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November 22, 2021

***VIA ELECTRONIC FILING***

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

**RE: UM 2201— PacifiCorp's Answer to the Alliance of Western Energy Consumers' Application for Deferred Accounting**

PacifiCorp d/b/a Pacific Power submits for filing with the Public Utility Commission of Oregon (Commission) its answer to the Alliance of Western Energy Consumers' Application for an Accounting Order Requiring PacifiCorp to Defer Fly-Ash Sales.

Informal inquiries regarding this filing may be directed to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,

Shelley McCoy  
Director, Regulation

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2201**

In the Matter of

ALLIANCE OF WESTERN ENERGY  
CONSUMERS,

Application for an Accounting Order Requiring  
PacifiCorp to Defer Fly Ash Revenues.

**PACIFICORP’S ANSWER TO  
AWEC’S APPLICATION FOR  
DEFERRED ACCOUNTING**

**I. INTRODUCTION**

In accordance with OAR 860-001-0400, PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) provides this response to the Alliance of Western Energy Consumers’ (AWEC) application for an accounting order to require PacifiCorp to defer fly-ash revenues.

PacifiCorp requests the Public Utility Commission of Oregon (Commission) deny AWEC’s application for failing to comply with the standards that have been set by the Commission for an application for the deferral of certain revenues.

**II. BACKGROUND**

Fly-ash is the finely divided residue that results from the combustion of pulverized coal by coal-fired electric and steam generating plants and is used in a variety of construction applications. PacifiCorp’s coal-fired plants produce fly-ash, which is then sold through various contracts for use in those engineering applications. Fly-ash sales are reflected in PacifiCorp’s base rates through FERC account 456. Approximately \$4.25 million in fly-ash sales was included in PacifiCorp’s last general rate case. In the 2022 Transition Adjustment Mechanism (TAM) proceeding (docket UE 390), AWEC sought to include an adjustment for forecasted 2022 fly-ash revenues in PacifiCorp’s rates through that mechanism. In response, the Commission found that “[i]dentifying a single cost or revenue that varies from base rates,

without updating base rates as a whole or adjusting for other variations could result in TAM updates that are not equal, with an imbalance between the cost items that favor PacifiCorp with revenue items that favor customers.”<sup>1</sup> The Commission went on to recommend that the Staff of the Commission could seek a deferral that the Commission would “review under our normal approach to deferrals.”<sup>2</sup> Based on the Commission’s order in this proceeding, AWEC has determined it was appropriate to unilaterally file a deferral for PacifiCorp’s fly-ash revenues.

### III. PACIFICORP’S ANSWER

PacifiCorp requests that the Commission deny AWEC’s Application. As the applicant, AWEC has not established a prima facie case for the use of deferred accounting, and has failed to satisfy the Commission’s standards for a deferral or explain why deviation from the normal approach is warranted.

The burden of persuasion for the approval of a deferral rests with the applicant.<sup>3</sup> Furthermore, absent another specific statute allowing for cost recovery, the Commission has identified that their review process for deferrals occurs in two steps. First, the Commission “consider[s] the type of event that caused the request for deferral and the magnitude of that event’s effect on the utility.”<sup>4</sup> Next, the Commission determines whether the deferral is legally authorized under ORS 757.259.<sup>5</sup> AWEC has not only failed to provide any evidence

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<sup>1</sup> *In the Matter of PacifiCorp d/b/a Pacific Power, 2022 Transition Adjustment*, Docket No. UE 390, Order No. 21-379 at 36 (Nov. 1, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> *In the Matter of PacifiCorp d/b/a Pacific Power, Application for Approval of Deferred Accounting and Accounting Order Related to Non-Contributory Defined Benefit Pension Plans*, Docket No. UM 1992, Order No. 20-004 at 6 (Jan. 8, 2020).

<sup>4</sup> *In the Matter of Portland General Electric Company, Application for the Deferral of Storm-Related Restoration Costs*, Docket No. UM 1817, Order No. 19-274 at 2 (Aug. 19, 2019).

<sup>5</sup> *Id.*

to meet its burden of persuasion, but its request also does not meet either part of the two-step test identified by the Commission.

**1. AWEC has provided no evidence to meet its burden of persuasion.**

Commission precedent has consistently stated that the burden of persuasion for a deferral is on the applicant.<sup>6</sup> Yet, AWEC simply makes unsubstantiated statements that its application meets the standard without providing any additional support. AWEC’s application cites to Commission precedent, and states that deferral is appropriate because “[t]here will be a material financial impact on PacifiCorp’s earnings due to the magnitude of the deferred amounts.”<sup>7</sup> However, AWEC has not provided any evidence to show that the financial effect on the Company is material. Additionally, AWEC states that deferral is appropriate under ORS 757.259(2)(e) to “match appropriately the costs borne by and the benefits received by ratepayers.”<sup>8</sup> Yet AWEC does not identify the costs and benefits that are being matched. AWEC has not met its burden of persuasion in this proceeding and its application should be denied on those grounds alone.

**2. AWEC’s Application does not meet the standard set by the Commission for a substantial or material financial impact.**

The Commission has set two standards for assessing the magnitude of the event underlying the deferral request.<sup>9</sup> If the event is foreseeable without extenuating circumstances, it is a stochastic event, and the magnitude must be substantial.<sup>10</sup> If the event was neither modeled nor foreseen, or if there are extenuating circumstances that were not

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<sup>6</sup> Order No. 20-004 at 6 (citing *In the Matter of Public Utility Commission of Oregon Staff Request to Open an Investigation Related to Deferred Accounting*, Docket No. UM 1147, Order No. 05-1070 at 5 (Oct 5, 2005)).

<sup>7</sup> AWEC Application at 4 (Nov. 2, 2021).

<sup>8</sup> *Id.* (citing ORS 757.259(2)(e)).

<sup>9</sup> Order No. 20-004 at 6.

<sup>10</sup> *Id.*

foreseeable (a “scenario event”), then the magnitude must be material.<sup>11</sup> With the facts as identified by AWEC, it is foreseeable that PacifiCorp would see changes in fly-ash revenue based on variations in the market for fly-ash. This should be considered a stochastic event, and the impact identified by AWEC should be substantial. However, as stated above, AWEC has failed to provide any evidence that the impact is either substantial or material beyond simply stating that the impact is “material.”<sup>12</sup> As a result, AWEC’s application simply does not meet the Commission’s established standard for deferrals, and should be denied.<sup>13</sup>

**3. AWEC has not met the statutory requirement for a deferral under ORS 757.259.**

In its application, AWEC states that deferral is appropriate in order to “match appropriately the costs borne by and the benefits received by ratepayers.”<sup>14</sup> As stated above, AWEC provided no evidence or any argument to support this statement. In fact, AWEC is cherry-picking a single adjustment when there are likely many countervailing costs that should be examined as well. As described in PacifiCorp’s 2021 TAM testimony:

Just like many other elements in base rates, fly-ash production (but not necessarily fly-ash sales) may fluctuate based on how often our plants generate. However, there are other elements like chemical costs that fluctuate based on generation that still remain in base rates. Identifying a single variable to pull out of base rates to include in the TAM, when it has not traditionally been included in the past solely because it will reduce NPC is not appropriate.<sup>15</sup>

While PacifiCorp was referring to why it was inappropriate to include fly-ash sales in net power costs, the same reasoning applies to why it is now inappropriate to include those

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<sup>11</sup> Order No. 20-004 at 7.

<sup>12</sup> AWEC Application at 4.

<sup>13</sup> PacifiCorp does note that certain deferrals, especially where there is a statutory authorization for cost recovery, would be subject to different standards.

<sup>14</sup> AWEC Application at 4.

<sup>15</sup> *In the Matter of PacifiCorp d/b/a Pacific Power, 2022 Transition Adjustment*, Docket No. UE 390, PAC/1000, Staples/55 (Aug. 13, 2021).

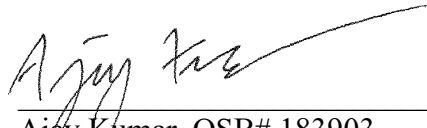
revenues in a deferral. AWEC is simply isolating a revenue element in base rates that is of benefit to its clients, and attempting to recover that revenue element through a deferral.

#### IV. CONCLUSION

AWEC's application for deferral provides no evidence to support its assertions and does not meet the Commission's standards for deferral. For all these reasons, PacifiCorp requests that the Commission reject AWEC's application.

Respectfully submitted this 22<sup>nd</sup> day of November, 2021.

By:



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