

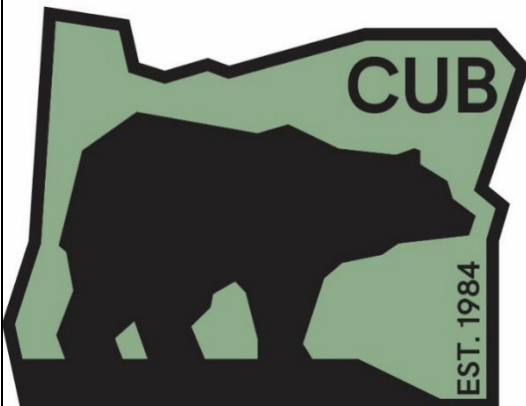
**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 420**

In the Matter of )  
 )  
PACIFICORP, dba PACIFIC POWER, )  
 )  
2024 Transition Adjustment Mechanism. )  
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**REBUTTAL TESTIMONY  
OF THE  
OREGON CITIZENS' UTILITY BOARD**

August 16, 2023



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**I. INTRODUCTION**

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

2 A. My name is Bob Jenks. I am the Executive Director of the Oregon Citizens' Utility  
3 Board (CUB). My business address is 610 SW Broadway, Ste. 400 Portland,  
4 Oregon 97205.

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

6 A. My witness qualification statement is found in exhibit CUB/101.

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

8 A. I respond to PacifiCorp's (PAC or the Company) Reply Testimony related to two  
9 issues addressed in CUB's Opening Testimony:

- 10 • Rate shock. CUB raised concerns that the increase from this proceeding,  
11 when combined with increases from other proceedings, will create a rate  
12 shock for customers in the middle of the winter heating season. To  
13 mitigate the potential impacts of this substantial rate change, CUB

1 proposed some modest actions that fall within the Public Utility  
2 Commission of Oregon's (Commission) authority to address rate shock.  
3 • Ozone Transport Rule. CUB raised concerns about the Ozone Transport  
4 Rule's (OTR) application to Wyoming and its impact on the Company's  
5 dispatch of its coal facilities.

6 In this testimony, CUB will address PacifiCorp's reply to these two issues.

7 **II. RESPONSE TO PACIFICORP REPLY TESTIMONY**

8 **A. Rate Shock**

9 **Q. CUB's first issue was rate shock. How did the Company respond to CUB's**  
10 **recommendations?**

11 **A.** While expressing some sympathy for the impact of higher rates on its customers,  
12 the Company completely dismissed CUB's concerns. Essentially their response  
13 was that CUB's recommendations were outside the scope of the Transition  
14 Adjustment Mechanism (TAM) and that the Commission should not disallow  
15 recovery of prudently incurred costs to mitigate rate shock. To be clear, CUB  
16 never proposed a disallowance of prudently incurred costs. CUB's proposal  
17 respectfully urges the Commission to use tools within the scope of its broad  
18 authority to seek to minimize January 1 rate impacts, of which the TAM is a  
19 significant driver. Therefore, consideration of CUB's proposal in this proceeding  
20 makes sense.

21

22 The Company argues that providing the Commission more accurate projections of  
23 the rate impact of the Commission's decision in this case "is unnecessary and

1 administratively unmanageable.”<sup>1</sup> The Company argues that that adjusting the  
2 recovery of other single-issue ratemaking tariffs to keep the rate impact under 15%  
3 is beyond the scope of this proceeding. To PAC, this would create inefficient price  
4 signals to customers that undermines the potential value of conservation measures.<sup>2</sup>  
5 The Company cites to a 2001 Commission order that states rate shock can be  
6 considered in the context of setting rate spread and rate design, but not in the  
7 determination of revenue requirement.<sup>3</sup> Despite the fact that this was a live issue in  
8 PAC’s 2022 general rate case, the Company fails to note that the Commission has  
9 largely repudiated this 2001 view of rate shock.

10 **Q. What is CUB’s understanding on the Commission’s approach to rate shock?**

11 **A.** As discussed in CUB’s Opening Testimony, rate shock occurs when a rate increase  
12 is large enough that customers have difficulty absorbing it into their budget. This  
13 issue is especially pressing for customers who live paycheck to paycheck, are faced  
14 with a significantly higher electric bill, and therefore must adjust other, sometimes  
15 essential, costs. The Company is correct that the 2001 Commission rejected  
16 specific proposals to address rate shock.<sup>4</sup> This was done in spite of significant  
17 increases in rates related to the Western Energy Crisis. After the 2001 order that  
18 the Company relies on, CUB and ICNU<sup>5</sup> then went to the 2003 Oregon legislature  
19 and proposed legislation that would have given the Commission greater authority to  
20 address rate shock. The Commission, which by then had three new

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<sup>1</sup> UE 420 – PAC/400/ Mitchell/121.

<sup>2</sup> UE 420 – PAC/700/ McVee/3 and 6.

<sup>3</sup> UE 420 – PAC/700/McVee/4.

<sup>4</sup> The Chair of the Commission at that time also referred to customers who could not pay their bills as “deadbeats.” The Commission has come a long way since its antiquated 2001 view of rate shock.

<sup>5</sup> ICNU is now known as AWEC.

1 Commissioners, testified to the Legislature that the Commission had *existing* tools  
2 to address rate shock and it was the Commission’s practice to utilize those tools.

3 Specifically, three tools were identified:<sup>6</sup>

- 4 1. deferring or phasing-in the rate increase-with or without carrying charges,
- 5 2. setting the rate at a level that is not lower than the lowest reasonable rate, and
- 6 3. requiring the utility to propose and implement other rate mitigation measures.

7  
8 CUB discussed these tools and how they could be applied in PacifiCorp’s last  
9 general rate case,<sup>7</sup> but today the Company ignores that these tools even exist.

10 **Q. How does CUB respond to the Company’s claim that providing the**  
11 **Commission more accurate information about the rate increase in the TAM is**  
12 **“unnecessary and administratively unmanageable?”<sup>8</sup>**

13 **A.** Given the size of the increase that PAC’s customers were exposed to last year,  
14 CUB disputes that its recommendation is unnecessary. First, it is important to  
15 recognize why CUB made that recommendation. The rate change in January  
16 associated with this case is unknown when the Commission makes its decision. It  
17 will be based on fuel and market prices that will be updated after the decision. Last  
18 year, the size of the TAM increase doubled after the Commission “final” order in  
19 the docket.<sup>9</sup> The Commission cannot apply any tools to mitigate rate shock if it  
20 does not know the impact of the rate decisions it is being asked to make. This issue  
21 is therefore appropriate to address in this proceeding and is within the scope of the  
22 TAM. To address this problem, CUB did not suggest that the rate increase should  
23 be limited to what is contained in the Commission’s final Order, but rather

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<sup>6</sup> UE 399 – CUB/302.

<sup>7</sup> UE 399 – CUB/300/Jenks/4-11.

<sup>8</sup> UE 420 – PAC/400/Mitchell/121.

<sup>9</sup> UE 420 – CUB/100/Jenks/5.

1 suggested that the Commission should consider issuing a bench request to get an  
2 updated forecast of the rate impacts, based on a more recent forward price curve.  
3 Currently, the information that the Commission will base its decision on is stale  
4 because it is several months old. While the current information is still subject to an  
5 additional update, because the Commission would have better information, it is  
6 significantly less likely that the rate hike will double after the Commission order.

7  
8 Second, while CUB recognizes that it does take some effort by the Company to  
9 update its filing with more accurate information, it is absurd that there is a  
10 November update for the expressed purpose of allowing customers who are  
11 considering direct access to have updated information about their rates before they  
12 decide whether to seek direct access. This is then followed by a second update  
13 after direct access selections are made. So, while there are two updates in  
14 November following the Commission decision, there are no updates for several  
15 months before the Commission makes its decision for the remaining non-direct  
16 access customers. The Commission can act in this proceeding to ensure that it has  
17 the best available information to ensure just and reasonable rates for the cost-of-  
18 service customers that fall under its oversight.

19 **Q. How do you respond to the Company's argument that adjusting single-issue**  
20 **ratemaking mechanism are beyond the scope of this docket?**

21 **A.** The argument shows one of the problems with the proliferation of single-issue  
22 ratemaking dockets. The Company seems to believe that it has been successful in  
23 carving out costs into so many different pieces that the Commission cannot engage

1 in holistic ratemaking. This cannot be true because it would mean that the  
2 Commission does not have the ability to determine the overall level of rates.  
3 Because just and reasonable rates are based on examining overall rates and not  
4 specific rate elements, PacifiCorp's position would mean that the Commission no  
5 longer has the power to set just and reasonable rates. This is clearly untrue.

6  
7 CUB believes that the Commission must have the power to set just and reasonable  
8 rates, and in Opening Testimony proposed a methodology that would allow the  
9 Commission to retain that ability even with the proliferation of single-issue  
10 ratemaking. CUB's proposal would have the Commission adjust the timing of  
11 collection of single-issue ratemaking tariffs to accommodate the rate increase  
12 associated with the TAM. Based on the tools that the Commission has articulated  
13 for addressing rate shock, CUB's approach is consistent with the first tool—to  
14 delay recovery of some costs, with or without carrying charges, to reduce the rate  
15 shock. CUB notes that the single-issue ratemaking schedules that CUB has  
16 referenced allow for carrying charges. While these schedules are not a direct part  
17 of this docket, the third tool the Commission articulated was that the Commission  
18 could order the utility to propose and implement other rate mitigation measures.  
19 CUB believes that it is within the power of the Commission in this proceeding to  
20 direct the Company to adjust its single-issue tariffs in a manner which will keep the  
21 increase to residential customers under 15%—though the adjustment of those  
22 mechanisms would not directly be contained in this proceeding. Since the  
23 Commission is tasked with ensuring rates are just and reasonable overall—and

1 since the annual rate increase in the TAM represents a significant portion of PAC's  
2 overall rates—CUB's proposal squarely falls within the bounds of this proceeding.

3 **Q. How do you respond to the argument that addressing rate shock will create**  
4 **inefficient price signals to customers that undermines the potential value of**  
5 **conservation measures?**<sup>10</sup>

6 **A.** The objective of ratesetting is to create just and reasonable rates, not to send price  
7 signals that maximize the incentive for conservation. While providing efficient  
8 price signals can be considered good policy and an element of just and reasonable  
9 rates, there is little evidence that limiting a rate increase to 15% will undermine  
10 conservation measures. Indeed, the Company has provided no evidence to further  
11 this point on the record. This is particularly true when the limitation on the  
12 increase is a temporary measure as CUB proposed and the 15% cap is on top of  
13 costs that have increased by an even greater amount this year. In addition, some of  
14 the rate schedules that could be delayed or temporarily suspended are not related to  
15 current costs, which means that they are not sending proper price signals about  
16 current utility costs. A significant driver of January's rate increase will be the  
17 PCAM which recovers costs that were incurred in the past. Adding historically  
18 incurred costs onto currently incurred costs is a method to provide cost recovery for  
19 a utility, it is not a method that is designed to provide accurate price signals.

20

21 The Company recently filed a deferral that is designed to track costs associated  
22 with liability from the Company's gross negligence and recklessness associated

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<sup>10</sup> UE 420 – PAC/700/McVee/3 and 6.



1 with wildfires. This keeps PAC’s option open to try to recover these costs from  
2 customers if the Company loses its appeal of the ruling. Needless to say,  
3 attempting to charge customers at some future point millions (or billions)  
4 associated with gross negligence and recklessness that occurred in 2020 is not  
5 designed to send proper price signals.

6 **Q. The Company says that it is unaware of a proceeding where the Commission**  
7 **took such an action as CUB has proposed here. How do you respond?**

8 **A.** The Company said that is it does not have knowledge of the Commission  
9 addressing rate shock by looking at multiple cases and summing their rate impact.<sup>11</sup>  
10 That is a surprising claim by the Company, since the Commission approved a  
11 stipulation in PacifiCorp’s last general rate case that did exactly that. It looked at  
12 the rate impact from the general rate case, combined with the TAM, PCAM and  
13 multiple deferrals and delayed the commencement of the deferral amortization of  
14 certain deferrals until April 2023, “to lessen the impact of the rate changes from  
15 this case during the winter heating season.”<sup>12</sup> Unfortunately, CUB’s support for  
16 that stipulation was based on an expectation that it would keep the residential  
17 increase below 15% and the stipulation was not successful because of the increase  
18 in TAM rates that occurred after the Commission’s final order in the TAM  
19 proceeding.

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<sup>11</sup> UE 420 – PAC/700/McVee/4.

<sup>12</sup> See UE 399, Stipulating Parties, Joint Testimony in Support of the Third Partial Stipulation.

1 In addition, last year, the Commission approved a plan to mitigate the increase on  
2 winter heating bills of residential customers of NW Natural.<sup>13</sup> This was reviewed  
3 as part of the PGA, but the focus was the overall rate level from a series of rate  
4 adjustments that were scheduled to be included in rates simultaneously with the  
5 PGA including: Schedule 193, Conservation and Weatherization Variances  
6 Deferral; Schedule 183, Superfund Site Remediation; Schedule 190, Decoupling;  
7 Schedule 195, Weather Adjustment Mechanism, Schedule 150 and 171, Climate  
8 Protection Plan Costs; and Schedule 180, TSA Directive 2 Costs.

9 **Q. What is CUB's proposal to manage rate shock in this case?**

10 **A.** There are two elements to CUB's proposal. The first involves the Commission  
11 getting better information so it knows whether it should implement tools to protect  
12 against rate shock and the second is actions that it can take to manage rate shock.

- 13 • Before its decision meeting in this case, CUB requests that the Commission  
14 issue a bench request and ask the Company to provide updated information  
15 about the rate increase associated with the TAM, as well as other  
16 proceedings/deferrals/AACs. This could include a new forecast of TAM  
17 rates associated with a updated forward prices. The Commission should ask  
18 for the information that will allow it to determine whether there is a need to  
19 mitigate the rate shock associated with rate changes that will happen  
20 January 1, 2024.
- 21 • If the Commission believes that residential rates will exceed a 15% rate  
22 increase, the Commission should direct the Company to make a proposal to

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<sup>13</sup> See UG 459, OPUC Staff Memo for October 28, 2022 Public Meeting.

1 limit the increase to no more than 15%. This can be done by suspending the  
2 collection of certain rate adjustments until May 1. There are a number of  
3 them to choose from including: Wildfire Mitigation Cost Recovery, the  
4 Power Cost Adjustment Mechanism, Transportation Electrification deferral,  
5 Cedar Springs deferral, TB Flats deferral, Cholla Unit 4, property tax  
6 deferral, and the COVID-19 deferral. CUB does not propose eliminating  
7 those collections but does recommend suspending them from January 1 to  
8 May 1 if necessary to keep the overall increase to a level below 15%.  
9 Specifically, CUB recommends that the Commission's final order adopt  
10 CUB's proposed 15% cap on winter increases and propose a set of single-  
11 issue collections that the Commission would support suspending from  
12 January 1 to May 1 if that is necessary to ensure that the rate shock cap  
13 could be implemented.

14 CUB is concerned about residential bills. As discussed in our Opening Testimony,  
15 winter heating bills are the largest bills that residential customers face. Having a  
16 large rate increase during the winter heating season, combined with the potential  
17 for a colder than normal winter, creates a real risk for residential customers. In UE  
18 399, the proposal that delayed recovery of certain deferrals was done consistently  
19 across all customer classes. In the NWN case, the adjustment in recovery was  
20 limited to the residential class. CUB believes that mitigating rate shock can be self-  
21 contained within the residential class or applied to all classes.

22 ///

23 ///

1           **B.       Ozone Transport Rule**

2           **Q. How did PacifiCorp respond to your recommendation on the OTR?**

3           **A.** The Company rejected CUB’s proposal to remove the OTR from Wyoming because  
4           it is unclear if it will apply to Wyoming in 2024. According to the Company, the  
5           EPA has until December 15, 2023 to decide whether to reject Wyoming’s State  
6           OTR and instead implement a federal OTR rule. PacifiCorp is clear that it is  
7           “uncertain whether EPA will approve or disapprove Wyoming’s state plan.”<sup>14</sup>

8  
9           From CUB’s view, the OTR is not a “known” adjustment that should be applied to  
10          Wyoming and therefore it should be left out of the 2024 forecast. It will be well  
11          after the Commission’s final order in this case when there will be certainty around  
12          the OTR’s application to Wyoming. Putting it into customer rates, just in case it  
13          happens, is not sufficient grounds to require customers pay the cost—particularly in  
14          light of the huge increase that customers are expected to receive in January.

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

16          **A.** Yes.

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<sup>14</sup> UE 420 – PacifiCorp/500/Owen/27.