

ITEM NO. RA1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 28, 2023**

REGULAR X **CONSENT** **EFFECTIVE DATE** November 28, 2023

DATE: November 17, 2023

TO: Public Utility Commission

FROM: Rose Pileggi

THROUGH: Bryan Conway, Marc Hellman, and Anna Kim **SIGNED**

SUBJECT: PACIFICORP:
(Docket No. UE 428/Advice No. 23-018)
Modifications to Rule 4, Application for Electrical Service.

STAFF RECOMMENDATION:

Staff recommends the Oregon Public Utility Commission (Commission) suspend for investigation PacifiCorp's (PAC or Company) proposed modifications to Rule 4, Application for Electrical Service, as described under Advice No. 23-018.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's request to modify Rule 4, Application for Electrical Service, effective for service rendered on and after November 29, 2023.

Applicable Rule or Law

ORS 757.205 requires every public utility to file with the Commission schedules "showing all rates, tolls and charges which it has established and which are in force at the time for any service performed by it within the state." It also requires that utilities "file with and as part of every such schedule all rules and regulations that in any manner affect the rates charged or to be charged for any service."

ORS 757.215(1) allows the Commission to suspend proposed tariffs, pending investigation, for up to nine months beyond the proposed effective date.¹ The filed tariffs are not effective during suspension.

Analysis

On October 24, 2023, PacifiCorp filed its Advice No. 23-018 to modify Rule 4, Application for Electrical Service, with a proposed effective date of November 29, 2023. The Company seeks to amend the tariff sheet by adding a clause for “Limitation of Liability.”² PacifiCorp’s filing summarized the Company’s proposed tariff amendment as follows:

- (1) limit damages arising out of the Company’s provision of electric services to actual damages;
- (2) exclude atypical damages (including special, noneconomic, punitive, incidental, indirect, or consequential);
- (3) only apply prospectively, and for actions arising out of the provision of electric service; and
- (4) would not apply where state law otherwise disallows the limitation.³

PacifiCorp’s filing raises numerous policy and legal issues and cannot be adequately investigated by PacifiCorp’s proposed effective date of November 29, 2023. Staff therefore recommends that the Commission suspend the tariff and direct an investigation be opened in regard to the Company’s application to modify Rule 4, Application for Electrical Service for a period of up to nine months pursuant to ORS 757.215(1).

Conclusion

Staff finds that the modifications proposed in this filing has significant policy implications as well as legal issues. Staff recommends that the Commission suspend this filing to provide sufficient time to fully investigate.

The Company was notified of the intent to suspend and investigate this docket and did not raise concerns to this approach.

¹ The Oregon Legislature amended ORS 757.215 through HB 3160 in the 2023 Legislative Session. The bill removed an initial six-month period of suspension and additional three-month suspension for rates or a schedule of rates to go into effect and replaces them with one nine-month suspension period.

² See Docket No. UE 428, PacifiCorp Initial Application to Modify Rule 4, Application for Electrical Service at 1 and 7 (October 24, 2023).

³ *Id.* at 1.

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PROPOSED COMMISSION MOTION:

Suspend and investigate PacifiCorp's proposed modifications to Rule 4, Application for Electrical Service under Advice No. 23-018 (UE 428), for a period up to nine months.

PAC UE 428 Modifications to Rule 4, Application for Electrical Service