authorizing the withdrawal liability to be classified as a regulatory asset, which would allow the annual cash payments associated with the withdrawal liability to be classified as annual expenses for cost recovery ratemaking purposes. The Company is not requesting an evaluation of the prudence of its withdrawal, which will take place through a general rate case.

#### Staff Analysis

Staff supports the Company's request for an accounting order primarily because it would allow for appropriate matching of the costs and benefits of withdrawing from the Fund, subject to evaluation of prudence. Because the payments would be made annually over 20 years, classifying the withdrawal liability as a regulatory asset would avoid a situation in which the cumulative total of the 20 years of payments are recognized as an expense in a single year. Additionally, there would be no carrying charge associated with the regulatory asset, so there is no financing cost to be passed on to customers.

Staff notes that the regulatory asset in the amount of the present value of the annual payments over 20 years would be reduced incrementally as those payments are made. In doing so, regulatory lag would not be avoided by NWN. In other words, the 20 years

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14 0 4:1

Docket No. UM 1680

January 28, 2014

Page 3

of annual expense begin at the time of withdrawal and recording of the regulatory asset, not at the next time the Company files a general rate case. Again, Staff emphasizes an accounting order would only approve the classification of the withdrawal liability as a regulatory asset, not determine the prudence of the Company's withdrawal from the Fund. Therefore, Staff does not include any discussion in this memo regarding the reasons why the Company is considering the withdrawal liability option.

**PROPOSED COMMISSION MOTION:**

NW Natural's application for an accounting order associated with a multi-employer pension fund withdrawal liability be approved subject to Staff's recommended conditions.

UM 1680

# NORTHWEST NATURAL GAS COMPANY

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

### 1. ORGANIZATION AND PRINCIPLES OF CONSOLIDATION

The accompanying consolidated financial statements represent the consolidated results of Northwest Natural Gas Company (NW Natural or the Company) and all companies that we directly or indirectly control, either through majority ownership or otherwise. We have two core businesses: our regulated local gas distribution business, referred to as the utility segment, which serves residential, commercial, and industrial customers in Oregon and southwest Washington; and our gas storage businesses, referred to as the gas storage segment, which provides storage services for utilities, gas marketers, electric generators, and large industrial users from storage facilities located in Oregon and California. In addition, we have investments and other non-utility activities that we aggregate and report as other.

Our direct and indirect wholly-owned subsidiaries include NW Natural Energy, LLC (NWN Energy), NW Natural Gas Storage, LLC (NWN Gas Storage), Gill Ranch Storage, LLC (Gill Ranch), NNG Financial Corporation (NNG Financial), Northwest Energy Corporation (Energy Corp), and NW Natural Gas Reserves, LLC (NWN Gas Reserves). Investments in corporate joint ventures and partnerships that we do not directly or indirectly control, and for which we are not the primary beneficiary, are accounted for under the equity method, which includes NWN Energy's investment in Palomar Gas Holdings, LLC (PGH) and NNG Financial's investment in Kelso-Beaver (KB) Pipeline. NW Natural and its affiliated companies are collectively referred to herein as NW Natural. The consolidated financial statements are presented after elimination of all significant intercompany balances and transactions, except for amounts required to be included under regulatory accounting standards to reflect the effect of such regulation. In this report, the term "utility" is used to describe our regulated gas distribution business, and the term "non-utility" is used to describe our gas storage businesses and other non-utility investments and business activities.

During the first quarter of 2013, we identified an error in the rate used to calculate interest on regulatory assets. We assessed the materiality of this error on prior period financial statements and concluded it was not material to any prior annual or interim periods; however, the cumulative impact would have been material to the annual and interim periods for 2013, if corrected in 2013. As a result, in accordance with accounting standards, we have revised our prior period financial statements as shown in Note 16 to correct this error.

Certain prior year balances in our consolidated financial statements and notes have been reclassified to conform with the current presentation. These reclassifications had no impact on our prior year's consolidated results of operations, financial condition or cash flows.

### 2. SIGNIFICANT ACCOUNTING POLICIES UPDATE

#### Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles in the United States of America (GAAP) requires management to make estimates and assumptions that affect reported amounts in the consolidated financial statements and accompanying notes. Actual amounts could differ from those estimates, and changes would most likely be reported in future periods. Management believes that the estimates and assumptions used are reasonable.

#### Industry Regulation

Our principal businesses are the distribution of natural gas, which is regulated by the OPUC and WUTC, and natural gas storage services, which are regulated by either the FERC or the CPUC, and to a certain extent by the OPUC. Accounting records and practices of our regulated businesses conform to the requirements and uniform system of accounts prescribed by these regulatory authorities in accordance with GAAP. Our businesses regulated by the OPUC, WUTC and FERC earn a reasonable return on invested capital from approved cost-based rates, while our business regulated by the CPUC earns a return to the extent we are able to charge competitive prices above our costs (i.e. market-based rates).

In applying regulatory accounting principles, we capitalize or defer certain costs and revenues as regulatory assets and liabilities pursuant to orders of the OPUC or WUTC, which provides for the recovery of revenues or expenses from, or refunds to, utility customers in future periods, including a return or a carrying charge in certain cases.

ORDER NO. 03-233

ENTERED APR 18 2003

This is an electronic copy. Format and font may vary from the official version. Attachments may not appear.

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UM 1073

In the Matter of )  
 )  
PACIFICORP ) ORDER  
 )  
Application for an Accounting Order )  
Authorizing Recording of a Regulatory Asset )  
Relating to Pension Liability. )

**DISPOSITION: APPLICATION APPROVED**

On February 21, 2003, PacifiCorp filed an application with the Public Utility Commission (Commission) pursuant to ORS 757.120 and ORS 757.125. The application requests an accounting order authorizing the company to record on an ongoing basis, as a regulatory asset, an amount equal to the pretax charge against equity that would otherwise be necessitated by the recognition of the company's Additional Minimum Liability under Financial Accounting Standards (FAS) 87, relating to pension liability. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

At its Public Meeting on April 15, 2003, the Commission adopted Staff's Recommendations and approved PacifiCorp's current request.

**ORDER**

**IT IS ORDERED:**

- (1) PacifiCorp's application to create and maintain a Regulatory Asset resulting from the requirement to recognize an Additional Minimum Pension Liability under Financial Accounting Standards 87 is approved.

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- (2) This approval is for accounting purposes only and does not constitute authorization of any future ratemaking treatment of the costs associated with the regulatory asset.

Made, entered and effective \_\_\_\_\_.

BY THE COMMISSION:

\_\_\_\_\_  
**Becky Beier**  
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order to a court pursuant to ORS 756.580.

ORDER NO. 03-233

ITEM NO. CA5

**PUBLIC UTILITY COMMISSION OF OREGON**  
**STAFF REPORT**  
**PUBLIC MEETING DATE: April 15, 2003**

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE  April 1, 2003

**DATE:** April 22, 2003

**TO:** John Savage through Lee Sparling and Ed Busch

**FROM:** Ed Krantz

**SUBJECT:** PACIFICORP: (Docket No. UM 1073) Requests accounting order authorizing recording of a regulatory asset relating to pension liability.

**STAFF RECOMMENDATION:**

I recommend that the Commission approve PacifiCorp's application authorizing the company to record and maintain a regulatory asset resulting from the requirement to recognize an Additional Minimum Pension Liability under FAS 87. Approval is for accounting purposes only and does not constitute authorization of any future ratemaking treatment of the costs associated with the regulatory asset.

**DISCUSSION:**

On February 21, 2003, PacifiCorp (Pacific or company) filed an application that was docketed UM 1073. In this filing, the company requests an accounting order authorizing the company to record on an ongoing basis, as a regulatory asset, an amount equal to the pretax charge against equity that would otherwise be necessitated by the recognition of the company's Additional Minimum Liability under Financial Accounting Standards (FAS) 87, relating to pension liability. This application was filed pursuant to ORS 757.120 and 757.125.

The following factors have contributed to PacifiCorp's current underfunded pension status: 1) Declining equity markets over the past three years have led to a decline in the value of the assets held in trust to meet pension obligations; and, 2) the present value of future benefit obligations to employees have increased as interest rates have declined.

In accordance with FAS 87, an Additional Minimum Pension Liability must be recognized if the Accumulated Benefit Obligation (ABO) for an employer's pension plan exceeds the fair value of plan assets by more than the amount currently recorded as the pension fund liability. The ABO is the present value of the plan's accrued benefits, without pay projections, using the discount rate

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chosen for the fiscal year-end. If the assets are less than the ABO the company must show a liability on the balance sheet equal to the unfunded ABO. The amount currently recorded as the pension liability (Unfunded Accrued Pension Cost Liability) is the cumulative amount by which each year's net periodic cost, as determined under FAS 87, has exceeded the cumulative amount of contributions to the pension plan. The company anticipates that the ABO, as of March 31, 2003, will exceed the fair value of plan assets by more than \$300 million, whereas the recorded Unfunded Accrued Pension Cost Liability will be approximately \$65 million. The difference is the Additional Minimum Pension Liability (Regulatory Asset).

PacifiCorp expects the amount of net-periodic pension cost, under FAS 87, to increase as a result of lower interest rates which increases the present value of future benefit obligations. When the equity markets and interest rates increase, net-periodic pension cost will begin to decrease.

If the company is not allowed to create and maintain a Regulatory Asset as required by FAS 87, PacifiCorp will be obligated to record, for its fiscal year ending March 31, 2003, a \$200-\$240 million pretax charge to Accumulated Other Comprehensive Income less about \$75-\$95 million in deferred income taxes. Although this charge to equity is expected to be reversed in future periods, the charge will have the immediate effect of reducing PacifiCorp's common equity capitalization. The company claims this could have negative implications on the company's ratings and possibly increase its cost of capital.

Staff does not necessarily agree that the company's cost of capital may increase without approval of the Regulatory Asset; however, Staff agrees that allowing the company to create and maintain the Regulatory Asset is the most reasonable approach in meeting FAS 87 requirements.

PacifiCorp also requests confirmation by the Commission that actuarially determined FAS 87 pension costs are presently recoverable in rates. Staff agrees that actuarially determined FAS pension costs are generally recoverable in rates as has been the case in past rate cases, but any Commission ruling should be made in a general rate proceeding.

Staff and PacifiCorp both acknowledge that there should be no rate change, now or in the future, associated with the requested regulatory asset.



**PROPOSED COMMISSION MOTION:**

PacifiCorp's application to create and maintain a Regulatory Asset resulting from the requirement to recognize an Additional Minimum Pension Liability under FAS 87 be approved. This approval is for accounting purposes only and does not constitute authorization of any future ratemaking treatment of the costs associated with the regulatory asset.

PacifiCorpum1073

ORDER NO. 07-316

ENTERED 07/23/07

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1315

In the Matter of	)	
	)	
AVISTA CORPORATION, dba AVISTA	)	
UTILITIES	)	
	)	
Application for authority to record, on an	)	ORDER
ongoing basis, a regulatory asset (or	)	
liability) equal to the pretax charge against	)	
Accumulated Other Comprehensive Income	)	
for Funded Status of Pension and Other	)	
Postretirement Benefit Obligations.	)	

**DISPOSITION: APPLICATION APPROVED**

On May 9, 2007, Avista Corporation (Avista) filed an application for an accounting order to authorize the treatment for funded status of Pension and other Postretirement Benefit Obligations effective May 9, 2007, pursuant to ORS 757.120 and ORS 757.125. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

At its Public Meeting on July 10, 2007, the Commission adopted Staff's recommendation; however, approval is for accounting purposes only and does not impact the level of pension expenses included in the company's cost of service or net income, nor does it constitute authorization of any future ratemaking treatment of the costs associated with the regulatory asset.

**ORDER**

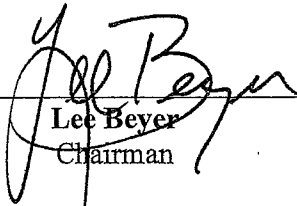
IT IS ORDERED that:

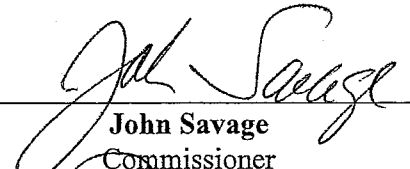
1. Avista Corporation's request for an accounting order regarding the treatment for funded status of Pension and other Postretirement Benefit Obligations effective May 9, 2007, is approved.

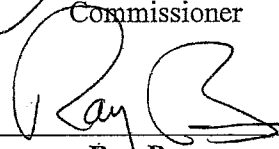
ORDER NO. 07-316

2. Approval is for accounting purposes only and does not impact the level of pension expenses included in Avista Corporation's cost of service or net income, nor does it constitute authorization of any future ratemaking treatment of the costs associated with the regulatory asset.

Made, entered, and effective JUL 23 2007

  
\_\_\_\_\_  
**Lee Beyer**  
Chairman

  
\_\_\_\_\_  
**John Savage**  
Commissioner

  
\_\_\_\_\_  
**Ray Baum**  
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

ORDER NO. 07-316


ITEM NO. CA3



**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: July 10, 2007**

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE May 9, 2007

DATE: June 11, 2007

TO: Public Utility Commission

FROM: Carla Owings 

THROUGH: Lee Sparling, Ed Busch and Judy Johnson  

SUBJECT: AVISTA CORPORATION: (Docket No. UM 1315) Requests Authorization for an Accounting Order Regarding Treatment for Funded Status of Pension and other Postretirement Benefit Obligations.

**STAFF RECOMMENDATION:**

Staff recommends the Commission approve Avista Corporation's request for an Accounting Order regarding the treatment for funded status of Pension and other Postretirement Benefit Obligations effective May 9, 2007.

Approval is for accounting purposes only and does not impact the level of pension expenses included in the company's cost of service or net income, nor does it constitute authorization of any future ratemaking treatment of the costs associated with the regulatory asset.

**DISCUSSION:**

On May 9, 2007, Avista Corporation (Avista or Company) submitted an application requesting the Commission authorize an accounting order for the treatment for funded status of Pension and other Postretirement Benefit Obligations effective May 9, 2007.

On September 29, 2006, effective for fiscal years after December 15, 2006, Financial Accounting Standards Board (FASB) issued a Statement of Financial Accounting Standards (SFAS) No. 158 (Employer's Accounting for Defined Benefit Pensions and Other Postretirement Plans) with the intent of improving financial reporting with respect to the overfunded or underfunded status of defined benefit postretirement plans. The SFAS No.158 financial standard changed SFAS No. 87 by requiring that the funded status of postretirement plans be recorded on the balance sheet based on the Projected Benefit

ORDER NO. 07-316

Avista –UM 1315  
June 11, 2007  
Page 2

Obligation (PBO) rather than the Accumulated Benefit Obligation (ABO) as had previously been used.

SFAS No. 158 required the Company to recognize the overfunded or underfunded status of the defined benefit postretirement plans in the Company's balance sheet measured as the difference between the fair value of plan assets and the benefit obligation as of December 31, 2006. For a pension plan, the benefit obligation is the projected benefit obligation; for any other postretirement benefit plans, the benefit obligation is the accumulated postretirement benefit obligation. Previously, the Company only recognized the underfunded status of the defined benefit pension plans as the difference between the fair value of the plan assets and the accumulated benefit obligation. Additionally, SFAS No. 158 required the overfunded or underfunded status of defined benefit postretirement plans be offset by a charge to Accumulated Other Comprehensive Income (AOCI) in Shareholder's equity, net of taxes.

Other Oregon utilities have received approvals for similar accounting orders in recent years. In 2003, PacifiCorp received approval from Commission Order No. 03-233, and in 2007, Northwest Natural received approval in Commission Order No. 07-030. Likewise, PGE has received approval for an accounting order in Commission Order No. 07-051. Approval is for accounting purposes only and does not impact the level of pension expenses included in the company's cost of service or net income, nor does it constitute authorization of any future ratemaking treatment of the costs associated with the regulatory asset.

On February 16, 2007, Staff issued Staff's Audit Report No. 2006-002, for Avista Utilities and recommended that Avista file a request for an accounting order to establish a regulatory asset resulting from SFAS No. 158 within 90 days of its report to establish consistency among the utilities on how the benefit obligations associated with pension costs should be booked. Since Avista had already complied with the accounting standard when it was issued in September of 2006 by recording the changes in December of 2006, Staff requested that Avista make this filing so that a record of that accounting treatment has been approved here in Oregon.

#### Pension Accounting:

As of December 31, 2006, on a system-wide basis, Avista recorded a liability of \$60.1 million in FERC Account No. 228.3 and a regulatory asset of \$54.2 million in FERC Account No. 182.3, for pensions and other postretirement benefits. An increase to AOCI of \$3.8 million (net of taxes of \$2.1 million) was recorded in FERC Account No. 219. The removal of the intangible pension asset of \$3.7 million was included in other deferred charges and was recorded in FERC Account No. 186.3. The total effect on deferred

ORDER NO. 07-316

Avista –UM 1315  
June 11, 2007  
Page 3

income tax liability was a net decrease of \$2.1 million. Since the Company has historically recovered its pension and other postretirement benefit costs related to its regulated operations in retail rates, the Company has recorded a regulatory asset for that portion of its pension and other postretirement benefits funding deficiency rather than a charge to AOCI at December 31, 2006. This accounting treatment prevented a negative impact to the Company's equity capitalization.

Avista files its request pursuant to ORS 757.120 and 757.125, the Commission's general authority.

**PROPOSED COMMISSION MOTION:**

The Commission approve Avista Corporation's request for an Accounting Order regarding the treatment for funded status of Pension and other Postretirement Benefit Obligations effective May 9, 2007.

Avista UM 1315.Accounting Order for Pension costs

payment dates of benefits, as with a dedicated bond portfolio.

322. Settlement differs from other actions in that (a) it is irrevocable, (b) it relieves the employer (or the plan) of primary responsibility for the obligation, and (c) it eliminates significant risks related to the obligation, such as the risk that participants will live longer than assumed, and to the assets used to effect the settlement. The decision to have a dedicated bond portfolio can be reversed, it does not relieve the employer of primary responsibility for the obligation, and such a strategy does not eliminate various risks, such as mortality risk and the escalating cost of providing the benefits. The Board concluded that the circumstances requiring gain or loss recognition should be defined narrowly.

323. The Board recognizes that changes in the previously estimated values of the accumulated postretirement benefit obligation and the plan assets may become evident at the time the obligation is settled. For example, the interest rates inherent in the price actually paid for insurance contracts that settle an obligation may be different from the assumed discount rates. Some respondents suggested that those changes should be recognized immediately in income as a gain or loss directly resulting from the settlement. The Board concluded that, based on the measurement principles adopted in this Statement, those changes reflect factors expected to be considered in the measurement of the postretirement benefit obligation and plan assets. The Board also concluded that those amounts should be included with the previously unrecognized net gain or loss before a pro rata portion of that amount is recognized.

324. This Statement requires measurement of a pro rata portion of the unrecognized net gain or loss based on the decrease in the accumulated postretirement benefit obligation resulting from a settlement. The Board acknowledges that a decrease in the amount of plan assets also can affect the possibility of future gains and losses. However, the Board concluded that it would be simpler and more practical to base the measurement only on the obligation settled.

325. Under Statement 88, a gain resulting from settlement of a pension obligation is measured without regard to any remaining unrecognized transition obligation. In contrast with the nature of the transition obligation that may arise under Statement 87, any unrecognized transition obligation for postretirement benefits is likely to include a significant amount of previously unrecognized current service cost and interest cost. For an ongoing plan, this Statement requires that for an employer that elects immediate recognition of gains or losses, any net gain for the year that does not offset a loss previously recognized in income must first reduce any remaining unrecognized transition obligation. Similarly, the Board has concluded that any gain arising from a settlement should be reduced by any unrecognized transition obligation; only the excess is recognized as a settlement gain. The Board concluded that an employer should not be permitted to accelerate recognition of gains if the underlying obligation that was remeasured, causing those gains to arise, has not yet been recognized.

UM-1712/PacifiCorp  
February 10, 2015  
OPUC Data Request 23

**OPUC Data Request 23**

With regard to PAC/300, Schwartz/11, what will the effect be if approval of the Company's application is delayed until after the "new rehabilitation plan" referred to on lines seven through nine is effected?

**Response to OPUC Data Request 23**

The principal effect of a delay in approval of the Company's application until a new rehabilitation plan is effective is that Bowie can walk away from the entire deal. A condition precedent to the asset purchase and sale agreements and the coal supply agreements with Bowie is receipt of regulatory approvals and transaction close by May 31, 2015.



UM-1712/PacifiCorp  
February 10, 2015  
OPUC Data Request 24

### **OPUC Data Request 24**

With regard to PAC/100, Crane/19, please provide any internal analysis or reports demonstrating the Company's decision not to close the mine or withdraw from the pension plan until now (eg. did the Company discuss this option in 2008?).

### **Response to OPUC Data Request 24**

The Company objects to this request as overly broad, unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, the Company responds as follows:

Mine closure did not emerge as a viable alternative until approximately 2012. The analysis of the relevant issues during the 2008-2012 period consisted of the following:

- 1) Serious underfunding of the 1974 Pension Trust did not arise until late 2010. Also in 2010, the quality and volume of coal from Deer Creek Mine had not begun to decline.
- 2) By early 2011, the following options had emerged: (1) monitor the ongoing national labor agreement negotiations between UMWA and the Bituminous Coal Operators' Association, with the expectation the new agreement would address the pension issue as well as escalating healthcare issues; (2) develop a labor bargaining strategy to address the issues if the national agreement did not address them adequately; and (3) pursue the opportunity to sell the mine and transfer its associated liabilities. Two presentations made to the Berkshire Hathaway Energy Board in April and August 2013 regarding the Company's efforts to identify potential buyers for the mine show that this alternative was not feasible. Also, the new national agreement did not address pension or health-care issues. The Company was left to pursue Option 2, a significantly protracted process. For these reasons the Company did not make a final decision to close the mine and withdraw from the pension plan at an earlier date.

The Board presentations are highly confidential and require special handling. Please contact Natasha Soares at (503) 813-6583 to arrange for review.

## BAHR Brian

---

**From:** WITTEKIND Linnea  
**Sent:** Monday, January 26, 2015 9:20 AM  
**To:** BAHR Brian; CRIDER John  
**Cc:** HELLMAN Marc; ADAMS Aster; JONES Jason W  
**Subject:** FW: Deer Creek Mine Transaction

A message from a union spokesperson for the mine workers.

---

**From:** GARCIA Deborah  
**Sent:** Monday, January 26, 2015 9:15 AM  
**To:** 'brian lea'  
**Cc:** catriona@oregoncub.org; GARDNER Marianne; Bob@oregoncub.org; WITTEKIND Linnea; CRIDER John; HELLMAN Marc  
**Subject:** RE: Deer Creek Mine Transaction

Mr. Lea,

By CC to this message, I am forwarding your correspondence to the Commission Staff who have been assigned to this matter, Docket No. UM 1712.

Sincerely,

Deborah Garcia  
Sr. Revenue Requirement Analyst  
503/378-6688  
[dgarcia@state.or.us](mailto:dgarcia@state.or.us)

---

**From:** brian lea [[mailto:bri\\_lea@yahoo.com](mailto:bri_lea@yahoo.com)]  
**Sent:** Friday, January 23, 2015 6:50 PM  
**To:** [Bob@oregoncub.org](mailto:Bob@oregoncub.org)  
**Cc:** [catriona@oregoncub.org](mailto:catriona@oregoncub.org); GARCIA Deborah; GARDNER Marianne  
**Subject:** Deer Creek Mine Transaction

January 23,2015

This writing is in response to the statements made in regards to the application from Pacificorp to close the Deer Creek Mine for the benefit of the ratepayers.

### 1. INCREASING MINING COSTS DUE TO HEALTH AND PENSIONS

In Nov. of 2014, the UMWA and Pacificorp reached a contract agreement. In the agreement the UMWA allowed Pacificorp to settle its Retiree Medical Obligation. Which as you know, and in short, they will pay a one time cost for all retirees.

The "other rising costs: of the contract settlement is virtually insignificant. Our agreed upon wages are still significantly less than the non-union miners in the surrounding Carbon, Emery and Sanpete counties. Which allows the Deer Creek miners to have better health benefits. This offset in wages have been in place for decades.

Concerning our health care costs, during the negotiations of the last 2 years and up until November, the UMWA offered to help reduce the costs by way of generics and other methods which have proven to be effective by the UMWA. Cindy Crane declined the offer.

Our new contract also states in short, if any of Pacificorps leases, i.e. Trail Mountain, is sold then Pacificorp will buy out of its obligation to fund our pension and the new owners will give the working miners a 401k.

We believe our concessions to stop paying our pensions and adopting the 401k would be a benefit to a new owner, along with the Retiree Medical Obligation.

As far as our health care costs compared to other Pacificorp union workers, we do have better. UMWA wages are a minimum of \$10/hr. less than comparable union workers with the same skill level. Our wages compared to local non union miner wages are \$5-\$7/hr. This does not include non unions typical \$1000/mo. bonuses minimum.

## 2. LOWER QUALITY COAL & REDUCED PRODUCTION

Every coal mine has areas of coal with less than favorable ash and sulfur content. With very few exceptions Deer Creek's coal has always had better btu's, less ash and less sulfur than most mines in the area can deliver. As of this writing, our coal has far exceeded the quality of coal being delivered to the Huntington Plant.

The "single ten hour shifts" caused by poor quality coal was a "self made crisis" created to make the mine look like it had insurmountable poor coal and high costs.

The course of action for all longwall equipped mines (including Deer Creek up until the last 2 yrs.) is when they encounter similar problems in normal mining operations to keep mining as usual and blend the coal to make it acceptable for the plant to burn. It is an industry standard method.

We believe the "transaction case" is in the best interest of the ratepayers. For reasons stated,

1. The graph (from the exhibits given to the Utah Public Service Commission) Pacificorp shows comparisons to the cost of coal from the market in relationship to the cost from Bowie. They failed to show the relationship both have to their captive coal costs (excluding the last 2 yrs.).

As you are fully aware, Deer Creek has continually outperformed both costs. Our monthly foreman reports given to the miners have substantiated that claim over and over. This does not include our recent health and pension concessions upon a sale which would widen an already significant cost gap.

2. Trail Mountain reserves can be accessed from the Deer Creek portals. We have various maps showing easy access to the Trail Mountain reserves. According to management that can be done within 18 months.

This approach eliminates any coal transportation by truck, including transportation costs.

Management has also stated delivering coal via Deer Creek's belt line cost literally pennies.

3. The ability to sell the mine. Pacificorp states they had no competitive offers. During the last two years in which our contract was being negotiated, there was no concrete costs to our health care, pension and wages. Those reasons alone would cause any interested buyers to decide not to purchase. The timing of our for sale was incredibly wrong.

Our contract was ratified in November of 2014. Between then and the present there has been inadequate time for any prospective buyers to assess the value of our location, low coal cost and our accessibility to mine the Trail Mountain leases.

As of this writing, the Deer Creek mine has been removing material and supplies at an alarming rate. Which could possibly remove any chance to resume mining regardless of your future decision to determine what is beneficial to your ratepayers.

Thank you,

Brian Lea  
UMWA media spokesperson

UM-1712/PacifiCorp  
February 10, 2015  
OPUC Data Request 26

### **OPUC Data Request 26**

Please provide a narrative explanation discussing the impact of having unsettled union negotiations on a potential sale of the mine, and whether the Company sought potential buyers following the close of union negotiations.

### **Response to OPUC Data Request 26**

Unsettled union negotiations mean that the terms and conditions of employment for employees represented by the union have not been agreed upon. Issues such as the wages to be paid and the benefits to be provided are not certain. In addition to wages, things like the number of holidays employees will observe, the level of medical insurance, and employee deductibles for health, vision, dental and life insurance are not fixed. Additionally, key work rules, such as the ability of the Company to use contactors in lieu of represented employees, create uncertainty about the cost to the business. Even the term of the commitment is not certain. Any potential buyer of the mine must know the cost of operating the mine. Because knowing these costs is essential to determining an appropriate purchase price, the unsettled union negotiations presented a barrier to any potential sale. The Company has not sought potential buyers following the close of negotiations (December 2014) since the decision has been made to close the mine concurrently with the sale of other assets.



**UMWA HEALTH AND RETIREMENT FUNDS**

2121 K Street, NW • Suite 350 • Washington, DC 20037 • Telephone: 202.521.2200

October 24, 2011

U.S. Department of Labor  
Employee Benefits Security Administration  
Public Disclosure Room, N-1513  
200 Constitution Avenue, NW  
Washington, DC 20210

Re: United Mine Workers of America 1974 Pension Plan  
EIN: 52-1050282  
Plan No.: 002

EBSA/PUBLIC DISCLOSURE  
2011 OCT 31 PM 1:59

To Whom it May Concern:

Enclosed please find a Notice of Zone Status for the plan year beginning July 1, 2011, which was sent to all participants and beneficiaries of the UMWA 1974 Pension Plan on October 21, 2011.

Sincerely,

A handwritten signature in cursive script that reads "Lorraine Lewis".

Lorraine Lewis  
Executive Director

LL/COD/cod  
Enclosure

197057760.docx

**Notice of Zone Status**  
**United Mine Workers of America 1974 Pension Plan**  
**EIN: 52-1050282**  
**Plan No.: 002**

This is to inform you that on September 28, 2011, the enrolled actuary for the UMWA 1974 Pension Plan ("Plan") certified to the U.S. Department of the Treasury and the plan sponsor that the Plan is in "Seriously Endangered Status" for the plan year beginning July 1, 2011. The certification of the Plan's status and this notice are required under the Pension Protection Act of 2006 ("PPA").

Under the PPA, a multiemployer plan's actuary must certify the plan's funded status for the plan year. The PPA sets forth "zones" that represent the plan's financial status: "endangered," "seriously endangered," "critical" or "neither critical nor endangered." If the plan is certified to be endangered, seriously endangered or critical, the plan sponsor must notify participants and the bargaining parties and take specific steps designed to improve the plan's financial status over a set period of time.

**Seriously Endangered Status**

The Plan is considered to be in Seriously Endangered Status for the plan year beginning July 1, 2011, because the actuary determined that the Plan's funded percentage is less than 80% (i.e., 76.5%) and the Plan is projected to have an accumulated funding deficiency within six plan years after the current plan year (i.e., for the plan year beginning July 1, 2017). Even though the Plan is projected to have an accumulated funding deficiency, the Plan is expected to have sufficient assets to timely pay expected benefits and expenditures during this period. Your benefit payments are not affected at this time and you will continue to receive your monthly pension payments as provided for under the Plan.

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**Funding Improvement Plan**

When a pension plan is certified to be in seriously endangered status, Federal law requires the plan to adopt a funding improvement plan aimed at restoring the financial health of the plan. The funding improvement plan may include increased contributions to the plan and/or modifications to certain future benefit accruals, and it must be adopted by May 25, 2012.

**Where to Get More Information**

For more information about this notice, you may contact the UMWA Health & Retirement Funds' Call Center toll free at 1-800-291-1425, option 3. If you would prefer to send written correspondence about this notice, you may send it to the Board of Trustees, UMWA 1974 Pension Trust, c/o Lorraine Lewis, Executive Director, 2121 K Street, NW, Suite 350, Washington, DC 20037.



**UMWA HEALTH AND RETIREMENT FUNDS**

2121 K Street, NW • Suite 350 • Washington, DC 20037 • Telephone: 202.521.2200

October 26, 2012

U.S. Department of Labor  
Employee Benefits Security Administration  
Public Disclosure Room, N-1513  
200 Constitution Avenue, NW  
Washington, DC 20210

Re: United Mine Workers of America 1974 Pension Plan  
EIN: 52-1050282  
Plan No.: 002

To Whom it May Concern:

Enclosed please find a Notice of Zone Status for the plan year beginning July 1, 2011, which was sent to all participants and beneficiaries of the UMWA 1974 Pension Plan on October 26, 2012.

Sincerely,

A handwritten signature in cursive script that reads "Lorraine Lewis".

Lorraine Lewis  
Executive Director

LL/COD/cod  
Enclosure

197057760.docx

EBSA/PUBLIC DISCLOSURE  
2012 NOV - 1 AM 10:18



**Notice of Zone Status**  
**United Mine Workers of America 1974 Pension Plan**  
**EIN: 52-1050282**  
**Plan No.: 002**

This is to inform you that on September 26, 2012, the enrolled actuary for the UMWA 1974 Pension Plan ("Plan") certified to the U.S. Department of the Treasury and the plan sponsor that the Plan is in "Seriously Endangered Status" for the plan year beginning July 1, 2012. The certification of the Plan's status and this notice are required under the Pension Protection Act of 2006 ("PPA").

Under the PPA, a multiemployer plan's actuary must certify the plan's funded status for the plan year. The PPA sets forth "zones" that represent the plan's financial status: "endangered," "seriously endangered," "critical" or "neither critical nor endangered." If the plan is certified to be endangered, seriously endangered or critical, the plan sponsor must notify participants and the bargaining parties and take specific steps designed to improve the plan's financial status over a set period of time.

**Seriously Endangered Status**

The Plan is considered to be in Seriously Endangered Status for the plan year beginning July 1, 2012, because the actuary determined that the Plan's funded percentage is less than 80% (i.e., 72.6%) and the Plan is projected to have an accumulated funding deficiency within six plan years after the current plan year (i.e., for the plan year beginning July 1, 2018). Even though the Plan is projected to have an accumulated funding deficiency, the Plan is expected to have sufficient assets to timely pay expected benefits and expenditures during this period. Your benefit payments are not affected at this time and you will continue to receive your monthly pension payments as provided for under the Plan.

**Funding Improvement Plan**

When a pension plan is certified to be in seriously endangered status, Federal law requires the plan to adopt a funding improvement plan aimed at restoring the financial health of the plan. The funding improvement plan may include increased contributions to the plan and/or modifications to certain future benefit accruals. A funding improvement plan was adopted on May 25, 2012.

**Where to Get More Information**

For more information about this notice, you may contact the UMWA Health & Retirement Funds' Call Center toll free at 1-800-291-1425, option 3. If you would prefer to send written correspondence about this notice, you may send it to the Board of Trustees, UMWA 1974 Pension Trust, c/o Lorraine Lewis, Executive Director, 2121 K Street, NW, Suite 350, Washington, DC 20037.



**UMWA HEALTH AND RETIREMENT FUNDS**

2121 K Street, NW • Suite 350 • Washington, DC 20007 • Telephone: 202.521.2200

2013 OCT 31 11:05:15

October 25, 2013

U.S. Department of Labor  
Employee Benefits Security Administration  
Public Disclosure Room, N-1513  
200 Constitution Avenue, NW  
Washington, DC 20210

Re: United Mine Workers of America 1974 Pension Plan  
EIN: 52-1050282  
Plan No.: 002

To Whom it May Concern:

Enclosed please find a Notice of Zone Status for the plan year beginning July 1, 2013, which was sent to all participants and beneficiaries of the UMWA 1974 Pension Plan on October 25, 2013.

Sincerely,

A handwritten signature in cursive script that reads "Lorraine Lewis".

Lorraine Lewis  
Executive Director

LL/COD/cod  
Enclosure

197057760.docx

**Notice of Zone Status**  
**United Mine Workers of America 1974 Pension Plan**  
**EIN: 52-1050282**  
**Plan No.: 002**

This is to inform you that on September 27, 2013, the enrolled actuary for the UMWA 1974 Pension Plan ("Plan") certified to the U.S. Department of the Treasury and the plan sponsor that the Plan is in "Seriously Endangered Status" for the plan year beginning July 1, 2013. The certification of the Plan's status and this notice are required under the Pension Protection Act of 2006 ("PPA").

Under the PPA, a multiemployer plan's actuary must certify the plan's funded status for the plan year. The PPA sets forth "zones" that represent the plan's financial status: "endangered," "seriously endangered," "critical" or "neither critical nor endangered." If the plan is certified to be endangered, seriously endangered or critical, the plan sponsor must notify participants and the bargaining parties and take specific steps designed to improve the plan's financial status over a set period of time.

**Seriously Endangered Status**

The Plan is considered to be in Seriously Endangered Status for the plan year beginning July 1, 2013, because the actuary determined that the Plan's funded percentage is less than 80% (i.e., 71.2%) and the Plan is projected to have an accumulated funding deficiency within the six succeeding plan years. Even though the Plan is projected to have an accumulated funding deficiency, the Plan is expected to have sufficient assets to timely pay expected benefits and expenditures during this period. Your benefit payments are not affected at this time and you will continue to receive your monthly pension payments as provided for under the Plan.

**Funding Improvement Plan**

When a pension plan is certified to be in seriously endangered status, Federal law requires the plan to adopt a funding improvement plan aimed at restoring the financial health of the plan. The funding improvement plan may include increased contributions to the plan and/or modifications to certain future benefit accruals. A funding improvement plan was adopted on May 25, 2012. The funding improvement plan and corresponding contribution schedules were updated on April 26, 2013 to reflect the experience of the Plan.

**Where to Get More Information**

For more information about this notice, you may contact the UMWA Health & Retirement Funds' Call Center toll free at 1-800-291-1425, option 3. If you would prefer to send written correspondence about this notice, you may send it to the Board of Trustees, UMWA 1974 Pension Trust, c/o Lorraine Lewis, Executive Director, 2121 K Street, NW, Suite 350, Washington, DC 20037.



**UMWA HEALTH AND RETIREMENT FUNDS**

2121 K Street, NW • Suite 350 • Washington, DC 20037 • Telephone: 202.521.2200

October 28, 2014

U.S. Department of Labor  
Employee Benefits Security Administration  
Public Disclosure Room, N-1513  
200 Constitution Avenue, NW  
Washington, DC 20210

Re: United Mine Workers of America 1974 Pension Plan  
EIN: 52-1050282  
Plan No.: 002

FDSN/PUBLIC DISC  
2014 NOV - 3 PM ET

To Whom it May Concern:

Enclosed please find a Notice of Zone Status for the plan year beginning July 1, 2014, which was sent to all participants and beneficiaries of the UMWA 1974 Pension Plan on October 28, 2014. Please note that there are two versions of the zone status notice. The version that includes information about the reduction in death benefits was sent to pensioners whose beneficiaries are potentially eligible to receive death benefits from the Plan, as well as active mine workers and terminated vested participants. The version without language addressing death benefits was sent to pensioners whose beneficiaries are not eligible to receive death benefits from the Plan. We have labeled the two notices accordingly.

Sincerely,

Lorraine Lewis  
Executive Director

LL/COD/cod  
Enclosure

197057760.docx

[Sent to Participants whose beneficiaries are potentially eligible to receive death benefits from the Plan]

**Notice of Zone Status**  
**United Mine Workers of America 1974 Pension Plan**  
**EIN: 52-1050282**  
**Plan No.: 002**

This is to inform you that on September 28, 2014 the actuary for the UMWA 1974 Pension Plan ("Plan") certified to the U.S. Department of the Treasury and the Plan Sponsor that the Plan is in critical status for the plan year beginning July 1, 2014. Federal law requires that you receive this notice.

**Critical Status**

The Plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Plan's actuary determined that the sum of the Plan's normal cost and interest on the unfunded benefits for the current plan year exceeds the present value of all expected contributions for the year; the present value of vested benefits of inactive participants is greater than the present value of vested benefits of active participants; and the Plan is projected to have an accumulated funding deficiency for the 2018 plan year.

**Rehabilitation Plan and Possibility of Reduction in Benefits**

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If the plan sponsor determines that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant's basic benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after October 28, 2014. But you should know that whether or not the Plan reduces adjustable benefits in the future, effective as of October 28, 2014, the Plan is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical status. However, based on a recent arbitration decision, the Plan is able to pay lump sum death benefits that do not exceed \$5,000. Therefore, effective October 28, 2014, the Plan's lump sum death benefit shall be \$5,000 while the Plan is in critical status.

**Adjustable Benefits**

The Plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the Plan may adopt:

- Post-retirement death benefits
- Disability benefits (if not yet in pay status)
- Early retirement benefit or retirement-type subsidy
- Benefit payment options other than a qualified joint-and survivor annuity (QJSA)
- Benefit increases that occurred in the past 5 years

**Employer Surcharge**

The law requires that all contributing employers pay to the Plan a surcharge to help correct the Plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Plan under its collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the Plan is in critical status.

**Where to Get More Information**

For more information about this Notice, you may contact the UMWA Health & Retirement Funds' Call Center toll free at 1-800-291-1425, option 3. If you would prefer to send written correspondence about this notice, you may send it to the Board of Trustees, UMWA 1974 Pension Trust, 2121 K Street NW Suite 350, Washington DC 20037. You have a right to receive a copy of the rehabilitation plan from the Plan after it is adopted.

[Sent to Pensioners whose beneficiaries are NOT eligible to receive death benefits from the 1974 Plan]

**Notice of Zone Status**  
**United Mine Workers of America 1974 Pension Plan**  
**EIN: 52-1050282**  
**Plan No.: 002**

This is to inform you that on September 28, 2014 the actuary for the UMWA 1974 Pension Plan ("Plan") certified to the U.S. Department of the Treasury and the Plan Sponsor that the Plan is in critical status for the plan year beginning July 1, 2014. Federal law requires that you receive this notice.

**Critical Status**

The Plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Plan's actuary determined that the sum of the Plan's normal cost and interest on the unfunded benefits for the current plan year exceeds the present value of all expected contributions for the year; the present value of vested benefits of inactive participants is greater than the present value of vested benefits of active participants; and the Plan is projected to have an accumulated funding deficiency for the 2018 plan year.

**Rehabilitation Plan and Possibility of Reduction in Benefits**

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If the plan sponsor determines that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant's basic benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after October 28, 2014. But you should know that whether or not the Plan reduces adjustable benefits in the future, effective as of October 28, 2014, the Plan is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical status.

**Adjustable Benefits**

The Plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the Plan may adopt:

- Post-retirement death benefits
- Disability benefits (if not yet in pay status)
- Early retirement benefit or retirement-type subsidy
- Benefit payment options other than a qualified joint and survivor annuity (QJSA)
- Benefit increases that occurred in the past 5 years

**Employer Surcharge**

The law requires that all contributing employers pay to the Plan a surcharge to help correct the Plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Plan under its collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the Plan is in critical status.

**Where to Get More Information**

For more information about this Notice, you may contact the UMWA Health & Retirement Funds' Call Center toll free at 1-800-291-1425, option 3. If you would prefer to send written correspondence about this notice, you may send it to the Board of Trustees, UMWA 1974 Pension Trust, 2121 K Street NW Suite 350, Washington DC 20037. You have a right to receive a copy of the rehabilitation plan from the Plan after it is adopted.

UM-1712/PacifiCorp  
February 10, 2015  
OPUC Data Request 22

**OPUC Data Request 22**

With regard to PAC/300, Schwartz/5, please provide the number of companies currently participating in the 1974 Pension Trust, the number of companies that have already withdrawn, and the number of companies expected or known to be withdrawing in the future.

**Response to OPUC Data Request 22**

To the best of the Company's knowledge there are eight companies currently participating in the 1974 Trust (these are parent companies that may have several participating subsidiaries). The Company does not have information on the number of companies that have already withdrawn or may withdraw in the future.

CASE: UM 1712  
WITNESS: JOHN CRIDER

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 300**

**REDACTED  
Opening Testimony**

**March 5, 2015**



1 **Q. Please state your name, present position with the Oregon Public Utility**  
2 **Commission, and business address.**

3 A. My name is John Crider. I am employed as a Senior Utility Analyst in the  
4 Energy Resources and Planning (ERP) division of the Utility Program. My  
5 business address is 3930 Fairview Industrial Dr. SE, Salem, Oregon 97308.

6 **Q. Please describe your educational background and work experience.**

7 A. My Witness Qualification Statement is found in Exhibit Staff/301.

8 **Q. What is the purpose of your testimony in this proceeding?**

9 A. The purpose of my testimony is to discuss Staff's review of issues related to  
10 Pacific Power d/b/a PacifiCorp's (Company) proposal to sell Mining Assets and  
11 to enter into a new Coal Supply Agreement.

12 **Q. Have you prepared Exhibits for your testimony?**

13 A. Yes. I have included Company responses to certain discovery requests as  
14 Exhibit Staff/302.

15 **Q. How is your testimony organized?**

16 A. The testimony is organized as follows:

- 17 1. Coal Supply Agreements  
18 2. Sale of Mining Assets

19

1

2

## 1. Coal Supply Agreements (CSA)

3

### **Q. Please describe the Huntington Coal Supply Agreement (CSA).**

4

A. Under the Huntington CSA, Bowie will supply a certain amount of coal to the Huntington power plant beginning upon close of the transaction and continuing through the end of 2029. The coal supplied is planned to meet all the requirements of the Huntington Plant. The CSA includes an agreed-upon fixed price schedule.

8

9

### **Q. Please describe the amended Hunter CSA.**

10

A. Bowie already supplies the majority of coal to the Hunter plant under existing agreements. The current CSA has been amended to allow Bowie to operate the coal blending facilities at the Cottonwood coal preparation plant, and then deliver coal from the preparation plant to the Hunter power plant. The amended CSA changes the quality testing point of the coal from the preparation plant to the power plant.<sup>1</sup> There is no adjustment to the Bowie delivered coal prices under the amended CSA.

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### **Q. Why are the CSAs necessary?**

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A. Upon closure of the Deer Creek mine, a replacement coal supply is necessary to continue operation of the Huntington and Hunter power plants at full capacity. Without the CSAs, the Company must either negotiate a similar contract with another supplier or purchase coal on the market. Spot market or short term contracts tend to be more expensive per unit delivery than longer

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<sup>1</sup> See Staff/302, Crider/1

1 term contracts. The CSAs may reduce cost and in addition the existence of a  
2 fixed price contract reduces risk exposure compared to other alternatives.

3 **Q. Has the Company provided evidence that the CSA provides for coal at**  
4 **lower cost?**

5 A. Yes. The Company supplied copies of the entire contract complete with terms  
6 and conditions. The Company also presented a market analysis and working  
7 papers detailing the financial comparison of supplying the plants through the  
8 CSA versus supplying the coal through market. The Company's analysis  
9 demonstrates that the present value revenue requirement (PVRR) of supplying  
10 the plants with the CSA is less than the PVRR of supplying through the market  
11 using the supplied market price forecast. The delivered price schedule in the  
12 contract is lower than the market price forecast.

13 **Q. Please explain the nature of the market price forecast.**

14 A. The Company has contracted with a third party – Energy Ventures Analysis  
15 (EVA) - to provide quarterly and annual coal forecasts for a number of years.<sup>2</sup>  
16 For the analysis in this docket, EVA adjusted its standard long term price  
17 forecast by estimating additional transportation costs necessary to deliver the  
18 coal from the producing mines to the Huntington plant<sup>3</sup>.

19 **Q. Did EVA's coal price forecast include effects of potential carbon**  
20 **legislation?**

21 A. Yes. EVA's base coal price forecast assumes zero additional carbon cost.  
22 EVA has provided an alternate forecast which models coal market effects

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<sup>2</sup> PAC/300, Schwartz/23

<sup>3</sup> Id. At 27.

1 assuming the Environmental Protection Agency's "Clean Power Plan" is  
2 enacted as currently proposed.

3 **Q. Please compare the two forecasts.**

4 A. As shown in Exhibit PAC/310, Schwartz/1, the two forecasts extend from the  
5 present to 2040. The two forecasts are essentially the same between the  
6 present and 2020. Between 2020 and 2026 the two forecasts are slightly  
7 divergent, with the "carbon case" reflecting a price approximately \$2/ton  
8 (roughly 5 percent) less than the base case during these six years. From 2026  
9 onward, the forecasts again converge and are essentially the same. Thus the  
10 choice of base case forecast represents an assumption of higher cost than the  
11 carbon-cost case.

12 **Q. Did you compare the Company's market price forecast with other**  
13 **sources?**

14 A. Yes. I compared the Company's market price forecast with the official EIA Long  
15 Range forecast.<sup>4</sup>

16 **Q. How did the two forecasts compare?**

17 A. The two forecasts are reasonably similar to each other based on annual per  
18 ton prices. Both forecasts of mine-mouth coal prices in dollars per ton are  
19 virtually the same and the delivered costs are within five percent of each other  
20 through 2024.

21 **Q. Did you compare the prices in the CSA to cost data from Deer Creek**  
22 **Mine?**

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<sup>4</sup> U.S. Energy Information Administration Annual Energy Outlook 2014, Table "Coal Supply, Disposition and Prices, Reference Case."

1 A. Yes. I compared the prices per ton of coal delivered in the CSA to the latest  
2 coal costs calculated for Deer Creek mine<sup>5</sup>

3 **Q. How do the CSA prices compare to the Company's latest cost for Deer**  
4 **Creek mine?**

5 A. Deer Creek's delivered cost per ton has increased sharply over the last several  
6 years. The cost per ton calculated in 2014 is comparable to the beginning price  
7 per ton delivered in the Huntington CSA. The percentage annual escalation in  
8 cost over the course of the CSA is substantially lower the annual escalation  
9 projected for Deer Creek coal had the mine continued its operation. The  
10 projected higher escalation of Deer Creek coal costs is primarily driven by the  
11 commensurate increase in pension related costs over the term. The fact that  
12 the coal quality from Deer Creek is projected to be poorer in the future than it  
13 has been in the past also contributes to the rise in cost over time<sup>6</sup>.

14 **Q. How would you summarize your evaluation of the CSA price schedule?**

15 A. Based on the evidence available at this time, the CSA price schedule appears  
16 favorable in cost when compared to EIA coal cost forecasts and when  
17 compared to the projected cost of maintaining a self-supply from the Deer  
18 Creek mine.

19 **Q. Are there other scenarios where the CSA might not be the best**  
20 **alternative?**

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<sup>5</sup> Microsoft Excel workbook entitled "Energy West Mining Company 2014 Operating Budget –Deer Creek Mine" supplied as a workpaper for witness Crane in Docket. No. UE 264 (PacifiCorp 2014 Power Cost)

<sup>6</sup>See Staff/302, Crider/2-4

1 A. Yes, possibly. With the closure of Deer Creek mine, the Company has four  
2 potential choices. They could: (1) proceed with a CSA to supply coal as  
3 proposed, or (2) PacifiCorp could instead supply the plants with short-term  
4 agreements and spot coal. As discussed previously in this testimony, the CSA  
5 is the least cost, least risk choice of these two. However, the Company has two  
6 additional choices. They could: (3) choose to shut down the plants completely  
7 or (4) choose to re-power the plants with natural gas, in both cases avoiding  
8 the need for the CSA.

9 **Q. Has the Company provided evidence that supplying the Hunter and**  
10 **Huntington plants with a CSA is a least cost, least risk solution compared**  
11 **to either shutting the plants or converting the plants to run on natural**  
12 **gas?**

13 A. No.

14 **Q. Are there other terms of the CSA that you find of concern?**

15 A. Yes. According to the Company witness Crane,<sup>7</sup> the CSA is a “take or pay”  
16 agreement, meaning that PacifiCorp is obligated to pay for the minimum  
17 delivery of coal regardless of the Company’s decision regarding shutdown of  
18 either Hunter or Huntington power plant. The Company claims that the CSA  
19 contains broad termination rights in the event that environmental regulations  
20 adversely affect the Company’s ability to burn coal at the plants.

21 **Q. Could these terms pose a risk to ratepayers?**

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<sup>7</sup> PAC/100, Crane/12.

1 A. Yes. The “take or pay” nature of the contract shifts the risk to PacifiCorp, who  
2 is obligated to pay for the coal upon delivery, whether the coal is needed for  
3 generation or not. This cost for fuel that is not immediately useful may  
4 subsequently be recovered from ratepayers.

5 **Q. Is this risk mitigated by the broad exit clause in the CSA?**

6 A. The answer is not clear or certain. The Company claims that the exit clause of  
7 the contract fully protects both the Company and ratepayers from harm  
8 because the Company can avoid the CSA’s liquidated damages in the event  
9 that environmental regulation forces a full or partial closure of the power  
10 generating plants supplied by the CSA.

11 **Q. What is your conclusion regarding the overall favorability of the CSA?**

12 A. In summary, the price terms of the CSA appear favorable to the Company  
13 based on comparison to coal price projections of the EIA and the Company’s  
14 estimate of future coal costs delivered from the Deer Creek mine. However, the  
15 “take or pay” nature of the CSA represents a potential risk to ratepayers.

16 **Q. Do you have any recommendation with respect to the exit clause?**

17 A. Yes. PacifiCorp should bear the risk should the plants be deemed uneconomic  
18 and yet the Company is still in a take or pay situation with respect to coal  
19 purchases. That is, PacifiCorp should bear the risk and potential loss  
20 associated with any continuing take or pay obligation in the circumstance that  
21 the plants are found to be uneconomic and are shut-down or converted.

22

## 2. Sale of Mining Assets

1 **Q. Which components make up the Mining Assets to be transferred to Bowie**  
2 **under this Transaction?**

3 A. According to the Company's filing,<sup>8</sup> the Mining Assets consist of: (1) the  
4 Preparation Plant and related assets; (2) the Central Warehouse and  
5 associated "remainder" assets (such as equipment, tools, etc.); and, (3) the  
6 Trail Mountain mine.

7 **Q. What is the Company's stated value for these assets?**

8 A. The Company estimates the unrecovered investment in the Preparation Plant  
9 is \$20 million on a total-company basis, or \$4.9 million on an Oregon-allocated  
10 basis. The unrecovered investment in Trail Mountain is \$0.7 million, and is  
11 situs assigned to Utah. The unrecovered investment in the Central Warehouse  
12 and associated assets is about \$300,000 Company-wide, or about \$100,000  
13 on an Oregon-allocated basis. The overall unrecovered investment is about  
14 \$21 million on a total-company basis, or about \$5 million on an Oregon-  
15 allocated basis.

16 **Q. What payment is the Company receiving from Bowie for the assets?**

17 A. The Company will receive [REDACTED] from Bowie for these assets,  
18 representing a [REDACTED] loss on a total Company basis.

19 **Q. Why is the Company willing to accept this loss?**

20 A. The Company maintains that the sale of the Mining Assets is only one part of  
21 the overall transaction. Although the Company realizes a loss on the transfer of  
22 the Mining Assets, this loss is compensated for by the value of the avoided

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<sup>8</sup> UM 1712 PacifiCorp Initial Application for Approval , p. 9



1 liability and other aspects of the transaction. Further, the Company contends  
2 that the benefits gained by ratepayers from the other elements of the  
3 transaction are dependent, in part, on the successful sale of the Mining Assets.

4 **Q. What is the Company's proposed regulatory treatment of this loss?**

5 A. The Company proposes to add the amount of this loss to the regulatory asset  
6 created for tracking mine closure costs and to recover all of the costs by the  
7 end of 2016 when mine closure activities are complete.

8 **Q. In your opinion, should the Commission find the sale of Mining Assets in  
9 the public interest?**

10 A. Yes, but only as a constituent part of the overall transaction. Upon the  
11 Company's decision to close the mine, the Mining assets are no longer useful  
12 in serving the Company or its ratepayers. The loss realized on this sale is  
13 offset by the benefits to ratepayers realized from the release from other  
14 liabilities associated with the transaction.

15 **Q. What do you recommend for regulatory treatment of the loss associated  
16 with the sale?**

17 A. The regulatory treatment for the loss is addressed by Staff witness Linnea  
18 Wittekind.

19 **Q. Please summarize your position on the sale of Mining Assets under this  
20 transaction.**

21 A. As an integral component of the overall transaction, the sale of the Mining  
22 Assets is in the public interest.

23 **Q. Does this conclude your testimony?**

1 A. Yes.

CASE: UM 1712  
WITNESS: JOHN CRIDER

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 301**

**Witness Qualification Statement**

**March 5, 2015**

WITNESS QUALIFICATION STATEMENT

NAME: JOHN CRIDER

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR UTILITY ANALYST, ELECTRIC RESOURCES AND  
PLANNING

ADDRESS: 3930 FAIRVIEW INDUSTRIAL DR. SE, SALEM, OR 97302

EDUCATION: BACHELOR OF SCIENCE, ENGINEERING, UNIVERSITY OF  
MARYLAND

EXPERIENCE: I have been employed at the Oregon Public Utility Commission (Commission) since August of 2012. My current responsibilities include analysis and technical support for electric power cost recovery proceedings, with an emphasis on variable power costs and purchases from qualifying facilities. Prior to working for the OPUC I was an engineer in the Strategic Planning division for Gainesville Regional Utilities (GRU) in Gainesville, Florida. My responsibilities at GRU included analysis, design and support for generation economic dispatch modeling, wholesale power transactions, net metering, integrated resource planning, distributed solar generation and fuel (coal and natural gas) planning. Previous to working for GRU, I was a staff design engineer for Eugene Water & Electric Board (EWEB) where my responsibilities included design of control and communications system in support of water and hydro operations.

I am a registered professional engineer in both Oregon and Florida.

CASE: UM 1712  
WITNESS: JOHN CRIDER

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 302**

**Exhibits in Support  
Of Opening Testimony**

**March 5, 2015**

**OPUC Data Request 8**

In reference to page 10 of the original filing, please list the “amended items” of the Hunter Coal Service Agreement (CSA) which originated in 2012.

**Response to OPUC Data Request 8**

The Hunter Coal Supply Agreement was amended to change the location for weighing and sampling coal from the Sufco Mine to the preparation plant and to change the annual coal nomination date from August to June.

### **OPUC Data Request 9**

Witness Crane (Crane/19) alludes to a decline in the “quality and volume of coal from the Deer Creek Mine” sometime after June of 2010. Please provide **monthly measured values** of ash content, sulfur content and quantity of coal mined in tons from the Deer Creek Mine for the years 2009 through 2014.

### **Response to OPUC Data Request 9**

Please refer to Attachment OPUC 9 for the Deer Creek Mine quality data for the period requested. Please refer to slides 8 through 10 in the Utah Mine Technical Conference Oregon presentation provided in response to ICNU Data Request 1.23 in this proceeding. These slides show the challenging mining conditions encountered in the areas of the mine which include high ash and high sulfur bands, high depth of cover increasing roof stress, and dikes areas (soft rock or hard rock) in the coal seam. The Company worked to minimize variations in production quality by shortening longwall panels, sequencing mining around known pockets of quality, and following geotechnical guidelines when in high depth of cover areas of the mine.

**OPUC Data Response 9**

**Deer Creek Mine Quality  
Shipped to Huntington Plant**

Month	Tons	Moist. %	Ash %	Btu/lb	Sulfur %
Jan-09	384,345	9.26	10.85	11,753	0.48
Feb-09	269,022	9.08	9.08	12,044	0.46
Mar-09	387,887	9.29	9.94	11,918	0.44
Apr-09	223,013	9.07	9.75	11,971	0.38
May-09	276,922	9.20	7.23	12,371	0.38
Jun-09	365,337	9.31	7.35	12,342	0.43
Jul-09	195,502	8.63	8.47	12,242	0.48
Aug-09	391,007	8.87	6.74	12,504	0.48
Sep-09	333,592	9.48	10.82	11,701	0.54
Oct-09	334,651	8.47	9.22	12,163	0.45
Nov-09	356,254	9.02	7.67	12,357	0.44
Dec-09	308,191	9.32	9.52	11,985	0.48
Jan-10	313,006	7.62	9.84	12,184	0.54
Feb-10	297,676	9.08	10.91	11,750	0.44
Mar-10	440,080	9.04	9.65	12,014	0.45
Apr-10	338,746	9.58	10.68	11,769	0.48
May-10	417,384	9.22	8.63	12,134	0.50
Jun-10	430,687	8.67	10.71	11,908	0.57
Jul-10	82,173	10.19	10.79	11,630	0.47
Aug-10	58,658	11.77	14.20	10,806	0.48
Sep-10	76,483	9.70	18.52	10,375	0.46
Oct-10	116,717	9.38	20.37	10,144	0.52
Nov-10	59,710	9.61	17.30	10,600	0.47
Dec-10	320,781	8.28	13.28	11,540	0.62
Jan-11	220,583	8.57	26.35	9,425	1.63
Feb-11	208,408	9.48	16.61	10,761	0.70
Mar-11	235,897	9.10	13.31	11,347	0.53
Apr-11	145,983	9.28	11.53	11,600	0.49
May-11	280,495	9.17	11.15	11,690	0.44
Jun-11	298,131	8.76	8.94	12,102	0.42
Jul-11	273,733	8.63	9.10	12,114	0.41
Aug-11	284,954	8.97	11.09	11,740	0.49
Sep-11	118,681	8.68	11.98	11,652	0.56
Oct-11	386,205	9.09	9.97	11,902	0.45
Nov-11	353,167	7.38	10.81	12,030	0.55
Dec-11	336,465	7.39	11.53	11,897	0.39
Jan-12	245,483	8.31	10.66	11,897	0.39
Feb-12	251,491	8.28	18.08	10,795	0.85
Mar-12	309,746	7.91	26.38	9,524	1.59
Apr-12	280,871	8.05	18.32	10,789	0.59



**OPUC Data Response 9**

**Deer Creek Mine Quality  
 Shipped to Huntington Plant**

Month	Tons	Moist. %	Ash %	Btu/lb	Sulfur %
May-12	377,433	8.10	14.41	11,361	0.59
Jun-12	179,788	8.29	14.71	11,295	0.60
Jul-12	203,740	7.86	15.03	11,275	0.53
Aug-12	337,570	8.56	13.69	11,388	0.55
Sep-12	201,670	7.84	15.38	11,204	0.52
Oct-12	360,845	7.96	9.04	12,195	0.47
Nov-12	328,363	8.23	8.57	12,278	0.53
Dec-12	222,735	8.58	9.77	12,005	0.57
Jan-13	339,557	9.72	9.08	11,908	0.47
Feb-13	134,105	8.86	12.85	11,437	0.46
Mar-13	230,530	8.33	9.20	12,066	0.45
Apr-13	285,615	8.47	10.61	11,888	0.52
May-13	307,014	8.75	10.01	11,908	0.46
Jun-13	168,858	8.85	11.31	11,640	0.41
Jul-13	315,410	7.98	9.81	12,129	0.62
Aug-13	245,091	8.47	15.18	11,173	1.12
Sep-13	207,170	8.56	24.05	9,756	1.49
Oct-13	194,367	8.29	24.01	9,807	1.16
Nov-13	141,072	8.97	15.18	11,159	0.81
Dec-13	223,640	8.58	11.30	11,867	0.64
Jan-14	164,212	9.27	15.65	11,055	0.48
Feb-14	253,383	8.13	10.33	12,040	0.50
Mar-14	116,358	8.33	10.34	11,869	0.44
Apr-14	188,805	9.03	10.34	11,802	0.51
May-14	157,222	9.05	10.32	11,810	0.49
Jun-14	193,745	8.62	9.84	11,978	0.46
Jul-14	248,200	8.47	9.87	11,924	0.40
Aug-14	91,674	8.59	10.90	11,679	0.37
Sep-14	166,704	8.29	8.93	12,162	0.51
Oct-14	292,170	8.15	9.83	12,069	0.68
Nov-14	105,117	8.24	11.02	11,891	0.60
Dec-14	105,972	8.26	10.82	11,942	0.68