ITEM NO. RA2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 23, 2024

REGULAR __X__ **CONSENT** ____ **EFFECTIVE DATE** ________N/A________

DATE: January 8, 2024

TO: Public Utility Commission

FROM: Russ Beitzel

THROUGH: Bryan Conway and Marc Hellman **SIGNED**

SUBJECT: PACIFIC POWER:
Docket No. UM 2301
Application for Authorization for Deferred Accounting Relating to Increased Insurance Costs for Wildfires.

STAFF RECOMMENDATION:

Staff recommends the Public Utility Commission of Oregon (Commission) approve PacifiCorp dba Pacific Power's request for authorization to defer for later ratemaking treatment increased insurance costs related to wildfires for the twelve months beginning August 21, 2023.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's request for authorization to defer costs related to increased insurance costs related to wildfire risk.

Applicable Law

In accordance with ORS 757.259, the Commission may authorize deferred accounting for later incorporation in rates. Specific amounts eligible for deferred accounting treatment with interest authorized by the Commission include the deferral of amounts the Commission finds should be deferred in order to minimize the frequency of rate changes, the fluctuation of rate levels or to appropriately match customer benefits and costs. ORS 757.259(2)(e).

In OAR 860-027-0300(3) the Commission has set forth the requirements for the contents of deferred accounting applications. OAR 860-027-0300(4) requires the utility to include certain information in an application to defer, such as reason for the deferral, and the estimated amount of the deferral.

Amounts deferred are allowed in rates only to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon a prudence review. A review of the utility's earnings is required, unless subject to an automatic adjustment clause. ORS 757.259(5), OAR 860-027-0300. With some exceptions, a company's amortization of amounts deferred cannot exceed an amount equal to three percent of the company's gross revenues from the preceding year. ORS 757.259(6).

In PacifiCorp's last general rate case, Docket UE 399, with Order No. 22-491, the Commission adopted three partial stipulations, one of which included the following term:

> With respect to deferral applications, for the calendar year 2023, the Stipulating Parties agree not to request the deferral of costs or revenues, unless (a) the deferral is authorized by statute or Commission order, resulting from a Commission-initiated deferral mechanism, a reauthorization of an existing deferral, or approval of an agreed-upon deferral mechanism in a proceeding, (b) the Stipulating Parties seek reauthorization of a previously filed deferral, (c) laws, regulations or orders become effective that require significant cost reductions or expenditures, (d) the Company incurs major expenses or savings as a result of a state or federal declaration of emergency, or (e) a deferral is necessary to respond to material threat to the financial stability of the Company resulting from unique and unforeseen circumstances outside the Company's reasonable control. The Stipulating Parties agree that their goal is to minimize rate changes during calendar years 2023 and 2024 with regards to amortizations resulting from any deferral of costs approved during the 2023 Stay-out Period. Any Stipulating Party may take any position before the Commission on whether these deferred costs are appropriate to be recovered or credited in retail customers rates.

<u>Analysis</u>

Background
On August 21, 2023, PacifiCorp submitted its application in Docket No. UM 2301 for authorization of deferred accounting for increased incremental insurance costs related to wildfires.

In addition to meeting the statutory requirements for a deferral, at issue is whether the Company's deferral application qualifies for an exemption to the UE 399, Order No. 22-491, Stipulation barring any deferral applications for calendar year 2023 unless it met one or more of the requirements stated above. The Company specifically cited components (d) and (e) in its Application. Staff examined each component with the following conclusions:

Component (a) - the deferral is authorized by statute or Commission order, resulting from a Commission-initiated deferral mechanism, a reauthorization of an existing deferral, or approval of an agreed-upon deferral mechanism in a proceeding;

Component (b) - the Stipulating Parties seek reauthorization of a previously filed deferral;

Component (c) - laws, regulations or orders become effective that require significant cost reductions or expenditures;

Staff's response – Staff does not find components (a) through (c) applicable to the requested deferral;

Component (d) - the Company incurs major expenses or savings as a result of a state or federal declaration of emergency; or

Staff's response – to Staff's knowledge, there was no state or federal declaration of emergency issued after Order 22-491 specifically related to this deferral; therefore, it does not qualify for exemption under this component.

In its Application, the Company stated "…this deferral results from the Company incurring increased costs for insurance that would cover major expenses as a result of a state or federal declaration of emergency…." The Company also states that "this deferral covers insurance costs for the third-party claims on PacifiCorp for events that may occur under both Federal and State emergency declarations." Staff disagrees with the Company's conclusion that insurance companies justifying rate increases because of emergency declarations that might be issued in the future falls under the text of exclusion (d), which only covers major expenses or savings that are incurred as a result of a state or federal declaration of emergency. Staff does not believe this exemption was intended to allow for filing a deferral in circumstances where no state or federal declaration of emergency has been issued. Nor does Staff believe this exemption was intended to cover expenses such as increased insurance premiums that are not directly the result of the declaration of emergency.

Component (e) - a deferral is necessary to respond to material threat to the financial stability of the Company resulting from unique and unforeseen circumstances outside the Company's reasonable control.

Staff's response – The Company predicts the impact of the increased insurance premiums to be approximately 100 basis points compared to its current financial results. What makes this deferral unique is that the Company recently made a $1.9 billion pretax accrual, related to pending wildfire litigation expenses, which resulted in Moody's Investors Services downgrading the Company's senior unsecured rating from A3 to Baa1. With this additional information, Staff determined that the aggregate effect of the circumstances described above and the insurance cost increase poses a threat to the financial security of the Company.

Because this deferral is related to UE 399 and Order No. 22-491, there are multiple stakeholders involved in discussing this deferral request. The Oregon Citizens' Utility Board (CUB), The Alliance of Western Energy Consumers (AWEC), PacifiCorp, and Staff met a few times to discuss this deferral request. At a meeting in late 2023, PacifiCorp discussed some recent rating agency reports and agreed to provide copies for parties to review to demonstrate that the Company does face significant financial risks. Most recently, all parties met on January 4, 2024, to discuss the deferral application. At that meeting, both CUB and AWEC expressed some concerns about the application given the stay-out provision; however, after discussion it was clear that the parties had different opinions as to whether the circumstances faced by the Company met the deferral exception thresholds established in the UE 399 stay-out agreement. Staff stated that the dollars involved in this deferral request is material given that it represents roughly 100 basis points and PacifiCorp does face significant financial risks. To attempt to resolve this issue, Staff proposed that parties agree that the Commission decision in this docket would not be cited or pointed to in any future deferral request. Further, Staff committed to be sure any future stay-out provision includes additional discussion to attempt to avoid this situation where parties had different understandings of stipulation provisions. Given the feedback, CUB and AWEC stated that they would not oppose a Staff recommendation to approve the deferral.

Staff believes that PacifiCorp, AWEC, and CUB will likely be filing comments to this public meeting agenda item. Staff will briefly discuss any comments at the public meeting.

Estimated 2023 Costs
In its Application, the Company states that commercial insurance costs for the total company will increase from the $29 million currently in rates to $125 million (a

$96 million increase) for the policy period starting August 15, 2023, or later. It is requesting to defer the Oregon portion of that increase.

Description of expenses

In its Application, the Company lists the following expenses as part of the commercial insurance cost increase: premiums for commercial insurance covering third-party liability for claims in excess of $10 million and a self-insurance reserve for property damage in each state.

Reason for Deferral

ORS 757.259(2)(e) allows the deferral of identifiable utility expenses to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne and benefits received by customers. Granting this deferral will minimize the frequency of rate changes and allow for the appropriate matching of costs and benefits for customers.

Proposed Accounting

The Company will record Deferred Amounts at Federal Energy Regulatory Commission (FERC) Account 182.3 – Other Regulatory Assets and crediting FERC Account 925 – Injuries and Damages.

Information Related to Future Amortization

- Earnings review – The Commission will review earnings in accordance with ORS 757.259(5) at the time of amortization.

- Prudence Review – A Prudence Review will be conducted prior to amortization and should include a verification of the accounting methodology used to determine the final amortization balance.

- Sharing – Staff may recommend a sharing mechanism and notes that the Company can bear some risk based on its wildfire mitigation practices, vegetation management performance, and earnings levels.

- Rate Spread/Design – The deferred amortization amount will likely be spread based on distribution and transmission revenues in proportion to the components for which costs are incurred.

- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (exceptions at ORS 757.259(7) and (8)) the aggregated deferral amortizations during a 12-month period to no more than three percent of the utility's gross revenues for the preceding year. Because

Pacific Power is an electric utility, ORS 757.259(8) allows the Commission to consider up to a six percent limit.

Conclusion

Staff reviewed the Company's application and determined it meets the criteria for a deferral and is consistent with the stay-out provision in Order No. 22-491.

The Company, CUB, and AWEC have reviewed a draft of this memo and voiced no concerns.

PROPOSED COMMISSION MOTION:

Approve the Company's application for deferral of increased insurance costs related to wildfires for the twelve months beginning August 21, 2023.