BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2013

In the Matter of PACIFICORP, dba PACIFIC POWER, Application for Deferred Accounting Related to Wildfire Risk Mitigation Measures.	OREGON CITIZENS' UTILITY BOARD'S AND ALLIANCE OF WESTERN ENERGY CONSUMER'S JOINT COMMENTS

I. INTRODUCTION

The Oregon Citizens' Utility Board ("CUB") and Alliance of Western Energy Consumers ("AWEC") file these joint comments in the above-captioned proceeding in advance of the Public Utility Commission of Oregon ("Commission") Regular Public Meeting scheduled for April 18, 2023. These joint comments address Public Meeting Item No. RA3, in which the Commission will consider PacifiCorp's ("PAC" or the "Company") reauthorization of deferred accounting for costs related to Wildfire Risk Mitigation Measures. CUB and AWEC agree with many of the arguments made in Commission Staff's thoughtful Public Meeting Report and respectfully request that the Commission approve Staff's recommendation.

Staff recommends denying PAC's request for approval of its deferred accounting application that tracked the incremental costs associated with implementing new wildfire risk mitigation measures for the 12-month period beginning May 14, 2019, and ending May 13, 2020, and the approximately seven-month period beginning May 14, 2020, and ending December 31, 2020.[1]

[1] UM 2013 – Staff Report at 1 (Mar. 27, 2023).

On May 14, 2019, PacifiCorp filed its initial application to defer costs of wildfire mitigation measures not otherwise recovered in PAC's approved revenue requirement. At the time of the application, PacifiCorp estimated the deferral total approximately $4.8 million, $4 million of which would be spent on clearing vegetation around utility poles in fire high consequence areas. PacifiCorp filed a second deferred accounting application for deferral on May 14, 2020. In that application, PacifiCorp estimated it would incur approximately $27.4 million during the 12-month deferral period for inspection and correction of found fire-threat conditions, advanced system hardening and resiliency, expanded automation and protection, improved wildfire detection, and enhanced event response capacity, and vegetation management activities.[2]

Ultimately, PacifiCorp deferred $5.1 during the first deferral period (May 14, 2019 to May 13, 2020), and $2.8 million during the second deferral period, which was truncated to seven months, from May 14, 2020 to December 31, 2020. Treatment of PacifiCorp's wildfire mitigation related costs incurred between January 1, 2021, and May 14, 2021, have been addressed in other dockets and are not at issue.[3]

II. ARGUMENT

PAC's application does not meet the standard for authorization by the Commission's discretion. The Commission's review of a request to defer costs involves two stages of review, and the Commission may deny authorization to defer costs at either stage.[4] That is, even if the Commission were to find that a deferral request met the statutory criteria in ORS 757.259(2)(e), it could still deny the request under its own discretion.

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[2] *Id*. at 2.
[3] *Id*.
[4] *In re Public Utility Comm'n of Oregon, Staff Request to Open an Investigation Related to Deferred Accounting,* OPUC Docket No. UM 1147, Order No. 05-1070 at 2 (Oct. 5, 2005) (hereafter OPUC Order No. 05-1070).

The first stage of the Commission's review involves a determination of whether a deferral application meets the criteria set forth in ORS 757.259(2)(e). ORS 757.259(2)(e) is a catch-all provision that allows deferral of:

> [i]dentifiable utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and the benefits received by ratepayers.[5]

The second stage of the Commission's review involves a permissive exercise of the Commission's discretion under ORS 757.259(2), providing, in pertinent part:

> [u]pon application of a utility or ratepayer or upon the Commission's own motion . . . the commission by order *may* authorize deferral of the following amounts for later incorporation into rates.[6]

When exercising this discretion, the Commission considers two interrelated factors: the type of event that caused the deferral, and the magnitude of the event's effect.[7] The Commission draws a distinction between risks that can be predicted to occur as part of the normal course of events—stochastic risks—and risks that are not susceptible to prediction and quantification—scenario risks.[8] CUB and AWEC agree with Staff that the costs at issue in this proceeding represent stochastic risks.[9] Stochastic risks are generally not appropriate for deferral unless the magnitude of the financial impact of the event on the utility is substantial.[10]

As CUB and AWEC will detail—and as prior Commission precedent clearly demonstrates—the approximately $7.9 million, or 39.6 basis points,[11] that the Company seeks to

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[5] OPUC Order No. 05-1070 at 2-3.
[6] *Id*. at 3 (emphasis added).
[7] *Id*.
[8] *Id*.
[9] UM 2013 – Staff Report at 3 (Mar. 27, 2023).
[10] *See* OPUC Order No. 05-1070 at 3; OPUC Order No. 04-108 at 9.
[11] *Id*. at 5 ("The financial impact of the $5.1 million at issue in the first application is approximately 27.1 basis points of authorized ROE if measured against 2019 revenues and approximately 22.7 basis points of authorized ROE if measured against 2020 revenues. The financial impact of the $2.8 million dollars at issue in the second application is approximately 12.5 basis points of authorized ROE when measured against 2020 revenues.").

defer in this case is not sufficiently substantial to warrant Commission authorization. This would be the case even if the Commission were to determine that the costs at issue arose from a scenario risk.

While deferred accounting applications are appropriate in limited, discrete circumstances—such as when an entirely unforeseen event results in an unexpected cost of substantial magnitude—the current matter is not one of them. Deferred accounting is a narrow exception to the broad prohibition against retroactive ratemaking. It is also a form of single-issue ratemaking that the Commission has long disfavored.[12] Over or under-recovery of any single expense is irrelevant in ratemaking—it is the "total effect of the rate" that should be primarily taken into consideration.[13] The Commission has found that deferred accounting is an "exceptional form of ratemaking" that "should be used sparingly."[14]

In this case, the financial impact of the deferred amounts at issue is insufficient to warrant authorization of the amounts under the Commission's discretionary authority to authorize deferrals. In addition to the prior, compelling examples cited to in Staff's Report where the Commission has denied requests for deferred accounting, the Commission recently denied a PAC deferred accounting application with a financial impact of 26 basis points.[15] There, the Commission found that the impact of 26 basis points was "insufficient under any of our standards to justify the recovery in rates of losses from an individual event under our

[12] *In re PGE Request for a General Rate Revision*, OPUC Docket Nos. UE 180/184, Order No. 07-454 at 5 (Oct. 22, 2007); City of Portland v. PGE, OPUC Docket No. UM 1262, Order No. 06-636 at 7 (Nov. 17, 2006).
[13] *Federal Power Comm'n v. Hope Natural Gas Co*., 320 US 591, 602 (1944); see also *Gearhart v. Pub. Util. Comm'n of Oregon*, 255 Or App 58, 63 (2013) ("the validity of a particular determined rate is measured, not on the individual theories or methodologies used by the PUC, but on the 'end result' and whether it is just a reasonable.").
[14] OPUC Order No. 05-1070 at 10.
[15] *In re PacifiCorp, dba Pacific Power*, Application for Approval of Deferred Accounting and Accounting Order Related to Non-Contributory Defined Benefit Pension Plans, OPUC Docket No. UM 1992, Order No. 20-004 at 9 (Jan. 8, 2020).

discretionary use of the deferral process."[16] In reaching that decision, the Commission noted that, even though the events of the UM 1817 Portland General Electric major storm deferral were "substantially less foreseeable" than the pension costs at issue in UM 1992, the Commission concluded that the impact of the UM 1817 storm costs "had to be greater than 36 basis points to be considered material."[17]

Here, the financial impact of the deferred amounts is either 39.6 basis points or 35.0 basis points, depending on which years' Results of Operation ("ROO") are used. Regardless of the ROO used, CUB and AWEC submit that neither amount is sufficient to warrant authorization of the deferral under the Commission's discretionary criteria. This position is buttressed by the Commission's decision in the UM 1817 proceeding, where it found that the financial impact of 36 basis points is neither substantial nor material, and thus would fail to meet the standard for deferred accounting as either a stochastic or scenario risk.[18] Here, the risk of wildfire on the utility's system was foreseeable, rendering it a stochastic risk. PAC operates their system in many rural, more forested areas of the state and could reasonably anticipate that increasing wildfire risk throughout the region may affect its system.[19] As Staff notes, even though PAC was aware of increasing wildfire risk, it failed to file for a rate case to incorporate wildfire mitigation measures into base rates prior to 2019.[20]

III. CONCLUSION

For the foregoing reasons, CUB and AWEC respectfully request that the Commission adopt Staff's recommendation in this matter.

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[16] *Id*.
[17] *Id*.
[18] *In the Matter of Portland General Electric Company Application for Deferral of Storm-Related Restoration Costs*, OPUC Docket No. UM 1817, Order No. 19-274 at 12-13 (Aug 19, 2019).
[19] UM 2013 – Staff Report at 4 (Mar. 27, 2023).
[20] *Id*.

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Respectfully submitted,

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