

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: November 5, 2019**

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE November 6, 2019

**DATE:** October 30, 2019

**TO:** Public Utility Commission

**FROM:** Sabrinna Soldavini **SIGNED**

**THROUGH:** Jason Eisdorfer and Marianne Gardner

**SUBJECT:** PACIFIC POWER:  
(Docket No. ADV 1027/Advice No. 19-012)  
Cancels Schedule 199, Klamath Dam Removal Surcharges.  
Effective date: November 6, 2019

**STAFF RECOMMENDATION:**

Staff recommends the Oregon Public Utility Commission (Commission) approve Pacific Power's (PacifiCorp or Company) Advice No. 19-012 canceling Schedule 199, Klamath Dam Removal Surcharges, effective for service on and after November 6, 2019, on less than statutory notice.

**DISCUSSION:**

Issue

Whether the Commission should approve PacifiCorp's request to cancel its Schedule 199, Klamath Dam Removal Surcharges, on less than statutory notice (LSN).

Applicable Law

The Commission must require PacifiCorp to collect monies from customers to pay for Oregon's share of the customer contribution towards the costs for removal of the Klamath River dams as set forth in ORS 757.736. Under this statute, PacifiCorp was directed to file tariffs for the collection of two non-bypassable surcharges of a specified amount per kilowatt hour billed to its retail customers for the purpose of paying the costs of removing four Klamath River dams. One surcharge is for the cost of removing the J.C. Boyle Dam, and the other surcharge is for the costs of removing the Copco 1 and 2 Dams and the Iron Gate Dam. The surcharges may not exceed the amounts necessary

to fund Oregon's share of the customer contribution of \$200 million (calculated as \$184 million).<sup>1</sup>

Per ORS 757.736(7), to the extent practicable, the Commission sets the surcharges so that total annual collections remain approximately the same during the collection period, account for changes in energy usage and account for changes in interest rates on the collected funds over the collection period. The amount of the surcharges is calculated based on a schedule that will fund Oregon's share of the customer contribution by December 31, 2019.

At any time, if the Commission determines that surcharge collections exceed those needed or allowed, the Commission must direct the trust account trustee to refund excess amounts to customers, to otherwise use the amounts to benefit customers, or to adjust future surcharge amounts.<sup>2</sup> If one or more of the Klamath Dams will not be removed, ORS 757.736(10) specifies the actions the Commission must take for distribution of the collection fund.

ORS 757.205(1) states that a public utility must file schedules showing all rates, tolls, and charges for service that have been established and are in force at the time.

OAR 860-022-0025 requires that new tariff filings include statements showing the new rates, the number of customers affected, the impact on annual revenue, and the reasons supporting the proposed tariff. Filings that make any change in rates, tolls, charges, rules or regulations must be filed with the Commission at least 30 days before the effective date of the changes. ORS 757.220. The Commission may approve tariff changes on less than 30 days' notice for good cause shown. *Id.*

The Commission reviews tariffs filed under ORS 757.205 and 757.210 to determine whether they are fair, just and reasonable.

## Analysis

### *Background*

The initial Klamath Agreement in Principle (KAP) was signed November 13, 2008, by the states of Oregon and California, the United States, and by PacifiCorp. The KAP was followed by the Klamath Hydroelectric Settlement Agreement (KHSA), which was

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<sup>1</sup> Section 4.1.1(D) of the Amended KHSA states, "PacifiCorp shall request that the Oregon PUC establish a surcharge so that the amount collected under the Oregon Klamath Surcharges is 92% (a maximum of approximately \$184,000,000) of the total Customer Contribution..."

<sup>2</sup> ORS 757.736(9).

effective on February 18, 2010. The agreement set in place a process for the ultimate removal of four dams<sup>3</sup> on the Klamath River (hereinafter Klamath Dams).

In response to the KAP, the 2009 Oregon Legislature passed Senate Bill 76 (SB 76),<sup>4</sup> which prescribes various actions, with specific timeframes, that must be taken by PacifiCorp and the Commission to implement the final agreement. The Oregon Legislature subsequently passed House Bill 3461 that enabled the Commission to direct the Klamath Dam removal funds to the Oregon State Treasury (OST) for the potential of earning higher rates of interest.<sup>5</sup>

The KHSA was amended (Amended KHSA) on April 6, 2016, and November 30, 2016. The Amended KHSA contemplates that dam removal will be conducted by a private dam removal entity – the Klamath River Renewal Corporation (KRRC). The Amended KHSA retains the same funding mechanisms set out in the original settlement. Specifically, Section 2.2, of the Amended KHSA provides that each party shall support implementation of SB 76. In the Amended KHSA, the parties acknowledge that customer surcharges will be placed in interest bearing accounts and the interest that accrues may be used to reduce the total customer contribution.

The Klamath dam removal surcharges have been set as follows. On March 18, 2010, PacifiCorp filed Schedule 199, Klamath Dam Removal Surcharges, as required by SB 76, along with the workpapers necessary for Staff to perform an analysis of whether the surcharge rates comply with the applicable statutes.<sup>6</sup> As also required, the tariff rates went into effect on the day they were filed, as the tariff was filed subsequent to January 1, 2010.

The surcharges resulted in an overall increase in rates of 1.7 percent, based on the annual revenue requirement and given the rates in effect as of January 1, 2010. The 1.7 percent is less than the two percent cap specified in section ORS 757.736(3). In any year, the surcharges collected cannot exceed \$19.06 million.<sup>7</sup> This value is two percent of PacifiCorp's revenue requirement as determined by the Commission in the most recent case concluded prior to January 1, 2010.<sup>8</sup>

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<sup>3</sup> Specifically, the dams are known as J.C. Boyle, Copco No. 1 and No. 2, and Iron Gate.

<sup>4</sup> Codified as ORS 757.732 – 757.744.

<sup>5</sup> Codified as ORS 757.738(1)(c).

<sup>6</sup> ORS 757.736(7) requires that the amount of each surcharge shall be calculated based on a collection schedule that will fund, by December 31, 2019, Oregon's share of the \$200 million customer contribution identified in the KAP. Oregon's share is \$184 million including interest.

<sup>7</sup> \$19,061,680 is the maximum annual surcharge that may be collected under ORS 757.736(3).

<sup>8</sup> ORS 757.736(3).

At the May 8, 2012, public meeting, the Commission adopted the Staff recommendation not to raise the surcharges in 2012, and directed \$30 million of the surcharge fund monies to be deposited in the OST's Oregon Intermediate Term Pool (OITP). The transfer of funds to the OITP took place in September 2012

On May 21, 2013, the Commission adopted the Staff recommendation to raise the surcharges in 2013, consistent with Advice Filing No. 13-010. With an Oregon State Treasury short-term fund (OSTF) interest rate of 0.57 percent and an OITP of 2.5 percent, the proposed change increased the annual surcharge by \$1.7 million.

On June 10, 2014, the Commission, in Order No. 14-211, adopted the Staff recommendation not to raise the surcharges in 2014. At the June 23, 2015, public meeting, the Commission again adopted the Staff recommendation not to raise the surcharges in 2015, as stated in Order No. 15-201.

At the June 7, 2016, Regular Public Meeting, the Commission adopted the Staff recommendation to raise the surcharges to its maximum level authorized by law. The Commission issued Order No. 16-218, approving the PacifiCorp advice filing 16-08, for rates effective July 1, 2016.

At the June 13, 2017, Regular Public Meeting, the Commission adopted the Staff recommendation to maintain the surcharge with no change. The Commission issued Order No. 17-217, adopting Staff's recommendation.

At the July 3, 2018, Regular Public Meeting, the Commission adopted the Staff recommendation to decrease the surcharge to comply with the 2 percent cap. The Commission issued Order No. 18-257, adopting Staff's recommendation.

At the June 18, 2019, Regular Public Meeting, the Commission adopted the Staff recommendation to maintain the surcharge with no change. The Commission issued Order No. 19-212, adopting Staff's recommendation. In Staff's memo, it noted that based on forecasted usage rates, PacifiCorp would likely need to file no later than 30 days before December 31, 2019 to cancel Schedule 199.<sup>9</sup>

#### *Current Review of Surcharge Rate Levels*

Based on the Treasury interest rate statements provided by Staff, the Company evaluated the Schedule 199 surcharge rates. The Company consulted with Staff on October 25, 2019 regarding the forecasted level of collections, and subsequently filed its application to cancel Schedule 199 on October 28, 2019.

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<sup>9</sup> UE 219, Staff report for June 18, 2019 public meeting.

Based on Staff's review, and consultation with the Company, it is estimated that the target amount of \$184 million will be fully collected from customers by November 5. Staff cautions that the projection is based on forecast collections and various interest rates, so while the exact amount that will be collected is not known, Staff finds that the full amount to be collected from Oregon ratepayers, \$184 million, should be collected by November 5, 2019. Based on Staff's review, the estimated total collections as of November 5, 2019 will be \$184,037,109. This is comprised of approximately \$173.2 million of customer collections and \$10.86 million of interest.

As Staff cited above, the Amended KHSA states that Oregon's share of the \$200 million customer collection is \$184 million, and acknowledges that the customer collections would be placed in interest bearing accounts, and any interest that accrues on said accounts may be used to reduce the customer contribution.

Staff additionally notes that in this instance, approval of the application on LSN will save customers an estimated \$1.3 million in Schedule 199 collections versus cancelling the tariff effective for service on or after December 1, 2019.<sup>10</sup>

#### *Effects of Filing*

PacifiCorp's proposed cancellation will affect approximately 614,000 customers, and a typical residential customer using 900 kilowatt-hours per month will see a monthly bill decrease of \$1.35. The proposed change will result in an overall rate decrease of 1.5 percent, or approximately \$19.0 million dollars.

Staff notes that the cancellation of Schedule 199 will also lead to housekeeping changes to Schedule 90, Schedule 293, and the Company's Tariff Index, which will no longer include reference to Schedule 199.

#### Conclusion

Staff finds that the approval of the Company's application leads to rates that are fair, just and reasonable. Staff recommends the Commission approve PacifiCorp's application on less than statutory notice.

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<sup>10</sup> Total forecast Schedule 199 collections for the entire month of November are estimated at \$1,616,609. Collections for November 1-5, 2019 are estimated at \$269,435.

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**PROPOSED COMMISSION MOTION:**

Approve PacifiCorp's Advice No. 19-012 canceling Schedule 199, Klamath Dam Removal Surcharges, effective for service on and after November 6, 2019, on less than statutory notice.

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