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September 2, 2020

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
Request for a General Rate Revision.
Docket No. UE 374

Dear Filing Center:

Please find enclosed the redacted Prehearing Brief of the Alliance of Western Energy Consumers ("AWEC") in the above-referenced docket.

Please note that AWEC's brief contains Protected Information that is being handled in accordance with Order No. 20-040. The confidential version of AWEC's brief has been encrypted with 7-zip software and is being transmitted electronically to the Commission, per Order No. 20-088.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the **Confidential Prehearing Brief of the Alliance of Western Energy Consumers** upon the parties shown below by sharing copies by electronic mail, per Order No. 20-088.

Dated this 2nd day of September, 2020.

Sincerely,

/s/ Jesse O. Gorsuch
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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 374

In the Matter of	)
	)
PACIFICORP, dba PACIFIC POWER	)
	)
Request for a General Rate Revision.	)
	)

PREHEARING BRIEF

ON BEHALF OF THE

ALLIANCE OF WESTERN ENERGY CONSUMERS

(REDACTED VERSION)

September 2, 2020

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I. INTRODUCTION

Pursuant to the Administrative Law Judge's August 27, 2020 Ruling in the above-referenced docket, the Alliance of Western Energy Consumers ("AWEC") files this Prehearing Brief with the Oregon Public Utility Commission ("Commission").

Parties have settled all rate spread and rate design issues, and AWEC recommends that the Commission approve the settlement. The settlement strikes a reasonable balance of competing interests with respect to the spread of PacifiCorp's revenue requirement and incorporates important rate design elements. On the rate spread, AWEC notes that it supports the settlement despite the fact that its members on Schedule 48 will receive a higher-than-average allocation of the revenue requirement.[1/] On rate design, the settlement achieves several important objectives for AWEC. First, it reduces the facilities charge for customers on Schedule 48 that exceed 4 MW.[2/] This makes progress toward cost-based rates by recognizing the lower distribution costs for these customers. PacifiCorp has also agreed to perform a marginal cost of service study for customers with dedicated substations to better understand the distribution costs necessary to serve these customers.[3/] Finally, the stipulation modifies PacifiCorp's initially proposed time of use periods for Schedules 47 and 48 to ensure an uninterrupted 8-hour off-peak period year-round.[4/] This is particularly important for customers who have especially energy-intensive processes, which allows them to perform these processes at off-peak times in an uninterrupted work shift. Allowing these customers a predictable off-

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1/ Stipulation ¶ 10.
2/ Id. ¶ 16.
3/ Id. ¶ 17.
4/ Id. ¶ 18.

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peak period of sufficient length reduces their costs and incentivizes them to use energy in off-peak periods, thereby benefitting the overall system.

All other issues in the case remain fully disputed, however. These can broadly be grouped into three categories: (1) cost of capital; (2) policy issues; and (3) other revenue requirement issues. AWEC discusses each issue in detail below.

II. DISCUSSION

A. Cost of Capital

1. A reasonable return on equity for PacifiCorp is no higher than 9.2%.

Based on the testimony of Ann Bulkley, PacifiCorp requests a return on equity ("ROE") of 9.8%, revised down in its Surrebuttal Testimony from 10.2%.[5/] Even with this downward revision, the Company's requested return is substantially above recently authorized ROEs for utilities with comparable risk and wildly out of line with current capital market conditions, particularly considering the likely long-term economic effects of the COVID-19 pandemic, which the Federal Reserve recently announced would likely lead to low interest rates for the long term.[6/] Using an unbiased analysis and reflecting existing capital market conditions, Mr. Gorman recommends a ROE of 9.2%.[7/] As Mr. Gorman shows, this equity return is sufficient to maintain PacifiCorp's credit metrics and ensure its access to capital.[8/]

It is well settled that the task of establishing a reasonable ROE for regulated utilities is to identify the equity return that is commensurate with the returns of enterprises with

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5/ PAC/3300, Lockey/8 (Table 2).
6/ AWEC/708.
7/ AWEC/200, Gorman/59:12-13.
8/ Id. at 60:4-63:13.

corresponding risks.[9] As the Federal Energy Regulatory Commission ("FERC") has recently stated, "in determining what ROE to award a utility, we must look to how investors analyze and compare their investment opportunities."[10] In other words, an appropriate ROE should be measured using information investors rely on and models investors use to inform their investment decisions, not independent analyses that are otherwise unavailable to investors. Several models have been developed to estimate a reasonable equity return. This Commission has historically favored the multi-stage discounted cash flow ("DCF") analysis, but has also expressed support for the use of the Capital Asset Pricing Model ("CAPM") as a check on the DCF results.[11] Of course, any model is only as good as its inputs.

Ms. Bulkley performs several analyses to estimate a reasonable ROE for PacifiCorp: (1) three versions of a constant growth DCF analysis; (2) three versions of a multi-stage DCF analysis; (3) two versions of a CAPM analysis; (4) two versions of an empirical CAPM ("ECAPM") analysis; (5) three versions of a risk premium analysis; and (6) an expected earnings analysis.[12] While Ms. Bulkley claims that she has considered each of her methods in determining an appropriate ROE for PacifiCorp, she provides no indication of how she has considered each method and how much weight she has given to each method. In some cases, the inputs Ms. Bulkley uses for these models are flawed and bias the ROE results upward; in other cases, the models themselves are flawed.

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[9] Federal Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591, 603 (1944).
[10] Association of Businesses Advocating for Tariff Equity, et al., 169 F.E.R.C. ¶ 61,129 at P. 61,731 (Nov. 21, 2019) ("Opinion No. 569").
[11] Docket No. UE 115, Order No. 01-777 at 27, 32 (Aug. 31, 2001).
[12] PAC/3500, Bulkley/14 (Figure 2).

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In her constant growth DCF analyses, for instance, Ms. Bulkley excludes all ROE results below 7.0%.[13] She does so because "such returns would provide equity investors a risk premium only 323 basis points above Baa-rated utility bonds,"[14] which she considers to be too low to "provide a sufficient risk premium above the long-term cost of debt to compensate equity investors."[15] It is, however, the case that some utilities will underperform relative to others. Ms. Bulkley's constant growth analysis does not exclude results as high as 13.01%,[16] and she offers no explanation for this decision and no basis to determine that this and other high-end results reflect reasonable expected returns for investors. If indeed investors in some utilities may earn a return as high 13%, it is equally the case that investors in other utilities may earn returns below 7%. The returns Ms. Bulkley calculates are based on a proxy group of utilities determined to be comparable to PacifiCorp. "Using a proxy group median," therefore, "is a more accurate approach to assess the central tendency of the proxy group in the presence of outliers."[17] Both the mean and median of each of Ms. Bulkley's constant growth DCF analyses yield ROEs for PacifiCorp below 9.0%.[18]

Ms. Bulkley's multi-stage DCF analyses are biased upward by her use of an inflated long-term growth rate of 5.56%.[19] Crucially, this growth rate is not drawn from consensus market expectations, but is instead, as Mr. Gorman shows, "her personal forecast of long-term GDP growth …."[20] This is important because the Commission's task is to identify a

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[13] PAC/3502.
[14] PAC/400, Bulkley/50:3-4.
[15] PAC/2200, Bulkley/13:19-20.
[16] PAC/3502, Bulkley/4.
[17] AWEC/200, Gorman/67:2-4.
[18] AWEC/702 (Response to AWEC DR 157); PAC/3502, Bulkley/4-6.
[19] PAC/3503, Bulkley/10-16.
[20] AWEC/200, Gorman/68:9-10.

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return for PacifiCorp that is commensurate with the returns of enterprises having corresponding risk, and Ms. Bulkley's long-term growth input is "not based on data that is likely used by investors to inform investment decisions."[21] By contrast, Mr. Gorman's 4.0% long-term growth rate *is* based on consensus analyst projections, as published by *Blue Chip Economic Indicators*, and supported by several other available sources, all of which project long-term GDP growth of between 3.6% and 4.3%.[22] This input has a substantial impact on Ms. Bulkley's results. If one were even to take the average of Ms. Bulkley's and Mr. Gorman's long-term growth inputs, or 4.78%, this would reduce Ms. Bulkley's *high end* multi-stage DCF results to 9.17% for her 30-day study, 9.14% for her 90-day study, and 8.79% for her 180-day study.[23]

Ms. Bulkley uses similar upwardly biased inputs for her CAPM model. Ms. Bulkley's projected long-term growth rates for the S&P 500 are 12.12% and 12.01%.[24] With respect to the first growth rate, Ms. Bulkley again, rather than relying on consensus analyst projections, creates her own market risk premium projection by applying a constant growth DCF model to the S&P 500 Index.[25] But as Mr. Gorman notes, "the DCF model requires a long-term sustainable growth rate."[26] The 12.12% growth rate Ms. Bulkley calculates is approximately twice the historical capital appreciation for the S&P 500 between 1926 and 2018.[27] While it is certainly possible that the S&P 500 will perform better in the future than it has in the past, it is unrealistic to believe that it will perform at *twice* the historical rate. The same is true for Ms.

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[21] Id. at 68:10-11.
[22] Id. at 42:14-44:18.
[23] AWEC/703 (Response to AWEC DR 158).
[24] PAC/3505, Bulkley/13.
[25] PAC/400, Bulkley/56:2-6.
[26] AWEC/200, Gorman/76:8-9.
[27] AWEC/200, Gorman/77:2-4.

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Bulkley's other CAPM analysis using the S&P's own growth rate projection of 12.01%. But this projection is a five-year projected growth rate, not a long-term growth rate as Ms. Bulkley represents.[28/] A long-term growth rate is one designed to extend into perpetuity; the S&P 500 growth rate Ms. Bulkley relies on reflects a time frame consistent with the first stage of her multi-stage DCF model.[29/] Adjusting these long-term growth rates for the S&P 500 to 8.0% - still higher than the highest estimated historical rate – brings Ms. Bulkley's CAPM results below 9.0%.[30/]

Ms. Bulkley's Risk Premium results are biased upward by her use of a projection of treasury bond yields through 2025.[31/] These projections "do not reflect the cost of capital in the test period or even the period over the next two to three years, the period in which rates determined in this proceeding will largely be in effect."[32/] Moreover, there is simply no reason to believe such projections will be accurate. Indeed, "security analysts' projections of changes in future capital market costs and interest rates have proven to be unreliable."[33/] This is particularly true given the current uncertainty around the impacts of the COVID-19 pandemic and its duration; projections of market data, even for the near term, are necessarily also highly uncertain. Ms. Bulkley herself confirms this, testifying that "there is still much uncertainty regarding the near-term effect of COVID-19 on the economy and the financial markets…."[34/] One need look no further than Ms. Bulkley's Opening Testimony to see how wrong economists were in their

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28/ PAC/400, Bulkley/56:12-15; PAC/3505, Bulkley/3.
29/ PAC/400, Bulkley/47:18-22.
30/ PAC/3505.
31/ PAC/3506; AWEC/200, Gorman/77:18-78:6, 84:15-19.
32/ AWEC/200, Gorman/78:1-3.
33/ AWEC/200, Gorman/71:9-11.
34/ PAC/2200, Bulkley/20:11-13.

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projections of market data: "According to the December 2019 issue of Blue Chip Financial Forecasts, the yields on 10- and 30-year Treasury bonds are expected to increase over the near-term of Q1 2020 to Q1 2021," Ms. Bulkley states.[35] Instead, the yield on 30-year Treasury bonds dropped from 2.04% when PacifiCorp filed this case to 1.43% today.[36] Disregarding Ms. Bulkley's long-term Treasury yield Risk Premium analysis, the average of her Risk Premium results yields an ROE of 9.35%.[37]

Finally, Ms. Bulkley relies on two additional analyses – the ECAPM and the Expected Earnings – that are simply unaccepted methods of estimating a reasonable ROE for regulated utilities. With respect to the Expected Earnings model, Mr. Gorman notes that this model measures returns based on book equity returns, rather than market equity returns, the former of which is not representative of a fair compensation to investors.[38] This criticism was affirmed by FERC in Opinion No. 569, in which it considered multiple ROE models in depth and rejected use of the Expected Earnings model:

> [W]e now find that … it is not appropriate to use the Expected Earnings model in our new base ROE methodology.
>
> In particular, we find that the record does not support departing from our traditional use of market-based approaches to determine base ROE. Under the market-based approach, the Commission sets a utility's ROE to equal the estimated return that investors would require in order to purchase stock in the utility at its current market price. In *Hope*, the Supreme Court explained that "the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks." In order to determine this, we must analyze the returns that are earned on "investments in other enterprises having corresponding risks," but investors cannot invest in an enterprise at book value and must instead pay the prevailing market price for an

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[35] PAC/400, Bulkley/25:3-6 (internal citations omitted).
[36] MarketWatch, U.S. 30 Year Treasury Bond, available at: https://www.marketwatch.com/investing/bond/tmubmusd30y?countrycode=bx (as of Aug. 26, 2020).
[37] PAC/3501, Bulkley/1 (average of 9.26% and 9.44% Risk Premium results).
[38] AWEC/200, Gorman/85:12-87:4.

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> enterprise's equity. As a result, the expected return on a utility's book value does not reflect "returns on investments in other enterprises" because book value does not reflect the value of any investment that is available to an investor in the market, outside of the unlikely situation in which market value and book value are exactly equal. Accordingly, *we find that relying on the Expected Earnings model would not satisfy the requirements of* Hope.[39]

Meanwhile, the ECAPM methodology did not even make it to consideration in FERC's Opinion No. 569. In Opinion No. 551, one of the FERC orders that ultimately led to Opinion No. 569, FERC affirmed an ALJ Initial Decision establishing the MidContinent Independent System Operator "MISO" Transmission Owners' ROE, in which the ALJ rejected use of the ECAPM methodology.[40] The Initial Decision rejected this method in part on the basis that "the ECAPM is relied upon by no more than a few 'financial scholars.'"[41] This decision was not appealed to FERC, nor was it raised anew in Opinion No. 569. Additionally, even if the Commission were to consider this analysis, Ms. Bulkley's ECAPM model suffers from the same bias present in her traditional CAPM analysis, namely that it relies on the same unrealistically high projected long-term growth rates for the S&P 500. Reducing this projected long-term growth rate to 8.0% results in ECAPM returns between 8.61% and 9.14%.[42]

Accordingly, eliminating the upward bias from Ms. Bulkley's ROE models brings her high-end results in line with Mr. Gorman's recommendation of 9.2%. This is important because Ms. Bulkley identifies several factors that she alleges makes PacifiCorp riskier, and thus eligible for a higher ROE than other utilities. These are: (1) PacifiCorp's near-term capital

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39/ Opinion No. 569 at P. 61,767 (emphasis added).

40/ Ass'n of Businesses Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc., 156 FERC ¶ 61,234 (Sept. 28, 2016).

41/ Ass'n of Businesses Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc., 153 FERC ¶ 63,027 at P. 66,140 (Dec. 29, 2015).

42/ PAC/3505.

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expenditures will be high;[43] (2) PacifiCorp has high regulatory risk associated with its power cost adjustment mechanism ("PCAM"), the Commission's test year and rate base measurement, volumetric risk, and capital cost recovery policies;[44] and (3) PacifiCorp owns generation.[45]

A review of Ms. Bulkley's testimony on these risks, however, does not yield a picture of a utility exposed to unusual risk. For instance, PacifiCorp's capital expenditures are only slightly above the 50th percentile of the proxy group companies.[46] Similarly, half of the utilities operate in a future test year jurisdiction, like Oregon (a regulatory construct favorable to the utility), and approximately half use year-end rate base.[47] Additionally, while Ms. Bulkley states that "deferred accounting is not available for recovery of capital expenditures," which was true at the time of her Opening Testimony, the Commission has since reversed the decision that instituted this prohibition.[48] Finally, all utilities in Ms. Bulkley's proxy group are vertically integrated and own generation, and thus this risk does not distinguish the Company from its peers.[49]

Consequently, if PacifiCorp is higher risk than the proxy group overall, it is not by much. Moreover, as noted above, even if PacifiCorp is higher risk, that entitles it only to an ROE at the higher end of the range of reasonableness. Mr. Gorman's recommendation, and Ms. Bulkley's adjusted results, are at the high end of this range. Thus, a 9.2% ROE is reasonable for PacifiCorp, even considering the risks it faces.

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[43] PAC/400, Bulkley/64:13-67:11.
[44] Id. at 67:12-76:5.
[45] Id. at 76:6-80:20.
[46] Id. at 66 (Figure 14).
[47] Id. at 72:1-11.
[48] Id. at 72:19-21; UM 1909, Order No. 20-147.
[49] PAC/403, Bulkley/1.

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2. The level of equity in PacifiCorp's capital structure should be set at 51.86%

PacifiCorp recommends a capital structure with 53.52% common equity.[50] Particularly in the current low interest rate environment, this level of equity is excessive and will result in unnecessarily high rates for customers. Mr. Gorman initially recommended a capital structure with 50.64% equity, which he then revised upward to 51.86% to account for additional information related to PacifiCorp's off balance sheet debt.[51] Mr. Gorman then demonstrates that a capital structure with 51.86% equity will "continue[] to support [PacifiCorp's] current bond rating" based on FFO-to-Debt and Debt-to-EBITDA metrics.[52] PacifiCorp provides no substantive response to this analysis. Its witness, Ms. Kobliha, merely answers with the blanket and unsubstantiated statement that "[a]t the 53.52 percent equity level the Company will remain financially sound and keep costs low for customers while transforming its generation portfolio."[53]

In Washington, PacifiCorp has tried for several years to increase the equity layer in its capital structure, and has been denied each time. In its 2010 rate case, the Company sought a capital structure with 52.1% common equity.[54] In that case, the Washington Utilities and Transportation Commission ("WUTC") authorized a capital structure with 49.1% equity.[55] The WUTC recognized that a "central tenet of ratemaking is that a Company's capital structure must strike an appropriate balance between safety and economy. In other words, the capital structure

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[50] PAC/3400, Kobliha/2:6-8.
[51] AWEC/600, Gorman/4:8-5:4.
[52] Id. at 5:10-13; AWEC/602.
[53] PAC/3400, Kobliha/2:8-10.
[54] Docket UE-100749, Order 06 ¶ 23 (Mar. 25, 2011).
[55] Id. ¶ 40.

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must contain sufficient equity to provide financial security, but no more than necessary to keep ratepayer costs at a reasonable level."[56] The WUTC noted the "remarkable level of growth" in the level of equity in PacifiCorp's capital structure since being purchased by Berkshire Hathaway.[57] This was due to Berkshire Hathaway's decision to infuse nearly $1 billion in equity into the Company, eliminate dividend payments, and retire short-term debt, all of which PacifiCorp expected to continue into the future.[58] "While we understand [Berkshire Hathaway's] interest in expanding PacifiCorp's equity ratio and reaping the benefit of greater equity returns," the WUTC stated, "this interest is inconsistent with the ratepayer interest in a capital structure that reflects economy."[59]

The WUTC made a similar decision in 2013 and 2014, when PacifiCorp sought a capital structure with 52.22% and 51.73% equity, respectively. On both occasions, the WUTC nevertheless maintained the existing 49.1%.[60] The same level of equity has been included in PacifiCorp's capital structure ever since, including PacifiCorp's stipulation to this equity level in its ongoing Washington rate case.[61]

Consequently, both Mr. Gorman's analysis in this case and the WUTC orders referenced above demonstrate that PacifiCorp does not need the level of equity it has requested to maintain its financial integrity and current bond ratings. To the contrary, authorizing

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[56] Id. ¶ 39.
[57] Id. ¶ 40.
[58] Id.
[59] Id.
[60] Docket UE-130043, Order 05 ¶¶ 39-42 (Dec. 4, 2013); Docket UE-140762, Order 08 ¶¶ 176-183 (Mar. 25, 2015).
[61] Docket UE-191024, Settlement Stipulation ¶ 13 (July 17, 2020).

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PacifiCorp's requested equity level will elevate safety over economy and unnecessarily increase shareholder returns at the expense of customers.

B. The Commission should include decommissioning costs for coal plants in rates consistent with PacifiCorp's 2018 depreciation study

In its 2018 depreciation study, which remains ongoing, PacifiCorp updated its expected decommissioning costs for its coal plants.[62/] Rather than applying a flat $40/kW estimate for the Company's entire coal fleet, as it had done in previous depreciation studies, PacifiCorp estimated plant-specific decommissioning costs, which ranged from $4.51/kW to $97.75/kW, and averaged $46.14/kW.[63/] This increase in decommissioning costs was one factor in the Company's $67.1 million increase to Oregon-allocated depreciation expense.[64/]

Meanwhile, the Company was engaged in discussions with the Multi-State Protocol ("MSP") Workgroup. These discussions ultimately led to the 2020 Protocol, which this Commission approved in Docket No. UM 1050 and which is the basis for the system costs PacifiCorp proposes to allocate to Oregon customers in this rate case.[65/] With some limited exceptions, the 2020 Protocol provides two paths for Oregon customers with respect to the assumption of decommissioning costs from the Company's coal plants. For coal plants that are closed on or before they are fully depreciated in Oregon, Oregon customers pay their allocated share of actual prudently incurred decommissioning costs.[66/] For coal plants that are expected to continue running beyond Oregon's depreciable life, other states have the option to acquire

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62/ AWEC uses the term "decommissioning" in this Prehearing Brief to include environmental remediation costs.
63/ Docket No. UM 1968, PAC/402.
64/ UM 1968, PacifiCorp Application at 5.
65/ Docket No. UM 1050, Order No. 20-024 (Jan. 23, 2020).
66/ 2020 Protocol § 4.3.1.4.

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Oregon's share of the resource.[67] Oregon receives no transfer payment for this fully depreciated 25% share of the plant, and in exchange, Oregon is absolved of all future decommissioning liability.[68] In other words, Oregon is deemed to have covered its share of decommissioning costs for the transferred plant through the estimated decommissioning costs it pays in depreciation rates. Consequently, for plants expected to be transferred to other states, it is particularly important for the estimated decommissioning costs included in Oregon depreciation rates to be unbiased and as accurate as possible.

With this goal in mind, PacifiCorp agreed in the 2020 Protocol that it would hire a third-party decommissioning expert to estimate coal decommissioning costs on a plant-specific basis.[69] The third-party estimate was to establish the baseline decommissioning costs for these plants that would be allocated to each state.[70] However, as with all costs allocated under the 2020 Protocol, the actual decommissioning costs included in customer rates remain subject to review and approval from each state utility commission. Paragraph 4.3.1.3 of the 2020 Protocol states:

> No Party will be bound by the Decommissioning Cost estimates in the Decommissioning Studies … and final determination of each State's just and reasonable Decommissioning Cost allocation for each coal-fueled Interim Period Resource will remain exclusively with each Commission ….

AWEC, a signatory to the 2020 Protocol, understands this provision to subject PacifiCorp's coal plant decommissioning cost estimates to the same level of scrutiny, and the same burden of proof, that applies to all costs in PacifiCorp's rates. In other words, it is PacifiCorp's burden to

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[67] Id.
[68] Id.
[69] Id. at § 4.3.1.1.
[70] Id.

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demonstrate that the decommissioning costs it proposes to include in Oregon customer rates are fair, just, and reasonable, and it must do so through a sufficient evidentiary showing.[71]

To meet this burden, PacifiCorp must "show, by a preponderance of the evidence, that the change [in decommissioning costs] is just and reasonable. If it fails to meet that burden, either because the opposing party presented compelling evidence in opposition to the proposal, or because [PacifiCorp] failed to present compelling information in the first place, then [PacifiCorp] does not prevail."[72]

PacifiCorp selected Kiewit Engineering to perform the studies on a group of coal plants that are scheduled to be depreciated earliest in Oregon rates.[73] Kiewit prepared a report that described its approach from a high level and provided specific decommissioning cost estimates on a line item basis. Collectively, it estimated decommissioning costs of $[redacted], nearly [redacted] times PacifiCorp's estimate in its depreciation study.[74] Yet, when asked for the data substantiating these estimates, PacifiCorp was unable to provide it because it had not included a requirement to provide workpapers in its contract with Kiewit, and Kiewit refused to provide its analysis, even under a protective order.[75]

Without access to the underlying models and data, AWEC, and then the Independent Evaluator retained by Commission Staff, concluded, "[t]here is no basis to conclude that the estimated costs in the study reports are consistent with AACE Class 3 level of

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[71] ORS 757.210(1)(a).
[72] Docket No. UE 115, Order No. 01-777 at 6 (Aug. 31, 2001).
[73] PacifiCorp will perform a similar third-party study for the remaining coal plants closer to the end of their Oregon depreciable lives.
[74] AWEC/300, Kaufman/26 (Figure 3).
[75] AWEC/302, Kaufman/22; PAC/3901, Van Engelenhoven/1.

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accuracy."[76] Both Commission Staff and CUB agree.[77] As Dr. Kaufman testified, the Kiewit report identifies numerous line-item decommissioning costs, such as:

> [A] reclamation cost of $[REDACTED]. A number that specific cannot have simply been estimated; it must have been calculated through a model and using certain assumptions …. Without such data, parties and the Commission cannot fairly evaluate the Kiewit Report. The Kiewit report increased D&R expense by [REDACTED] percent with minimal discussion of the change or the factors driving this change.[78]

Similarly, the IE concluded: "[REDACTED][79] The IE Report also [REDACTED][80] [REDACTED].[81] These estimates are more in line with the estimates Dr. Kaufman calculated - $57.70/kW – based on several adjustments to the Kiewit Report.[82]

PacifiCorp responds by criticizing AWEC's and the IE's analysis, but it does not deny that it cannot provide the data supporting Kiewit's estimates. Its bases for the reasonableness of the Kiewit estimates are: (1) an apparent assertion that AWEC's position as a

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[76] AWEC/300, Kaufman/23:3-18; Confidential Independent Evaluation Report for PacifiCorp's Decommissioning Costs Study Reports dated January 15, 2020 and March 13, 2020, at 5 (June 21, 2020).
[77] Staff/1700, Storm/28:21-29-4; CUB/300, Jenks/6.
[78] AWEC/300, Kaufman/23:6-12.
[79] Confidential Independent Evaluation Report for PacifiCorp's Decommissioning Costs Study Reports dated January 15, 2020 and March 13, 2020, at 6 (June 21, 2020).
[80] Id. at 20-21.
[81] Id.
[82] AWEC/500, Kaufman/38 (Figure 2).

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signatory to the 2020 Protocol requires it to support the Kiewit estimates, which as shown above is clearly wrong;[83] and (2) that Kiewit is an expert and therefore its conclusions should be relied upon.[84] This is insufficient evidence to carry PacifiCorp's burden of proof on this matter. Oregon courts have held that "bare conclusions by … experts cannot be used as a substitute for evidence presented at a contested case hearing."[85] The Court of Appeals recently reversed a Commission order in PacifiCorp's 2016 Transition Adjustment Mechanism on the basis that it lacked substantial evidence.[86] The Commission's order on review concluded that it was "reasonable to assume that fixed generation costs will increase at the rate of inflation after year 5," and based this conclusion on the testimony of PacifiCorp's witness, Brian Dickman, stating the same thing.[87] The Court noted that the "parties have pointed to nothing in the record, and we have found nothing, that provides any context to Dickman's bare assertions that the calculation is 'conservative' or that 'other costs' escalate over time."[88] Similarly here, without any underlying data to support the Kiewit Report, PacifiCorp's position that the Commission should rely on the Kiewit Report because it was prepared by a third-party expert is nothing but a "bare assertion" that lacks any supporting context.

Likely recognizing this, PacifiCorp proposes an alternative process in which the Kiewit estimates would be incorporated into rates in this rate case, but subject to further review in a new proceeding.[89] AWEC has substantial reservations about this proposal. First, because,

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[83] PAC/2400, Van Engelenhoven/14:4-7
[84] Id. at 12:4-16.
[85] WaterWatch of Oregon, Inc. v. Water Resources Dept., 268 Or. App. 187, 218 (2014).
[86] Calpine Energy Sols. LLC v. PUC of Or., 298 Or. App. 143 (2019).
[87] Id. at 160-61.
[88] Id. at 161.
[89] PAC/3300, Lockey/24:11-18.

as described above, PacifiCorp carries the burden of proof in this proceeding, and has not met it with respect to the decommissioning costs, the Commission cannot implement PacifiCorp's recommendation even on an interim basis; otherwise it would be approving rates that have not been demonstrated to be just and reasonable, in violation of ORS 757.210 and 756.040. Instead, if it chooses to further investigate the decommissioning costs, it should implement the estimates included in PacifiCorp's 2018 depreciation case, which were supported by a full depreciation study and testimony by PacifiCorp witnesses.

Second, AWEC cannot support further investigation into the decommissioning cost estimates when it has no assurance that it will be provided any additional information that is not already in the record of this proceeding. PacifiCorp does not testify that Kiewit would be willing to provide its workpapers in this new proceeding. Instead, it simply asserts that it "will work with stakeholders regarding additional analyses that can be performed in lieu of providing Kiewit workpapers."[90/] AWEC is certainly willing to work constructively with PacifiCorp and the other parties to achieve the most accurate decommissioning cost estimate, but without a specific proposal to evaluate and respond to, and without any assurance that it will have access to the data necessary to identify an accurate decommissioning cost estimate, AWEC cannot agree to expend its members' resources venturing forth into the unknown. Accordingly, unless PacifiCorp can provide a concrete proposal for a new proceeding that ensures all parties will have access to the data necessary to evaluate the decommissioning cost estimates PacifiCorp provides, AWEC recommends that the Commission fully and finally establish the

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[90/] PAC/3300, Lockey/24:16-18.

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decommissioning costs for Oregon rates associated with the coal plants reviewed by Kiewit in this proceeding, and that it use the estimates included in PacifiCorp's 2018 depreciation study.

C. The Commission should reject the Annual Power Cost Adjustment

PacifiCorp has proposed to replace the existing Transition Adjustment Mechanism ("TAM") and PCAM with a combined annual filing, which it is calling the Annual Power Cost Adjustment ("APCA"), which would pass through, dollar-for-dollar, the Company's actual incurred power costs for the previous year. Not only is this proposal a substantial departure from long-standing Commission policy regarding the allocation of power cost risk, it is also supported by little more than the same recycled arguments PacifiCorp has made twice before, with nothing fundamentally new to support it.[91/]

PacifiCorp's primary justification for the APCA is that the Company has systematically under-recovered its power costs in recent history, and that this under-recovery is impossible to rectify through modeling changes.[92/] The Company alleges that the under-recovery is primarily due to the effects of system balancing transactions, which will become more significant as more intermittent renewable resources are added to the system.[93/]

AWEC recommends that the Commission reject the APCA and retain the existing power cost adjustment mechanism with its current dead bands, sharing bands, and earnings test. This recommendation is based on the following.

First, the Commission has already granted PacifiCorp's request to modify the GRID model with the Day-Ahead/Real-Time ("DART") adjustment to account for the financial

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91/ See Docket Nos. UE 246 and UM 1662.
92/ PAC/600, Graves/3:22-7:9.
93/ PAC/600, Graves/5:14-6:16.

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impact of system balancing transactions, the same transactions it blames for systematic under-recovery in this case.[94] In authorizing the DART adjustment – without modification from PacifiCorp's proposal – the Commission stated:

> [W]e are persuaded that short-term power purchase prices systematically exceed short-term power sales prices. We are also persuaded that PacifiCorp has offered a reasonable adjustment to its forward price curve to account for these expected price differences that will result in a more accurate estimate of net power costs.
>
> We concur with PacifiCorp that its historic GRID modeling understated volumes of transactions because it assumed the volumes of purchases and sales matched exact needs. PacifiCorp's proposal increases balancing transaction volumes to reflect that …. [W]e accept PacifiCorp's adjustment to increase balancing transaction volumes to reflect that the company balances its system with hourly products and 25 megawatt (MW) block monthly and daily products.[95]

Accordingly, PacifiCorp identified a cause of net power cost ("NPC") under-recovery, proposed a solution, and the Commission accepted it. PacifiCorp's response to the observation that the Commission has already addressed the problem PacifiCorp relies on to justify dollar-for-dollar power cost recovery in this case is that the DART adjustment "does not completely solve PacifiCorp's persistent NPC under-recovery" because it does not "address the inherent variability in renewable resources or the dynamic market conditions of the evolving energy industry."[96]

This leads to AWEC's second reason why the APCA should be rejected, which is that PacifiCorp blames macro market forces for its persistent NPC under-recovery, and yet it alone seems to be negatively impacted. AWEC does not dispute that there is "inherent variability in renewable resources" and that there are "dynamic market conditions" in an

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[94] Docket No. UE 296, Order No. 15-394 at 4 (Dec. 11, 2015).
[95] Id.
[96] PAC/2000, Wilding/63:14-64:5.

"evolving energy industry," but those conditions affect all utilities, not just PacifiCorp. As AWEC showed in testimony, both Portland General Electric and Avista Corp. in Washington have over-recovered power costs in recent years, despite being subject to the same market forces.[97/] In response, PacifiCorp argues that its "power supply system is fundamentally different than either PGE's or Avista's."[98/] The Company specifically notes the higher percentage of intermittent renewable resources in its portfolio relative to PGE's and Avista's.[99/] Crucially, however, the Company's data relies on a 2021 resource mix.[100/] This means PacifiCorp is including the generation from its Energy Vision 2020 projects which, of course, have had nothing to do with the Company's historical power cost recovery. In its surrebuttal testimony, PacifiCorp even criticizes AWEC on this same issue: "of the total 4,789 MW of renewables cited by Dr. Kaufman, about half of it (2,358 MW) was not online prior to 2020. Therefore, *the impact of the new renewables coming online starting in 2020 on NPC under-recovery has yet to be seen in the historical data*.[101/] Furthermore, PacifiCorp does not explain how it is more susceptible to "dynamic market conditions of the evolving energy industry" than other utilities. The fact is that AWEC is unaware of any electric utility in the Northwest that experiences the same NPC under-recovery that PacifiCorp has alleged, which is strong evidence that the Company's issues are modeling related, not driven by macro market forces over which it has no control.

[97/] AWEC/100, Mullins/35:17-36:9.
[98/] PAC/2000, Wilding/72:4-5.
[99/] Id. at 72:7-9.
[100/] Id. at 73 (Table 8).
[101/] PAC/3700, Graves/22:22-23:3 (emphasis added). Notably, the portion of Dr. Kaufman's testimony Mr. Graves responds to here was a quote Dr. Kaufman included from PacifiCorp's own testimony. AWEC/500, Kaufman/25:13-14.

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Third, and related to the second issue, PacifiCorp's claim that NPC under-recovery is getting worse and will continue to get worse in the future due to increased renewable penetration and evolving energy markets is contradicted by the facts in the record of this case. As Dr. Kaufman identifies, PacifiCorp's own data shows that its forecast of NPC has become more accurate in recent years, not less accurate, and this fact holds true even without considering the effects of the DART adjustment.[102/] PacifiCorp does not dispute this conclusion.[103/] Instead, Mr. Graves makes the correct but somewhat odd observation (given his position that NPC under-recovery is driven by intermittent renewables), that "PacifiCorp's NPC under-recovery since 2008 has been driven by multiple factors in addition to increased penetration of renewables in PacifiCorp's portfolio."[104/] This reflects the position AWEC has consistently taken throughout the proceedings in which PacifiCorp has attempted to undermine the PCAM,[105/] and the inconsistent positions PacifiCorp has taken.

In PacifiCorp's 2012 general rate case, PacifiCorp requested a mechanism similar to the APCA that would provide dollar-for-dollar recovery of power costs. The basis for this claim was that Oregon's renewable portfolio standard required dollar-for-dollar recovery of renewable resource costs, but that it was "not possible to isolate and quantify the precise cost of wind variability and the related cost of shaping, firming or integration; therefore, the *only* way that 'all of these costs' can be recovered is through a dollar-for-dollar PCAM that allows for

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102/ AWEC/500, Kaufman/25:4-21.
103/ PAC/3700, Graves/22:2-23:3.
104/ Id. at 22:16-17.
105/ See, e.g., Docket No. UM 1662, AWEC/100, Mullins/9 ("The costs associated with varying levels of renewable resource generation are the result of complex, offsetting interactions between various types of resources within [PacifiCorp's] portfolio").

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recovery of all prudently incurred actual NPC."[106] After this argument was rejected and the Commission implemented the PCAM that continues today,[107] the Company tried again in UM 1662. There, the Company (along with PGE) proposed a "renewable resource tracking mechanism" in which it proposed to isolate and recover dollar-for-dollar the NPC associated with its renewable resources.[108] PacifiCorp made this proposal, which was again rejected, despite its previous position in UE 246 that it was "not possible" to do precisely what it was proposing. Now, PacifiCorp seems to have mishmashed both positions to justify the APCA in this case, arguing both that it is the "inherent variability" of intermittent renewable resources that is driving NPC under-recovery while simultaneously claiming that "under-recovery since 2008 has been driven by multiple factors." This illustrates the fundamental flaws of the Company's arguments in support of dollar-for-dollar power cost recovery.

Fourth, the APCA is contrary to the regulatory principles that support the existing PCAM. As noted in Dr. Kaufman's Rebuttal Testimony, the PCAM was originally created as a response to unpredictable variations in hydro generation.[109] The point was to craft a mechanism that would "be an appropriate way of *permanently* allocating the risks and benefits of hydro variability."[110] The relevance of this to PacifiCorp's APCA is that the Company's proposed dollar-for-dollar recovery of NPC is predicated on the unpredictable variability of intermittent renewable generation, and yet Dr. Kaufman shows that renewable generation is no more variable

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[106] Docket No. UE 246, PAC/2200, Duval/17:10-13 (emphasis in original)
[107] Docket No. UE 246, Order No. 12-493 at 14 (Dec. 20, 2012).
[108] Docket No. UM 1662, PGE-PAC/100, Tinker-Dickman/7:18-23.
[109] AWEC/500, Kaufman/26:7-20.
[110] Docket UM 1187, Order No. 05-1261 at 10 (Dec. 21, 2005) (emphasis in original).

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than hydro generation.[111] Thus, the same mechanism that serves to fairly allocate the risk of hydro variability is also suitable for allocating the risk of renewable variability.

In response, PacifiCorp admits that hydro generation is more variable on an annual basis than intermittent renewable generation, but argues that annual variability is not the issue, and that real-time variability is the driver of the Company's NPC under-forecasts.[112] As noted above, however, this real-time variability is precisely why the DART adjustment was proposed and approved. If a problem exists with PacifiCorp's NPC recovery, it is PacifiCorp's modeling of NPC that is the culprit, not the PCAM or macro market forces.

This, then, leads to the final reason the Commission should reject the APCA, which is that PacifiCorp will be replacing the GRID model with a new power cost forecasting model as early as next year.[113] The logical progression of events is to review how accurately this new model forecasts PacifiCorp's NPC before resorting to the drastic step of eliminating the PCAM, a long-standing mechanism based on sound regulatory principles.

D. Energy Vision 2020 Projects

In this rate case, PacifiCorp requests recovery of its investment in several new wind generation facilities and associated transmission, collectively referred to as Energy Vision 2020. These projects are (1) TB Flats I and II, (2) Cedar Springs, (3) Ekola Flats, and (4) the Aeolus-to-Bridger/Anticline 500 kV transmission line, also known as the D.2 segment of Energy Gateway. In testimony, AWEC has recommended several conditions on cost recovery for the Energy Vision 2020 projects. These conditions are:

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[111] AWEC/500, Kaufman/27:2-9.
[112] PAC/3600, Wilding/4:14-17; PAC/3700, Graves/23:9-13.
[113] 2020 Protocol, Appen. D (Nodal Pricing Model Memorandum of Understanding).

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1. A hard cap on capital and operations and maintenance ("O&M") costs at the level assumed in the request for proposals ("RFP") bids;
2. A hard cap on the D.2 segment of Energy Gateway based on projections used in the RFP;
3. A guarantee of full production tax credits and energy benefits regardless of the in-service date and regardless of delays resulting from contractors; and
4. A minimum capacity factor for each resource at the level modeled in the bids.[114/]

These conditions are based on statements and recommendations made by both the Oregon Independent Evaluator ("IE") engaged to oversee the RFP and the Commission itself. AWEC's Opening Testimony goes into detail on the 2017 Integrated Resource Plan ("IRP") and subsequent RFP, including the irregularities that occurred in both processes, which AWEC will not repeat in this Prehearing Brief.[115/] Here, it is enough to reiterate the applicable statements and conditions from the IE and the Commission. Specifically, in its final report on the RFP shortlist, the IE recommended several conditions on cost recovery "to help protect ratepayers from bearing undue risk:"[116/]

> First, in order to protect ratepayers and ensure that they receive the benefits promised during this RFP we would recommend that all resources to be owned by the Company … be held to their capital and [O&M] cost projects as provided with the bid. These amounts should be considered a "hard" cap, meaning that there will be no opportunity for the Company to collect additional costs even if they believe such expenditures were prudent. Doing so will help give the offers a risk profile much closer to that of a PPA, requiring the Company to take risks that typical wind developers take, and insulate ratepayers from the risk of cost overruns ….
>
> Second, ratepayers should not be harmed if either PacifiCorp or the project developers fail to acquire 100% of the value of the [PTC]. PacifiCorp should provide an unconditional guarantee (i.e., not subject to force majeure or change in

[114/] AWEC/100, Mullins/12:11-17.
[115/] AWEC/100, Mullins/13:1-19:28.
[116/] Docket No. UM 1845, The Independent Evaluator's Final Report on PacifiCorp's 2017R Request for Proposals, at 4 (Feb. 16, 2018) ("Oregon IE Report").

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> law) that ratepayers will receive the full projected value of the [PTC]. This includes situations where (a) PacifiCorp cannot claim full PTC value or (b) PacifiCorp does not have the taxable income to use the full PTC value. Again, this is similar to what is expected of a third-party developer.
>
> Third, the Company should similarly be held to their cost projections for the Aeolus-to-Bridger D2 Segment. PacifiCorp's resource acquisition strategy here – which includes three projects that rely on the D2 Segment's construction for economic viability – is based on a certain cost promise for this segment and the Company should be held to its promises.[117]

AWEC's cost recovery conditions in this case reflect each of these recommendations.

Further, in its order acknowledging PacifiCorp's 2017 IRP, the Commission provided the following findings and guidance:

> The risk of proceeding with the Energy Vision 2020 projects remains with PacifiCorp unless and until the Commission completes a prudence review and approves cost recovery of these resources in rates. Recovery may be limited to ensure customer benefits remain at least as favorable as IRP planning assumptions.
>
> For uncertainties that will be resolved by the time of the projects' commercial operation date … we acknowledge the projects only insofar as customers do not bear the risk of construction cost overruns, delays or other factors that impact PTC value, or project costs and expected capacity factors that are less favorable than the assumptions presented in the IRP.
>
> For uncertainties that may persist beyond project commercial operation date … such as project performance, tax policy changes, and resource value relative to market … [w]e intend to ensure that customer risk exposure is mitigated appropriately, and recovery may be structured to hold PacifiCorp to the cost and benefit projections in its analysis.[118]

Again, AWEC's proposed conditions reflect this guidance from the Commission.

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[117] Id. at 4-5. In its order declining to acknowledge the final shortlist, the Commission did not include the IE's recommendations, finding that they were outside of the scope of a traditional IE role and that the decision to not acknowledge the shortlist was consistent with the IE's recommendation in the absence of its proposed cost recovery conditions. Docket No. UM 1845, Order No. 18-178 (May 23, 2018).

[118] Docket No. LC 67, Order No. 18-138, at 8 (Apr. 27, 2018) (emphasis added).

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PacifiCorp opposes AWEC's recommended conditions on several grounds, some of which miss the point of the recommendations and others of which are either inaccurate or simply irrelevant. For instance, Mr. Hemstreet opposes a hard cap on capital and O&M costs because U.S. tariff policy impacted the prices of turbine generator equipment, and PacifiCorp "should not be penalized for actions that are outside of its control."[119/] He similarly notes that the COVID-19 pandemic may impact costs and schedules, which again, the Company has no control over.[120/] The cost recovery conditions recommended by both the Commission and the IE, however, were designed to place the risk of uncontrollable events on PacifiCorp, not on customers. This was done to account for the Commission's inability to fully review PacifiCorp's resource decisions in the IRP, and the elimination of more competitive bids in the RFP due to transmission constraints, as the quotations above from the IE and Commission reveal. Thus, whether cost overruns are within PacifiCorp's control or not is beside the point, as the purpose of the conditions is to allocate risk based on how the Energy Vision 2020 projects were proposed and pursued.

Mr. Hemstreet does, however, identify one circumstance in which additional cost recovery may be appropriate. He notes that "the Company could have the opportunity to undertake enhanced maintenance activities that could increase the energy output of the wind facilities, or otherwise increase their availability."[121/] As such a circumstance is not before the Commission in this case, it is only a hypothetical; however, AWEC agrees that if the Company

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119/ PAC/2700, Hemstreet/9:9-3.
120/ Id. at 9:20-10:4.
121/ PAC/2700, Hemstreet/10:12-14.

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can demonstrate a net benefit to customers from incremental investments or maintenance in the future, it should be allowed recovery of these costs.

Mr. Link's testimony, meanwhile, largely relitigates issues from the IRP and RFP dockets. In some instances, his testimony amounts to revisionist history. For instance, he states that the IE "confirmed that the Company's refined modeling of PTC benefits to match how PTCs flow through rates did not bias the bid selection in favor of utility-owned resources."[122/] That is, in fact, not what the IE concluded. Rather, the IE Report states:

> [F]uture RFPs using the Company's production cost modeling should examine … resource choice with levelized benefits as well as costs. While the issue ultimately had no impact on winning projects selected in this RFP *due to the transmission issues noted above*, the Company's modeling method, which levelized costs but not the benefits of the PTC acquisition, *could have biased the bid selection to less favorable offers*.[123/]

In other words, the only reason PacifiCorp's modeling of PTCs did not bias the RFP results is because the projects that would have benefitted from different modeling were disqualified due to transmission constraints. The Commission itself echoed the IE's concern, stating "[w]e agree with Staff, AWEC, Avangrid and the IE that PacifiCorp's nominal treatment of PTC benefits may have skewed the first version of the shortlist toward benchmark bids."[124/]

Similarly, Mr. Link testifies that the "independent evaluators confirmed the accuracy of the Company's terminal value benefits used to evaluate utility-owned resources, and both further noted that the benefit was modest."[125/] Mr. Link's citation to the Oregon IE Report,

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[122/] PAC/2300, Link/52:14-16.
[123/] Oregon IE Report at 5-6 (emphasis added).
[124/] Order No. 18-178 at 12.
[125/] PAC/2300, Link/53:1-3.

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however, is to a sensitivity the IE requested PacifiCorp run, not the primary RFP results.[126]
With respect to the primary results, the IE concluded that "the only reason the PacifiCorp portfolio was even close in net benefits over the entire time period was due to a large terminal value applied to company-owned bids totaling about $374 million in 2050. Without the terminal value the PPA portfolio produced a net cumulative benefit of $219 million versus $185 million for PacifiCorp's chosen portfolio."[127] Similar inaccuracies abound in Mr. Link's testimony, such as his positions that interconnection constraints did not eliminate bids and that the IE did not find that these constraints biased the RFP.[128]

In addition to Mr. Link's inaccurate descriptions of the IE Report and the RFP and IRP processes, nothing in his testimony presents the Commission with anything new that was not available to it when it issued its order acknowledging the IRP and its order declining to acknowledge the RFP shortlist. The Commission was unpersuaded by PacifiCorp's arguments in those dockets and the Company offers no reason now for the Commission to modify its conclusions.

E. Wildfire Mitigation Cost Recovery Mechanism

PacifiCorp testifies that it plans to spend nearly $90 million between 2020 and 2022 in Oregon situs costs for capital investments related to system hardening against wildfire

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126/ Id. at n. 106; Oregon IE Report at 37.

127/ Id. at 32.

128/ Compare PAC/2300, Link/62:2-15 with Oregon IE Report at 2, 5 (finding that "the selected bids were reasonably priced and, while not the lowest-cost offers, were the lowest-cost offers that were viable under current transmission planning assumptions" and that "[o]ne troubling aspect of this RFP was that the initial system impact studies provided to bidders did not incorporate the early completion of the D2 Segment …. [Subsequent] evaluations by PacifiCorp's transmission group essentially left us with only about four potential offers in the transmission-constrained area served by the D2 Segment").

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risk.[129] The Company also plans to spend approximately $6.5 million in Oregon distribution situs costs for advanced protection and control efforts, also to mitigate against wildfire risk.[130] Additionally, the Company has outlined over $100 million more in system-wide transmission costs, approximately 25% of which would be allocated to Oregon under the 2020 Protocol, again to mitigate against wildfire risk.[131] Through a deferred account, the Company asks the Commission to allow dollar-for-dollar recovery of these investments from ratepayers, which undeniably and without dispute, also provide protection to shareholder interests.[132]

AWEC opposes PacifiCorp's wildfire mitigation cost recovery mechanism on the basis that it fails to meet the requirements for deferred accounting under ORS 757.259(2)(e) and Commission precedent. If, however, the Commission agrees that a special cost recovery mechanism is appropriate for PacifiCorp's wildfire mitigation investments, it should impose an earnings test at 100 basis points below the Company's authorized ROE.

ORS 757.259(2)(e) provides that a utility may defer "[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 benefits received by ratepayers." In evaluating a deferral, the Commission first determines whether a deferred accounting request complies with the requirements of the statute before determining whether to exercise its discretion to authorize a deferral.[133] Here, PacifiCorp's wildfire mitigation mechanism fails to meet the statutory criteria.

129/ PAC/1100/Lucas/6, Table 1.
130/ Id.
131/ Id.
132/ PAC/3300, Lockey/38:1-2.
133/ Docket No. UM 1147, Order No. 05-1070 at 2 (Oct. 5, 2005).

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First, rather than "minimiz[ing] the frequency of rate changes," the mechanism *increases* such frequency by instituting annual rate updates to incorporate wildfire mitigation costs.[134] Second, it does not "match appropriately" the costs borne by and benefits received by ratepayers. This is because it imposes all costs on ratepayers when benefits from PacifiCorp's investments also inure to its shareholders. The most direct evidence of this is PacifiCorp's recent payment of $3.4 million to the U.S. Forest Service and [redacted] to settle claims related to the 2018 Ramsey Canyon Fire in Oregon.[135] Moreover, in extreme circumstances, such as with Pacific Gas & Electric Co. in California, liability can result in utility bankruptcy, a circumstance shareholders have a particular incentive to avoid. Imposing all wildfire mitigation costs on customers, when benefits inure to both customers and shareholders, is inequitable and does not meet the requirements of ORS 757.259(2)(e).

Even if PacifiCorp's cost recovery mechanism meets the statutory criteria, it fails the Commission's discretionary criteria. This criteria first looks to whether the risk that is the subject of a deferral is "predict[able] as part of the normal course of events" or "not susceptible to prediction and quantification."[136] Here, PacifiCorp has both predicted and quantified the costs it will incur through 2022.[137] In this scenario, the financial impact on the utility of denying the deferral must be "substantial."[138] While PacifiCorp alleges that its investments are substantial,[139] the financial impact on the Company without a deferral is not. For one, the effect

[134] PAC/3300, Lockey/36:20-22.
[135] AWEC/501 at 7-13.
[136] Docket No. UM 1071, Order No. 04-108 at 8 (Mar. 2, 2004).
[137] PAC/1100/Lucas/6 (Table 1).
[138] Docket No. UM 1071, Order No. 04-108 at 9.
[139] PAC/3300, Lockey/37:13.

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of denying a special cost recovery mechanism will only subject the Company to regulatory lag on these investments; it will not result in them becoming entirely unrecoverable. This is why the Commission recently established a high bar for granting capital deferrals: "under traditional ratemaking, a utility continues to recover a return of and return on the plant balances included in rate base during its last rate case, even though the value of the assets has depreciated…."[140] However, deferral "reduces the effect of regulatory lag on the utility by providing a utility with the opportunity to seek recovery of the new capital project costs through deferral without, in most cases, accounting for ongoing depreciation of plant in current rates."[141] Thus, "capital project deferral changes [the] overall balance in the utility's favor."[142] Furthermore, if these costs were so substantial, as PacifiCorp claims, then they would presumably justify the Company filing a rate case to recover them. Instead, PacifiCorp requests an end-around the rate case process, knowing that these costs alone are insufficient to justify a rate case.

PacifiCorp also attempts to justify a special cost recovery mechanism for wildfire mitigation on the basis that these projects are important both for safety and public policy reasons.[143] No doubt, but so is delivering safe and reliable electric service. PacifiCorp has not identified what is special about these costs that makes them more important, and thus eligible for special cost recovery, and that does not apply to nearly everything the Company does. PacifiCorp's policy arguments create a slippery slope toward justifying dollar-for-dollar recovery of nearly all costs the Company incurs.

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[140] Docket No. UM 1909, Order No. 20-147 at 13 (April 30, 2020).
[141] Id.
[142] Id.
[143] PAC/3300, Lockey/37:5-11.

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If, however, the Commission agrees that a special cost recovery mechanism for wildfire mitigation is warranted, then AWEC recommends the Commission impose an earnings test both to ensure that overall rates remain just and reasonable and to better match the costs and benefits to shareholders of the Company's efforts. This is consistent with ORS 757.259(5), which requires amounts subject to a deferral to be allowed in rates "only … upon review of the utility's earnings at the time of application to amortize the deferral." While Staff has proposed an earnings test as well, AWEC opposes Staff's recommendation as the earnings test would only apply if the Company fails certain performance metrics.[144/] The Company should not have to be incentivized to act in an appropriate and responsible manner. Indeed, Staff acknowledges that PacifiCorp faces a "statutory requirement…to maintain vegetation clearances from its facilities…."[145/] Thus, the Company should not be rewarded with dollar-for-dollar recovery for doing what it is already obligated to do under Oregon law. If a cost recovery mechanism is approved, the Commission should impose an earnings test that applies regardless of performance metrics and is set at 100 basis points below the Company's authorized ROE, which "is fair because regulation only ensures the Company the opportunity to earn its authorized return, not a guarantee."[146/]

F. Revenue Requirement Adjustments

1. Pollution Control Investments

a. The Commission should disallow PacifiCorp's investment in selective catalytic reduction for Jim Bridger Units 3 and 4

144/ Staff/2700, Moore/8:1-10:17.
145/ Id. at 24:19-20.
146/ AWEC/500, Kaufman/35:15-17.

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Based on the testimony of Dr. Lance Kaufman, AWEC recommends that the Commission disallow PacifiCorp's investment in selective catalytic reduction ("SCR") it installed on Units 3 and 4 of the Jim Bridger coal-fired power plant. As Dr. Kaufman shows, PacifiCorp's analysis in its 2013 Integrated Resource Plan in which it proposed the investments either failed to consider or minimized several important factors. These are:

- PacifiCorp's analysis showed the investments were uneconomic in all low gas price scenarios;
- PacifiCorp's analysis failed to put appropriate weight on Oregon's transition away from coal, even in 2013, by assuming a useful life for Jim Bridger of 2037, rather than 2025, the depreciable life Oregon had already approved for this plant;
- PacifiCorp's analysis failed to consider the potential for high coal costs;
- PacifiCorp's analysis failed to consider the potential for low market prices;
- PacifiCorp failed to consider an alternative compliance option that would allow the Company to run the units on coal until a shut-down of 2025; and
- PacifiCorp did not consider the economic value of water rights once the plant is decommissioned.[147/]

PacifiCorp attacks Dr. Kaufman's analysis on each of these issues, but fails to consider the broader picture, which is that *the occurrence of any one of these scenarios rendered the SCRs uneconomic.*[148/]

And, of course, several of these scenarios actually occurred. Three of them are connected. Since 2013, gas prices have remained at historically low levels for several years.[149/] Similarly, PacifiCorp has seen low market prices, which track natural gas prices.[150/] PacifiCorp

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147/ AWEC/300, Kaufman/33:7-13.
148/ Id. at 44:1-13.
149/ Id. at 32 (Figure 5).
150/ Id. at 37:12-38:3.

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has also seen high coal prices at Bridger, which is due largely to reduced dispatch of the plant as it is frequently out of the money in a low market price environment.[151] Notably, the opposite scenario – in which market prices were high and coal dispatch correspondingly increased – would also have led to higher coal prices because PacifiCorp would have depleted coal reserves at the Bridger Coal Company ("BCC") mine and had to upgrade its rail facilities, at a cost of [redacted], to accommodate Powder River Basin coal.[152] Moreover, Oregon's policy to move away from coal has only strengthened and its elimination from customer rates is now enshrined in law.[153] Oregon's exit from Bridger in 2025 is also now assured through the 2020 Protocol and assuming the Commission issues the requested exit order.[154]

The point here is not to review PacifiCorp's investment decision with the benefit of hindsight. Rather, it is to show that numerous, forecastable scenarios existed in 2013 that both individually and collectively eliminated the economic value of the SCRs. Faced with all of these scenarios, the prudent course of action was to avoid installing the SCRs. PacifiCorp, however, pressed forward to extend Jim Bridger's useful life. Here it is perhaps relevant to note how valuable Jim Bridger has been to PacifiCorp. This is for at least a couple of reasons. First, Bridger is a mine-mouth plant that takes coal from BCC, a PacifiCorp subsidiary. BCC's costs are included in customer rates, which will continue for as long as customers are also paying for and receiving the benefits of the Bridger power plant. This is the case even though it has been demonstrated in other dockets that BCC's coal prices are far above the market.[155] Second,

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[151] AWEC/500, Kaufman/8:8-9:7.
[152] Id. at 8:12-20.
[153] ORS 757.518.
[154] 2020 Inter-Jurisdictional Allocation Protocol, at § 4.1.3.2.
[155] Docket No. UE 307, Staff/200, Kaufman/27-69.

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PacifiCorp receives enhanced recovery from Jim Bridger. This is so because Washington State adheres to a different inter-jurisdictional cost allocation methodology than the Company's other states. Washington's methodology, known as the West Control Area ("WCA") methodology, looks only to PacifiCorp's resources on the west side of its system, plus select resources – Bridger included – that have the capability of delivering to the western states.[156] The WCA then allocates approximately 22% of these resources to Washington – again including Jim Bridger.[157] By contrast, if Washington were rolled into a six-state cost allocation protocol, it would pay only approximately 8% of Jim Bridger.

Consequently, PacifiCorp has had an incentive to continue operating Jim Bridger, and to make the investments necessary to do this. The Company's failure to consider the impacts of numerous scenarios that rendered the Bridger SCRs uneconomic was imprudent and these investments should be disallowed.

b. The Commission should disallow PacifiCorp's investment in emission controls at Hunter Unit 1

In addition to the Bridger SCRs, AWEC contests the prudence of PacifiCorp's decision to install pollution controls at Unit 1 of the Hunter plant. Like the Bridger SCRs, the Commission did not acknowledge these pollution controls in the 2013 IRP.[158]

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[156] WUTC Docket No. UE-061546, Order 08 (June 21, 2007). As part of the 2020 Protocol, the WUTC is considering approving the Washington Inter-Jurisdictional Allocation Memorandum of Understanding, which would begin to move Washington toward an integrated cost allocation protocol. The Washington MOU, however, continues to allocate Jim Bridger's costs to Washington on a WCA basis. 2020 Protocol, Appen. F.

[157] Id. at 13.

[158] Docket No. LC 57, Order No. 14-252 at 7 (July 8, 2014).

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AWEC's recommendation is based on Dr. Kaufman's analysis, which shows that these pollution controls are highly uneconomic if Hunter 1 is assumed to retire in 2029, the end of its Oregon depreciable life.[159]

Both PacifiCorp and Staff take issue with Dr. Kaufman's analysis, but both parties' criticisms are misplaced. For its part, PacifiCorp focuses on largely irrelevant details in an attempt to discredit Dr. Kaufman's analysis. It notes that Dr. Kaufman's analysis applies a pro rata adjustment to several of PacifiCorp's assumptions to account for the shorter operating life, but does not apply this adjustment to all assumptions.[160] There are two reasons for this. Dr. Kaufman's analysis was intended to identify a high-level order of magnitude cost or benefit to avoiding environmental controls at Hunter 1 in the event of a 2029 retirement date. This analysis showed a net cost to customers of $[REDACTED].[161] Dr. Kaufman's failure to apply a pro rata adjustment factor to O&M costs of $[REDACTED] or his use of a 50% adjustment to Incremental DSM costs of $[REDACTED] therefore, has no substantive impact on the main conclusion. That is, what PacifiCorp "does not and cannot dispute" is that a 2029 retirement date for Hunter 1 "would have made the investments uneconomic."[162]

Staff takes issue with Dr. Kaufman's decision to "[REDACTED]" line item.[163] Staff notes that this decision is determinative of the economics of the Hunter 1 environmental controls and demonstrates this by applying Dr. Kaufman's pro rata adjustment to this line item, which yields a $[REDACTED] benefit

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[159] AWEC/300, Kaufman/46 (Confidential Figure 13).
[160] PAC/2300, Link/48:16-49:17.
[161] AWEC/300, Kaufman/46:1-7.
[162] AWEC/500, Kaufman/6:18-19.
[163] Stafff/2300, Soldavini/77:15-16.

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from the environmental upgrades.[164] In discovery, however, Staff agreed that this line item represented the cost of a replacement resource, which PacifiCorp avoided in its analysis by assuming Hunter would run beyond the planning horizon.[165] Staff noted that it had not performed analysis to identify what the likely cost of a replacement resource would be in 2029 in the event of Hunter's retirement, but agreed that "it is reasonable to assume any benefit would be significantly lower than $[redacted]," the benefit of early retirement identified in Dr. Kaufman's analysis.[166] Staff also agreed that Dr. Kaufman's decision not to apply a pro rata adjustment to the "New Resource Capital/Run-rate" line item was appropriate.[167]

2. Deer Creek Mine

a. PacifiCorp has failed to demonstrate the prudence of increased mine closure costs.

In Docket No. UM 1712, the Commission approved closure of the Deer Creek Mine as consistent with the public interest.[168] The Commission made this decision on the basis that "customers will benefit from early closure – that is, the estimated allowable long-term costs of the continued mine operation would be greater than the estimated allowable long-term costs of closing the mine and replacing its output."[169] This decision, however, was based in part on PacifiCorp's estimate of closure costs in that proceeding, which the Commission found would be offset by reduced pension costs.[170]

164/ Id. at 77:14-78:7.
165/ AWEC/706 at 2 (Staff Response to AWEC DR 1).
166/ Id.
167/ AWEC/707 (Staff Response to AWEC DR 2).
168/ Docket UM 1712, Order No. 15-161 (May 27, 2015).
169/ Id. at 4 (internal citations omitted).
170/ Id. at 5.

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Yet, in this rate case PacifiCorp seeks recovery of approximately $24 million in closure costs that are incremental to its estimate in UM 1712.[171] This increase, according to PacifiCorp, is due primarily to a delay in the Deer Creek Mine's closure by approximately two years, which PacifiCorp attributes to an "inability to gain approval of the bulkhead engineering designs and time required to permit and construct the alternate de-watering pipeline to the Huntington plant."[172] PacifiCorp expands on this justification in Surrebuttal testimony, alleging that the "increased costs were associated with heightened regulatory requirements for mine closures following the August 2015 Gold King mine spill."[173]

This justification, however, does not reflect the Company's own timeline of events. At page 19 of Mr. Ralston's Surrebuttal testimony, Exhibit PAC/4100, is a list of significant events that led to the two-year delay in the Deer Creek Mine closure. Notable among these events is the fact that PacifiCorp's bulkhead application was denied twice by the Mine Safety and Health Administration ("MSHA"). While PacifiCorp ties one of these denials to the Gold King mine spill, the other occurred before this spill, indicating that PacifiCorp simply failed to provide an approvable application.

Moreover, the documents PacifiCorp provided in support of its timeline tell a different story entirely. The Company's initial application proposed "[redacted]."[174] This application was denied because the

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[171] AWEC/100, Mullins/9:11-13.
[172] PAC/3100, McCoy/42:17-19.
[173] PAC/4100, Ralston/17:21-22.
[174] AWEC/705 at 2 (Confidential Attachment AWEC 160-1).

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"[175]

[176]

[177]

The MSHA's denial of PacifiCorp's second application, meanwhile, does not even mention the Gold King mine spill, contrary to Mr. Ralston's representations. Instead, it denied this application for the same reason: "

[178]

[179] Then, after being informed that the MSHA lacked jurisdiction ,[180] PacifiCorp's application was again denied, this time by the Utah Division of Oil, Gas and Mining ("UDOMG"), because

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175/ Id. at 5.
176/ Id.
177/ Id.
178/ Id. at 9 (Confidential Attachment AWEC 160-2).
179/ Id.
180/ Id. at 11 (Confidential Attachment AWEC 160-4).

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[181]

Thus, delays in closing the Deer Creek Mine were not the result of an unrelated mine accident outside of PacifiCorp's control; they were the result of PacifiCorp

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None of these events justify the specific costs incurred. As Dr. Kaufman testifies, "[n]early all the costs between 2016, the original closure date, and 2018, the actual closure date, were labor costs or payments to the PacifiCorp subsidiary East Mountain Energy. Costs included PacifiCorp management fees, incentive payments, bonuses, and awards."[182] While PacifiCorp disputes that East Mountain Energy is a PacifiCorp subsidiary, it does not dispute the source of the cost overruns.[183] Given that the Company was two years late in closing the Deer Creek Mine because it , it is unclear why any "incentive payments, bonuses, and awards" were paid, and PacifiCorp does not explain or justify them or any other cost other than the blanket statement that "PacifiCorp was required to maintain the mine in a safe operating condition as required by MHSA."[184]

Consequently, even if closure of the Deer Creek Mine continued to provide net benefits to customers with the two-year delay and increased costs, the Company has failed to carry its burden to justify the prudence of any of these costs and, indeed, appears to have been

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[181] Id. at 12 (Confidential Attachment AWEC 160-5).
[182] AWEC/500, Kaufman/23:3-5.
[183] PAC/4100, Ralston/20:12-14.
[184] Id. at 20:6-7.

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imprudent in its actions that led to the delay. Therefore, recovery of the incremental $24 million above the amount assumed in UM 1712 should be denied.

b. Coal lease abandonment royalty costs are not known and measurable and should continue to be deferred until they are.

It is standard ratemaking practice that costs must be "known and measurable" to be included in rates. The Commission has previously interpreted this standard to mean that costs must be "reasonably certain to occur" to be added to the test year.[185] In this case, PacifiCorp has included $12,118,237 in royalty costs it estimates it will incur in connection with the Deer Creek Mine closure.[186] PacifiCorp admits that it "does not have a specific time line of when actual royalty obligations will be settled" and that "the royalties included in this case [are] preliminary."[187] Accordingly, these royalty payments do not meet the known and measurable standard and should be excluded from rates in this case.

In Surrebuttal Testimony, PacifiCorp states that "should the Commission determine that abandonment royalties should not be included in rates at this time, the Company will continue to defer them as approved in docket UM 1712, and requests the ability to seek recovery in a future rate proceeding after they are paid."[188] AWEC does not oppose this alternative treatment.

185/ Docket Nos. UT 125/UT80, Order No. 00-191 at 14-15 (Apr. 14, 2000) (quoting Pacific Northwest Bell, UT 43, Order No. 87-406 at 11).
186/ AWEC/100, Mullins/8:4-5.
187/ PAC/3100, McCoy/45:17-18, 46:14-15.
188/ PAC/4400, McCoy/21:3-6.

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3. The unrecovered investment of meters replaced due to the Company's upgrade to AMI should be removed from rate base, consistent with ORS 757.355.

ORS 757.355 prohibits a utility, "directly or indirectly, by any device, charge, demand, collect or receive from any customer rates that include the costs of construction, building, installation or real or personal property not presently used for providing utility service to the customer." The Court of Appeals has interpreted this statute to ensure that "property that is not 'reasonably necessary to and actually providing utility service' is ineligible for either inclusion in the rate base or for a rate of return payable by utility customers."[189] Additionally:

> There is no logical basis for applying that principle only to property that is not *yet* reasonably necessary and actually used, but not to property that has *ceased* to be reasonably necessary and actually used. In either instance, the utility provider's profit on its property would be derived from ratepayers whom the utility is not using the property to serve.[190]

PacifiCorp replaced 85% of its metering assets when it implemented AMI.[191] As Dr. Kaufman shows, this resulted in replaced meters, which were no longer "providing utility service to the customer," remaining in PacifiCorp's rate base.[192] This is a clear violation of ORS 757.355 and the precedent interpreting it. The Commission should reduce PacifiCorp's rate base to remove the unrecovered investment in meters that have been retired in service. This results in a $16,126,628 reduction to rate base.[193] Dr. Kaufman further recommends that a regulatory asset of equal size be established to provide PacifiCorp with a return of its unrecovered investment, recovered over 10 years at an interest rate equal to the current 10-year treasury bond

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[189] Citizens Util. Bd. v. PUC, 154 Ore. App. 702, 710 (1998).
[190] Id.
[191] AWEC/500, Kaufman/12:17-19.
[192] Id. at 13:11-14:1
[193] Id. at 16:3.

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yield plus 100 basis points to compensate for the time value of money.[194] Dr. Kaufman further recommends that PacifiCorp's depreciation expense be recalculated to reflect the reduced rate base.[195]

PacifiCorp opposes Dr. Kaufman's recommendation. The primary basis for this opposition is a distinction the Company attempts to make between assets that are retired and those that are replaced.[196] In the former situation, such as with Cholla 4, PacifiCorp asserts, "all of the assets in a particular location associated with that facility or unit, and thereby the depreciation group, are retired leaving a net book value for that group on the Company's accounting books."[197] In the latter situation, the Company asserts that it is reasonable to transfer the gross plant value of the replaced assets to the depreciation reserve, regardless of how many replacements occur at once.[198]

Initially, Ms. McCoy's distinction between Cholla Unit 4 and Oregon Meter account 370 is factually incorrect. Ms. McCoy's statement that all assets in a depreciation group are retired with the retirement of Cholla 4 does not reflect the Company's depreciation groups. As can be seen from PacifiCorp's own depreciation study in UM 1968, performed by Mr. Spanos from Gannet Fleming, the assets that make up Cholla 4 belong in separate, larger accounts. Structures and improvements for Cholla 4, for instance, belong to the larger Account 311 for "Structures and Improvements" more generally.[199] Similarly, the boilers at Cholla 4 are grouped

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[194] Id. at 16:3-6.
[195] Id. at 6-7.
[196] PAC/4400, McCoy/12:5-12.
[197] Id. at 12:7-10.
[198] Id. at 12:13-18.
[199] Docket No. UM 1968, PAC/202, Spanos/852.

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into Account 312 – Boiler Plant Equipment.[200/] Thus, by retiring Cholla 4, the Company has not removed the assets from an entire depreciation group, just as by retiring 85% of Oregon's meters, the Company has not removed the assets from an entire depreciation group.

Furthermore, PacifiCorp's distinction between a retirement and a replacement is irrelevant to the requirements of ORS 757.355. As Dr. Kaufman shows, and as Ms. McCoy does not dispute, PacifiCorp's accounting treatment of the replaced Oregon meters means that "[d]ollars associated with the retired meters clearly remain in PacifiCorp's proposed ratebase."[201/] This is distinguishable from normal retirement circumstances in which small increments of property are removed and replaced at the end of their useful life. In that instance, "small incremental retirements are consistent with group depreciation models, which contemplate small incremental retirements across an extended period of time."[202/] By contrast, PacifiCorp admits that it has never undertaken a state-wide replacement of assets within a single depreciation group in Oregon until it upgraded to AMI.[203/] This is inconsistent with how group depreciation models treat incremental retirements and results in property that is no longer used and useful remaining in PacifiCorp's rate base, in violation of ORS 757.355.

Finally, PacifiCorp states that, if the Commission agrees with Dr. Kaufman, and authorizes recovery of the undepreciated investment in retired meters over 10 years, it should apply interest at PacifiCorp's cost of debt to recognize the long recovery period.[204/] This would result in a return of 4.774%, which is above current interest rates and, thus, would result in an

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[200/] Id. at 882.
[201/] AWEC/500, Kaufman/13:8-9.
[202/] Id. at 15:6-7
[203/] AWEC/501 at 30.
[204/] PAC/4400, McCoy/14:7-12.

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impermissible "profit" to PacifiCorp.[205] If the Commission disagrees with AWEC's proposed interest rate, then it should authorize an interest rate no higher than the rate of PacifiCorp's most recent debt issuance, in April of this year, or ██████.[206]

4. Cholla Unit 4

a. Unrecovered investment

PacifiCorp has proposed to offset the unrecovered balance of Cholla Unit 4 with money owed to customers from the Tax Cuts and Jobs Act.[207] AWEC opposed this treatment in Rebuttal Testimony on the basis that future costs were included in the Cholla 4 balance and it was unclear how those costs would be reviewed for prudence.[208] However, in subsequent responses to data requests, PacifiCorp affirms that future costs that are offset in this case will be subject to a prudence review and refund if actual costs are lower or are disallowed.[209] Accordingly, AWEC is comfortable with PacifiCorp's proposed treatment, but recommends that the Commission require PacifiCorp to identify and justify future costs incurred associated with Cholla 4 in a subsequent case, with a refund owing if future costs are lower than forecasted or are disallowed.

b. Property Tax

Despite the fact that Cholla Unit 4 is retiring at the end of this year, PacifiCorp continues to include property tax associated with this generation facility in its revenue

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[205] Citizens Utility Board, 154 Ore. App. 702, at 748 (1998).
[206] Staff/209, Muldoon-Enright/1 (line 45).
[207] PAC/3100, McCoy/34:7-17.
[208] AWEC/500, Kaufman/17:16-19:16.
[209] AWEC/704 (PacifiCorp Response to AWEC DR 159).

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requirement.[210] AWEC recommends removal of Cholla 4 property tax as it is not a cost that is associated with any utility plant that is used and useful for service to Oregon customers.

In Surrebuttal Testimony, PacifiCorp states that "Cholla related property tax to be expensed in 2021 is based on the value of taxable property on January 1, 2020, a date when Cholla Unit 4 was still operating, and used and useful."[211] AWEC does not consider this fact to be relevant as it remains the case that the property tax is still a 2021 expense. Furthermore, even if it is appropriate to recover 2021 property tax from customers because it is based on 2020 assessed value, PacifiCorp is proposing to include this property tax in base rates, meaning that it will continue to be in customer rates until the rate-effective period of PacifiCorp's next rate case, which could be several years from now. Thus, if the Commission agrees that it is appropriate to recover 2021 Cholla 4 property tax from customers, AWEC recommends that this amount be deferred for later recovery and that the Commission deny recovery of Cholla 4 property tax beyond 2021.

G. The Commission should modify the TAM guidelines to require most workpapers to be provided contemporaneously with PacifiCorp's initial filing

AWEC recommends one change to the existing TAM Guidelines. Specifically, AWEC recommends that PacifiCorp be required to provide all workpapers concurrently with the Company's initial filing, with the exception of "four NPC sample calculations for schedule 294 … [which] depend on the completion of the baseline NPC in the concurrent filing."[212] AWEC's testimony identifies the burden a 15-day waiting period imposes on other parties, given the short

[210] AWEC/100, Mullins/6:5-7.
[211] PAC/4400, McCoy/27:10-12.
[212] AWEC/500, Kaufman/43:11-12.

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procedural schedule in the TAM.[213] PacifiCorp responds that it would be burdensome to provide the 15-day workpapers contemporaneously with the filing.[214] Importantly, however, other than the specific workpapers AWEC has agreed can be provided later, PacifiCorp does not testify that these workpapers cannot be provided contemporaneously, only that it would be hard to do so.[215] In balancing the burdens on the Company with those of Staff and intervenors who must review PacifiCorp's power costs, the Commission should side with Staff and intervenors, as an effective audit of the Company's workpapers is essential to ensuring just and reasonable rates.

III. CONCLUSION

For the foregoing reasons, AWEC recommends that the Commission grant the following relief, which will yield overall rates for PacifiCorp that are just and reasonable and policy decisions that are in the public interest:

(1) Establish PacifiCorp's ROE at 9.2%;

(2) Establish the equity level in PacifiCorp's capital structure at 51.86%;

(3) Set depreciation rates for PacifiCorp's coal plants using the decommissioning cost estimates contained in the Company's 2018 depreciation study and decline to hold further proceedings on these estimates with respect to those plants subject to an exit order in this case;

(4) Reject the APCA;

(5) Allow the EV 2020 projects into rates, subject to the cost recovery protections AWEC identifies above;

(6) Reject PacifiCorp's wildfire mitigation cost recovery mechanism;

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[213] Id. at 43:16-44:6; AWEC/100, Mullins/41:11-18.
[214] PAC/3600, Wilding/18:3-19:19.
[215] Id.

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(7) Disallow PacifiCorp's investments in SCRs at units 3 and 4 of Jim Bridger and environmental controls at Hunter Unit 1;

(8) Disallow incremental costs the Company incurred due to delays in closing the Deer Creek Mine;

(9) Remove coal lease abandonment royalty costs associated with the Deer Creek Mine from rates at this time;

(10) Remove undepreciated replaced meters from PacifiCorp's rate base;

(11) Remove property taxes associated with Cholla Unit 4 from revenue requirement; and

(12) Update the TAM guidelines to require PacifiCorp to provide workpapers contemporaneously with its initial filing.

Dated this 2nd day of September, 2020.

Respectfully submitted,

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