



825 NE Multnomah, Suite 2000  
Portland, Oregon 97232

April 30, 2018

***VIA ELECTRONIC FILING***

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

Attn: Filing Center

**RE: UM 1925—PacifiCorp's Motion to Dismiss and Comments**

In compliance with OAR 860-001-0420 and OAR 860-027-0300(6)(d), and per the deadline extension included in Public Utility Commission of Oregon Staff's e-mail dated March 23, 2018, PacifiCorp d/b/a Pacific Power encloses for filing its Motion to Dismiss and Comments in the above-referenced docket.

Please direct any informal inquiries to me at (503) 813-6583.

Sincerely,

Natasha Siores  
Manager, Regulatory Affairs

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 1925**

In the Matter of

STAFF OF THE PUBLIC UTILITY  
COMMISSION OF OREGON,

Application to Defer Changes in PacifiCorp's  
Federal Tax Obligations Resulting from H.R.  
1- Tax Cuts and Jobs Act.

**PACIFICORP'S MOTION TO DISMISS  
AND  
COMMENTS**

In compliance with OAR 860-001-0420 and OAR 860-027-0300(6)(d), and per the deadline extension included in Public Utility Commission of Oregon Staff's e-mail dated March 23, 2018, PacifiCorp d/b/a Pacific Power provides the following Motion to Dismiss and Comments in response to Public Utility Commission of Oregon (Commission) Staff's Application to Defer Changes in PacifiCorp's Federal Tax Obligations Resulting from H.R. 1—Tax Cuts and Jobs Act (Application).

**I. BACKGROUND**

PacifiCorp filed its Application for Deferred Accounting Related to H.R. 1—Tax Cuts and Jobs Act (PacifiCorp's Application) on December 28, 2017, which was docketed as UM 1917. The next day, on December 29, 2017, Staff filed its Application.

**II. MOTION TO DISMISS**

**A. Staff's Application Should be Dismissed per Oregon Rules of Civil Procedure (ORCP) 21(A)(3) to Avoid Unnecessary Process and Waste of Resources**

PacifiCorp moves that Staff's Application should be dismissed as duplicative of the issues already being addressed in docket UM 1917. Staff has not provided any justification for why it filed its Application after a proceeding on the very same issue was initiated by PacifiCorp.

OAR 860-001-0000(1) provides that the Commission's administrative rules in conjunction with the ORCP govern all practice and procedure before the Commission. ORCP 21(A)(3) mandates dismissal of a complaint if there is another action pending between the same parties for the same cause. Staff's untimely Application has created a duplicative proceeding involving the same parties discussing the same issues, and should be dismissed if not withdrawn by Staff.

**B. There is Good Cause to Waive the Requirement in OAR 860-001-0420(3)**

To the extent necessary, good cause exists to waive the requirement under OAR 860-001-0420(3). PacifiCorp had hoped that Staff would withdraw its Application following workshops to discuss the deferrals. On March 23, 2018, Staff chose to continue to pursue its Application in parallel with PacifiCorp's Application.<sup>1</sup> Staff provided no justification for its decision.<sup>2</sup> At the same time, Staff requested that PacifiCorp submit additional information in docket UM 1917.<sup>3</sup> As a result, PacifiCorp must actively participate in two separate proceedings on the very same issue.

Waiver would not harm or prejudice any party. Staff's Application does not request any unique or novel treatment beyond what had already been requested in PacifiCorp's Application. Both applications request approval to defer amounts related to excess deferred income tax

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<sup>1</sup> Exhibit A (Attached) – March 23, 2018 Staff Email to Utilities.

<sup>2</sup> *Id.* ("Staff's deferral applications: some utilities raised a question as to whether Staff would withdraw its deferral applications in light of the utility filed applications. Following additional internal discussion, Staff has determined that it will not withdraw its applications until the Commission has made a final determination on the utility filed deferral applications. Staff's application set a date for comments of January 31, 2018, which Staff then amended to March 30, 2018. In light of the impending deadline, yesterday Staff filed a letter extending the date for comments until April 30, but will not file a letter to extend comments beyond that time. If a party wishes to file comments, it should plan to do so by that date; however, any interested person retains the ability (whether comments have been filed or not) to address Staff's deferral at the public meeting or other Commission process at which the Commission considers Staff's filing.").

<sup>3</sup> *Id.* ("Staff requests that each utility supplement its deferral application, no later than April 15, 2018, with the utility's calculation of estimated deferral amounts for 2018 (based on a 2018 proxy year). Staff further requests that the applications be supplemented quarterly thereafter.").

liability in FERC<sup>4</sup> Account 254. Both applications state that an estimate of the total expected benefit was not available at the time of filing, and Staff has not yet supplemented its Application to provide an estimate of amounts to be deferred. Dismissing the Application will not harm customers because PacifiCorp's Application predates Staff's Application. Furthermore, the only other intervening party is this docket, the Alliance of Western Energy Consumers, has also intervened in docket UM 1917. Pursuing entirely duplicative proceedings is simply a waste of limited resources for both PacifiCorp and the Commission that justifies waiver of OAR 860-001-0420(3).

### III. COMMENTS

Staff's Application is unnecessary given PacifiCorp's prior-filed request to for approval to defer amounts associated with the recent federal tax reform. Staff's proposal for calculating the deferred amounts introduces a new methodology that is more difficult to audit because it is not based on information readily available, such as PacifiCorp's Results of Operations, meaning that any subsequent review and audit would be more difficult and unnecessarily burdensome.

In its Application, Staff proposes that deferred amounts include the difference between PacifiCorp's current retail rates and its currently approved retail rates inclusive of the impact of the federal tax code change.<sup>5</sup> While Staff has not supplemented its filing with more detail, PacifiCorp opposes this apparent methodology of calculating the deferred amounts due to the complexity and uncertainty of calculating both components.

PacifiCorp proposes the deferred amounts be calculated by taking the difference between the company's 2017 Oregon Results of Operations with and without the inputs related to the tax impact. The 2018 proxy year would be the company's 2017 Results of Operations after Type 3

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<sup>4</sup> Federal Energy Regulatory Commission.

<sup>5</sup> Application at 1:14-16.

adjustments, which is column 7 on page 1.0 of the Results of Operations (and also the Oregon column on page 2.0).

PacifiCorp's proposed methodology is preferable because it uses the same model and inputs of the company's annual Results of Operations, which is similar to the model used in the company's general rate cases. This methodology reduces the potential for confusion because Staff and other parties are familiar with this methodology, and it would be consistent with PacifiCorp's deferrals in its other jurisdictions. Should Staff's Application be approved, PacifiCorp requests that the deferral be calculated by taking the difference between the company's 2017 Oregon Results of Operations with and without the inputs related to the tax impact.

#### **IV. CONCLUSION**

Staff's Application should be dismissed as duplicative and unnecessary. Staff can adequately address its concerns over the deferral of amounts related to the recent federal tax reform in docket UM 1917, as evidenced by Staff's request that PacifiCorp file ongoing updates in that docket.<sup>6</sup> Neither customers, nor any party, will be harmed by dismissing Staff's Application. PacifiCorp's Application already ensures that the impacts of the federal tax reform will be deferred, upon approval by the Commission, for future credit to customers and calculated in a way that will be more easily auditable by Staff and stakeholders. Should Staff's Application be approved, PacifiCorp requests that the Commission direct PacifiCorp to use the company's 2017 Oregon Results of Operations as the basis for determining the tax impact.

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<sup>6</sup> See Exhibit A.

Respectfully submitted April 30, 2018.

By:



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Matthew D. McVee, OSB#020735  
Chief Regulatory Counsel  
PacifiCorp  
825 NE Multnomah Street, Suite 1800  
Portland, Oregon 97232  
PH: (503) 813-5585  
EMAIL: matthew.mcvee@pacificorp.com

**EXHIBIT A**

**March 23, 2018 Staff Email to Utilities**

## McVee, Matthew

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**From:** Moser Sommer <Sommer.Moser@doj.state.or.us>  
**Sent:** Friday, March 23, 2018 12:37 PM  
**To:** 'Stefan Brown'; Jay Tinker; Debbie Blastic; Alex Tooman; Jenks, Bob (Oregon CUB); 'brmullins@mwanalytics.com'; 'cstokes@cablehuston.com'; 'david.meyer@avistacorp.com'; 'dhenkels@cleantechlaw.com'; 'dockets@oregoncub.org'; Doug Tingey; 'dws@r-c-s-inc.com'; 'efiling@nwnatural.com'; 'efinklea@nwigu.org'; GARDNER Marianne; 'gbass@noblesolutions.com'; 'greg.bass@calpinesolutions.com'; 'greg@richardsonadams.com'; 'irion@sanger-law.com'; 'james@utilityadvocates.org'; 'jkyler@bkllawfirm.com'; 'joshua.smith@sierraclub.org'; McDowell, Katherine (McDowell & Associates); 'kboehm@bkllawfirm.com'; Higgins, Kevin (Noble Americas); 'liz@oregoncub.org'; 'maa@dvclaw.com'; GARDNER Marianne; McVee, Matthew; 'mike@oregoncub.org'; 'nona.soltero@fredmeyer.com'; Oregon Dockets; Link, Sarah; 'sroberts@eugenelaw.com'; 'stephen.chriss@wal-mart.com'; 'tbrooks@cablehuston.com'; 'tcp@dvclaw.com'; 'travis.ritchie@sierraclub.org'; 'trutten@orcities.org'; Baldwin, Vicki M. (UIEC); 'zdk@nwnatural.com'; 'ana.boyd@sierraclub.org'; 'dockets@avistacorp.com'; Siores, Natasha; Thompson, Mark R.; 'Parvinen, Michael'; 'Inordstrom@idahopower.com'; 'dockets@mrg-law.com'; Pat Ehrbar; Greg Tillman (Greg.Tillman@walmart.com)  
**Cc:** L.FOX John L; CRIDER John  
**Subject:** [INTERNET] Tax Workshop Follow-up

**\*\* STOP. THINK. External Email \*\***

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All,

As promised at the February workshop, Staff has discussed the outcome of the workshop and outstanding deferrals internally. At the workshop, parties expressed an interest in feedback from Staff on next steps and certain outstanding items.

- **Staff's deferral applications:** some utilities raised a question as to whether Staff would withdraw its deferral applications in light of the utility filed applications. Following additional internal discussion, Staff has determined that it will not withdraw its applications until the Commission has made a final determination on the utility filed deferral applications. Staff's application set a date for comments of January 31, 2018, which Staff then amended to March 30, 2018. In light of the impending deadline, yesterday Staff filed a letter extending the date for comments until April 30, but will not file a letter to extend comments beyond that time. If a party wishes to file comments, it should plan to do so by that date; however, any interested person retains the ability (whether comments have been filed or not) to address Staff's deferral at the public meeting or other Commission process at which the Commission considers Staff's filing.
- **Staff feedback:** at the workshop, there was also a request for additional guidance/discussion of Staff's expectations on the calculation and regulatory treatment of the deferrals. Upon further internal discussion, Staff's preference is that each utility utilize a 2018 "proxy" year in calculating deferred amounts. Although not strictly necessary for Commission disposition of the deferral applications, Staff's current thinking is that it will recommend that deferred amounts be amortized pursuant to a separate rider, and is still discussing its position on the application of an earnings test to deferred amounts. However, Staff would also like additional information from each utility on how it intends to request that deferred amounts be amortized to customers.



- **Utility-filed applications:** Staff requests that each utility supplement its deferral application, *no later than April 15, 2018*, with the utility's calculation of estimated deferral amounts for 2018 (based on a 2018 proxy year). Staff further requests that the applications be supplemented quarterly thereafter.
- **All-party workshop:** Staff is happy to meet at an all-party workshop if that is of value to the other parties and utilities and there is time available to do that. Upon further discussion, however, Staff finds that meetings with the individual utilities and interested stakeholders are likely more fruitful and would allow for a more in-depth discussion of each utility's unique circumstances and calculations. As such, regardless of an all-party workshop, after each utility has supplemented its deferral application, Staff would like to meet with each utility and respective interested stakeholders, either in person or via phone.

Should you have any questions, please contact myself, Marianne Gardner or John Fox.

Thank you.

**Sommer Moser**

Oregon Department of Justice

Office: 503.947.4548

Cell: 503.910.6484

**From:** Stefan Brown [<mailto:Stefan.Brown@pgn.com>]

**Sent:** Thursday, February 22, 2018 7:57 AM

**To:** Jay Tinker; Debbie Blastic; Alex Tooman; 'bob@oregoncub.org'; 'brmullins@mwanalytics.com'; 'cstokes@cablehouston.com'; 'david.meyer@avistacorp.com'; 'dhenkels@cleantechlaw.com'; 'dockets@oregoncub.org'; Doug Tingey; 'dws@r-c-s-inc.com'; 'efiling@nwnatural.com'; 'efinklea@nwigu.org'; GARDNER Marianne; 'gbass@noblesolutions.com'; 'greg.bass@calpinesolutions.com'; 'greg@richardsonadams.com'; 'irion@sanger-law.com'; 'james@utilityadvocates.org'; 'jkyler@bkllawfirm.com'; 'joshua.smith@sierraclub.org'; 'katherine@mcd-law.com'; 'kboehm@bkllawfirm.com'; 'khiggins@energystrat.com'; 'liz@oregoncub.org'; 'maa@dvclaw.com'; GARDNER Marianne; 'matthew.mcvee@pacificorp.com'; 'mike@oregoncub.org'; 'nona.soltero@fredmeyer.com'; 'oregondockets@pacificorp.com'; 'sarah.link@pacificorp.com'; Moser Sommer; 'sroberts@eugenelaw.com'; 'stephen.chriss@wal-mart.com'; 'tbrooks@cablehouston.com'; 'tcp@dvclaw.com'; 'travis.ritchie@sierraclub.org'; 'trutten@orcities.org'; 'vbaldwin@parsonsbehle.com'; 'zdk@nwnatural.com'; 'ana.boyd@sierraclub.org'; 'dockets@avistacorp.com'; 'Siores, Natasha'; 'Thompson, Mark R.'; 'Parvinen, Michael'; 'Inordstrom@idahopower.com'; 'dockets@mrg-law.com'; Pat Ehrbar; Greg Tillman ([Greg.Tillman@walmart.com](mailto:Greg.Tillman@walmart.com))

**Subject:** Tax workshop

Good morning,

Below is the agenda for the February 28 Tax workshop. The workshop will be held at PGE's headquarters located at 121 SW Salmon Street, Portland Oregon. The workshop will take place in PGE's boardroom, so please take the elevator from our main lobby (on the Skybridge level) to the 17<sup>th</sup> floor. If you have any questions on how to get here, please send me an email or call 503.464.8937.

For those participating by phone, the call-in information is also below.

As you can see, we have a lot to cover.

Workshop Agenda

9:00 to 9:15	Introductions	(Jay Tinker)
9:15 to 9:45	Discuss the various impacts of the legislation	(IOU Tax experts)
9:45 to 10:30	Approaches to calculate the amounts to be deferred	(IOU Tax experts)
10:30 to 11:00	Discussion of range of the expected impacts	(IOU Regulatory)

11:00 to 12:30 Discuss rate mechanism(s) in the absence of a rate case  
12:30 to 1:00 Next steps

(All)  
(Jay Tinker)

WebEx information

Wednesday, February 28, 2018

**Join by phone**

**1-408-792-6300** Call-in toll number (US/Canada)

Meeting number (access code): 820 607 010

Meeting password: gGcnAyW3

Add to Calendar

When it's time, [join the meeting](#).

**Join from a video system or application**

Dial [820607010@pgn.webex.com](tel:820607010@pgn.webex.com)

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