



**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

January 29, 2019

Administrative Law Judge Rowe  
Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, OR 97301-1166  
[sarah.rowe@state.or.us](mailto:sarah.rowe@state.or.us)

**Re: UE 352 – Staff’s Comments on Proposed Procedural Schedule**

Judge Rowe:

Staff appreciates the opportunity to provide written comments on the proposed procedural schedules for UE 352. Per your January 24, 2019 e-mail to the parties, Staff provides brief comments in support of a schedule that would allow for five rounds of testimony from the parties. As discussed at the pre-hearing conference, Staff finds that a five round schedule is important for several reasons.

First, the investments subject to cost-recovery in this proceeding are significant, and because cost recovery is sought in the RAC, are not subject to an initial prudence review in a general rate case. Typically, capital investments are reviewed for prudence in the ratemaking proceeding in which cost-recovery is initially sought and the Commission’s prudence determination is not litigated in subsequent proceedings. RPS-eligible resources may begin recovery for capital investments in the Renewable Adjustment Clause (RAC), rather than a general rate case proceeding, which then becomes the case that a prudence review for these investments takes place. In this case, the investment that Staff and other parties are to review is the repowering of 900.1 MW of company-owned wind capacity (excluding Rolling Hills) as a total-system capital investment of more than \$827 million. Staff finds that a five round schedule is necessary in order to provide the Commission with the most robust record upon which to make a prudence determination and to design appropriate ratepayer protections. Staff is also concerned that a three-round schedule in this case could be seen as precedential in future RAC proceedings, as PacifiCorp has argued should be the case here based in the previous RAC, which would also be concerning to Staff, particularly if PacifiCorp seeks cost recovery for the new wind from its Energy Vision 2020 proposal in LC 67 in a subsequent RAC proceeding.

Second, repowering projects in the Company’s IRP (docket LC 67) were complicated and controversial among the parties, and as stated by the Commission, were subject to narrow acknowledgment. Indeed, the Commission’s acknowledgment of the Company’s Energy Vision 2020 plan was subject to several conditions and limitations, with the Commission stating its

intent to protect customers while allowing PacifiCorp the flexibility to pursue time-sensitive economic opportunities. In its order acknowledging Energy Vision 2020, the Commission explicitly stated that the risk of proceeding remains with PacifiCorp, and that future cost recovery may be conditioned or limited to ensure customer benefits remain at least as favorable as IRP planning assumptions. This proceeding is the proceeding in which cost recovery conditions and limitations must be adopted, which may be an area of disagreement among the parties, and one in which the Commission would benefit from additional back and forth from the parties in order to make the best policy determination. Additionally, there may be substantial factual issues related to cost assumptions, commercial operation dates, etc., that would benefit from additional rounds of testimony.

Third, the genesis for the repowering project is different than previous investments subject to cost recovery in the RAC. Staff is not aware of another RAC proceeding, or general rate case proceeding, in which repowering of existing assets was evaluated for prudence. For this reason, Staff finds this case to be more complex than the only other RAC proceeding to come before the Commission (OPUC Docket No. UE 200), which again favors a five round schedule in order to fully identify and address unique issues in this case.

Finally, Staff understands that there is a balance between the number of rounds of testimony necessary for a docket, the time necessary to process the docket, and the information that will be provided in three rounds versus five rounds, particularly in consideration of other proceedings pending before the Commission. Staff further understands that five rounds of testimony may not be necessary outside of a general rate case proceeding. Staff, however, takes its role in providing recommendations to the Commission very seriously, and urges the Commission not to limit the schedule in this case because of existing and future PacifiCorp dockets. This docket represents the Commission's opportunity to review for prudence the wind repowering capital investments and to set expectations on future capital recovery of these assets, as well as non-power cost operations and maintenance costs, prior to inclusion in rates. Further, the parties to this case purposefully requested schedules that allow for ample discovery and lead time prior to the initial round of Staff/Intervenor testimony, which would be filed around the time that PacifiCorp would file its stand-alone TAM proceeding. In this way, the five-round schedule in this case works well with the filing of the TAM.

Thank you for your consideration of Staff's written comments. Should you have any additional questions, please let me know.

Sincerely,



Sommer Moser  
Assistant Attorney General  
Business Activities Section