

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 UM 1050

4 In the Matter of
5 PACIFICORP,
6 Request to Initiate an Investigation of Multi-
7 Jurisdictional Issues and Approve an Inter-
8 Jurisdictional Cost Allocation Protocol.

STAFF'S ANSWER

9 **I. INTRODUCTION**

10 Pursuant to OAR 860-001-0400 and Administrative Law Judge (ALJ) Rowe's February
11 7, 2017 Ruling, Staff of the Public Utility Commission of Oregon (Staff) hereby submits its
12 Answer to PacifiCorp's (PacifiCorp or Company) petition for approval of the one-year extension
13 option of the 2017 Inter-jurisdictional Allocation Protocol (Petition).

14 The Commission adopted the 2017 Inter-jurisdictional Allocation Protocol (2017
15 Protocol) in OPUC Order No. 16-319.¹ The 2017 Protocol represents an agreement among
16 PacifiCorp, Staff, and the Citizens' Utility Board of Oregon (CUB), and was adopted over the
17 objections of the Industrial Customers of Northwest Utilities (ICNU). Two sections of the 2017
18 Protocol are relevant to PacifiCorp's Petition. First, Section II of the 2017 Protocol provides that
19 it will expire on December 31, 2018, unless all state commissions that approved the 2017
20 Protocol determine that a one-year extension is appropriate no later than March 31, 2017.²
21 Second, Section XIV.3. provides that PacifiCorp will engage in "continued evaluation of
22 alternative inter-jurisdictional allocation methods, including consideration of corporate structure
23 alternatives, division allocation methodologies, and potential implications of the Environmental
24 Protection Agency's final Rule 111(d), and possible formation of a regional independent system

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26 ¹ *In re PacifiCorp*, OPUC Docket No. UM 1050, Order No. 16-319 (Aug. 23, 2016).

² Order 16-319, Appendix A at 5.

1 operator.”³ On January 31, 2017, PacifiCorp filed its Petition requesting that the Commission
2 extend the 2017 Protocol through December 31, 2019, and acknowledge that the Company has
3 met its obligation to evaluate alternative inter-jurisdictional allocation methods with respect to
4 corporate structure alternatives.⁴

5 As discussed more fully below, Staff respectfully requests that the Commission schedule
6 a hearing in accordance with ORS 756.568 to determine whether PacifiCorp’s request for a one-
7 year extension of the 2017 Protocol should be granted. Staff further requests that any
8 Commission acknowledgment of PacifiCorp’s obligation to engage in alternative allocation
9 methods be limited to a finding that the Company has provided analysis sufficient so as not to
10 warrant imposition of the financial penalties contemplated in the 2017 Protocol. Finally, Staff
11 requests that the Commission open a docket and schedule a pre-hearing conference in the next
12 several months for an Oregon-only investigation to ensure that Oregon’s interests are being
13 adequately addressed.

14 II. ANSWER

15 (A) Additional information is necessary in order to determine whether a one-year 16 extension is appropriate.

17 PacifiCorp filed its Petition pursuant to ORS 756.568, which grants the Commission
18 discretion to rescind, suspend, and amend any of its orders. Prior to rescinding, suspending or
19 amending any of its order, ORS 756.568 requires the Commission to provide an opportunity to
20 be heard in accordance with the Commission’s complaint and investigation procedure statutes
21 and hearing procedure statutes.⁵

22 Staff recommends that the Commission grant PacifiCorp’s Petition, but clarifies that its
23 support for the Petition is limited to its belief that the Commission should consider extending the
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25 ³ Order No. 16-319, Appendix A at 16.

26 ⁴ PacifiCorp’s Petition at 4.

⁵ Specifically, the Commission is required to provide an opportunity to be heard as provided in
ORS 756.500 to ORS 756.610.

1 2017 Protocol, and this is one procedural avenue by which the Commission could choose to do
2 so. Unlike PacifiCorp, Staff has not concluded that an extension is warranted. Staff requests
3 that the Commission provide the parties with an opportunity to be heard in accordance with ORS
4 756.568, and make a determination regarding extension only after the conclusion of that process.
5 Staff's intent is to use a hearing or other appropriate process to obtain evidence that it deems
6 critical in order to make a recommendation regarding extension. Specifically, under Section
7 XIV.3., if the 2017 Protocol is not extended through 2019, PacifiCorp must use the Revised
8 Protocol allocation method for any general rate case filings in Oregon after January 1, 2019.⁶
9 Staff therefore believes that a comparison between the Revised Protocol and the 2017 Protocol is
10 necessary in order for the Commission to make an informed decision as to whether the 2017
11 Protocol should be extended for an additional year.

12 Staff's attempts to date to obtain the Oregon jurisdiction's annual MWh and the
13 generation and transmission (G&T) revenue requirements under both the Revised Protocol and
14 the 2017 Protocol through discovery have not been successful.⁷ Although the Company was
15 generally responsive to other Staff data requests, PacifiCorp objected to Staff's DR 76 as overly
16 broad and not reasonably calculated to lead to the discovery of admissible evidence, and then
17 responded that the Company had not prepared the requested studies. The Company stated that it
18 was working on "a foundational study as part of ongoing multi-state process (MSP) analysis"
19 and that "[o]nce the study is finalized, the Company will be able to provide total revenue
20 requirement for Revised Protocol and 2017 Protocol on a state-by-state basis,"⁸ it did not provide
21 a timeline for when the study is expected to be complete. Therefore, at this time, Staff does not
22 possess the information necessary to make this comparison and has little basis for a
23 recommendation regarding the Company's requested one-year extension. If application of the
24 Revised Protocol would result in higher revenue requirements for Oregon than application of the

25 ⁶ Order 16-319, Appendix A at 17.

26 ⁷ Attachment A.

⁸ Attachment A at 1.

1 2017 Protocol for any general rate filing submitted in 2019, Staff would be supportive of
2 extending the 2017 Protocol for an additional year. Staff is hopeful that the Company will
3 provide the requested information in its Reply due February 28, 2017, so as to allow Staff and
4 other parties to make an informed recommendation to the Commission at the Commission-
5 scheduled hearing regarding extension held prior to March 31, 2017.

6 Finally, Staff notes that its recommendation is consistent with Section II of the 2017
7 Protocol, which provides that “[i]n determining whether the 2017 Protocol should or should not
8 be extended, each State Commission can take such steps or provide such processes for public
9 input as that Commission determines to be necessary or appropriate under applicable State
10 laws.”⁹

11 **(B) Commission acknowledgment of the Company’s evaluation of alternative inter-**
12 **jurisdictional allocation methods should not serve to limit further analysis requested**
13 **by the Oregon parties.**

14 Section XIV.3. of the 2017 Protocol requires the Company to analyze alternative
15 allocation methods, including divisional allocation methodologies, prior to March 31, 2017, or
16 face financial penalties.¹⁰ In its Petition, PacifiCorp is requesting Commission acknowledgment
17 that it has met its obligation to “continued evaluation of alternative inter-jurisdictional allocation
18 methods, including consideration of corporate structure alternatives, division allocation
19 methodologies...”¹¹ The Company notes that any acknowledgement by the Commission would
20 not “foreclose continued discussion regarding any alternative inter-jurisdictional allocation
21 methods, *but will allow PacifiCorp to focus on and address the concerns of all its*
22 *stakeholders.*”¹²

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25 ⁹ Order 16-319, Appendix A at 5.

26 ¹⁰ Order 16-319, Appendix A at 16.

¹¹ Order No. 16-319, Appendix A at 16.

¹² PacifiCorp’s Petition at 4 (emphasis added).

1 Staff's understanding of the Company's request for acknowledgment is that PacifiCorp
2 intends to treat allocation methodologies not agreed to by all states as a lower priority than those
3 with wider-spread interest at the Broad Review Workgroup. This is directly contrary to Staff's
4 understanding of the agreement in the 2017 Protocol and the direction provided by the
5 Commission in Order 16-319, wherein the Commission emphasized its desire to address Oregon-
6 specific issues.¹³ As such, Staff requests that any acknowledgment of the Company's obligations
7 pursuant to Section XIV.3. be limited to acknowledgment that the Company has met its burden
8 as was contemplated to avoid financial penalties. Staff further requests that the Commission
9 clarify the scope of its expectations for the Company's analysis of inter-jurisdiction allocation
10 methods for its Oregon customers and formally open a docket for an Oregon-only investigation
11 to ensure that Oregon's interests are being adequately addressed as contemplated in Order 16-
12 319.¹⁴ A pre-hearing conference in this docket should be held in the next several months.
13 Although Staff is interested in continuing to explore the Company's proposed allocation
14 method—the Coal Life Evaluation, Allocation & Realignment Model (CLEAR Model)—Staff is
15 also interested in analyzing other allocation methods, and does not agree with the Company that
16 it has a lesser obligation to evaluate any identified additional alternatives. Furthermore, Staff
17 does not agree that additional analysis of the CLEAR Model must be vetted by stakeholders in
18 other states. For example, issues of interest to Oregon, such as analysis of post-2030 years in the
19 CLEAR Model, should not be foreclosed, even if that analysis is not of interest to other
20 jurisdictions. The Commission should direct PacifiCorp to include years after 2030 in its
21 analysis of the CLEAR Model.

22 III. CONCLUSION

23 For the reasons stated above, Staff requests that the Commission grant PacifiCorp's
24 Petition and hold a hearing to determine whether a one-year extension of the 2017 Protocol is
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26 ¹³ Order 16-319 at 6-7.

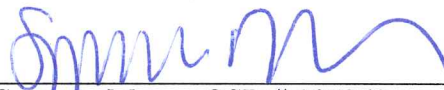
¹⁴ *See id.*

1 warranted. Staff further requests that the Commission limit any acknowledgment that PacifiCorp
2 has met its obligation to a finding that the Company has provided sufficient analysis so as not to
3 trigger the financial penalties contemplated in the 2017 Protocol. Staff further requests that the
4 Commission that the Commission set a pre-hearing conference to analyze allocation methods in
5 the second half of 2017. This would allow for a process to be established for a concurrent
6 investigation of issues of priority to Oregon to ensure that Oregon's interests are being
7 adequately addressed.

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9 DATED this 21st day of February, 2017.

10 Respectfully submitted,

11 ELLEN F. ROSENBLUM
12 Attorney General

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15 Assistant Attorney General
16 Of Attorneys for Staff of the Public Utility
17 Commission of Oregon
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