

ISSUED: April 11, 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 399, UM 1964, UM 2134, UM 2142, UM 2167, UM 2185, UM 2186, UM 2220,
UM 2201

In the Matters of

PACIFICORP dba PACIFIC POWER

Request for a General Rate Revision
(UE 399),

Application for Approval of Deferred
Accounting for a Balancing Account
Related to the Transportation
Electrification Program (UM 1964),

Application to Defer Costs Relating to
Cedar Springs II (UM 2134),

Application for Approval of Deferred
Accounting for Cholla Unit 4-Related
Property Tax Expense (UM 2142),

Application for Approval of Deferred
Accounting for Revenues Associated
with Renewable Energy Credits from
Pryor Mountain, (UM 2167),

Application for Approval of Deferred
Accounting and Accounting Order
Related to Non-Contributory Defined
Benefit Pension Plans (UM 2185),

Application for Approval of Deferred
Accounting for Costs Relating to a
Renewable Resource Pursuant to ORS
469A.120 (UM 2186),

Application for Approval of Deferred
Accounting for Operating Costs and
Capital Investments Made to Implement
PacifiCorp's Distribution System Plan
(UM 2220), and

RULING

In the Matter of

Alliance of Western Energy Consumers,
Application for an Accounting Order
Requiring PacifiCorp to Defer Fly Ash
Revenues (UM 2201).

DISPOSITION: MOTIONS TO CONSOLIDATE GRANTED IN PART; DENIED IN
PART

I. INTRODUCTION

On March 22, 2022, PacifiCorp d/b/a Pacific Power filed a motion requesting that the Public Utility Commission of Oregon consolidate six pending deferral applications with the company's pending 2023 general rate case (GRC). On March 30, 2022, Staff, the Oregon Citizens' Utility Board (CUB), and Alliance of Western Energy Consumers (AWEC) filed responses. In their responses, CUB and AWEC each moved to consolidate an additional deferral docket with the GRC. PacifiCorp filed a reply on April 5, 2022, opposing CUB's motion and supporting AWEC's motion. On April 8, 2022, CUB filed its reply to PacifiCorp's response.

PacifiCorp seeks to consolidate with the GRC its requests for deferred accounting regarding costs for the following: Transportation Electrification program (docket UM 1964), Cedar Springs II Wind Project (docket UM 2134), Cholla Unit 4 property taxes (docket UM 2142), Non-Contributory Defined Benefit Pensions Plans (docket UM 2185), and TB Flats Wind Project (docket UM 2186). Additionally, PacifiCorp seeks to consolidate its request to defer revenues associated with renewable energy credits from Pryor Mountain (docket UM 2167) with the GRC. PacifiCorp argues that considering these deferrals with the GRC is administratively efficient and consistent with ORS 757.259(5).

On March 30, 2022, Staff, and CUB each filed a response, indicating that they do not oppose PacifiCorp's proposed consolidation. AWEC also filed a response, stating that it does not oppose consolidation, subject to its request for PacifiCorp to defer fly ash revenues (docket UM 2201), also being consolidated in the GRC. AWEC represents that it conferred with PacifiCorp and is authorized to represent that PacifiCorp does not oppose AWEC's request, but reserves its rights to contest the underlying deferral.

In its response, Staff states that deferrals and related amortizations are relevant to a GRC, even absent consolidation, and that it intends to address amortization of the 2020 and

2021 calendar year deferrals of costs associated with the COVID-19 Public Health Emergency (docket UM 2063).

In its response, CUB requests that the Commission also consolidate PacifiCorp's application for a deferral for operating costs and capital investments to implement its Distribution System Plan (DSP) (docket UM 2220), into the GRC. CUB contends that consolidation will promote administrative efficiency by enabling review of preliminary issues related to the authorization and scope of docket UM 2220 with the distribution system-related costs proposed for inclusion in base rates. Specifically, CUB asserts that the amounts subject to potential recovery in docket UM 2220 represent a "fact at issue" in the GRC, relevant to setting base rates, and argues it is difficult to discern what PacifiCorp is proposing to recover in base rates in docket UE 399 and what it proposes for future cost recovery in docket UM 2220. CUB asserts that even if no DSP-related costs are included in docket UE 399's test year, a policy discussion regarding which distribution-related costs should be tracked and recovered in docket UM 2220, and which should be recovered through the future and current GRCs would be beneficial. CUB explains it does not intend to address issues related to the deferral's amortization, carrying charges, earnings review, or any other issues that are appropriately addressed at the end of the deferred accounting period, but argues that the scope and potential preliminary approval of docket UM 2220 is particularly relevant to the docket UE 399 because distribution-related costs are typically recovered in a GRC.

PacifiCorp opposes CUB's consolidation request and contends that CUB's policy concerns are not yet ripe, with DSP development subject to a multi-year, collaborative stakeholder process. PacifiCorp argues that appropriate rate recovery of DSP Phase 1 costs and expenditures should occur after resolution of dockets UM 2196–2198, which will address various issues regarding Phase 1 and 2 DSP costs, expenditures, and planning. PacifiCorp also asserts that it has not requested a revenue requirement adjustment for DSP Phase 1 costs or expenditures in docket UE 399, and that such costs are not known and measurable for the test year, beyond the range of estimates included in docket UM 2220. PacifiCorp maintains that consolidating docket UM 2220 with the GRC would broaden the scope of the GRC to address Phase 1 DSP rate recovery that the company has not requested, and would result in duplication of process regarding policy issues that PacifiCorp contends are more appropriately addressed in dockets UM 2196–2198, and docket UM 2220.

II. RULING

The Commission has discretion to consolidate cases under OAR 860-001-0600 and has used that discretion in the past when consolidation was efficient and logical and when consolidation would clarify and simplify resolution of issues.

I agree that consolidating dockets UM 1964, UM 2134, UM 2142, UM 2185, UM 2186, UM 2167, and UM 2063 with docket UE 399 will promote efficiency. Therefore, I find good cause to grant the motion. Dockets UM 1964, UM 2134, UM 2142, UM 2185, UM 2186, UM 2167, and UM 2063 are consolidated with docket UE 399, with docket UE 399 being the lead docket.

I decline to consolidate docket UM 2220 with docket UE 399. As PacifiCorp argues, the company's DSP is subject to a multi-year process that will be addressed in docket UM 2198. The pending application in docket UM 2220 seeks deferral of the DSP implementation and operating costs and capital investments for the 12-month period beginning on January 3, 2022, likely to be subject to multiple renewal requests. I agree with CUB that the costs and investments that are subject to potential recovery in docket UM 2220 are relevant to establishing base rates in this proceeding and acknowledge that there is likely to be overlap in discovery between the two dockets. However, given the long-term process for the company's DSP that will occur in dockets UM 2198 and UM 2220, I do not find that consolidation of docket UM 2220 and docket UE 399 to address this scoping issue will promote efficiency. CUB remains free to address in this GRC which distribution-related costs should be included in the rates established in this docket and which should instead be appropriately included in the docket UM 2220 deferral.

Accordingly, PacifiCorp's and AWEC's motions to consolidate are granted. CUB's motion to consolidate is denied.



Alison Lackey
Administrative Law Judge

NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

Hearing: The time and place of any hearing held in these proceedings will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 through 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the Commission's website at <https://www.oregon.gov/puc/Pages/default.aspx>. The Commission will hear issues as identified by the parties.

Right to Attorney: As a party to these proceedings, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission Staff, if participating as a party in the case, will be represented by the Department of Justice. Generally, once a hearing has begun, you will not be allowed to postpone the hearing to obtain counsel.

Notice to Active Duty Servicemembers: Active Duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Administrative Law Judge: The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope of an ALJ's authority is defined in OAR 860-001-0090. The ALJs make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

Hearing Rights: You have the right to respond to all issues identified and present evidence and witnesses on those issues. *See* OAR 860-001-0450 through OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 through 860-001-0540.

Evidence: Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450. Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Generally, once a hearing is completed, the ALJ will not allow the introduction of additional evidence without good cause.

Notice of Contested Case Rights and Procedures continued

Record: The hearing will be recorded, either by a court reporter or by audio digital recording, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request, if available, a copy of the audio recording from the Commission for a fee set forth in OAR 860-001-0060. The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

Final Order and Appeal: After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days from the date of service of the order. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days from the date of service of the order. *See* ORS 756.610.