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July 20, 2022

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PACIFICORP, dba PACIFIC POWER,
Advice No. 22-008, Residential Low-Income Bill Discount.
Docket No. ADV 1412

Dear Filing Center:

Please find enclosed the Alliance of Western Energy Consumers' Comments in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

ADV 1412

In the Matter of)	
)	
PACIFICORP, dba PACIFIC POWER,)	COMMENTS OF THE ALLIANCE OF WESTERN ENERGY CONSUMERS
)	
Advice No. 22-008 Residential Low Income)	
<u>Bill Discount.</u>)	

I. INTRODUCTION

The Alliance of Western Energy Consumers (“AWEC”) appreciates the opportunity to file comments on PacifiCorp’s (or “Company”) Advice No. 22-008, which proposes to create a low-income discount program and a cost recovery mechanism (the “Tariffs”). AWEC disagrees that PacifiCorp’s Tariffs are supported by the law on which they are based. Nevertheless, AWEC is willing not to oppose approval of the Tariffs on the condition that they be modified to include a cap on the amount any single customer is required to pay toward the program. This cap should be set at \$1,000 per month per customer site to align PacifiCorp’s program with Portland General Electric’s (“PGE”).

II. DISCUSSION

PacifiCorp’s Advice Filing cites HB 2475 from the 2021 Legislative Session as the basis for the creation of its proposed low-income discount program. As the Company states, that bill amended ORS 757.230 “giving the Commission new authority in the classification or schedule of rates applicable to individual customers or groups of customers to consider differential energy

burdens on low-income customers.”¹

ORS 757.230 requires the Commission to “provide for a *comprehensive* classification of service for each public utility” and identifies certain characteristics the Commission may consider when establishing those classifications.² In other words, by amending ORS 757.230, HB 2475 authorized the Commission to approve a low-income *rate class*, separate and apart from the residential customer class currently served by PacifiCorp under Schedule 4; it was not intending to authorize programs whereby low-income customers *within* the residential class would receive rate relief through bill discounts and credits. Those programs are authorized through a separate statute that is discussed further below.

New rate classes are created as part of the general rate case process. This allows for the allocation of costs to the new rate class and a determination of a fair and reasonable rate spread that accounts for the new rate class. Consequently, if PacifiCorp wished to create a new low-income rate class as authorized by HB 2475’s amendments to ORS 757.230, it should have proposed one in its current general rate case, UE 399.

Through conversations with PacifiCorp, AWEC understands that the Company is also relying on ORS 757.695 as support for its Tariffs. That statute was also created by HB 2475, but it does not provide the authorization the Company claims. ORS 757.695(1) states that “[i]n addition to comprehensive classifications, tariff schedules, rates and bill credits, the Public Utility Commission may address the mitigation of energy burdens through bill reduction measures or programs that may include, but need not be limited to, demand response or

¹ Advice No. 22-008 at 2.

² ORS 757.230(1) (emphasis added).

weatherization.”

First, through the words “in addition to,” the statute is plainly separating the tariff classifications (including a low-income rate class) authorized by ORS 757.230 from the types of energy burden mitigation measures contemplated by ORS 757.695. Second, while the phrase “include, but need not be limited to” means that demand response and weatherization are not the only “bill reduction measures or programs” the Commission may consider, an “interpretation of the general term includes consideration of those specific examples.”³ This means that a “court seeks to find, if it can, a *common* characteristic among the listed examples” when determining what actions the Legislature intended to authorize.⁴ Here, the statute is referring to bill reduction measures that are related to mechanisms that reduce energy consumption, which could also include things like energy efficiency or potentially even time-of-use rates. It is not contemplating any bill reduction measure of any type, such as the bill discount program PacifiCorp proposes.

This interpretation is made all the more clear by the fact that Oregon law separately allows for discounts for low-income customers through bill payment assistance authorized by ORS 757.698. The Company has already effectuated that statute through Schedule 91. Importantly, ORS 757.698(1)(c) specifies that no customer may pay “more than \$500 per month per customer site for low-income electric bill payment and crisis assistance.” If the Commission does approve the Tariffs, they should be authorized under ORS 757.698 and these caps should

³ *Schmidt v. Mt. Angel Abbey*, 347 Ore. 389, 404 (2009).

⁴ *Id.* at 405 (emphasis in original).

apply just as they do to collections under Schedule 91.⁵

Nevertheless, and despite the arguments and concerns raised above, AWEC recognizes that the Commission has previously approved a bill discount program for PGE (Schedules 18 and 118) that is similar to the one PacifiCorp proposes here and is incremental to the bill assistance funding provided for in ORS 757.698 (PGE Schedule 115). For the purpose of maintaining consistency between the two utilities, therefore, AWEC is willing to support Commission approval of PacifiCorp's Tariffs in this Advice Filing so long as the same per-customer cost cap included in PGE's Schedule 118 is applied to PacifiCorp's program. That cap is set at \$1,000 per month per customer site.

This cap is necessary to ensure customers do not pay unreasonable amounts for this program and to account for the fact that the Tariffs were developed outside of a general rate case. PacifiCorp's cost-recovery tariff establishes a flat charge of 0.035 cents per KWh for all non-residential customers. At this charge, the Company's largest customers are exposed to costs of \$40,000 per year on average, and up to nearly \$500,000 at the highest usage levels. It is unreasonable to expose customers who receive no benefit from this program to this level of cost, particularly when their potential competitors in PGE's service territory have no such cost exposure. By contrast, residential customers are facing a charge of \$4.20 per year (\$0.35 per month).

If AWEC's recommendation is approved, then to ensure the same level of cost recovery, AWEC estimates that this would increase the charge to residential customers from \$0.35 per

⁵ AWEC does not take a position in these comments on whether the Commission could approve the Tariffs under its broader authority to regulate in the public interest. Suffice it to say here that any such approval would need a factual and legal basis, which is not provided solely by PacifiCorp's advice filing.

month to approximately \$0.43 per month (or \$5.16 per year) and the nonresidential charge from 0.035 cents per KWh to approximately 0.043 cents per KWh.

Finally, if the Commission authorizes the Tariffs pursuant to HB 2475, then it should not also approve a low-income rate class while these Tariffs are in effect. Such approval would be duplicative of the legislation as PacifiCorp interprets it and would further increase costs to other customers when they are already facing multiple charges to provide low-income support.

AWEC understands the need for this support, but it must be balanced with the interests of other customers.

III. CONCLUSION

AWEC appreciates the Commission's attention to this issue and these comments. AWEC has concerns with the legal basis underlying PacifiCorp's Tariffs, but it is willing to set these concerns aside in the interest of maintaining consistent low-income support programs between PacifiCorp and PGE. This includes establishing a cap on funding at \$1,000 per month per customer site.

Dated this 20th day of July, 2022.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

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